

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KAREN C. BUIE and U.S. POSTAL SERVICE,
POST OFFICE, Chicago, IL

*Docket No. 99-81; Submitted on the Record;
Issued November 8, 2000*

DECISION and ORDER

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

The issue is whether appellant has more than a four percent permanent impairment of the right upper extremity for which she has received a schedule award.¹

On January 11, 1996 appellant, then a 39-year-old letter carrier, filed a claim for occupational disease alleging that she injured her right shoulder and arm as a result of repetitive movements in the course of her employment. The Office accepted her claim for right shoulder impingement syndrome, authorized right shoulder subacromial decompression surgery and paid appropriate compensation benefits.

On January 14, 1998 appellant filed a claim for a schedule award.

In support of her claim, appellant submitted several medical reports. In a medical report dated December 29, 1997 and received by the Office on January 20, 1998, Dr. Daniel P. Mass, appellant's treating physician and a Board-certified orthopedic surgeon specializing in hand surgery, stated that appellant "continues to have overhead endurance problems, though she has essentially full range of motion with minimal discomfort after her arthroscopic subacromial decomposition."

By letter dated May 11, 1998, the Office requested Dr. Mass to examine appellant and determine the extent of her impairment in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993).

In a medical report dated May 29, 1998, Dr. Mass stated that appellant had reached her maximum medical improvement on December 29, 1997, the date he discharged her from his care. He also stated that she had "loss of active range of motion," and that the only objective finding was a physical therapy note indicating weakness on overhead activities and loss of

¹ The Board notes that the record contains documents not associated with this claim. The Board also notes that the Office of Workers' Compensation Programs denied appellant's claim for wage loss on May 11, 1998. That decision is not on appeal before the Board.

endurance. Dr. Mass recommended an impairment rating of 10 percent of the right upper extremity for weakness in overhead activities.

The Office referred the case record and a statement of accepted facts to Dr. David H. Garelick, an Office medical consultant and Board-certified in orthopedic surgery, for a schedule award evaluation in accordance with the A.M.A., *Guides*.

In a medical report dated June 8, 1998, Dr. Garelick noted that appellant had “subjective complaints of pain with overhead activities” and allowed two percent permanent impairment for grade three pain in the distribution of the suprascapular nerve, according to Table 15, page 54 and Table 11, page 48 of the A.M.A., *Guides* (fourth edition 1993). Referring to Dr. Mass’ note dated December 29, 1997, Dr. Garelick found some weakness with overhead activities awarded two percent permanent impairment for minimal weakness in the shoulder musculature enervated by the suprascapular nerve, according to Table 15, 54 and Table 12, 49 of the A.M.A., *Guides*. Appellant had essentially full range of motion in the right shoulder; thus, no permanent partial impairment would be awarded for loss of motion. Dr. Garelick use of the Combined Values Chart on page 322 gives a right upper extremity permanent partial impairment of four percent. Maximum medical improvement occurred when Dr. Mass discharged appellant from his care on December 29, 1997.

By an award of compensation dated August 13, 1998, the Office issued appellant a schedule award of 12.48 weeks of compensation for a four percent permanent loss of use of the right upper extremity. The period of the award was from December 29, 1997 to March 26, 1998.

The Board finds that appellant has no more than a four percent permanent impairment of the right upper extremity for which she has received a schedule award.

The Federal Employees’ Compensation Act schedule award provisions set forth the number of weeks of compensation that are to be paid for permanent loss of use of the members of the body that are listed in the schedule. The Act does not specify the manner in which the percentage 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. However, as a matter of administrative practice, the Board has stated: “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 and the Board has approved of the A.M.A., *Guides* as the uniform standard applicable to all claimants.²

If appellant’s physician does not use the A.M.A., *Guides* to calculate the degree of permanent impairment, it is proper for an Office medical adviser to review the case record and to apply the A.M.A., *Guides* to the examination findings reported by the treating physician.³

In this case, although Dr. Mass stated that appellant had a 10 percent right upper extremity impairment, he did not apply the A.M.A., *Guides* to his findings. The Office, therefore, referred the case record and a statement of accepted facts to Dr. Garelick, an

² *Lena P. Huntley*, 46 ECAB 643 (1995).

³ *Paul R. Evans, Jr.*, 44 ECAB 646 (1993).

orthopedic surgeon and Office medical consultant, for a schedule award evaluation in accordance with the A.M.A., *Guides*.

Applying the A.M.A., *Guides*, Dr. Garelick rated appellant's impairment due to subjective factors identified by Dr. Mass as two percent based on a grade three pain in the distribution of the suprascapular nerve,⁴ and two percent based on weakness in the right shoulder musculature.⁵ Dr. Garelick then relied on the Combined Values Chart to determine that appellant had a four percent permanent impairment of the right upper extremity.⁶

The Office medical consultant properly calculated appellant's right upper extremity impairment pursuant to the A.M.A., *Guides*, and there is no medical evidence of record that appellant has more than a four percent permanent impairment of the right upper extremity. The Office therefore properly granted appellant a schedule award for a four percent permanent impairment of the right upper extremity.

The August 13, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
November 8, 2000

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

⁴ A.M.A., *Guides* 54, Table 15, 48 and Table 11.

⁵ *Id.* at 54, Table 15, 49 and Table 12.

⁶ *Id.* at 322.