

typing. The Office accepted the claim for aggravation of right radiocarpal arthritis and right wrist flexor carpi radialis tendinitis and authorized right carpal tunnel surgery, which was performed on August 27, 2007.

On November 28, 2007 appellant filed a claim for a schedule award. In support of his request, he submitted a November 20, 2007 report by Dr. Boonmee Chunprapaph, an attending Board-certified orthopedic surgeon, who reported physical findings which included decreased grip strength in the right hand and a mildly positive right Tinel's sign over the cubital tunnel.

In a December 18, 2007 report, Dr. Simresh Shah, an examining physician, reported negative Phalen's and Tinel's signs, full range of motion of the fingers and wrist and a 4/5 grip and pinch strength compared to the contralateral side.

In a December 18, 2007 permanent impairment report, Dr. Shah noted normal right wrist range of motion. He indicated there was right wrist loss of function due to pain and discomfort and slight right wrist weakness.

The Office forwarded the reports by Drs. Chunprapaph and Shah, together with the medical evidence of file and a statement of accepted facts, to an Office medical adviser for review. In a March 18, 2008 report, the Office medical adviser stated that appellant had four percent impairment of the right upper extremity. He advised that appellant reached maximum medical improvement on December 18, 2007. The Office medical adviser rated two percent for sensory loss of the median nerve based on Table 16-10 at page 482 and Table 16-15 at page 492 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). He allowed 5 percent sensory deficit (Grade 4) from Table 16-10, page 482 which he multiplied by 39 percent maximum for the median nerve from Table 16-15, page 492 to equal a 2 percent impairment. The Office medical adviser found that appellant had two percent impairment of the right upper extremity for motor deficit in the distribution of the median nerve under Table 16-11, page 484 of the A.M.A., *Guides*. He noted that the distribution of the median nerve under Table 16-15, page 492 provides a maximum 10 percent impairment of the median nerve due to motor deficit. The Office medical adviser opined that appellant's motor deficit was consistent with Grade 4 under Table 16-11, page 492 or a motor deficit of 25 percent. Pursuant to Table 16-11, page 484, he multiplied the 25 percent grade with the 10 percent maximum allowed for the median nerve to arrive at 2 percent impairment for motor deficit in the distribution of the median nerve for the right upper extremity. The Office medical adviser utilized the Combined Values Chart to find four percent impairment of the right upper extremity.

By decision dated April 2, 2008, the Office granted appellant a schedule award for four percent right upper extremity impairment. The period of the schedule award was 12.48 weeks, from December 18, 2007 to March 14, 2008.

LEGAL PRECEDENT

Pursuant to section 8107 of the Federal Employees' Compensation Act¹ and section 10.404 of the implementing federal regulations,² schedule awards are payable for permanent

¹ 5 U.S.C. § 8107(c).

impairment of specified body members, functions or organs. The Act, however, does not specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for 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*³ has been adopted by the Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁴

ANALYSIS

On appeal, appellant contends that he has greater impairment than that found by the Office which accepted his claim for aggravation of right radiocarpal arthritis and right wrist flexor carpi radialis tendinitis. It granted him a four percent impairment of the right upper extremity on April 2, 2008.

Appellant's attending Board-certified orthopedic surgeon, Dr. Chunpraph, prepared a report dated November 20, 2007. Dr. Chunpraph reported appellant had decreased grip strength in the right hand with a mildly positive right Tinel's sign over the cubital tunnel. In a December 18, 2007 permanent impairment report, Dr. Shah, an examining physician, reported normal right wrist range of motion, loss of function due to pain and discomfort of the right wrist and slight right wrist weakness. Neither physician utilized the A.M.A., *Guides* to offer an impairment rating. The Board finds that the Office properly referred their clinical findings to its Office medical adviser.⁵

On July 25, 2007 an Office medical adviser reviewed the reports of Drs. Chunpraph and Shah to find a four percent permanent impairment of the right upper extremity under the A.M.A., *Guides*. He advised that appellant reached maximum medical improvement on December 18, 2007, the date of Dr. Shah's permanent impairment rating. The Office medical adviser allowed five percent sensory deficit (Grade 4) to equal two percent impairment. He found that appellant had two percent impairment of the right upper extremity for motor deficit in the distribution of the median nerve under Table 16-11⁶ of the A.M.A., *Guides*. The Office medical adviser noted that the distribution of the median nerve under Table 16-15⁷ provided a maximum 10 percent impairment of the median nerve due to motor deficit. He opined that appellant's motor deficit was consistent with Grade 4 under Table 16-11⁸ or a motor deficit of 25 percent. The Board notes that applying the 39 percent Grade 4 sensory deficit to the median

² 20 C.F.R. § 10.404.

³ A.M.A., *Guides* (5th ed. 2001).

⁴ *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

⁵ *See, e.g., Bobby L. Jackson*, 40 ECAB 593 (1989).

⁶ *Id.* at 484, Table 16-11.

⁷ *Id.* at 492, Table 16-15.

⁸ *Id.* at 484, Table 16-11.

nerve of 5 percent results in 1.95 percent which was rounded up to 2 percent.⁹ However, a 25 percent Grade 4 motor deficit applied to the median nerve maximum of 10 percent results in 2.5 percent impairment, which would be rounded up to 3 percent. Therefore, the total sensory and motor loss under Table 16-11 for median nerve impairment would equal five percent. The medical evidence thus establishes that appellant has a total five percent impairment of the right upper extremity after combining sensory and motor loss and not a four percent impairment as the Office awarded appellant.¹⁰

CONCLUSION

The Board finds that appellant has a five percent permanent impairment of the right upper extremity.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 2, 2008 is affirmed as modified.

Issued: July 23, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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

⁹ See *J.P.*, 60 ECAB ____ (Docket No. 08-832, issued November 13, 2008); *Marco A. Padilla*, 51 ECAB 202 (1999); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.3b (October 1990) (the policy of the Office is to round the calculated percentage of impairment to the nearest whole point).

¹⁰ See Combined Values Chart, page 604.