

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROGER A. EDWARDS and DEPARTMENT OF THE AIR FORCE,
AIR TRAINING COMMAND, LACKLAND AIR FORCE BASE, TX

*Docket No. 00-1655; Submitted on the Record;
Issued April 19, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has greater than a two percent permanent impairment of his right lower extremity, for which he has received a schedule award.

On September 16, 1999 appellant, a 43-year-old maintenance mechanic supervisor, filed a traumatic injury claim (Form CA-1) alleging that while walking back to his office and turning to enter the office he felt a sharp pain in his right knee. By letter dated November 15, 1999, the Office of Workers' Compensation Programs accepted the claim for right knee torn medial meniscus and authorized right knee arthroscopy.

On January 19, 2000 appellant filed a claim for a schedule award.

In a report dated January 14, 2000, Dr. Jack L. Deetjen, an attending Board-certified orthopedic surgeon, indicated that appellant had no sensory loss, his range of motion for flexion was 0 to 115 degrees, and the knee was stable with no effusion. He concluded that appellant had a 10 percent impairment due to his right partial meniscectomy, an 11 percent impairment for decreased range of motion, for a total impairment of 20 percent for the right lower extremity.

In a memorandum and schedule award work sheet dated February 17, 2000, the Office medical adviser found that appellant had a two percent permanent impairment based on loss of use of his right lower extremity. Relying on Dr. Deetjen's findings and conclusions, the Office medical adviser accorded appellant a two percent impairment based on the partial meniscectomy, pursuant to Table 64, page 85 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.

On March 6, 2000 the Office granted appellant a schedule award for a 2 percent permanent impairment of the right lower extremity for the period January 14 to February 23, 2000, for a total of 5.76 weeks of compensation.

The Board finds that appellant has no more than a two percent permanent impairment for loss of use of the right lower extremity, for which he received a schedule award.

Section 8107 of the Federal Employees' Compensation Act¹ 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.² 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 A.M.A., *Guides* as a standard for evaluating schedule losses and the Board has concurred in such adoption.³

In the instant case, the Office determined that appellant had a two percent permanent impairment of his right lower extremity by adopting the findings of the Office medical adviser, who determined the precise impairment rating by taking Dr. Deetjen's calculations based on appellant's loss of flexion of 115 degrees and an impairment rating based on residuals from appellant's partial meniscectomy. The Office medical adviser then applied these findings to the applicable tables of the A.M.A., *Guides*, to arrive at the total percentage of impairment in appellant's right lower extremity based on the applicable figures and tables of the A.M.A., *Guides*.

The Board concludes that the Office medical adviser correctly applied the A.M.A., *Guides* in determining that appellant has no more than a two percent permanent impairment for loss of use of his right lower extremity, for which he has received a schedule award from the Office, and that appellant has failed to provide probative, supportable medical evidence that he has greater than the two percent impairment already awarded.

The opinion of Dr. Deetjen in his January 14, 2000 report is of limited probative value in that Dr. Deetjen failed to provide an explanation of how his assessment of permanent impairment was derived in accordance with the standards adopted by the Office and approved by the Board as appropriate for evaluating schedule losses.⁴ He concluded that appellant had a 20 percent impairment rating, but did not indicate whether he had relied upon the fourth edition of the A.M.A., *Guides* in reaching his determination. For example, Dr. Deetjen assigned a 10 percent impairment for a partial medial meniscectomy but this does not correspond to the applicable portion of the A.M.A., *Guides*, Table 64 at page 85.

¹ 5 U.S.C. §§ 8101-8193, 8107.

² 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.304(b).

³ *Bernard A. Babcock*, 51 ECAB ____ (Docket No. 00-264, issued November 22, 2000); *Theresa Goode*, 51 ECAB ____ (Docket No. 99-1831, issued September 12, 2000); *A. George Lampo*, 45 ECAB 441, 443 (1994).

⁴ *See James Kennedy, Jr.*, 40 ECAB 620, 626 (1989) (finding that an opinion which is not based upon the standards adopted by the Office and approved by the Board as appropriate for evaluating schedule losses is of little probative value in determining the extent of a claimant's permanent impairment).

As the report of the Office medical adviser provided the only evaluation which conformed with the A.M.A., *Guides*, it constitutes the weight of the medical evidence.⁵ Appellant has not established that he has more than a two percent impairment of his right lower extremity, for which he has received a schedule award.

The decision of the Office of Workers' Compensation Programs dated March 6, 2000 is affirmed.

Dated, Washington, DC
April 19, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

⁵ See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).