

On February 19, 2003 appellant, then a 44-year-old plastic fabricator, filed an occupational disease claim alleging that his carpal tunnel syndrome was employment related. The Office accepted the claim for bilateral wrist strain, trigger finger and bilateral carpal tunnel

syndrome. Right carpal tunnel surgery occurred on November 15, 2005 and left carpal tunnel and trigger finger surgery on August 30, 2005. On May 31 and November 30, 2006 appellant filed claims for a schedule award.

On July 5, 2006 Dr. Daniel I. Singer, a treating physician specializing in orthopedic and hand surgery, noted that appellant had full range of motion. He recommended referral for an impairment rating for some probably mild impairment status post bilateral carpal tunnel release.

On December 20, 2006 the Office referred appellant for a second opinion to Dr. Larry N. Magnussen, a Board-certified orthopedic surgeon. In a medical report dated March 1, 2007, Dr. Magnussen provided measurements with regard to motion, strength and grip. He applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment* and determined that appellant had bilateral carpal tunnel syndrome and bilateral long fingers stenosing tenosynovitis. Dr. Magnussen stated:

“The patient continues to have pain, numbness and pinpricking with excessive repetitious use of the hands particularly when using vibrating tools. There is diminished right grip strength as well as diminished sensation to pinprick at thumb, index and long finger on the right and the index and long fingers on the left, both of which have absence of sharp perception. Electrodiagnostic testing consistent with bilateral carpal tunnel syndrome. Surgical scars both hands. Subjective complaints are ongoing and are associated with repetitious and stressful use of both hands particularly in gripping situations.”

He opined that appellant reached maximum medical improvement on July 5, 2006. Dr. Magnussen concluded that appellant had a five percent impairment of each upper extremity due to his residual carpal tunnel syndrome.

On March 22, 2007 the Office referred appellant's case to the Office medical adviser. In a report dated April 12, 2007, the Office medical adviser stated that he was in agreement with the impairment rating of five percent to the left upper extremity provided by Dr. Magnussen. He noted that, based on the A.M.A., *Guides*, the maximum impairment rating for an individual who had a “satisfactory result following carpal tunnel release” is a five percent impairment. The Office medical adviser related that the “five percent impairment takes into account any residual symptoms the patient has been having as a result of the right middle trigger finger surgery.” He also noted that appellant's condition was not significantly changed from that of July 5, 2006, when he was felt to have reached maximum medical improvement by Dr. Singer.

By decision dated April 26, 2007, the Office granted schedule awards for a five percent left upper extremity impairment and five percent right upper extremity impairment. The period of the award was for 31.2 weeks and ran from April 20 to November 24, 2006.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulations² set 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* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.³

The A.M.A., *Guides* evaluates the permanent impairment caused by carpal tunnel syndrome by determining whether such a condition falls within one of three categories discussed in section 16.5d.⁴ Under the first category, if there are positive clinical findings of median nerve dysfunction and an electrical conduction delay, the condition is rated under the standards found earlier in Chapter 16 for evaluating sensory or motor deficits due to peripheral nerve disorders. Under the second category, if there is normal sensibility (evaluated by two-point discrimination and Semmes-Weinstein monofilament testing) and normal opposition strength with abnormal sensory and/or motor latencies or abnormal electromyography (EMG) testing of the thenar muscles, an impairment rating not to exceed five percent of the upper extremity may be justified. Under the third category, if there is normal sensibility, opposition strength, and nerve conduction studies, there is no objective basis for an impairment rating.⁵

ANALYSIS

The Office determined that appellant had five percent impairment to his left and right upper extremities. Both Dr. Magnussen and the Office medical adviser agreed as to the extent of impairment after applying the A.M.A., *Guides*. Pursuant to the A.M.A., *Guides*, the second category Chapter 16, section 16.5d states that, when normal sensibility and opposition strength with abnormal sensory and/or motor latencies or abnormal EMG testing of the thenar muscles, a residual carpal tunnel syndrome is still present, an impairment rating not to exceed five percent of the upper extremity may be justified.⁶ Both physicians determined that, based on appellant's residuals following surgery, he had five percent impairment to each upper extremity. The Board finds that both physicians properly applied the A.M.A., *Guides*. There is no evidence of record that appellant sustained greater than five percent impairment to each upper extremity. The

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404.

³ *Id.*; see *Billy B. Scoles*, 57 ECAB ____ (Docket No. 05-1696, issued December 7, 2005).

⁴ See A.M.A., *Guides* 495.

⁵ *Id.*

⁶ *Id.* at 495.

Office properly found that appellant had five percent impairment to his left upper extremity and five percent impairment to his right upper extremity.

CONCLUSION

The Board finds that appellant does not have more than five percent impairment of his left upper extremity and five percent impairment of his right upper extremity.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 26, 2007 is affirmed.

Issued: March 20, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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