

On July 31, 2007 appellant filed a claim for a schedule award for permanent impairment of his right leg.

In a September 25, 2007 report, Dr. Colosimo stated that appellant had lost approximately 50 percent of his medial meniscus when he underwent a right knee meniscectomy in June 2007. Appellant continued to complain of right knee pain in around the medial and lateral gutters of the kneecap, as well as functional symptoms including descending, ascending stairs and squatting. Dr. Colosimo found that appellant had a two percent right lower extremity impairment based on the partial meniscectomy under Table 17-33, at page 546, of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fifth edition) (A.M.A., *Guides*). He also noted that appellant had atrophy of the quadriceps muscle. Dr. Colosimo found that appellant had reached maximum medical improvement.

In a December 20, 2007 report, an Office medical adviser agreed with Dr. Colosimo that appellant had two percent right lower extremity impairment based on a partial meniscectomy pursuant to Table 17-33.

In an April 30, 2008 decision, the Office granted appellant a schedule award for two percent permanent impairment of the right leg. It ran for the period September 25 to November 4, 2007, for a total of 5.76 weeks of compensation.

By letter dated May 28, 2008, appellant's attorney requested an oral hearing, which was held on September 11, 2008. Counsel argued that Dr. Colosimo's finding that appellant had a ratable impairment based only the partial meniscectomy was not a sufficient basis for the schedule award. He contended that appellant had greater impairment because Dr. Colosimo also found atrophy of the quadriceps.

In a report dated October 24, 2008, Dr. Martin Fritzhand, a Board-certified urologist, stated findings on examination and found that appellant had 10 percent right lower extremity impairment. He noted that appellant had some difficulty forward bending at the waist to 70 degrees and could squat to only 60 percent of standard. Flexion of the right knee was normal to 150 degrees, with extension diminished to 5 degrees. Arthroscopic portal scars were noted over the right knee joint with marked tenderness on patellar compression. Muscle strength was well preserved. Dr. Fritzhand noted no evidence of muscle atrophy. Pinprick and light touch were diminished over the right lower leg with McMurray and Lachman signs being absent. The right patellar tendon reflex was brisk. Dr. Fritzhand stated that Table 17-10 at page 537 of the A.M.A., *Guides* was used to assess impairment, rating a permanent partial impairment to the right lower extremity of 10 percent.

By decision dated November 18, 2008, an Office hearing representative affirmed the April 30, 2008 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 accepted bilateral internal derangement of the knees with a right medial meniscal tear and right strained cruciate ligament. Appellant underwent a right medial meniscectomy to repair the right medial meniscus tear, a procedure performed by Dr. Colosimo, who advised that appellant had two percent impairment based on the partial meniscectomy under Table 17-33. The Office medical adviser agreed with Dr. Colosimo's impairment ratings.

The Board finds that the Office's April 30, 2008 decision granting appellant a schedule award for a two percent right leg impairment was properly based on the medical opinion available evidence of record and calculated in conformance with the applicable table of the A.M.A., *Guides*.

Appellant contends that he has greater impairment and submitted the October 24, 2008 report of Dr. Fritzhand who stated that appellant had 10 percent impairment pursuant to Table 17-10. Dr. Fritzhand failed to state the methods by which he calculated this rating and did not specifically correlate his findings with Table 17-10 to explain how he arrived at this percentage of impairment. Therefore, this rating was not rendered in accordance with the standards of the A.M.A., *Guides*.⁴ As appellant did not submit any medical evidence to support an additional schedule award greater than the two percent for the right lower extremity already awarded, the Board will affirm the Office's November 18, 2008 decision.

As there is no other medical evidence establishing that appellant sustained any additional permanent impairment, the Office properly found that appellant was not entitled to more than the two percent impairment of the right lower extremity already awarded.

¹ 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(c).

² *Id.* at § 8107(c)(19).

³ 20 C.F.R. § 10.404.

⁴ The Board notes that a description of appellant's impairment must be obtained from appellant's physician, which must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations. *See Peter C. Belkind*, 56 ECAB 580, 585 (2005).

CONCLUSION

The Board finds that appellant has more than two percent impairment of the right lower extremity impairment, for which he received a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' November 18 and April 30, 2008 decisions be affirmed.

Issued: November 18, 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