

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LUIS O. ALICEA-BERRIOS and U.S. CAPITOL POLICE,
Washington, D.C.

*Docket No. 97-1466; Submitted on the Record;
Issued January 20, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has more than a 12 percent permanent impairment of the left upper extremity.

On April 30, 1995 appellant, then a 40-year-old police officer, filed a claim for compensation alleging that he injured his left shoulder while in the performance of duty. The Office of Workers' Compensation Programs accepted appellant's claim for cervical strain, left shoulder strain.

In an April 25, 1996 medical report, Dr. Hugo V. Rizzoli, appellant's treating physician and Board-certified in neurological surgery, stated that appellant had a 20 percent permanent impairment based on his work-related injuries.

On September 27, 1996 the Office referred appellant to Dr. Rafael Lopez, a consultant, Board-certified in orthopedic surgery, for a medical evaluation.

In a medical report dated October 1, 1996, Dr. Lopez evaluated appellant as follows: abduction, 120 degrees; forward elevation, 120 degrees; internal rotation, 40 degrees; external rotation, 90 degrees; backward elevation, 40 degrees; adduction, 30 degrees, and extension, 40 degrees. In a medical report dated the same day, Dr. Lopez stated that appellant had "acromioclavicular joint dysfunction" and that "according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (4th ed. 1993), (appellant) has a five percent impairment of the left upper extremity function according to Tables 18 and 19."

In an April 4, 1996 medical report, the Office medical adviser relied on Dr. Lopez' data to evaluate appellant's impairment rating. The Office medical adviser determined that 120 degrees of abduction equaled 3 percent permanent impairment¹; 30 degrees of adduction equaled

¹ A.M.A., *Guides*, 44, figure 41.

1 percent impairment²; 120 degrees of flexion equaled 4 percent permanent impairment³; 40 degrees of extension equaled 1 percent permanent impairment⁴; 90 degrees of external rotation equaled 0 percent permanent impairment⁵; and 40 degrees of internal rotation equaled 3 percent permanent impairment⁶ for a total of 12 percent permanent impairment of the left upper extremity. Dr. Lopez noted that appellant's date of maximum medical improvement was April 30, 1996.

By decision dated November 8, 1996, the Office issued a schedule award for 12 percent impairment to the left arm entitling appellant to 37.24 weeks of compensation from April 30, 1996 to January 17, 1997.

The Board finds that the medical evidence establishes that appellant has no more than a 12 percent impairment of the left upper extremity for which he received a schedule award.

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 A.M.A., *Guides* has been adopted by the Office, and the Board has concurred in such adoption, as a standard for evaluating schedule losses.⁷

The preface to the A.M.A., *Guides* notes that the guidelines were prepared to allow one physician to use the raw clinical data of another physician in order to arrive at a uniform, standardized evaluation.⁸ While the medical opinion of Dr. Rizzoli might be accorded some greater weight as the opinion of a treating physician, he did not indicate that he used the A.M.A., *Guides* nor did the record reveal that Dr. Rizzoli conducted any range of motion evaluations with respect to appellant's work-related injury. Therefore his report is of no probative value. The Board finds that the Office medical adviser properly relied on the range of motion evaluation findings of Dr. Lopez, and applied those findings against the appropriate figures and tables in accordance with the A.M.A., *Guides* to arrive at a 12 percent permanent impairment of the left upper extremity.

² *Id.*

³ *Id.* at 43, figure 38.

⁴ *Id.*

⁵ *Id.* at 45, figure 44.

⁶ *Id.*

⁷ *Quincy E. Malone*, 31 ECAB 846 (1980); *August M. Buffa*, 12 ECAB 324 (1961).

⁸ *Supra* note 1, p. viii.

The decision of the Office of Workers' Compensation Programs dated November 8, 1996 is hereby affirmed.⁹

Dated, Washington, D.C.
January 20, 1999

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

⁹ The Board notes that appellant submitted additional evidence subsequent to the Office's November 8, 1996 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c).