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E.W., Appellant)	
)	
and)	Docket No. 10-1194
)	Issued: December 13, 2010
U.S. POSTAL SERVICE, MAIN POST OFFICE,)	
Chicago, IL, Employer)	
)	

Case Submitted on the Record

Before:
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

On August 8, 2008 appellant, then a 57-year-old city letter carrier, filed an occupational disease claim alleging that she sustained blood clots in her left leg due to factors of her federal employment. The Office accepted the claim for an aggravation of varicose veins of the left lower extremity with ulcers.

On February 10, 2009 appellant filed a claim for a schedule award. On February 12, 2009 the Office requested that she submit an impairment evaluation from an attending physician describing the extent of any permanent impairment.

By decision dated April 17, 2009, the Office denied appellant's claim for a schedule award. It found that she had not submitted an impairment evaluation as requested.

On April 27, 2009 appellant, through her attorney, requested a telephone hearing. At the August 13, 2009 hearing, counsel asked the hearing representative to hold the record open for submission of an impairment evaluation in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6th ed. 2009) (A.M.A., *Guides*).

In an impairment evaluation dated September 23, 2009, Dr. Jeffrey F. Wirebaugh, Board-certified in family medicine, discussed appellant's complaints of constant aching in the left leg with increased pain after standing, swelling around "the area of ulceration" and "episodic skin breakdown with seepage and at times some bloody drainage." On examination he found an area of healed ulceration of the anterior and medial leg with atrophic and hyperpigmented skin. Dr. Wirebaugh further found "two areas of superficial ulceration with a transudate kind of seepage. There is mild soft tissue swelling distal to the scar area." Citing to the sixth edition of the A.M.A., *Guides*, Dr. Wirebaugh stated:

"Referring to the lower extremity peripheral vascular disease grid on page 69 [appellant] has a Class 2 impairment. This is based on the evidence of persisting vascular disease with superficial ulceration. The C grade of default percentage is 17 percent.

"The functional history is a Grade 2 modifier due to the persistent edema partially controlled by elastic support. The physical findings grade modifier is 2 due to the persisting vascular disease with superficial ulceration. The objective test results are a Grade 2 modifier due to the abnormal ultrasound and angiographic abnormalities found at the time of her deep vein thrombosis.

"The grade modifiers result in no change in the default or Grade C percentage of 17 percent."

He concluded that appellant had 17 percent permanent impairment of the left lower extremity. Dr. Wirebaugh found that she had reached maximum medical impairment.

By decision dated November 20, 2009, the hearing representative vacated the April 17, 2009 decision. She found that the Office should refer Dr. Wirebaugh's September 23, 2009 evaluation to an Office medical adviser for review.

On November 23, 2009 an Office medical adviser concurred with Dr. Wirebaugh's finding that appellant had 17 percent permanent impairment due to a Class 2 impairment with ulceration. He utilized the Table 4-12 on page 69 of the sixth edition of the A.M.A., *Guides*, applicable to determining impairments of the lower extremity due to peripheral vascular disease, in reaching his conclusion.

By decision dated December 7, 2009, the Office granted appellant a schedule award for 17 percent permanent impairment of the left lower extremity. The period of the award ran for 48.96 weeks from September 23, 2009 to August 31, 2010.

On January 4, 2010 appellant requested reconsideration. She described the problems she experienced with her leg over the years. Appellant submitted progress reports dated 2007 and 2008. The progress reports did not address the extent of any permanent impairment.

By decision dated January 21, 2010, the Office denied modification of its December 7, 2009 decision. It noted that appellant had not submitted any medical evidence with her reconsideration request relevant to determining the extent of her permanent impairment of the left lower extremity.

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 sixth edition requires identifying the impairment class for the diagnosed condition (CDX), which is then adjusted by grade modifiers based on functional history (GMFH), physical examination (GMPE) and clinical studies (GMCS).⁵ The net adjustment formula is (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX).

ANALYSIS

The Office accepted that appellant sustained an aggravation of varicose veins with ulcers in the left lower extremity due to factors of her federal employment. On February 10, 2009 appellant filed a claim for a schedule award. In an impairment evaluation dated September 23, 2009, Dr. Wirebaugh listed findings of healed ulceration with atrophic and hyperpigmented skin in the left anterior and medial leg. He also found superficial ulceration and seepage with mild swelling of the soft tissue. Dr. Wirebaugh noted that appellant complained of constant aching in her leg, increased pain with standing, swelling around the ulceration and periodic skin

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404.

³ *Id.* at § 10.404(a).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.6a (January 2010); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

⁵ A.M.A., *Guides* at 494-531.

breakdown, seepage and bloody drainage. Applying Table 4-12 of the sixth edition of the A.M.A., *Guides*, he found that she had a Class 2 impairment due to peripheral vascular disease with continued superficial ulceration. Dr. Wirebaugh identified the default percentage for a Class 2 impairment as 17 percent. He then found that the grade modifier of 2 for functional history (GMFH) was due to appellant's persistent edema. Dr. Wirebaugh also found that she had a grade modifier of 2 for physical examination (GMPE) based on her ulceration and a grade modifier of 2 for clinical studies (GMCS) due to her abnormal ultrasound and angiogram. Applying the net adjustment formula, (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX), he determined that appellant should receive no adjustment from the default grade. Dr. Wirebaugh concluded that she had 17 percent permanent impairment of the left lower extremity. An Office medical adviser reviewed Dr. Wirebaugh's findings on November 23, 2009 and concurred with his determination that appellant had 17 percent left lower extremity impairment under the sixth edition of the A.M.A., *Guides*. The Board finds that the evidence supports that she has no more than 17 percent permanent impairment of the left lower extremity. There is no other medical evidence of record addressing the extent of appellant's permanent impairment.

CONCLUSION

The Board finds that appellant has no more than 17 percent permanent impairment of the left lower extremity.

ORDER

IT IS HEREBY ORDERED THAT the January 21, 2010 and December 7, 2009 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 13, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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