

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SUSANLYN COLEMAN and U.S. POSTAL SERVICE,  
POST OFFICE, Oakland, CA

*Docket No. 01-1328; Submitted on the Record;  
Issued January 11, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she has more than a five percent impairment of her left leg for which she received a schedule award.

The Board finds that appellant did not meet her burden of proof to establish that she has more than a five percent impairment of her left leg for which she received a schedule award.

On March 21, 1979 appellant, then a 26-year-old postal clerk, sustained a right knee strain and bilateral chondromalacia of her patellae when she walked up stairs at work. The Office of Workers' Compensation Programs authorized the performance of arthroscopic surgery on both knees in 1983 and on the right knee in 1995. By decision dated January 22, 1999, appellant received a schedule award for a five percent permanent impairment of her right leg. By decision dated August 24, 2000, appellant received a schedule award for a five percent permanent impairment of her left leg. The Office relied on the August 15, 2000 report of an Office medical consultant in making its determination regarding appellant's left leg impairment.<sup>1</sup>

An employee seeking compensation under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence,<sup>3</sup> including that she sustained an injury in the performance of duty as alleged and that her disability, if any, was causally related to the employment injury.<sup>4</sup>

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<sup>1</sup> The record also contains a March 14, 2001 decision in which the Office denied appellant's claim that she sustained a recurrence of disability on or after October 29, 2000 due to her March 21, 1979 employment injury. Appellant did not request an appeal of this decision and the matter is not currently before the Board.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Donna L. Miller*, 40 ECAB 492, 494 (1989); *Nathaniel Milton*, 37 ECAB 712, 722 (1986).

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

The schedule award provision of the Act<sup>5</sup> and its implementing regulation<sup>6</sup> 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 American Medical Association (A.M.A.), *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.<sup>7</sup>

The Board finds that the Office properly relied on the August 15, 2000 report of the Office medical consultant in determining that appellant was only entitled to a schedule award for a five percent impairment of her left leg. In his report, the Office medical consultant properly provided a diagnosis-based assessment of appellant's condition in determining that she had a five percent impairment of her left leg. He noted that this rating was based on the fact that appellant had patellofemoral pain and crepitation on physical examination but did not have joint space narrowing.<sup>8</sup> The Office medical consultant also calculated appellant's impairment rating based on sensory, motor and range of motion loss, but properly determined that this would constitute a lesser impairment rating.<sup>9</sup> He correctly evaluated the relevant medical evidence of record in performing his evaluation.<sup>10</sup> As the report of the Office medical consultant provided the only evaluation, which conformed with the A.M.A., *Guides*, it constitutes the weight of the medical evidence.<sup>11</sup>

For these reasons, appellant did not meet her burden of proof to establish that she has more than a five percent impairment of her left leg for which she received a schedule award.

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<sup>5</sup> 5 U.S.C. § 8107.

<sup>6</sup> 20 C.F.R. § 10.404 (1999).

<sup>7</sup> *See id.*; *James Kennedy, Jr.*, 40 ECAB 620, 626 (1989); *Charles Dionne*, 38 ECAB 306, 308 (1986).

<sup>8</sup> *See A.M.A., Guides* 83, Table 62, fn. (4<sup>th</sup> ed. 1993).

<sup>9</sup> He calculated that appellant had a Grade III rating of 60 percent for sensory loss and multiplied this figure times the seven percent maximum rating for sensory loss involving the femoral nerve distribution to arrive at a four percent impairment rating for the left leg. The Office medical consultant indicated that the findings of record did not entitle appellant to a rating for motor or range of motion loss; *see A.M.A., Guides* 48, 77-78, 89, Tables 11, 39, 41, 68 (4<sup>th</sup> ed. 1993).

<sup>10</sup> In a report dated April 10, 2000, Dr. Robert Burri, an attending Board-certified orthopedic surgeon, indicated that appellant had moderate pain in her left leg, which limited mobility and standing endurance and that she did not have weakness or limitation of motion in her left leg. In a report from Dr. Gerald W. Cady, a Board-certified orthopedic surgeon, to whom the Office referred appellant, he noted that appellant had mild to moderate left knee pain on prolonged standing, walking or climbing and that she did not have weakness or limitation of motion in her left leg. Both physicians indicated that appellant did not have any demonstrable atrophy.

<sup>11</sup> *See Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

The August 24, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
January 11, 2002

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

A. Peter Kanjorski  
Alternate Member