

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FLO M. ABILLE and U.S. POSTAL SERVICE,
POST OFFICE, Oakland, CA

*Docket No. 02-1483; Submitted on the Record;
Issued November 25, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has more than a five percent permanent impairment of her right arm, for which she received a schedule award.

On September 20, 1999 appellant, then a 63-year-old window clerk, filed a claim asserting that the pain in her right shoulder was the result of her federal employment. The Office of Workers' Compensation Programs accepted her claim for the condition of right shoulder tendinitis and authorized rotator cuff decompression and repair surgery on January 4, 2000. Appellant underwent exploratory surgery on January 15, 2001. She claimed a schedule award.

After receiving a September 24, 2001 report from her primary treating physician that her condition was permanent and stationary, the Office referred appellant, together with the case record and a statement of accepted facts, to Dr. Jerrold M. Sherman, a Board-certified orthopedic surgeon, for an evaluation of permanent impairment.

On November 13, 2001 Dr. Sherman reported that appellant had shoulder pain or discomfort of uncomfortable intensity that could not be localized to one particular area or nerve distribution but that did interfere with daily activity. There was no sensory loss or alteration of sensation. Range of motion measurements was normal except for findings of 160 degrees on flexion and 150 degrees on abduction. There was no atrophy or weakness or other factor of disability.

An Office medical consultant reviewed Dr. Sherman's findings and determined that appellant had impairments of one percent for loss of flexion and one percent for loss of abduction. Grading appellant's pain as a 60 percent deficit of the suprascapular nerve, the consultant determined that appellant had a 3 percent permanent impairment of the right upper extremity due to sensory deficit or pain. Together, loss of motion and sensory deficit or pain combined for a final rating of five percent.

On March 12, 2002 the Office issued a schedule award for a five percent permanent impairment of the right arm.

The Board finds that appellant has no more than a five percent permanent impairment of her right arm, for which she received a schedule award.

Compensation is provided for specified periods of time for the permanent loss or loss of use of certain members, organs and functions of the body. Such loss or loss of use is known as permanent impairment. Compensation for proportionate periods of time is payable for loss or loss of use of each member, organ or function. The Office evaluates the degree of impairment to schedule members, organs and functions as defined in 5 U.S.C. § 8107 according to the standards set forth in the specified edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).¹

Dr. Sherman, the Office referral physician, evaluated appellant's right shoulder to determine the extent of her impairment under the standards of the A.M.A., *Guides*. His clinical findings included 160 degrees of flexion and 150 degrees of abduction. According to Figure 16-40, page 476, of the A.M.A., *Guides*, 160 degrees of flexion and 150 degrees of abduction each represents an upper extremity impairment of 1 percent.

The only other positive finding Dr. Sherman reported was shoulder pain or discomfort of uncomfortable intensity that interfered with daily activity, but he was unable to localize the pain or discomfort to one particular area or nerve distribution. This inability to identify an affected nerve precludes an impairment rating, due to sensory deficit or pain, leaving appellant with a two percent impairment due to loss of motion. Notwithstanding Dr. Sherman's report, the Office medical consultant offered the suprascapular nerve as the affected nerve in appellant's case. Table 16-15, page 492, of the A.M.A., *Guides* states that the maximum impairment attributable to a sensory deficit of the suprascapular nerve is 5 percent. Based on Dr. Sherman's finding that the pain interfered with daily activity, the Office medical consultant graded the severity of the deficit at 60 percent, the maximum percentage allowed by Table 16-10, page 482, for sensory deficit or pain "that interferes with some activities." Multiplying the severity of the sensory deficit by the maximum impairment value of the affected nerve (60 percent times 5 percent), impairment of the upper extremity due to peripheral nerve disorder is 3 percent.

The two percent impairment due to loss of motion combines with the three percent impairment due to peripheral nerve disorder for a five percent total impairment of the right arm, which the Office awarded.² The record contains no other evaluation of appellant's permanent impairment under the A.M.A., *Guides*.

¹ 20 C.F.R. § 10.404 (1999).

² A.M.A., *Guides* 604 (5th ed. 2001) (Combined Values Chart).

The March 12, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
November 25, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member