

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH T. WROBEL and U.S. POSTAL SERVICE,
POST OFFICE, Chicago, IL

*Docket No. 00-916; Submitted on the Record;
Issued February 21, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has more than a 16 percent impairment of his left upper extremity, for which he received a schedule award.

On October 29, 1998 appellant, a 53-year-old letter carrier, sustained an injury to his left wrist while in the performance of duty. The Office of Workers' Compensation Programs accepted appellant's claim for fracture of the left distal radius. By decision dated October 21, 1999, the Office granted appellant a schedule award for a 16 percent permanent impairment of his left upper extremity. The award covered a period of 49.9 weeks.

The Board finds that appellant has not established that he has more than a 16 percent permanent impairment of his left upper extremity.

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 (A.M.A.), *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

Appellant alleges that he has a 65 percent permanent impairment of his left upper extremity based on the July 13, 1999 report of his treating physician, Dr. T.S. Wright, a Board-certified family practitioner, specializing in occupational medicine. In his report, Dr. Wright provided measurements with respect to appellant's loss of range of motion as well as grip

¹ 5 U.S.C. § 8107.

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

strength.³ He also noted that appellant had some localized tenderness and atrophy and a moderate amount of pain at the extremes of his range of motion and in his grip strength. Additionally, Dr. Wright explained that appellant had reached maximum medical improvement as of June 18, 1999. He concluded that “overall [appellant] has lost 65 [percent] of function of the left hand/wrist.”⁴

Although Dr. Wright concluded that appellant had lost 65 percent of function, he did not specifically reference the A.M.A., *Guides* (4th ed. 1993) as a basis for his conclusion. As such, Dr. Wright’s July 13, 1999 impairment rating is of diminished probative value in determining the extent of appellant’s permanent impairment.⁵

The Office based its October 21, 1999 schedule award on the opinion of its medical adviser who, in a report dated September 27, 1999, concluded that appellant had a 16 percent impairment of the left upper extremity. The Office’s medical adviser based his opinion on a review of the record, which included Dr. Wright’s previously mentioned reports, as well as a May 21, 1999 report by Dr. Daniel J. Nagle, a Board-certified orthopedic surgeon.⁶

Relying upon the comprehensive evaluation provided by Dr. Nagle in his May 21, 1999 report, the Office medical adviser correctly noted that appellant’s 28 degrees of palmar flexion represented a 5 percent impairment and the 60 degrees of dorsiflexion represented a 0 percent impairment in accordance with Figure 26 at page 36 of the A.M.A., *Guides*. The Office medical adviser noted that appellant’s measured 20 degrees of ulnar deviation represented a 2 percent impairment 25 degrees of radial deviation represented a 0 percent impairment of the upper extremity in accordance with Figure 29 at page 38 of the A.M.A., *Guides*. The Office medical adviser correctly noted that appellant was not entitled to an additional impairment rating for lack of pronation and supination as the respective measurements of 75 degrees and 70 degrees represented a 0 percent impairment of the upper extremity, pursuant to Figure 35 at page 41 of the A.M.A., *Guides*. Accordingly, the Office medical adviser concluded that appellant had a total of seven percent impairment of the upper extremity due to loss of range of motion at the wrist.

In addition to the impairment rating for loss of range of motion, the Office medical adviser calculated a 10 percent impairment due to pain or sensory deficit in accordance with Tables 11 and 15 of the A.M.A., *Guides*, at pages 48 and 54, respectively. This calculation was based on Dr. Nagle’s notation of appellant’s complaints of pain at the volar aspect of the left wrist involving the median nerve and parasthesia in the index and long fingers. Appellant has

³ Dr. Wright noted that appellant’s range of motion was limited to 60 degrees extension and 45 degrees flexion of the left wrist. He also noted that appellant’s strength was “a maximum of 2-5.”

⁴ In an earlier report dated June 18, 1999, Dr. Wright noted that electrodiagnostic studies revealed evidence of carpal tunnel syndrome with reflex sympathetic dystrophy (RDS) and distal median neuritis.

⁵ *Paul R. Evans, Jr.*, 44 ECAB 646, 651 (1993).

⁶ Appellant’s treating physician, Dr. Wright referred him for evaluation by Dr. Nagle. The Office approved Dr. Wright’s referral. Dr. Nagle initially examined appellant at Dr. Wright’s request on December 29, 1998. He also reexamined appellant on February 18, 1999 and most recently on May 20, 1999.

presented no evidence to indicate that he has greater than a 10 percent impairment due to pain or sensory deficit.

Although Dr. Nagle provided measurements with respect to appellant's grip and pinch strength, the Office medical adviser concluded that the variations in the reported values indicated that appellant did not exert full strength during this aspect of his examination. Consequently, the Office medical adviser properly disregarded the reported values regarding appellant's grip and pinch strength.⁷

The above-noted impairments for pain and loss of range of motion, when combined in accordance with the Combined Value Chart at page 322 of the A.M.A., *Guides*, represents a total impairment of 16 percent to the left upper extremity. Inasmuch as the Office medical adviser's calculation of appellant's left upper extremity impairment conforms to the A.M.A., *Guides* (4th ed. 1993), his finding constitutes the weight of the medical evidence.⁸ Accordingly, appellant has failed to provide any probative medical evidence that he has greater than a 16 percent impairment of the left upper extremity.⁹

⁷ 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 31-33. A.M.A., *Guides*, pp. 64-65 (4th ed. 1993). The A.M.A., *Guides* specifically note that, "If there is suspicion or evidence that the subject is exerting less than maximal effort, the grip strength measurements are invalid for estimating impairment." *Id.* at 65. In the instant case, the Office medical adviser questioned appellant's results because the reported values did not produce a bell-shaped curve as would be expected if appellant exerted maximal effort. This rationale is consistent with the A.M.A., *Guides* instruction on the proper use of the Jamar dynamometer. *Id.* at 64.

⁸ See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

⁹ 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 his right arm, but rather a 16 percent loss. As such, appellant is entitled to 16 percent of the 312 weeks of compensation, which is 49.9 weeks.

The October 21, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
February 21, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member