

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES E. McCLEESE and U.S. POSTAL SERVICE,
POST OFFICE, Youngstown, OH

*Docket No. 00-299; Submitted on the Record;
Issued September 11, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has greater than an additional four percent permanent impairment to each foot for which he received a schedule award.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the September 22, 1999 decision of the Office of Workers' Compensation Programs is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.¹

¹ The report of appellant's treating physician, Dr. Wi I. Hsu, a Board-certified orthopedic surgeon, dated October 7, 1996, in which he gave appellant a 30 percent permanent impairment to his feet (*i.e.*, 15 percent impairment to each foot), did not refer to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1994) and therefore was not probative. *See Paul R. Evans*, 44 ECAB 646, 651 (1993). Using the A.M.A., *Guides* (4th ed. 1994), page 86, Table 64, the impartial medical specialist, Dr. David A. Brys, a Board-certified orthopedic surgeon, found that appellant had only a three percent permanent impairment to his right foot. In his September 7, 1999 report, the district medical adviser concurred with Dr. Brys and found no medical evidence of record established that appellant had greater than a 10 percent impairment to each foot. The evidence of record supports his finding.

The decisions of the Office of Workers' Compensation Programs dated September 22 and February 24, 1999 are hereby affirmed.

Dated, Washington, DC
September 11, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member