

On January 19, 1999 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of his left lower extremity. By decision dated June 20, 2001, the Office denied appellant's request for a schedule award. By letter dated July 16, 2001, he requested a review of the written record.

By decision dated May 7, 2003, an Office hearing representative set aside the June 20, 2001 Office decision and remanded the case for further development of the medical evidence.

In a report dated July 1, 2003, Dr. Jorge Tijmes, a Board-certified orthopedic surgeon, found that appellant had a five percent impairment of the left lower extremity based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fifth edition). He stated:

“[Appellant] does have signs of symptomatology resulting from impairment to the S1 nerve root on the left. This is evidenced by the weakness on the extensor hallucis longus and gastrocnemius muscles. Based on Table 15-16, [appellant] has a [G]rade 4 classification of the S1 nerve root. This gives a maximum 25 percent motor deficit.

Following the guidelines on Table 15-18, for the S1 nerve root, a maximum percent loss of function due to strength is 20 percent. When multiplying the 20 percent with the 25 percent from Table 15-16, this equals to a 5 percent impairment. Therefore, [appellant] has a residual five percent impairment on the left leg secondary to the lumbar injury.”

In an impairment evaluation dated July 28, 2003, an Office medical adviser adopted Dr. Tijmes' findings and conclusions that appellant had a five percent impairment of his left lower extremity.

On August 8, 2003 the Office granted appellant a schedule award for a five percent impairment of the left lower extremity for the period July 1 to October 9, 2003, for a total of 14.40 weeks of compensation.

By letter dated February 15, 2004, appellant requested an oral hearing which was held on February 15, 2005. He submitted reports dated February 25 and March 28, 2005 from Dr. Madhavan Pisharodi, a Board-certified neurosurgeon. He related appellant's complaints of back pain and stiffness with bilateral leg weakness, numbness and occasional muscle cramps which interfered with his daily activities. Dr. Pisharodi advised that he was permanently disabled from gainful employment, but did not provide an impairment rating.

By decision dated April 22, 2005, an Office hearing representative affirmed the August 8, 2003 decision.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ 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.² 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 Office has adopted the A.M.A., *Guides* (5th ed.) as the standard to be used for evaluating schedule losses.³

ANALYSIS

The Board finds that appellant has a five percent impairment of the left lower extremity based on the A.M.A., *Guides*. The method for determining an impairment rating based on spinal cord or nerve root impairment is outlined at Chapter 15, subsection 12, at page 423, of the A.M.A., *Guides*. This section states that, if any neural impairment is identified, the examiner must: (1) identify the nerve involved based on the clinical evaluation; and (2) determine the extent of any sensory and motor loss due to nerve impairment based on Table 15-16 at page 424. Once this evaluation is made, the maximum impairment due to nerve dysfunction is calculated pursuant at Table 15-18 at page 424. Using this method, Dr. Tijme found that appellant had an impairment stemming from the S1 nerve root on the left, as manifested by weakness in the extensor hallucis longus and gastrocnemius muscles. Pursuant to Table 15-16, he found that this weakness translated to a Grade 4 classification of the S1 nerve root, which rendered the maximum 25 percent motor deficit. Dr. Tijme, utilized Table 15-18 for the S1 nerve root, noting a maximum percent loss of function due to strength was 20 percent. He then multiplying this 20 percent loss of function times the 25 percent motor deficit from Table 15-16 to find a 5 percent impairment of the left lower extremity. The Office medical adviser properly adopted the five percent impairment rating which was made in accordance with the applicable tables and figures in the A.M.A., *Guides*. The Office's August 8, 2003 decision granting appellant a five percent award for left lower extremity impairment was, therefore, proper and based on the available medical evidence of record.

Appellant requested a hearing and submitted the February 25 and March 28, 2005 reports from Dr. Pisharodi. These reports, however, did not contain any impairment rating in conformance with the A.M.A. *Guides*. Therefore, the medical evidence appellant submitted does not establish that he is entitled to a greater schedule award. The Board will affirm the Office's April 22, 2005 decision.

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

² 5 U.S.C. § 8107(c)(19).

³ 20 C.F.R. §10.404.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the April 22, 2005 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: November 23, 2005
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board