

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CONNIE LEDFORD and ARMY,
CORP OF ENGINEERS, Savannah, GA

*Docket No. 97-2845; Submitted on the Record;
Issued July 26, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has more than 12 percent permanent impairment of the left upper extremity, 26 percent permanent impairment of the right lower extremity and 8 percent permanent impairment of the left lower extremity, for which he received a schedule award.

On March 24, 1994 appellant filed a traumatic injury claim alleging that she sustained multiple injuries as a result of an automobile accident which occurred while she was in the performance of duty. The Office of Worker's Compensation Programs accepted the claim for left arm fracture, right knee laceration, facial lacerations with fractures and bilateral talus fractures.

By letter dated March 12, 1996, appellant requested a schedule award.

Appellant's attending physician, Dr. H. Kevin Jones, a Board-certified orthopedic surgeon, reported on April 17, 1995 the following assessment of appellant's permanent impairment:

"I am assigning an impairment rating of 2 [percent] for the upper extremity based on the right distal radius fracture and permanent soft tissue injury. This translates to 1 [percent] whole person, and 10 [percent] for the upper extremity based on severe soft tissue injury and comminuted fractures of the distal radius and ulna. This translates to 6 [percent] whole person, right knee 18 [percent] for the lower extremity based on permanent soft tissue damage at the quadriceps tendon and the soft tissue along with permanent articular damage at the lateral femoral condyle. This translates to articular injury and accompanying soft tissue injury. This translates to 4 [percent] whole person. Left ankle, 8 [percent] for the lower extremity based on left talar neck fracture and associated soft tissue injury which translates to 3 [percent] whole person. Using the [C]ombined [V]alues [C]hart in *Guides to the Evaluation of Permanent Impairment*, 4th edition put out by the A[merican] M[edical] A[ssociation], page 322, the total whole person impairment is 20 [percent]."

The Office forwarded a copy of Dr. Jones' April 17, 1995 report to an Office medical adviser. In a report dated August 12, 1996, the Office medical adviser indicated that there was insufficient information in the case file to verify Dr. Jones' computation of appellant's impairment.

In a report dated February 18, 1997, the Office medical adviser noted Dr. Jones' impairment rating of 12 percent for the left upper extremity, 18 percent for the right knee/right lower extremity, 10 percent for the right ankle fracture/right lower extremity and 8 percent for the left ankle/left lower extremity. The Office medical adviser indicated that appellant's date of maximum medical improvement was April 17, 1995 and calculated appellant's impairment to be 12 percent for the left upper extremity, 26 percent for the right lower extremity, and 8 percent of the left lower extremity.

In a decision dated June 25, 1997, the Office issued a schedule award for 12 percent loss of use of the left arm, 26 percent loss of use of the right leg, and 8 percent loss of use of the left leg. The period of the award ran from April 17, 1995 to November 19, 1997.

The Board finds that the case is not in posture for a decision.¹

The schedule award provisions of the Federal Employees' Compensation Act set forth the number of weeks of compensation to be paid for permanent loss of the use of the members listed in the schedule.² The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determinations is a matter which rests in the sound discretion of the Office.³ However, as a matter of administrative practice and to insure consistent results to all claimants, the Office has adopted and the Board has approved of the A.M.A., *Guides* as the uniform standard applicable to all claimants.⁴

In obtaining medical evidence required for a schedule award, the evaluation made by the attending physician must include a detailed description of the impairment, including, where applicable, the loss in degree 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. This 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.⁵

In the instant case, Dr. Jones concluded that appellant had 12 percent impairment in the right upper extremity, 28 percent impairment in the right lower extremity, and 8 percent

¹ Although the record indicates that appellant requested a schedule award for impairment related to his right arm, the Board is without jurisdiction to consider that issue as the Office has not yet adjudicated appellant's entitlement to compensation for a right arm injury; *see* 20 C.F.R. § 501.2(c).

² 5 U.S.C. § 8107.

³ *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

⁴ *Henry L. King* 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

⁵ *Gary L. Loser*, 38 ECAB 673 (1987).

impairment in the left lower extremity. He, however, failed to explain with specific reference to the appropriate tables of the A.M.A., *Guides*, how he arrived at his percentages.⁶

Similarly, the Office medical adviser did not discuss the A.M.A., *Guides* or provide any rationale for his calculations as to appellant's permanent impairment rating. The Office medical adviser summarily adopted Dr. Jones findings of 12 percent impairment in the left lower extremity and 8 percent impairment of the left lower extremity. With respect to the right lower extremity, he recalculated appellant's combined impairment to be 26 percent and not 28 percent as determined by Dr. Jones. Because the Office medical adviser failed to discuss Dr. Jones' findings in relation to the A.M.A., *Guides*,⁷ the Board is unable to make an informed determination of the propriety of appellant's schedule award.

The case, therefore, is remanded for further development and evaluation of appellant's permanent impairment under the A.M.A., *Guides*. Thereafter, the Office shall issue a *de novo* decision regarding appellant's entitlement to a schedule award.⁸

The decision of the Office of Workers' Compensation Programs dated June 25, 1997 is set aside, and the case is remanded for further consideration consistent with this opinion.

Dated, Washington, D.C.
July 26, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ *Id.*

⁷ Since the Office medical examiner is a nonexamining physician, he should compare the attending physician's clinical findings to the appropriate tables and pages in the A.M.A., *Guides* for proper calculation of the percentage of permanent impairment for each scheduled member. *See generally Lena P. Huntley*, 46 ECAB 643 (1995).

⁸ Appellant argued on appeal that the Office improperly failed to pay certain medical expenses. As there has been no decision by the Office with respect to the propriety of appellant's medical expenses, the Board may not address appellant's complaints regarding unpaid medical bills. *See* 20 C.F.R. § 501.2(c).