

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROBERT CHAVEZ and DEPARTMENT OF THE NAVY,  
UNITED STATES MARINE CORPS, Barstow, CA

*Docket No. 01-489; Submitted on the Record;  
Issued February 5, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant has more than a 10 percent permanent impairment to each arm.

On May 11, 1998 appellant, then a 44-year-old heavy mobile equipment repairer, filed a claim for occupational disease, Form CA-2, alleging that he developed carpal tunnel syndrome in the performance of duty. The Office of Workers' Compensation Programs initially accepted that appellant sustained right carpal tunnel syndrome and left wrist tendinitis as a result of his federal employment and later accepted left carpal tunnel syndrome. By decision dated November 1, 2000, the Office issued a schedule award for a 10 percent permanent impairment in each arm.

The Board has reviewed the record and finds that appellant has no more than a 10 percent permanent impairment of each arm.

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.<sup>1</sup> Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants, the Office has adopted the American Medical Association, (A.M.A.) *Guides to the Evaluation of Permanent Impairment* as the uniform standard applicable to all claimants.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.304(b).

<sup>2</sup> A. George Lampo, 45 ECAB 441 (1994).

In this case, the Office referred appellant to Dr. Bruce Ballard, a Board-certified orthopedic surgeon, for evaluation. In a report dated September 12, 2000, he listed his findings on physical examination, including range of motion, sensory, muscle strength, circumferential, grip strength and reflex measurements. Dr. Ballard also noted appellant's complaints, as well as the results of prior nerve testing. He listed his diagnosis as bilateral carpal tunnel syndrome and tendinitis, left wrist and estimated the date of appellant's maximum medical improvement to have been April 2000. However, Dr. Ballard did not offer an opinion as to the degree of appellant's permanent impairment.

On September 5, 2000 the Office forwarded Dr. Ballard's findings to an Office medical adviser for proper application of the A.M.A., *Guides*. In a report dated October 19, 2000, the Office medical adviser used the method of determining impairment for entrapment neuropathy found at Table 16.<sup>3</sup> Under this Table, a mild impairment of the median nerve is a 10 percent impairment. As the report of the Office medical adviser provides the only evaluation, which properly conformed with the A.M.A., *Guides*, it constitutes the weight of the medical evidence and the Office properly relied on it.<sup>4</sup> Accordingly, as there is no other probative medical opinion indicating a permanent impairment greater than 10 percent for each arm under the A.M.A., *Guides*, the Board finds that appellant has not established entitlement to an additional schedule award beyond the 10 percent for each arm previously awarded.

The decision of the Office of Workers' Compensation Programs dated November 1, 2000 is affirmed.

Dated, Washington, DC  
February 5, 2002

Michael J. Walsh  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>3</sup> A.M.A., *Guides* at 57.

<sup>4</sup> *Robin L. McClain*, 38 ECAB 398 (1987).