

patella as well as the medial and lateral femoral condyles on May 8, 2008. The Office entered her on the periodic rolls on June 29, 2006. By decision dated November 28, 2006, the Office reduced appellant's compensation benefits based on her actual earnings as a modified clerk. Appellant requested reconsideration of this decision on December 26, 2006. By decision dated January 19, 2007, it denied modification of the November 28, 2006 wage-earning capacity determination.¹

In a note dated June 30, 2006, appellant's attending physician, Dr. Robert F. Hines, a Board-certified orthopedic surgeon, stated that appellant had reached maximum medical improvement.

Appellant requested a schedule award on May 10, 2007. She submitted a June 21, 2007 report from Dr. Hines, who opined that appellant had reached maximum medical improvement and noted that a loss of 20 degrees of flexion as well as two centimeters of atrophy of the quadriceps. Dr. Hines found that appellant had four percent impairment of the whole person. The district medical adviser reviewed this report on October 1, 2007. He found that appellant had either 10 percent impairment of the left lower extremity due to partial medial and lateral menisectomies or 10 percent impairment due to loss of flexion. The district medical adviser noted that appellant was not entitled to combine these impairment ratings. By decision dated November 26, 2007, the Office granted appellant a schedule award for 10 percent impairment of her left lower extremity.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act² and its implementing regulation³ set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.⁴ Effective February 1, 2001, the Office adopted the fifth edition of the A.M.A., *Guides* as the appropriate edition for all awards issued after that date.⁵

¹ By decision dated November 28, 2006, the Office reduced appellant's compensation benefits based on her actual earnings as a modified clerk. Appellant requested reconsideration of this decision on December 26, 2006. By decision dated January 19, 2007, it denied modification of the November 28, 2006 wage-earning capacity determination.

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404 (1999).

⁴ *Id.*

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(a) (August 2002).

A schedule award is not payable for a member, function or organ of the body not specified in the Act or in the implementing regulations. As neither the Act nor the regulations provide for the payment of a schedule award for the permanent impairment of the whole person, no claimant is entitled to such an award.⁶

ANALYSIS

Appellant's attending physician, Dr. Hines, a Board-certified orthopedic surgeon, found that appellant had flexion of less than 110 degrees, a 10 percent impairment of the left lower extremity.⁷ He further found that appellant had two centimeters of quadriceps atrophy. This results in eight percent impairment of the lower extremity.⁸ However, as properly noted by the district medical adviser, the A.M.A., *Guides* do not allow these two evaluation methods to be combined.⁹ Therefore, appellant is only entitled to 10 percent impairment of the left lower extremity based on these findings. As noted, she is not entitled to a schedule award for impairment to the whole person as expressed by Dr. Hines. The schedule award is payable only for impairment of the appropriate scheduled member, the left lower extremity.

The district medical adviser noted that under the diagnosis-based estimates appellant had 10 percent impairment of the lower left extremity due to her partial medial and lateral meniscectomies.¹⁰ Again, a diagnosis-based estimate may not be combined with either the impairment rating for loss of range of motion or for atrophy in accordance with the A.M.A., *Guides*.¹¹ As none of appellant's impairment ratings can be combined, she is only entitled to a schedule award for 10 percent impairment of the left lower extremity.

CONCLUSION

The Board finds that in accordance with the A.M.A., *Guides* appellant has no more than 10 percent impairment of her left lower extremity for which she has received a schedule award.

⁶ *George E. Williams*, 44 ECAB 530, 533 (1993).

⁷ A.M.A., *Guides*, 537, Table 17-10.

⁸ *Id.* at 530, Table 17-6.

⁹ *Id.* at 526, Table 17-2.

¹⁰ *Id.* at 546, Table 17-33.

¹¹ *Id.* at 526, Table 17-2.

ORDER

IT IS HEREBY ORDERED THAT the November 26, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 4, 2008
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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