# United States Department of Labor
# Employees' Compensation Appeals Board

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| **L.G., Appellant** | ) | |
| **and** | ) | **Docket No. 07-1635** |
| | ) | **Issued: January 4, 2008** |
| **U.S. POSTAL SERVICE, POST OFFICE, Jackson, MS, Employer** | ) | |

*Appearances:*
*Appellant, 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
JAMES A. HAYNES, Alternate Judge

### ***JURISDICTION***

On May 30, 2007 appellant filed a timely appeal from a May 15, 2007 merit decision of the Office of Workers' Compensation Programs that granted him a schedule award for a two percent impairment of the right leg. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

### ***ISSUE***

The issue is whether appellant has established that he has more than a two percent impairment of the right lower extremity, for which he received a schedule award.

### ***FACTUAL HISTORY***

On March 9, 2000 appellant, then a 35-year-old letter carrier, filed an occupational disease claim alleging that his duties as a letter carrier caused swelling and pain in his left knee. He was first aware of his condition and its relationship to his employment on January 27, 2000. Appellant underwent a left knee arthroscopy on July 27, 2001. He returned to limited duty for a period of time and eventually returned to full duty. The Office accepted the condition of

aggravation of chondromalacia and paid appropriate compensation. By decision dated November 5, 2002, the Office awarded appellant a schedule award for a five percent permanent impairment to his left leg.

On April 28, 2006 appellant filed an occupational disease claim alleging that he sustained a right knee medial meniscus tear as a result of overloading his right knee because of the damage to his left knee. He stopped work on April 18, 2006. The Office accepted the condition of a right medial meniscus tear and authorized a right knee arthroscopy on May 11, 2006. Appellant eventually returned to full duty with restrictions.

On February 5, 2007 appellant filed a claim for a schedule award. In a December 8, 2006 attending physician's report (Form CA-20), Dr. Walter R. Shelton, a Board-certified orthopedic surgeon, advised that appellant reached maximum medical improvement for his right knee on July 24, 2006 and had 10 percent right leg permanent impairment.

In a February 14, 2007 letter, the Office advised Dr. Shelton that the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) (5th ed. 2001) was used for evaluation purposes of schedule awards. It requested that he examine appellant and complete the attached enclosures for the knees so that a schedule award determination could be made.

On February 26, 2007 Dr. Shelton examined appellant and advised that maximum medical improvement was reached for the right knee on February 26, 2007. He noted that appellant had a full range of motion from 0 to 150 degrees for flexion-extension, no ankylosis was present and a prosthesis was not required for knee stability. Dr. Shelton opined that appellant had a 10 percent impairment of the right leg based on an impairment of function due to weakness, atrophy, pain or discomfort. A chart note dated February 26, 2007 noted that appellant was at maximum medical improvement, he had some pain and some weakness in the knee with medial joint line tenderness. Range of motion was noted to be 0 to 150 degrees.

In an April 19, 2007 report, an Office medical adviser concluded that appellant had a two percent permanent impairment of the right lower extremity. He noted that appellant had a partial medial meniscectomy of the right knee on May 11, 2006 with good results and full range of motion. Based on Table 17-33, page 546 of the A.M.A., *Guides*, the Office medical adviser assigned two percent lower extremity impairment for a partial medial meniscectomy. He noted that, although Dr. Shelton had assigned 10 percent impairment for weakness, atrophy and pain, the Cross-Usage Chart at Table 17-2, page 526 of the A.M.A., *Guides* did not allow a diagnosed-based impairment to be combined with weakness, atrophy and pain.

By decision dated May 15, 2007, the Office granted appellant a schedule award for two percent impairment of the right leg.

## ***LEGAL PRECEDENT***

The schedule award provision of the Federal Employees' Compensation Act[1] and its implementing regulations[2] set forth the number of weeks of compensation to be paid for permanent loss or loss, of use of the members of the body listed in the schedule. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice for all claimants, the Office adopted the A.M.A., *Guides* as a standard for determining the percentage of impairment and the Board has concurred in such adoption.[3]

The A.M.A., *Guides* provides for three separate methods for calculating the lower extremity permanent impairment of an individual: anatomic, functional and diagnosis-based.[4] The anatomic method involves noting changes, including muscle atrophy, nerve impairment and vascular derangement, as found during physical examination.[5] The diagnosis-based estimates method may be used to evaluate impairments caused by specific fractures and deformities, as well as ligamentous instability, bursitis and various surgical procedures, including joint replacements and meniscectomies.[6] The functional method is used for conditions when anatomic changes are difficult to categorize or when functional implications have been documented and includes range of motion, gait derangement and muscle strength.[7] The evaluating physician must determine which method best describes the impairment of a specific individual based on patient history and physical examination.[8] When uncertain about which method to use, the evaluator should calculate the impairment using different alternatives and choose the method or combination of methods that gives the most clinically accurate impairment rating.[9] If more than one method can be used, the method that provides the higher impairment rating should be adopted.[10]

## ***ANALYSIS***

The Board finds that appellant has not established that he has more than two percent impairment of the right leg. As a general rule in schedule award cases, the examining physician should describe the impairment in sufficient detail to permit clear visualization of the impairment

[1] 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(c).

[2] 20 C.F.R. § 10.404.

[3] *See Joseph Lawrence, Jr.*, 53 ECAB 331 (2002).

[4] A.M.A., *Guides* 525.

[5] *Id.*

[6] *Id.*

[7] *Id.* at 525, Table 17-1.

[8] *Id.* at 548, 555.

[9] *Id.* at 526.

[10] *Id.* at 527, 555.

and the restrictions and limitations that have resulted.[11] The examining physician should also provide medical rationale explaining why a particular rating method was selected. As noted above, if more than one impairment rating method can be used in evaluating appellant's impairment, the method that provides the higher rating should be used.[12] While Dr. Shelton noted in his February 26, 2007 progress note and form report that appellant had 10 percent impairment for weakness, atrophy and pain, he did not provide specific measurements or otherwise explain how he rated the impairment to appellant's right knee under the A.M.A., *Guides.* The impairment rating provided by Dr. Shelton does not conform to the cross-usage chart of the A.M.A., *Guides*.

The medical adviser's April 19, 2007 report addresses appellant's degree of permanent impairment pursuant to the A.M.A., *Guides.* He reviewed the medical evidence and found that appellant had two percent impairment of the right leg. The Office medical adviser based his recommendation on Table 17-33 of the A.M.A., *Guides*. Table 17-33 provides that a partial meniscectomy, medial or lateral, such as appellant underwent on May 11, 2006, represents a two percent impairment to the lower extremity.[13] The Office medical adviser found no basis for additional impairment as he properly noted that the Cross-Usage Chart at Table 17-2 of the A.M.A., *Guides* does not allow a diagnosed-based impairment, such as appellant's impairment for a partial medial meniscectomy, to be combined with weakness, atrophy and pain.[14] The Board finds that the Office medical adviser based his opinion on a proper review of the record and appropriately applied the A.M.A., *Guides* in finding that appellant had a two percent impairment of the right lower extremity.

[11] Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.3.a(2) (June 2003).

[12] A.M.A., *Guides* 527.

[13] *Id.*

[14] *Id.* at Table 17-2.

## ***CONCLUSION***

The Board finds that appellant has not shown that he has greater than two percent impairment of the right lower extremity, for which he received a schedule award.

## ***ORDER***

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 15, 2007 is affirmed.

Issued: January 4, 2008
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board