U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TERESA L. HARTIN and U.S. POSTAL SERVICE,
POST OFFICE, Dallas, TX

Docket No. 02-2356; Submitted on the Record;
Issued April 9, 2003

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has greater than a 12 percent permanent impairment of her right upper extremity, for which she has received a schedule award.

The Office of Workers' Compensation Programs accepted that on August 19, 1992 appellant, then a 33-year-old letter carrier, sustained a right wrist sprain, carpal tunnel syndrome and a right ganglion cyst, while she was unloading a jeep. She returned to light duty on August 20, 1992.

Appellant continued under medical treatment and on November 30, 2000 and January 10, 2001 she filed CA-7 claim forms for a schedule award for permanent impairment of her right upper extremity.

By letter dated February 2, 2001, the Office requested that appellant's treating physician provide an impairment rating for her right upper extremity and include the date of maximum medical improvement. Nothing was forthcoming.

By decision dated October 22, 2001, the Office rejected appellant's schedule award claim finding that the record lacked a medical opinion based on a recent physical examination which demonstrates an impairment of her right upper extremity.

Appellant requested reconsideration and in support she submitted further medical evidence. A November 15, 2001 report from Dr. Lewis Frazier, Jr., a flexible practice physician, indicated the results of an orthopedic/sports medicine clinic evaluation of appellant's impairment. He noted that appellant had right upper extremity two-point discrimination of seven millimeters (mm) and of five mm elsewhere and had subjective decreased sensation to light touch in the levels one, two and three dorsal dermatomes. Dr. Frazier found no focal atrophy or

fasciculations, and slight atrial premature beat weakness with some give way component.[1] He noted that right wrist ranges of motion were 42 degrees of flexion, 50 degrees of extension, radial deviation to 20 degrees and ulnar deviation to 22 degrees. Dr. Frazier applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment* and noted as follows:

> "Med[ial] sensory deficit: Table 16-15; max[imum] [upper extremity] 39 percent for med[ian] nerve below mid forearm. Grade sensory deficit: Table 16-11, p. 484; 10 percent grade. Multiply: 39 percent times 10 percent equals 3.9 percent [upper extremity] [impairment] for sensory dysfunction.
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> "Med[ial] motor deficit: Table 16-15; max[imum] [upper extremity] 10 percent. Grade motor deficit: Table 16-11, p. 484, 10 percent. Multiply: 10 percent times 10 percent equals 1 percent [upper extremity] [impairment] for motor dysfunction.
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> "Adding neurological impairment due to [carpal tunnel syndrome]: 4.9 percent [upper extremity impairment].
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> "Range of motion deficit is calculated in accordance with scapholunate cyst resection and associated postop[erative] stiffness. Figure 16-28/29, p. 467-468: two percent each for loss of wrist extension and ulnar deviation. [Three] percent for loss of flexion. Total [range of motion] impairment [of the] right wrist: [seven] percent.
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> "Combining all impairments one obtains [five] percent [upper extremity] [impairment] for [carpal tunnel syndrome] residual neuro[logical] deficit. [Seven] percent for S-L cyst resection residual loss of [range of motion]. [Equaled] 12 percent [permanent impairment of the right upper extremity]."

Dr. Frazier noted that appellant had continued deficits of intermittent numbness, constant right upper extremity weakness and intermittent pain and wrist stiffness. In accordance with the A.M.A., *Guides,* Dr. Frazier found that appellant had a 3.9 percent right upper extremity impairment due to sensory dysfunction, and a 1 percent impairment for motor function, which equaled a 4.9 percent impairment due to the carpal tunnel syndrome, and a 7 percent impairment due to loss of range of motion. When these deficits were combined, Dr. Frazier opined that appellant had a 12 percent impairment of her right upper extremity

On January 2, 2002 the Office referred Dr. Frazier's findings to an Office medical adviser, Dr. R. Meador, who applied the A.M.A., *Guides* and determined that appellant had a 7 percent impairment for loss of motion; a 1 percent impairment for decreased strength; and a 4 percent impairment for change in sensation, which, when combined using the A.M.A., *Guides* Combined Values Chart, did indeed have a 12 percent permanent impairment of her right upper

[1] Strength testing with a dynamometer testing revealed a nonphysiologic curve of 6, 10 and 10 on the right with 11, 25 and 17 on the left.

extremity. Dr. Meador noted that Dr. Frazier had used the correct edition of the A.M.A., *Guides* and had properly applied it such that their determinations were the same.

By decision dated January 8, 2002, the Office vacated the October 22, 2001 decision and indicated that appellant was entitled to a schedule award for a 12 percent permanent impairment of her right upper extremity.

On January 14, 2002 the Office granted appellant a schedule award for a 12 percent permanent impairment of her right upper extremity for the period November 15, 2001 to August 4, 2002 for a total of 37.44 weeks of compensation.

Appellant disagreed with this award and requested an appeal before the Board.

The Board finds that appellant has no greater than a 12 percent permanent impairment of her right upper extremity, for which she has received a schedule award.

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 loss, or loss of use, of scheduled members of the body. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage loss of use.[4] 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* (fifth edition) has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.[5]

The standards for evaluating the percentage of impairment of extremities under the A.M.A., *Guides* are based primarily on loss of range of motion. In determining the extent of loss of motion, the specific functional impairments, such as loss of flexion or extension, should be itemized and stated in terms of percentage loss of use of the member in accordance with the tables in the A.M.A., *Guides*.[6] All factors that prevent a limb from functioning normally should be considered, together with the loss of motion, in evaluating the degree of permanent

[2] 5 U.S.C § 8101 *et seq.*; *see* 5 U.S.C. § 8107(c).

[3] 20 C.F.R. § 10.304.

[4] 5 U.S.C. § 8107(c)(19).

[5] 20 C.F.R. § 10.404 (1999). FECA Transmittal No. 02-12 (issued August 30, 2002) explains that all permanent impairment awards determined on or after February 1, 2001, the effective dated of the A.M.A., *Guides* application, regardless of the date of the medical examination, should be based on the fifth edition of the A.M.A., *Guides*.

[6] *William F. Simmons*, 31 ECAB 1448 (1980); *Richard A. Ehrlich*, 20 ECAB 246, 249 (1969) and cases cited therein.

impairment. The element of pain may serve as the sole basis for determining the degree of impairment for schedule compensation purposes.[7]

In this case, appellant has injury-related chronic and persistent right upper extremity pain, tingling, numbness and loss in range of motion. Dr. Frazier referred to the A.M.A., *Guides* and calculated, based upon his physical examination findings, that appellant had a 3.9 percent right upper extremity impairment due to sensory dysfunction and a 1 percent impairment for motor function, which equaled a 4.9 percent impairment due to the sensory deficit related to carpal tunnel syndrome. He further referred to examination findings and the A.M.A., *Guides* and determined that appellant had a seven percent right upper extremity impairment due to motor deficits manifested as loss of range of motion. When these deficits were combined using the A.M.A., *Guides'* Combined Values Chart, Dr. Frazier determined that appellant had a 12 percent permanent impairment of her right upper extremity, and Dr. Meador concurred, agreeing that Dr. Frazier had properly applied the current edition of the A.M.A., *Guides* to ascertain sensory and motor losses. Dr. Meador used the fifth edition of the A.M.A., *Guides*, Table 16-15, p. 492, and Table 16-10, p. 484 to ascertain appellant's sensory deficit. He noted that the median nerve below the forearm was maximally equal to 39 percent, that Grade 4 equaled 10 percent and that 10 percent of 39 was 3.9 or rounded up to 4 percent for a sensory deficit. Motor deficit was calculated using Table 16-15, p. 492 and Table 16-11, p. 482; Dr. Meador found that appellant's median nerve below midforearm was a maximum 10 percent, that Grade 4 symptomatyology was equal to 10 percent and that 10 percent of 10 percent was equal to 1 percent. He then calculated range-of-motion deficit using Dr. Frazier's measurements and Figures 16-28 and 31, p. 482, of the A.M.A., *Guides* which resulted in a two percent impairment for loss of extension, and three percent impairment for loss of flexion, and a two percent impairment for ulnar deviation, which, when combined, equaled a seven percent total impairment for losses in range of motion. He then combined 4, 1, and 7 using the Combined Values Chart of the A.M.A., *Guides* which resulted in a 12 percent total permanent impairment of appellant's right upper extremity. Dr. Meador noted that he used the same method as Dr. Frazier, and that, although Dr. Frazier did not give the actual measurements of motion of the right wrist, he did refer to the proper tables in the fifth edition of the A.M.A., *Guides*, and that therefore he believed that Dr. Frazier's estimate of appellant's permanent impairment should be accepted.

The Office, thereafter, granted appellant a schedule award for that 12 percent permanent impairment, which ran from November 15, 2001, the date determined by Dr. Frazier to represent her maximum medical improvement, until August 4, 2002, for a total of 37.44 weeks of compensation

Therefore, the thorough and well-rationalized medical reports, based upon testing results, from Drs. Frazier and Meador constitute the weight of the medical evidence of record on this issue. Moreover, appellant has submitted no other probative medical evidence suggesting that she has any greater right upper extremity impairment.

Consequently, appellant has not established that she has any greater schedule award entitlement.

[7] *Paul A. Toms*, 38 ECAB 403 (1987); *Robin L. McClain*, 38 ECAB 398 (1987); *see also* A.M.A., *Guides*, fifth edition, Chapter 18, p. 565.

Accordingly, the decisions of the Office of Workers' Compensation Programs dated January 8 and 14, 2002 are hereby affirmed.

Dated, Washington, DC
April 9, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member