

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN F. WILLIAMS and U.S. POSTAL SERVICE,
POST OFFICE, Cheyenne, WY

*Docket No. 98-510; Submitted on the Record;
Issued September 27, 1999*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has more than a six percent permanent impairment due to his left shoulder condition.

On May 30, 1994 appellant, then a 54-year-old letter carrier, filed a claim for a pinched nerve and acromioclavicular arthritis which he related to years of carrying his mailbag on his left shoulder and repetitive motion in casing mail and in adjusting his bag while delivering mail. He submitted an October 29, 1991 magnetic resonance imaging (MRI) scan which indicated appellant had hypertrophic degenerative arthritic changes at the acromioclavicular joint with marginal spurring of the acromion with both causing some impingement. In an October 12, 1994 letter, the Office of Workers' Compensation Programs accepted appellant's claim for aggravation of arthritis of the acromioclavicular joint in the left shoulder. The employing establishment indicated that it did not have light-duty work available for appellant after May 1, 1995. The Office began payment of temporary total disability compensation effective May 3, 1995. Appellant underwent surgery on June 6, 1995 for a Mumford procedure and March 12, 1996 for open decompression of the left shoulder with coracoacromial ligament release, partial acromionectomy, bursectomy and arthrotomy.

On November 11, 1996 appellant filed a claim for a schedule award. In an April 1, 1997 decision, the Office issued a schedule award for an additional six percent permanent impairment of the left arm.

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

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulation² set forth the number of weeks of compensation to be paid for

¹ 5 U.S.C. § 8107(c).

² 20 C.F.R. § 10.304.

permanent loss, or loss of use, of members or functions of the body listed in the schedule. However, neither the Act nor its regulations specify the manner in which the percentage loss of a member shall be determined. For consistent results and to ensure equal justice to all claimants, the Board has authorized the use of a single set of tables in evaluating schedule losses, so that there may be uniform standards applicable to all claimants seeking schedule awards. The American Medical Association, *Guides to the Evaluation of Permanent Impairment*³ has been adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.⁴

The Office referred appellant to Dr. Bruce Lockwood, a Board-certified physiatrist, for an examination and independent opinion on whether appellant had any permanent impairment of the left arm due to his left shoulder condition. In an October 9, 1996 report, Dr. Lockwood noted that appellant had a constant ache in the shoulder which he rated at a 1 to 5 on a scale of 0 to 10. Appellant reported that he had increased pain with inactivity or occasionally with lifting or bending. Dr. Lockwood related that appellant was unable to be as active as he wished to be with wood working, swimming, aerobics or working due to pain. He reported that appellant had left glenohumeral range of motion of flexion, 130 degrees; extension, 47 degrees; abduction, 110 degrees; adduction, 40 degrees; internal rotation, 69 degrees; external rotation, 61 degrees. Dr. Lockwood stated that, under the fourth edition of the A.M.A., *Guides*, appellant had a seven percent permanent impairment due to range of motion. He also stated that appellant had acromioclavicular and glenohumeral dysfunction and estimated a five percent permanent impairment for each joint. Dr. Lockwood therefore concluded that appellant had a 16 percent permanent impairment of the left arm due to his shoulder condition.

In a November 4, 1996 memorandum, an Office medical adviser indicated that he agreed with the citation from the A.M.A., *Guides* for a seven percent permanent impairment for range of motion deficit. He stated that he did not agree with the citations for the acromioclavicular and glenohumeral dysfunction's which he considered to be implicit in the seven percent loss in the range of motion. In a March 19, 1997 memorandum, an Office claims examiner noted that appellant had previously received a schedule award for a 10 percent permanent impairment of the left arm due to carpal tunnel syndrome and subsequent surgery. In a March 20, 1997 response, the Office medical adviser indicated that a 10 percent permanent impairment of the wrist and a 7 percent permanent impairment of the left shoulder equaled a 16 percent permanent impairment of the left arm. He indicated that the Office would presumably pay the difference between the first schedule award and the current permanent impairment.

Dr. Lockwood properly concluded that appellant had a seven percent permanent impairment of the left shoulder due to loss of motion. Under the A.M.A., *Guides*, flexion of 130 degrees equals a 3 percent permanent impairment,⁵ abduction of 110 degrees equals a 3 percent permanent impairment,⁶ and external rotation of 69 degrees equals a 1 percent

³ 4th ed. (1993).

⁴ *Thomas P. Gauthier*, 34 ECAB 1060, 1063 (1983).

⁵ A.M.A., *Guides*, p. 43, Figure 38.

⁶ A.M.A., *Guides*, p. 44, Figure 41.

permanent impairment.⁷ He based his estimate of 5 percent permanent impairment respectively for dysfunction of the acromioclavicular and glenohumeral joints by a reference to Table 18⁸ in the A.M.A., *Guides*. However, that table sets forth a total percentage of impairment for joints of the arm as they related to the whole arm. For instance, an impairment of the glenohumeral joint represents a 60 percent permanent impairment of the arm while an impairment of the acromioclavicular joint represents a 25 percent permanent impairment of the arm. The A.M.A., *Guides* makes clear that these percentages are multiplied by percentages of impairment derived from Tables 19 through 30 of the A.M.A., *Guides* which give ratings for joint impairment due to such conditions as joint crepitation, synovial hypertrophy or persistent joint subluxation or dislocation.⁹ Dr. Lockwood therefore did not properly use the A.M.A., *Guides* in calculating permanent impairment for the acromioclavicular and glenohumeral joints. The Office medical adviser properly disallowed Dr. Lockwood's permanent impairment calculation for dysfunction of these joints. He also properly used the Combined Values Table of the A.M.A., *Guides* to determine that a combination of the 10 percent permanent impairment for the left wrist with the 7 percent permanent impairment for the left shoulder equaled a 16 percent permanent impairment of the left arm,¹⁰ for which appellant received an additional 6 percent beyond the 10 percent previously awarded.

Dr. Lockwood, however, indicated that appellant complained of persistent pain in the left shoulder which increased with some activity and limited some of appellant's activities. The Office medical adviser did not take this pain into account in determining appellant's permanent impairment of the left shoulder.¹¹ Appellant also underwent two operations of the left shoulder. The Office medical adviser did not address whether these operations amounted to a resection arthroplasty which would contribute to a permanent impairment of the arm.¹² The case must therefore be remanded for referral to the Office medical adviser for his review and revised estimate of appellant's permanent impairment based on the factors of appellant's pain and his operations. After further development as it may find necessary the Office should issue a *de novo* decision.

⁷ A.M.A., *Guides*, p. 45, Figure 44.

⁸ A.M.A., *Guides*, p. 58.

⁹ A.M.A., *Guides*, pp. 58-64.

¹⁰ A.M.A., *Guides*, pp. 322-24.

¹¹ *Terry J. Delorme*, 44 ECAB 587 (1993).

¹² A.M.A., *Guides*, p. 61, Table 27

The decision of the Office of Workers' Compensation Programs dated April 1, 1997 is hereby set aside and the case remanded for further action in accordance with this decision.

Dated, Washington, D.C.
September 27, 1999

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member