

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NANCY J. DECENSO and DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION, Phoenix, AZ

*Docket No. 98-839; Submitted on the Record;
Issued October 15, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has more than a 16 percent permanent impairment of her left upper extremity for which she received a schedule award.

The Office of Workers' Compensation Programs accepted appellant's claim for a left ulna fracture, left upper extremity arthroplasty and right elbow abrasions and contusions.

In a report dated July 14, 1997, Dr. Frederick N. Meyer, appellant's treating physician and a Board-certified orthopedic surgeon with a specialty in hand surgery, stated that appellant continued to have pain in her wrist, that she had excellent range of motion, had full pronation and supination, and full flexion and extension. Dr. Meyer stated that appellant's grip strength was 20, 15, 15 on the left and 40, 45, 40 on the right. He stated that appellant had reached maximum medical improvement. In a report dated August 11, 1997, Dr. Meyer reiterated his findings, noting that there were no objective findings other than that appellant had some mild grip weakness secondary to pain.

In a report dated August 25, 1997, Dr. Peter J. Campbell, appellant's treating physician and a hand surgeon, stated that appellant's complaints were pain on the right dorsal radial wrist extending to the index and middle fingers dorsally. Dr. Campbell noted appellant's right wrist range of motion was flexion; 75 degrees; radial deviation; 10 degrees; extension, 65 degrees; and ulnar deviation, 40 degrees. For those same factors, appellant's left wrist range of motion was 70, 15, 60 and 40 degrees, respectively. Dr. Campbell stated that appellant's grip strength was 20, 15 and 15 pounds on the right and 15, 10 and 10 pounds on the left.

In an undated report received by the Office on September 12, 1997, Dr. Meyer, based on a physical examination performed on July 14, 1997, stated that appellant's grip strength on the left was 15 pounds compared to a normal grip strength of 40 pounds. He stated that the loss of strength impaired the upper extremity beyond any impairment that could be calculated based on loss of active motion or injury to the motor nerves. Dr. Meyer stated that on the left, the grip

strength index was 63 percent, and impaired the upper extremity by 30 percent. He stated that the simple resection arthroplasty of the left ulnar head impaired the extremity by eight percent and the left wrist impaired the extremity by eight percent. Dr. Meyer stated that appellant's total impairment of the left upper extremity was 36 percent.

In an impairment rating form provided by the Office dated August 26, 1997, Dr. Campbell noted that appellant had moderate intermittent pain in the left wrist, mild intermittent pain in the right wrist and that the pain was aggravated by overuse and interfered with her work activity as in using the keyboard. Regarding the affected versus the opposite side, he stated that appellant's dorsiflexion was 70/75 degrees, the palmar flexion, 60/65 degrees, the radial deviation, 15/10 degrees and the ulnar deviation, 40/40 degrees. Dr. Campbell stated that there was no ankylosis, that appellant had generalized weakness in the bilateral upper extremities and the weakness was not localized to a specific muscle group. Further, he stated that appellant had a hypersensitive scar of the left wrist.

By letter dated October 27, 1997, the Office requested that Dr. Campbell evaluate appellant's left hand and fingers in determining her impairment rating.

In an impairment rating form provided dated November 5, 1997, Dr. Campbell found that appellant's left wrist had 65 degrees dorsiflexion, 75 degrees palmar flexion, 10 degrees radial deviation, 40 degrees of ulnar deviation and no ankylosis. He indicated that appellant's fingers and thumbs were not affected.

In a report dated November 5, 1997, Dr. Campbell stated that appellant's hand pain related to the ulnar fracture was included in Dr. Meyer's impairment rating and was reflected in the loss of grip strength. He stated that in his most recent examination on October 8, 1997, he did not notice any edema and atrophy or loss of motion involving the digits on appellant's left hand that would change her restrictions or impairment rating.

In a report dated November 24, 1997, Dr. Leonard A. Simpson, an office medical consultant, reviewed Dr. Meyer's July 14, 1997 report and, noting that the grip strength values averaged 17 on the left and 42 on the right, opined that appellant had a 60 percent increase in anticipated strength, which according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1994), Chapter 3, Table 34 (p. 65), would be equivalent to a 20 percent upper extremity impairment. He noted Dr. Campbell's notations of pain in his August 26, 1997 report and stated that they would be graded a maximal 60 percent per the Grading Scheme found in Chapter 3 of the A.M.A., *Guides*, that the maximum percentage of pain would be 7 percent, and 60 percent of 7 percent would be a 4 percent impairment of the upper extremity. Further, Dr. Simpson noted that appellant's radial deviation of 15 would be equivalent to a 1 percent impairment with ulnar deviation of 40 equating to a 0 percent impairment. He concluded that utilizing the Combine Values Chart (p. 322), the 4 percent for pain factor, the 1 percent for loss of wrist motion, and the 20 percent loss of strength resulted in a 24 percent impairment of the left upper extremity or arm.

Dr. Simpson found that Dr. Campbell's August 26, 1997 report, however, indicated that appellant had some improvement in her grip strength. Dr. Campbell found that using the Grading Scheme or a 60 percent grade of a maximal 7 percent ulnar nerve equated to a 4 percent

impairment. He found the radial deviation of 10 degrees equated to a 2 percent impairment of the left upper extremity. Dr. Campbell found that, according to Table 34 (p. 35), appellant's grip strengths averaged 17 on the right and 12 on the left which equated to a 10 percent upper extremity impairment. Dr. Simpson concluded that the 4 percent pain factor, 10 percent decreased strength, and 2 percent for loss of wrist motion resulted in a 16 percent impairment of the left upper extremity or arm. He therefore concluded that appellant reached maximum medical improvement on August 25, 1997 and that appellant had a 16 percent impairment to the left upper extremity.

By decision dated December 16, 1997, the Office granted appellant a schedule award for a 16 percent impairment to the left upper extremity.

The Board finds that appellant has no greater than a 16 percent permanent loss of use of the left upper extremity.

The schedule award provision of the Federal Employees' Compensation Act¹ provides for compensation to employees sustaining permanent impairment from loss or loss of use of specified members of the body. The Act's compensation schedule specifies the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act does not, however, specify the manner by which the percentage loss of a member, function or organ shall be determined. The method used in making such a determination is a matter that rests in the sound discretion of the Office.² 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.³

In the present case, the opinion of the office medical consultant, Dr. Simpson establishes that appellant has no more than a 16 percent permanent impairment. He reviewed the figures obtained by Dr. Meyers in his July 14, 1997 report and the figures obtained by Dr. Campbell in his August 25, 1997 report, and found that Dr. Campbell's report indicated that appellant's wrist condition had improved and, therefore, August 25, 1997 was the date of maximum medical improvement. He then applied the figures obtained by Dr. Campbell to the A.M.A., *Guides* (4th ed. 1993), found that using the Grading scheme, appellant had a 60 percent grade of a maximal 7 percent ulnar nerve which equated to a 4 percent pain factor, that the radial deviation of 10 degrees equated to a 2 percent impairment of the left upper extremity, and that according to Table 34, appellant's grip strength which average 17 on the right and 12 on the left equated to a 10 percent upper extremity impairment. Using the Combined Values Chart, Dr. Simpson concluded that the 4 percent pain factor, 10 percent upper extremity impairment and 2 percent loss of wrist motion resulted in a 16 percent impairment to the left upper extremity. He sufficiently complied with the A.M.A., *Guides* to establish that appellant had a 16 percent impairment to her left upper extremity.

¹ 5 U.S.C. § 8107 *et seq.*

² *Arthur E. Anderson*, 43 ECAB 691, 697 (1992); *Daniel C. Goings*, 37 ECAB 781, 783 (1986).

³ *Arthur E. Anderson*, *supra* note 2 at 697; *Henry L. King*, 25 ECAB 39, 44 (1973).

The decision of the Office of Workers' Compensation Programs dated December 16, 1997 is hereby affirmed.

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

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member