

with her right arm for five days per week.¹ The Office accepted that she sustained calcifying tendinitis of the right shoulder and right rotator cuff syndrome.² On February 24, 2003 appellant underwent right shoulder surgery which was authorized by the Office. The surgery was performed by Dr. Dean Ziegler, an attending Board-certified orthopedic surgeon, and consisted of arthroscopic debridement, subacromial acromioplasty, distal clavicle excision and rotator cuff repair with corkscrew anchors and wire sutures. In April 2003, appellant returned to light-duty work for the employing establishment and in June 2004 she returned to her regular work. The Office paid appropriate compensation for periods of disability.

In a note dated October 14, 2003, Dr. Ziegler stated that appellant reported that she was doing well performing her regular work, but that she experienced some stiffness in her right shoulder. He recommended that she continue at work with aggressive stretching and strengthening. In a note dated November 20, 2003, Dr. Ziegler indicated that appellant had excellent strength in her right shoulder but was experiencing some stiffness. The record contains numerous reports of her periodic visits to a physical therapist.

In a note dated January 8, 2004, Dr. Ziegler stated that appellant had a “disability rating of 10 percent based on an amputation of the shoulder due to the fact that she still has some stiffness as well as some irritation with the arm away from the body.” He periodically provided the findings of range of motion testing for flexion, extension, external rotation and internal rotation of the right shoulder. In a note dated March 9, 2004, Dr. Ziegler indicated that appellant had right shoulder flexion of 150 degrees, extension of 60 degrees, external rotation of 90 degrees and internal rotation of 20 degrees. In a note dated November 16, 2004, Dr. Ziegler indicated that appellant reported slight irritation at the acromioclavicular joint and that supraspinatus revealed slight pain and some weakness. He stated that she had a “disability rating of 10 percent based on amputation of the shoulder due to the weakness of the supraspinatus and the damage of both the supraspinatus and the acromioclavicular joint.”

In January 2005 the Office referred the case record to Dr. David H. Garelick, a Board-certified orthopedic surgeon and Office medical adviser, for evaluation of appellant’s permanent impairment in accordance with the standards of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001).

In a report dated January 17, 2005, Dr. Garelick indicated that he had reviewed the case record and concluded that appellant had a 19 percent impairment of her right arm. He stated that she had a two percent impairment for sensory loss which consisted of a category three pain grade (A.M.A., *Guides* 482, Table 16-10), multiplied by the maximum value of five percent for sensory loss associated with the suprascapular nerve (A.M.A., *Guides* 492, Table 16-15). Dr. Garelick also noted that appellant had a 2 percent impairment for motor loss which consisted of a category 4/5 motor loss grade (A.M.A., *Guides* 484, Table 16-11), multiplied by the maximum value of 16 percent for motor loss associated with the suprascapular nerve (A.M.A., *Guides* 492, Table 16-15). He indicated that she was entitled to a 10 percent rating for resection

¹ Appellant initially indicated that the injury occurred on December 20, 2001, but she later clarified that it occurred over a period of time.

² Appellant continued to work in a light-duty position for the employing establishment.

arthroplasty of the right distal clavicle (A.M.A., *Guides* 506, Table 16-27). Dr. Garelick stated that appellant's right shoulder flexion of 150 degrees equaled a 2 percent impairment; her external rotation of 75 degrees equaled a 0 percent impairment; and her 20 degrees of internal rotation equaled a 4 percent impairment (A.M.A., *Guides* 476, 479, Figures 16-40, 16-46). He determined that combining these separate rating values using the Combined Values Chart on page 604 of the A.M.A., *Guides* yielded a total right arm impairment of 19 percent.

By decision dated June 1, 2005, the Office granted appellant a schedule award for a 19 percent impairment of her right arm. The award ran for 59.28 weeks from March 9, 2004 to April 27, 2005.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act³ and its implementing regulation⁴ sets forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of scheduled 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 regulations as the appropriate standard for evaluating schedule losses.⁵

It is well established that proceedings under the Act are not adversarial in nature and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.⁶

ANALYSIS

The Office accepted that due to a December 30, 2001 employment injury appellant sustained calcifying tendinitis of the right shoulder and right rotator cuff syndrome and on February 24, 2003 she underwent excision of the right distal clavicle with arthroscopic debridement.

The Office based its schedule award on the January 17, 2005 report of Dr. Garelick, a Board-certified orthopedic surgeon and Office medical adviser. He did not examine appellant but rather reviewed the case file, including the medical reports of Dr. Ziegler, an attending Board-certified orthopedic surgeon. The Board notes that Dr. Garelick properly determined that she had a two percent impairment for sensory loss which consisted of a category three pain grade multiplied by the maximum value of five percent for sensory loss associated with the

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404 (1999).

⁵ *Id.*

⁶ *Dorothy L. Sidwell*, 36 ECAB 699, 707 (1985); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

suprascapular nerve.⁷ He also properly determined that appellant had a 2 percent impairment for motor loss which consisted of a category 4/5 motor loss grade multiplied by the maximum value of 16 percent for motor loss associated with the suprascapular nerve.⁸

Dr. Garelick further determined that appellant had right shoulder flexion of 150 degrees which equaled a 2 percent impairment; external rotation of 75 degrees which equaled a 0 percent impairment; and 20 degrees of internal rotation which equaled a 4 percent impairment. The Board notes that the A.M.A., *Guides* requires evaluation of six ranges of shoulder motion: flexion, extension, abduction, adduction, external rotation and internal rotation.⁹ Therefore, Dr. Garelick's evaluation of appellant's range of motion loss is incomplete.¹⁰ He also determined that she was entitled to a 10 percent rating for resection arthroplasty of the right distal clavicle. Appellant did undergo resection arthroplasty of the right distal clavicle, which may entitle a claimant to a 10 percent impairment rating in some cases. However, Dr. Garelick did not explain, as required by the A.M.A., *Guides*, why her impairment was not fully covered by the methods for evaluating her range of motion, sensory and motor losses such that she would also be entitled to a diagnosis-based impairment rating.¹¹ For these reasons, the case will be remanded to the Office for further development.¹² After such development it deems necessary, the Office should issue an appropriate decision regarding appellant's entitlement to schedule award compensation due to impairment of her right arm.

CONCLUSION

The Board finds that the case is not in posture for decision regarding whether appellant has more than a 19 percent impairment of her right arm, for which she received a schedule award. The case shall be remanded to the Office for further development to be followed by an appropriate decision.

⁷ The average value for a category 3 pain grade would be 43 percent and multiplying this value times the maximum value of 5 percent for sensory loss associated with the suprascapular nerve, when rounded down, would equal 2 percent. See A.M.A., *Guides* 482, 492, Tables 16-10, 16-15.

⁸ The value for a category 4/5 motor loss grade would be 12.5 percent and multiplying this value times the maximum value of 16 percent for motor loss associated with the suprascapular nerve would equal 2 percent. See A.M.A., *Guides* 484, 492, Tables 16-11, 16-15.

⁹ See A.M.A., *Guides* 476-77, 479, Figures 16-40, 16-43, 16-46.

¹⁰ It is unclear how Dr. Garelick chose all of the particular values for the ranges of motion he listed. The last medical evidence to include range of motion testing was a March 9, 2004 note in which Dr. Ziegler indicated that appellant had right shoulder flexion of 150 degrees, extension of 60 degrees, external rotation of 90 degrees and internal rotation of 20 degrees. It should be noted that the record does not contain any medical evidence from near the time of the June 1, 2005 schedule award which evaluates her right shoulder abduction and adduction. Dr. Ziegler indicated in January and November 2004, that appellant had a 10 percent right arm impairment, but he did not adequately explain these ratings.

¹¹ See A.M.A., *Guides* 499, 506, section 16.7 and Table 16-27.

¹² See *supra* note 6 and accompanying text.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' June 1, 2005 decision is set aside and the case remanded to the Office for further proceedings consistent with this decision of the Board.

Issued: October 21, 2005
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

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