United States Department of Labor
Employees' Compensation Appeals Board

J.C., Appellant	)	
and	)	**Docket No. 10-1874**
	)	**Issued: July 1, 2011**
U.S. POSTAL SERVICE, MAIN POST OFFICE, Midwest City, OK, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On July 8, 2010 appellant filed a timely appeal from June 10, 2010 merit decision of the Office of Workers' Compensation Programs granting him a schedule award. Pursuant to the Federal Employees' Compensation Act[1] and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has more than 10 percent left leg impairment, for which he received a schedule award.

FACTUAL HISTORY

This case has previously been before the Board. On December 22, 2004 the Board affirmed the Office hearing representative's decision dated February 4, 2004 affirming a

[1] 5 U.S.C. § 8101 *et seq.*

February 3, 2003 decision which found appellant did not have any impairment of his left leg.[2] The facts and the circumstances of the case are set out in the Board's prior decisions and are incorporated herein by reference.[3]

In a February 13, 2009 report, Dr. John Hughes, an examining osteopath, diagnosed mild-to-moderate patella chondromalacia, postsurgical changes of the medial meniscus posterior horn and small decompressed popliteal cyst. A physical examination revealed some quadriceps muscle weakness, -3 degrees left knee extension, 95 degrees left knee flexion and mild crepitus on left knee flexion and extension. Using Table 17-10, page 537 of the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), Dr. Hughes determined that appellant had 20 percent left knee permanent impairment.

On March 23, 2009 appellant filed a claim for a schedule award.

In an October 16, 2009 letter, the Office informed appellant that, for all decisions issued after May 1, 2009, us, of the sixth edition of the A.M.A., *Guides* was required. It requested that he provide a medical opinion using the sixth edition.

In a November 6, 2009 report, Dr. Hughes concluded that appellant reached maximum medical improvement as of February 13, 2009. Under the sixth edition of the A.M.A., *Guides*, he determined that appellant's knee classification was class 2 according to Table 16-25, page 550, and that, according to Table 16-23, page 549, he had 20 percent left lower extremity impairment causally related to the employment injury.

In an April 20, 2010 report, Dr. Ronald Blum, the Office medical adviser, reviewed the statement of accepted facts and Dr. Hughes' November 6, 2009 report. Using Table 16-23, page 549, he concluded that appellant had 10 percent impairment for loss of flexion and a 0 percent impairment for loss of extension, resulting in a total 10 percent left lower extremity impairment. Dr. Blum noted that the class 2 rating of 20 percent by Dr. Hughes was not valid as the range of motion measurements result in 10 percent impairment pursuant to Table 16-23. He added that the classifications noted in Table 16-25 were determined by the impairment rating found in Table 16-23.

In a June 10, 2010 decision, the Office granted appellant a schedule award for 10 percent permanent impairment of the leg. The period of the award ran from February 13 to September 13, 2009, for 28.8 weeks of compensation.

[2] Docket No. 04-998 (issued December 22, 2004).

[3] On November 23, 1994 appellant, then a 48-year-old letter carrier, filed an occupational disease claim alleging that on November 3, 1994 he first realized that his bilateral ankle and knee degenerative joint disease had been caused by his employment. The Office accepted the claim for exacerbation of bilateral knee degenerative joint disease and assigned claim number xxxxxx950. It accepted appellant's February 12, 1997 traumatic injury claim for a left ankle sprain, which resolved March 3, 1997 and assigned claim number xxxxxx461. Appellant filed a second occupational disease claim on June 25, 2008 for his bilateral degenerative joint disease, which the Office determined was duplicative of his November 23, 1998 claim. On August 21, 1998 the Office combined claim number xxxxxx461 and xxxxxx950 with the latter number as the master file number. It authorized left knee arthroscopic surgery, which occurred on August 28, 2001. Appellant retired from the employing establishment in October 2001.

LEGAL PRECEDENT

The schedule award provision of the Act[4] and its implementing regulations[5] 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 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.[6] 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.[7]

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).[8] 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).[9] The net adjustment formula is (GMFH-CDX) + (GMPE - CDX) + (GMCS - CDX).[10]

ANALYSIS

The Office accepted the claim for bilateral knee degenerative joint disease and authorized left knee arthroscopic surgery, which occurred on August 28, 2001. By decision dated June 10, 2010, it granted appellant a schedule award for a 10 percent left lower extremity impairment. The issue to be resolved is whether appellant is entitled to a greater left lower extremity impairment award.

In a February 13, 2009 report, Dr. Hughes, an examining osteopath, provided physical findings which determined that appellant had a 20 percent left lower extremity impairment using the fifth edition of the A.M.A., *Guides.* On November 6, 2009 he provided an updated impairment rating using the sixth edition of the A.M.A., *Guides*. Using Table 16-25, page 550,

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[4] 5 U.S.C. § 8107.

[5] 20 C.F.R. § 10.404.

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

[7] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability* Claim, Chapter 2.808.6.6a (January 2010); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

[8] 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.

[9] A.M.A., *Guides* (6th ed.), pp. 383-419.

[10] *Id.* at page 411.

Dr. Hughes determined appellant's knee classification was class 2 and that there was 20 percent left lower extremity impairment using Table 16-23, page 549.

Dr. Blum, an Office medical adviser, reviewed Dr. Hughes' reports and stated that Dr. Hughes' impairment rating was not correct according to the A.M.A., *Guides*. Using Table 16-23, page 549, he concluded that appellant had a 10 percent impairment for loss of flexion and a 0 percent impairment for loss of extension, resulting in a total 10 percent left lower extremity impairment. Dr. Blum noted that the range of motion ICF classifications noted in Table 16-25 were based on impairment rating found in Table 16-23 on page 549.

Dr. Blum applied Table 16-23, Knee Range of Motion, to Dr. Hughes' loss of range of motion findings. He found that, according to Table 16-24, appellant had 10 percent impairment of the left upper extremity for loss of flexion and a 0 percent for loss of extension. Thus, Dr. Blum found appellant's total left lower extremity impairment was 10 percent.

The Board finds that Dr. Blum's impairment rating is incomplete and requires further clarification. Dr. Blum made reference to the knee motion impairments grid on page 549 of the A.M.A., *Guides* and selected an impairment for loss of flexion, but did not clearly specify the severity of the impairment. He did not identify the class for range of motion impairment under Table 16-25 and failed to evaluate the grade modifiers of functional history and clinical studies. These elements are factors used to determine the final impairment rating. The case will be remanded for further development to clarify Dr. Blum's impairment rating.

On remand of the case Dr. Blum should address the medical evidence consistent with the protocols for determining lower extremity impairment. Following such development as it deems necessary, the Office shall issue a *de novo* decision on appellant's claim for a schedule award.

CONCLUSION

The Board finds that the case is not in posture for a decision.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 10, 2010 is set aside and the case remanded for further proceedings consistent with the above opinion.

Issued: July 1, 2011
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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