

deceased muscle strength, 4/5 for flexion, abduction, internal and external rotation of the shoulder. Dr. Ross provided the following range of motion results: flexion 110 degrees, abduction 95 degrees, external rotation 60 degrees and internal rotation 40 degrees. Dr. Ross opined that based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* “for patient’s decreased muscle strength of 4/5 or approximately 20 percent of the previously described ranges of motion as well as the decreased ranges of motion for flexion, abduction and internal rotation, [appellant] has a 25 percent permanent disability of the upper extremity.”

The case was referred to an Office medical adviser for evaluation. In a report dated November 22, 2005, he opined that appellant had a 12 percent arm impairment for loss of range of motion. The Office medical adviser explained that 110 degrees of flexion was a 5 percent impairment, 95 degrees of adduction was a 4 percent impairment, 40 degrees of internal rotation was a 3 percent impairment, with no impairment for loss of external rotation. In addition, he opined that appellant had a 10 percent impairment under Table 16-27 for distal clavicle resection arthroplasty. Combining 12 percent and 10 percent under the Combined Values Chart resulted in a 21 percent arm impairment. The Office medical adviser noted that Dr. Ross improperly attempted to combine impairments for loss of strength and loss of motion under the A.M.A., *Guides*. The date of maximum medical improvement was October 4, 2005.

By decision dated January 20, 2006, the Office issued a schedule award for a 21 percent permanent impairment to the right arm. The period of the award was 65.52 weeks commencing October 26, 2005.

Appellant requested reconsideration on August 28, 2006. The medical evidence submitted included a September 7, 2006 report from Dr. Ralph D’Auria, an orthopedic surgeon, who provided a history and results on examination. He did not discuss permanent impairment.

By decision dated November 20, 2006, the Office reviewed the case on its merits and denied modification of the January 20, 2006 schedule award decision.

LEGAL PRECEDENT

Section 8107 of the Federal Employees’ Compensation Act provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.¹ Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants the Office has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.²

¹ 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

² A. George Lampo, 45 ECAB 441 (1994).

ANALYSIS

The Office issued a schedule award for a 21 percent permanent impairment to the right arm, based on the November 22, 2005 report from the Office medical adviser. In that report, the medical adviser reviewed the findings of the attending physician, Dr. Ross. With respect to loss of range of motion, he properly applied the appropriate figures in the A.M.A., *Guides* for shoulder range of motion. Under Figure 16-40, 110 degrees of flexion is a 5 percent impairment.³ 95 degrees of abduction results in a 4 percent impairment and 40 degrees of internal rotation is a 3 percent impairment.⁴ With respect to external rotation, 60 degrees results in no impairment.⁵

The Office medical adviser, therefore, properly concluded that appellant had a 12 percent arm impairment for loss of shoulder range of motion. In addition, the medical adviser noted that appellant had undergone surgery and found that he had a 10 percent arm impairment under Table 16-27 for distal clavicle resection arthroplasty.⁶ The A.M.A., *Guides* indicate that these impairments are combined under the Combined Values Chart rather than added together.⁷ Combining 12 and 10 results in a 21 percent impairment to the right arm.⁸

The attending physician, Dr. Ross, had reported a 25 percent arm impairment without discussing specific tables or clearly explaining how the impairment was calculated. As noted by the medical adviser, under the A.M.A., *Guides* loss of strength is rated separately only in rare cases when loss of strength represents an impairing factor not adequately considered by other methods.⁹ Dr. Ross did not provide a rationalized medical opinion with respect to the degree of arm impairment in this case. Dr. D'Auria did not discuss the degree of employment-related permanent impairment. The weight of the probative medical evidence was represented by the Office medical adviser in this case. The Board accordingly finds that the evidence does not establish more than a 21 percent permanent impairment to the right arm.

The number of weeks of compensation for a schedule award is determined by the compensation schedule at 5 U.S.C. § 8107(c). For loss of use of the arm, the maximum number of weeks of compensation is 312 weeks. Since appellant's impairment was 21 percent she is entitled to 21 percent of 312 weeks or 65.52 weeks of compensation. It is well established that the period covered by a schedule award commences on the date that the employee reaches maximum medical

³ A.M.A., *Guides* 476, Figure 16-40.

⁴ *Id.* at 477, Figure 16-43 and 479, Figure 16-46.

⁵ *Id.* at 479, Figure 16-46.

⁶ *Id.* at 506, Table 16-27.

⁷ *Id.* at 506. The Combined Values Chart was designed to enable the physician to account for the effects of multiple impairments with a summary value that does not exceed 100 percent. *Id.*

⁸ *Id.* at 606, Combined Values Chart.

⁹ *Id.* at 508.

improvement from residuals of the employment injury.¹⁰ In this case, the Office medical adviser properly concluded that the date of maximum medical improvement was the date of examination by Dr. Ross. The award, therefore, properly runs for 65.52 weeks commencing on or about October 4, 2005.

On appeal appellant noted that she had filed a Form CA-2a recurrence of disability claim, but the Office had created a new OWCP File No. for a new injury. Any issues regarding compensation for wage loss are not before the Board on this appeal as there is no final decision in the case record regarding wage loss.

CONCLUSION

The evidence does not establish more than a 21 percent right arm permanent impairment.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated November 20 and January 20, 2006 are affirmed.

Issued: August 6, 2007
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

¹⁰ *Albert Valverde*, 36 ECAB 233, 237 (1984).