



On August 3, 2004 the Office referred appellant to Dr. John Gragnani, a Board-certified orthopedic surgeon, for an impairment evaluation to determine whether he had sustained any permanent impairment of the left lower extremity resulting from his accepted, work-related knee condition.

In a report dated August 30, 2004, Dr. Gragnani submitted a report and impairment evaluation. Using the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed.) [A.M.A., *Guides*], Dr. Gragnani found a 10 percent permanent impairment of the left lower extremity. He derived this rating based on the loss of range of motion in appellant's left knee. Dr. Gragnani measured 100 degrees of flexion of the left knee, which, under Table 17-10, page 537, represents a 10 percent impairment. He noted that he could have based an impairment rating on the medial meniscectomy under Table 17-33, page 546; however, he chose Table 17-10 in order to provide appellant with a higher impairment rating.

In an impairment evaluation dated September 6, 2004, an Office medical adviser agreed that appellant had a 10 percent impairment of his left lower extremity under the A.M.A., *Guides*, in accordance with the findings and conclusions of Dr. Gragnani.

On September 14, 2004 the Office granted appellant a schedule award for a 10 percent permanent impairment of the left lower extremity for the period June 30, 2004 to January 17, 2005, a total of 28.8 weeks of compensation.

### **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees' Compensation Act<sup>1</sup> sets forth the number of weeks of compensation to be paid for permanent loss, or loss of use of the members of the body listed in the schedule. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage loss of use.<sup>2</sup> However, the Act does not specify the manner in which the percentage of loss of use of a member is to be determined. For consistent results and to ensure equal justice under the law to all claimants, the Office has adopted the A.M.A., *Guides* (5<sup>th</sup> ed.) as the standard to be used for evaluating schedule losses.<sup>3</sup>

### **ANALYSIS**

In this case, Dr. Gragnani calculated a 10 percent impairment of appellant's left lower extremity based on a loss of flexion of the left knee as measured pursuant to Table 17.10 of the A.M.A., *Guides*.<sup>4</sup> Under section 17.2f of the A.M.A., *Guides*, it is stated that lower extremity impairment can be evaluated by assessing the range of motion of joints. The section indicates that the ranges listed in Tables 17-9 through 17-14 contain examples of mild, moderate and

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<sup>1</sup> 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(c).

<sup>2</sup> 5 U.S.C. § 8107(c)(19).

<sup>3</sup> 20 C.F.R. § 10.404.

<sup>4</sup> A.M.A., *Guides* at 537.

severe impairments which should be used as guidelines. In accordance with these guidelines, Dr. Gragnani measured 100 degrees of flexion in appellant's left knee and applied this finding to Table 17.10. Pursuant to this table, retained flexion between 80 degrees and 110 degrees of the knee is evaluated as a mild impairment, which results in an impairment of 10 percent. The Office medical adviser adopted Dr. Gragnani's findings and supported his rating of 10 percent impairment in the left lower extremity with rationale.

On appeal appellant contends that his knee injury has caused changes to his lifestyle. It is well established that factors such as employability or limitations on lifestyle activities do not bear on the calculation of impairment under a schedule award.<sup>5</sup>

There is no other probative medical evidence establishing that appellant sustained greater permanent impairment. The Office properly found that appellant has no more than a 10 percent permanent impairment to his left lower extremity.

### **CONCLUSION**

The Board finds that appellant has no more than a 10 percent permanent impairment to his left lower extremity.

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<sup>5</sup> See *Steven A. Barton*, Docket No. 02-977 (issued April 29, 2003); *Smith D. Littlefield*, 30 ECAB 814, 817 (1979).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 14, 2004 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: May 19, 2005  
Washington, DC

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member