

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROSE M. McCLINTON and U.S. POSTAL SERVICE,  
BULK MAIL CENTER, Richmond, CA

*Docket No. 03-214; Submitted on the Record;*  
*Issued June 2, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant has more than a 25 percent permanent impairment to her right arm or a 23 percent impairment to her left arm.

On January 23, 1992 appellant, then a 55-year-old mailhandler, filed a notice of occupational disease and claim for compensation (Form CA-2).<sup>1</sup> The Office of Workers' Compensation Programs accepted the claim for right carpal tunnel syndrome and right rotator cuff tear. On March 9, 1995 appellant filed a claim alleging that she sustained an injury to her left shoulder; the Office accepted chronic left shoulder strain and a left rotator cuff tear. Appellant underwent right shoulder surgery on June 28, 1995 and left shoulder surgery on May 1, 1997.

In a report dated February 22, 1998, Dr. William C. Boeck, Jr., an orthopedic surgeon serving as a second opinion physician, provided a history and results on examination. By report dated February 6, 1999, an Office medical adviser reviewed Dr. Boeck's findings and opined that, according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4<sup>th</sup> ed. rev.) appellant had a 25 percent permanent impairment to her right arm and a 23 percent impairment to the left arm. The Office medical adviser reported that, for the right arm appellant had a 5 percent impairment for loss of range of motion, a 10 percent impairment for entrapment neuropathy of the median nerve and 10 percent for resection of the distal clavical. For the left arm, the Office medical adviser opined that appellant had a 13 percent impairment due to loss of range of motion and 10 percent distal clavical resection.

By decision dated February 24, 1999, the Office issued a schedule award for a 25 percent impairment to the right arm and a 23 percent impairment to the left arm.

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<sup>1</sup> Appellant had been working in a light-duty position due to an employment-related right knee injury (OWCP File No. A13-921300).

On June 22, 2001 the Office referred appellant for a second opinion orthopedic examination. In a report dated July 17, 2001, Dr. Philip Wirganowicz, a Board-certified orthopedic surgeon, provided a history and results on examination. An Office medical adviser reviewed the report and opined, in a September 2, 2001 report, that appellant had a 12 percent right arm impairment and an 8 percent left arm impairment. By letter dated September 13, 2001, the Office advised appellant that she was not entitled to an additional schedule award.

In a report dated August 27, 2001, an attending physician, Dr. Robert Teasdale, provided a narrative report discussing results on examination. He also completed a form report provided by the Office with specific range-of-motion results for the shoulders. Dr. Teasdale indicated that for both shoulders appellant had 120 degrees of forward flexion, 90 degrees of abduction, 20 degrees of internal rotation and 30 degrees of external rotation.

By report dated November 11, 2001, an Office medical adviser indicated that she had reviewed the August 27, 2001 report from Dr. Teasdale. The medical adviser found that appellant had a four percent impairment for loss of flexion, four percent for loss of abduction, with no impairment for loss of external or internal rotation. In addition, the Office medical adviser opined that appellant had a bilateral 10 percent impairment for combined sensory and motor deficit in the suprascapular nerve and a bilateral 8 percent impairment for sensory deficit or pain in the median nerve. The Office medical adviser concluded that appellant had a 24 percent permanent impairment in each arm.

In a decision dated December 5, 2001, the Office determined that appellant's permanent impairment totaled 24 percent for each arm. The Office indicated that appellant had previously received an award for 25 percent for the right arm and 23 percent for the left arm and therefore appellant had an additional one percent impairment to the left arm.

The Board finds that the case is not in posture for decision.

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.<sup>2</sup> Neither the Act nor its regulations specify the manner in which the percentage of

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<sup>2</sup> 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

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* as the uniform standard applicable to all claimants.<sup>3</sup> As of February 1, 2001, the fifth edition of the A.M.A., *Guides* was to be used to calculate schedule awards.<sup>4</sup>

In her November 11, 2001 report, the Office medical adviser opined that, based on Dr. Teasdale's report, appellant had a four percent impairment for loss of shoulder flexion and four percent for loss of shoulder abduction, with no impairment for loss of external or internal rotation. The 4 percent for loss of flexion is in accordance with Figure 16-40 of the A.M.A., *Guides*, which provides a 4 percent impairment for the 120 degrees of flexion reported by Dr. Teasdale.<sup>5</sup> With respect to abduction, Figure 16-43 provides a 4 percent impairment for 90 degrees of shoulder abduction.<sup>6</sup> The Board notes, however, that Dr. Teasdale reported that appellant had 20 degrees of internal rotation and 30 degrees of external rotation for the shoulder. Under Figure 16-46, internal rotation of 20 degrees is a 4 percent impairment and external rotation of 30 degrees results in a 1 percent impairment.<sup>7</sup> The Office medical adviser refers to Figure 16-46, but does not explain why she determined that appellant had no impairment due to lack of internal or external rotation.

The case will therefore be remanded to the Office to secure a medical report that provides a fully reasoned opinion with respect to the degree of permanent impairment to the right and left arms. After such further development as the Office deems necessary, it should issue an appropriate decision.

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<sup>3</sup> A. George Lampo, 45 ECAB 441 (1994).

<sup>4</sup> FECA Bulletin No. 01-05 (issued January 29, 2001).

<sup>5</sup> A.M.A., *Guides*, 476, Figure 16-40.

<sup>6</sup> *Id.* at 477, Figure 16-43.

<sup>7</sup> *Id.* at 479, Figure 16-46.

The decision of the Office of Workers' Compensation Programs dated December 5, 2001 is set aside and the case remanded to the Office for further action consistent with this decision of the Board.

Dated, Washington, DC  
June 2, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member