United States Department of Labor
Employees' Compensation Appeals Board

PATRICIA YOUNG, Appellant	)	
	)	**Docket No. 04-1518**
and	)	**Issued: November 10, 2004**
	)	
U.S. POSTAL SERVICE, POST OFFICE, Humble, TX, Employer	)	

Appearances:
Patricia Young, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chairman
WILLIE T.C. THOMAS, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On May 24, 2004 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated May 6, 2004. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case

ISSUE

The issue is whether appellant has more than a five percent permanent impairment of the left upper extremity.

FACTUAL HISTORY

On March 29, 2002 appellant, then a 45-year-old rural carrier, filed a claim for traumatic injury alleging that she injured her left hand and wrist when she was hit with a door. The Office accepted a contusion of the left hand, left carpal tunnel syndrome and authorized arthroscopic surgery with debridement on May 22, 2003. Appellant did not stop work.

Appellant came under the treatment of Dr. Alan Rosen, a Board-certified orthopedic surgeon, who noted a history of appellant's work-related injury of March 29, 2002 and his subsequent treatment. He noted that the electromyogram (EMG) performed on April 26, 2002 revealed moderate median neuropathy at the left wrist consistent with carpal tunnel syndrome and status postcontusion of the left dorsal wrist. On June 27, 2002 the physician performed a left carpal tunnel release and diagnosed left carpal tunnel syndrome. Appellant continued to experience pain in the left wrist and an EMG performed on December 17, 2002 revealed improving left median neuropathy of the wrist status post-carpal tunnel syndrome, left triangular fibrocartilage tear, left flexor carpi ulnaris tendinitis, possible flexor tendon synovitis at the carpal tunnel and overuse syndrome of the left upper extremity.

Appellant continued treatment for left carpal tunnel syndrome and on May 22, 2003 Dr. Rosen performed a left wrist and mid carpal arthroscopy and debridement and left wrist arthroscopically assisted scapholunate stabilization. He diagnosed left wrist pain and left wrist scapholunate interosseous ligament tear with scapholunate instability. On October 3, 2003 appellant underwent a functional capacity evaluation (FCE) which advised that appellant could not return to her previous position as a rural letter carrier; however, she could perform a sedentary position with a lifting restriction of 10 pounds. In a report dated October 15, 2003, Dr. Samuel J. Alianell, Board-certified in physical medicine and rehabilitation, returned appellant to work modified duty with permanent restrictions based upon the FCE.

On December 16, 2003 appellant filed a claim for a schedule award. In a letter dated December 19, 2003, the Office informed appellant that the medical evidence did not support that she had reached maximum medical improvement therefore a schedule award was premature at that time.

In a report dated February 11, 2004, Dr. Rosen referenced a January 14, 2004 impairment evaluation done on his behalf by an occupational therapist which indicated that, in accordance with the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,[1] (A.M.A., *Guides*) appellant sustained a four percent permanent impairment of the left upper extremity. The impairment evaluation noted that wrist extension was 55 degrees for a 0 percent rating,[2] wrist flexion was 50 degrees for a 2 percent rating,[3] radial deviation of 20 degrees for a 0 percent rating,[4] ulnar deviation of 45 degrees for a 0 percent rating,[5] pronation of the elbow was 55 degrees for a 1 percent rating[6] and supination was 45 degrees for a 1 percent rating.[7]

[1] A.M.A., *Guides* (5th ed. 2001).

[2] A.M.A., *Guides* 467, Figure 16-28.

[3] *Id.* at 467.

[4] A.M.A., *Guides* 469, Figure 16-31.

[5] *Id.* at 469.

[6] A.M.A., *Guides* 474, Figure 16-37.

[7] *Id.* at 474.

On March 26, 2004 Dr. Rosen's report and the case record were referred to the Office's medical adviser who, in a report dated April 9, 2004, determined that appellant sustained a five percent impairment of the left upper extremity. The Office medical adviser noted that appellant reached maximum medical improvement on February 11, 2004. He noted that wrist extension was 55 degrees for a 1 percent rating,[8] wrist flexion was 50 degrees for a 2 percent rating,[9] radial deviation of 20 degrees for a 0 percent rating,[10] ulnar deviation of 45 degrees for a 0 percent rating,[11] pronation of the elbow was 55 degrees for a 1 percent rating[12] and supination was 45 degrees for a 1 percent rating.[13]

In a decision dated May 6, 2004, the Office granted appellant a schedule award for a five percent impairment of the left upper extremity. The period of the schedule award was from February 11 to May 30, 2004.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act[14] and its implementing regulation[15] 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* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

ANALYSIS

On appeal, appellant disputes the impairment rating noting that she is entitled to an additional impairment rating for pain, arthritis and loss of pinch and grip strength, as a result of her accepted work-related carpal tunnel syndrome. The Board notes that Dr. Rosen did not provide physical findings or an impairment rating for pain and arthritis of the left upper extremity. With respect to a loss in pinch and grip strength, the A.M.A., *Guides* provides that "in compression neuropathies, additional impairment values are not given for decreased grip

[8] A.M.A., *Guides*, *supra* note 2 at 467.

[9] *Id.* at 467.

[10] A.M.A., *Guides*, *supra* note 4 at 469.

[11] *Id.* at 469.

[12] A.M.A., *Guides*, *supra* note 6 at 474.

[13] *Id.* at 474.

[14] 5 U.S.C. § 8107.

[15] 20 C.F.R. § 10.404 (1999).

strength."[16] Additionally, the Board notes that the fifth edition of the A.M.A., *Guides* provides that impairment for carpal tunnel syndrome should be rated on motor and sensory impairments only.[17]

Regarding carpal tunnel syndrome, the A.M.A., *Guides* provide:

> "If, after an optimal recovery time following surgical decompression, an individual continues to complain of pain, paresthesias and/or difficulties in performing certain activities, three possible scenarios can be present--
>
> > (1) Positive clinical findings of median nerve dysfunction and electrical conduction delay(s): the impairment due to residual CTS [carpal tunnel syndrome] is rated according to the sensory and/or motor deficits as described earlier.
> >
> > (2) Normal sensibility and opposition strength with abnormal sensory and/or motor latencies or abnormal EMG [electromyogram] testing of the thenar muscles: a residual CTS is still present and an impairment rating not to exceed five percent of the upper extremity may be justified.
> >
> > (3) Normal sensibility (two-point discrimination and Semmes-Weinstein monofilament testing), opposition strength and nerve conduction studies: there is no objective basis for an impairment rating."[18]

Section 16.5d of the A.M.A., *Guides* further provides that in rating compression neuropathies, additional impairment values are not given for decreased grip strength.[19] Section 16.8a provides that, since maximum strength is usually not regained for at least a year after an injury or surgical procedure and impairment is evaluated when an individual has reached maximum medical improvement, "strength can only be applied as a measure when a year or more has passed since the time of injury or surgery."[20]

In this case, both Dr. Rosen and the medical adviser properly rated appellant's impairment based on motor and sensory impairments. Office procedures[21] specifically provide

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[16] *See* page 494, the fifth edition of the A.M.A., *Guides; see also Robert V. Disalvatore*, 54 ECAB ___ (Docket No. 02-2256, issued January 17, 2003) (where the Board found that the fifth edition of the A.M.A., *Guides* provides that impairment for carpal tunnel syndrome be rated on motor and sensory impairments only).

[17] *Disalvatore, id.*

[18] A.M.A., *Guides*, *supra* note 1 at 495.

[19] A.M.A., *Guides*, *supra* note 16 at 494.

[20] *Id.* at 508.

[21] *See* Federal (FECA) Procedure Manual, Part 2 -- Schedule Awards and Permanent Disability Claims, *Evaluation of Schedule Awards*, Chapter 2.808 (March 1995).

that upper extremity impairment secondary to carpal tunnel syndrome and other entrapment neuropathies should be calculated using section 16.5d and Tables 16-10, 16-11 and 16-15.[22]

The Board has carefully reviewed Dr. Rosen's report and the impairment evaluation performed for him which determined appellant's upper extremity impairment and notes that Dr. Rosen did not support or otherwise explain how any further impairment could be calculated under the relevant standards of the A.M.A., *Guides*. He properly noted that wrist flexion was 50 degrees for a 2 percent rating,[23] radial deviation of 20 degrees for a 0 percent rating,[24] ulnar deviation of 45 degrees for a 0 percent rating,[25] pronation of the elbow was 55 degrees for a 1 percent rating[26] and supination was 45 degrees for a 1 percent rating.[27] However, the Board notes that Dr. Rosen improperly determined that wrist extension of 55 degrees established a 0 percent rating, rather the A.M.A., *Guides*, Figure 16-28, page 467, provides for a 1 percent rating. Therefore, appellant would be entitled to a five percent impairment for the left upper extremity.[28]

The medical adviser who reviewed Dr. Rosen's report essentially concurred with the findings obtained by Dr. Rosen. The medical adviser correlated findings obtained by Dr. Rosen to specific provision in the A.M.A., *Guides.* The Office medical adviser noted that appellant reached maximum medical improvement on February 11, 2004. The medical adviser indicated that appellant sustained a five percent permanent impairment of the left upper extremity. He noted that wrist extension was 55 degrees for a 1 percent rating,[29] wrist flexion was 50 degrees for a 2 percent rating,[30] radial deviation of 20 degrees for a 0 percent rating,[31] ulnar deviation of 45 degrees for a 0 percent rating,[32] pronation of the elbow was 55 degrees for a 1 percent rating[33] and supination was 45 degrees for a 1 percent rating.[34]

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

[23] A.M.A., *Guides*, *supra* note 2 at 467.

[24] A.M.A., *Guides*, *supra* note 4 at 469.

[25] *Id*. at 469.

[26] A.M.A., *Guides*, *supra* note 6 at 474.

[27] *Id.* at 474.

[28] A.M.A., *Guides*, *supra* note 2 at 467.

[29] *Id.* at 467.

[30] *Id.* at 467.

[31] A.M.A., *Guides*, *supra* note 4 at 469.

[32] *Id.* at 469.

[33] A.M.A., *Guides*, *supra* note 6 at 474.

[34] *Id.* at 474.

The Office medical adviser properly applied the A.M.A., *Guides* to the information provided in Dr. Rosen's February 11, 2004 report and determined that appellant had a five percent permanent impairment of the left upper extremity. This evaluation conforms to the A.M.A., *Guides* and establishes that appellant has a five percent permanent impairment of the left upper extremity.

CONCLUSION

The Board therefore finds that the weight of the evidence rests with the determination of Dr. Rosen and the Office medical adviser. Appellant is therefore entitled to a schedule award for five percent permanent impairment of the left upper extremity.

ORDER

IT IS HEREBY ORDERED THAT the May 6, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 10, 2004
Washington, DC

Alec J. Koromilas
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member