



advised that she had 10 percent restriction of dorsi and plantar flexion of the ankle compared to the opposite side, with a significant propensity for possible arthritic development over time. Based on these factors, Dr. Kroner rated 7.5 percent impairment to the right lower extremity as compared to an amputation at the level of the right ankle.

On March 11, 2009 appellant filed a Form CA-7 claim for a schedule award based on loss of use of her right lower extremity.

In a report dated March 25, 2009, Dr. Eric Malicky, Board-certified in orthopedic surgery, found that appellant had 10 percent permanent impairment of the right leg. He based this rating on loss of range of motion to the right ankle of 10 degrees dorsiflexion and 40 degrees palmar flexion.

In a report dated May 6, 2009, an Office medical adviser found that appellant had a seven percent impairment of her right lower extremity based on loss of range of motion in the right ankle pursuant to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (the A.M.A., *Guides*). Relying on Dr. Malicky's findings on examination, he found that 10 degrees dorsiflexion represented seven percent impairment for loss of range of motion in the ankle under Table 16-22 at page 549 of the sixth edition of the A.M.A., *Guides*.<sup>1</sup>

On June 11, 2009 the Office granted appellant a schedule award for a seven percent permanent impairment of the right leg. The period of the award ran from March 25 to August 13, 2009, or a total of 20.16 weeks of compensation.

### **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees' Compensation Act,<sup>2</sup> and its implementing federal regulations,<sup>3</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law for all claimants, the Office has adopted the A.M.A., *Guides*, as the uniform standard applicable to all claimants.<sup>4</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate

---

<sup>1</sup> The Office medical adviser stated that his rating differed from that of Dr. Kroner because he based his rating on the sixth edition of the A.M.A., *Guides*, contrary to Dr. Kroner, who did not reference the A.M.A., *Guides* in his March 25, 2009 report.

<sup>2</sup> 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(c).

<sup>3</sup> 20 C.F.R. § 10.404.

<sup>4</sup> *Id.* at § 10.404(a).

schedule awards.<sup>5</sup> 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.<sup>6</sup>

### ANALYSIS

The Office accepted appellant's claim for a right ankle fracture sustained on December 3, 2007.

An Office medical adviser utilized the findings on examination made by Dr. Malicky in a March 25, 2009 report. The Office medical adviser cited Table 16-22 at page 549 of the sixth edition of the A.M.A., *Guides*, which rates impairment of the ankle based on loss of range of motion. Appellant had seven percent impairment based on 10 degrees dorsiflexion of the right ankle. The Office medical adviser properly applied the A.M.A., *Guides* to rate the impairment.

The only other impairment rating of record is that of Dr. Kroner, who stated that appellant had 10 percent restriction of dorsi and plantar flexion of the ankle compared to her opposite ankle, with the possibility of future arthritic development. He rated 7.5 percent impairment of the right leg. Dr. Kroner's report is of diminished probative value, however, he did not refer to any of the applicable protocols or tables of the sixth edition of the A.M.A., *Guides* in making his impairment rating.<sup>7</sup> Accordingly, the Board finds that the Office properly relied on the opinion of the Office medical adviser as the basis for the June 11, 2009 schedule award decision.<sup>8</sup> The Board finds that appellant has no more than seven percent impairment to her right leg. There is no other probative medical evidence establishing that greater impairment.

### CONCLUSION

The Board finds that appellant has seven percent permanent impairment to her right lower extremity.

---

<sup>5</sup> See FECA Bulletin No. 09-03 (issued March 15, 2008).

<sup>6</sup> *Veronica Williams*, 56 ECAB 367, 370 (2005).

<sup>7</sup> 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).

<sup>8</sup> See *Tommy R. Martin*, 56 ECAB 273 (2005).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 11, 2009 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: July 13, 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