

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**ALETHEA V. COTTON, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Monroe, LA, Employer**

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**Docket No. 05-1776  
Issued: December 6, 2005**

*Appearances:*  
*Alethea V. Cotton, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
WILLIE T.C. THOMAS, Alternate Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On August 24, 2005 appellant filed a timely appeal of a June 15, 2005 Office of Workers' Compensation Programs' schedule award decision, for an additional one percent impairment to the right arm. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has more than an eight percent permanent impairment to the right arm and five percent to the left arm, for which she received a schedule award.

**FACTUAL HISTORY**

The case was before the Board on a prior appeal. In a decision dated October 29, 2004, the Board set aside a February 3, 2004 schedule award decision.<sup>1</sup> The Board found that the medical evidence was not consistent with the finding of a seven percent right arm impairment and a five percent left arm impairment. The case was remanded for further development of the

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<sup>1</sup> Docket No. 04-1242 (issued October 29, 2004).

medical evidence. The history of the case is provided in the Board's prior decision and is incorporated herein by reference.

On return of the case record, the Office referred appellant, together with medical records and a statement of accepted facts, to Dr. Gregg Massanelli, an orthopedic surgeon. In a report dated February 8, 2005, Dr. Massanelli provided a history of injury and results on examination. With respect to the right wrist range of motion, he reported: 52 degrees of flexion, 43 degrees of extension, 20 degrees of radial deviation and 31 degrees of ulnar deviation. For the left wrist, he reported 75, 60, 25 and 25 degrees for the same motions. Dr. Massanelli reported that appellant had some mild residual carpal tunnel syndrome on the right, with no residual symptoms on the left arm. He indicated that she reached maximum medical improvement on November 11, 2000. With respect to permanent impairment, Dr. Massanelli opined that appellant had 20 percent of the maximum 39 percent impairment of the median nerve, for an 8 percent right arm impairment due to sensory deficit. He also found that appellant had a four percent impairment for loss of wrist extension and one percent for loss of flexion. Dr. Massanelli further opined that appellant did not have a permanent impairment to her left arm.

In a report dated March 8, 2005, an Office medical adviser reviewed Dr. Massanelli's report and opined that appellant had an eight percent permanent impairment to her right arm under the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) (5<sup>th</sup> ed. 2001). He stated that, for compression neuropathies under the A.M.A., *Guides*, additional impairment is not given for loss of motion in the absence of a complex regional pain syndrome. For the left arm, the Office medical adviser indicated that 25 degrees of ulnar deviation would be a 1 percent impairment, but there was no impairment as additional impairment for loss of motion was not appropriate.

By decision dated June 15, 2005, the Office issued a schedule award for an additional one percent impairment to the right upper extremity. The period of the award was 3.12 weeks commencing February 22, 2004.<sup>2</sup>

### **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees' Compensation Act<sup>3</sup> and its implementing regulation<sup>4</sup> 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.

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<sup>2</sup> Appellant received a lump-sum payment for her prior schedule award and received payments through February 21, 2004.

<sup>3</sup> 5 U.S.C. § 8107.

<sup>4</sup> 20 C.F.R. § 10.404 (1999).

## ANALYSIS

The Office referred appellant to Dr. Massanelli, who provided results on examination and noted mild residual carpal tunnel symptoms in the right arm. In accord with Office procedures, the medical evidence was reviewed by an Office medical adviser for an opinion as the degree of permanent impairment under the A.M.A., *Guides*.<sup>5</sup>

The impairment for the right arm from the diagnosed carpal tunnel syndrome is based on application of Tables 16-15 and 16-10 of the A.M.A., *Guides*. Under Table 16-15, the maximum impairment for sensory deficit or pain to the median nerve is 39 percent.<sup>6</sup> The impairment is then graded in accord with Table 16-10. Dr. Massanelli reported mild residual symptoms and decreased sensation in the median nerve based on two point discrimination. Dr. Massanelli graded the impairment at 20 percent of the maximum or 8 percent.<sup>7</sup> The Office medical adviser concurred with the eight percent impairment rating and it is consistent with the reported findings of the referral physician.

Dr. Massanelli also reported loss of range of motion in the right wrist. The A.M.A., *Guides*, however, provide that once impairments for compression neuropathies are determined for sensory or motor loss, “additional impairment values are not given for decreased motion” unless there is a complex regional pain syndrome (CSRS).<sup>8</sup> In this case, there was no evidence of CSRS and therefore impairments for loss of range of motion are not combined with the impairment for sensory loss. Based on the evidence of record, appellant’s right arm impairment was properly found to be eight percent by the Office medical adviser.

With regard to the left arm, Dr. Massanelli did not find any impairment based on sensory or motor loss. As noted by the medical adviser, appellant did have a one percent impairment for loss of ulnar deviation.<sup>9</sup> Although the medical adviser cites the above provision prohibiting impairments for decreased motion and found no left arm impairment, the A.M.A., *Guides* stated that “additional” impairments are not given for decreased motion. Since the evidence from Dr. Massanelli did not show any impairment for left arm sensory or motor loss, there is nothing to prohibit an impairment based solely on loss of motion. Appellant therefore has a one percent left arm impairment based on the current medical evidence. Because appellant already received a schedule award for a five percent permanent impairment to the left arm, however, the evidence does not establish that an additional award is warranted.

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<sup>5</sup> See *Tommy R. Martin*, 56 ECAB \_\_\_\_ (Docket No. 03-1491, issued January 25, 2005).

<sup>6</sup> A.M.A., *Guides* 492, Table 16-15.

<sup>7</sup> *Id.* at 482, Table 16-10. As the Board noted in the prior appeal, Grade 4 is 1 to 25 percent of the maximum for “distorted superficial tactile sensibility (diminished light touch), with or without minimal abnormal sensations or pain, that is forgotten during activity.” The A.M.A., *Guides* explains that individuals in Grade 4 have diminished light touch with fair to good two point discrimination.

<sup>8</sup> *Id.* at 494.

<sup>9</sup> *Id.* at 469, Figure 16-31 (25 degrees of ulnar deviation is a 1 percent impairment).

**CONCLUSION**

The Board finds that the probative medical evidence does not establish more than an eight percent right arm impairment or a five percent left arm impairment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 15, 2005 is affirmed.

Issued: December 6, 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