

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JAMES R. GRIZZLE and U.S. POSTAL SERVICE,  
POST OFFICE, Chicago, Ill.

*Docket No. 97-1758; Submitted on the Record;  
Issued February 22, 1999*

---

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant has more than a 25 percent permanent impairment of the left upper extremity or more than an 18 percent permanent impairment of the right upper extremity, for which he received a schedule award.

On April 1, 1992 the Office of Workers' Compensation Programs issued a schedule award for a 25 percent permanent impairment of the left upper extremity and an 18 percent permanent impairment of the right upper extremity. On April 11, 1995 appellant filed a claim for an increased award.

In support thereof, appellant submitted a March 10, 1995 report from Dr. Robert W. Macht, the Board-certified surgeon, who evaluated appellant's permanent impairment in August 1991. Dr. Macht reported that appellant returned to his office complaining of pain about both arms, especially the right. Appellant complained that his arms were weak and ached more with the change of weather, that there was numbness about the right little finger and that he had difficulty grasping. Dr. Macht described clinical findings such as tenderness upon palpation about both wrists, especially the left, pain with motion of the right thumb and wrist and positive Tinel's sign bilaterally. He diagnosed status post release of both carpal tunnels and offered the following opinion:

"This patient over a period of time while working developed bilateral carpal tunnel syndrome. He continues to have pain and weakness. His recent [electromyogram] EMG [n]erve [c]onduction [s]tudy continues to show slowing of his median nerve through the carpal tunnel. There has been some improvement in this test since 1990. Using Table 16, [p]age 57 of the [f]ourth [e]dition of [the American Medical Association, *Guides to the Evaluation of Permanent Impairment*] he has a moderate to severe entrapment of both median nerves and therefore has a 30 percent permanent partial impairment of his right upper

extremity and a 30 percent permanent partial impairment of his left upper extremity.”

In a report dated April 3, 1995, Dr. Macht explained that he did not feel that one should rely on the EMG and nerve conduction studies either to prove a diagnosis or to determine the extent of disease. The extent of disease, he stated, is judged clinically. Dr. Macht noted that pain in appellant’s right wrist and hand was more frequent than it was in August 1991. He stated that it was his clinical impression that the pain was more severe in both wrists and hands than it was three and a half years earlier. “At this time,” he stated, “the clinical impression of his illness is similar in both hands and wrists, whereas before is [sic] was in the left hand and wrist. Therefore, based on the Fourth Edition of the A.M.A., *Guides*, as noted in my previous report, he has a total 30 percent permanent partial impairment of the left upper extremity and a 30 percent permanent impairment of the right upper extremity.”

The Office referred the case to an Office medical adviser for a review and an opinion on permanent impairment. On or about May 2, 1995 the Office medical adviser reported that a moderately severe nerve entrapment of the median nerve at the wrist was equal to a 30 percent impairment of the upper extremity. The Office medical adviser reported that the impairment rating of both wrists should be increased to 30 percent according to Table 16, page 57, of the fourth edition of the A.M.A., *Guides*.

The claims examiner noted that the Office medical adviser did not apply findings to the A.M.A., *Guides* to support the opinion given. The Office referred the case to another medical adviser for review. On or about July 5, 1995 a second Office medical adviser reported that appellant had suffered no additional impairment as recent EMG and nerve conduction studies revealed improvement.

In a decision dated February 26, 1996, the Office denied appellant’s claim for an increased award. The Office found that the medical opinion of record did not illustrate an increase in impairment in accordance with the A.M.A., *Guides*. Instead, the Office found, Dr. Macht’s reflected a condition that had improved.

In a decision dated March 25, 1997, the Office affirmed its prior decision. The Office found that Dr. Macht’s conclusion was not supported by objective medical findings. The Office found that his opinion was of little probative value because he failed to provide sufficient, probative rationale to explain how, using the appropriate tables from the A.M.A., *Guides*, he determined that appellant sustained additional impairment when the result of EMG and nerve conduction studies showed that his condition had actually improved. The Office explained that the A.M.A., *Guides*, provided specific procedures for determining impairment of the affected body part:

“When the effect of impairment is pain, the physician must identify the area of involvement and nerves that innervate that area; find a value for maximum loss of function of the nerve or nerves due to pain or loss of sensation using the appropriate table; grade the degree of decreased sensation or pain according to a grading scheme; and multiply the value of the affected nerve by the grade of decreased sensation or pain to reach a total degree of impairment.”

The Board finds that appellant is entitled to an increased schedule award.

The fourth edition of the A.M.A., *Guides*, provides that permanent impairment of the hand and upper extremity secondary to entrapment neuropathy may be derived by following the grading schemes and procedures set forth in Table 11, page 48, and Table 12, page 49, for determining impairment due to sensory or motor deficits.<sup>1</sup> The Office failed to recognize, however, that the fourth edition also provides an alternative, diagnosis-based method for deriving the impairment of the hand and upper extremity secondary to entrapment neuropathy. Rather than measure the sensory and motor deficits and restricted motion, the evaluator may use Table 16, page 57, wherein impairment is estimated according to the severity of involvement of each major nerve at each entrapment site. A grade of “mild” for the median nerve entrapped at the wrist represents an upper extremity impairment of 10 percent, a grade of “moderate” represents 20 percent, and a grade of “severe” represents 30 percent. The A.M.A., *Guides*, explains that the evaluator should not use both methods.<sup>2</sup>

Dr. Macht properly evaluated appellant’s impairment under the alternative method. As he made clear in his April 3, 1995 report, appellant’s right wrist and hand pain was more frequent than it was in 1991, the pain in both wrists and hands was more severe, and the clinical impression was now similar in both wrists and hands, unlike previously. Dr. Macht specifically referenced Table 16, page 57, of the fourth edition of the A.M.A., *Guides* and graded the degree of severity of involvement of the median nerve as moderate to severe, supporting his estimate of a 30 percent impairment bilaterally.

Although the first Office medical adviser concurred with Dr. Macht’s evaluation, the Office referred the case to a second medical adviser, who focused on recent EMG and nerve conduction studies showing improvement since 1990. Dr. Macht addressed this issue in his April 3, 1995 report. Further, the Board notes that an improvement since 1990 is not inconsistent with appellant’s claim. Electrodiagnostic studies were performed on May 7, 1990, prior to the carpal tunnel releases of May 29 and June 26, 1990, prior to Dr. Macht’s evaluation in August 1991, and prior to the schedule award issued on April 1, 1992. Having performed the previous evaluation, Dr. Macht was well able to compare appellant’s current status to that previously seen and he addressed the diagnostic studies.

Dr. Macht properly used his clinical findings to grade appellant’s impairment under the appropriate table of the A.M.A., *Guides*. The Board finds that the weight of the medical evidence as represented by Dr. Macht establishes that appellant is entitled to an increased schedule award for impairment of his upper extremities.

---

<sup>1</sup> A.M.A., *Guides* 56.

<sup>2</sup> *Id.*

The March 25, 1997 decision of the Office of Workers' Compensation Programs is reversed.

Dated, Washington, D.C.  
February 22, 1999

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member