



appropriate wage-loss compensation and he returned to his regular duties effective May 2, 2004. Appellant filed a claim for a schedule award on January 29, 2005.

The Office referred appellant to Dr. Robert O. Buss, a Board-certified orthopedic surgeon, for an impairment rating. Dr. Buss examined appellant on February 13, 2006. In a March 6, 2006 report, he found one percent impairment of the left upper extremity due to sensory deficit of the left palm.<sup>1</sup> According to him, appellant had reached maximum medical improvement on July 20, 2004, approximately six months after his cervical fusion.

The Office's medical adviser reviewed the medical evidence. In a report dated April 30, 2006, he found one percent impairment of the left upper extremity due to sensory changes involving the C6 nerve root distribution. The Office medical adviser identified Dr. Buss' examination date, February 13, 2006, as the date appellant reached maximum medical improvement.

By decision dated June 9, 2006, the Office granted a schedule award for one percent impairment of the left upper extremity. The award covered a period of 3.12 weeks from February 13 to March 6, 2006.

### **LEGAL PRECEDENT**

Section 8107 of the Federal Employees' Compensation Act sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.<sup>2</sup> The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the appropriate standard for evaluating schedule losses.<sup>3</sup> Effective February 1, 2001, schedule awards are determined in accordance with the A.M.A., *Guides* (5<sup>th</sup> ed. 2001).<sup>4</sup>

### **ANALYSIS**

Utilizing Dr. Buss' February 13, 2006 examination findings, the Office medical adviser calculated appellant's impairment by applying Tables 15-15 and 15-17, of the A.M.A., *Guides* at page 424. Under Table 15-15 he classified appellant's left upper extremity sensory deficit as a

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<sup>1</sup> Appellant reported an unusual feeling in the web space between the thumb and the third finger, but otherwise had a normal neurological and physical examination.

<sup>2</sup> The Act provides that for a total, or 100 percent loss of use of an arm, an employee shall receive 312 weeks' compensation. 5 U.S.C. § 8107(c)(1).

<sup>3</sup> 20 C.F.R. § 10.404 (1999).

<sup>4</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 (June 2003); FECA Bulletin No. 01-05 (issued January 29, 2001).

Grade 4 impairment.<sup>5</sup> The medical adviser indicated that appellant's impairment involved the C6 nerve root, for which Table 15-17 provided a maximum eight percent impairment for loss of function due to sensory deficit or pain.<sup>6</sup> To determine the upper extremity impairment he multiplied the percentage deficit based on the Grade 4 classification under Table 15-15 (1-25 percent) by the maximum loss of function due to sensory deficit or pain (eight percent) under Table 15-17. Dr. Buss indicated that appellant's Grade 4 classification represented 10 percent impairment on a scale of 1 to 25 percent, and the Office medical adviser did not disagree. Appellant's Grade 4, 10 percent deficit (Table 15-15) when multiplied by the 8 percent sensory deficit involving the C6 nerve root (Table 15-17) resulted in a left upper extremity impairment of .8 percent ( $.10 \times .08 = 0.8$  percent). And when properly rounded to the closest whole number, the result is 1 percent impairment of the left upper extremity. Appellant has not submitted any credible medical evidence indicating that he has greater than one percent impairment of the left upper extremity.<sup>7</sup>

### **CONCLUSION**

The Board finds that appellant failed to establish that he has greater than one percent impairment of the left upper extremity.

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<sup>5</sup> A Grade 4 classification is characterized by “[d]istorted superficial tactile sensibility (diminished light touch), with or without minimal abnormal sensation or pain, that is forgotten during activity.” This classification represents a 1 to 25 percent deficit. Table 15-15, A.M.A., *Guides* 424. The classification system under Table 15-15 is almost identical to the classification system under Table 16-10, A.M.A., *Guides* 482, and the two may be used interchangeably for assessing upper extremity impairments.

<sup>6</sup> A.M.A., *Guides* 424.

<sup>7</sup> Neither the Office medical adviser nor Dr. Buss identified any impairment of the right upper extremity.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 9, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 3, 2007  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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