

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

LAWANA R. PETERSON, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Richmond, VA, Employer**

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**Docket No. 04-126
Issued: February 23, 2004**

Appearances:
Lawana R. Peterson, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman
COLLEEN DUFFY KIKO, Member
WILLIE T.C. THOMAS, Alternate Member

JURISDICTION

On October 20, 2003 appellant filed a timely appeal from merit decision of the Office of Workers' Compensation Programs dated October 2, 2003. 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 greater than 10 percent impairment to her right upper extremity for which she has received a schedule award.

FACTUAL HISTORY

On October 19, 1995 appellant, then a 34-year-old distribution clerk, filed a notice of traumatic injury alleging that her pain in her right wrist resulted from lifting trays of mail and pushing carts.¹ The Office accepted appellant's claim, under file number 25-0476254, for a right

¹ Appellant was working in a limited-duty position at the time of injury due to another accepted work-related injury. See file number 25-0442302.

wrist sprain and right carpal tunnel. Appellant lost intermittent time from work and underwent an authorized right carpal tunnel release on December 18, 1996. Appellant returned to limited-duty work on February 6, 1997. On January 21, 1999, the Office accepted appellant's claim for de Quervain's syndrome of her right upper extremity under file number 25-0533715.² This claim was ultimately doubled into claim number 25-0476254. Appellant underwent an authorized de Quervain's release of her right wrist on January 4, 1999 and again on January 21, 2002. Appellant returned to full-time limited-duty work on April 1, 2002. She received appropriate compensation for all periods of total and temporary disability.

On October 25, 2002 appellant filed a claim for a schedule award (Form CA-7). By letter dated October 25, 2002, appellant's treating physician, Dr. Robert S. Adelaar, a Board-certified orthopedic surgeon, discharged appellant from his care. The physician indicated that appellant had reached maximum medical improvement during her last visit on September 16, 2002, when he released her to work full time secretarial duties with limited lifting and limited repetitive gripping.³ He further opined that appellant had a 10 percent loss of function in her right upper extremity based on the loss of grip strength secondary to her de Quervain's release.

By letter dated May 13, 2003, the Office referred appellant's case file to its Office medical adviser for review and comment. In a May 20, 2003 report, the Office medical adviser found that appellant had reached maximum medical improvement on October 25, 2002, the date of Dr. Adelaar's medical report. Under page 509, Table 16-34 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (A.M.A., *Guides*) the Office medical adviser indicated that a loss of grip strength of 10 percent equated to a 10 percent upper extremity impairment. Accordingly, he concluded that the schedule award should be made for a 10 percent impairment of the right upper extremity.

By decision dated July 2, 2003, the Office issued a schedule award for a 10 percent permanent impairment of the right upper extremity. By letter dated July 11, 2003, appellant requested a review of the written record. By decision dated October 2, 2003, an Office hearing representative found that appellant had no more than 10 percent impairment to her right upper extremity.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act⁴ and its implementing regulation⁵ 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,

² The accepted date of injury was March 18, 1997.

³ The September 16, 2002 chart note advised that appellant was working full duty as a secretary but still had complaints of discomfort in the thumb area and some lack of strength in the hand.

⁴ 5 U.S.C. § 8107.

⁵ 20 C.F.R. § 10.404 (1999).

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.⁶

ANALYSIS

In the instant case, Dr. Adelaar, appellant's treating physician, opined that appellant had a 10 percent loss of grip strength secondary to her de Quervain's release. The Office medical adviser applied Dr. Adelaar's rating under the A.M.A., *Guides*, and concluded that the schedule award should be made for a 10 percent impairment of the right upper extremity. The Office may follow the advice of the Office medical adviser if he or she has properly used the A.M.A., *Guides*.⁷ In this case, the Office medical adviser used the A.M.A., *Guides* with Dr. Adelaar's examination findings to conclude that appellant had no more than 10 percent permanent impairment for loss of grip strength secondary to her de Quervain's release, or a total of 10 percent permanent impairment of the right upper extremity, for which she previously received a schedule award. There is no other medical evidence of record establishing a higher degree of impairment. As there is a lack of evidence indicating greater than a 10 percent impairment, the Board finds that appellant has not established a greater impairment to the right upper extremity than the 10 percent permanent impairment for which she has already been awarded.

CONCLUSION

The Board finds that appellant has no more than a 10 percent permanent impairment to her right upper extremity for which she has already received an award under the schedule.

⁶ *Id.*; *Ronald R. Kraynak*, 53 ECAB ____ (Docket No. 00-1541, issued October 2, 2001).

⁷ *See Carolyn E. Sellers*, 50 ECAB 393 (1999).

ORDER

IT IS HEREBY ORDERED THAT the October 2, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 23, 2004
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member