

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of THOMAS R. WILLIAMS and U.S. POSTAL SERVICE,  
POST OFFICE, Cheyenne, Wyo.

*Docket No. 98-38; Submitted on the Record;  
Issued July 1, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant was not entitled to an additional schedule award to the left leg, because he had previously received a schedule award for a 71 percent impairment to the left leg pursuant to another employment injury.

In the present case, the Office accepted that appellant sustained a left knee strain and permanent aggravation of left knee traumatic arthritis in the performance of duty on May 14, 1996. By decision dated August 26, 1997, the Office determined that the medical evidence revealed a 29 percent permanent impairment. The Office indicated, however, that appellant had previously received a schedule award for a 71 percent permanent impairment to the left leg from another employment injury (OWCP File No. A12-0083247). The Office therefore found that appellant was not entitled to an additional award.

The Board finds that the Office properly found that appellant was not entitled to an additional schedule award for permanent impairment to the left leg.

The record does indicate that appellant had a prior employment injury to his left knee, and was awarded a total of 71 percent permanent impairment to the left leg.<sup>1</sup> It is well established that when there is a prior employment-related permanent impairment, the percentage already paid is subtracted from the total percentage of impairment.<sup>2</sup> In this case, both injuries involved the left knee. In an April 15, 1997 report, Dr. Michael P. Kuhn, an orthopedic surgeon, providing an opinion regarding appellant's current permanent impairment to the left knee. He

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<sup>1</sup> With respect to the prior left knee injury, the Board subsequently remanded the case, finding that appellant was entitled to more than a 71 percent permanent impairment; *see* Docket No. 95-2641 (issued December 19, 1997).

<sup>2</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Cases*, Chapter 2.808.7(a)(2) (March 1995).

concluded that appellant had a 17 percent impairment of the whole person, which included 3 percent as a result of the May 14, 1996 employment injury.<sup>3</sup> Dr. Kuhn provided the impairments to the leg as well, and although he did not add them, they would result in a 44 percent permanent impairment to the leg. The Office medical adviser opined that appellant had a 29 percent permanent impairment based on Dr. Kuhn's findings.

The medical evidence of record therefore indicates a permanent impairment, from the current left knee employment injury, of less than 71 percent. Since appellant has already received a schedule award for 71 percent, the Office properly found that appellant was not entitled to an additional schedule award in this case.

The decision of the Office of Workers' Compensation Programs dated August 26, 1997 is affirmed.

Dated, Washington, D.C.  
July 1, 1999

George E. Rivers  
Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>3</sup> Neither the Federal Employees' Compensation Act nor its regulations provide for a schedule award for impairment to the body as a whole; see *James E. Jenkins*, 39 ECAB 860 (1988); 5 U.S.C. § 8101(20).