U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROSA SANCHEZ and DEPARTMENT OF JUSTICE,
BORDER PATROL, McAllen, TX

Docket No. 01-344; Submitted on the Record;
Issued September 13, 2001

DECISION and ORDER

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

The issue is whether appellant is entitled to a schedule award for her accepted condition.

On September 19, 1997 appellant, then a 46-year-old prosecutions clerk, filed a notice of traumatic injury claiming that on September 18, 1997 she slipped in the office, almost "doing the splits," twisting her body and hit her left knee on the corner of a desk. On November 26, 1997 Dr. Jaime Rueda, a Board-certified family practitioner, diagnosed appellant with lumbosacral sprain.

By decision dated April 1, 1998, the Office of Workers' Compensation Programs accepted appellant's claim for lumbosacral sprain. On June 23, 1998 the Office authorized appellant to undergo a magnetic resonance imaging (MRI) scan of the left knee.

Appellant submitted a report dated July 20, 1998 from Dr. Miguel A. Hernandez, a Board-certified orthopedic surgeon, who indicated that appellant had twisted both legs on September 18, 1997, particularly the left. He stated that appellant had been having pain in her left knee since the incident, with episodes of the knee "giving away," and also that her knee would swell any time she used it and that the pain had been getting progressively worse.

In a report dated July 27, 1998, Dr. Hernandez indicated that an MRI showed a possible tear of the anterior cruciate ligament, in addition to a symptomatic plica. Appellant underwent arthroscopic surgery of the left knee on August 21, 1998.

On October 14, 1999 appellant filed a claim for a schedule award. Appellant submitted a report of medical evaluation from Dr. Hernandez dated October 27, 1998, in which he opined that appellant has a whole body impairment rating of two percent.

By letter dated March 24, 2000, the Office informed Dr. Hernandez that his rating of two percent was insufficient and that the Fourth Edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* must be used. The Office requested that

Dr. Hernandez provide a report, based on a recent examination, including the recommended percentage of impairment using the applicable tables of the A.M.A., *Guides*, and provide a description of appellant's subjective complaints. Dr. Hernandez did not respond to the Office's request.

By letter dated May 8, 2000, appellant was referred to Dr. Cynthia Garcia, Board-certified in physical medicine and rehabilitation, for a second opinion examination regarding her schedule award claim.

In a report dated June 7, 2000, Dr. Garcia opined that appellant had reached maximum medical improvement and assigned her an impairment rating of zero percent. Dr. Garcia noted that appellant had no leg length discrepancy, gait derangement, sensory deficit, muscle atrophy, range of motion deficit or any other impairment of the lower extremity.

On August 3, 2000 based on the medical evidence of record, the district medical examiner determined that appellant had a zero percent permanent partial disability of the left lower extremity.

By decision dated August 18, 2000, the Office found that appellant was not entitled to a schedule award for her injury.

The Board finds that appellant has not established that she is entitled to a schedule award for her accepted condition.

Under section 8107 of the Federal Employees' Compensation Act[1] and section 10.404 of the implementing federal regulations,[2] schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice for all claimants, the Office adopted the A.M.A., *Guides*[3] as a standard for determining the percentage of impairment, and the Board has concurred in such adoption.[4]

Before the A.M.A., *Guides* may be utilized, however, a description of appellant's impairment must be obtained from appellant's attending physician. The Federal (FECA) Procedure Manual provides that, in obtaining medical evidence required for a schedule award, the evaluation made by the attending physician must include a "detailed description of the impairment which includes, where applicable, the loss in degrees of active and passive motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength

[1] 5 U.S.C. § 8107.

[2] 20 C.F.R. § 10.404.

[3] A.M.A., *Guides* (4th ed. 1993).

[4] *Leisa D. Vassar*, 40 ECAB 1287 (1989).

or disturbance of sensation, or other pertinent description of the impairment."[5] This description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its restrictions and limitations.[6]

In this case, appellant's attending physician, Dr. Hernandez, reported on October 27, 1998 that appellant had reached maximum medical improvement on October 19, 1998. He did not, however, report any examination findings regarding range of motion or abnormal neurological findings. Based on the stated information, Dr. Hernandez opined that appellant had a whole body impairment rating of two percent. He did not correlate any findings or conclusions with the A.M.A., *Guides*.

Because Dr. Hernandez did not show how he arrived at the two percent impairment rating in accordance with the appropriate section of the A.M.A., *Guides*, and did not respond to the Office's request for further information, the Office correctly referred his report to Dr. Garcia for a second opinion.

Dr. Garcia examined appellant on June 7, 2000 and diagnosed her with "left knee pain status post arthroscopy." Dr. Garcia performed a neuromuscular examination, range of motion test and a palpatory examination. She used the lower extremity tables in the A.M.A., *Guides*, Chapter 3, section2, to determine a zero percent impairment rating for all examinations.

The Office referred Dr. Garcia's report to the district medical adviser on July 22, 2000 for calculation of appellant's permanent impairment. The district medical adviser reviewed the medical evidence of record and concluded, based upon Dr. Garcia's June 7, 2000 report, that appellant had a zero percent impairment of the left lower extremity. Dr. Hernandez's whole body impairment rating of two percent is not based on the A.M.A., *Guides* and is, therefore, of no probative value. Accordingly, the district medical adviser's opinion that appellant has a zero percent permanent impairment of his left lower extremity is entitled to the weight of the medical evidence.

[5] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.6(c) (March 1995).

[6] *Noe L. Flores*, 49 ECAB 344 (1998).

The August 18, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
September 13, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member