

knees due to factors of his federal employment. OWCP accepted the claim for a permanent aggravation of bilateral knee arthritis.

On September 7, 2010 appellant filed a claim for a schedule award. In a progress report dated August 6, 2010, Dr. Arnold G. Markman, an attending physician specializing in family practice, diagnosed knee osteoarthritis and obesity. He measured knee flexion bilaterally of 110 degrees flexion and 0 degrees extension. Dr. Markman found “diffuse crepitation over both patellofemoral joints.” He interpreted standing x-rays as showing severe multicompartiment degenerative joint disease.

Standing bilateral x-rays of appellant’s knees, obtained on July 22, 2010, revealed joint narrowing, sclerosis and bone spurs.

In September 1 and 16, 2010 progress reports, Dr. Markman diagnosed severe degenerative joint disease by x-ray and advised that appellant was at maximum medical improvement.

On November 8, 2010 OWCP’s medical adviser reviewed the findings on physical examination by Dr. Markman in his August 6, 2010 report. He noted that the physician had not provided an impairment evaluation. The medical adviser found that appellant had “severe degenerative joint disease of the knee[s] with documented joint space narrowing resulting in [a] 30 [percent] impairment of the right lower extremity” according to Table 16-3 on page 511 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6th ed. 2009) (A.M.A., *Guides*).

On December 20, 2010 OWCP’s medical adviser reviewed Dr. Markman’s September 16, 2010 report. He stated, “[x]-rays demonstrated advanced degenerative changes without documentation of the extent of joint space narrowing.” The medical adviser again concluded that appellant had a 30 percent impairment of each lower extremity due to severe degenerative joint disease with documented joint space narrowing.²

By decision dated January 18, 2011, OWCP granted appellant a schedule award for a 30 percent permanent impairment of the right lower extremity and a 30 percent impairment of the left lower extremity. The period of the award ran for 172.8 weeks from August 6, 2010 to November 27, 2013.

On appeal, appellant argues that his impairment is much greater than that awarded by OWCP. He further maintains that OWCP did not notify him that the standard for impairment evaluations was the sixth edition of the A.M.A., *Guides*.

² Dr. Markman continued to submit progress reports describing his treatment of appellant’s knee arthritis.

LEGAL PRECEDENT

The schedule award provision of FECA,³ and its implementing federal regulations⁴ 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 for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.⁵ As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.⁶

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).⁷ The net adjustment formula is GMFH-CDX + GMPE-CDX + GMCS-CDX.

ANALYSIS

OWCP accepted that appellant sustained a permanent aggravation of bilateral arthritis of the knees due to factors of his federal employment. X-rays of his knees dated July 22, 2010 showed joint narrowing, sclerosis and bone spurs.

In a report dated August 6, 2010, Dr. Markman noted that x-rays revealed severe degenerative joint disease of both knees. He measured knee flexion of 110 degrees flexion and 0 degrees extension and found crepitation bilaterally. In September 2010 progress reports, Dr. Markman opined that appellant had reached maximum medical improvement.

OWCP's medical adviser reviewed the medical evidence and concluded that appellant had a 30 percent bilateral knee impairment due to severe degenerative joint disease under Table 16-3 of the A.M.A., *Guides*. In a supplemental report dated December 20, 2010, he noted that x-rays did not measure the joint space narrowing but did reveal advanced arthritis.

The sixth edition of the A.M.A., *Guides* provides a method for determining impairments due to arthritis based on cartilage intervals as demonstrated by diagnostic studies. The thinner the cartilage, the greater the impairment. OWCP's medical adviser determined that appellant had a class 3 impairment, which is applicable if x-rays demonstrate one millimeter of cartilage interval.⁸ X-rays of appellant's knees, however, did not provide measurements of the cartilage

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404.

⁵ *Id.* at § 10.404(a).

⁶ 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).

⁷ A.M.A., *Guides* 494-531.

⁸ *Id.* at 511, Table 16-3.

interval. OWCP medical adviser further did not provide a complete impairment evaluation. As discussed above, after the class and diagnosis are determined from the knee regional grid, the net adjustment formula is applied using grade modifiers for functional history, physical examination and clinical studies.⁹ OWCP's medical adviser did not select any grade modifiers or apply the net adjustment formula to determine whether these findings raised or lowered the impairment rating. Consequently, the Board will remand the case for OWCP to obtain the extent of cartilage interval from appellant's x-ray and an additional report from OWCP's medical adviser. Following such further development as deemed necessary, it should issue an appropriate decision.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the January 18, 2011 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: October 13, 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

⁹ If a grade modifier is used for primary placement in the regional grid, then it is not used again in the calculation. *Id.* at 515-516.