

December 20, 2007 appellant underwent a right knee arthroscopy with partial medial meniscectomy, debridement of the lateral tibial plateau and debridement of the patella.

Appellant filed a claim for a schedule award. On April 14, 2008 Dr. Terry D. Fenwick, his orthopedic surgeon, performed an evaluation. Appellant stated his knee was doing well and denied any pain. He had discontinued his home exercise program and was not taking medication for his right knee. Dr. Fenwick reported no positive findings on physical examination. In addition to a right medial meniscus tear, he diagnosed lateral chondromalacia and chondromalacia patella. Dr. Fenwick stated: "I believe that the patient is currently at MMI [maximum medical improvement] and has a four percent impairment rating. Impairment rating based on A[merican] M[edical] A[ssociation], *Guides [to the] Evaluation of Permanent Impairment*, fifth edition. This applies to the right lower extremity."

An Office medical adviser reviewed Dr. Fenwick's rating and noted that the only basis for impairment was appellant's right partial medial meniscectomy. He concluded that appellant had a two percent impairment of the right lower extremity.

On April 7, 2009 the Office issued a schedule award for a two percent impairment of appellant's right lower extremity, or 5.76 weeks of compensation. Appellant seeks the Board's review. He expresses no particular disagreement with the Office's decision.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act¹ authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. Such loss or loss of use is known as permanent impairment. The Office evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*.²

ANALYSIS

The Office accepted appellant's claim for a right medial meniscus tear and on December 20, 2007 he underwent a partial medial meniscectomy. Table 17-33, page 546 of the A.M.A., *Guides* states that a partial medial meniscectomy represents a two percent impairment of the lower extremity. Therefore, a two percent impairment of the right lower extremity is established.

Dr. Fenwick, appellant's orthopedic surgeon, offered no other basis for an impairment rating. Appellant was doing well, had no complaints, had discontinued his exercises and was taking no medication. Dr. Fenwick reported no positive findings on physical examination. He did state that he believed appellant had a four percent impairment of the right lower extremity, but he did not explain. Dr. Fenwick referred to the A.M.A., *Guides*, but did not show how he applied the guidelines to arrive at that percentage. He cited no tables, figures or page numbers.

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404.

Because Dr. Fenwick offered no rationale for his April 14, 2008 impairment rating, the Board finds that his opinion has little probative value.

The Board finds that appellant has no more than a two percent impairment of his right lower extremity. A 100 percent impairment of the lower extremity, as with amputation at the hip, would entitle a claimant to 288 weeks of compensation.³ Partial impairments are compensated proportionately.⁴ Therefore, a two percent impairment entitles appellant to 5.76 weeks of compensation ($288 \times 0.02 = 5.76$), which is what the Office awarded. The Board will therefore affirm the Office's April 7, 2009 decision.

CONCLUSION

The Board finds that appellant has no more than a two percent impairment of his right lower extremity.

ORDER

IT IS HEREBY ORDERED THAT the April 7, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 24, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

³ 5 U.S.C. § 8107(c)(2).

⁴ *Id.* at § 8107(c)(19).