

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

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**R.M., Appellant**

**and**

**GENERAL SERVICES ADMINISTRATION,  
TIMBERLAKE ANNEX, Tampa, FL, Employer**

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**Docket No. 06-1409  
Issued: September 15, 2006**

*Appearances:*  
*Ronald S. Webster, Esq., for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

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

**JURISDICTION**

On June 13, 2006 appellant filed a timely appeal from Office of Workers' Compensation Programs' decisions dated February 3 and May 25, 2006, granting him 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 seven percent impairment of his left lower extremity.

**FACTUAL HISTORY**

On September 11, 2002 appellant, then a 54-year-old maintenance mechanic, filed a claim for a traumatic injury alleging that he sustained a left knee injury on September 9, 2002. He stood on a credenza to reach a water valve near a ceiling and felt a sharp pain in his knee. The Office accepted his claim for a left knee medial meniscus tear. On December 2, 2002 appellant underwent surgery consisting of left knee arthroscopy and a partial medial

meniscectomy. On August 13, 2004 the Office accepted the additional condition of left phlebitis/thrombophlebitis. On October 26, 2005 appellant filed a claim for a schedule award.

In office notes dated February 19, 2003, Dr. Thomas F. Winters, Jr., an attending Board-certified orthopedic surgeon, stated that appellant had good range of motion of the left knee on physical examination. He released appellant to regular duty.

In a September 11, 2003 report, Dr. Emil Alfonso, an attending Board-certified internist, stated that vascular studies revealed chronic thrombosis of the left lesser saphenous and left gastrocnemius veins.

In a September 21, 2005 report, Dr. Samuel O. Martin, a Board-certified surgeon specializing in vascular surgery, stated that appellant had a Class 1 impairment of the left leg due to deep venous thrombosis with resulting superficial venous incompetence. He noted that the American Medical Association, *Guides to the Evaluation of Permanent Impairment* provided for a range of zero to nine percent for a Class 1 impairment. Dr. Martin rated appellant's left leg impairment as five percent.<sup>1</sup>

In a January 24, 2006 memorandum, an Office medical adviser noted that appellant had undergone an arthroscopic partial medial meniscectomy of the left lower extremity on December 2, 2002, complicated by thrombophlebitis. He indicated that appellant's date of maximum medical improvement was February 19, 2003 because he had demonstrated good range of motion and his knee was stable. The Office medical adviser indicated that appellant had a two percent impairment for a partial medial meniscectomy, based on Table 17-33 at page 546 of the A.M.A., *Guides*, fifth edition,<sup>2</sup> and five percent impairment for a Class 1 peripheral vascular disease based on Table 17-38 at page 554. He utilized the Combined Values Chart to find a total of seven percent.

By decision dated February 3, 2006, the Office granted appellant a schedule award for 20.16 weeks, for the period February 19 to July 10, 2003, based on a seven percent impairment of the left lower extremity.<sup>3</sup>

On February 27, 2006 appellant requested reconsideration. In a February 6, 2006 letter, Dr. Winters stated:

“[Appellant] has a permanent partial impairment rating of [four percent] according to the Florida Guide. I do not believe this would differ with the [A.M.A., *Guides*]. He would then have a [four percent] for both.”

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<sup>1</sup> Dr. Martin indicated that he had previously submitted a February 25, 2005 report. However, there is no report of record.

<sup>2</sup> A.M.A., *Guides* (5<sup>th</sup> ed. 2001).

<sup>3</sup> The Federal Employees' Compensation Act provides for 288 weeks of compensation for 100 percent loss or loss of use of a lower extremity. 5 U.S.C. § 8107(c)(2). Multiplying 288 weeks by 7 percent equals 20.16 weeks of compensation.

By decision dated May 25, 2006, the Office denied modification of the February 3, 2006 decision.

### **LEGAL PRECEDENT**

The schedule award provision of the Act<sup>4</sup> and its implementing regulation<sup>5</sup> 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 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*<sup>6</sup> has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.<sup>7</sup>

### **ANALYSIS**

The Office accepted that appellant sustained a medial meniscus tear of the left knee with a partial medial meniscectomy and left phlebitis/thrombophlebitis. Dr. Martin advised that appellant had a Class 1 impairment of the left leg due to deep venous thrombosis. He noted that Table 17.38 of the A.M.A., *Guides* provided for a range of zero to nine percent impairment for Class 1 and rated appellant's left leg impairment at five percent.

In a January 24, 2006 memorandum, an Office medical adviser noted that appellant had undergone a partial medial meniscectomy of the left lower extremity on December 2, 2002, complicated by thrombophlebitis. Appellant's date of maximum medical improvement was February 19, 2003 because Dr. Winters had indicated on that date that he had demonstrated good range of motion and his knee was stable. The Office medical adviser found a two percent impairment for a partial medial meniscectomy, based on Table 17-33 at page 546 of the A.M.A., *Guides*, fifth edition, and five percent impairment for a Class 1 peripheral vascular disease (deep venous thrombosis) based on Table 17-38 at page 554. He utilized the Combined Values Chart to find a total seven percent impairment. The Board finds that the Office medical adviser properly applied the appropriate sections of the fifth edition of the A.M.A., *Guides* to the medical findings in determining that appellant had a seven percent impairment of the left lower extremity.<sup>8</sup> There is no probative medical evidence of record establishing that appellant has more than a seven percent impairment of the left lower extremity.<sup>9</sup>

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<sup>4</sup> 5 U.S.C. § 8107.

<sup>5</sup> 20 C.F.R. § 10.404.

<sup>6</sup> A.M.A., *Guides* (5<sup>th</sup> ed. 2001); *Joseph Lawrence, Jr.*, 53 ECAB 331 (2002).

<sup>7</sup> 20 C.F.R. § 10.404.

<sup>8</sup> The Board notes that Table 17.2, the cross-usage chart, does not preclude combining diagnosis-based impairment estimates with vascular impairment rating.

<sup>9</sup> As noted, in a February 6, 2006 letter, Dr. Winters stated that appellant had a permanent impairment rating of four percent. The Board notes that this is less than the seven percent awarded by the Office.

**CONCLUSION**

The Board finds that appellant has no more than a seven percent permanent impairment of the left lower extremity.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated May 25 and February 3, 2006 are affirmed.

Issued: September 15, 2006  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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