

FACTUAL HISTORY

On February 20, 2009 appellant, then a 34-year-old border patrol officer, filed a traumatic injury claim alleging that he twisted his knee while performing advanced driver training. A magnetic resonance imaging (MRI) scan on April 6, 2009 demonstrated suspected small tear of the lateral meniscus and abnormal subchondral bony signal in both the medial and lateral compartments. On May 20, 2009 OWCP accepted appellant's claim for sprain of the knee and lateral collateral ligament on the right. Dr. John H. Serocki, a Board-certified orthopedic surgeon, performed a right knee arthroscopy with partial lateral meniscectomy and chondroplasty of the medial and lateral femoral condyles on August 27, 2009.

In a report dated October 7, 2009, Dr. Serocki stated that appellant had reached maximum medical improvement and noted that his pain had largely resolved. Appellant had range of motion from 0 to 120 degrees and the physician rated two percent impairment of the right lower extremity due to the partial meniscectomy. On June 2, 2010 Dr. Serocki noted that appellant reported "some occasional discomfort in the right knee while running." During his examination he found range of motion from 0 to 120 degrees, no effusion, no ligamentous laxity and gait within normal limits. Dr. Serocki stated that appellant could return to his usual and customary job without restrictions. He completed a permanent impairment worksheet and indicated that appellant had no impairment of the right lower extremity.

Appellant filed a claim for a schedule award on January 20, 2010.

On July 16, 2010 OWCP referred the record to the district medical adviser for a determination of his permanent impairment. Dr. Arthur S. Harris, a medical consultant in orthopedic surgery, reviewed appellant's claim on July 22, 2010. He diagnosed status post right knee arthroscopy with arthroscopic partial lateral meniscectomy and chondroplasty. Dr. Harris found that under the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) a partial lateral meniscectomy was one percent impairment of the right lower extremity.² He found that appellant had no other impairment of the right lower extremity.

By decision dated January 5, 2011, OWCP granted appellant a schedule award for one percent impairment of his right lower extremity.

LEGAL PRECEDENT

The schedule award provision of FECA³ and its implementing regulations⁴ set forth the number of weeks of compensation payable to employees sustaining permanent impairment for loss of use, of scheduled members or functions of the body. FECA, however, does not specify the manner in which the percentage loss of a member shall be determined. The method

² A.M.A., *Guides* 509, Table 16-3.

³ 5 U.S.C. §§ 8101-8193, 8107.

⁴ 20 C.F.R. § 10.404.

used in making such determination is a matter which rests in the discretion of OWCP. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. OWCP evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*.⁵

In addressing lower extremity impairments, the sixth edition requires identifying 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). The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).⁶

ANALYSIS

Appellant sustained injury to his right knee in the performance of duty. He underwent an MRI scan which demonstrated a meniscal tear and also underwent a surgical partial medical meniscectomy. His physician, Dr. Serocki initially found that appellant had two percent impairment due to the partial meniscectomy. He later revised his opinion finding that appellant had no lower extremity impairment. Dr. Harris reviewed the medical evidence and found that, in accordance with the sixth edition of the A.M.A., *Guides*, appellant had one percent impairment of his right lower extremity.

The sixth edition of the A.M.A., *Guides* provides that a partial medical or lateral meniscectomy is generally a class 1 impairment of the lower extremity.⁷ Appellant's gait is within normal limits so his functional history adjustment is grade modifier 0.⁸ His physical examination adjustment is also grade modifier 0 due to no consistent findings, a stable knee and normal range of motion.⁹ Appellant's clinical studies adjustment is grade modifier 1 based on clinical studies which confirm the pathology, the MRI scan diagnosing a meniscal tear.¹⁰ His net adjustments are -1, -1 and 0 and result in -2 or a one percent impairment of the right lower extremity.

The Board finds that the medical evidence establishes that appellant has one percent impairment of his right lower extremity for which he has received a schedule award. This evaluation is based on a proper application of the appropriate edition of the A.M.A., *Guides* and considers the medical evidence in the record including the reports of appellant's own physician.

⁵ For new decisions issued after May 1, 2009, OWCP began using the sixth edition of the A.M.A., *Guides*. A.M.A., *Guides*, (6th ed. 2009); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.6a (January 2010); *see also*, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010).

⁶ A.M.A., *Guides* 521. *J.B.*, Docket No. 09-2191 (issued May 14, 2010).

⁷ *Id.* at 509, Table 16-3.

⁸ *Id.* at 516, Table 16-6.

⁹ *Id.* at 517, Table 16-7.

¹⁰ *Id.* at 519, Table 16-8.

For these reasons, the Board finds that there is no relevant medical evidence establishing a greater impairment rating.

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 appellant has no more than one percent impairment of his right lower extremity for which he has received a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the January 5, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 2, 2011
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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