

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

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**JEFFREY A. BRANSON, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Springfield , MO, Employer**

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**Docket No. 05-1485  
Issued: November 3, 2005**

*Appearances:*  
*Jeffrey A. Branson, pro se*  
*Office of the Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
WILLIE T.C. THOMAS, Alternate Judge

**JURISDICTION**

On July 1, 2005 appellant filed a timely appeal from an Office of Workers' Compensation Programs' merit decision dated April 1, 2005. Under 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 a three percent permanent impairment of his right and left upper extremities.

**FACTUAL HISTORY**

Appellant, a 37-year-old mail handler, filed a Form CA-2 claim for benefits on October 14, 2002, alleging that he developed a bilateral carpal tunnel condition causally related to factors of his employment. The Office accepted bilateral carpal tunnel syndrome. Dr. Kenneth Miller, an osteopath, performed surgery for right carpal tunnel release on January 24, 2003 and for left carpal tunnel release on August 13, 2003.

On July 26, 2004 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of his left and right arms.

In a report dated September 1, 2004, Dr. Miller stated that appellant had a moderate loss of handgrip strength and pinch grip strength. He found that appellant had an estimated impairment of 12 percent; however, he stated that he did not have access to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fifth edition).

In a report dated October 25, 2004, Dr. Jeffrey L. Woodward, Board-certified in physical medicine and rehabilitation, found that appellant had a two and one-half percent right and left upper extremity impairment. He noted appellant's complaints of grip weakness in his right and left hands, with specific complaints of pinch grip weakness. Dr. Woodward, using a goniometer, measured wrist extension of 60 degrees, flexion of 60 degrees, radial deviation of 30 percent, and ulnar deviation of 30 degrees. Using a manual muscle test, Dr. Woodward measured grip strength of 4/5, and thumb abduction of 4/5 without pain. Relying on the A.M.A., *Guides* Dr. Woodward found that appellant had a 0 percent sensory impairment; a 0 percent wrist/hand range of motion impairment; median nerve thenar muscular weakness, Grade 4, which amounted to a 25 percent motor deficit, which when multiplied by 10 percent, a maximum motor deficit equaled a 2½ percent impairment of the right and left upper extremities.<sup>1</sup>

In an impairment evaluation dated November 10, 2004, an Office medical adviser, relying on Dr. Woodward's findings and calculations, found that appellant had a three percent impairment of his right and left extremity based on the A.M.A., *Guides* (fifth edition). The Office medical adviser rounded off the two and one-half percent impairment of the right and left extremities to a three percent impairment of both extremities.

On April 1, 2005 the Office granted appellant a schedule award for a 6 percent permanent impairment of the upper extremities for the period February 28 to July 8, 2004, for a total of 18.72 weeks of compensation.

### **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees' Compensation Act<sup>2</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>3</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 insure equal justice under the law to all claimants, the

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<sup>1</sup> Dr. Woodward did not identify the Table in the A.M.A., *Guides* upon which he relied. However, Table 16-11 at page 484, "Determining Impairment of the Upper Extremity Due to Motor and Loss-of-Power Deficits Resulting From Peripheral Nerve Disorder Based on Individual Muscle Rating," conforms to the factors Dr. Woodward listed in calculating his impairment rating.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.; see 5 U.S.C. § 8107(c).

<sup>3</sup> 5 U.S.C. § 8107(c)(19).

Office has adopted the A.M.A., *Guides* (fifth edition) as the standard to be used for evaluating schedule losses.<sup>4</sup>

### ANALYSIS

In this case, the Office medical adviser determined that appellant had a three percent impairment of both upper extremities based on Dr. Woodward's findings and calculations in his October 25, 2004 report. Dr. Woodward calculated a two and one-half percent impairment of the right and left upper extremities based on measured grip strength of 4/5, and thumb abduction of 4/5 without pain. Under section 16.5 of the A.M.A., *Guides*, "Impairment of the Upper Extremities Due to Peripheral Nerve Disorders, the subsection 16.5(b) indicates at page 481 under the heading, "Impairment Evaluation Methods" that Table 16-11(a) pertains to the rating of motor deficits by the respective maximum upper extremity impairment value resulting from sensory and/or motor deficit of each nerve structure involved. The A.M.A., *Guides* state under the above subsection, at page 484:

"Upper extremity impairments due to motor deficits and loss of power resulting from peripheral nerve disorders are determined according to the grade of severity of loss of function and the relative maximum upper extremity impairment value of the nerve structures involved, as shown in the classification (a) and procedural (b) described in Table 16-11 and the impairment determination method detailed in [s]ection 16.5b."

Employing the above formula, Dr. Woodward found that appellant had a Grade 4 median nerve thenar muscular weakness, which amounted to a 25 percent motor deficit pursuant to Table 16-11 at page 484 of the A.M.A., *Guides*. He multiplied this 25 percent deficit by 10 percent, which totaled a 2½ percent impairment of the right and left upper extremities. The Office medical adviser adopted Dr. Woodward's findings and rounded off the two and one-half percent impairment of the upper extremities to a three percent impairment for the right and left upper extremities. The Board holds that the Office properly found, based on the Office medical adviser's adoption of Dr. Woodward's findings, that appellant had a three percent impairment of the right and left upper extremities based on the A.M.A., *Guides*.<sup>5</sup>

The record contains the September 1, 2004 report from Dr. Miller in which he opined that appellant had a 12 percent impairment of the upper extremities based on a moderate loss of handgrip strength and pinch grip strength. Dr. Miller, however, indicated that he did not correlate this impairment finding with the A.M.A. *Guides*. Therefore, the medical evidence appellant submitted did not establish that appellant is entitled to an additional schedule award. As Dr. Miller offered a mere conclusion regarding the degree of appellant's impairment, without

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<sup>4</sup> 20 C.F.R. § 10.404.

<sup>5</sup> The Office erred in its April 1, 2005 decision by awarding appellant a six percent impairment "of the arm." The correct award, as recommended by the Office medical adviser, was for a three percent impairment for both the right and the left upper extremities. Nevertheless, as the number of weeks of compensation was the same for a six percent impairment for one arm as it would have been for a three percent impairment to both upper extremities, the Office's error is harmless. The Office should, however, issue an amended order which reflects the proper award based on a three percent impairment of the right and left upper extremities.

explaining the basis for his rating, the Office medical adviser properly found that appellant was not entitled to more than a three percent impairment for each upper extremity.

As there is no other probative medical evidence establishing that appellant sustained any additional permanent impairment, the Office properly found that appellant was not entitled to more than a three percent permanent impairment to his right and left upper extremities.

**CONCLUSION**

The Board finds that appellant has no more than a three percent permanent impairment to his right and left upper extremities.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 11, 2004 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: November 3, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge  
Employees' Compensation Appeals Board