

the traumatic injury claim stated that the claim was accepted for left shoulder and arm strain, contusion of the left arm and shoulder and left hand strain. A March 8, 2004 statement of accepted facts reported that the claim was accepted for left shoulder rotator cuff strain and arthroscopic surgery. The left shoulder surgery was performed by Dr. William Caffrey, an orthopedic surgeon, on November 22, 1995.

In a report dated May 3, 1996, Dr. Caffrey stated that, while appellant did have not any impairment due to loss of motion, she did have impairment and pain “most likely due to subluxation of the shoulder.” He opined that appellant had a 12 percent permanent impairment to the left arm, based on a mild subluxation of the shoulder under the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).

An Office medical adviser reviewed the medical evidence. In a May 16, 1996 report, he noted that a subluxation had not been diagnosed and Dr. Caffrey’s report was insufficient to establish a secure diagnosis. The medical adviser also stated in a May 28, 1996 report that a subluxation had not been described or diagnosed in appellant’s case.

By report dated March 30, 2004, Dr. Caffrey stated that appellant had continued symptoms of subluxation and a 12 percent left arm impairment. He cited Table 16-26 of the A.M.A., *Guides* for upper extremity impairments due to symptomatic shoulder instability patterns. Dr. Caffrey found a Class 2 impairment for a subluxating humeral head. With respect to range of left shoulder motion, Dr. Caffrey provided the following results: 160 degrees of flexion, 50 degrees extension, 120 degrees abduction, 20 degrees adduction, 50 degrees external rotation and 60 degrees internal rotation. Dr. Caffrey stated that the impairment for loss of range of motion was nine percent.

In a decision dated January 11, 2005, the Office issued a schedule award for a nine percent left arm permanent impairment. The period of the award was 28.08 weeks from March 30, 2004.

Appellant requested a hearing before an Office hearing representative, which was held on November 22, 2005. By decision dated February 9, 2006, the hearing representative remanded the case for further development. The hearing representative noted that, while an Office medical adviser had previously discussed shoulder subluxation, a medical adviser did not review the loss of range of motion impairment estimate provided by Dr. Caffrey.

In a report dated March 22, 2006, the medical adviser opined that impairment for loss of range of motion was six percent based on the findings of Dr. Caffrey. By decision dated April 27, 2006, the Office found that appellant was not entitled to an additional schedule award.

LEGAL PRECEDENT

Under section 8107 of the Federal Employees’ Compensation Act¹ and section 10.404 of the implementing federal regulations,² schedule awards are payable for permanent impairment of

¹ 5 U.S.C. §§ 8101-8193.

² 20 C.F.R. § 10.404.

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.³ As of February 1, 2001, the fifth edition of the A.M.A., *Guides* was to be used to calculate schedule awards.⁴

ANALYSIS

The attending physician, Dr. Caffrey, provided two alternate methods of rating appellant's left upper extremity impairment. He cited Table 16-26, which provides arm impairments due to systematic shoulder instability patterns.⁵ A 12 percent arm impairment is found for a subluxating humeral head within the parameters set forth in the table. With respect to the diagnosis of shoulder subluxation, an Office medical adviser opined in 1996 that the diagnosis had not been established. Dr. Caffrey indicated in a March 30, 2004 report that he had not seen appellant for some time and the last report in the record prior to the 2004 report is a June 9, 1997 report. He noted the provisions of Table 16-26 but he did not provide a complete history, results on examination or address any diagnostic testing. The A.M.A., *Guides* states, "Shoulder instability, recurrent subluxation, or dislocation *must be adequately documented* through a complete medical history, physical examination and radiographic findings."⁶ (Emphasis in the original.) The Board finds that Dr. Caffrey did not adequately document the diagnosis of shoulder subluxation and the medical evidence does not establish a 12 percent left arm impairment.

With respect to loss of range of motion, the impairment to the arm based on the findings of Dr. Caffrey is: 160 degrees of flexion, 1 percent;⁷ 50 degrees extension, 0 percent;⁸ 120 degrees of abduction, 3 percent;⁹ 20 degrees adduction, 1 percent;¹⁰ 50 degrees of external rotation, 1 percent;¹¹ and 60 degrees of internal rotation, 2 percent.¹² Adding these impairments

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

⁴ FECA Bulletin No. 01-05 (issued January 29, 2001).

⁵ A.M.A., *Guides* 505, Table 16-26.

⁶ *Id.* at 504.

⁷ *Id.* at 476, Figure 16-40.

⁸ *Id.*

⁹ *Id.* at 477, Figure 16-43.

¹⁰ *Id.*

¹¹ *Id.* at 479, Figure 16-46.

¹² *Id.*

results in an eight percent left arm impairment. The medical adviser incorrectly found that 60 degrees of internal rotation did not result in an impairment and therefore concluded that appellant had a 6 percent arm impairment. It is not readily apparent how Dr. Caffrey calculated the nine percent upper extremity impairment.

Since the evidence does not establish more than the nine percent left arm impairment previously awarded, the Office properly found appellant was not entitled to an increased schedule award based on the evidence of record. Appellant received 9 percent of the maximum 312 weeks of compensation for loss of use of the arm, or 28.08 weeks of compensation.¹³

CONCLUSION

The medical evidence does not establish more than a nine percent permanent impairment to the left arm, for which appellant received a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 27, 2006 is affirmed.

Issued: November 29, 2006
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹³ 5 U.S.C. § 8107(c).