

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

LESLIE B. HUOT, Appellant

and

**DEPARTMENT OF THE AIR FORCE, HILL
AIR FORCE BASE, Clearfield, UT, Employer**

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**Docket No. 04-2087
Issued: March 24, 2005**

Appearances:
Leslie B. Huot, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On August 20, 2004 appellant filed a timely appeal from the merit decision of the Office of Workers' Compensation Programs dated August 2, 2004, which denied her claim for an additional schedule award. 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 is entitled to an additional schedule award.

FACTUAL HISTORY

On November 15, 1999 appellant, then a 50-year-old aircraft sheet metal mechanic, filed an occupational disease claim alleging that she sustained bilateral carpal tunnel syndrome as a result of the duties of her federal employment. By letter dated January 26, 2000, the Office accepted appellant's claim for bilateral ulnar nerve neuritis of the thumbs. By decision dated

May 2, 2000, the Office issued schedule awards for an eight percent impairment of each arm.¹ This award was affirmed by a hearing representative in a decision dated September 21, 2000.

On February 25, 2003 Dr. Brent Baranko, a Board-certified orthopedic surgeon, performed a hemiresection arthroplasty, right distal radioulnar joint of the right wrist. On June 10, 2003 appellant filed a claim for an additional schedule award. She submitted a medical opinion dated May 29, 2003, Dr. Corey D. Anden, a Board-certified physiatrist, who applied the fifth edition (2001) of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*. He concluded that appellant had a 15 percent upper extremity impairment of the right wrist and the Office medical adviser agreed. On June 23, 2003 the Office accepted appellant's claim for distal ulnar joint arthrosis of the right wrist. By decision dated June 24, 2003, the Office granted a schedule award for a 15 percent impairment to the right upper extremity and noted that she would receive an additional 7 percent award as 8 percent award had already been paid under the prior schedule award.

On July 8, 2003 Dr. Baranko performed a right thumb metacarpophalangeal joint fusion. In a report dated October 8, 2003, he noted that he suspected nonunion, both clinically and radiographically in the right thumb and the metacarpophalangeal joint and recommended a revision of the fusion with application of a dorsal plate. On March 23, 2004 Dr. Baranko performed surgery again to remove the hardware and perform a plate fixation and synthetic bone grafting of the right thumb metacarpophalangeal joint.

In a report dated June 4, 2004, Dr. Anden listed his impressions as chronic distal right upper extremity pain and paresthesias with status post remote bilateral carpal tunnel release surgery in 1985; status post right wrist surgery for distal ulnar head resection on February 25, 2003; and progressive bilateral thumb osteoarthritis, status post right thumb metacarpophalangeal (MCP) fusion in position of function with persistent chronic restrictions in range of motion at the MCP and interphalangeal (IP) joints. He listed appellant's mobility as:

“Right upper extremity active range of motion has been previously discussed with regard to the wrist and elbow conditions for which has been previously assigned impairment. Right thumb active range of motion: IP flexion 30 degrees/extension full; MCP fused in position of function with flexion 20 degrees/extension -- 20 degrees; [MCP] opposition 3 [centimeters]/radial adduction 4 [centimeter]/radial abduction 38 degrees. Tone normal without spasticity or rigidity.”

Dr. Anden also noted that Tinel's signs on both wrists were negative. He indicated that, as Dr. Baranko had noted that maximum medical improvement had been reached, an evaluation of permanent impairment was indicated. Applying the A.M.A., *Guides*, he stated:

“a. With regard to right thumb restriction in IP active range of motion, a 4 [percent] thumb impairment is assigned. With regard to a right thumb MCP joint

¹ The schedule award was based on the findings of Dr. Corey D. Anden, Board-certified in physical medicine and rehabilitation. He opinion that appellant had 22 percent impairment of each thumb. An Office medical adviser utilized Table 1 and Table 2 of the A.M.A., *Guides* (4th ed.) to convert the impairment to 8 percent of each arm.

fusion in 20 degrees flexion, a 4 [percent] thumb impairment is assigned for limitation in flexion and a 1 [percent] thumb impairment for limitation in extension. With regard to right thumb [MCP] limitation in active range of motion, limitation in opposition equates to a 13 [percent] thumb impairment, limitation in radial adduction, a 4 [percent] thumb impairment and limitation in radial abduction, a 2 [percent] thumb impairment. According to the [A.M.A., *Guides*] these values are to be added and, therefore, 4 [percent] plus 4 [percent] plus 1 [percent] plus 13 [percent] plus 4 [percent] plus 2 [percent] adds to a total 28 [percent] thumb impairment for restriction in mobility.

“b. There were no focal neurological deficits for which additional impairment would be assigned.

“c. There is no evidence of instability or synovial hypertrophy for which additional impairment would be assigned.

“d. Therefore, a total 28 [percent] thumb impairment is assigned which in turn translates to an 11 [percent] hand impairment or 10 [percent] upper extremity impairment attributed back to the industrial injury of October 25, 1998.

On May 31, 2004 appellant filed a claim for an additional schedule award.

By letter dated July 14, 2004, the Office asked an Office medical adviser to provide an impairment rating regarding appellant’s right upper extremity. On July 21, 2004 the Office medical adviser agreed that appellant had a 28 percent impairment of her right thumb, which represented 11 percent impairment of the hand or 10 percent impairment of the right upper extremity. The Office medical adviser noted that, pursuant to Figure 16-12 on page 456 of the A.M.A., *Guides*, appellant’s 30 percent flexion would yield a four percent impairment due to loss of flexion at the IP joint. Applying Figure 16-15 on page 457 of the A.M.A., *Guides*, he noted that appellant’s 20 percent ankylosis would equal a 5 percent impairment due to lack of radial abduction. Pursuant to Table 16-8a on page 459, the Office medical adviser noted that appellant’s 38 percent radial abduction would equal a two percent impairment. Pursuant to Table 16-8b page 459 of the A.M.A., *Guides*, he noted that her four centimeters lack of adduction would equal a four percent impairment. The Office medical adviser then noted that, pursuant to Table 16-9 on page 460, centimeters of opposition would yield a 13 percent impairment. Totaling these figures (4 plus 5 plus 2 plus 4 plus 13), he determined that appellant had a 28 percent impairment of the right thumb. The Office medical adviser utilized Table 16-1 and 16-2 to convert the thumb impairment of the hand and then of the upper extremity. He found that 28 percent impairment of the right thumb equals an 11 percent hand impairment or a 10 percent impairment of the upper extremity.

By decision dated August 2, 2004, the Office denied appellant’s claim for an additional schedule award. The Office determined that she did not have greater impairment of her right upper extremity beyond the 15 percent previously awarded.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act² and its implementing regulation³ sets forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use of schedule 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.⁴

A claimant may seek an increased schedule award if the evidence establishes that she sustained an increased impairment at a later date causally related to her employment injury.⁵ Moreover, Office procedure provides that a claim for an increased schedule award may be based on an incorrect calculation of the original award or an increased impairment at a later date which is due to work-related factors. In such a situation, an increased schedule award may be payable if supported by the medical evidence.⁶

ANALYSIS

The Board finds that appellant is not entitled to an increased schedule award. No medical evidence establishes that appellant sustained additional impairment greater than the 15 percent of the right upper extremity, for which she received schedule awards.

Appellant has received schedule awards of the right upper extremity of 15 percent. The current medical evidence with regard to her right upper extremity impairment consists of the June 4, 2004 report by Dr. Anden and the July 21, 2004 report of the Office medical adviser. He applied the findings of Dr. Anden to the A.M.A., *Guides* to conclude that appellant has a 10 percent impairment of her right upper extremity, the same conclusion that Dr. Anden reached. As appellant already received a schedule award for a 15 percent impairment to her right upper extremity, she is not entitled to an additional award.

Dr. Anden obtained measurements and referred to the A.M.A., *Guides* when evaluating appellant's claim. The Office medical adviser took Dr. Anden's calculations and noted the appropriate pages and tables in the A.M.A., *Guides* and agreed with his estimate of appellant's impairment. Dr. Anden noted that appellant had flexion of 30 degrees and full extension in his right thumb and that, therefore, appellant was entitled to a 4 percent impairment. The Office

² 5 U.S.C. § 8107 (a) -- (c).

³ 20 C.F.R. § 10.404.

⁴ See *Mark A. Holloway*, 55 ECAB ____ (Docket No. 03-2144 issued February 13, 2004).

⁵ *Linda T. Brown*, 51 ECAB 115, 116 (1999); *Paul R. Reedy*, 45 ECAB 488, 490 (1994).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.7.b (August 2002).

medical adviser agreed, after applying the A.M.A., *Guides* at page 456, Figure 16-12, which indicates that for 30 degrees flexion appellant would be entitled to a 4 percent impairment rating. Dr. Anden noted that, with regard to the right thumb MCP joint fusion in 20 degrees flexion, a 4 percent thumb impairment is assigned for limitation in flexion and 1 percent impairment for limitation in extension. The Office medical adviser applied Figure 16-15 on page 457 of the A.M.A., *Guides* and indicated that 20 percent flexion would equal a 4 percent impairment. Dr. Anden indicated that appellant had radial abduction of 38 degrees; the Office medical adviser, applying Table 16-8a on page 459 of the A.M.A., *Guides* determined that a measured radial abduction of 38 degrees equals a 2 percent impairment due to lack of radial abduction. He noted that appellant had radial adduction of four centimeters; the Office medical adviser applied Table 18b on page 459 of the A.M.A., *Guides* and properly determined that four centimeters of lack of adduction equaled a four percent impairment due to abnormal motion. Dr. Anden indicated that appellant had a 3 centimeter MCP opposition; the Office medical adviser properly applied Figure 16-25 on page 464 and determined that appellant had a 13 percent impairment to her thumb due to abnormal motion. The impairment values were added: 4 percent impairment for impairment due to loss of flexion in the IP joint plus a 5 percent impairment due to loss of flexion in the MP joint plus 2 percent impairment for lack of measured radial abduction plus 4 percent for abnormal motion due to measured lack of adduction plus 13 percent for loss abnormal motion due to measured opposition 28 percent impairment of the right thumb. The Board notes that, pursuant to Table 16-1 on page 438 of the A.M.A., *Guides*, a 28 percent impairment of the thumb equals an 11 percent impairment of the hand and that pursuant to Table 16-2 on page 439 an 11 percent impairment of the hand equals a 10 percent impairment of the upper extremity.

Accordingly, the Board finds that the Office medical adviser properly applied the A.M.A., *Guides* to Dr. Anden's clinical findings to determine that appellant has no more than the 15 percent impairment of the right upper extremity for which she had already received a schedule award. No medical evidence in the records establishes a greater impairment of the right upper extremity. Accordingly, no further award under the compensation schedule was warranted.

CONCLUSION

The Office properly determined that appellant was not entitled to an additional schedule award.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 2, 2004 is affirmed.

Issued: March 24, 2005
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member