

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CAROLYN M. OUILLETTE and U.S. POSTAL SERVICE,  
POST OFFICE, West Warwick, RI

*Docket No. 99-2314; Submitted on the Record;  
Issued December 14, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant has any permanent impairment of the right arm.

On March 17, 1994 appellant, then a 33-year-old letter carrier, became entangled in plastic strips that were lying on the floor, tripped and fell. The Office of Workers' Compensation Programs accepted appellant's traumatic injury claim for shoulder sprain, neck spasm and rotator cuff tear.<sup>1</sup> On August 15, 1994 Dr. Vincent I. MacAndrew, a Board-certified orthopedic surgeon, performed an acromioplasty for right shoulder impingement with resection of the coraco-acromial ligament and excision of the subacromial bursa.

On March 20, 1996 appellant filed a claim for a schedule award. In a May 25, 1999 decision, the Office denied appellant's request for a schedule award on the grounds that she did not have a permanent impairment of the right arm.

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

The schedule award provision of the Federal Employees' Compensation Act<sup>2</sup> and its implementing regulation<sup>3</sup> set forth the number of weeks of compensation to be paid for 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

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<sup>1</sup> Appellant filed a claim for a recurrence of disability effective May 6, 1998. In an October 26, 1998 decision, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that the claimed recurrence was causally related to the employment injury. Appellant did not appeal from this decision.

<sup>2</sup> 5 U.S.C. § 8107(c).

<sup>3</sup> 20 C.F.R. § 10.304.

there may be uniform standards applicable to all claimants seeking schedule awards. The American Medical Association, *Guides to the Evaluation of Permanent Impairment*<sup>4</sup> has been adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.<sup>5</sup>

In a March 16, 1996 report, Dr. MacAndrew stated that appellant had internal rotation of 80 degrees, external rotation of 90 degrees, forward flexion of 120 degrees, extension of 55 degrees, abduction of 150 degrees and adduction of 55 degrees. He concluded that appellant had a six percent permanent impairment of the right arm. In an April 8, 1996 letter, the Office asked Dr. MacAndrew to examine appellant and report on the extent of her permanent impairment, based on the A.M.A., *Guides*. In an April 16, 1996 report, he repeated his findings and again stated that appellant had a six percent permanent impairment of the arm.

In a July 10, 1997 report, Dr. MacAndrew noted that appellant had a limitation of motion in the neck. He reported that appellant had an excellent range of motion in the right shoulder and no evidence of impingement. In a May 5, 1998 report, Dr. MacAndrew again commented that appellant had an excellent range of motion in the shoulder, with internal and external rotation of 90 degrees radiating to the right scapula and evidence of trapezial spasm. He indicated that appellant had some tenderness around the surgical incision. Dr. MacAndrew reported that she had neck pain and pain that radiated to the occiput. He found no evidence of referred pain.

In a February 23, 1999 report, Dr. MacAndrew indicated that appellant, in her most recent examination, demonstrated external rotation at 90 degrees, adduction with the scapula fixed to 90 degrees and internal rotation of 90 degrees. He noted that beyond the extremes of internal rotation appellant had increasing anterior shoulder pain. Dr. MacAndrew indicated that appellant could lift her arm over her head to 180 degrees. He found evidence of mild trapezoidal spasm. Dr. MacAndrew noted appellant complained of radiculitis but indicated that an electromyogram was within normal limits. He reported that appellant had evidence of disc pathology with degenerative joint disease in the cervical spine. Dr. MacAndrew indicated that appellant had shoulder and arm pain after long drives. He concluded that, based on the range of motion in the cervical spine, the ongoing complaints of radiculitis that radiated to the small finger and the range of motion of the shoulder, most of her discomfort was due to cervical spondylosis and found a four percent permanent impairment of the whole person.

In an April 8, 1999 memorandum, an Office medical adviser stated that under the A.M.A., *Guides*, appellant had no impairment due to the described ranges of motion. He commented that Dr. MacAndrew related much of appellant's problems with pain to cervical spondylosis, which had not been accepted by the Office as causally related to the employment injury.

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<sup>4</sup> (4th ed. 1993).

<sup>5</sup> *Thomas P. Gauthier*, 34 ECAB 1060, 1063 (1983).

The Office medical adviser correctly pointed out that the ranges of motion described by Dr. MacAndrew's February 23, 1999 report did not show any permanent impairment of the right arm. However, in his March 18, 1996 report, Dr. MacAndrew reported that appellant had abduction of her arm to 120 degrees which, under the A.M.A., *Guides*, equaled a 3 percent permanent impairment of the arm. The more recent reports indicated that appellant had an excellent range of motion in the shoulder but did not discuss abduction.

Although the Dr. MacAndrew stated that most of appellant's pain was due to cervical spondylosis, he did not exclude all other causes of appellant's pain, specifically after driving. Additionally, the A.M.A., *Guides* includes permanent impairment measures due to arthroplasty of specific joints in the arm.<sup>6</sup> The Office medical adviser did not consider whether appellant had any permanent impairment due to her acromioplasty.

The case will, therefore, be remanded for further development. On remand, the Office should obtain an opinion on the extent of appellant's permanent impairment of the right arm, taking into account all ranges of motion in the right shoulder, subjective factors such as pain and the surgery on his right shoulder. The physician should indicate whether appellant's pain was due to the effects of the employment injury. After further development as it may find necessary, the Office should issue a *de novo* decision.

The decision of the Office of Workers' Compensation Programs, dated May 25, 1999, is hereby set aside, and the case is remanded for further action as set forth in this decision.

Dated, Washington, DC  
December 14, 2000

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>6</sup> A.M.A., *Guides*, p. 61, Table 27.