United States Department of Labor
Employees' Compensation Appeals Board

GEORGE ZAJAC, Appellant	)	
and	)	**Docket No. 05-781**
	)	**Issued: June 15, 2005**
DEPARTMENT OF THE NAVY, MARINE CORPS AIR STATION, Cherry Point, NC, Employer	)	

Appearances:
George Zajac, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chairman
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member

JURISDICTION

On February 17, 2005 appellant filed a timely appeal from the December 10, 2004 merit decision of the Office of Workers' Compensation Programs, which awarded compensation for permanent impairment. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the schedule award.

ISSUE

The issue is whether appellant has more than a 37 percent impairment of his left lower extremity.

FACTUAL HISTORY

On October 4, 1984 appellant, then a 44-year-old airframes mechanic, injured his left knee in the performance of duty when he lost his footing and fell off a three-foot high metal work stand. The Office initially accepted his claim for left knee strain, but later accepted a

permanent aggravation of left knee osteoarthritis. The Office authorized a total left knee arthroplasty, which was performed on May 21, 2003.

Appellant filed a claim for a schedule award. He submitted a November 25, 2003 report from Dr. Mark E. Easley, the orthopedic surgeon, who performed the total knee arthroplasty:

> "Even though I usually reserve partial permanent impairment rating for 1 year after surgery, we will go ahead and provide this at 6 months as it is a standard procedure. The standard rating according to the NC Industrial Commission and the American Medical Association, *Guides to the Evaluation of Permanent Impairment* for a left total knee arthroplasty is 40 percent partial permanent impairment for the left lower extremity."

On January 8, 2004 an Office medical adviser reviewed Dr. Easley's rating and reported that a total knee replacement with good results would represent a 37 percent impairment of the lower extremity using Tables 17-33 and 17-35 of the A.M.A., *Guides* (5th ed. 2001).

On February 10, 2004 the Office issued a schedule award for a 37 percent impairment of the left lower extremity.

Appellant filed an appeal to the Board. On September 24, 2004 the Board issued an order remanding the case to the Office for reconstruction and proper assemblage of the case record, as the February 10, 2004 schedule award was not associated with the record transmitted to the Board.

To protect appellant's appeal rights, the Office reissued a schedule award on December 10, 2004 for a 37 percent impairment of the left lower extremity. The present appeal followed. Appellant wants to know the reason his schedule award is three percent less than the rating given by Dr. Easley.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act[1] authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. Such loss or loss of use is known as permanent impairment. The Office evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*.[2]

To support a schedule award, the file must contain competent medical evidence that describes the impairment in sufficient detail for the adjudicator to visualize the character and degree of disability.[3] The report of the examination must always include a detailed description

[1] 5 U.S.C. § 8107.

[2] 20 C.F.R. § 10.404 (1999). Effective February 1, 2001 the Office began using the A.M.A., *Guides* (5th ed. 2001).

[3] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.b(2) (August 2002).

of the impairment which includes, where applicable, the loss in degrees of active and passive motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation or other pertinent description of the impairment.[4] The Office should advise any physician evaluating permanent impairment to use the fifth edition of the A.M.A., *Guides* and to report findings in accordance with those guidelines.[5]

ANALYSIS

According to Table 17-33, page 547, of the A.M.A., *Guides*, a "good result" for a total knee replacement represents a 37 percent impairment of the lower extremity. The problem with this case, however, is that the medical record does not allow a proper determination of whether appellant had a "good result" under Table 17-33. Table 17-35, page 549, sets forth a point system for rating knee replacement results. The point total for estimating knee replacement results is the sum of the points for pain, range of motion and stability minus the sum of the points for flexion contracture, extension lag and alignment. If the point total ranges from 85 to 100, then appellant is determined to have a "good result" and a 37 percent impairment of his left lower extremity. But Dr. Easley did not assign points in any of the categories listed in Table 17-35 and he did not provide the measurements or classifications necessary to allow a proper application of Table 17-35. The Board is, therefore, unable to determine under the A.M.A., *Guides* whether appellant had a "good result" from his knee replacement.

Because the medical evidence fails to describe appellant's impairment in sufficient detail, the Board will set aside the Office's December 10, 2004 schedule award and remand the case for a proper evaluation of permanent impairment. After such further development of the evidence as may be necessary, the Office will issue a final decision on appellant's entitlement to schedule award of compensation.

CONCLUSION

The Board finds that this case is not in posture for decision. The medical evidence does not allow a proper application of Table 17-35 and Table 17-33 of the A.M.A., *Guides*. The case must be remanded for further development.

[4] *Id*., Chapter 2.808.6.c(1).

[5] *Id*., Chapter 2.808.6.a (with noted exceptions).

ORDER

IT IS HEREBY ORDERED THAT the December 10, 2004 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action consistent with this opinion.

Issued: June 15, 2005
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member