

On May 31, 2002 Dr. Bartucci reported that appellant's shoulder still had not regained its strength. A September 18, 2002 arthrogram showed a recurrent rotator cuff tear, but the physician decided against repeat shoulder surgery and appellant was left with permanent work limitations of four hours a day of over-the-shoulder work and a 20-pound lifting limit. On May 15, 2003 appellant underwent a second right carpal tunnel release. On June 16, 2003 he accepted a limited-duty job offer.

On July 15, 2003 appellant filed a claim for a schedule award. In response to a July 23, 2003 request for a report describing his impairment, Dr. Bartucci stated in an August 12, 2003 report that appellant had a six percent impairment for loss of shoulder motion, that his right arm was at least 20 percent less strong than his left and that he had an overall impairment rating of 15 to 20 percent of the right shoulder. In a June 29, 2004 report, Dr. Bartucci stated that his range of motion of the right shoulder was 160 degrees of elevation, 80 degrees of backward elevation, 120 degrees of abduction, 40 degrees of adduction, 60 degrees of internal rotation, 80 degrees of external rotation and 40 degrees of extension. He stated that appellant had 20 percent muscle weakness on the right side and concluded that he had a 6 percent impairment for impaired motion, which, combined with his weakness, gave a total impairment of 15 to 20 percent of the right shoulder. An Office medical adviser reviewed Dr. Bartucci's June 29, 2004 report on July 19, 2004 and assigned 1 percent impairment for 160 degrees of flexion, 1 percent for 40 degrees of extension,¹ 3 percent for 120 degrees of abduction, 0 percent for 40 degrees of adduction,² 0 percent for 80 degrees of internal rotation and two percent for 60 degrees of internal rotation,³ for a total of 7 percent impairment for loss of motion, which was combined with two percent for Grade 3 pain and four percent for weakness, both in the distribution of the suprascapular nerve,⁴ for a combined total of 13 percent impairment of the right arm.

In a September 24, 2004 report, Dr. Bartucci, after noting that appellant underwent carpal tunnel surgery twice, stated that he had significant degenerative arthritis of his wrist, decreased two-point discrimination in the median nerve distribution of the right hand, loss of 10 degrees of dorsiflexion and 35 degrees of palmar flexion and intrinsic muscle wasting of his right hand. He rated the loss of motion as a 25 percent impairment and the total impairment as "minimum 25 percent more likely closer to 35 percent." In an October 12, 2004 report, Dr. Bartucci reported that grip strength testing was 45 pounds on the right, giving appellant another 5 percent impairment for the right hand, for a total of 35 percent impairment of the right hand and with the 20 percent for the right shoulder, a right upper extremity impairment of 50 to 55 percent.

On December 6, 2004 the same Office medical adviser reviewed this report and noted that appellant's carpal tunnel syndrome was an accepted condition.⁵ The medical adviser stated that Dr. Bertucci's reports showed that appellant continued to complain of weakness in the right

¹ A.M.A., *Guides*, Figure 16-40.

² A.M.A., *Guides*, Figure 16-43.

³ A.M.A., *Guides*, Figure 16-46.

⁴ A.M.A., *Guides*, Table 16-15, in conjunction with Table 16-10 (sensory) and Table 16-11 (strength).

⁵ This condition was adjudicated under another file number.

wrist and hand and mentioned that two-point discrimination was decreased but did not quantify this diminution, so no impairment was awarded. He continued that appellant's grip strength of 20.45 kilograms was a 19 percent impairment⁶ and that the American Medical Association, *Guides to the Evaluation of Permanent Impairment* provides that no additional impairment is given for decreased motion in compression neuropathies⁷ and concluded that appellant had a 30 percent impairment of the right arm, representing the 13 percent shoulder impairment combined with the 19 percent impairment from the carpal tunnel syndrome.

On June 29, 2005 the Office issued appellant a schedule award for a 30 percent impairment of the right arm.

LEGAL PRECEDENT

The schedule award provision of the Act⁸ and its implementing regulation⁹ 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.¹⁰

ANALYSIS

In the present case, appellant has impairments of two joints of the right arm; a shoulder impairment due to a rotator cuff tear and dislocation of the biceps tendon and a wrist impairment due to carpal tunnel syndrome. The Office's June 29, 2005 schedule award took both impairments into account.

The Board finds that the Office properly rated the impairment to appellant's right shoulder. Applying Figures 16-40, 16-43 and 16-46 of the fifth edition of the A.M.A., *Guides* to Dr. Bartucci's findings on examination on June 29, 2004, an Office medical adviser properly assigned 1 percent impairment for 160 degrees of flexion, 1 percent for 40 degrees of extension, 3 percent for 120 degrees of abduction, 0 percent for 40 degrees of adduction, 0 percent for 80 degrees of internal rotation and 2 percent for 60 degrees of internal rotation, for a total of 7 percent impairment for loss of motion, for a total of 7 percent impairment for loss of motion.

⁶ A.M.A., *Guides*, Tables 16-31 and 16-34.

⁷ *Id.* at 494.

⁸ 5 U.S.C. § 8107.

⁹ 20 C.F.R. § 10.404 (1999).

¹⁰ *Id.*

The Office medical adviser properly rated appellant's shoulder weakness and pain. For weakness, a Grade 4 impairment under Table 16-11 was properly identified, as the description of a Grade 4 impairment, "Complete active range of motion against gravity with some resistance," corresponds to Dr. Bartucci's permanent work restrictions. The maximum percentage of motor deficit for a Grade 4 impairment, 25 percent, was then multiplied by the maximum percentage under Table 16-15 for a motor deficit of the affected suprascapular nerve, 16 percent, to arrive at a four percent impairment for weakness. For the pain, a Grade 3 impairment under Table 16-10 was properly identified, as the pain for this grade interferes with some activities but does not prevent activities, as Grade 2 pain does. It was reasonable for the medical adviser to choose the middle of the range of percentages for pain¹¹ and the 40 percent was multiplied by the maximum percentage for a sensory deficit under Table 16-15, five percent, to arrive at a two percent impairment for pain. Dr. Bartucci's reports on appellant's right shoulder impairment did not provide any percentage of impairment for pain.

With regard to appellant's wrist impairment due to his carpal tunnel syndrome, the Office medical adviser properly pointed out that the A.M.A., *Guides* states that in compression neuropathies, (carpal tunnel syndrome is one), additional impairment values are not given for decreased motion in the absence of complex regional pain syndrome, which no physician found that appellant had sustained.¹² Dr. Bartucci's rating of loss of motion as a 25 percent impairment is contrary to the express prohibition of the A.M.A., *Guides* against rating a compression neuropathy using loss of motion. This is the primary reason for the difference between Dr. Bartucci's rating of a 50 percent impairment of the right arm and the Office medical adviser's 30 percent rating, which is what appellant objects to on appeal.

The Office medical adviser rated appellant's impairment due to carpal tunnel syndrome as 19 percent. However, he did not provide an explanation of how he derived this impairment rating under section 16.5c. The case will be remanded to the Office for it to obtain further opinion as to the percentage of impairment using the A.M.A., *Guides*.

CONCLUSION

Most of the calculations of the percentage of impairment of appellant's right arm were properly done, but the case will be remanded to the Office further medical opinion as to impairment due to his carpal tunnel syndrome.

¹¹ Table 16-10 gives a range of 26 to 60 percent for a Grade 3 impairment.

¹² A.M.A., *Guides*, page 495, defines complex regional pain syndrome as a characteristic burning pain present without stimulation or movement, that occurs beyond the territory of a single peripheral nerve and that is disproportionate to the inciting event.

ORDER

IT IS HEREBY ORDERED THAT the June 29, 2005 decision of the Office of Workers' Compensation Programs is set aside and the case remanded to the Office for action consistent with this decision of the Board, to be followed by issuance of an appropriate schedule award for appellant's right arm.

Issued: December 2, 2005
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board