United States Department of Labor
Employees' Compensation Appeals Board

HELEN M. TALLIE, Appellant	)	
and	)	**Docket No. 06-124**
	)	**Issued: February 21, 2006**
U.S. POSTAL SERVICE, BADEN POST OFFICE, St. Louis, MO, Employer	)	

Appearances:
Helen M. Tallie, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On October 25, 2005 appellant filed a timely appeal from Office of Workers' Compensation Programs' merit decisions dated August 22 and September 7, 2005, adjudicating her schedule award claim, and a September 22, 2005 decision, denying her request for reconsideration. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the August 22 and September 7 and 22, 2005 decisions.

ISSUES

The issues are: (1) whether appellant has more than a two percent permanent impairment of her left upper extremity and whether she has any impairment of her right upper extremity; and (2) whether the Office properly denied her request for reconsideration.

FACTUAL HISTORY

On December 17, 2003 appellant, then a 34-year-old letter carrier, filed an occupational disease claim alleging that she sustained bilateral carpal tunnel syndrome due to repetitive hand and arm movements while casing and delivering mail. She first became aware of her condition on July 23, 2003. The Office accepted her claim for bilateral carpal tunnel syndrome. Appellant

underwent a left carpal tunnel release on April 12, 2004 and a right carpal tunnel release on May 19, 2004 performed by Dr. S. Vic Glogovac, an attending orthopedic surgeon. On March 24, 2005 she filed a claim for a schedule award.[1]

In a June 21, 2005 report, Dr. John A. Gragnani, a Board-certified physiatrist and Office referral physician, indicated that appellant had residual pain and numbness in her hands and wrists due to her bilateral carpal tunnel syndrome. He stated:

> "On examination, [appellant] has no redness, swelling or atrophy of the hand intrinsic muscles…. There was no evidence of sudomotor or vasomotor dysfunction.
>
> "Vibratory sense was intact in both upper extremities at the wrist and finger levels. Two-point discrimination on the index and little fingers was normal…."
>
> * * *
>
> "Range of motion, measured with the goniometer for both wrists, was as follows: flexion 68 [degrees] for right and 64 [degree] left, extension 68 [degrees] right and 52 [degrees] left, ulnar deviation 52 [degrees] right and 50 [degrees] left, and radial deviation 30 [degrees] right and 40 [degrees] left.
>
> * * *
>
> "There are no sensory changes and no grip strength changes. Therefore, Tables 16-10 and 16-11 are not applicable in this case. Pain was taken into account in the range of motion measurements.
>
> "Therefore, the only rating is for a limitation of extension of the left wrist, resulting in a 2 percent impairment of the left upper extremity. There was no impairment measured for the right upper extremity. Therefore, the right upper extremity was 0 percent impairment."

Dr. Gragnani calculated a two percent permanent impairment of appellant's left upper extremity for 52 degrees of extension, based on Figure 16-28 at page 467 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, 5th edition.[2] He indicated that appellant had no impairment of the right upper extremity.

[1] Appellant has a separate claim under Office file number 112014408 for a cervical strain and lumbar strain due to a motor vehicle accident on January 30, 2003. *See* Docket No. 04-1970 (issued January 21, 2005), Docket No. 04-699 (issued May 21, 2005).

[2] The Office had referred appellant to another physician before Dr. Gragnani, Dr. Edmond B. Cabbabe. However, the report from Dr. Cabbabe was not prepared using the procedures in the A.M.A., *Guides* and therefore could not be used to determine appellant's entitlement to a schedule award.

In a July 3, 2005 memorandum, the Office medical director indicated that Dr. Gragnani considered range of motion, chronic pain and sensory changes and chronic weakness in calculating appellant's impairment due to her accepted bilateral carpal tunnel syndrome. He stated that Dr. Gragnani's calculations of a two percent impairment of the left upper extremity and zero percent impairment of the right upper extremity were proper based on the A.M.A., *Guides.*

By decision dated August 22, 2005, the Office granted appellant a schedule award for 6.24 weeks for the period May 31 to July 13, 2005 based on a 2 percent permanent impairment of the left upper extremity. The Office found no impairment of her right upper extremity.

Appellant requested reconsideration.

By decision dated September 7, 2005, the Office denied appellant's claim for a schedule award for her right upper extremity.

Appellant requested reconsideration and submitted additional evidence.

In an August 25, 2005 note, Dr. Glogovac provided a list of work restrictions. He indicated that a letter would follow. No further evidence was received from him.

By decision dated September 22, 2005, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted did not constitute relevant and pertinent evidence not previously considered by the Office.[3]

LEGAL PRECEDENT -- ISSUE 1

The schedule award provision of the Federal Employees' Compensation Act[4] and its implementing regulation[5] sets forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides*[6] has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.[7]

[3] Appellant submitted additional evidence subsequent to the Office decision of September 22, 2005. The Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

[4] 5 U.S.C. § 8107.

[5] 20 C.F.R. § 10.404.

[6] A.M.A., *Guides* (5th ed. 2001); *Joseph Lawrence, Jr.*, 53 ECAB 331 (2002).

[7] 20 C.F.R. § 10.404.

The fifth edition of the A.M.A., *Guides*, regarding carpal tunnel syndrome, provides:

> "If, after an *optimal recovery time* following surgical decompression, an individual continues to complain of pain, paresthesias and/or difficulties in performing certain activities, three possible scenarios can be present:
>
> > 1. Positive clinical findings of median nerve dysfunction and electrical conduction delay(s): the impairment due to residual [carpal tunnel syndrome] is rated according to the sensory and/or motor deficits as described [in Tables 16-10a and 16-11a].
> >
> > 2. Normal sensibility and opposition strength with abnormal sensory and/or motor latencies or abnormal [electromyogram] testing of the thenar muscles: a residual [carpal tunnel syndrome] is still present and an impairment rating not to exceed five percent of the upper extremity may be justified.
> >
> > 1. Normal sensibility (two-point discrimination and Semmes-Weinstein monofilament testing), opposition strength and nerve conduction studies: there is no objective basis for an impairment rating."[8] (Emphasis in the original.)

The Board has found that the fifth edition of the A.M.A., *Guides* provides that impairment for carpal tunnel syndrome be rated on motor and sensory deficits only.[9]

ANALYSIS -- ISSUE 1

Dr. Gragnani indicated that appellant had residual pain and numbness in her hands and wrists due to her bilateral carpal tunnel syndrome. He stated that she had 68 degrees of flexion on the right and 64 degrees on the left which equals 0 percent impairment based on Figure 16-28 at page 467 of the A.M.A., *Guides*; 68 degrees of extension on the right and 52 degrees on the left which equals 0 percent and 2 percent, respectively, based on Figure 16-28; ulnar deviation was 52 degrees on the right and 50 degrees on the left which equals 0 percent based on Figure 16-31 at page 469; and radial deviation was 30 degrees on the right and 40 degrees on the left which equals 0 percent based on Figure 16-31. Dr. Gragnani stated that Tables 16-10 and 16-11 at pages 482 and 484 of the A.M.A., *Guides* were not applicable because there were no sensory changes and because he took pain into account in the range of motion measurements. He calculated a two percent impairment of the left upper extremity due to limitation of extension of the left wrist and zero percent impairment of the right upper extremity.

The Board finds that Dr. Gragnani and the Office medical director incorrectly applied the A.M.A., *Guides* in calculating appellant's impairment of the left and right upper extremities due to carpal tunnel syndrome. As noted, the A.M.A., *Guides* provides a specific method for

[8] A.M.A., *Guides* 495.

[9] *Kimberly M. Held,* 56 ECAB ___ (Docket No. 05-1050, issued August 16, 2005).

determining the permanent impairment due to carpal tunnel syndrome. If the individual has positive clinical findings of median nerve dysfunction and electrical conduction delays, the impairment due to carpal tunnel syndrome is rated according to sensory and motor deficits described in Chapter 16.[10] The impairment is evaluated by multiplying the grade of severity of the sensory or motor deficit by the respective maximum upper extremity value resulting from sensory or motor deficits of each nerve structure involved. When both sensory and motor functions are involved the impairment values derived for each are combined.[11]

Dr. Gragnani did not follow the procedures set forth in the A.M.A., *Guides,* fifth edition, for calculating impairment due to carpal tunnel syndrome. He stated that appellant had residual pain and numbness in both upper extremities but he did not calculate her impairment using the procedures explained on pages 480 through 495 which explain impairment calculation principles and methods for impairment of the upper extremities due to peripheral nerve disorders, including entrapment and compression neuropathies such as carpal tunnel syndrome.[12] Consequently, the case will be remanded to the Office for further development of the medical evidence on appellant's impairment of her right and left upper extremities. After such further development as the Office deems necessary, it should issue an appropriate decision.[13]

CONCLUSION

The Board finds that this case is not in posture for a decision on the issue of appellant's schedule award claim. Further development of the medical evidence is required.

[10] *Supra* note 8.

[11] *Id.* at 494, 481.

[12] Carpal tunnel syndrome is an entrapment/compression neuropathy of the median nerve. *Supra* note 8.

[13] In light of the Board's resolution of the first issue, the second issue is moot.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated September 22 and 7 and August 22, 2005 are hereby set aside and the case is remanded for further development in accordance with this decision and order of the Board.

Issued: February 21, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board