

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JO ANN McFARLAND and DEPARTMENT OF HEALTH & HUMAN SERVICES, CENTER FOR DISEASE CONTROL, Atlanta, Ga.

*Docket No. 97-673; Submitted on the Record;
Issued November 9, 1998*

DECISION and ORDER

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

The issue is whether appellant has established greater than a six percent permanent impairment of the left arm, for which she received a schedule award.

On May 15, 1995 appellant, then a 48-year-old telecommunications specialist, filed a notice of traumatic injury and claim, alleging that she slipped on a wet floor and injured her left arm on May 8, 1995. Appellant stopped work. On May 9, 1995 appellant underwent open reduction and internal fixation surgery of the left olecranon in her left elbow. By decision dated June 8, 1995, the Office of Workers' Compensation Programs accepted appellant's claim for fracture of the left elbow. Appellant returned to work for 20 hours a week on September 18, 1995. In a decision dated November 15, 1996, the Office awarded appellant a schedule award for a 6 percent permanent impairment of the left arm for a total of 18.72 weeks of compensation for the period May 3 to September 11, 1996.

The Board has carefully reviewed the entire case record on appeal and finds that appellant has not established greater than a six percent permanent impairment of the left arm.

Section 8107 of the Federal Employees' Compensation Act¹ and its implementing regulations² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of specified 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 to 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*

¹ 5 U.S.C. § 8107(c).

² 20 C.F.R. § 10.304.

Evaluation of Permanent Impairment (A.M.A., *Guides*) have been adopted by the Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating losses.³

In the present case, appellant submitted a report dated May 2, 1996 by Dr. Champ L. Baker, Jr., a Board-certified orthopedic surgeon and her attending physician. In his report, Dr. Baker, Jr. noted that in the left elbow appellant flexed to 105 degrees, had a negative 10 degree loss of extension and diminished grip strength, and was not taking anything for pain. He also provided measurements in relation to appellant's left shoulder. Dr. Baker, Jr. found a 20 percent permanent impairment based on loss of residual motion of appellant's left shoulder and left elbow weakness.

The Office medical adviser properly applied the fourth edition of the A.M.A., *Guides* to the May 2, 1996 report by Dr. Baker, Jr. and correctly determined that appellant had no more than a six percent permanent impairment of the left arm. He noted that appellant had a retained flexion of 105 degrees which was the equivalent of a 5 percent permanent impairment according to Figure 32 of the A.M.A., *Guides*.⁴ Dr. Baker, Jr. also found that appellant's negative 10 degree extension of the elbow equated to a 1 percent permanent impairment also according to Figure 32 of the A.M.A., *Guides*.⁵ The Office medical adviser therefore found a six percent permanent impairment of the left upper extremity for loss of range of motion. As Dr. Baker, Jr.'s 20 percent impairment rating included values for impairment to appellant's left shoulder which was not an accepted injury for her claim, the Office medical adviser properly disregarded those figures in applying the A.M.A., *Guides* to Dr. Baker, Jr.'s report. Since the Office medical adviser properly applied the A.M.A., *Guides* and explained his calculation of impairment, the Board finds that the Office properly relied on this report in finding that appellant sustained a six percent permanent impairment of her left arm due to her accepted injury. Appellant has not established greater than a six percent permanent impairment of her left elbow.

³ *Quincy E. Malone*, 31 ECAB 846 (1980).

⁴ Figure 32, Upper Extremity Impairments, Due to Lack of Flexion and Extension of the Elbow Joint, p 40, A.M.A., *Guides* (4th ed. 1993).

⁵ *Id.*

The decision of the Office of Workers' Compensation Programs dated November 15, 1996 is hereby affirmed.

Dated, Washington, D.C.
November 9, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member