

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY WOODS and U.S. POSTAL SERVICE,
POST OFFICE, Severn Park, MD

*Docket No. 00-971; Submitted on the Record;
Issued March 13, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant sustained more than a 20 percent permanent impairment in each of her upper extremities due to factors of her federal employment for which she received a schedule award.

On June 2, 1994 appellant, then a 37-year-old rural letter carrier, filed an occupational disease claim alleging that she sustained carpal tunnel syndrome in the performance of duty. The claim was accepted for bilateral carpal tunnel syndrome and appellant received appropriate compensation.

Appellant subsequently requested a schedule award.

In a report dated December 4, 1995, Dr. Dr. Carolyn Wyatt, a general practitioner and appellant's treating physician, diagnosed bilateral carpal tunnel syndrome and noted findings on examination of a loss of range in motion of the right wrist of 25 degrees dorsiflexion, 43 degrees palmar flexion, 18 percent radial deviation, 34 percent ulnar deviation and in the left wrist 44 percent dorsiflexion, 46 percent palmar flexion, 23 percent radial deviation and 24 percent ulnar deviation. On a pain scale of 1 to 10, Dr. Wyatt indicated that appellant's right wrist pain, at worst, was 7 to 8 while the left wrist pain was 6 to 7. According to her, appellant described the pain as a dull ache in the fingers worsening with work duties and intermittent pain in the arms associated with all activities of daily life. Dr. Wyatt noted that appellant presented with both upper extremities, "weakness, proximally 4-5/5(Good-normal); however, distally...3+-4/5 (fair-Fair +)." She concluded that appellant had atrophy in both hands but was unable to truly measure grip strength due to "both extremities being involved." However, she noted that appellant "did present with 17 [pounds] for [both] per June 24, 1995 which is slightly limited."

In a March 13, 1996 report, Dr. Wyatt noted that appellant suffered from bilateral entrapment neuropathy involving the median nerve wrist level and that appellant's symptoms developed after years of working as a postal employee. She opined that appellant's maximum

loss of function due to sensory deficit is “80 [to] 90 percent” with a moderate to severe degree of severity.

In a memorandum dated September 11, 1996, the Office of Workers’ Compensation Programs medical adviser noted that appellant’s date of maximum medical improvement was May 23, 1995, “one year after onset of the carpal tunnel syndrome.” He assigned appellant a 10 percent permanent impairment for each the left upper and right upper extremity, referencing page 57, Table 16 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.

In a December 5, 1996 note, the Office medical adviser reported that carpal tunnel syndrome involved compression of the median nerve; therefore, range of motion was not applicable in evaluating appellant’s degree of permanent partial impairment.

In a December 23, 1996 decision, the Office awarded appellant a schedule award for 20 percent disability, representing 10 percent impairment in each of the upper extremities, for the period of May 23, 1995 through August 1, 1996.

Appellant then filed an appeal with the Board.

In a February 4, 1999 decision, the Board vacated the Office’s December 23, 1996 decision and remanded the case for further consideration of appellant’s claim for a schedule award. The Board remanded the case in order for the Office medical adviser to review the findings of appellant’s treating physician, Dr. Wyatt, under the fourth edition of the A.M.A., *Guides* for calculation of appellant’s permanent partial impairment to the upper extremities. It was noted that the Office medical adviser’s initial report finding a 10 percent impairment in each of appellant’s arms was inconsistent with Dr. Wyatt’s examination findings and Table 16 of the A.M.A., *Guides*.¹

On remand, the Office referred a copy of the medical record to the Office medical adviser. In a report dated April 19, 1999, the Office medical adviser stated that appellant’s “degree of severity of nerve impairment would fall between 20 [to] 40 [percent] for moderate -- severe impairment” pursuant to Table 16 [page 57] of the A.M.A., *Guides*. He noted that Table 16 was more relevant for calculating the percentage of appellant’s permanent partial impairment of the upper extremities as opposed to the section on range of motion. The Office medical adviser determined that appellant was entitled to an additional 10 percent impairment in each of the upper extremities for a total of 20 percent permanent impairment in each of the upper extremities.

By decision dated April 29, 1999, the Office awarded appellant an additional 10 percent permanent impairment for upper extremity. Therefore, appellant has received in total an award of 20 percent permanent impairment for her right upper extremity and a 20 percent award for her left upper extremity.

On May 24, 1999 appellant requested a review of the written record.

¹ *Mary P. Woods*, Docket No. 97-1285 (issued on February 4, 1999).

In a decision dated October 6, 1999, an Office hearing representative affirmed the Office's April 29, 1999 decision.

The Board finds that appellant has no more than a 20 percent impairment in each of her upper extremities for which she received a schedule award.

The schedule award provision of the Act sets for the number of weeks of compensation to be paid for permanent loss of use of members of the body that are listed in the schedule.² The Act, however, does not specify the manner in which the percentage of loss of a member shall be determined. The method used in making such a determination is a matter, which rests in the sound discretion of the Office.³ However, for consistent results and to ensure equal justice for all claimants, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* have been adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.⁴

In the instant case, appellant's treating physician, Dr. Wyatt, diagnosed that appellant suffered from bilateral carpal tunnel syndrome and noted physical findings in a report dated December 18, 1995. Although she was requested by the Office to calculate appellant's percentage of impairment under the A.M.A., *Guides*, the physician did not comply with that request. Dr. Wyatt only concluded that appellant had a moderate to severe degree of sensory deficit attributable to her diagnosis of bilateral entrapment neuropathy.

It is well settled that when an attending physician's report gives an estimate of permanent impairment but does not indicate that the estimate is based on the application of the A.M.A., *Guides*, the Office may follow the advice of its medical adviser or consultant where he or she has properly utilized the A.M.A., *Guides*. Board cases are clear that if an attending physician does not utilize the A.M.A., *Guides*, his opinion is of diminished probative value in establishing the degree of any permanent impairment.⁵

Because Dr. Wyatt's opinion was not adequate to determine appellant's entitlement to a schedule award, the Office properly had the Office medical adviser review. Her examination findings and apply those findings to the proper edition of the A.M.A., *Guides*. The Office medical adviser specifically determined that appellant had a 20 percent impairment of each of her upper extremities based on Table 16, page 57 of the fourth edition of the A.M.A., *Guides*.⁶ As the Board finds the opinion of the Office medical adviser to be sufficiently rationalized and based upon a proper application of the physical findings to the A.M.A., *Guides*, the Board

² 5 U.S.C. § 8107.

³ *Kenneth E. Leone*, 46 ECAB 133 (1994); *Danniel C. Goings*, 37 ECAB 781 (1986).

⁴ *James Kennedy, Jr.*, 40 ECAB 620 (1989); *Quincy E. Malone*, 31 ECAB 846 (1980).

⁵ *Paul R. Evans, Jr.*, 44 ECAB 646 (1993); see *Thomas P. Gauthier*, 34 ECAB 1060 (1983); *Ronald J. Pavlik* 33 ECAB 1596 (1982).

⁶ The Office medical adviser previously stated in his December 5, 1996 note that Table 16 is more relevant in calculating appellant's impairment as it involves compression of the median nerve consistent with a diagnosis of carpal tunnel syndrome.

concludes that the Office properly awarded appellant an additional 10 percent impairment award for each of her upper extremities, for a total of 20 percent impairment in the right upper extremity and 20 percent impairment in the left upper extremity.

The decisions of the Office of Workers' Compensation Programs dated October 6 and April 29, 1999 are hereby affirmed.

Dated, Washington, DC
March 13, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member