

Appellant submitted a report dated February 13, 2007 from Dr. Albert Gillespy, an orthopedic surgeon, who provided a history and results on examination. Dr. Gillespy opined that appellant had a 45 percent right arm impairment, based on Table 16-15 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). In a report dated May 23, 2007, he stated that based on Table 16-10 appellant had 31 percent sensory deficit impairment, and based on Table 16-11, a 20 percent motor impairment, for combined 45 percent right arm impairment.

The case was referred to an Office medical adviser for review. In a report dated September 17, 2007, the Office medical adviser stated that appellant had “residual [illegible] in thumb, index [and] middle finger with tenor atrophy.” He reported that appellant had combined sensory and motor loss Grade 4 according to Table 16-10 and 16-11, stating that he would “use 20 percent on clinical basis.” The medical adviser stated that the combined motor and sensory deficit for the median nerve below forearm was 45 percent, and 20 percent of 45 percent resulted in a 9 percent arm impairment.

By decision dated February 11, 2007, the Office issued a schedule award for nine percent right arm impairment. The period of the award was 28.08 weeks commencing February 13, 2007. The compensation rate was at 66 2/3 percent of the weekly pay.

On February 25, 2008 appellant requested reconsideration of her claim. She argued that she was entitled to compensation at the augmented rate for an individual with a dependent. By decision dated April 17, 2008, the Office amended its February 11, 2008 decision to reflect that appellant would receive compensation based on the augmented compensation rate of 75 percent.

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 As of February 1, 2001, the fifth edition of the A.M.A., *Guides* was to be used to calculate schedule awards.³

ANALYSIS

The schedule award in this case was based on an upper extremity impairment due to a peripheral nerve disorder. The A.M.A., *Guides* provide an impairment determination method

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).

³ FECA Bulletin No. 01-05 (issued January 29, 2001).

that requires the examiner to first identify the affected nerve, grade the impairment for sensory deficit/pain under Table 16-10, grade an impairment for motor deficit under Table 16-11, then find the values for the maximum impairment of the arm for sensory or motor deficit and multiply the grade of the deficit by the appropriate maximum.⁴ If both sensory and motor deficits are found, the arm impairment for each is determined and the results are combined under the Combined Values Chart.

Appellant argues that Dr. Gillespy's opinion should be used to calculate the impairment. The Board finds that neither Dr. Gillespy nor the Office medical adviser provided a rationalized medical opinion on the issue presented. Dr. Gillespy refers to Tables 16-10, 16-11 and 16-15, without clearly explaining how these tables were utilized. It is not clear what nerve he identified under Table 16-15, or how he graded a sensory or a motor deficit impairment in accord with Tables 16-10 and 16-11.

The Office medical adviser did identify the median nerve (below midforearm) under Table 16-15. He appeared, however, to evaluate both the sensory and motor deficits in one step without proper explanation. While Table 16-15 provides the combined motor and sensory deficits that would result from the Combined Values Chart, the A.M.A. *Guides* clearly indicate the arm impairment for each function must be determined separately and then combined. The grading scheme requires the evaluator to grade sensory deficit under Table 16-10 and motor deficit under Table 16-11, in accord with the specific provisions of these tables.⁵ Moreover, the medical adviser graded both impairments at 20 percent, referring only to the "clinical basis." If he uses less than the maximum for the identified grade (in this case 25 percent for Grade 4), there should be adequate explanation provided.⁶

The case accordingly will be remanded to the Office to secure medical evidence that includes a rationalized medical opinion as to the degree of permanent impairment under the A.M.A., *Guides*. After such further development as the Office deems necessary, it should issue an appropriate decision.

CONCLUSION

The medical evidence requires further development as to appellant's degree of permanent impairment to the right arm.

⁴ A.M.A., *Guides* 481.

⁵ For example, Grade 4 under Table 16-10 is for "distorted superficial tactile sensibility (diminished light touch), with or without minimal abnormal sensations or pain, that is forgotten during activity." Grade 4 under Table 16-11 is for "complete active range of motion against gravity with some resistance." A.M.A., *Guides* 482-84.

⁶ See *Tara L. Hein*, 56 ECAB 431 (2005) (Office medical adviser utilized Grade 3 under Table 16-10, which ranges from 26 to 60 percent; he selected 40 percent without further explanation and the case was remanded for further development).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 17, 2008 is set aside and the case remanded for further action consistent with this decision of the Board.

Issued: December 16, 2008
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