

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAYNE REEVES and U.S. POSTAL SERVICE,
POST OFFICE, Bainbridge, NY

*Docket No. 03-8; Submitted on the Record;
Issued April 1, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has more than a 14 percent permanent impairment to her right arm.

On January 25, 2001 appellant, then a 48-year-old rural carrier associate, filed a claim alleging that she sustained a right wrist injury on that date when she slipped and fell while in the performance of duty. The Office of Workers' Compensation Programs accepted the claim for a fracture of the distal radius and ulna of the right wrist. Appellant returned to work in a light-duty position on May 30, 2001.

By decision dated May 17, 2002, the Office issued a schedule award for a 14 percent permanent impairment to the right arm.¹ The period of the award was 43.68 weeks commencing November 26, 2001.

The Board finds that appellant has not established more than a 14 percent permanent impairment to her right arm.

The schedule award provisions of the Federal Employees' Compensation Act² and its implementing regulation³ 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

¹ The award states that the impairment is to the left arm, but it is evident from the record that the impairment is to the right arm.

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404 (1999).

uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses. As of February 1, 2001, the fifth edition of the A.M.A., *Guides* was to be used to calculate schedule awards.⁴

In this case, the attending orthopedic surgeon, Dr. Michael McClure, submitted a report dated February 14, 2002 that provided range-of-motion results for the right wrist. Dr. McClure reported flexion and extension of 30 degrees, with 70 degrees of pronation and 10 degrees of supination. He stated that this was approximately a 40 percent impairment to the wrist, without explaining how the percentage was calculated. In a report dated April 3, 2002, Dr. McClure opined that, based on the New York Workers' Compensation Guidelines, appellant had a 50 percent loss of use of the hand.

The medical evidence necessary to support a schedule award includes a physician's report that provides a detailed description of the impairment.⁵ Dr. McClure described a permanent impairment to the right arm based on loss of motion. The impairment percentages he provided were not based on the A.M.A., *Guides* and, therefore, are of no probative value. In accordance with established procedures, the Office referred the case to an Office medical adviser for an opinion as to the degree of permanent impairment under the A.M.A., *Guides*.⁶

In a report dated May 2, 2002, the medical adviser reviewed the findings of Dr. McClure. With respect to extension and flexion, the Office medical adviser identified Figure 16-28 and properly determined that 30 degrees of flexion results in a 5 percent arm impairment and 30 degrees of extension is also a 5 percent arm impairment.⁷ For supination and pronation, Figure 16-37 provides a 3 percent impairment for 10 degrees of supination and 1 percent for 70 degrees of pronation.⁸ The Office medical adviser added the impairments for a total of 14 percent impairment to the right arm.

The record does not provide any other probative medical evidence with respect to the degree of permanent impairment under the A.M.A., *Guides*. The Board accordingly finds that appellant has not established more than a 14 percent impairment to the right arm in this case.

The Board notes that the number of weeks of compensation for a schedule award is determined by the compensation schedule at 5 U.S.C. § 8107(c). For complete loss of use of the arm, the maximum number of weeks of compensation is 312 weeks. Since appellant's permanent impairment was 14 percent, she is entitled to 14 percent of 312 weeks or 43.68 weeks of compensation.

⁴ FECA Bulletin No. 01-05 (issued January 29, 2001).

⁵ See *James E. Jenkins*, 39 ECAB 860 (1988); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(c) (August 2002).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.7 (August 2002).

⁷ A.M.A., *Guides* at 467, Figure 16-28.

⁸ *Id.* at 474, Figure 16-37.

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

Dated, Washington, DC
April 1, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member