

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT CALDWELL and DEPARTMENT OF THE NAVY,
LONG BEACH NAVAL SHIPYARD, Long Beach, CA

*Docket No. 99-1032; Submitted on the Record;
Issued August 28, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has more than a 50 percent permanent impairment of the right lower extremity, for which he received schedule awards.

On March 10, 1990 appellant, a shipfitter, sustained an injury while in the performance of his duties. The Office of Workers' Compensation Programs accepted his claim for right knee sprain and contusion. The Office also authorized surgery on August 22, 1991. Appellant underwent diagnostic arthroscopy with a partial medial meniscectomy and partial synovectomy of the right knee joint. His postoperative diagnosis was moderately severe degenerative arthritis of the right knee joint, degenerative tear of the medial meniscus and moderate generalized synovitis.

On November 30, 1992 the Office issued a schedule award for a 33 percent permanent impairment of the right lower extremity.¹ On March 15, 1995 the Office issued an additional schedule award, finding that appellant had a 50 percent permanent impairment of the right lower extremity.

When appellant's right knee pain became constant and severe and not responsive to medications, the Office authorized total knee replacement surgery, which was performed on March 31, 1997. Appellant claimed an additional schedule award.

On February 24, 1998 the Office requested that appellant's attending orthopedic surgeon, Dr. Zaven G. Bilezikjian, determine the extent of permanent impairment to the right knee. On May 3, 1998 Dr. Bilezikjian reported that appellant had reached maximum medical improvement, that appellant's pain was mild but increased with activity, that appellant had 100 degrees flexion and 0 degrees extension and that appellant had no loss in lower extremity length. In a narrative report dated June 4, 1988, Dr. Bilezikjian noted that appellant continued to

¹ The Office inadvertently designated the left.

have stiffness and aching in the right knee with occasional cramping in the calf area. Appellant needed a cane when walking moderate distances. He walked with a limp especially when walking for a distance. He used medication occasionally for discomfort. Stability was excellent with no varus or valgus deformity. Dr. Bilezikjian reported that appellant had a fair result for his knee replacement.

On June 17, 1998 an Office medical consultant reviewed the medical record. Noting that appellant's impairment could best be rated using a diagnostic-based estimate, he determined that appellant had a 50 percent permanent impairment of the right lower extremity.

In a decision dated December 28, 1998, the Office denied appellant's claim for an additional schedule award.

The Board finds that appellant has no more than a 50 percent permanent impairment of the right lower extremity, for which he received schedule awards.

Section 8107 of the Federal Employees' Compensation Act² and section 10.304 of the implementing federal regulations³ authorize the payment of schedule awards for the loss or permanent impairment of specified members, functions or organs of the body. Neither the Act nor the regulations, however, specify how the percentage of impairment shall be determined. For consistent results and to ensure equal justice for all claimants, the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the standard for determining the percentage of impairment, and the Board has concurred in such adoption.⁴

Table 66, page 88, of the fourth edition of the A.M.A., *Guides* provides a point rating system for knee replacement results. Under this system appellant has 30 points for mild or occasional pain while walking, 20 points for range of motion from 0 to 100 degrees, and 25 points for excellent stability, for a total of 75 points. According to Table 64, page 85, this total represents a fair result for total knee replacement and a 50 percent impairment of the lower extremity.⁵ This is consistent with the opinion of Dr. Bilezikjian, appellant's attending orthopedic surgeon, that appellant had a fair result from his total knee replacement.

The Office properly followed standardized procedures for determining the extent of appellant's impairment. As the medical evidence supports that appellant has a 50 percent permanent impairment of the right lower extremity, and as he has already received schedule awards for such impairment, the Board finds that the Office properly denied his claim for an additional schedule award.

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.304.

⁴ *E.g., Leisa D. Vassar*, 40 ECAB 1287 (1989).

⁵ Table 66 provides additional procedures for modifying the point total, but with full extension and no varus or valgus deformity, appellant's result would necessarily remain fair with a lower extremity impairment of 50 percent.

The December 28, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
August 28, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member