

On March 16, 2004 Dr. John C. Greco, a Board-certified orthopedic surgeon, advised that appellant had reached maximum medical improvement and could return to regular duty. In a March 16, 2004 medical report, Dr. Greco stated that appellant was status post right shoulder rotator cuff repair with subacromial decompression and acromioclavicular (AC) joint resection. He noted that appellant should continue with home exercises and that medication was not applicable. He opined that appellant had a seven percent right upper extremity impairment or five percent whole body impairment due to some residual snapping and a little bit of stiffness and pain at the extremes.

On March 31, 2004 appellant filed a claim for a schedule award for impairment to her right upper extremity.

In an April 12, 2004 memorandum, an Office medical adviser applied the findings contained in Dr. Greco's report to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001) (A.M.A., *Guides*) and, opined that appellant had a 10 percent permanent impairment according to Table 16-27 at page 506 of the A.M.A., *Guides*.

By decision dated April 16, 2004, the Office granted appellant a schedule award for a 10 percent permanent impairment of the right upper extremity. The award ran for 31.2 weeks of compensation for the period March 16 to October 20, 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* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.³

ANALYSIS

Although Dr. Greco provided an impairment rating in his March 16, 2004 report, he did not indicate that it was based on the A.M.A., *Guides*. It is well settled that when an attending physician's report gives an estimate of permanent impairment but does not explain his estimate based on the application of the A.M.A., *Guides*, the Office may follow the advice of its medical adviser or consultant where he or she has properly utilized the A.M.A., *Guides*.⁴

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404.

³ A.M.A., *Guides* (5th ed. 2001); *Joseph Lawrence, Jr.*, 53 ECAB ____ (Docket No. 01-1361, issued February 4, 2002).

⁴ *Paul R. Evans, Jr.*, 44 ECAB 646 (1993).

The Office medical adviser applied the findings of Dr. Greco to the A.M.A., *Guides*. According to Table 16-27 at page 506, the Office medical adviser found that appellant had 10 percent impairment due to the shoulder debridement and AC joint resection surgery performed. This table of the A.M.A., *Guides* provides for 10 percent impairment of the upper extremity due to a distal clavicle resection arthroplasty. Dr. Greco noted no other findings upon which impairment may be based under the A.M.A., *Guides*. The Board finds that the Office medical adviser's determination of appellant's total impairment of the right upper extremity included all the impairment documented in the medical evidence. The Board finds that there is no medical evidence of record establishing that appellant has more than a 10 percent impairment of the right upper extremity.⁵ The Board will affirm the Office's schedule award.

CONCLUSION

The Board finds that appellant has no more than a 10 percent impairment of the right upper extremity.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 16, 2004 is affirmed.

Issued: November 26, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁵ Although Dr. Greco also opined that appellant had a five percent whole body impairment, neither the Act nor its regulations provide for a schedule award for impairment to the body as a whole. See *Terry E. Mills*, 47 ECAB 309 (1996).