

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ETHEL C. MARTIN and U.S. POSTAL SERVICE,
POST OFFICE, Massapequa, N.Y.

*Docket No. 96-405; Submitted on the Record;
Issued March 20, 1998*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has more than a 20 percent permanent impairment of the left lower extremity for which she received a schedule award.

The Board has duly reviewed the case record and concludes that appellant has no greater than a 20 percent permanent impairment of the left lower extremity for which she received a schedule award.

On March 10, 1992 appellant, then a 51-year-old postal distributor, sustained employment-related left knee sprain and right thumb tendon rupture with repair. By decision dated May 23, 1995, the Office of Workers' Compensation Programs granted her a schedule award for a 20 percent permanent impairment for partial loss of use of the left knee for the period September 12, 1994 to October 19, 1995 for a total of 58 weeks of compensation.¹

Under section 8107 of the Act² and section 10.304 of the implementing federal regulations,³ schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Federal Employees' Compensation Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for all claimants, good administrative

¹ The record also contains a November 14, 1995 decision in which the Office granted appellant a schedule award for a 23 percent impairment for partial loss of use of the right upper extremity. This decision is not before the Board as it was issued subsequent to appellant's appeal in the instant case.

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.304.

practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment*⁴ (hereinafter A.M.A., *Guides*) have been adopted by the Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁵

The relevant medical evidence includes a September 12, 1994 report in which Dr. Dwight C. Blum, appellant's treating Board-certified orthopedic surgeon, completed an Office form in which he stated that he did not utilize the A.M.A., *Guides* in his analysis. He, however, provided measurements for range of motion of the left knee that indicated that appellant had a loss of 10 degrees of loss of motion from full extension to full flexion. Dr. Blum stated that appellant had moderate intermittent pain of the knee when tested for instability, and that appellant exhibited post-traumatic irregularity or arthritis in the patellofemoral chondrosis. He also noted "probable weakness" and atrophy in the quadriceps and vastus medialis obliques muscles and recognized that it was difficult to get an accurate assessment. In a March 17, 1995 report, an Office medical adviser reviewed Dr. Blum's September 12, 1994 report and, based on Dr. Blum's range of motion findings, utilized Table 41 of the A.M.A., *Guides* and concluded that appellant had a 20 percent impairment of the left lower extremity.

In obtaining medical evidence required for a schedule award, the evaluation made by a physician must include a detailed description of the impairment including, where applicable, the loss in degree of motion of the affected member of function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation, or other pertinent descriptions of the impairment. This description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.⁶

The Board finds that, applying Dr. Blum's measurements, the Office medical adviser properly determined the degree of impairment of appellant's right lower extremity for range of motion. While Dr. Blum also indicated that appellant suffered pain and indicated that she had "probable weakness and atrophy" of the left leg, this opinion is of diminished probative value as it was couched in equivocal terms.⁷ As it is appellant's burden to submit sufficient evidence to establish her claim,⁸ the Board finds that the Office permissibly followed the advice of its medical consultant in granting appellant a schedule award for a 20 percent permanent impairment of the left lower extremity.

⁴ A.M.A., *Guides* (4th ed. 1993).

⁵ See *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

⁶ See *Gary L. Loser*, 38 ECAB 673 (1987).

⁷ See *Ern Reynolds*, 45 ECAB 690 (1994).

⁸ See *Annette M. Dent*, 44 ECAB 403 (1993).

The decision of the Office of Workers' Compensation Programs dated May 23, 1995 is hereby affirmed.

Dated, Washington, D.C.
March 20, 1998

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member