

conditions were noted as including a left knee strain and a left meniscal tear, for which he underwent an arthroscopy.

Appellant's application for Office of Personal Management disability retirement was approved on December 4, 1997.

On September 22, 1998 appellant was found to have a 14 percent permanent impairment of his left lower extremity.¹ By decision dated October 2, 1998, he was granted a schedule award for a 14 percent permanent impairment of his left lower extremity.

Appellant appealed to the Board. The case was remanded by order dated January 12, 2000 for reconstruction and proper assemblage of the case record.² On April 17, 2001 the Board issued an order dismissing appeal as appellant failed to complete and submit a Form AB-1.³

On May 28, 2001 appellant applied for a schedule award for the right lower extremity.

On August 22, 2001 Dr. Harry L. Collins Jr., an Office consultant Board-certified in orthopedic surgery, determined that appellant had a 20 percent permanent impairment of his right knee based on loss in range of motion.

By decision dated September 24, 2001, the Office granted appellant a schedule award for a 20 percent permanent impairment of his right lower extremity for the period September 9, 2001 to October 17, 2002, for a total of 57.60 weeks of compensation.

On November 16, 2001 appellant accepted payment of a lump sum of \$25,250.03, representing the remainder of the schedule award payable for his right lower extremity.

In a report dated January 10, 2003, Dr. John W. Uribe, a Board-certified orthopedic surgeon, examined appellant and noted that he had bilateral knee pain, with a meniscal tear of the left knee in 1997 and a posterior horn medial meniscal tear in 2000. Dr. Uribe found that appellant had bilateral lower extremity range of motion of 0 to 130 degrees with no effusion. He also noted mild patella crepitus and negative instability to the anterior and posterior drawer.

A right knee magnetic resonance imaging scan of March 28, 2003 was interpreted as revealing a nondisplaced complex predominantly oblique tear of the posterior horn of the medial meniscus extending through the inferior articular surface adjacent to the meniscal apex.

On May 25, 2001 an arthroscopy was authorized. On July 14, 2003 appellant underwent an arthroscopy of the right knee for a partial medial meniscectomy.

¹ An Office medical adviser noted that appellant had a 12 percent impairment of the left lower extremity based on muscle weakness and two percent impairment based on a partial medial meniscectomy for a combined total of 14 percent impairment.

² Docket No. 98-566, issued January 12, 2000.

³ Docket No. 00-1185, issued April 17, 2001.

On August 14, 2003 Dr. Uribe opined that appellant had reached maximum medical improvement and had zero percent impairment of the right lower extremity.

On September 5, 2003 appellant filed a Form CA-7 request for a schedule award.

On September 25, 2003 an Office medical adviser referred to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), Table 17-33 to determine that appellant had a 2 percent permanent impairment of his right knee, based on the partial medial meniscectomy.

On October 8, 2003 Dr. Collins reviewed the case record and opined that the 2 percent impairment for the right knee meniscectomy was in addition to the 20 percent impairment previously found, in accordance with the A.M.A., *Guides*, fifth edition.

On January 16, 2004 the Office granted appellant a 2 percent schedule award for additional impairment of his right knee for the period October 18 to November 27, 2002, a total of 5.76 weeks of compensation.

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, 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

Dr. Collins, an Office medical consultant, utilized Table 17-33 of the A.M.A., *Guides* page 546, which provides lower extremity impairments for surgical procedure performed. He determined that appellant's partial medial meniscectomy of the right knee represented a two percent impairment of the lower extremity. Dr. Collins properly relied on Dr. Uribe's surgical findings to assess the permanent impairment of appellant's right lower extremity due to the partial meniscectomy. Dr. Collins opined on October 8, 2003 that this diagnosis-based lower extremity impairment was in addition to the 20 percent permanent impairment previously awarded appellant for right knee impairment due to loss of range of motion.

⁴ 5 U.S.C. § 8107.

⁵ 20 C.F.R. § 10.404 (1999).

⁶ *Id.*

The Board finds that the A.M.A., *Guides*, Table 17-33, page 546-47, was properly applied by Dr. Collins to determine a diagnosis-based estimate of appellant's right lower extremity permanent impairment of two percent for the partial meniscectomy.

Appellant has not submitted any further evidence which supports that he has more than a 22 percent permanent total impairment of his right lower extremity for which he has received schedule awards.

CONCLUSION

Appellant has no more than a 22 percent permanent impairment of his right lower extremity, for which he has received schedule awards.

ORDER

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

Issued: September 15, 2004
Washington, DC

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member