

decision, the Office finalized an overpayment in the amount of \$473.96 for the period based on the underdeduction of postretirement life insurance and denied waiver of the overpayment. The facts of the previous Board decision are incorporated herein by reference.³

On December 9, 2009 the Office referred appellant to Dr. Nicholas G. Sotereanos, a Board-certified orthopedic surgeon for a second opinion evaluation to determine the extent of appellant's permanent impairment and her entitlement, if any, to a schedule award. On January 15, 2010 Dr. Sotereanos reviewed the medical record and statement of accepted facts and performed a physical examination. Right hip range of motion was 110 degrees flexion, 30 degrees internal rotation, 20 degrees external rotation and 30 degrees abduction. Using the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), Dr. Sotereanos determined that appellant had five percent right lower extremity impairment. In an accompanying permanent impairment worksheet, he diagnosed acetabular labral tear. Dr. Sotereanos identified the grade modifiers for functional history as zero, physical examination as zero and clinical studies as not applicable and the grade as C. Under Table 16-24, page 549, he noted that her right hip range of motion was a class 1, which resulted in a five percent impairment. Dr. Sotereanos concluded that appellant had five percent left lower extremity impairment.

On February 2, 2010 Dr. Craig Uejo, a Board-certified physiatrist and Office medical adviser, reviewed the evidence of record. He agreed with Dr. Sotereanos's evaluation method, application of the A.M.A., *Guides* and five percent right lower extremity impairment determination. Dr. Uejo pointed out that appellant's acetabular labral tear status post total labrectomy is a class 1 diagnosis with a default rating of four percent impairment, Table 16-4, page 513). The grade modified of one for functional history because of mild motion deficits resulted in a grade B impairment, corresponding with a four percent lower extremity impairment.⁴ As the motion loss resulted in a greater impairment, the five percent lower extremity impairment for the 20 degrees external rotation per Table 16-24, page 549, should be used.⁵

By decision dated February 3, 2010, the Office granted appellant a schedule award for a five percent right lower extremity impairment. The award was for 14.4 weeks and ran from January 17 to April 27, 2010.

³ On July 18, 2007 appellant, then a 50-year-old letter carrier, filed a traumatic injury claim alleging that on February 8, 2007 she first realized she had a right hip labral tear. She noted that it was not until June 19, 2007 that she realized this condition was employment related. By letter dated January 4, 2008, the Office accepted the claim for right hip labral tear and placed appellant on the periodic rolls for temporary total disability.

⁴ The Board notes that, per Table 16-4, grades B and C result in the same percentage of lower extremity impairment.

⁵ Although Dr. Uejo actually included 30 degrees loss for external rotation in his report, this is an apparent typographical error as Dr. Sotereanos reported 20 degrees external rotation. Nonetheless, the amount of the impairment remains the same.

LEGAL PRECEDENT

The schedule award provision of FECA⁶ and its implementing regulations⁷ 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, FECA 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 to all claimants, good administrative practice necessitates 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 implementing regulations as the appropriate standard for evaluating schedule losses.⁸ Effective May 1, 2009, the Office adopted the sixth edition of the A.M.A., *Guides* as the appropriate edition for all awards issued after that date.⁹

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).¹⁰ 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 History (GMFH), Physical Examination (GMPE) and Clinical Studies (GMCS).¹¹ The net adjustment formula is (GMFH-CDX) + (GMPE - CDX) + (GMCS - CDX).¹²

ANALYSIS

OWCP accepted that appellant sustained right hip labral tear due to her February 8, 2007 employment injury. In a January 15, 2010 report, Dr. Sotereanos, its referral physician and Board-certified orthopedic surgeon, reviewed the medical evidence and statement of accepted facts and provided findings on examination. Following review of the sixth edition of the A.M.A., *Guides*, he determined that appellant had five percent right lower extremity impairment due to her accepted right hip injury using Table 16-24, page 549. In reaching this conclusion, Dr. Sotereanos identified the grade modifiers for functional history as zero, physical examination as zero and clinical studies as not applicable and the grade as C. He found that her range of motion for the right hip was a class 1. The file was then routed to the Office medical adviser, Dr. Uejo, for an opinion concerning the nature or percentage of permanent impairment in

⁶ 5 U.S.C. § 8107.

⁷ 20 C.F.R. § 10.404.

⁸ *Id.* See *Billy B. Scoles*, 57 ECAB 258 (2005); *C.M.*, Docket No. 09-1268 (issued January 22, 2010).

⁹ 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).

¹⁰ A.M.A., *Guides* (6th ed. 2009), page 3, section 1.3, The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement.

¹¹ *Id.* at 383-419.

¹² *Id.* at page. 411.

accordance with the A.M.A., *Guides*. On February 2, 2009 Dr. Uejo, a Board-certified physiatrist and Office medical adviser, reviewed Dr. Sotereanos' findings and concurred with his conclusion that there was a five percent right lower extremity impairment as the loss of external motion resulting in five percent lower extremity impairment was a greater impairment than the diagnosis base of four percent for the labral tear status post total labrectomy.

There is no evidence supporting that appellant has a greater right lower extremity impairment. Thus, appellant has not established entitlement to a greater than five percent right lower extremity impairment.

CONCLUSION

The Board finds that appellant has no more than five percent permanent impairment of the right lower extremity, for which she received a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 3, 2010 is affirmed.

Issued: July 1, 2011
Washington, DC

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

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

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