

a claim for recurrence of his injury on April 18, 2005. This claim was accepted for right knee sprain/strain, right knee posterior dislocation of tibia and right knee tear of medial cartilage. On July 25, 2005 appellant had a total right knee arthroplasty.

In a medical report dated September 21, 2006, Dr. Daniel C. Brooke, a Board-certified orthopedic surgeon, stated that appellant had reached maximum medical improvement. He indicated that appellant could return to his former occupation with “fairly significant limitations.” In a report dated September 22, 2006, Dr. Brooke indicated that appellant had permanent partial disability. He noted that appellant had a total knee arthroplasty which corrected his knee problem; however, he still had some limitation.

On November 16, 2006 appellant filed a claim for a schedule award. In a November 2, 2006 report, Dr. Brooke opined that, using the points system from the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, appellant had “approximately 80 points for impairment of the lower extremity impairment of 50 percent or whole person impairment of 20 percent.”

On December 1, 2006 the Office referred appellant’s case to an Office medical adviser for a determination of the amount of impairment to the right lower extremity. In a medical report dated December 1, 2006, the Office medical adviser found that appellant sustained a 20 percent impairment of his right lower extremity. He listed the diagnoses as: “Severe tricompartment degenerative joint disease, right knee status post right knee total knee arthroplasty, GPS (gravitational platelet separation) for early wound healing, right knee and Femoral nerve block preoperatively and placement of catheter for postoperative pain control.” The Office medical adviser then applied Table 17-35 at page 549 of the A.M.A., *Guides* and determined that appellant had a total of 56 points which equaled a 20 percent right lower extremity impairment.

By decision dated December 13, 2006, the Office issued a schedule award for a 20 percent impairment of the right lower extremity.

LEGAL PRECEDENT

Section 8107 of the Federal Employees’ Compensation Act¹ sets for the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.² 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 for all claimants under the law, good administrative practice requires the use of uniform standards applicable to all claimants.³ The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.⁴

¹ 5 U.S.C. §§ 8101-8193.

² 5 U.S.C. § 8107.

³ *Ausbon N. Johnson*, 50 ECAB 304, 311 (1999).

⁴ 20 C.F.R. § 10.404.

ANALYSIS

In rating knee replacement results, both Dr. Brooke and the Office medical adviser referred to Table 17-35 of the A.M.A., *Guides*. Table 17-35 provides instructions for rating knee replacement results based on a point system. The point total for estimating knee replacement results in the sum of the points in categories a, b and c (pain, range of motion and stability, respectively) minus the sum of the points in categories d, e and f (flexion contracture, extension lag and alignment, respectively).⁵ Dr. Brooke indicated that pursuant to the points system of the A.M.A., *Guides* appellant had approximately 80 points which equaled a lower extremity impairment of 50 percent or a whole person impairment of 20 percent. Although he refers to the criteria in Table 17-35 on page 549 of the A.M.A., *Guides*, and sets forth the proper categories of pain, range of motion and stability for adding points and deductions for flexion contracture, extension lag and alignment, he never provided a specific accounting indicating how he arrived at his calculation of 80 points.

The Office medical adviser utilized Table 17-35 on page 549 of the A.M.A., *Guides* to find that appellant was entitled to 30 points under category a for mild or occasional pain while walking up and down stairs. With regard to category b, range of motion, he granted appellant 46 points (25 basic points plus 21 extra points allotted based on 1 point per 5 degree range of motion) and 10 points pursuant to category c, stability, for less than 5 millimeters in any position. This gave a subtotal of 86 points. From this, the Office medical adviser subtracted 20 points for category d, flexion contracture, noting that, as normal knee flexion is 150, appellant had greater than 20 degrees flexion contracture. He then deducted 10 points for extension lag pursuant to category e. The Office medical adviser made no deductions under category f, alignment. He then took the total of 30 points and deducted them from 86 to find a total of 56 points. Based on a total of 56 points, the Office medical adviser found that appellant had a 20 percent impairment of the lower extremity. He properly applied the criteria in Table 17-35 of the A.M.A., *Guides* to rate appellant's impairment on a finding of 56 points. However, the Office medical adviser did not properly apply Table 17-33 to the point total.

The Board notes that Table 17-33 on pages 546-47 of the A.M.A., *Guides* indicates that when an individual has had a total knee replacement and it yields a fair result, which the A.M.A., *Guides* define as between 50 and 84 points, he or she is entitled to a whole person impairment of 20 percent and an impairment of his lower extremity of 50 percent.⁶ Dr. Brooke's conclusion that appellant had "approximately 80 points" and the Office medical adviser's conclusion that appellant had 56 points both establish that he had a "fair result" under the A.M.A., *Guides*. Although Dr. Brooke did not clearly indicate how he arrived at his conclusion that appellant had "approximately 80 points," he did properly note that this would yield a "fair result" under Table 17-33 which would equal a lower extremity impairment of 50 percent. The Office medical adviser erroneously found that a "fair result" of 56 points equaled a 20 percent impairment of the right lower extremity. Pursuant to Table 17-33, a "fair result" of 56 points yields an impairment rating of 20 percent of the whole person and 50 percent impairment of the lower extremity. The Office medical adviser misread the chart and should have found a 50 percent impairment of

⁵ A.M.A., *Guides* 549, Table 17-35.

⁶ *Id.* at 547, Table 17-33.

appellant's right lower extremity based on a "fair result" from his total knee replacement.⁷ Accordingly, appellant is entitled to a 50 percent impairment of his right lower extremity.

CONCLUSION

Appellant is entitled to an impairment rating based upon a 50 percent impairment of his right lower extremity.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated December 13, 2006 is modified to reflect that appellant has 50 percent impairment to his right lower extremity. The decision is affirmed as modified.

Issued: June 13, 2007
Washington, DC

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

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

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

⁷ While the A.M.A., *Guides* provides for impairment to the individual member and to the whole person, the Act does not provide for permanent impairment for the whole person. *Phyllis F. Cundiff*, 52 ECAB 439 (2001); *John Year*, 48 ECAB 243 (1996).