

**United States Department of Labor
Employees' Compensation Appeals Board**

SADIE M. BROWN, Appellant

and

**DEPARTMENT OF TRANSPORTATION,
COAST GUARD, Baltimore, MD, Employer**

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**Docket No. 04-1618
Issued: December 1, 2004**

Appearances:
Sadie M. Brown, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On June 9, 2004 appellant filed a timely appeal from a June 10, 2003 merit decision of the Office of Workers' Compensation Programs, granting her a schedule award for a 20 percent impairment of the right upper extremity. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has more than a 20 percent impairment of the right upper extremity for which she had received a schedule award.

FACTUAL HISTORY

On June 28, 2002 appellant, then a 57-year-old inventory management specialist, filed an occupational disease claim alleging that she sustained pain, swelling and numbness in her hands and fingers and pain in her arm and shoulder. She became aware of her condition and that it was caused by her employment on May 1, 1997. Appellant first notified her supervisor on June 13, 2002.

On October 15, 2002 the Office accepted appellant's claim for bilateral carpal tunnel syndrome and authorized right carpal tunnel release which had been performed on August 27, 2002. On December 20, 2002 she filed a claim for a schedule award.

By letter dated January 22, 2003, the Office requested appellant to submit an evaluation from her physician based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (5th ed. 2001) regarding an impairment of her right upper extremity.

In a February 3, 2003 report, Dr. George T. Lazar, appellant's treating Board-certified orthopedic surgeon, noted that her carpal tunnel syndrome on the right was treated surgically with slow process in recovery and that she also had stenosing tenosynovitis of the A1 pulley of the right thumb. Her two-point discrimination test of the fingertips was four millimeters, both radial and ulnar arteries were brisk and the Phalen's test was negative. Dr. Lazar noted that appellant complained of a tingling sensation in the right hand fingertips and that she was unable to perform her job for eight hours doing data entry on the computer. Appellant also had tenderness over the operative scar area. Based on the A.M.A., *Guides* (4th ed. 1993), page 3-57, Table 16, she had moderate carpal tunnel syndrome on the right side which was a 20 percent impairment of the right upper extremity. In a report dated March 19, 2003, Dr. Lazar discharged appellant from care on that date. On April 16, 2003 Dr. Lazar stated that appellant had some itching sensation over the metacarpophalangeal (MP) joint and referred her to a dermatologist.

In a May 12, 2003 report, the Office medical adviser reviewed Dr. Lazar's reports for appellant's right carpal tunnel syndrome and agreed that she had a 20 percent impairment based on combined sensory and motor loss in accordance with the fifth edition of the A.M.A., *Guides* 492, Table 16-15. He noted the date of maximum medical improvement was February 3, 2003.

By decision dated June 10, 2003, the Office awarded appellant a 20 percent impairment of the right upper extremity. The date of maximum medical improvement was February 3, 2003 and the period of award ran for 62.4 weeks, from February 3, 2003 to April 14, 2004.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulation² sets 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* (5th ed. 2001) has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.³

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

² 20 C.F.R. § 10.404.

³ 20 C.F.R. § 10.404; *Jacqueline S. Harris*, 54 ECAB ____ (Docket No. 02-303, issued October 4, 2002).

ANALYSIS

The Office medical adviser relied on the data provided by Dr. Lazar to find that appellant had a 20 percent impairment of the right upper extremity. In his report, Dr. Lazar noted that she was post surgical release, but complained of a tingling sensation in the right hand and fingertips, was unable to perform her job as a result of this condition and remained tender over the operative scar area. While Dr. Lazar found that appellant had a 20 percent impairment, he based his findings, in his February 3, 2003 report, on the fourth edition of the A.M.A., *Guides*. However, the Office began using the fifth edition of the A.M.A., *Guides* effective February 1, 2001.⁴ Thus, it was proper for the Office medical adviser to apply the fifth edition of the A.M.A., *Guides* to the findings noted in Dr. Lazar's reports.

The Office medical adviser reviewed Dr. Lazar's reports and concurred in the 20 percent impairment assessed by him. While Dr. Lazar used the improper edition of the A.M.A., *Guides*, the medical adviser reviewed Dr. Lazar's findings and determined that 20 percent impairment was appropriate under Table 16-15, page 492, for combined motor and sensory deficits. The Board notes that there is no other medical evidence, conforming to the A.M.A., *Guides*, indicating that there is a greater impairment. Consequently, the Office properly issued appellant a schedule award for a 20 percent impairment of the right upper extremity.

⁴ FECA Bulletin 01-05 (issued January 29, 2001).

CONCLUSION

Appellant has no more than a 20 percent permanent impairment of the right upper extremity for which she received a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 10, 2003 is affirmed.

Issued: December 1, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member