U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BERNARD A. BABCOCK, JR. and DEPARTMENT OF THE ARMY, CORPUS CHRISTI ARMY DEPOT, NAVAL AIR STATION, FACILITIES ENGINEERING MANAGEMENT DIVISION, Corpus Christi, TX

Docket No. 00-264; Submitted on the Record;
Issued November 22, 2000

DECISION and ORDER

Before WILLIE T.C. THOMAS, A. PETER KANJORSKI, VALERIE D. EVANS-HARRELL

The issue is whether appellant has established that he sustained greater than a 21 percent impairment of his left upper extremity, for which he received a schedule award.

On April 16, 1998 appellant, then a 56-year-old quality assurance analyst, tripped on a guy wire, fell and fractured his left wrist. He stopped work that day and began receiving continuation of pay beginning April 20, 1998. The Office of Workers' Compensation Programs accepted that appellant sustained a left hand fracture requiring surgery, authorized physical therapy through December 31, 1998, a magnetic resonance imaging (MRI) scan, and an orthopedic referral and medication as required.

Appellant sought treatment on April 20, 1998 from Dr. David N. Parker, a Board-certified orthopedic surgeon specializing in surgery of the hand. He diagnosed an acute rupture of the left scapholunate ligament. On April 21, 1998 he performed a reduction and wire pinning of the left scapholunate dissociation with dorsal capsulodesis. Dr. Parker submitted periodic progress reports through July 30, 1998. In an August 27, 1998 report, he found appellant sufficiently healed to remove the stabilizing Kirschner wires emplaced during the April 21, 1998 surgery. Dr. Parker performed the left wrist arthrotomy and removal of Kirschner wires on September 14, 1998.[1] He submitted periodic progress notes through November 5, 1998.

In a June 16, 1999 report, Dr. Parker opined that appellant had reached maximum medical improvement, but had loss of strength and restricted wrist motion, without "much pain in his wrist."[2] He found 35 degrees of left wrist extension, equaling a 5 percent impairment and 15 degrees of flexion, equaling an 8 percent impairment, and 20 degrees ulnar deviation,

[1] The Office approved appellant's request for leave buy-back for September 14 and 15, 1998.

[2] Dr. Parker noted a normal range of motion of the thumb and fingers of the left hand.

equaling a 2 percent impairment, for a total of 15 percent impairment of the left upper extremity due to loss of wrist motion.[3] Dr. Parker found a grip strength of 15 pounds on the left compared with 110 pounds on the right. Referring to Table 14 in the third edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, "the A.M.A., *Guides*"), he calculated that the "maximum loss of function due to loss of strength in the median nerve is 35 percent and gradation of loss of strength in Table 11 at 20 percent." Dr. Parker multiplied 20 percent by 35 percent, equaling a 7 percent impairment of the left upper extremity for loss of strength. He then added the 7 percent impairment due to loss of strength to the 15 percent impairment for loss of motion, to equal a 22 percent impairment of the left upper extremity.

On June 21, 1999 appellant filed a claim for a schedule award.

In a June 30, 1999 report, Dr. H. Mobley, an Office medical adviser, reviewed Dr. Parker's June 16, 1999 report and concurred that appellant had reached maximum medical improvement as of that date. He calculated a percentage of permanent impairment based on the fourth edition of the A.M.A., *Guides* using the percentages found by Dr. Parker. Referring to pages 36 and 38, Figures 26[4] and 29[5] of the A.M.A., *Guides*, Dr. Mobley determined that 35 degrees extension equaled 5 percent, 15 degrees flexion equaled 8 percent, 25 degrees radial deviation equaled 0 percent and 20 degrees ulnar deviation equaled 2 percent. Adding 5, 8 and 2 percent Dr. Mobley found a 15 percent impairment of the left upper extremity due to loss of motion. Referring to the strength evaluation guidelines on page 64, weakness of the left hand, he rated a 7 percent impairment of the left upper extremity. Using the Combined Values Chart on page 322, he combined 15 percent and 7 percent to equal a 21 percent impairment of the left upper extremity. Dr. Mobley noted that Dr. Parker used the third edition of the A.M.A., *Guides* for rating weakness due to median nerve dysfunction, but that the appropriate figure from the fourth edition of the A.M.A., *Guides* resulted in the same percentage of impairment. Dr. Mobley commented that the "conversion from the third edition *Guides* to the fourth edition [was] considered accurate because the method of determination by Dr. Parker is so clear. The one percent difference is due to [Dr. Mobley] combining evaluation figures and Dr. Parker adding them."

By decision dated July 6, 1999, the Office awarded appellant compensation for a 21 percent permanent loss of use of the left upper extremity.[6]

The Board finds that appellant has not established that he sustained greater than a 21 percent impairment of his left upper extremity, for which he received a schedule award.

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[3] Radial deviation was normal at 25 degrees.

[4] Figure 26, page 36 of the fourth edition of the A.M.A., *Guides* is entitled "Upper Extremity Impairments Due to Lack of Flexion and Extension of Wrist Joint."

[5] Figure 29, page 38 of the fourth edition of the A.M.A., *Guides* is entitled "Upper Extremity Impairments Due to Abnormal Radial and Ulnar Deviation of Wrist Joint."

[6] The period of the award, 65.52 weeks, ran from June 16, 1999 to September 16, 2000, with weekly compensation of $684.00, based on a weekly pay rate of $912.00 at the 75 percent rate.

The schedule award provisions of the Federal Employees' Compensation Act and its implementing regulations[7] set forth the number of weeks of compensation to be paid for permanent loss, or loss of use of the members of the body listed in the schedule.[8] However, the Act does not specify the manner in which the percentage of loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office.[9] The Board has held, however, that 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. The Office has adopted the A.M.A., *Guides* (fourth edition 1993), as an appropriate standard for evaluating schedule losses and to ensure equal justice for all claimants.[10] The Board has concurred with the adoption of these A.M.A., *Guides*.

The standards for evaluating the percentage of impairment of extremities under the A.M.A., *Guides* are based primarily on loss of range of motion. In determining the extent of loss of motion, the specific functional impairments, such as loss of flexion or extension, should be itemized and stated in terms of percentage loss of use of the member in accordance with the Tables in the A.M.A., *Guides*.[11] All factors that prevent a limb from functioning normally should be considered, such as pain and weakness, together with loss of motion, in evaluating the degree of permanent impairment. This was correctly done by the Office medical adviser in appellant's case.

On appeal, appellant alleges that he is entitled to a schedule award for a 22 percent permanent impairment of the left upper extremity, as determined by Dr. Parker, an attending Board-certified orthopedic surgeon, in his June 16, 1999 report. He arrived at this percentage by adding the 15 percent impairment for loss of motion to the 7 percent impairment for loss of strength, totaling 22 percent. Dr. Mobley, the Office medical adviser, combined the 15 and 7 percent impairments using the Combined Values Chart, arriving instead at a 21 percent impairment as explained in his June 30, 1999 report. He explained that the one percent difference between his calculation and that of Dr. Parker was "due to [Dr. Mobley] combining evaluation figures and Dr. Parker adding them."

As the two physicians agree completely on the nature and extent of appellant's impairments according to the A.M.A., *Guides*, the issue is whether it is proper to add the impairments for loss of motion and loss of strength, or to combine them using the Combined Values Chart. Figure 1, page 17 of the fourth edition of the A.M.A., *Guides*, entitled "Upper Extremity Impairment Evaluation Record … Wrist, elbow and shoulder," directs the physician to first record the percentages of impairment due to loss of motion, to arrive at a percentage

[7] 20 C.F.R. § 10.404.

[8] 5 U.S.C. §§ 8107-8109.

[9] *Danniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

[10] FECA Bulletin No. 89-30 (issued September 28, 1990).

[11] *William F. Simmons*, 31 ECAB 1448 (1980); *Richard A. Ehrlich*, 20 ECAB 246, 249 (1969) and cases cited therein.

designated as "[1]." The physician is then to list the type and impairment of other disorders and determine a percentage designated as "[2]." To determine the percentage of "[r]egional impairment of the upper extremity," the physician is directed to "Combine [1] + [2]" using the Combined Values Chart appearing on page 322 of the A.M.A., *Guides*."

The Board finds that Dr. Mobley properly used the Combined Values Chart to determine a 21 percent impairment of the left upper extremity, by combining the 15 percent impairment for loss of motion with the 7 percent impairment for loss of strength. Dr. Parker arrived at the same percentages of impairment for loss of strength and motion, but instead added the 15 and 7 percent impairments to total 22, whereas he should have combined the values to total 21.

The Board finds that Dr. Mobley's calculation is correct and that appellant has not established that he is entitled to a schedule award for greater than a 21 percent permanent impairment of the left upper extremity.[12]

The decision of the Office of Workers' Compensation Programs dated July 6, 1999 is hereby affirmed.

Dated, Washington, DC
November 22, 2000

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

[12] Appellant submitted no additional medical evidence.