

components, which made his hands numb. The Office accepted his claim for bilateral carpal tunnel syndrome and approved surgical releases.

In 2000 appellant received a schedule award for a 27 percent impairment of his left upper extremity.² The Office also paid compensation for a 10 percent impairment of his right upper extremity.

In 2005 the attending orthopedic surgeon, Dr. Lawrence R. Morales, determined that appellant had a 15 percent impairment of each upper extremity. The Office medical adviser agreed based on mild sensory latency. In 2007 the Office issued an increased award: “30 percent [p]ermanent [p]artial [i]mpairment (PPI) for [b]ilateral [u]pper [e]xtremities (15 percent PPI [e]ach) for a Total of 42 percent PPI of the [l]eft [u]pper [e]xtremity and 30 percent PPI of the [r]ight [u]pper [e]xtremity to [d]ate.”

In 2009 appellant filed a claim for an increased schedule award. He submitted a June 4, 2009 impairment rating from Dr. Morales, who now found only a 4 percent impairment of the left upper extremity and a 12 percent impairment of the right, both based on range of motion.³ An Office medical adviser reviewed the evaluation and determined that appellant had a three percent impairment of his left upper extremity and a nine percent impairment of his right. He made clear that this was appellant’s total impairment, not to be added to his previous awards.

In a decision dated January 29, 2010, the Office denied an increased award. It explained that appellant had already received compensation for a 42 percent impairment of the left upper extremity and a 30 percent impairment of the right, so the latest impairment ratings showed no entitlement to more compensation. On June 22, 2010 an Office hearing representative affirmed.

On appeal, appellant submits copies of correspondence, a copy of Dr. Morales’ impairment rating and a copy of electrodiagnostic studies.

LEGAL PRECEDENT

Section 8107 of the Act⁴ 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 American Medical Association, *Guides to the Evaluation of Permanent Impairment*.⁵

² The Office found 7 percent impairment due to loss of wrist motion, 10 percent impairment due to pain, and 10 percent impairment due to mild left carpal tunnel syndrome.

³ The left wrist showed 60 degrees flexion, 50 degrees extension, 20 degrees radial deviation and 30 degrees ulnar deviation. The right wrist showed 50, 50, 10 and 30 degrees respectively. Dr. Morales used a Grade 3 (severe) functional history to reach the final ratings.

⁴ 5 U.S.C. § 8107.

⁵ 20 C.F.R. § 10.404. For impairment ratings calculated on and after May 1, 2009, the Office should advise any physician evaluating permanent impairment to use the sixth edition. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards & Permanent Disability Claims*, Chapter 2.808.6.a (January 2010).

ANALYSIS

At the outset, the Board notes that before appellant's most recent claim for an increased schedule award, he had already received compensation for a 42 percent impairment of his left upper extremity (27 percent plus 15 percent) and for a 25 percent impairment of his right (10 percent plus 15 percent). So the question presented to the Board is whether the latest impairment rating from his attending orthopedic surgeon, Dr. Morales, shows that he has a greater impairment in either extremity. The Board finds that the evidence appellant submitted does not support his claim.

Dr. Morales found only a 4 percent impairment of the left upper extremity and a 12 percent impairment of the right, far less than would be necessary to show that appellant should receive more compensation.

An Office medical adviser properly reviewed Dr. Morales' report. However, he was able to justify only a three percent impairment of the left upper extremity and a nine percent impairment of the right. This, too, fell far short of the percentages needed to show that appellant was entitled to more compensation.

Starting with the left wrist, the Board notes that 60 degrees of flexion represents no impairment of the upper extremity, according to Table 15-32, page 473 of the sixth edition of the A.M.A., *Guides*.⁶ Extension of 50 degrees is three percent impairment (Grade 1 or mild). Radial deviation of 20 degrees and ulnar deviation of 30 degrees both show no impairment. So consistent with Dr. Morales' findings, appellant has three percent impairment of his left upper extremity due to loss of wrist motion.

The A.M.A., *Guides* allows an adjustment to the range of motion impairment, a percentage add-on to reflect the patient's subjective assessment of functional symptoms. But here, no amount of "adjustment" to appellant's 3 percent rating will show that he has more than a 42 percent impairment of his left upper extremity. Nonetheless, Dr. Morales reported that appellant had a Grade 3 or severe functional history.⁷ According to the procedure set forth at page 474 of the A.M.A., *Guides*, the grade of the loss of motion (Grade 1) is subtracted from the grade of the functional history (Grade 3) for a net modifier of 2. Table 15-36, page 477, indicates that a net modifier of 2 allows an adjustment equal to 10 percent of the range of motion impairment. So the adjustment to appellant's range of motion impairment is 0.3 percent, or a final rating of 3.3 percent, which rounds back down to 3. This does not establish that he is entitled to more compensation for his left upper extremity.

Turning to the right wrist, 50 degrees of flexion represents a three percent (Grade 1) impairment of the upper extremity, again according to Table 15-32, page 473. Extension of 50 degrees is another three percent (Grade 1) impairment. Radial deviation of 10 degrees is a two percent (Grade 1) impairment and ulnar deviation of 30 degrees represents no impairment. So

⁶ American Medical Association, *Guides to the Evaluation of Permanent Impairment* 473 (6th ed. 2009) (Table 15-32).

⁷ See *id.* at 406 (Table 15-7).

consistent with Dr. Morales' findings, appellant has an eight percent impairment of his right upper extremity due to loss of wrist motion.

Dr. Morales reported that appellant had a Grade 3 or severe functional history. So the net modifier is 2, the same as on the left. The adjustment is 10 percent of the range of motion impairment, or 0.8 percent, for a final rating of 8.8 percent, which rounds to 9. Again, this does not establish that appellant is entitled to receive more compensation for his right upper extremity.

Because the impairment rating appellant submitted to support his claim for an increased schedule award does not show that he has more than a 42 percent impairment of his left upper extremity or more than a 25 percent impairment of his right upper extremity, the Board finds that appellant is not entitled to an increased award.

The correspondence and medical evidence appellant submitted on appeal have no bearing on his impairment rating under the A.M.A., *Guides*. Electrodiagnostic studies may show "moderate" carpal tunnel syndrome on the left and "mild" on the right, but the conduction delays must be sufficient to meet the criteria for carpal tunnel syndrome on page 487 of the A.M.A., *Guides*. Even if they did allow a diagnosis-based estimate of impairment, the highest impairment rating a claimant may receive for the severest entrapment or compression neuropathy under Table 15-23, page 449, is 9 percent, which is much less than the 42 and 25 percent ratings appellant has previously received.

CONCLUSION

The Board finds that appellant is not entitled to an increased schedule award.

ORDER

IT IS HEREBY ORDERED THAT the June 22 and January 29, 2010 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 20, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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