

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

J.A., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Novato, CA, Employer**

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**Docket No. 07-1237
Issued: September 18, 2007**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 4, 2007 appellant filed a timely appeal from October 31, 2006 and March 15, 2007 decisions of the Office of Workers' Compensation Programs' granting a schedule award. Under 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 25 percent permanent impairment of his left upper extremity.

FACTUAL HISTORY

Appellant, a 44-year-old letter carrier, filed a claim for benefits on October 1, 2004, alleging that he experienced a sharp pain in his left shoulder on September 30, 2004 while casing magazines. The Office accepted his claim for left shoulder impingement syndrome and left trapezius sprain/strain. The Office had previously accepted that appellant sustained bilateral carpal tunnel syndrome under a different claim number. Appellant received a schedule award for 12 percent permanent impairment of the left upper extremity resulting from median nerve impairment from the carpal tunnel injury.

In a report dated April 28, 2006, Dr. Brian Knapp, Board-certified in preventive medicine, stated:

“I was able to achieve approximately 90 degrees range of motion in abduction and flexion actively, external rotation 75 degrees. Adduction, internal rotation and extension are all unimpaired. Utilizing Figure 16-40, page 476, shows upper extremity impairment due to a loss of flexion of six percent. Figure 16-43, on page 477, shows upper extremity impairment due to loss of abduction of four percent. Figure 16-46, page 479, shows upper extremity impairment due to lack of external rotation of zero percent. This yields 10 percent of the upper extremity, or 6 percent whole person impairment.”

On May 8, 2006 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of his left upper extremity.

In a report dated August 20, 2006, the Office medical adviser found that appellant had a 25 percent total left upper extremity impairment. He noted that appellant had previously been awarded a 12 percent left upper extremity impairment for median nerve impairment resulting from the accepted carpal tunnel condition. The Office medical adviser found that he had an additional 13 percent left upper extremity impairment under the American Medical Association, *Guides to the Evaluation of Permanent Impairment* based on his September 2004 left shoulder injury. The Office medical adviser stated:

“Impairment due to loss of range of motion: For the shoulder, loss of flexion, six percent and loss of extension, zero percent (Figure 16-40, page 476); loss of abduction, four percent and loss of adduction, zero percent (Figure 16-43, page 477); [and] loss of internal rotation, zero percent and loss of extension zero percent (Figure 16-46, page 479). Total 10 percent.

“Impairment due to loss of strength and impairment due to sensory deficit or pain; level of symptoms as Grade 4, 25 percent (Tables 16-10 and 16-11, pages 482 and 484). Maximum combined impairment based on the suprascapular nerve is 20 percent (Table 16-15, page 492). 25 percent times 20 percent equals five percent.

“Using the [C]ombined Values Chart, page 604 and the previous impairment, the total impairment of the left upper extremity equals 25 percent. There is an additional 13 percent impairment since the previous determination.”

On October 31, 2006 the Office granted appellant a schedule award for a 12 percent additional impairment of the left upper extremity for the period April 18, 2006 to January 26, 2007, a total of 37.44 weeks of compensation.

On November 19, 2006 appellant requested a review of the written record. He did not submit any additional medical evidence with his request.

By decision dated March 15, 2007, an Office hearing representative affirmed the October 31, 2006 schedule award decision.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ set 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

The Office found that appellant had an additional 13 percent impairment of the left upper extremity based on the Office medical adviser's August 20, 2006 report. The Office medical adviser arrived at this impairment rating after reviewing the range of motion and pain/sensory deficits described by Dr. Knapp. He applied the figures and tables of the A.M.A., *Guides* to find 6 percent impairment for loss of flexion of the left shoulder pursuant to Figure 16-40, page 476, and 4 percent impairment for loss of abduction pursuant to Figure 16-43, page 477 for a total 10 percent range of motion impairment for the left upper extremity. The Office medical adviser rated 5 percent impairment due to sensory deficit or pain by rating appellant's symptoms as Grade 4, which equaled 25 percent impairment under Tables 16-10 and 16-11 at pages 482 and 484. He noted that the maximum combined impairment based on the suprascapular nerve was 20 percent at Table 16-15, page 492. The Office medical adviser then multiplied 25 percent times 20 percent for a 5 percent impairment left upper extremity impairment. He utilized the Combined Values Chart to find a total 15 percent impairment for the left shoulder. The Office medical adviser then combined the 12 percent impairment left upper extremity impairment from the carpal tunnel claim using the Combined Values Chart at page 604 to find a total 25 percent impairment of the left upper extremity. Based on this report, the Office granted appellant an award for 13 percent impairment of the left upper extremity. This award was proper, as it was in conformance with the applicable standards of the A.M.A., *Guides*.

Appellant requested a review of the written record but did submit any additional medical evidence. As there is no other probative medical evidence establishing that he sustained greater permanent impairment, the Board will affirm the October 31, 2006 and March 15, 2007 Office decisions finding that appellant has no more than a 25 percent impairment to his 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.

CONCLUSION

The Board finds that appellant has no more than a 25 percent impairment of the left upper extremity.

ORDER

IT IS HEREBY ORDERED THAT the March 15, 2007 and October 31, 2006 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: September 18, 2007
Washington, DC

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

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