

On May 7, 2003 appellant filed a Form CA-7 claim for a schedule award for loss of use of her left and right upper extremities. On June 5, 2003 the Office referred appellant and a statement of accepted facts to Dr. Bunsri T. Sophon, a Board-certified orthopedic surgeon, for an impairment evaluation. In a report dated June 23, 2003, Dr. Sophon found that appellant had normal flexion based on 150 degrees range of motion,¹ normal extension based on 0 degrees,² normal forearm pronation based on 80 degrees and normal supination based on 80 degrees.³ He found no evidence of ankylosis.

Dr. Sophon stated that appellant began experiencing pain in her left elbow due to the April 22, 2003 work injury and began favoring her left elbow, resulting in an onset of right elbow pain approximately two months after the work injury. He related that appellant felt constant, sharp, throbbing, burning right elbow pain, as well as frequent, sharp, throbbing, burning left elbow pain, aggravated by bending of the joints and lifting. Dr. Sophon found that appellant's elbow pathology resulted in weakness in grip strength of 20 degrees in the right grip and 25 degrees in the left grip; however, he did not make any percentage of impairment from loss of grip strength.

In a memorandum dated August 3, 2003, an Office medical adviser reviewed Dr. Sophon's findings regarding bilateral elbow pain and determined that she had a four percent permanent impairment for loss of use of the right lower extremity and a four percent permanent impairment for loss of use of the left lower extremity pursuant to the fifth edition of the A.M.A., *Guides*. The Office medical adviser derived the impairment rating for bilateral sensory deficit or pain of the ulnar nerve based on a Grade 3 impairment level, which accorded with a 60 percent sensory deficit of the upper extremities at Table 16-10, page 482. The Office medical adviser noted that, pursuant to Table 16-15, page 492, the maximum impairment based on pain associated with the ulnar elbow nerve was 7 percent, which when multiplied by 60 percent on both sides amounted to a total 4 percent impairment of the right and left upper extremities. He found that appellant reached maximum medical improvement on June 23, 2003.

On September 11, 2003 the Office granted appellant a schedule award for a four percent permanent impairment of the right upper extremity and a four percent permanent impairment of the left upper extremity for the period June 23 to December 14, 2003, a total of 24.96 weeks of compensation.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act⁴ set forth the number of weeks of compensation to be paid for permanent loss, or loss of use of the members

¹ Pursuant to the chart contained in Figure 16-34, page 472, of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fifth edition) (A.M.A., *Guides*), the highest possible range of motion for upper extremity motion impairment due to lack of flexion of the elbow joint is 140 degrees. Thus Dr. Sophon calculated a range of motion for appellant which exceeded the figures embodied in the A.M.A., *Guides*.

² See Figure 16-34 of the A.M.A., *Guides*, 472.

³ See Figure 16-35 of the A.M.A., *Guides*, 473.

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

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.⁵ 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 adopted the A.M.A., *Guides* (fifth edition) as the standard to be used for evaluating schedule losses.⁶

ANALYSIS

In this case, the Office medical adviser determined that appellant had a four percent permanent impairment of the right upper extremity and a four percent permanent impairment of the left upper extremity by applying Dr. Sophon's findings regarding bilateral elbow pain to the relevant tables of the A.M.A., *Guides*. The Office medical adviser derived his impairment rating by calculating a 60 percent sensory deficit pursuant to Table 16-10, page 482, and multiplying this times the maximum seven percent impairment of the ulnar nerve pursuant to Table 16-15, page 492. The Office medical adviser multiplied these percentages to total a four percent impairment of the right upper extremity and left upper extremity. Although Dr. Sophon calculated a moderate loss of grip strength, the Office medical adviser correctly found that appellant was not entitled to any impairment rating based on this calculation. The Board notes that the A.M.A., *Guides* provide for limited circumstances where grip strength can be the basis for rating strength loss; none of these circumstances exist in this case.⁷ In addition, Dr. Sophon found that appellant had normal ranges of motion under the A.M.A., *Guides* guidelines for measuring flexion, extension, pronation and supination. Thus, the Office medical adviser correctly found that appellant had no impairment due to loss of range of motion.

The Board finds that the Office medical adviser correctly applied the A.M.A., *Guides* in determining that appellant has no more than a four percent permanent impairment of the right upper extremity and a four percent permanent impairment of the left upper extremity. Appellant has failed to provide probative medical evidence that she has greater than the four percent permanent impairment of the right upper extremity and a four percent permanent impairment of the left upper extremity awarded.

CONCLUSION

The Board finds that appellant has no more than a four percent permanent impairment of the right upper extremity and a four percent permanent impairment of the left upper extremity, for which she received a schedule award.

⁵ 5 U.S.C. § 8107(c)(19).

⁶ 20 C.F.R. § 10.404.

⁷ Pursuant to section 16.8a of the A.M.A., *Guides*, an impairment based on grip strength is allowable only under circumstances where the examiner believes the employee's loss of strength represents an impairing factor that has not been considered adequately by other methods in the A.M.A., *Guides*. See A.M.A., *Guides*, page 508. This case does not present such a circumstance. Dr. Sophon did not mention any such additional impairing factors due to loss of strength in his June 23, 2003 report.

ORDER

IT IS HEREBY ORDERED THAT the September 11, 2003 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: July 2, 2004
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member