

sustained an employment-related partial tear of the supraspinatus of his right shoulder. On April 28, 2004 appellant underwent Office-authorized right shoulder surgery which included rotator cuff repair, labral tear revision, glenohumeral joint debridement, subacromial decompression and distal clavicle co-planing.

Appellant stopped work at the time of his surgery but returned to light-duty work for the employing establishment in June 2004. He participated in periodic physical therapy sessions.

In early 2005 appellant claimed entitlement to a schedule award in connection with his June 4, 2003 employment injury.

In a report dated March 3, 2005, Dr. Todd Daniels, an attending physician Board-certified in physical medicine and rehabilitation, indicated that appellant had reached maximum medical improvement and provided range of motion findings for his right shoulder. He noted that appellant had flexion of 155 degrees, extension of 60 degrees, abduction of 165 degrees, adduction of 60 degrees, external rotation of 80 degrees and internal rotation of 55 degrees. Dr. Daniels indicated that, according to the standards of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001), appellant's flexion of 155 degrees equaled a 2 percent impairment, his abduction of 165 degrees equaled a 1 percent impairment and his internal rotation of 55 degrees equaled a 2 percent impairment. He then added these figures for limited range of right shoulder motion and concluded that appellant had a 5 percent permanent impairment of his right arm.

On June 9, 2005 the Office district medical adviser used the range of motion findings obtained by Dr. Daniels to provide a calculation of the permanent impairment of appellant's right arm. He indicated that appellant's flexion of 155 degrees equaled a 1 percent impairment, his extension of 60 degrees equaled a 0 percent impairment, his abduction of 165 degrees equaled a 0 percent impairment, his adduction of 60 degrees equaled a 0 percent impairment, his external rotation of 80 degrees equaled a 0 percent impairment and his internal rotation of 55 degrees equaled a 2 percent impairment. The Office medical adviser noted that the only difference between his calculation and that of Dr. Daniels was that the values for the flexion and abduction findings fell between the designated values for impairment in Figures 16-40 and 16-43, of the A.M.A., *Guides* 476-79. He stated that it was appropriate to assign the lower impairment ratings rather than the higher impairment ratings.

By award of compensation dated August 25, 2005, the Office granted appellant a schedule award for a three percent permanent impairment of his right arm.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act² and its implementing regulation³ 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

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404 (1999).

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 regulation as the appropriate standard for evaluating schedule losses.⁴

ANALYSIS

The Office accepted appellant's employment-related partial tear of the supraspinatus of his right shoulder on June 4, 2003. On August 25, 2005 the Office granted appellant a schedule award for a three percent permanent impairment of his right arm, based on a June 9, 2005 calculation of an Office medical adviser.

The Board finds that the March 3, 2005 calculation of Dr. Daniels, an attending physician Board-certified in physical medicine and rehabilitation, provides a proper evaluation of the permanent impairment of appellant's right arm under the relevant standards, including the strictures of the A.M.A., *Guides* and, therefore, appellant has a five percent impairment of his right arm.⁵ Dr. Daniels noted that appellant had flexion of 155 degrees, extension of 60 degrees, abduction of 165 degrees, adduction of 60 degrees, external rotation of 80 degrees and internal rotation of 55 degrees. He then properly applied the standards of the A.M.A., *Guides* to find that appellant's flexion of 155 degrees equaled a 2 percent impairment, his abduction of 165 degrees equaled a 1 percent impairment and his internal rotation of 55 degrees equaled a 2 percent impairment.⁶ He added these figures to find a five percent permanent impairment of appellant's right arm due to loss of range of motion. In reaching this conclusion, he properly determined that, because the values for the flexion and abduction findings fell between the designated values for impairment in Figures 16-40 and 16-43, it was appropriate to assign the higher impairment ratings rather than the lower impairment ratings.⁷

In finding that appellant had a three percent impairment of his right arm, the Office medical adviser assigned the lower impairment ratings for the flexion and abduction findings which fell between the designated values for impairment in Figures 16-40 and 16-43.⁸

For these reasons, the Board finds that appellant has a five percent permanent impairment of his right arm.

⁴ *Id.*

⁵ See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

⁶ See A.M.A., *Guides* 476-79, Figures 16-40, 16-43, and 16-46.

⁷ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.3.b (June 2003); *Carolyn E. Sellers*, 50 ECAB 393, 394 (1999). For example, under Figure 16-40, flexion of 160 degrees represents a 1 percent impairment and flexion of 150 degrees represents a 2 percent impairment. Dr. Daniels properly determined that appellant's flexion of 155 degrees, a value which is not specifically listed in Figure 16-40, should be assigned the higher impairment rating of 2 percent.

⁸ This resulted in a one percent rating for flexion, rather than the proper two percent, and a zero percent rating for abduction, rather than one percent.

CONCLUSION

The Board finds that appellant has a five percent permanent impairment of his right arm.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' August 25, 2005 decision is modified to reflect that appellant has a five percent permanent impairment of his right arm, and is affirmed as modified.

Issued: February 6, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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