

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DELIA M. ARROWOOD and U.S. POSTAL SERVICE,
POST OFFICE, Bakersfield, CA

*Docket No. 00-478; Submitted on the Record;
Issued December 1, 2000*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has more than a 10 percent permanent impairment of her right arm and a 10 percent permanent impairment of her left arm for which she received a schedule award.

The Board finds that appellant has no more than a 10 percent permanent impairment of her right arm and a 10 percent permanent impairment of her left arm for which she received a schedule award.

In January 1993 appellant, then a 40-year-old letter carrier, filed an occupational disease claim alleging that she sustained an injury to her hands and wrists due to casing mail at work. The Office of Workers' Compensation Programs accepted that she sustained employment-related bilateral carpal tunnel syndrome and a ganglion cyst.¹ In late 1997 appellant returned to work in a limited-duty position at the employing establishment; in December 1998 appellant was terminated from the employing establishment for reasons unrelated to her injury. By decision dated August 4, 1999, the Office granted appellant a schedule award for a 10 percent permanent impairment of her right arm and a 10 percent permanent impairment of her left arm. The Office based its decision on the July 11, 1999 evaluation of Dr. William C. Boeck, Jr., a Board-certified orthopedic surgeon to whom it referred appellant for a second opinion, and the July 28, 1999 report of the Office medical consultant.

An employee seeking compensation under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence,³ including that she sustained an injury in the

¹ In late 1996 appellant underwent bilateral carpal tunnel release, which was authorized by the Office. In July 1997 she underwent an Office-authorized right ganglionectomy.

² 5 U.S.C. §§ 8101-8193.

³ *Donna L. Miller*, 40 ECAB 492, 494 (1989); *Nathaniel Milton*, 37 ECAB 712, 722 (1986).

performance of duty as alleged and that her disability, if any, was causally related to the employment injury.⁴

Section 8107 of the 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.⁵ 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 American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993) as a standard for evaluating schedule losses and the Board has concurred in such adoption.⁶

The Board finds that appellant has not established that she has more than a 10 percent permanent impairment of her right arm and a 10 percent permanent impairment of her left arm for which she received a schedule award. The July 28, 1999 report of the Office medical consultant, which evaluated the findings of Dr. Boeck,⁷ shows that appellant has a 10 percent permanent impairment of her right arm and a 10 percent permanent impairment of her left arm according to the standards of the A.M.A., *Guides*. The Office medical consultant properly determined that appellant's impairment rating for each arm was based on mild median nerve entrapment.⁸ As the report of the Office medical consultant provided the only evaluation, which conformed with the A.M.A., *Guides*, it constitutes the weight of the medical evidence.⁹

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ 5 U.S.C. § 8107(a).

⁶ *James Kennedy, Jr.*, 40 ECAB 620, 626 (1989); *Charles Dionne*, 38 ECAB 306, 308 (1986).

⁷ The Office properly referred appellant to Dr. Boeck after an attending physician failed to provide an adequate basis for evaluating her schedule award impairment.

⁸ See A.M.A., *Guides* 57, Table 16. The evaluation of Dr. Boeck and other evidence of record shows that appellant's median nerve entrapment is essentially mild in nature. Dr. Boeck's evaluation shows minimal impairment based on limited range of arm motion, but the Office medical consultant appropriately based her impairment determination on the diagnosis-based rating found in Table 16. *Id.* at 30 to 43, 56 to 57. The A.M.A., *Guides* dictates that an entrapment neuropathy rating may not be determined by combining a limitation of motion rating and the diagnosis-based rating found in Table 16. *Id.* at 56.

⁹ See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

The decision of the Office of Workers' Compensation Programs dated August 4, 1999 is affirmed.

Dated, Washington, DC
December 1, 2000

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member