U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ANTHONY QUINTERO, JR. and U.S. POSTAL SERVICE,
POST OFFICE, Whither, CA

*Docket No. 02-1991; Submitted on the Record;*
*Issued December 20 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has more than a 20 percent impairment of his left upper extremity entitling him to a schedule award.

Appellant, a 39-year-old letter carrier, filed a notice of traumatic injury on March 3, 2000 alleging that on February 23, 2000 he injured his left shoulder attempting to open a truck door in the performance of duty. The Office of Workers' Compensation Programs accepted appellant's claim for left shoulder strain on May 30, 2000.

Appellant's attending physician Dr. Arthur Kreitenberg, a Board-certified orthopedic surgeon, performed surgery on August 1, 2000 with the Office's authorization. He diagnosed left shoulder impingement syndrome with acromioclavicular joint disruption with a FLAP lesion. Dr. Kreitenberg performed a diagnostic left glenohumeral arthroscopy, suretac stabilization of the superolateral labral detachment, open subacromial decompression, open resection of the distal clavicle and a deltoid repair.

In a report dated July 17, 2001, Dr. Kreitenberg found that appellant had reached maximum medical improvement and provided his findings on physical examination. On August 20, 2001 the Office requested additional information regarding appellant's permanent impairment for schedule award purposes. In a report dated August 28, 2001, he found that appellant had loss of range of motion and loss of strength and pain due to his left shoulder condition.

The district medical consultant reviewed Dr. Kreitenberg's report and applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment.*[1] She concluded that appellant had a 20 percent impairment of his left upper extremity. The Office

[1] A.M.A., *Guides*, 5th ed. 2001.

granted appellant a schedule award on November 8, 2001 for a 20 percent impairment of his left upper extremity.

Appellant disagreed with the percentage of impairment awarded and requested an oral hearing on November 14, 2001. At the oral hearing on May 21, 2001, he stated that he felt that he had greater than a 20 percent impairment of his left shoulder. Following the oral hearing, appellant submitted a supplemental report from Dr. Kreitenberg dated June 11, 2002. In this report, he concluded that appellant had a 49 percent impairment of his left upper extremity based on the fourth edition of the A.M.A., *Guides*.

By decision dated June 21, 2002, the hearing representative concluded that appellant had not submitted sufficient rationalized medical evidence to establish that he had more than 20 percent impairment of his left upper extremity.

The Board finds that this case is not in posture for decision.

The schedule award provisions of the Federal Employees' Compensation Act[2] and its implementing regulation[3] 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. Effective February 1, 2001, the fifth edition of the A.M.A., *Guides* is utilized to calculate any awards.[4]

In his August 28, 2001 report, Dr. Kreitenberg noted appellant's range of motion as 130 degrees of forward elevation; 30 degrees of backward elevation; 130 degrees of abduction; 20 degrees of adduction, 30 degrees of internal rotation; 40 degrees of external rotation; and 20 degrees of extension. The district medical consultant properly applied the A.M.A., *Guides* to these figures to reach three percent impairment for loss of forward elevation;[5] one percent impairment for loss of extension;[6] two percent impairment for loss of abduction;[7] one percent impairment for loss of adduction;[8] four percent impairment for loss of internal rotation;[9] and one

[2] 5 U.S.C. § 8107.

[3] 20 C.F.R. § 10.404 (1999).

[4] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6a 6d(1) and 7b(4) (August 30, 2002).

[5] A.M.A., *Guides*, 476, Figure 16-40.

[6] *Id.*

[7] *Id*. at 477, Figure 16-43.

[8] *Id.*

[9] *Id* at 479, Figure 16-46.

percent impairment of loss of external rotation.[10] Adding these losses,[11] appellant has a total of 12 percent permanent impairment of his left shoulder due to loss of range of motion. In both his August 28, 2001 and July 11, 2002 reports, Dr. Kreitenberg found that appellant had 20 degrees of extension or a 2 percent impairment in accordance with the A.M.A., *Guides*. It is unclear from the medical evidence in the record how the physicians distinguished extension from backward elevation. It appears that appellant might be entitled to a 2 percent impairment due to a loss of 20 degrees of extension rather than 1 percent impairment due to 30 degrees of backward elevation as found by the district medical consultant.

In his June 11, 2002 report, Dr. Kreitenberg did not provide his findings on examination regarding loss of range of motion; instead he provided the percentage of impairment based on the fourth edition of the A.M.A., *Guides*. As noted above, the fifth edition of the A.M.A., *Guides* should be applied in this case and as the record does not contain additional physical findings regarding loss of range of motion, there is insufficient evidence to establish that appellant's permanent impairment due to loss of range of motion is greater than that found by the district medical consultant.

Dr. Kreitenberg stated that appellant had moderate and frequent pain which limited his range of motion and his ability to lift. The district medical consultant determined appellant's impairment due to pain, noting that he had pain which interferes with some activities or a Grade 3 or 35 percent impairment[12] of the suprascapular nerve[13] with a maximum value of 5 percent. She properly multiplied these values to reach two percent impairment due to pain.

In his August 28, 2001 report, Dr. Kreitenberg stated that appellant had 75 percent loss of abduction and forward flexion strength due to his deltoid and rotator cuff repair. The district medical consultant determined appellant's impairment of left upper extremity due to strength deficit based on manual muscle testing.[14] She found that appellant had a total of eight percent permanent impairment due to these deficits.

The Board notes that the A.M.A., *Guides* provide: "Decreased strength *cannot* be rated in the presence of decreased motion, painful conditions, deformities or absences of parts (*e.g.*, thumb amputation) that prevent effective application of maximal force in the region being evaluated."[15] (Emphasis in the original.) The district medical consultant did not provide any reasoning for her conclusion that it was appropriate to utilize the values of manual muscle testing in evaluating appellant's permanent impairment given his findings of loss of range of motion and pain interfering with certain activities. As this impairment rating directly contradicts the

[10] *Id.*

[11] *Id.* at 474. ("The upper extremity impairment resulting from abnormal shoulder motion is calculated from the pie charts by adding directly the upper extremity impairment values contributed by each motion unit.")

[12] *Id*. at 482, Table 16-10.

[13] *Id*. at 492, Table 16-15.

[14] *Id*. at 510, Table 16-35.

[15] *Id*. at 508.

principles as found in the appropriate edition of the A.M.A., *Guides*, the Board finds that it was not appropriate.

In his June 11, 2002 report, Dr. Kreitenberg found that appellant had an additional 10 percent permanent impairment due to his resection of the distal clavicle, 10 percent due to his slap lesion and 10 percent due to his deltoid repair. The A.M.A., *Guides* do provide for 10 percent permanent impairment due to a total shoulder arthroplasty at the isolated level of the distal clavicle.[16] The A.M.A., *Guides* do not mention the other aspects of appellant's surgery except to note that a total shoulder arthroplasty resection is a 30 percent impairment. The medical evidence currently in the record does not sufficiently address this issue to the extent that the Board can determine whether appellant is entitled to the additional impairment rating for this condition.

Due to the deficits in the medical reports, the Board finds that the case does not contain a sufficient medical description of the extent of appellant's permanent impairment. On remand, the Office should refer appellant and a statement of accepted facts to an appropriate physician for physical evaluation and application of the appropriate edition of the A.M.A., *Guides* to any impairment found. After this and such other development as the Office deems necessary, the Office should issue an appropriate decision.

The June 21, 2002 and November 8, 2001 decisions of the Office of Workers' Compensation Programs are hereby set aside and remanded for further development consistent with this decision of the Board.

Dated, Washington, DC
December 20 2002

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

[16] *Id*. at 506, Table 16-27.