

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DORIS E. SIMPSON and DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, Baltimore, Md.

*Docket No. 96-1320; Submitted on the Record;  
Issued March 25, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
DAVID S. GERSON

The issue is whether appellant has a permanent impairment of her lower extremities causally related to her February 13, 1990 employment injury.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained contusions of both knees when she fell at work on February 13, 1990. In its letter of acceptance to appellant dated September 10, 1991, the Office specifically informed appellant that it was not accepting her conditions of preexisting arthritis of her legs and knees.

In a hospital report dated March 21, 1990, Dr. George E. Wicks, III, treated appellant for complaints of left knee pain of one weeks' duration. He noted that appellant denied a history of recent trauma. Dr. Wicks diagnosed septic arthritis due to a staph infection, insulin-dependent diabetes mellitus and rheumatoid arthritis. Dr. Wicks recommended immediate surgery.

The record indicates that appellant continued to receive treatment for osteomyelitis of the right foot and left knee, recurrent septic arthritis of the left knee and underwent fusion of the left knee in April 1991.

In a form report dated November 24, 1993, Dr. Shelton C. Simmons, III, a Board-certified orthopedic surgeon and appellant's attending physician, noted that appellant "[a]pparently fell on knees at work [on] February 13, 1990 -- history unspecific." Dr. Simmons diagnosed septic arthritis and osteomyelitis of the left knee and checked "yes" that the conditions were caused or aggravated by employment, stating that "the fall contributed to exacerbation of her condition."

On March 24, 1994 appellant filed a claim for compensation on account of traumatic injury or occupational disease (Form CA-7) requesting a schedule award.

By letter dated August 12, 1994, the Office requested that Dr. Simmons evaluate appellant to determine the extent of any permanent impairment due to her accepted condition of

bilateral knee contusions resulting from the February 13, 1990 employment injury. The Office informed Dr. Simmons to reach his impairment determination in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4<sup>th</sup> ed. 1993).

In a report dated September 23, 1994, Dr. Simmons noted that he had treated appellant since March 1990 for a septic knee and that she also had "osteomyelitis involving both the distal left femur and the proximal left tibia. An attempt at arthrodesis was carried out in April 1991. This resulted in a fairly stable pseudarthrosis at the knee and this has remained basically unchanged over the past two and a half to three years." Dr. Simmons further noted that appellant also had osteomyelitis in her foot. He stated, "I would give her at least a[n] 80 [percent] total limb disability because of this ongoing problem and I do not see this degree of disability improving to any extent."

By letter dated October 4, 1995, the Office informed appellant that it was unusual for a permanent impairment to result from bilateral knee contusions and that she should submit a report from her physician addressing her employment injury and medical history. The Office again requested that the physician include in his report his calculations based on the A.M.A., *Guides*. The Office provided appellant 30 days to respond to the request.

Appellant did not respond within the time allotted.

By decision dated February 23, 1996, the Office found that appellant did not have a ratable permanent impairment due to her accepted employment injury.

The Board finds that appellant has not established that she has a permanent impairment of her lower extremities causally related to her February 13, 1990 employment injury.

Under section 8107 of the Federal Employees' Compensation Act<sup>1</sup> and section 10.304 of the implementing federal regulations,<sup>2</sup> schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the 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 practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The 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.<sup>3</sup>

Appellant did not submit sufficient medical evidence to establish that she had a permanent impairment of either lower extremity due to her February 13, 1990 employment injury. In support of her schedule award claim, appellant submitted a September 23, 1994 report from her attending physician, Dr. Simmons, a Board-certified orthopedic surgeon. Dr. Simmons diagnosed a septic knee, pseudarthrosis of the knee and osteomyelitis of the distal left femur,

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> 20 C.F.R. § 10.304.

<sup>3</sup> *James J. Hjort*, 45 ECAB 595 (1994).

proximal left tibia and foot. He opined that she had an “80 percent total limb disability” due to the diagnosed conditions. However, Dr. Simmons’ determination of appellant’s permanent impairment is of little probative value as he does not explain how he reached his impairment rating by citing to the appropriate tables and pages of the A.M.A., *Guides*. Further, Dr. Simmons does not provide a rationalized opinion that any of the diagnosed conditions were causally related to the February 13, 1990 employment injury, which the Office accepted only for bilateral knee contusions.<sup>4</sup> In a form report dated November 24, 1993, Dr. Simmons noted that appellant “[a]pparently fell on knees at work [on] February 13, 1990 -- history unspecific.” Dr. Simmons diagnosed septic arthritis and osteomyelitis of the left knee and checked “yes” that the conditions were caused or aggravated by employment, stating that “the fall contributed to exacerbation of her condition.” The Board has held that a physician’s opinion on causal relationship which consists only of checking “yes” in response to a form question without supporting rationale has little probative value and is insufficient to establish causal relationship.<sup>5</sup> Dr. Simmons’ statement that the fall at work exacerbated appellant’s septic arthritis and osteomyelitis is conclusory in nature and devoid of supporting rationale and thus of little probative value.<sup>6</sup> In addition, the Board has carefully reviewed the medical evidence of record and notes that there is substantial medical evidence which indicates that appellant’s septic arthritis and osteomyelitis of the knee are nonemployment-related conditions. Therefore, appellant has not submitted the necessary medical evidence to establish that she sustained a permanent impairment of either lower extremity due to her accepted employment injury.

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<sup>4</sup> See *George Randolph Taylor*, 6 ECAB 986 (1954) (finding that a medical opinion not fortified by medical rationale is of little probative value).

<sup>5</sup> *Ruth S. Johnson*, 46 ECAB 237 (1994).

<sup>6</sup> *Arlonia B. Taylor*, 44 ECAB 591 (1993).

The decision of the Office of Workers' Compensation Programs dated February 23, 1996 is hereby affirmed.

Dated, Washington, D.C.  
March 25, 1998

Michael J. Walsh  
Chairman

George E. Rivers  
Member

David S. Gerson  
Member