

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BEATRICE BLACK and U.S. POSTAL SERVICE,
POST OFFICE, Bakersfield, CA

*Docket No. 02-2056; Submitted on the Record;
Issued February 4, 2003*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has more than an eight percent impairment of her right upper extremity for which she received a schedule award.

On June 1, 2000 appellant, then a 50-year-old mailhandler, filed a claim for traumatic injury alleging that on that day the chair on which she was sitting broke, causing an injury to the right side of her body.

The Office of Workers' Compensation Programs accepted impingement syndrome, right shoulder and lumbosacral strain as work related. By decision dated July 10, 2002, the Office granted a schedule award for eight percent impairment of the right arm. The award ran from January 15 to July 8, 2001.

The Board finds that appellant has not established more than an eight percent permanent impairment to the right upper extremity.

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing regulation² 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 uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter A.M.A., *Guides*) has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

As of February 1, 2001, schedule awards must be based on the fifth edition of the A.M.A., *Guides*.³

On August 4, 2000 Dr. Howard Jackson, appellant's treating physician, referred her to Dr. Christopher D. Hamilton, an orthopedist. In a report dated January 15, 2001, Dr. Hamilton evaluated appellant's impairment based on her right shoulder. In a report dated June 16, 2002, an Office medical adviser reviewed Dr. Hamilton's report and calculated the degree of permanent impairment based on the fifth edition of the A.M.A., *Guides*. The medical adviser calculated appellant's right upper extremity impairment as follows: loss of two percent of flexion and loss of zero percent extension,³ loss of abduction, one percent, loss of adduction, zero percent,⁴ loss of internal rotation, zero percent and loss of external rotation, zero percent⁵ which totaled three percent range of motion impairment. Impairment due to loss of strength and sensory deficit was determined to be Grade 4 and 4, equal to 25 percent.⁶ Maximum combined impairment based on the suprascapular nerve was 20 percent,⁷ resulting in 5 percent sensory impairment. When combined with appellant's three percent impairment for loss of motion, appellant's total right upper extremity impairment was eight percent. The doctor noted that appellant's date of maximum medical improvement was January 15, 2001.

The Board finds that the medical adviser provided a reasoned opinion as to the degree of permanent impairment under the fifth edition of the A.M.A., *Guides*. The record does not contain any other probative medical evidence with respect to permanent impairment under the fifth edition, and therefore the Board finds the weight of the medical evidence does not establish more than an eight percent impairment to the right upper extremity.

On appeal, appellant argued that the "medical decision was made by a doctor chosen by the [employing establishment] exclusively." A review of the record fails to support appellant's allegation.

³ A.M.A., *Guides*, 476, Figure 16-40.

⁴ *Id.* at 477, Figure 16-43.

⁵ *Id.* at 479, Figure 16-46.

⁶ *Id.* at 482, Table 16-10, 484, Table 16-11.

⁷ *Id.* at 492, Table 16-15.

The July 10, 2002 decision of the Office of Workers' Compensation Programs is affirmed.⁸

Dated, Washington, DC
February 4, 2003

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁸ The Board notes that this case record contains evidence which was submitted subsequent to the Office's July 10, 2002 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n. 2 (1952).