

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CELLA EUELL and U.S. POSTAL SERVICE, ST. LOUIS
SERVICE INFORMATION CENTER, St. Louis, MO

*Docket No. 01-509; Submitted on the Record;
Issued October 12, 2000*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has more than an 8 percent impairment of her right upper extremity and a 13 percent of her left upper extremity for which she received a schedule award.

On September 14, 1994 appellant, then a 46-year-old postal clerk, alleged that her bilateral carpal tunnel syndrome was caused by factors of federal employment. The Office of Workers' Compensation Programs accepted bilateral carpal tunnel syndrome and authorized bilateral carpal tunnel release surgeries.

On June 15, 1995 appellant filed a claim for a schedule award.

On January 7, 2000 the Office referred appellant to Dr. Martin Wice, a Board-certified internist, for an evaluation. Dr. Wice was advised to use the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993). In a report dated February 1, 2000, Dr. Wice examined appellant and reported the following ratings: for right upper extremity, based on 51 degrees of flexion of the right wrist, appellant had a 2 percent impairment of the upper extremity,¹ based on impairment due to pain or sensory deficit, he noted that appellant's pain interfered with activity but incorrectly stated that she had a 40 percent impairment of the upper extremity instead of a 40 percent sensory deficit. He then multiplied by 38 percent, the maximum upper extremity impairment due to sensory or motor deficit, Table 15, to arrive at 15 percent impairment due to pain.² Dr. Wice then found a partial sensory loss below the midforearm and determined the sensory loss was seven percent. Based on impairment due to lack of power, he noted a 4 by 5 right thumb abduction weakness as per Table 12 resulted in a 12 percent upper extremity impairment, which, based on Table 15, resulted in a 1 percent impairment of the upper body.³ This resulted in a 24 percent impairment of the right upper

¹ A.M.A., *Guides*, 36, Figure 26.

² *Id.* at 48, Table 11, 54, Table 15.

³ *Id.* at 49, Table 12, 54, Table 15.

extremity based on 2 percent impairment based on limited wrist movement, 15 percent for pain, 7 percent on sensory loss to arrive at 23 percent impairment of the right upper extremity. Dr. Wice then added 1 percent for right thumb weakness for a total of 24 percent for the right upper extremity. For the left upper extremity, he found based on 55 degrees of flexion in the left wrist, a 1 percent impairment of the upper extremity,⁴ based on impairment due to pain or sensory deficit, he found a 30 percent sensory deficit. Dr. Wice then multiplied 30 by 38 percent, the maximum upper extremity impairment due to sensory or motor deficit, Table 15, to arrive at 11 percent impairment due to chronic pain,⁵ based on impairment due to loss of power, he found a 4 by 5 left thumb weakness, which, based on Table 15, is one percent impairment of the upper extremity. This resulted in a 13 percent left upper extremity impairment rating.⁶ The date of maximum medical improvement was February 1, 1997.

In a report dated February 23, 2000, an Office medical adviser stated that Dr. Wice improperly calculated separate ratings using Tables 11 and 15, noting that A.M.A., *Guides* prohibit using these two tables in the same claim. He also noted that Dr. Wice used Table 11 as an impairment rating when it is actually a percentage for grading the extent of impairment. The Office medical adviser noted that Dr. Wice stated that appellant's strength tests were not reliable but inferred that there was an inference of pain inhibition.

In an addendum report dated March 9, 2000, Dr. Wice stated that appellant has a seven percent impairment of the right upper extremity secondary to her sensory deficit and pain, and a one percent impairment of each upper extremity due to thumb abduction weakness.

In a report dated March 16, 2000, the Office medical adviser reviewed Dr. Wice's addendum report and noted that appellant's accepted carpal tunnel syndrome and carpal tunnel release required findings based on range of motion, chronic pain, sensory deficit and discomfort and chronic weakness. He noted that Dr. Wice found a 7 percent right upper extremity impairment secondary to sensory deficit and pain, and one percent "due to underlying thumb abduction weakness," that based on Dr. Wice's calculations appellant had an 8 percent impairment of the right upper extremity, that "the rating offered for the left upper extremity was 13 percent," which he found acceptable to the A.M.A., *Guides* and FECA Bulletin 95-17.

By decision dated March 28, 2000, the Office awarded appellant a schedule award of 8 percent for the right upper extremity and 13 percent for the left upper extremity.

By letter dated April 24, 2000, appellant requested a review of the written record. Appellant noted that her combined rating should be 37 percent.

By decision dated September 15, 2000, the hearing representative affirmed the Office's September 13, 2000 decision.

⁴ *Id.* *Supra* note 2.

⁵ *Id.* *Supra* note 3.

⁶ *Id.* *Supra* note 4.

The Board has duly reviewed the case record and finds that this case is not in posture for decision.

The schedule award provisions of the Federal Employees' Compensation Act⁷ set 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. The method of determining this percentage rests in the sound discretion of the Office.⁸ 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.⁹

In his initial report, Dr. Wice made separate ratings for pain and sensory deficit, stating that appellant had a 15 percent impairment of the upper extremity secondary to chronic pain and a 7 percent impairment based on a partial sensory loss in the right median nerve. However, in an addendum report dated March 9, 2000 report, he stated that appellant had a right arm seven percent impairment secondary to sensory deficit and pain. The Board has carefully reviewed this report and notes that Dr. Wice did not adequately explain how his determination of a seven percent right upper extremity impairment was reached in accordance with the A.M.A., *Guides*.⁴ Specifically, Dr. Wice noted appellant's seven percent impairment based on right upper extremity secondary to her sensory deficit and pain, but did not cite to tables or charts to confirm his impairment rating determination.

The Office medical adviser in his March 16, 2000 report does not explain how he extrapolated Dr. Wice's data to arrive at his impairment recommendations. For example, in Dr. Wice's February 1, 2000 report, he found that appellant had a 2 percent impairment based on 51 degrees of flexion of the right wrist. However, the Office medical adviser did not refer to this finding in his March 16, 2000 report.

In order to clarify appellant's impairment for bilateral carpal tunnel syndrome, the case will be remanded to the Office for further development regarding the extent of impairment to appellant's left and right upper extremities.¹⁰ After such further development as the Office deems necessary, an appropriate decision should be issued regarding the extent of appellant's carpal tunnel syndrome impairment to both upper extremities.

⁷ 5 U.S.C. § 8107.

⁸ *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

⁹ *James A. England*, 47 ECAB 115 (1995).

¹⁰ The Board notes that schedule awards should be issued to reflect the extent of impairment to appellant's left and right extremities. These ratings should not be "combined" as impairment to each upper extremity may differ under the A.M.A., *Guides*.

The decisions of the Office of Workers' Compensation Programs dated September 25 and March 28, 2000 are set aside and the case is remanded to the Office for further action consistent with this decision.

Dated, Washington, DC
October 12, 2000

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member