



On November 25, 2002 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of her left upper extremity. On December 27, 2002 the Office referred appellant and a statement of accepted facts to Dr. Daniel D. Weed, a Board-certified orthopedic surgeon, for an impairment evaluation. In a report dated January 17, 2003, Dr. Weed stated:

“[Appellant] has excellent range of motion of her wrist. She has 87 degrees of flexion, 85 degrees of extension, 35 degrees of radial deviation and 40 degrees of ulnar deviation, 85 degrees of supination and 85 degrees of pronation. She has normal neurological function to her fingertips. The patient has full range of motion and no neurological or vascular compromise and she has healed completely from her scaphoid fracture. I feel that she has a zero percent impairment.”

In a report dated February 2, 2002, an Office medical adviser reviewed Dr. Weed’s findings and conclusions and agreed with his finding of a zero percent impairment. The Office medical adviser, taking into account appellant’s full range of motion, and Dr. Weed’s finding of no chronic pain, sensory deficit, or chronic weakness, found that appellant had zero impairment pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fifth edition) (the A.M.A., *Guides*).

By decision dated February 10, 2003, the Office denied appellant’s claim for a schedule award. The Office stated that the medical evidence of record did not support that she had sustained an employment-related permanent impairment.

By letter dated March 5, 2003, appellant’s representative requested an oral hearing, which was scheduled for December 17, 2003. However, appellant failed to attend the hearing as scheduled. Appellant’s representative then requested review of the written record.

In a report dated February 11, 2004, Dr. Thomas P. Phillips, a Board-certified orthopedic surgeon and the attending physician, found that appellant had a five percent upper extremity impairment pursuant to the fourth edition of the A.M.A., *Guides*.

By decision dated March 18, 2004, an Office hearing representative affirmed the February 10, 2003 Office decision.

### **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees’ Compensation Act<sup>1</sup> set forth the number of weeks of compensation to be paid for permanent loss, or loss of use of the members of the body listed in the schedule. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage loss of use.<sup>2</sup> However, the Act does not specify the manner in which the percentage of loss of use of a member is to be determined. For consistent results and to ensure equal justice under the law to all claimants, the Office has

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<sup>1</sup> 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(c).

<sup>2</sup> 5 U.S.C. § 8107(c)(19).

adopted the A.M.A., *Guides* (fifth edition) as the standard to be used for evaluating schedule losses.<sup>3</sup>

### **ANALYSIS**

In this case, the Office medical adviser determined that appellant had no permanent impairment of the left upper extremity based on Dr. Weed's findings and conclusions regarding a full range of motion and no chronic pain, sensory deficit or chronic weakness. The Office medical adviser properly determined that there were not sufficient, quantifiable physical findings to warrant an impairment rating under the A.M.A., *Guides*. Appellant submitted Dr. Phillips' summary report indicating she had a five percent impairment of the left upper extremity, but this rating was made in accord with the fourth edition of the A.M.A., *Guides* and is therefore inapplicable.

The Board concludes that the Office medical adviser correctly applied the fifth edition of the A.M.A., *Guides* in determining that appellant has a zero percent impairment of her left upper extremity. For this reason, she is not entitled to a schedule award. Appellant has failed to provide probative medical evidence that she is entitled to a schedule award stemming from her accepted left wrist fracture.

### **CONCLUSION**

The Board finds that appellant has not sustained any permanent impairment to a schedule member of her body causally related to her accepted left wrist fracture, thereby entitling her to a schedule award under 5 U.S.C. § 8107.

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<sup>3</sup> 20 C.F.R. § 10.404.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 18, 2004 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 18, 2004  
Washington, DC

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member