

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DARRELL L. BRADLEY and DEPARTMENT OF JUSTICE,
FEDERAL PRISONS SYSTEMS, Springfield, MO

*Docket No. 03-469; Submitted on the Record;
Issued March 3, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained more than a two percent impairment to his right lower extremity for which he received a schedule award.

The Board has duly reviewed the record and finds that appellant has no more than a two percent impairment to his right lower extremity.

By decision dated March 22, 2001, the Office of Workers' Compensation Programs accepted appellant's claim for a right knee medial meniscus tear, right knee arthroscopy and right knee repair.

In a report dated May 7, 2001, Dr. Bradley H. Walz, appellant's treating physician and a Board-certified orthopedic surgeon, stated that appellant had a three percent disability rating.

On June 13, 2002 the Office referred the record to Dr. Jeffrey L. Woodward, a Board-certified orthopedic surgeon, to determine whether appellant sustained an impairment due to his accepted injury.

In a report dated July 2, 2002, Dr. Woodward noted that he had examined appellant that day and noted findings. Appellant's active range of motion by goniometer was 0 degrees extension and 120 degrees of flexion. He also noted moderate pain to palpitation on the medial joint line. Dr. Woodward stated that appellant had reached maximum medical improvement at that time. Based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001),¹ he determined that appellant had a two percent impairment of the right lower extremity based on Table 17-33, page 546² for partial medial meniscectomy.

¹ A.M.A., *Guides* (5th ed. 2001).

² *Id.* at 546, Table 17-33.

In a report dated July 15, 2002, an Office medical adviser applied the A.M.A., *Guides* (5th ed. 2001) to determine that, based on Dr. Woodward's evaluation and the fact that appellant had a partial meniscectomy of the right knee, appellant had a two percent impairment to his right lower extremity. The Office medical adviser noted that Dr. Woodward chose to rate appellant using a "Diagnosis-Based Estimate" from Table 17-33 for a partial medial meniscectomy which is two percent. This rating is acceptable based on the A.M.A., *Guides*. The schedule award is two percent of the right lower extremity."

By decision dated September 19, 2002, the Office issued appellant a schedule award for an impairment of two percent to the right lower extremity.

The schedule award provisions of the Federal Employees' Compensation Act³ and its implementing regulation⁴ 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 A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.⁵

On appeal, appellant contends that he is entitled to a greater percent impairment because of continued pain when walking or standing and with prolonged activities.

In this case, in his July 2, 2002 report, Dr. Woodward noted that appellant had a partial medial meniscectomy of the right knee, and noted range of motion findings on extension and flexion. He determined that based on appellant's surgery he had a two percent impairment of the right lower extremity. The district medical adviser, in his July 15, 2002 report, obtained the same results. The district medical adviser properly used the A.M.A., *Guides* (5th ed. 2001) to determine that appellant's partial medial meniscectomy yielded a two percent impairment under Table 17-33, p. 546. Since the district medical adviser's use of the A.M.A., *Guides* was proper and he based his findings on Dr. Woodward's July 2, 2002 report, his determination of the extent of appellant's partial impairment to his lower extremity was proper. Appellant has not shown that he sustained a greater impairment than two percent to his right lower extremity.

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404 (1999).

⁵ *Id.*

The decision of the Office of Workers' Compensation Programs dated September 19, 2002 is affirmed.

Dated, Washington, DC
March 3, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member