

incomplete. The Board noted that the record did not contain the May 23, 2003 decision or the medical evidence with respect to the degree of permanent impairment.

On remand the Office prepared a statement of accepted facts which indicated that appellant sustained a fracture of the left distal radius on January 24, 1992. The Office also accepted left carpal tunnel syndrome and left reflex sympathetic dystrophy. In a memorandum dated May 5, 2004, the Office reported that the case file had previously been reviewed by an Office medical adviser and appellant was found to have a 31 percent impairment of the arm with a date of maximum medical improvement of February 29, 2000. The medical adviser's report, however, was not available for review. The record contains the May 23, 2003 schedule award decision for a 31 percent permanent impairment to the left arm.² The award ran for 96.72 weeks from December 31, 2000.

In a report dated May 12, 2004, an Office medical adviser reviewed the medical evidence and indicated that the Office should refer appellant to a second opinion physician for an evaluation sufficient to determine the degree of permanent impairment to the left arm. The Office referred appellant to Dr. Thomas Sabourin, a Board-certified orthopedic surgeon. By report dated June 25, 2004, he provided a history and results on examination. Dr. Sabourin reported normal motor strength and normal sensation to light touch and pinprick, with negative Tinel's sign and Phalen's test. He noted that appellant reported pain, but if she had a reflex sympathetic dystrophy, it had resolved and her current pain was subjective and of unknown etiology. Dr. Sabourin reported range of motion results for the left shoulder, elbow, wrist and fingers. He also reported grip strength values.

The case was referred to an Office medical adviser for evaluation. In a report dated July 19, 2004, the medical adviser stated that appellant did not have a permanent impairment for loss of motion, weakness, atrophy, instability or neurological deficit. He stated that appellant did have a 50 percent loss of grip strength for a 20 percent arm impairment. The medical adviser also found Grade 3 pain due to the radial nerve, resulting in a 3 percent impairment for pain and a combined total of 22 percent permanent impairment for the left arm. He concluded that since appellant had received an award for a 31 percent impairment she was not entitled to an additional schedule award.

By decision dated August 5, 2004, the Office found that appellant did not have more than a 31 percent impairment and was not entitled to an additional schedule award.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent impairment involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member

² An April 22, 2003 Office memorandum indicated that appellant's compensation was suspended for failure to cooperate with vocational rehabilitation effective December 30, 2000 and the December 28, 2000 Office decision incorrectly found that appellant was not entitled to the schedule award.

or function.³ Neither the Act nor the regulation specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the uniform standard applicable to all claimants.⁴

ANALYSIS

The record indicates that the medical evidence regarding the original determination that appellant had a 31 percent impairment to her left arm was lost and is not available for review. However, the Office referred her for a current medical examination to determine the degree of permanent impairment to her left arm. Dr. Sabourin, the second opinion referral physician, provided a complete report with respect to appellant's left arm. As noted by the Office medical adviser, the physical reexamination did not reveal a permanent impairment based on motor weakness or loss of range of motion. Dr. Sabourin reported normal motor strength and the reported ranges of motion for the shoulder, elbow, wrist and fingers do not establish an impairment under the A.M.A., *Guides*.⁵ The medical adviser did find that the grip strength results showed a 50 percent loss of grip strength; under Table 16-34, this results in a 20 percent arm impairment.⁶ In addition, the Office medical adviser found an impairment for pain by identifying the radial nerve under Table 16-15, which provides a maximum impairment of five percent for pain or sensory deficit.⁷ The medical adviser graded the impairment under Table 16-10 as a Grade 3 impairment, which includes pain or sensory deficit that interferes with some activities. The maximum impairment under Grade 3 is 60 percent of the maximum 5 percent for the radial nerve or 3 percent.⁸ Combining the 20 percent and the 3 percent under the Combined Values Chart results in a 22 percent impairment.⁹

The probative medical evidence of record is represented by Dr. Sabourin and the Office medical adviser. Dr. Sabourin provided a complete report describing the left arm condition and the Office medical adviser provided an opinion as to the degree of permanent impairment with reference to the A.M.A., *Guides*. There is no other current probative evidence of record with respect to a schedule award. Since appellant received a schedule award for 31 percent impairment to the left arm and the current probative evidence does not establish a greater

³ 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

⁴ *A. George Lampo*, 45 ECAB 441 (1994).

⁵ Impairment ratings for loss of motion in the arm are found in section 16.4 of the A.M.A., *Guides*, pages 450-479.

⁶ A.M.A., *Guides* 509, Table 16-34. The A.M.A., *Guides* indicate that grip strength impairment is only to be used when loss of grip strength represents an impairing factor not considered adequately by other methods.

⁷ *Id.* at 492, Table 16-15.

⁸ *Id.* at 482, Table 16-10.

⁹ *Id.* at 604, Combined Values Chart.

impairment, the Office properly determined that appellant was not entitled to an additional schedule award.

CONCLUSION

The Board finds that the evidence of record does not establish more than a 31 percent impairment to the left arm, for which appellant received a schedule award on May 23, 2003.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 5, 2004 is affirmed.

Issued: February 24, 2005
Washington, DC

Alec J. Koromilas
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member