

stated that appellant had 9 degrees of ankle plantar flexion, resulting in a 7 percent leg impairment, and 14 degrees of extension, for a 14 percent leg impairment under the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed.) at page 78. Dr. Grant noted that appellant had a functional capacity evaluation on October 24, 2006.¹

The case was referred to an Office medical adviser. In a report dated August 18, 2007, the medical adviser stated that Dr. Grant's estimate was not probative, as a sprain was not permanent in nature and the page reference in the A.M.A., *Guides* was incorrect. The Office medical adviser recommended referral for a second opinion evaluation. Appellant was referred to Dr. James Hood, an orthopedic surgeon.

In a report dated October 31, 2007, Dr. Hood provided a history and results on examination. With respect to right ankle range of motion, he found 40 degrees plantar flexion, 15 degrees extension, 30 degrees inversion and 20 degrees eversion. Dr. Hood noted normal strength and found no impairment under the A.M.A., *Guides*. By report dated December 17, 2007, an Office medical adviser concurred that there was no ratable impairment.

In a decision dated September 18, 2008, the Office found appellant was not entitled to a schedule award for the right leg as he had no ratable permanent impairment.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.² Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants the Office has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.³ As of February 1, 2001, the fifth edition of the A.M.A., *Guides* was to be used to calculate schedule awards.⁴

ANALYSIS

In this case, an attending physician, Dr. Grant, provided a brief November 6, 2006 report indicating that he believed appellant had a 21 percent right leg impairment based on loss of ankle motion. The Board finds that Dr. Grant's report is of diminished probative value to the issue presented. Dr. Grant provided brief range of motion results without providing any further

¹ The functional capacity evaluation reported that appellant had 51 degrees of plantar flexion and 34 degrees of extension.

² 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

³ *A. George Lampo*, 45 ECAB 441 (1994).

⁴ FECA Bulletin No. 01-05 (January 29, 2001). For schedule awards after May 1, 2009, the impairment is evaluated under the sixth edition. FECA Bulletin No. 09-03 (March 15, 2009).

information as to when and how these results were obtained. He referred to an October 24, 2006 functional capacity evaluation, but the ranges of motion results in this report were significantly different from those reported by Dr. Grant. There was no explanation as to the inconsistent results or other supporting information. In addition, Dr. Grant did not properly identify or apply the relevant tables under the A.M.A., *Guides*.⁵ For these reasons, the November 6, 2006 report from Dr. Grant is not sufficient to support a schedule award.

The second opinion physician, Dr. Hood, provided results on examination and a reasoned opinion that there was no ratable impairment to the right leg. With respect to range of motion for the right ankle, he reported 40 degrees of plantar flexion, 15 degrees of extension, 30 degrees inversion and 20 degrees eversion. Under Table 17-11, 40 degrees of plantar flexion and 15 degrees of extension do not result in leg impairment.⁶ Similarly, under Table 17-12, 30 degrees of inversion and 20 degrees of eversion do not result in leg impairment.⁷

The Board accordingly finds the weight of the medical evidence rests with Dr. Hood. On appeal, appellant indicates that he had received a schedule award for the left leg, and the “process was the same and performed by the same doctor....” The issue in this case is right leg impairment from the August 18, 2004 injury, and to the extent the “same doctor” was Dr. Grant, his report is of little probative value for the reasons stated above.

CONCLUSION

The Board finds the weight of the medical evidence does not establish a ratable permanent impairment to a scheduled member or function of the body entitling appellant to a schedule award under 5 U.S.C. § 8107.

⁵ Under Table 17-11, 14 degrees of extension results in no impairment, and 9 degrees of plantar flexion is 15 percent leg impairment. A.M.A., *Guides* 537.

⁶ Plantar flexion of 20 degrees or less warrants impairment from 7 to 30 percent, while extension of 0 to 10 degrees is 7 percent leg impairment. *Id.*

⁷ *Id.*, A.M.A., *Guides*, Table 17-12.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 18, 2008 is affirmed.

Issued: January 11, 2010
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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