

left knee with chondroplasty and debridement of the patellofemoral joint. The procedure was authorized by the Office.

On April 28, 2006 Dr. Johansen stated that appellant had good range of motion of his left knee with good strength and stability. After a period of total disability, he released appellant to return to light-duty work at the employing establishment in early June 2006. In a September 11, 2006 report, Dr. Johansen indicated that appellant's left knee had reached maximum medical improvement. He determined that appellant had a two percent permanent impairment of his left leg under the standards of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001). Dr. Johansen stated that appellant did not have significant anterior cruciate ligament laxity and therefore an impairment rating was not warranted for ligament laxity.¹ In a similar report dated July 25, 2007, he reiterated that appellant had a two percent permanent impairment of his left leg under the standards of the A.M.A., *Guides* and that an impairment rating for anterior cruciate ligament laxity was not warranted.²

On November 14, 2007 Dr. Howard P. Hogshead, a Board-certified orthopedic surgeon and Office medical adviser, determined that appellant had a two percent permanent impairment of his left leg due to the partial lateral meniscectomy of his left knee. He noted that it had not been accepted that appellant sustained a work-related right arm injury. In a January 23, 2008 decision, the Office granted appellant a schedule award for a two percent permanent impairment of his left leg. The award ran for 5.76 weeks from July 26 to September 4, 2007.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act³ and its implementing regulation⁴ 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 A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.⁵ Section 8107(c)(2) of the Act provides that 288 weeks of compensation shall be paid for 100 percent loss

¹ Dr. Johansen stated that due to traumatic chondromalacia appellant would likely need to have left knee replacement surgery at some point.

² Dr. Johansen also indicated that appellant had a 10 percent permanent impairment of his right arm under the standards of the A.M.A., *Guides*.

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404 (1999).

⁵ *Id.*

of the leg,⁶ and the implementing regulation provides that compensation for proportionate periods of time is payable for partial loss.⁷

ANALYSIS

The Office accepted that on November 22, 2005 appellant sustained lateral meniscus and anterior cruciate ligament tears of his left knee. It granted him a schedule award for a two percent permanent impairment of his left leg.

The Board finds that the Office properly based its schedule award on the November 14, 2007 report of Dr. Hogshead, a Board-certified orthopedic surgeon, who served as an Office medical adviser. Dr. Hogshead correctly determined that appellant had a two percent permanent impairment of his left leg due to the February 3, 2006 partial lateral meniscectomy of his left knee.⁸ In reaching this conclusion, he reviewed the medical reports in the record, including the reports of Dr. Johansen, the attending Board-certified surgeon who performed the surgery. Dr. Johansen had indicated that appellant was not entitled to an impairment rating for anterior cruciate ligament laxity.⁹ This impairment rating conforms to the diagnosis-based impairment estimates for a partial lateral meniscectomy as provided at Table 17-33.

Section 8107(c)(2) of the Act provides that 288 weeks of compensation shall be paid for 100 percent loss of the leg, and the implementing regulation provides that compensation for proportionate periods of time is payable for partial loss.¹⁰ Where the medical evidence establishes a two percent loss of use of the leg, the schedule award shall be two percent of 288 weeks or 5.76 weeks. Appellant has not submitted medical evidence that indicates any greater impairment of loss of function to his left leg. For this reason, the Office properly issued a schedule award representing 5.76 weeks of compensation.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish he has more than a two percent permanent impairment of his left leg.

⁶ 5 U.S.C. § 8107(c)(2).

⁷ 20 C.F.R. § 10.404.

⁸ See A.M.A., *Guides* 546, Table 17-33.

⁹ *Id.* at 546, Table 17-33.

¹⁰ See *supra* notes 6 and 7 and accompanying text.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' January 23, 2008 decision is affirmed.

Issued: October 23, 2008
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