

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GABRIELLE STUART and U.S. POSTAL SERVICE,
POST OFFICE, Oklahoma City, OK

*Docket No. 01-437; Submitted on the Record;
Issued September 10, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained greater than a 10 percent permanent impairment of the right arm for which she received a schedule award.

On April 1, 1996 appellant, then a 29-year-old letter sorting machine clerk, filed an occupational injury claim alleging that she developed pain and dull ache in her hands as a result of repetitive keying and casing mail. The Office of Workers' Compensation Programs accepted the claim for bilateral carpal tunnel syndrome, bilateral cubital syndrome and subsequent right carpal tunnel release. Appellant had intermittent periods of disability and was released for full-time work with work restrictions on September 20, 1996. She accepted a permanent limited-duty assignment with the employing establishment on July 30, 1998.

On April 24, 2000 appellant filed a CA-7 form for a schedule award. On April 28, 2000 the Office requested that appellant's treating physician provide an assessment of permanent impairment of appellant's work-related condition.

Dr. Houshang Seradge, a Board-certified orthopedic surgeon and appellant's treating physician, submitted a report dated July 24, 2000 regarding permanent impairment. In his report, he indicated that appellant had a Dexter evaluation on July 6, 2000, an American Medical Association, *Guides to the Evaluation of Permanent Impairment* licensed evaluation, which indicated that based on scar, range of motion and dexterity appellant sustained zero percent impairment. He further stated that, according to the A.M.A., *Guides*, page 57, Table 16, she sustained 10 percent impairment for the median nerve at the wrist, carpal tunnel syndrome, and 10 percent for ulnar nerve involvement at the elbow. Dr. Seradge then reported that combining those percentages using the Combined Values Chart on page 322, appellant sustained a 19 percent permanent impairment to the right upper limb.

On September 13, 2000 the district medical adviser reviewed Dr. Seradge's report and calculated appellant's permanent partial impairment to the right upper extremity in accordance

with the A.M.A., *Guides*. He agreed with Dr. Seradge that according to Table 16 on page 57, appellant had mild median nerve entrapment of the wrist which equaled a 10 percent impairment and mild ulnar nerve entrapment of the elbow, which equaled a 10 percent impairment. The district medical adviser also combined the values according to the above-mentioned chart on page 322 and determined that appellant had a 19 percent permanent impairment of the right upper extremity. He determined that appellant reached maximum medical improvement on July 24, 2000.

On September 27, 2000 the Office issued appellant a schedule award for a 10 percent permanent impairment of the right arm.

The Board finds that appellant has established by the medical reports of Dr. Seradge who calculated her right arm impairment at 19 percent and the Office medical adviser who also calculated a 19 percent impairment of the right arm, that she is entitled to a schedule award for a 19 percent impairment of the right arm.

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing regulation² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

In the present case, in his July 24, 2000 report, Dr. Seradge concluded, using the A.M.A., *Guides*, with specific references to page numbers and tables, that appellant had a 19 percent impairment to the right upper extremity. In his September 13, 2000 memorandum, based on his review of Dr. Seradge's report, the district medical adviser calculated appellant's impairment rating in accordance with the A.M.A., *Guides* and agreed that appellant sustained a 19 percent impairment to the right upper extremity. Notwithstanding, the Office issued a schedule award for a 10 percent impairment of the right arm, without any explanation as to how it reached this varied percentage. Therefore, the Board will reverse the Office's September 27, 2000 decision and grant appellant a schedule award for a 19 percent permanent impairment of the right arm.

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

The September 27, 2000 decision of the Office of Workers' Compensation Programs is reversed and the case record returned for payment of an appropriate schedule award consistent with this decision of the Board.

Dated, Washington, DC
September 10, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member