

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOAN BARLAR and DEPARTMENT OF THE NAVY,
U.S. NAVAL ACADEMY, Annapolis, MD

*Docket No. 97-1936; Submitted on the Record;
Issued October 26, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has greater than a 6 percent permanent impairment of the left upper extremity for which she received a schedule award.

On October 7, 1993 appellant, then a 58-year-old inventory technician, sustained a fractured left shoulder and left ankle, traumatic arthritis of the left ankle and left shoulder tendinitis in the performance of duty when she fell on stairs at work. Appellant underwent ankle surgery on October 7, 1993 and returned to work in a limited-duty capacity on January 31, 1994. Additional surgery was performed on her left ankle on April 17, 1996.

In a report dated October 8, 1996, Dr. Edward S. Holt, appellant's attending Board-certified orthopedic surgeon, related that appellant had complaints regarding her left shoulder and left ankle. He stated:

"The left shoulder shows full [range of motion], intact strength, sensation and motor and radial and ulnar pulses. The left ankle demonstrates dorsiflexion to 10 degrees compared to 20 on the right and plantar flexion of 35 degrees compared to 45 on the right. Subtalar motion is normal. Sensation is intact with the exception of the area of the excised neuroma.

"Impression is mild restriction of left ankle and left shoulder, specifically based on Table 19 of the [American Medical Association, *Guides to the Evaluation of Permanent Impairment*, 4th ed., 1993]. Her level of shoulder crepitation gives a 10 percent impairment of the shoulder which yields a 6 percent impairment of the upper extremity....

"In addition, her ankle limitation to [range of motion] yields a 10 percent impairment of the ankle with an additional 10 percent impairment of the ankle based on her intermittent pain. This is based on Table 42 of the [A.M.A.,

Guides]. This yields a total of 20 percent impairment of the left ankle or 14 percent impairment of the lower extremity....”

On December 3, 1996 appellant filed a claim for a schedule award.

In a memorandum dated February 12, 1997, the district medical adviser, using the findings in the October 8, 1996 report of Dr. Holt, stated his opinion that appellant had a six percent permanent impairment of the left upper extremity based on crepitation of the left shoulder based upon Table 18 at page 58 and Table 19 at page 59 of the A.M.A., *Guides*. He also stated: “Claimant has not reached [maximal medical improvement] in regard to [his] [left] ankle. Refer back for evaluation ... after March 18, 1997.”

By decision dated February 25, 1997, the Office of Workers’ Compensation Programs granted appellant a schedule award based upon a six percent permanent impairment of the left upper extremity.¹

The Board finds that appellant has no greater than a 6 percent permanent impairment of the left upper extremity for which she received a schedule award.

Section 8107 of the Federal Employees’ Compensation Act provides that if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.² Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants the Office has adopted the A.M.A., *Guides* as a standard for evaluating schedule losses and the Board has concurred in such adoption.³

Before the A.M.A., *Guides* may be utilized, however, a description of appellant’s impairment must be obtained from appellant’s attending physician. The Federal (FECA) Procedure Manual provides that in obtaining medical evidence required for a schedule award the evaluation made by the attending physician must include a “detailed description of the impairment which includes, where applicable, the loss in degrees of active and passive motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation, or other pertinent description of the impairment.”⁴ 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 restrictions and limitations.⁵

¹ The Board notes that this case record contains documents belonging to another claimant. Upon return of the record, these documents should be placed in the correct file.

² 5 U.S.C. § 8107(a).

³ *James Kennedy, Jr.*, 40 ECAB 620, 626 (1989); *Charles Dionne*, 38 ECAB 306, 308 (1986).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.6c (March 1995); see *John H. Smith*, 41 ECAB 444, 448 (1990).

⁵ *Alvin C. Lewis*, 36 ECAB 595, 596 (1985).

In this case, appellant sustained a fractured left shoulder and left ankle, traumatic arthritis of the left ankle and left shoulder tendinitis in the performance of duty on October 7, 1993.

In a report dated October 8, 1996, Dr. Holt stated:

“The left shoulder shows full [range of motion], intact strength, sensation and motor and radial and ulnar pulses....

“Impression is mild restriction of ... [the] left shoulder, specifically based on Table 19 of the [A.M.A., *Guides*]. Her level of shoulder crepitation gives a 10 percent impairment of the shoulder which yields a 6 percent impairment of the upper extremity.”

In a memorandum dated February 12, 1997, the district medical adviser, using the findings in the October 8, 1996 report of Dr. Holt, properly found that appellant had a six percent permanent impairment of the left upper extremity based on crepitation of the left shoulder based upon Table 18 at page 58 and Table 19 at page 59 of the A.M.A., *Guides*.

There is no medical evidence of record which establishes that appellant has greater than a six percent permanent impairment of the left upper extremity.

The decision of the Office of Workers' Compensation Programs dated February 25, 1997 is affirmed.⁶

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

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

⁶ The Board notes that the Office has not issued a schedule award decision regarding appellant's left ankle injury. Upon return of the case record, the Office should issue an appropriate decision on appellant's request for a schedule award for permanent impairment to her left ankle.