

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL A. McNEILL and NATIONAL AERONAUTICS & SPACE
ADMINISTRATION, GODDARD SPACE FLIGHT CENTER, Greenbelt, Md.

*Docket No. 96-1643; Submitted on the Record;
Issued May 4, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has more than a 25 percent permanent impairment of the left lower extremity for which he received a schedule award.

The Board has duly reviewed the case record and concludes that appellant has no greater than a 25 percent permanent impairment of the left lower extremity.

On October 19, 1994 appellant, then a 31-year-old engineer, sustained an employment-related internal derangement of the left knee that required arthroscopy and repair. By decision dated April 5, 1996, the Office of Workers' Compensation Programs granted him a schedule award for a 25 percent permanent impairment, for partial loss of use of the left knee for the period February 21, 1996 to July 8, 1997, for a total of 72 weeks of compensation.

Under section 8107 of the Federal Employees' Compensation Act¹ and section 10.304 of the implementing federal regulations,² 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 American Medical Association, *Guides to the Evaluation of Permanent Impairment*³ (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.⁴

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

³ A.M.A., *Guides* (4th ed. 1993).

⁴ See *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*,

The relevant medical evidence includes reports dated February 21 and March 12, 1996, in which appellant's treating Board-certified orthopedic surgeon, Dr. H.S. Pabla, advised that under Table 64 of the A.M.A., *Guides*, appellant was entitled to a 25 percent impairment for cruciate ligament insufficiency, under Table 39 a 17 percent impairment for muscle weakness and, under Table 37, an 8 percent impairment due to leg muscle atrophy. Dr. Pabla also indicated that, as appellant still had weakness and loss of endurance, he had an additional 10 percent impairment. He concluded that appellant had a 60 percent impairment of the left lower extremity. In an April 3, 1996 report, an Office medical adviser concluded that appellant had a 25 percent impairment for loss of use of the left lower extremity due to cruciate ligament laxity.

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.⁵

The Board finds that, applying Dr. Pabla's measurements, the Office medical adviser, properly determined the degree of impairment of appellant's left lower extremity. The A.M.A., *Guides* indicate that some impairments are more properly assessed on the basis of a diagnosis, than on examination findings.⁶ Dr. Pabla indicated that appellant was entitled to a 25 percent impairment based on a diagnosis of cruciate ligament insufficiency, plus an additional 25 percent for muscle weakness and leg muscle atrophy. Under the A.M.A., *Guides*, however, either a diagnosis-based or examination-based analysis is to be made.⁷ The Office medical adviser, therefore, properly utilized Table 64,⁸ and determined that a diagnosis of severe cruciate ligament insufficiency resulted in a 25 percent impairment.⁹ While Dr. Pabla also indicated that, as appellant still had weakness and loss of endurance, he was entitled to an additional 10 percent impairment, there is nothing in the A.M.A., *Guides* on which to base this conclusion. Thus, as it is appellant's burden to submit sufficient evidence to establish her claim,¹⁰ the Board finds that the Office permissibly followed the advice of its medical consultant in granting appellant a schedule award for a 25 percent permanent impairment of the left lower extremity.

38 ECAB 168 (1986).

⁵ See *Gary L. Loser*, 38 ECAB 673 (1987).

⁶ A.M.A., *Guides* 84, section 3.2(i).

⁷ *Id.*

⁸ A.M.A., *Guides* 85.

⁹ The Board notes that by using Dr. Pabla's findings under Tables 37 and 39 would also equal a 25 percent impairment.

¹⁰ See *Annette M. Dent*, 44 ECAB 403 (1993).

The decision of the Office of Workers' Compensation Programs dated April 5, 1996 is hereby affirmed.

Dated, Washington, D.C.
May 4, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member