

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

J.D., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Green Bay, WI, Employer**

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**Docket No. 10-905
Issued: December 23, 2010**

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 February 9, 2010 appellant filed a timely appeal from an Office of Workers' Compensation Programs' schedule award decision dated August 13, 2009. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this schedule award decision.

ISSUE

The issue is whether appellant has more than seven percent permanent impairment of the right leg.

FACTUAL HISTORY

Appellant, a 47-year-old letter carrier, twisted her right knee on March 20, 2001 when she slipped on a patch of mud. She filed a claim for benefits, which the Office accepted for right knee sprain. The Office subsequently accepted a lateral meniscus tear of the right knee.

In a May 26, 2009 report, Dr. Ronald A. Barnes, a specialist in family practice, stated that appellant had slight loss of function due to pain, limitation of motion and muscle weakness. He measured loss of range of motion of 118 degrees of flexion in the right knee out of a normal 150

degrees. Dr. Barnes noted marginal atrophy in the right gastrocnemius by measuring 35 centimeters for mid-calf circumference as opposed to 36.5 centimeters on the left side. Appellant also demonstrated a three-millimeter cartilage interval in her right cartilage, which showed lateral-articular osteophytes/arthritis in the right knee.

On May 29, 2007 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of her right leg.

In a report dated August 3, 2009, an Office medical adviser found that appellant had seven percent impairment of her right leg based on the report of Dr. Barnes for three-millimeter cartilage interval on the right side, pursuant to Table 16-3 at page 511 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (sixth edition) (the A.M.A., *Guides*). The physical examination showed no sensory loss and demonstrated a slight loss of knee flexion but demonstrate impairment based on these findings. The Office medical adviser found that appellant reached maximum medical improvement on February 12, 2008.

On August 13, 2009 the Office granted appellant a schedule award for a seven percent permanent impairment of the right leg. The award was for the period February 12 to July 2, 2008, or a total of 20.16 weeks of compensation.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing federal regulations,² 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 for all claimants, the Office has adopted the A.M.A., *Guides*, as the uniform standard applicable to all claimants.³ As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.⁴ The claimant has the burden of proving that the condition for which a schedule award is sought is causally related to his or her employment.⁵

ANALYSIS

The Office medical adviser utilized findings made by Dr. Barnes in his May 26, 2009 report to rate seven percent impairment of appellant's right leg. He based the rating on a three-millimeter cartilage interval on the right side by applying the guidelines at Table 16-3 at page 511 of the A.M.A., *Guides*. Table 16-3 outlines the procedure for rating primary knee joint arthritis: an impairment based on a three-millimeter, mild cartilage interval, full thickness

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

² 20 C.F.R. § 10.404.

³ *Id.* at § 10.404(a).

⁴ *See* FECA Bulletin No. 09-03 (issued March 15, 2008).

⁵ *Veronica Williams*, 56 ECAB 367, 370 (2005).

articular cartilage defect is rated as a Class 1 impairment and yields an impairment in the range of five to nine percent. An impairment of seven percent is the default impairment value for three-millimeter knee joint arthritis, unless increased or decreased by a grade modifier. As no grade modifier was found in this case, the Office medical adviser properly applied the A.M.A., *Guides* to rate seven percent impairment based on this criteria. The Board finds that the Office properly relied on the opinion of the Office medical adviser as the basis for the August 13, 2009 schedule award decision.⁶ The medical evidence establishes that appellant has no more than seven percent impairment to her right leg.

CONCLUSION

The Board finds that appellant has seven percent impairment to her right leg.

ORDER

IT IS HEREBY ORDERED THAT the August 13, 2009 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: December 23, 2010
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

⁶ See *Tommy R. Martin*, 56 ECAB 273 (2005).