

Board remanded the case for resolution of the conflict. As the Board noted in its decision, on March 20, 2000 the Office had issued a schedule award for a 40 percent left arm impairment and 20 percent for the right arm. The period of the award was 187 weeks of compensation from September 16, 1999 to April 19, 2003.

The Office referred appellant, together with a statement of accepted facts and medical records, to Dr. Dara Jamieson, a Board-certified neurologist, to resolve the conflict. In a report dated May 14, 2002, she provided a history and detailed results on examination. Dr. Jamieson reported that Tinel's sign and Phalen's test did not elicit complaint of radicular pain and "active and passive range of motion, including flexion and extension and ulnar and radial deviation, of her wrists was normal with distraction; although, appellant complained of mild diffuse wrist pain with manipulation." Dr. Jamieson indicated that there was no evidence of hand, shoulder or arm weakness on formal or functional testing. She reviewed the medical records and stated that she did not believe appellant had symptomatic carpal tunnel syndrome at that time. Dr. Jamieson further stated:

"Carpal tunnel syndrome is a clinical diagnosis which is made on the basis of symptoms and signs of medical nerve compression at the wrist. Specific complaints and findings on examination, lacking in [appellant], are necessary to make the diagnosis. Her symptoms of hand, arm and shoulder pain and sensations are nonspecific and are not consistent with a median nerve injury. [Appellant] does not have restriction of wrist movement, which is not [sic] a symptom of medical nerve compression. She does not have evidence of weakness or atrophy of the median nerve innervated muscles which would be expected with chronic carpal tunnel syndrome. [Appellant's] reported sensory loss in her hands is not consistent with nerve damage of any distribution. [Her] response to percussion of the median nerve at the wrist was not consistent with carpal tunnel syndrome. I do not find any credible evidence of functional impairment or neurological injury in her hands. I believe that [appellant] has reached maximum medical improvement and does not have a disability based on carpal tunnel syndrome."

By decision dated June 10, 2002, the Office determined that appellant was not entitled to an additional schedule award. In a letter dated June 12, 2002, the Office advised her that it proposed to terminate her schedule award compensation on the grounds that the weight of the evidence was represented by Dr. Jamieson, who did not find any permanent impairment to the arms. Appellant was advised to submit relevant evidence within 30 days.

Appellant submitted reports dated July 9 and August 6, 2002 from Dr. John Bednar, a hand surgeon, and evidence previously of record. He diagnosed a mild medical neuropathy, left carpal tunnel. Dr. Bednar did not provide an opinion with respect to permanent impairment.

In a decision dated October 17, 2002, the Office terminated entitlement to continuing compensation pursuant to the March 20, 2000 schedule award. Appellant requested a hearing before an Office hearing representative which was held on April 7, 2005.

By decision dated August 4, 2005, the hearing representative affirmed the October 17, 2002 Office decision.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent disability involving the loss or loss of use, of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.² Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the uniform standard applicable to all claimants.³

The Office has the burden of justifying termination or modification of compensation benefits.⁴ It is well established that, when a case is referred to an impartial medical specialist for the purpose of resolving a conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background, must be given special weight.⁵

ANALYSIS

The schedule award in this case was issued on March 20, 2000 for a 40 percent left arm impairment and a 20 percent right arm impairment. The period of the award was 187 weeks commencing September 16, 1999. With respect to the left arm, the Board found that a conflict existed and the case was referred to Dr. Jamieson. Although appellant argues that the May 14, 2002 report was not of sufficient probative value to represent the weight of the evidence, Dr. Jamieson provided a history and discussed her examination findings in detail. She provided a reasoned medical opinion that appellant did not have a left arm impairment. Dr. Jamieson explained that the examination results did not establish a continuing carpal tunnel syndrome and there was no current impairment to the arm. The report is entitled to the special weight accorded to a reasoned medical opinion of an impartial medical specialist. Appellant submitted reports from Dr. Bednar, but these reports did not provide a detailed background and did not discuss the degree of impairment. The Board finds that the weight of the medical evidence is represented by Dr. Jamieson.

The schedule awards provided for compensation from September 16, 1999 through April 19, 2003. The Board notes that the conflict was limited to the left arm and even though Dr. Jamieson appeared to provide results for both arms, the 20 percent impairment for the right arm was not at issue. Appellant had, however, received over three years of compensation as of

² 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

³ A. *George Lampo*, 45 ECAB 441 (1994).

⁴ *Jorge E. Stotmayor*, 52 ECAB 105, 106 (2000).

⁵ *Harrison Combs, Jr.*, 45 ECAB 716, 727 (1994).

October 17, 2002. Three years of compensation (156 weeks) represents 50 percent of the maximum 312 weeks of compensation for the arm.⁶ The probative medical evidence did not show a greater impairment to the arm. The Board finds that the Office properly determined that, based on the weight of the medical evidence appellant was not entitled to continuing compensation pursuant to the March 20, 2000 schedule award.

CONCLUSION

The Office properly determined that appellant was not entitled to continuing compensation pursuant to the March 20, 2000 schedule award after October 17, 2002.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 4, 2005 is affirmed.

Issued: April 5, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

⁶ See 5 U.S.C. § 8107(c)(1).