

resonance imaging (MRI) scan on August 5, 2002, the Office also accepted the conditions of left knee effusion and avascular necrosis.

In a report dated February 3, 2003, Dr. Gregory L. Barnhill, appellant's attending orthopedic surgeon, stated, "[a]s a result of the contusion and injury to her knee, [appellant] retains a permanent impairment of the left knee of 17 percent..." In a report dated February 2, 2003, Dr. Barnhill indicated physical findings of "boggy medial synovitis with discomfort in [the left knee].... Her range of motion is full." He stated that appellant had reached a point of maximum medical improvement.

Appellant filed a claim for a schedule award for permanent impairment of her left lower extremity on June 18, 2003.

In an August 1, 2003 memorandum, Dr. Daniel D. Zimmerman, the Office district medical director, noted that Dr. Barnhill did not provide sufficient findings on examination to support his impairment rating of 17 percent for appellant's left knee and did not reference the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), fifth edition, as required by Office procedures. He stated that appellant needed to be examined by a physician skilled in the use of the A.M.A., *Guides*.

The Office subsequently referred appellant to Dr. George Varghese, a specialist in physical medicine and rehabilitation of professorial rank.

In a report dated August 27, 2003, Dr. Varghese stated that he examined appellant on August 26, 2003 and provided a history of appellant's condition. He stated that appellant had reached maximum medical improvement as of August 26, 2003 and that he had based his impairment rating of her condition on the fifth edition of the A.M.A., *Guides*. Dr. Varghese stated:

"[Appellant] reports that[,] although she has improved overall, she continues to have some pain, stiffness and inflammation of the left knee. She describes an achiness in the knee that is fairly constant, as well as intermittent shooting pains along the medial and lateral aspects...."

* * *

"[T]he medial aspect of the left knee is slightly swollen, [t]here is no warmth or erythema around the joint. Palpation elicits some mild tenderness along the inferior lateral aspect of the patella, as well as along the medial joint line. No significant crepitus is noted. McMurray's test is negative. No ligamentous laxity is noted. Range of motion of the knee joint ... is normal at 0 [to] 115 [degrees]. There is no atrophy of the quadriceps noted.... Manual motor strength testing of the knee extensors and knee flexors is 5/5. Sensation to light touch is intact throughout the left lower extremity. There is no evidence of vasomotor instability. [Appellant] is able to ambulate with a nonantalgic gait.

“X-rays taken [on] August 26, 2003 show no evidence of fracture dislocation or effusion is seen. There is mild osteoarthritis of the left knee.

“Conclusions: [Appellant] was treated for a left knee contusion as well as effusion and avascular necrosis after a slip and fall while at work. She does not have any significant residual impairment in range of motion or strength. [Appellant] does not have any atrophy of the quadriceps muscle. She does, however, continue to have pain and a feeling of instability in her left knee. Clinical examination reveals mild swelling and tenderness to palpation over the medial aspect of the knee....”

* * *

“The following factors were taken into consideration:

1. Range of Motion: Based on Table 17-10, no rating is given.
2. Strength: No loss of strength was detected, hence no rating was given.
3. Arthritis: Impairment estimates for lower extremity impairment.... [Appellant’s] latest x-ray showed a couple of small bony islands along the lateral condyle. In addition, there is some narrowing of the medial compartment, which is measured at 3 mms [millimeters]. I used only the narrowing of the medial epicondyle compartment for the rating. As per Table 17-31, this carries a 7 percent rating for the extremity.
- 4 Pain: Pain is secondary to the arthritic changes. Hence no additional rating was given.”

In a September 10, 2003 memorandum, Dr. Zimmerman noted that Dr. Varghese based his impairment rating on a joint space interval narrowing from Table 17-31 and he opined that Dr. Varghese’s impairment rating was correctly based on the fifth edition of the A.M.A., *Guides*.

By decision dated July 23, 2003, the Office granted appellant a schedule award for a 7 percent impairment of the left lower extremity, for 20.16 weeks of compensation for the period August 26, 2003 to January 14, 2004.¹

¹ Under the Federal Employees’ Compensation Act, the maximum award for impairment of a leg is 288 weeks of compensation. 5 U.S.C. § 8107(c)(2). A 7 percent impairment of the left leg would equal 20.16 weeks of compensation (288 weeks multiplied by 7).

LEGAL PRECEDENT

The schedule award provisions of the Act² and its implementing regulation³ 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*⁴ has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.⁵

ANALYSIS

Before the A.M.A., *Guides* may be utilized, a description of appellant's impairment must be obtained in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.⁶ In this case, Dr. Barnhill, an attending osteopath, indicated, in a February 3, 2003 report, that appellant had a 17 percent permanent impairment of her left lower extremity. However, Dr. Barnhill did not provide an adequate description of appellant's impairment or otherwise explain how his assessment was obtained in accordance with the standards of the A.M.A., *Guides*. The Office therefore, obtained the necessary information from Dr. Varghese who determined that appellant had a seven percent impairment of the left lower extremity based on the fifth edition of the A.M.A., *Guides*. The Office district medical director concurred with the impairment rating of Dr. Varghese.

In his August 27, 2003 report, Dr. Varghese stated that appellant had reached maximum medical improvement as of his examination on August 26, 2003 and that he had based his impairment rating on Table 17-31 of the fifth edition of the A.M.A., *Guides*, the table pertaining to joint space narrowing due to arthritis. According to the A.M.A., *Guides*, arthritis "has its own diagnostic category which applies to individuals with documented arthritis who are impaired by

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404.

⁴ A.M.A., *Guides* (5th ed. 2001); *Joseph Lawrence, Jr.*, 53 ECAB ____ (Docket No. 01-1361, issued February 4, 2002).

⁵ *See supra* note 3.

⁶ *Roel Santos*, 41 ECAB 1001 (1990).

pain, weakness, or stiffness, but who have maintained functional ranges of motion. Arthritis is evaluated based on narrowing of the joint space as measured from x-rays.”⁷ According to Table 17-31 at page 544 of the A.M.A., *Guides*, appellant has a seven percent impairment of the left lower extremity based on the three millimeter cartilage level measured by Dr. Varghese.⁸ There is no medical evidence of record, based on correct application of the fifth edition of the A.M.A., *Guides*, establishing that appellant has more than a seven percent impairment of the left lower extremity.

On appeal, appellant asserts that the period of her schedule award should begin on February 2, 2003, the date of maximum medical improvement in Dr. Barnhill’s report. However, as noted above, Dr. Barnhill’s report was not sufficient to be used in making an impairment rating. The Office correctly based appellant’s impairment rating and date of maximum medical improvement on her August 26, 2003 examination by Dr. Varghese.

CONCLUSION

The medical evidence in this case establishes that appellant has no more than a seven percent impairment of the left lower extremity for which she received a schedule award.

⁷ A.M.A., *Guides* (5th ed. 2001) 525, section 17.2.

⁸ *Id.* at 544, Table 17-31. Dr. Varghese noted that appellant had no significant range of motion or strength deficits and that his pain would be included in the diagnosis-based rating. Therefore, it was appropriate for Dr. Varghese to use a diagnosis-based rating rather than a rating based on functional deficits. *See id.* at 525-27, 544-45.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 18, 2003 is affirmed.

Issued: February 17, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member