

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SYLVIA ROSAS-BECERRA and U.S. POSTAL SERVICE,
NORTH BAY GENERAL MAIL FACILITY, Sebastopol, Calif.

*Docket No. 97-2076; Submitted on the Record;
Issued July 15, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issue is whether appellant has established that she sustained greater than a 20 percent permanent impairment of the right upper extremity and a 20 percent permanent impairment of the left upper extremity for which she received a schedule award.

On April 6, 1993 appellant, then a 28-year-old letter carrier, filed an occupational disease claim, alleging that she sustained tendinitis beginning April 1, 1993, that was causally related to factors of her federal employment. By decision dated June 3, 1993, the Office of Workers' Compensation Programs accepted appellant's claim for medial epicondylitis of the right elbow. On September 20, 1993 appellant filed a claim for recurrence of disability beginning August 26, 1993. On November 30, 1993 appellant filed an occupational disease claim, alleging that she sustained bilateral carpal tunnel syndrome beginning August 1993 that was causally related to factors of her federal employment. The Office accepted that occupational disease claim for bilateral carpal tunnel syndrome and approved carpal tunnel release surgery on the right and left wrists on January 26 and May 4, 1995, respectively. Appellant received appropriate compensation for all periods of temporary total and partial disability related to her accepted injuries and surgeries.

On November 29, 1995 appellant filed a claim for a schedule award. In a decision dated November 27, 1996, the Office issued appellant a schedule award for a 20 percent permanent impairment of the right upper extremity and a 20 percent permanent impairment of the left upper extremity. The period of the award was to run from November 10, 1996 to April 2, 1999 for a total of 124.8 weeks of compensation. However, on January 3, 1997 appellant requested that her schedule award be paid as a lump-sum benefit. On March 21, 1997 the Office issued a check for \$51,799.70 as a lump-sum payment for the remainder of the compensation due appellant on her schedule award.

The Board has duly reviewed the entire case record on appeal and finds that appellant has not established that she sustained greater than a 20 percent permanent impairment of the right upper extremity and a 20 percent permanent impairment of the left upper extremity.

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 Evaluation of Permanent Impairment* (fourth edition 1993) 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 August 1, 1996, by Dr. Gary P. McCarthy, a Board-certified orthopedic surgeon and appellant's attending physician. In his report, Dr. McCarthy provided a thorough review of appellant's history of injury and extensive findings regarding his findings on physical examination. He diagnosed bilateral carpal tunnel syndrome, positive extensor resistance test, right greater than left and tenderness of the right trapezius. Based on the A.M.A., *Guides* Dr. McCarthy found that the moderate median nerve compression at the wrist equaled a 20 percent upper extremity impairment according to Table 16 for a combined value of a 36 percent impairment of both upper extremities or a 22 percent whole person impairment. He concluded that appellant could not return to her date-of-injury position but could perform modified work.

An Office medical consultant properly reviewed this report and applied to the fourth edition of the A.M.A., *Guides* to conclude that appellant had a permanent impairment due to moderate entrapment neuropathy of the median nerve in both wrists, which was the equivalent of a 20 percent impairment of the right upper extremity and a 20 percent impairment of the left upper extremity according to Table 16 of the A.M.A., *Guides*.⁴ As both the Office medical consultant and Dr. McCarthy concur in the impairment rating for appellant and this rating is fully explained and based on application of the appropriate A.M.A., *Guides*, appellant has not established greater than a 20 percent permanent impairment of the right upper extremity and a 20 percent permanent impairment of the left upper extremity, for which she received a schedule award.

¹ 5 U.S.C. § 8107(c).

² 20 C.F.R. § 10.304.

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

⁴ Table 16, Upper Extremity Impairment Due to Entrapment Neuropathy, p. 3/57, A.M.A., *Guides* (4th ed.1995).

The decision of the Office of Workers' Compensation Programs dated November 27, 1996 is hereby affirmed.

Dated, Washington, D.C.
July 15, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member