

On January 6, 2007 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of her right leg.

In a report dated May 19, 2008, Dr. Harry K. Delcher, Board-certified in orthopedic surgery and appellant's treating physician, indicated that appellant had a 30 percent impairment of the right leg based on atrophy and pain.

In order to determine whether appellant had any permanent impairment from her accepted right leg condition, the Office referred appellant for an examination with Dr. Joseph C. Tatum, Board-certified in orthopedic surgery. In a March 3, 2009 report, Dr. Tatum found that appellant had no ratable impairment of the right leg. He stated that on examination appellant still had discoloration about 15 centimeters above the right ankle on the lateral aspect of the leg; however, he noted no swelling or evidence of weakness in the right leg. Dr. Tatum advised that ligaments in the right knee were stable under stress and noted full extension of the right knee, with flexion to 140 degrees. He concluded that appellant had completely recovered from her October 2006 work injuries, had reached maximum medical improvement and did not require any further treatment.

In a March 13, 2009 report, an Office medical adviser stated that despite occasional swelling and discomfort appellant had no objective findings of any impairment to her right leg. He found that appellant had a zero percent impairment of her right lower extremity.

By decision dated March 16, 2009, the Office denied appellant's schedule award claim.

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 American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fifth edition) (the A.M.A., *Guides*) as the standard to be used for evaluating schedule losses.³ The claimant has the burden of proving that the condition for which a schedule award is sought is causally related to his or her employment.⁴

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 *Veronica Williams*, 56 ECAB 367, 370 (2005).

ANALYSIS

In the instant case, the Office determined that appellant had no ratable permanent impairment of her lower extremities causally related to her accepted right leg condition based on the Office medical adviser's March 13, 2009 report. The Office medical adviser adopted the findings of Dr. Tatum who, in his March 3, 2009 report, noted no swelling or evidence of weakness in the right leg and indicated that the ligaments in her right knee were stable under stress. Dr. Tatum stated that appellant demonstrated full extension of the right knee, with flexion to 140 degrees. He found that appellant had completely recovered from her October 2006 work injuries. The Office medical adviser, relying on Dr. Tatum's referral opinion, concluded that appellant had no objective findings of any impairment to her right leg and determined that she had zero percent impairment of her right lower extremity.

Appellant submitted a May 19, 2008 report from Dr. Delcher, her treating physician. He indicated that appellant had a 30 percent impairment of the right leg based on atrophy and pain but did not relate these findings to the applicable tables and charts of the A.M.A., *Guides*. The report therefore did not contain an impairment rating which correlated with the A.M.A., *Guides*. As Dr. Delcher offered a mere conclusion regarding the degree of appellant's impairment, without explaining the basis for his rating factors, the Office medical adviser properly found that his opinion did not present a basis for a schedule award for the right lower extremity.⁵

As there is no other medical evidence establishing that appellant sustained any permanent impairment of a scheduled member, the Office properly found that appellant was not entitled to a schedule award due to her accepted right leg condition. The Board will affirm the March 16, 2009 decision.

CONCLUSION

The Board finds that appellant has not sustained any permanent impairment to a scheduled member of her body causally related to her accepted right leg condition, thereby entitling her to a schedule award under 5 U.S.C. § 8107.

⁵ The Board notes that a description of appellant's impairment must be obtained from a 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).

ORDER

IT IS HEREBY ORDERED THAT the March 16, 2009 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: November 23, 2009
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board