

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARMAINE L. HARRIS and U.S. POSTAL SERVICE,
POST OFFICE, Petersburg, VA

*Docket No. 98-712; Submitted on the Record;
Issued November 17, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has more than a seven percent impairment of the left lower extremity for which she received a schedule award.

On August 22, 1992 appellant, then a 32-year-old mail carrier technician, filed an occupational disease claim alleging that she sustained knee pain due to factors of her federal employment. The Office of Workers' Compensation Programs accepted appellant's claim for bilateral chondromalacia of the patella and authorized an arthroscopy and a debridement of the patellofemoral. Appellant returned to limited-duty employment following her employment injury.

On August 15, 1997 appellant filed a claim for a schedule award.

In a form report dated August 17, 1997, Dr. Sharad N. Saraiya, a Board-certified orthopedic surgeon, listed findings of "[i]ncreased patellofemoral arthrosis" and diagnosed patellofemoral arthritis and chondromalacia. Dr. Saraiya noted that appellant had bilateral patellofemoral pain. He concluded that, according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993), appellant had a five percent impairment of both lower extremities.

On September 8, 1997 an Office medical adviser reviewed Dr. Saraiya's August 7, 1997 report and found that, according to Table 64 on page 85 of the A.M.A., *Guides*, appellant had a 7 percent impairment of both the right and left lower extremities due to patellar subluxation.

In a decision dated December 2, 1997, the Office granted appellant a schedule award for a seven percent impairment of the left lower extremity. The period of the award ran for 20.16 weeks from August 7 to December 26, 1997.¹

The Board finds that appellant has no more than a seven percent impairment of the left lower extremity for which she received a schedule award. The Board further finds that appellant has a seven percent impairment of the right lower extremity.

Under section 8107 of the Federal Employees' Compensation Act,² and section 10.304 of the implementing federal regulations,³ schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for 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* have been adopted by the Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁴

The Office medical adviser properly applied the A.M.A., *Guides* to Dr. Saraiya's findings in determining that appellant had a seven percent impairment of the right and left lower extremity.⁵ As the Office medical adviser properly utilizing the A.M.A., *Guides*, in reaching his conclusions, his report constitutes the weight of the medical evidence.⁶ There is no evidence in the record which would establish that appellant has more than a seven percent impairment of the lower extremities. However, it appears that the Office, in issuing its schedule award for a seven percent impairment of the left lower extremity, overlooked the Office medical adviser's finding that appellant also had a seven percent impairment of the right lower extremity. The Office medical adviser's finding of a seven percent impairment of the right lower extremity comports with Dr. Saraiya's report, and thus the Board finds that the Office's decision should be modified to reflect that appellant is entitled to a schedule award for a seven percent impairment of both the right and left lower extremities.

¹ In a decision dated May 6, 1997, the Office denied appellant's claim for a recurrence of disability on February 3, 1997. Appellant has not requested review of this decision, and therefore the Board will not review this aspect of appellant's claim in the instant appeal under 20 C.F.R. § 501.2(c).

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.304.

⁴ *James J. Hjort*, 45 ECAB 595 (1994).

⁵ A.M.A., *Guides* 85, Table 64.

⁶ *Joseph Santaniello*, 42 ECAB 710 (1991).

The decision of the Office of Workers' Compensation Programs dated December 2, 1997 is hereby affirmed as modified.

Dated, Washington, D.C.
November 17, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member