

² He originally injured his right knee in October 1992 while serving in the military.

underwent an OWCP-authorized right total knee arthroplasty on March 5, 2009. Effective August 13, 2010, appellant elected to receive a disability retirement annuity through the Office of Personnel Management (OPM).

Appellant filed a claim for a schedule award (Form CA-7). OWCP referred him for evaluation of the extent of right lower extremity permanent impairment to Dr. Emmanuel Obianwu, a Board-certified orthopedic surgeon and OWCP referral physician. Dr. Obianwu examined appellant on April 6, 2012 and found 21 percent right leg impairment based on the results of his March 5, 2009 right total knee arthroplasty. He rated appellant's lower extremity impairment pursuant to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (2008).³ The district medical adviser reviewed Dr. Obianwu's April 6, 2012 examination findings and argued with the 21 percent impairment rating.

By decision dated October 1, 2012, OWCP found that appellant had 21 percent impairment of the left lower extremity. The award covered a period of 60.48 weeks from April 6, 2012 through June 3, 2013.⁴

LEGAL PRECEDENT

Section 8107 of FECA sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.⁵ FECA, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the A.M.A., *Guides* as the appropriate standard for evaluating schedule losses.⁶ Effective May 1, 2009, schedule awards are determined in accordance with the sixth edition of the A.M.A., *Guides* (2008).⁷

ANALYSIS

Dr. Obianwu and the district medical adviser both agreed that the results of appellant's March 5, 2009 right total knee arthroplasty represented 21 percent impairment of the right leg pursuant to Table 16-3, A.M.A., *Guides* 511 (6th ed. 2008). Based on Dr. Obianwu's April 6, 2012 examination findings, the surgery produced a good result, which represented class 2

³ The rating was based on Table 16-3, Knee Regional Grid (LEI), A.M.A., *Guides* 511 (6th ed. 2008).

⁴ Although the decision identifies December 31, 2010 as the date of maximum medical improvement (MMI), the schedule award commencement date coincides with Dr. Obianwu's April 6, 2012 examination, which the district medical adviser noted was the appropriate date of MMI.

⁵ For a total loss of use of a leg, an employee shall receive 288 weeks' compensation. 5 U.S.C. § 8107(c)(2).

⁶ 20 C.F.R. § 10.404.

⁷ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards & Permanent Disability Claims*, Chapter 2.808.6a (January 2010).

impairment (moderate problem) with a default grade “C” or 25 percent lower extremity impairment. Taking into account grade modifiers for Functional History (GMFH) (1), Physical Examination (GMPE) (2), and Clinical Studies (GMCS) (1), both physicians concurred that there was a net adjustment of -2, which warranted a grade adjustment from the default value of “C” to grade “A” or 21 percent lower extremity impairment under Table 16-3, A.M.A., *Guides* 511 (6th ed. 2008).⁸

The Board finds that the impairment ratings by both Dr. Obianwu and the district medical adviser conform to the A.M.A., *Guides* (6th ed. 2008). The weight of the medical opinion regarding the extent of appellant’s right lower extremity impairment is represented by their reports.

Appellant has not submitted any medical evidence establishing that he has greater than 21 percent impairment of the right leg. He may request an increased schedule award based on evidence of a new exposure or medical evidence showing progression of his employment-related condition resulting in increased impairment.

CONCLUSION

Appellant has not established that he has greater than 21 percent impairment of the right lower extremity.

⁸ Net Adjustment -- (GMFH 1-CDX 2) + (GMPE 2-CDX 2) + (GMCS 1-CDX 2). See section 16.3d, A.M.A., *Guides* 521 (6th ed. 2008).

ORDER

IT IS HEREBY ORDERED THAT the October 1, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 16, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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