

FACTUAL HISTORY

On February 5, 2008 appellant, then a 50-year-old nursing assistant, sustained an injury in the performance of duty when a patient released a safety belt, stood up and grabbed him, and they both fell to the floor with the patient landing on top of him. OWCP accepted his claim for left hip contusion, right knee contusion and aggravation of mechanical loosening of a prosthetic left hip joint. It authorized a revision left total hip arthroscopy, which was performed on October 1, 2008.

Appellant claimed a schedule award. Dr. D. Gordon Newborn, the attending orthopedic surgeon, found that appellant had a 25 percent impairment of his left lower limb due to his total hip replacement. He noted that the hip replacement was in good position and was both stable and functional. OWCP's medical adviser reviewed Dr. Newborn's evaluation and agreed with the impairment rating.

On March 23, 2010 OWCP issued a schedule award for a 25 percent impairment of appellant's left lower limb.

Appellant requested reconsideration and submitted a May 10, 2010 impairment rating from Dr. Jon H. Dodson, a Board-certified radiologist, who noted a marked progression of appellant's hip pathology. Dr. Dodson found a 74 percent impairment of the hip, which translated to a 30 percent whole man impairment.

OWCP's medical adviser reviewed Dr. Dodson's rating and noted that the doctor's four-line note did not follow the three-step process required to estimate impairment properly, nor did it provide the information necessary to rate appellant's impairment. Further, the medical adviser noted that under no circumstances would a 74 percent impairment be possible for a total hip replacement.

In a decision dated July 30, 2010, OWCP denied modification of appellant's schedule award. It found that Dr. Dodson's report did not establish an increase in appellant's impairment rating.

LEGAL PRECEDENT

Section 8107 of FECA² 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. OWCP 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*.³

² 5 U.S.C. § 8107.

³ 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

Diagnosis-based impairment is the primary method of evaluation of the lower limb.⁴ Regional grids in the A.M.A., *Guides* list various diagnoses and classes of impairment. Table 16-4, page 515 of the A.M.A., *Guides* shows three classes of impairment for a total hip replacement. Class 2 represents a good result, with good position, stability and function. This is what the operating surgeon, Dr. Newborn, reported. The default impairment value for a class 2 or good result is 25 percent of the lower limb. Indeed, this is the highest impairment rating possible for a class 2 impairment. OWCP properly awarded appellant a schedule award for a 25 percent impairment of his left lower limb.

The subsequent report from the radiologist, Dr. Dodson, provided no basis for modifying appellant's schedule award. As OWCP's medical adviser observed, Dr. Dodson's report was quite brief. Apart from noting a marked progression of hip pathology (he did not mention which hip), Dr. Dodson provided no information that would allow a reclassification of appellant's left lower limb impairment. He did not discuss positioning of the hip replacement, stability, motion deficits or infection. Dr. Dodson simply provided an impairment rating of 74 percent, a rating that Table 16-4 does not allow but which would nonetheless indicate a class 4 or very severe problem and poor result from the total hip replacement.

The Board finds that Dr. Dodson's impairment rating has no probative value and does not establish an increased impairment of appellant's left lower limb. The Board will therefore affirm OWCP's July 30, 2010 decision denying modification of appellant's schedule award.

Appellant may request a schedule award or increased schedule award based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment.

CONCLUSION

The Board finds that the medical evidence establishes no more than a 25 percent impairment of appellant's left lower limb.⁵

⁴ A.M.A., *Guides* 497 (6th ed. 2009).

⁵ FECA does not authorize the payment of schedule awards for impairment of "the whole person." *Ernest P. Govednick*, 27 ECAB 77 (1975). Payment is authorized only for the permanent impairment of specified members, organs or functions of the body.

ORDER

IT IS HEREBY ORDERED THAT the July 30, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 13, 2011
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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