

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of KAREN E. EDWARDS and U.S. POSTAL SERVICE,  
POST OFFICE, Fort Wayne, IN

*Docket No. 01-198; Submitted on the Record;  
Issued August 3, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether appellant has more than a four percent impairment of the right lower extremity and four percent impairment of the left lower extremity, for which she received a schedule award.

On February 19, 1997 appellant, then a 44-year-old letter carrier, filed a claim alleging that on February 18, 1997 she injured her lower back when she lifted a tray of mail to place into a mail truck. Appellant did not work until March 5, 1997. She stopped work again on or about March 6, 1997 and returned to light duty on May 20, 1997.

The Office of Workers' Compensation Programs accepted the claim for lumbar strain and herniated disc pulposus at L4-5. On July 18, 1997 the Office authorized a discectomy at L4-5.

On February 10, 1999 appellant filed a claim for a schedule award.

On March 9, 1999 the Office asked Dr. Alan W. McGee, appellant's treating Board-certified orthopedic surgeon, to evaluate her impairment using the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4<sup>th</sup> ed. 1993).

In a report dated August 18, 1999, Dr. McGee stated that he had performed a discectomy on August 1, 1997 and that her postoperative status included back stiffness, limited lumbar motion and intermittent leg pain. Upon examination, he noted no significant neurological loss. Based on the A.M.A., *Guides*, the doctor estimated that appellant had a 10 percent whole person impairment as a result of her back surgery.

On June 8, 2000 the Office referred appellant to Dr. Madhav H. Bhat, Board-certified in psychiatry and neurology, to render a determination regarding appellant's permanent impairment pursuant to the A.M.A., *Guides*.

On June 28, 2000 Dr. Bhat reviewed the medical records and noted appellant's subjective complaint of "burning pain" in the sacroiliac region, extending down to her great toes. Upon examination, the doctor noted normal neurological, motor and sensory examinations, straight leg raising was negative bilaterally, tendon and plantar reflexes were normal and her Patrick's test was negative. Examination of the lower back revealed normal flexion and extension as well as normal neck lateral flexion. He found that appellant's pain in the lower back and legs was mechanical back pain. He could not make objective findings of compressive lumbosacral radiculopathy. Dr. Bhat noted that appellant had reached maximum medical improvement on that date. According to the A.M.A., *Guides* (4<sup>th</sup> ed. 1993), Dr. Bhat rated appellant with a five percent whole person impairment.

In a report dated July 10, 2000, Dr. Bhat stated that appellant had a five percent impairment of both the right and left lower extremities.

In a medical report dated July 31, 2000, the Office medical adviser recommended a rating of four percent impairment for each of appellant's lower extremities.

In a decision dated August 25, 2000, the Office awarded appellant a schedule award for four percent impairment of her right and left lower extremities.

The Board finds that appellant has no greater than a four percent permanent loss of the right and left lower extremities for which she had received a schedule award.

The schedule award provisions of the Federal Employees' Compensation Act<sup>1</sup> provides for compensation to employees sustaining permanent impairment from loss or loss of use of specified members of the body. The Act's compensation schedule specifies 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 does not, however, specify the manner in which the percentage loss of a member, function, or organ shall be determined. The method used in making such a determination is a matter that rests in the sound discretion of the Office.<sup>2</sup> For consistent results and to ensure equal justice under the law to all claimants, good administrative practices necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants.<sup>3</sup>

In the instant case, Dr. Bhat, Board-certified in psychiatry and neurology, provided a medical evaluation and opinion indicating that appellant had five percent impairment of both her right lower and left lower extremities. However, since Dr. Bhat did not reference the A.M.A., *Guides* in his evaluation, it was 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 physician.<sup>4</sup>

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> *Danniel C. Goings*, 37 ECAB 781 (1986).

<sup>3</sup> *Henry L. King*, 25 ECAB 39, 44 (1973).

<sup>4</sup> *Paul R. Evans, Jr.*, 44 ECAB 646 (1993).

The Office medical adviser reviewed appellant's medical file and noted that no motor or sensory loss was reported. He noted appellant's subjective complaints of pain radiating into each extremity. The Office medical adviser rated appellant's pain according to Table 83 at page 130 of the A.M.A., *Guides* to note a maximum percentage loss of five percent due to spinal nerve root impairment at L4.<sup>5</sup> He next applied Table 11 at page 48 to classify the lower extremity pain as Grade 4, or 80 percent for pain which may prevent activity.<sup>6</sup> He multiplied the 80 percent grade by 5 percent, the maximum percentage allowed for pain, to determine 4 percent impairment to each of appellant's lower extremities. The Office medical adviser properly calculated appellant's lower extremity impairment pursuant to the A.M.A., *Guides*. There is no medical evidence of record that establishes that appellant has more than a four percent permanent impairment of the lower extremities under the protocols of the A.M.A., *Guides*. The Office properly granted appellant a schedule award for a four percent impairment of both the right and left lower extremities.

The August 25, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
August 3, 2001

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

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<sup>5</sup> A.M.A., *Guides* at 130, Table 83.

<sup>6</sup> *Id.* at 48, Table 11.