



Dr. Thomas E. Helbig, an attending Board-certified orthopedic surgeon, first diagnosed right carpal tunnel syndrome on December 13, 1999, with a weak right hand grip and markedly positive Tinel's sign. February 2, 2000 electrodiagnostic studies confirmed a right median nerve latency.

On June 8, 2003 appellant claimed a schedule award. She submitted a March 25, 2003 report from Dr. Weiss, who reviewed the medical records and provided a history of injury and treatment. Dr. Weiss related appellant's description of difficulty sleeping and performing activities of daily living due to right wrist pain. Appellant described her pain as a "pins and needles" sensation rated at 6 out of 10 in severity. On examination, Dr. Weiss found a full range of motion of the wrist, no thenar or hypothenar atrophy, a negative Phalen's sign, positive Tinel's sign, positive carpal compression test, diminished grip strength and a 4/5 weakness of resistive wrist extension. He diagnosed right carpal tunnel syndrome and a repetitive trauma disorder. Referring to the fifth edition of the American Medical Association, "*Guides to the Evaluation of Permanent Impairment*" (hereinafter, "A.M.A., *Guides*"), Dr. Weiss stated that appellant had a 20 percent impairment of the right upper extremity due to grip strength deficit according to Table 16-34<sup>2</sup> and a 9 percent impairment due to motor strength deficit in the wrist extensors according to Tables 16-11<sup>3</sup> and 16-15.<sup>4</sup> He combined these two percentages to equal a 27 percent impairment of the right upper extremity. Dr. Weiss then assessed a three percent impairment due to pain according to Figure 18-1.<sup>5</sup> He totaled these percentages to equal a 30 percent impairment of the right upper extremity. Dr. Weiss opined that appellant had reached maximum medical improvement as of the March 25, 2003 examination.

On October 10, 2003 and January 19, 2007 the Office referred the medical record and a statement of accepted facts to an Office medical adviser to calculate a schedule award.<sup>6</sup>

In a January 31, 2007 report, an Office medical adviser found that, according to Table 16-10<sup>7</sup> of the A.M.A., *Guides*, appellant had a Grade 4 or 13 percent sensory deficit due to median nerve symptoms without reduced sensation. According to Table 16-15, the maximum sensory deficit for the median nerve below the forearm was 39 percent. Multiplying the 13 percent Grade 4 impairment by the maximum 39 percent upper extremity impairment resulted in a 5

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<sup>2</sup> A.M.A., *Guides* 509 (fifth edition), Table 16-34 is entitled "Upper Extremity Joint Impairment Due to Loss of Grip or Pinch Strength."

<sup>3</sup> *Id.* at 484, Table 16-11 is entitled "Determining Impairment of the Upper Extremity Due to Motor and Loss-of-Power Deficits Resulting From Peripheral Nerve Disorders Based on Individual Muscle Rating."

<sup>4</sup> *Id.* at 492, Table 16-15 is entitled "Maximum Upper Extremity Impairment Due to Unilateral Sensory or Motor Deficits or to *Combined* 100 percent Deficits of the Major Peripheral Nerves."

<sup>5</sup> *Id.* at 574, Figure 18-1 is entitled "Algorithm for Rating Pain-Related Impairment in Conditions Associated With Conventionally Ratable Impairment."

<sup>6</sup> The record indicates that the Office did not obtain an office medical adviser's report or otherwise develop the schedule award claim between October 10, 2003 and January 9, 2007. Appellant submitted letters of inquiry from 2004 through 2006 regarding the status of her schedule award claim.

<sup>7</sup> A.M.A., *Guides* 482, (fifth edition), Table 16-10 is entitled "Determining Impairment of the Upper Extremity Due to Sensory Deficits of Pain Resulting From Peripheral Nerve Disorders."

percent impairment of the right upper extremity. Regarding motor nerve deficit, the medical adviser opined that appellant had a Grade 4 or 25 percent deficit according to Table 16-11. Multiplying the 25 percent by the 10 percent maximum impairment for the median nerve according to Table 16-15, equaled 2.5 percent and rounded up to 3 percent. The medical adviser then used the Combined Values Chart on page 604 to arrive at an eight percent impairment of the right upper extremity. The medical adviser explained that, according to pages 493 to 495 of the fifth edition of the A.M.A., *Guides*, the correct method of assessing impairment due to entrapment neuropathy excluded impairment values for decreased grip strength. Also, Dr. Weiss inappropriately added a pain rating under Figure 18-1 as appellant received a pain impairment rating under Table 16-10.

By decision dated March 8, 2007, the Office granted appellant a schedule award for an eight percent permanent impairment of the right upper extremity. The period of the award ran from March 25 to September 15, 2003. In a March 16, 2007 letter, appellant requested a hearing, held July 26, 2007. At the hearing, appellant, through her attorney, asserted that the Office medical adviser's report was insufficiently rationalized to carry the weight of medical opinion. Alternatively, appellant's attorney alleged a conflict of medical evidence between Dr. Weiss and the Office medical adviser. Following the hearing, she submitted an August 27, 2007 letter asserting that pain and paresthesias in her right hand interfered with activities of daily living.

By decision dated and finalized October 2, 2007, an Office hearing representative affirmed the March 8, 2007 schedule award. The hearing representative found that the Office medical adviser's opinion remained controlling as he correctly applied the A.M.A., *Guides* to Dr. Weiss' findings and offered detailed rationale for his rating. The hearing representative found that Dr. Weiss erred by including a pain impairment under Figure 18-1 and a grip strength deficit.

### **LEGAL PRECEDENT**

The schedule award provisions of the Federal Employees' Compensation Act<sup>8</sup> provide for compensation to employees sustaining impairment from loss or loss of use of specified members of the body. The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office. For consistent results and to ensure equal justice, the Board has authorized 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 Office as a standard for evaluation of schedule losses and the Board has concurred in such adoption.<sup>9</sup> As of February 1, 2001, schedule awards are calculated according to the fifth edition of the A.M.A., *Guides*, published in 2000.<sup>10</sup>

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<sup>8</sup> 5 U.S.C. §§ 8101-8193.

<sup>9</sup> *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>10</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 4 (June 2003).

The standards for evaluating the permanent impairment of an extremity under the A.M.A., *Guides* are based on loss of range of motion, together with all factors that prevent a limb from functioning normally, such as pain, sensory deficit and loss of strength. All of the factors should be considered together in evaluating the degree of permanent impairment.<sup>11</sup> Chapter 16 of the fifth edition of the A.M.A., *Guides* provides a detailed grading scheme and procedures for determining impairments of the upper extremities due to pain, discomfort, loss of sensation, or loss of strength.<sup>12</sup>

### ANALYSIS

The Office accepted that appellant sustained right carpal tunnel syndrome. It granted appellant a schedule award for an eight percent permanent impairment of the right upper extremity due to accepted carpal tunnel syndrome, based on a review by an Office medical adviser of a March 25, 2003 assessment performed by Dr. Weiss, an attending osteopath. The Board finds that Dr. Weiss did not properly utilize the A.M.A., *Guides* in assessing appellant's percentage of permanent impairment.

In his January 31, 2007 report, Dr. Weiss observed positive Tinel's and carpal tunnel compression signs, a 4/5 weakness of wrist extension against resistance and diminished grip strength on the right. Based on these findings, he opined that appellant had a 30 percent impairment of the right upper extremity according to the fifth edition of the A.M.A., *Guides*. Dr. Weiss assessed a combined 27 percent impairment of the left upper extremity, 20 percent due to loss of grip strength and 9 percent due to the motor strength deficit. He then added a three percent deficit due to pain. However, the fifth edition of the A.M.A., *Guides* at section 16.5d, page 494, provides that impairment for carpal tunnel syndrome be rated on motor and sensory impairments only. Additional impairment values are not given for decreased grip strength.<sup>13</sup> Thus, the Board finds that Dr. Weiss improperly included grip strength as an element of impairment. This error diminishes the probative weight of his opinion.

Also, Dr. Weiss used Figure 18-1 in determining that appellant had a three percent impairment of the right upper extremity due to pain. However, there is nothing in his report to indicate that he performed a formal pain-related analysis under section 18.3d of the A.M.A., *Guides*. Further, this section of the A.M.A., *Guides* specifically notes that examiners should not use Chapter 18 to rate pain-related impairment for any condition that can be adequately rated on the basis of the rating systems found in other chapters, including Chapter 16. Dr. Weiss did not address why appellant's pain could not be adequately addressed under the protocols of Chapter 16. The Office medical adviser noted Dr. Weiss' error in a January 31, 2007 report, explaining that the A.M.A., *Guides* did not permit using Figure 18-1 in evaluating entrapment neuropathy. Therefore, the Board finds that Dr. Weiss' use of Figure 18-1 was improper and further

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<sup>11</sup> *Tammy L. Meehan*, 53 ECAB 229 (2001).

<sup>12</sup> A.M.A., *Guides* 433-521 (5<sup>th</sup> ed.), Chapter 16 "The Upper Extremities."

<sup>13</sup> *See also Robert V. DiSalvatore*, 54 ECAB 351 (2003) (where the Board found that the fifth edition of the A.M.A., *Guides* provides that impairment for carpal tunnel syndrome be rated on motor and sensory impairments only, without additional impairment values for decreased grip strength).

diminishes the probative value of his opinion. Thus, there is no conflict of opinion between Dr. Weiss and the Office medical adviser, as Dr. Weiss' opinion is significantly flawed.

The Office based its determination of an eight percent impairment of the right upper extremity on the January 3, 2007 report of an Office medical adviser. The medical adviser used Table 16-10 to assess a Grade 4 sensory impairment of 13 percent, multiplied by the maximum 39 percent value for the median nerve in Table 16-15 to equal 5 percent. For motor impairments, the medical adviser used Table 16-11 to assess a Grade 4 impairment, multiplied by the 25 percent value given for the median nerve in Table 16-15, resulting in a 3 percent impairment. The medical adviser then used the Combined Values Chart to arrive at an eight percent impairment of the right upper extremity due to the accepted carpal tunnel syndrome.

The Board finds that the Office medical adviser properly applied the grading schemes of the A.M.A., *Guides* in assessing the percentage of permanent impairment of the right extremity. Therefore, the Board further finds that the Office properly accorded the weight of the medical evidence to the opinion of the Office medical adviser.

On appeal, appellant contends that there is a conflict of medical opinion between the Office medical adviser, for the government, and Dr. Weiss, for appellant. The Board finds that there is no conflict of opinion as the Office medical adviser's report clearly outweighs that of Dr. Weiss. The Office medical adviser provided a well-rationalized impairment rating according to the appropriate portions of the A.M.A., *Guides*, whereas Dr. Weiss misapplied the A.M.A., *Guides*.

#### **CONCLUSION**

The Board finds that appellant has not established that she sustained more than an eight percent impairment of the right upper extremity, for which she received a schedule award.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 2, 2007 is affirmed.

Issued: October 7, 2008  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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