

dislocation. Appellant stopped work on May 5, 1978 and resumed his regular employment duties on August 5, 1978.

In an impairment evaluation dated April 11, 2005, Dr. Richard I. Zamarin, a Board-certified orthopedic surgeon, discussed appellant's complaints of decreased range of motion and pain with lifting in his right shoulder.¹ On examination of the right shoulder, he measured 130 degrees of flexion, 150 degrees abduction, 50 degrees adduction, 50 degrees extension and 90 degrees of internal and external rotation. Dr. Zamarin found that he had 5/5 strength in his supraspinatus, subscapularis and external rotator cuff. He applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001) (A.M.A., *Guides*) to his range of motion measurements and determined that appellant had a three percent impairment due to loss of flexion and a one percent impairment due to loss of abduction, for a total right upper extremity impairment of four percent.²

By letter dated June 16, 2005, appellant's attorney requested information on the status of his schedule award claim.

An Office medical adviser reviewed Dr. Zamarin's report on July 8, 2005 and determined that 130 degrees of flexion constituted a 3 percent impairment according to Figure 16-40 on page 476 of the A.M.A., *Guides*. He further found that 150 degrees of abduction constituted a 1 percent impairment according to Figure 16-43 on page 477 of the A.M.A., *Guides*. The Office medical adviser added the impairment findings due to loss of range of motion and concluded that appellant had a four percent impairment of the right upper extremity. He found that appellant received maximum medical improvement on April 11, 2005.

By decision dated December 6, 2005, the Office granted appellant a schedule award for a four percent impairment of his right upper extremity. The period of the award ran for 12.48 weeks from April 11 to July 7, 2005.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act,³ and its implementing federal regulation,⁴ 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 for all claimants, the Office has adopted the A.M.A., *Guides* as the uniform standard applicable to all

¹ Dr. Zamarin also evaluated the extent of appellant's right and left knee impairments.

² A.M.A., *Guides* 476-77, Figures 16-40 and 16-43.

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404.

claimants.⁵ Office procedures direct the use of the fifth edition of the A.M.A., *Guides*, issued in 2001, for all decisions made after February 1, 2001.⁶

ANALYSIS

The Office accepted that appellant sustained a dislocation of his right shoulder as a result of a May 5, 1978 employment injury. He underwent a repair of a posterior dislocation of the right shoulder on May 8, 1978 and on August 5, 1978 returned to his regular employment.

In support of his request for a schedule award, appellant submitted an impairment evaluation from Dr. Zamarin dated April 11, 2005. Dr. Zamarin measured his right shoulder range of motion as 130 degrees of flexion, 150 degrees abduction, 50 degrees adduction, 50 degrees extension and 90 degrees of internal and external rotation. He determined that appellant retained normal adduction, extension and internal and external rotation but had a three percent impairment due to loss of flexion and a one percent impairment due to loss of abduction, for a total right upper extremity impairment of four percent.

An Office medical adviser reviewed Dr. Zamarin's April 11, 2005 report and concurred with the physician's findings regarding appellant's right shoulder. The Office medical adviser properly found that 130 degrees of flexion constituted a 3 percent impairment and 150 degrees of abduction constituted a 1 percent impairment according to Figures 16-40 and 16-43 on pages 476 and 477 of the A.M.A., *Guides*. The Board further notes that 50 degrees adduction, 50 degrees extension, 90 degrees internal rotation and 90 degrees external rotation constitute no impairment according to the A.M.A., *Guides*.⁷ The Office medical adviser properly added the impairment findings due to loss of range of motion and concluded that appellant had a four percent impairment of the right upper extremity.⁸ Appellant has submitted no evidence showing a greater percentage of impairment of his right shoulder.

On appeal, appellant's attorney argues that the Board should modify the amount of the schedule award to reflect the impairment determination of Dr. Zamarin. Both Dr. Zamarin and the Office medical adviser, however, concluded that appellant had a four percent impairment of his right upper extremity.

CONCLUSION

The Board finds that appellant has no more than a four percent permanent impairment of his right upper extremity.

⁵ 20 C.F.R. § 10.404(a).

⁶ See FECA Bulletin No. 01-5, issued January 29, 2001.

⁷ A.M.A., *Guides* 476, 477, 479, Figures 16-43, 16-40, 16-46.

⁸ *Id.* at 479.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 6, 2005 is affirmed.

Issued: September 28, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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