

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RONALD DILAURA and U.S. POSTAL SERVICE,  
POST OFFICE, Amherst, NY

*Docket No. 02-2069; Submitted on the Record;  
Issued April 11, 2003*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant has more than a 10 percent permanent impairment of his right upper extremity for which he received a schedule award.

On September 11, 2000 appellant, then a 40-year-old letter carrier, filed a notice of traumatic injury alleging that his right shoulder gave out while he was carrying a tray of mail. The Office of Workers' Compensation Programs accepted appellant's claim on November 3, 2000 for right shoulder sprain with surgical repair.<sup>1</sup> Appellant underwent physical therapy and returned to full-duty work on December 21, 2001.

On January 30, 2002 appellant filed a claim for a schedule award and submitted a January 31, 2002 attending physician's report from Dr. John C. Newman, a Board-certified orthopedic surgeon. By letter dated February 26, 2002, the Office requested that Dr. Newman address the extent of permanent impairment of appellant's right upper extremity according to the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*. He submitted a March 15, 2002 report, stating:

“[Appellant] was seen and examined by me on March 15, 2002 relative to his right shoulder.... He in my opinion at this time has reached maximum benefit. [Appellant] has a good general return of strength, possibly still slightly less than the opposite side but he has little evidence of atrophy. His range of motion is mildly impaired with an abduction limited to 120 degrees, anterior elevation limited to 150 degrees, internal rotation is approximately 30 degrees, external rotation is approximately 30 degrees to 40 degrees and equal to the opposite side. He does have some pain and soreness with extremes of motion especially if his shoulder stretch beyond those above levels of motion.

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<sup>1</sup> The Office also accepted a claim for a September 28, 2001 recurrence.

“I feel on the basis of [appellant’s] range of motion and that he has approximately a 25 percent loss of function due to the reduction in abduction and approximately 10 percent loss due to anterior flexion loss, that is total loss of function of the arm on a permanent basis is 35 percent. This essentially corresponds to the guidelines of the New York State Workmen’s Compensation Board.”

In a note received on May 20, 2002, the Office medical adviser found that appellant had a total impairment of 10 percent based on Dr. Newman’s findings.

By decision dated May 17, 2002, the Office awarded appellant a 10 percent schedule award for the right upper extremity.

The Board finds that appellant has no more than a 10 percent permanent impairment of the right upper extremity for which he received a schedule award.

The schedule award provisions of the Federal Employees’ Compensation Act<sup>2</sup> and its implementing regulation<sup>3</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of the 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 for 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.

Before the A.M.A., *Guides* can be utilized; a description of appellant’s impairment must be obtained from his physician. In obtaining medical evidence required for a schedule award, the evaluation made by the attending physician must include a description of the impairment including, where applicable, the loss in degrees of active and passive motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation or other pertinent descriptions of the impairment. This description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.<sup>4</sup>

In this case, Dr. Newman reported on March 15, 2002 that appellant had the following limited ranges of motion in the right shoulder: 120 degrees of abduction, 150 degrees of anterior elevation, 30 degrees of internal rotation and 30 to 40 degrees of external rotation. Dr. Newman indicated that appellant had approximately a 25 percent loss of function due to the reduction in abduction, approximately a 10 percent loss due to anterior flexion or a total impairment of 35 percent. He did not explain how he estimated impairment in conformance with the A.M.A., *Guides*.

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<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404 (1999).

<sup>4</sup> *Leisa D. Vassar*, 40 ECAB 1287 (1989).

Based on Dr. Newman's findings, the Office medical adviser applied the tables of the fifth edition of the A.M.A., *Guides* to determine that appellant had a total permanent impairment of 10 percent of the right upper extremity. The medical adviser applied Table 16-43 on page 477 to determine 3 percent impairment due to 120 degrees of adduction, Table 16-40 on page 476 to determine 2 percent impairment due to 150 degrees of flexion and Table 16-46 on page 479 to determine 4 percent impairment due to 30 degrees of internal rotation and 1 percent impairment for 30 to 40 degrees of external rotation. The range-of-motion loss totaled a 10 percent impairment of the right upper extremity.

The Board finds that appellant's physician adequately described his impairment of the right shoulder in his March 15, 2002 report, so that the Office medical adviser could clearly visualize the impairment with its resulting restrictions and limitations. The Office medical adviser correctly applied Dr. Newman's findings to the appropriate tables in the fifth edition of the A.M.A., *Guides* to determine that appellant had a 10 percent permanent impairment of the right upper extremity.

The May 17, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
April 11, 2003

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member