

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

V.B., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Shrub Oak, NY, Employer**

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**Docket No. 06-813
Issued: September 18, 2006**

Appearances:
Thomas S. Harkins, Esq., for the appellant
Office of the Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On February 23, 2006 appellant filed a timely appeal from an Office of Workers' Compensation Programs' merit decision dated November 29, 2005. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this schedule award decision.

ISSUE

The issue is whether appellant has more than a two percent permanent impairment to her left upper extremity.

FACTUAL HISTORY

Appellant, a 46-year-old distribution clerk, injured her left wrist while picking up a flat tub of mail on February 10, 1997. She filed a claim for benefits on October 29, 2003, which the Office accepted for left wrist strain.

On November 29, 2004 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of her left wrist. In a report dated November 11, 2005, Dr. Marc A. Berezin, a Board-certified orthopedic surgeon, found that appellant had a two percent impairment of the left wrist based on the American Medical Association, *Guides to the Evaluation of Permanent*

Impairment (fifth edition), (the A.M.A., *Guides*). Dr. Berezin calculated this impairment by measuring a left wrist radial deviation of 10 degrees, as opposed to the normal, 20 degree radiation, pursuant to Figure 16-31 at page 649 of the A.M.A., *Guides*.

In an impairment evaluation dated November 11, 2005, an Office medical adviser, adopting Dr. Berezin's findings and conclusions, found that appellant had a two percent impairment of her left upper extremity based on the A.M.A., *Guides*.

On November 29, 2005 the Office granted appellant a schedule award for a two percent permanent impairment of the left upper extremity for the period November 11 to December 24, 2005 for a total of 43.68 days of compensation.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ sets forth the number of weeks of compensation to be paid for permanent loss, or loss of use of the members of the body listed in the schedule. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage loss of use.² However, the Act does not specify the manner in which the percentage of loss of use of a member is to be determined. For consistent results and to ensure equal justice under the law to all claimants, the Office has adopted the A.M.A., *Guides* (fifth edition) as the standard to be used for evaluating schedule losses.³

ANALYSIS

In this case, the Office medical adviser correctly concluded that appellant had a two percent impairment of the left upper extremity based on Dr. Berezin's finding of a left wrist radial deviation of 10 degrees, in accordance with Figure 16-31 at page 469 of the A.M.A., *Guides*.

As there is no other probative medical evidence establishing that appellant sustained any additional permanent impairment, the Office properly found that appellant was not entitled to more than a two percent permanent impairment to her left upper extremity.

CONCLUSION

The Board finds that appellant has no more than a two percent permanent impairment to her left upper extremity.

¹ 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(c).

² 5 U.S.C. § 8107(c)(19).

³ 20 C.F.R. § 10.404.

ORDER

IT IS HEREBY ORDERED THAT the November 29, 2005 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: September 18, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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