

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHAUNSEY E. JONES and U.S. POSTAL SERVICE,  
POST OFFICE, Westwego, La.

*Docket No. 97-1298; Submitted on the Record;  
Issued January 22, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly found that appellant was only entitled to a five percent schedule award for his left lower extremity.

The Board has reviewed the case record and concludes that the Office properly found that appellant was only entitled to a five percent schedule award for his left lower extremity.

In the present case, the Office accepted that appellant sustained a left knee strain and, subsequently, chondromalacia of the patellofemoral joint of his left knee as a result of his injury in the performance of duty on December 1, 1989. Appellant, however, also requested a schedule award.

Consequently, the Office requested that Dr. Robert A. Fleming, Jr., appellant's treating physician and a Board-certified orthopedic surgeon, evaluate appellant's impairment. On April 16, 1996 Dr. Fleming examined appellant and stated that he still manifested evidence of patellofemoral crepitus without instability. He stated that appellant had not reached maximum medical improvement and that appellant had a five percent lower extremity impairment based on chondromalacia of the patella. On October 2, 1996 Dr. Fleming indicated that appellant had a two millimeter cartilage interval of his left knee and that, therefore, pursuant to Table 62, page 83, of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4<sup>th</sup> ed.) entitled "Arthritis Impairments based on Roentgenographically Cartilage Intervals," appellant had a 20 percent impairment of the left lower extremity.

The schedule award provision of the Federal Employees' Compensation Act<sup>1</sup> and its implementing regulations,<sup>2</sup> set forth that schedule awards are payable for permanent impairment

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> 20 C.F.R. § 10.304.

of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment is to be determined. For consistent results and to ensure equal justice for all claimants, the Office has adopted the A.M.A., *Guides* as a standard for determining the percentage of impairment.<sup>3</sup>

In obtaining medical evidence for schedule award purposes, the Office must obtain an evaluation by an attending physician which includes a detailed description of the impairment including, where applicable, the loss in degrees of motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation or other pertinent descriptions of the impairment. The 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.<sup>4</sup> If the attending physician has provided a detailed description of the impairment, but has not properly evaluated the impairment pursuant to the A.M.A., *Guides*, the Office may request that the Office medical adviser review the case record and determine the degree of appellant's impairment utilizing the description provided by the attending physician and the A.M.A., *Guides*.<sup>5</sup>

Following the receipt of Dr. Fleming's report, the Office requested that its medical adviser apply the A.M.A., *Guides* to the measurements of impairment provided by Dr. Fleming. The Office medical adviser thereafter evaluated appellant's impairment in a report dated December 5, 1996. The medical adviser opined that maximum medical improvement had been established on April 16, 1996 because no further improvement was expected by Dr. Fleming when he examined appellant on that date. The Office medical adviser then properly noted that Dr. Fleming erred in finding that appellant had a 20 percent impairment of the left lower extremity pursuant to Table 62, page 83, of the A.M.A., *Guides* entitled "Arthritis Impairments Based on Roentgenographically Cartilage Intervals," because appellant's accepted condition involved patellofemoral chondromalacia rather than a loss of cartilage interval. The medical adviser, however, properly found that appellant's patellofemoral pain, as described by Dr. Fleming, resulted in a five percent permanent impairment of the left lower extremity pursuant to the footnote accompanying Table 62, page 83, of the A.M.A., *Guides*.

As the Office medical adviser properly utilized the description of appellant's impairment provided by Dr. Fleming and the A.M.A., *Guides* to evaluate appellant's impairment and there is no other evidence of record that appellant has more than a five percent permanent impairment of the left lower extremity, the Office properly found that appellant had a five percent impairment of the left lower extremity.

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<sup>3</sup> *Leisa D. Vassar*, 40 ECAB 1287 (1989).

<sup>4</sup> *Joseph D. Lee*, 42 ECAB 172 (1990).

<sup>5</sup> *Paul R. Evans, Jr.*, 44 ECAB 646 (1993).

The decision of the Office of Workers' Compensation Programs dated December 16, 1996 is affirmed.

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

George E. Rivers  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member