



## **FACTUAL HISTORY**

The Office accepted that on June 16, 2008 appellant, then a 43-year-old regular rural carrier, sustained an open fracture of the left olecranon process, an open fracture of the left ulnar shaft, complicated mouth wounds and broken teeth when her postal jeep rolled over several times, ejecting her from the vehicle. Immediately after the accident, she was airlifted to a hospital trauma unit for emergency treatment. Appellant underwent an open reduction and internal fixation of the left olecranon fracture on June 16, 2008. She remained hospitalized through June 24, 2008.

Appellant was followed by Dr. G. Alan Binkley, an attending Board-certified orthopedic surgeon. In a July 16, 2008 report, Dr. Binkley noted that the tip of the olecranon came loose and required surgical revision. On July 29, 2008 he removed the fixation hardware and performed a tension band fracture reduction. Dr. Binkley submitted progress reports through February 2009. He removed the remaining fixation hardware on February 17, 2009.<sup>2</sup>

In a May 6, 2009 report, Dr. Binkley related that appellant reported occasional left elbow pain. On examination of the left elbow, he found full flexion, pronation and supination, but a lack of 15 degrees of extension. Dr. Binkley noted, “some weakness with flexion and extension at the elbow” but did not provide measurements. He opined that appellant had reached maximum medical improvement. Dr. Binkley found six percent impairment of the left upper extremity “according to American Medical Association, *Guides to the Evaluation of Permanent Impairment*.”<sup>3</sup>

On May 26, 2009 the Office asked an Office medical adviser to review the medical record and provide an impairment rating according to the sixth edition of the A.M.A., *Guides*. An Office medical adviser reviewed the record and found that, appellant had reached maximum medical improvement as of May 6, 2009. Referring to Table 15-33, page 474<sup>4</sup> of the sixth edition of the A.M.A., *Guides*, the medical adviser found that a lack of 15 degrees of extension equaled two percent impairment of the left upper extremity. He then assessed a Grade 1 modifier according to Table 15-35, page 477<sup>5</sup> for range of motion and a Grade 1 modifier according to Table 15-7, page 406<sup>6</sup> for functional history. The medical adviser found that, as the functional history and range of motion grade modifiers were equal, there was no change in the

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<sup>2</sup> By March 26, 2009 decision, the Office terminated appellant’s compensation effective March 23, 2009, the date she was reemployed as a modified rural carrier with no wage loss or work restrictions. This decision is not before the Board on the present appeal.

<sup>3</sup> A.M.A., *Guides* (6<sup>th</sup> ed., 2008).

<sup>4</sup> Table 15-33, page 474 of the sixth edition of the A.M.A., *Guides* is entitled “Elbow/Forearm Range of Motion.”

<sup>5</sup> Table 15-35, page 477 of the sixth edition of the A.M.A., *Guides* is entitled “Range of Motion Grade Modifiers.”

<sup>6</sup> Table 15-7, page 406 of the sixth edition of the A.M.A., *Guides* is entitled “Functional History Adjustment: Upper Extremities.”

impairment rating according to Table 15-36, page 477.<sup>7</sup> He concluded that appellant had two percent permanent impairment of the left upper extremity. The medical adviser noted that Dr. Binkley did not supply a basis for his six percent impairment rating and that the sixth edition of the A.M.A., *Guides* did not support such a rating based on the clinical findings.

On June 12, 2009 appellant filed a claim for a schedule award.

In a July 7, 2009 letter, the Office asked Dr. Binkley to review the Office medical adviser's schedule award rating and indicate his agreement or disagreement. Dr. Binkley did not respond before August 21, 2009.

By decision dated August 21, 2009, the Office awarded appellant a schedule award for two percent permanent impairment of the left upper extremity. The award, equivalent to 6.24 weeks of compensation, ran from May 6 to June 18, 2009.

### **LEGAL PRECEDENT**

The schedule award provisions of the Federal Employees' Compensation Act<sup>8</sup> provide for compensation to employees sustaining impairment from loss or loss of use of specified members of the body. The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office. For consistent results and to ensure equal justice, the Board has authorized 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 Office as a standard for evaluation of schedule losses and the Board has concurred in such adoption.<sup>9</sup> Effective May 1, 2009 the Office began using the sixth edition of the A.M.A., *Guides* published in 2008 to calculate schedule awards.<sup>10</sup>

The sixth edition of the A.M.A., *Guides* provides a diagnosis-based method of evaluation utilizing the World Health Organization's International Classification of Functioning, Disability and Health (ICF).<sup>11</sup> Under the sixth edition, the evaluator identifies the impairment class for the diagnosed condition (CDX), which is then adjusted by grade modifiers based on functional

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<sup>7</sup> Table 15-36, page 477 of the sixth edition of the A.M.A., *Guides* is entitled "Functional History Grade Adjustment: Range of Motion." According to Table 15-36, if the functional history grade adjustment is equal to the range of motion functional class, no adjustment is made to the range of motion impairment.

<sup>8</sup> 5 U.S.C. §§ 8101-8193.

<sup>9</sup> *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>10</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*. Chapter 2.808.6.6a (January 2010); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

<sup>11</sup> A.M.A., *Guides* (6<sup>th</sup> ed., 2008), page 3, section 1.3, "The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement."

history (GMFH), physical examination (GMPE) and clinical studies (GMCS).<sup>12</sup> The net adjustment formula is (GMFH-CDX) + (GMPE - CDX) + (GMCS- CDX).

### ANALYSIS

With respect to the left upper extremity, Dr. Binkley stated in his May 6, 2009 report that appellant had six percent upper extremity impairment, according to an unspecified edition of the A.M.A., *Guides*. He did not provide any explanation as to whether he applied the sixth edition of the A.M.A., *Guides* the edition utilized by the Office as of May 1, 2009. Although, Dr. Binkley noted that some weakness with elbow flexion and extension, he did not provide measurements or diagnose muscle atrophy or a neurologic injury.

The only medical report discussing the relevant tables in the sixth edition is the May 26, 2009 report of an Office medical adviser. The medical adviser followed the assessment formula of the sixth edition of the A.M.A., *Guides*. He first identified the impairment class for the diagnosed condition (CDX) according to Table 15-33, two percent impairment for 15 degrees restricted extension of the left elbow. The medical adviser then found, a Grade 1 modifier according to Table 15-7 for functional history (GMFH) and a Grade 1 modifier according to Table 15-35 for restricted motion on physical examination (GMPE). As there were no relevant clinical studies (GMCS), the net adjustment formula for this case is (GMFH-CDX) + (GMPE - CDX). He explained that, as the as the functional history (GMFH) and range of motion (GMPE) grade modifiers were equal, there was no change in the two percent impairment rating according to Table 15-36, page 477. The medical adviser found two percent permanent impairment of the left arm.

The Board finds that the Office medical adviser applied the appropriate tables and grading schemes of the sixth edition of the A.M.A., *Guides* to Dr. Binkley's clinical findings. Although Dr. Binkley rated six percent impairment of the left upper extremity, he did not refer to any specific edition of the A.M.A., *Guides*. Therefore, the Office properly relied on the Office medical adviser's assessment of two percent impairment of the left arm based on the sixth edition of the A.M.A., *Guides*.

On appeal appellant contends that she sustained six percent impairment of the left upper extremity. As noted, the medical evidence of record establishes that she has two percent permanent impairment of the left arm.

### CONCLUSION

The Board finds that appellant has not established that she sustained more than two percent impairment of the left upper extremity, for which she received a schedule award.

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<sup>12</sup> A.M.A., *Guides* (6<sup>th</sup> ed., 2008), pp. 494-531.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 21, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 23, 2010  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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