

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JEWELL P. WOODS and DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATIONS, Memphis, TN

*Docket No. 99-2579; Submitted on the Record;
Issued September 14, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has more than a 10 percent permanent impairment as a result of her accepted condition of carpal tunnel syndrome.

On September 4, 1997 appellant, then a 50-year-old accounting technician, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that she sustained carpal tunnel syndrome as a result of performing her job duties. On September 29, 1997 the Office of Workers' Compensation Programs accepted the claim for carpal tunnel syndrome. Appellant subsequently underwent a left carpal tunnel release on December 5, 1997, which the Office authorized. Additionally on June 16, 1999 appellant received a schedule award for a 10 percent loss of use of her left arm. The award covered a period of 31.2 weeks from June 5, 1998 to January 9, 1999.

The Board finds that appellant did not establish that she has more than a 10 percent permanent impairment due to her carpal tunnel syndrome.

Section 8107 of the Federal Employees' Compensation Act¹ sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993) as an appropriate standard for evaluating schedule losses and the Board has concurred in such adoption.²

¹ 5 U.S.C. § 8107.

² *James J. Hjort*, 45 ECAB 595 (1994).

In support of her claim for a schedule award, appellant submitted the April 15, 1999 report of Dr. Joseph C. Boals, III, a Board-certified orthopedic surgeon, who concluded that appellant had a 10 percent impairment of her right upper extremity due to ongoing median nerve entrapment neuropathy. With respect to appellant's left upper extremity, Dr. Boals noted a 10 percent permanent impairment due to loss of grip strength. The Office referred Dr. Boals' findings to its own medical adviser, who calculated a 10 percent impairment due to median nerve compression at the right wrist. This determination is consistent with Table 16 at page 57 of the A.M.A., *Guides* (4th ed. 1993). However, the Office medical adviser did not attribute any permanent impairment to appellant's reported loss of grip strength with respect to her left upper extremity.

The Office in its June 16, 1999 decision mistakenly awarded appellant a 10 percent impairment for her left upper extremity. The Office medical adviser and Dr. Boals were only in agreement with respect to the extent of impairment attributed to appellant's right median nerve entrapment neuropathy. The decision to award a 10 percent impairment for the left upper extremity is merely a typographical error. With respect to appellant's loss of grip strength on the left side, Dr. Boals reported "estimated" strength levels rather than actual measurements as required under the A.M.A., *Guides*.³ Thus, appellant has failed to establish that she is entitled to a schedule award for permanent impairment of her left upper extremity and appellant has failed to provide any probative medical evidence that she has greater than a 10 percent impairment of the right upper extremity.⁴ In view of the Office's apparent typographical error, the June 16, 1999 decision will be modified to reflect entitlement to a 10 percent impairment of the right upper extremity.

³ Under the A.M.A., *Guides*, loss of grip strength is determined by a formula of abnormal strength subtracted from normal strength and then divided by normal strength to yield a percentage of strength loss index. The grip strength of the affected hand is compared with the grip strength of the opposite extremity, which is assumed to be normal. If both extremities are affected, the strength measurements are compared to the average normal strengths listed in Tables 31 to 33. A.M.A., *Guides*, pp. 64-65 (4th ed., 1993). Additionally, the Office's procedural manual clarifies that Table 16, upper extremity impairments due to entrapment neuropathy, is incompatible with Table 34, upper extremity impairment for loss of strength. Federal (FECA) Procedural Manual, Part 3 -- Medical, *Schedule Award*, Chapter 3.700 (October 1995).

⁴ The Act provides that for a total, or 100 percent loss of use of an arm, an employee shall receive 312 weeks' compensation. 5 U.S.C. § 8107(c)(1). In the instant case, appellant does not have a total, or 100 percent loss of use of her right arm, but rather a 10 percent loss. As such, appellant is entitled to 10 percent of the 312 weeks of compensation, which is 31.2 weeks.

The June 16, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed as modified.

Dated, Washington, DC
September 14, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member