

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RONALD W. GROSS and U.S. POSTAL SERVICE,
POST OFFICE, Bakersfield, CA

*Docket No. 02-111; Submitted on the Record;
Issued December 16, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
WILLIE T.C. THOMAS

The issue is whether appellant has established that he has greater than a two percent permanent impairment of his right upper extremity, for which he received a schedule award.

Appellant, a 46-year-old letter carrier, injured his right shoulder on June 20, 2000 while reaching to open a mailbox. He filed a claim for benefits on the date of injury, which was accepted by the Office of Workers' Compensation Programs on October 17, 2000 for right shoulder impingement syndrome. The Office authorized corrective surgery, which was performed by Dr. Christopher D. Hamilton, a specialist in orthopedic surgery, on November 1, 2000.

In a report dated April 24, 2001, Dr. Hamilton calculated appellant's post-injury range of motion at 160 degrees in his right shoulder as opposed to 170 degrees in his left shoulder, forward flexion; 160 degrees in his right shoulder as opposed to 170 degrees in his left shoulder, abduction; and zero loss of range of motion with regard to extension, adduction, internal rotation and external rotation. He determined that the date of maximum medical improvement was April 23, 2001.

On June 18, 2001 appellant filed a Form CA-7 claim for a schedule award based on the partial loss of use of his right upper extremity, stemming from his accepted June 20, 2000 employment injury.

In a memorandum/impairment worksheet dated September 21, 2000, an Office medical adviser determined that appellant had a two percent impairment of the right upper extremity based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fifth edition) (A.M.A., *Guides*). Relying on Dr. Hamilton's findings, the Office medical adviser calculated that appellant had sustained a loss of flexion equivalent to a one percent impairment pursuant to Figure 16-40 at page 476 of the A.M.A., *Guides*, and a loss of abduction equivalent to a one percent impairment pursuant to Figure 16-43 at page 477 of the A.M.A., *Guides*.

By decision dated August 2, 2001, the Office granted appellant a schedule award for a two percent permanent impairment of the right upper extremity for the period from April 23 to June 5, 2001 for a total of 6.24 weeks of compensation.

The Board finds that appellant has no more than a two percent permanent impairment for loss of use of the right lower extremity, for which he received a schedule award.

The schedule award provision of the Federal Employees' Compensation Act¹ set forth the number of weeks of compensation to be paid for permanent loss, or loss of use of the members of the body listed in the schedule. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage loss of use.² However, the Act does not specify the manner in which the percentage of loss of use of a member is to be determined. For consistent results and to insure equal justice under the law to all claimants, the Office has adopted the A.M.A., *Guides* (fifth edition) as the standard to be used for evaluating schedule losses.³

In this case, the Office medical adviser determined that appellant had a two percent permanent impairment of his right lower extremity based on Dr. Hamilton's findings. The Office medical adviser combined the impairments derived from a one percent loss of flexion and a one percent loss of abduction, then applied these findings to the applicable figures of the A.M.A., *Guides* to arrive at the total percentage of impairment in appellant's right upper extremity.

The Board concludes that the Office medical adviser correctly applied the A.M.A., *Guides* in determining that appellant has no more than a two percent permanent impairment for loss of use of his right upper extremity, for which he has received a schedule award from the Office and that appellant has failed to provide probative, supportable medical evidence that he has greater than the two percent impairment already awarded.

¹ 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(c).

² 5 U.S.C. § 8107(c)(19).

³ 20 C.F.R. § 10.404.

The decision of the Office of Workers' Compensation Programs dated August 2, 2001 is hereby affirmed.

Dated, Washington, DC
December 16, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member