

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JILL J. JOHNSON and U.S. POSTAL SERVICE,
POST OFFICE, Minneapolis, MN

*Docket No. 03-67; Submitted on the Record;
Issued April 3, 2003*

DECISION and ORDER

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

The issue is whether appellant is entitled to greater than a one percent schedule award for permanent impairment of the right lower extremity.

On July 6, 1991 appellant, then a 31-year-old postal clerk, filed a notice of traumatic injury and claim for compensation (Form CA-1), alleging that she injured her back when picking up gurneys. The claim was accepted for an acute lumbar strain and later for herniated disc at L5-S1, hemilaminectomy and discectomy. Appellant returned to work on February 29, 2000. On November 6, 2001 appellant applied for a schedule award.

In a November 20, 2001 letter, the Office of Workers' Compensation Programs wrote appellant's treating physician requesting a permanent partial impairment (PPI) rating related to appellant's lower extremities based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment*. In a December 11, 2001 report, Dr. Terry Hood, a neurological surgeon, indicated that appellant's date of maximum medical improvement was December 11, 2001. L5-S1 was the nerve root origin and specific nerve affected. He concluded that appellant had a total impairment rating of 11 percent with no reference to the A.M.A., *Guides*.

In an August 12, 2002 letter, the Office referred Dr. Hood's calculations to the district medical adviser to apply the A.M.A., *Guides*. In an August 24, 2002 letter, the district medical adviser, applying the fifth edition of the A.M.A., *Guides* found that appellant had a 25 percent sensory deficit for continued occasional numbness in the S1 nerve root distribution (Grade 4; Table 15-15, p. 424). The maximum lower extremity impairment due to sensory deficit of the S1 nerve root is five percent. (Table 15-18, p. 424) The district medical adviser concluded that appellant was entitled to a one percent right lower extremity PPI for sensory deficit. He indicated that there were no findings suggesting a left lower extremity deficit.

In a September 12, 2002 decision, the Office found appellant entitled to a one percent schedule award for impairment of the lower right extremity.

The Board finds that appellant is not entitled to more than a one percent schedule award.

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.¹ Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants the Office has adopted the A.M.A., *Guides* (5th ed. 2000) as a standard for evaluating schedule losses.

The district medical adviser, applying Table 15-15, p. 424 of the A.M.A., *Guides*, found that appellant had a 25 percent sensory deficit for continued occasional numbness in the S1 nerve root distribution. He then referred to Table 15-18, p. 424 where it states that the maximum lower extremity impairment due to sensory deficit of the lower extremity is five percent. The district medical adviser then multiplied appellant's 25 percent impairment by 5 percent maximum loss equaling 1.25 percent which was then rounded to 1 percent.² He concluded that appellant was entitled to a one percent schedule award for right lower extremity PPI for sensory deficit.

As the report of the district medical adviser provided the only evaluation which conformed with the A.M.A., *Guides*, it constitutes the weight of the medical evidence.³

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

Dated, Washington, DC
April 3, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

¹ 5 U.S.C. § 8107(a).

² The A.M.A., *Guides* provide that rounding off is to be to the nearest whole number. A.M.A., *Guides* at 9-10, 20.

³ See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).