

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

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**ANGELA JONES, Appellant**

**and**

**U.S. POSTAL SERVICE, CORPORATE  
PERSONNEL MANAGEMENT,  
Washington, DC, Employer**

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**Docket No. 05-1889  
Issued: June 21, 2006**

*Appearances:*  
*Jeffrey P. Zeelander, Esq., for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On September 8, 2005 appellant filed a timely appeal of a February 8, 2005 decision of the Office of Workers' Compensation Programs regarding a schedule award. Pursuant to 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 10 percent permanent impairment to her right leg, for which she received a schedule award.

**FACTUAL HISTORY**

The Office accepted that appellant sustained left foot and ankle sprains, right knee sprain and patella tendinitis as a result of a slip and fall at work on August 9, 2001. She underwent right knee patellar tendon augmentation surgery on March 11, 2002.

In a report dated July 15, 2003, Dr. Charles Ruland, a Board-certified orthopedic surgeon, provided a history and results on examination. He diagnosed right knee patellar contusion with chronic patellar tendinitis/partial tear. With respect to a permanent impairment, Dr. Ruland

indicated that appellant had right calf atrophy of 1.5 centimeters, for a 5 percent leg impairment under Table 17-6 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). He stated that he did not see any evidence of knee arthritis.

In a treatment note dated August 5, 2003, Dr. Wayne Rozran, a Board-certified orthopedic surgeon, stated that appellant was on permanent light duty because of pain, atrophy, loss of endurance and antalgic gait. He opined that appellant had a 40 percent right lower extremity impairment.

The case was referred to an Office medical adviser for an opinion as to the degree of permanent impairment. In a report dated November 14, 2003, the medical adviser indicated that Dr. Ruland provided a complete report with an explanation as to how the percentage of impairment was calculated, while Dr. Rozran did not provide any explanation. The medical adviser concurred that based on a 1.5 centimeter (cm) atrophy appellant had a five percent right leg impairment. The date of maximum medical improvement was reported as March 11, 2003, one year after the surgery.

By decision dated January 5, 2004, the Office granted a schedule award for a five percent right lower extremity impairment. The period of the award was 14.40 weeks from March 11, 2003.

Appellant requested a hearing before an Office hearing representative, which was held on August 12, 2004. In a report dated January 13, 2004, Dr. Rozran provided results on examination, finding range of motion for the right knee at about 100 degrees, with effusion and tenderness along the patellar tendon. He reported diminished motor strength in the right leg. Dr. Rozran again opined that appellant had a 40 percent right leg impairment.

In a report dated May 26, 2004, Dr. Ruland provided results on examination and discussed appellant's impairment rating. He reported 120 degrees of active range of motion and 145 degrees of passive range of motion with pain. Dr. Ruland found muscle strength of 5/5 for knee flexion and 4+/5 for extension. He opined that appellant had a thigh atrophy of 1.5 cm, resulting in a 5 percent impairment, as well as a 1.5 cm atrophy of the calf, for an additional 5 percent or a 10 percent right leg impairment under Table 17-6. Dr. Ruland noted that there was a discrepancy between his impairment rating and Dr. Rozran's, but he was unable to determine how Dr. Rozran had calculated his impairment rating.

In a treatment note dated June 1, 2004, Dr. Rozran stated that appellant's gait pattern was antalgic and motor, sensory and reflex examination showed weakness and atrophy in the quad and hamstring muscles. Dr. Rozran opined that appellant had a 60 percent right leg impairment.

By decision dated November 9, 2004, the hearing representative noted that Dr. Ruland had reported greater than a five percent right leg impairment and the case was remanded for referral to an Office medical adviser. In a report dated January 12, 2005, an Office medical adviser concurred that under Table 17-6 the findings of Dr. Ruland resulted in a 10 percent right lower extremity impairment. The date of maximum medical improvement was reported as May 26, 2004, the date of examination by Dr. Ruland.

By decision dated February 8, 2005, the Office issued a schedule award for an additional five percent permanent impairment to the right leg. The period of the award was 14.40 weeks from May 26, 2004.

### **LEGAL PRECEDENT**

Under section 8107 of the Federal Employees' Compensation Act<sup>1</sup> and section 10.404 of the implementing federal regulations,<sup>2</sup> schedule awards are payable for permanent impairment of specified body members, functions or organs. The Act, however, does not specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for 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 Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.<sup>3</sup>

### **ANALYSIS**

The Office issued schedule awards for a 10 percent permanent impairment to the right leg based on the reports of Dr. Ruland and the Office medical adviser. Dr. Ruland provided detailed medical reports with a clear description of the physical findings. Moreover, Dr. Ruland provided a reasoned opinion as to the percentage of impairment based on the A.M.A., *Guides*. He identified Table 17-6, which provides impairments due to leg muscle atrophy. Table 17-6 allows a leg impairment of 3 to 8 percent for mild atrophy of the thigh of 1 to 1.9 cm.<sup>4</sup> A similar leg impairment is provided for calf muscle atrophy. Since the atrophy of 1.5 cm was in the middle of the range from 1 to 1.9, Dr. Ruland chose a value of five percent from the range of three to eight percent for each muscle atrophy. The Office medical adviser concurred in finding a total impairment of 10 percent based on thigh and calf atrophy.

Appellant argues that the award does not adequately represent her impairment, but this is a medical issue and the weight of the medical evidence rests with Dr. Ruland and the Office medical adviser. The evidence from Dr. Rozran providing impairment estimates of 40 percent and 60 percent of the right leg is of limited probative value. Dr. Rozran does not provide a detailed description of the impairment or provide any explanation as to how, under the A.M.A., *Guides*, his impairment rating was calculated.<sup>5</sup> He did not refer to any specific tables or explain the method used to determine the impairment rating. Dr. Rozran's reports are not sufficient to establish an impairment greater than the 10 percent awarded in this case. Based on the probative

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> 20 C.F.R. § 10.404.

<sup>3</sup> *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

<sup>4</sup> A.M.A., *Guides* 530, Table 17-6.

<sup>5</sup> To support a schedule award, the attending physician must include a detailed description of the impairment. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(c) (August 2002).

evidence of record, appellant has not established more than a 10 percent right lower extremity permanent impairment.

The number of weeks of compensation for a schedule award is determined by the compensation schedule at 5 U.S.C. § 8107(c). For complete loss of use of the leg, the maximum number of weeks of compensation is 288 weeks. Since appellant's impairment was 10 percent, she is entitled to 10 percent of 288 weeks, or 28.80 weeks of compensation. Appellant received 14.40 weeks in the January 5, 2004 decision and an additional 14.40 weeks in the February 8, 2005 decision. It is well established that the period covered by a schedule award commences on the date that the employee reaches maximum medical improvement from residuals of the employment injury.<sup>6</sup> In this case, the Office medical adviser concluded that the date of maximum medical improvement was the date of examination by Dr. Ruland.

### **CONCLUSION**

Appellant does not have more than a 10 percent permanent impairment to her right leg, for which she received a schedule award.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 8, 2005 is affirmed.

Issued: June 21, 2006  
Washington, DC

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

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

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<sup>6</sup> *Albert Valverde*, 36 ECAB 233, 237 (1984).