



## **FACTUAL HISTORY**

Appellant, a 40-year-old nursing assistant, has an accepted claim for right hand sprain and right arm chronic pain syndrome, which arose on April 17, 2009.<sup>2</sup> OWCP authorized a spinal cord stimulator (SCS) implant (C4), which she underwent on October 21 and December 14, 2010. On August 10, 2011 appellant filed a claim for a schedule award (Form CA-7).

Dr. Donald R. Douglas, an anesthesiologist specializing in pain medicine, examined appellant on July 27, 2011 and provided an August 30, 2011 impairment rating of 20 percent. He referenced Chapter 16 (The Upper Extremities), American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed. 2001).<sup>3</sup> Dr. Douglas noted that appellant complained of cramping in her right hand, as well as tingling and numbness from two inches above the right wrist to the fingertips. He further noted there was no pain present and appellant's range of motion was good. However, appellant exhibited both sensory and motor deficits. Lastly, Dr. Douglas commented that appellant's SCS initially proved to be 70 percent effective, but over the past three months it was of no help and was currently turned off.

In a report dated September 19, 2011, the district medical adviser (DMA), Dr. Howard "H.P." Hogshead, a Board-certified orthopedic surgeon, reviewed the record, including the results of Dr. Douglas' July 27, 2011 examination. The DMA noted that appellant had chronic regional pain syndrome (CRPS) of the right upper extremity for which an SCS was inserted on December 14, 2010. He also noted that Dr. Douglas provided an extensive description of the situation and found 20 percent impairment under Chapter 16, A.M.A., *Guides* (5<sup>th</sup> ed. 2001). However, the version of the A.M.A., *Guides* he relied on was no longer valid under FECA. Therefore, the DMA applied Dr. Douglas' findings to the latest edition of the A.M.A., *Guides* (6<sup>th</sup> ed. 2008). He explained that, pursuant to Table 15-26, Complex Regional Pain Syndrome -- Upper Extremity Impairment (UEI), A.M.A., *Guides* 454 (6<sup>th</sup> ed. 2008), appellant had a class 2 impairment with a default grade of "C." This represented a 20 percent impairment of the right upper extremity and was compatible with the functional impairment Dr. Douglas described on July 27, 2011. The DMA, therefore, found 20 percent permanent impairment of the right upper extremity. He further noted that appellant reached maximum medical improvement as of April 1, 2011.

By decision dated September 27, 2011, OWCP granted a schedule award for 20 percent permanent impairment of the "[r]ight [h]and." The award covered a period of 48.8 weeks from April 8, 2011 through March 14, 2012.

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<sup>2</sup> Appellant sustained another employment-related right hand/thumb injury on December 17, 2009 (xxxxxx630). OWCP accepted this subsequent injury for right metacarpophalangeal (MCP) sprain (ICD-9 Code 842.12).

<sup>3</sup> Dr. Douglas did not identify any specific table(s) that supported his finding of 20 percent impairment under the A.M.A., *Guides* (5<sup>th</sup> ed. 2001).

## LEGAL PRECEDENT

Section 8107 of FECA sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.<sup>4</sup> FECA, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the A.M.A., *Guides* as the appropriate standard for evaluating schedule losses.<sup>5</sup> Effective May 1, 2009, schedule awards are determined in accordance with the sixth edition of the A.M.A., *Guides* (2008).<sup>6</sup>

## ANALYSIS

Appellant expressed disagreement with the September 27, 2011 schedule award, noting that her injury was a life changing event. She explained that she could no longer perform her job duties. Appellant also indicated that she had no strength in her right hand and was in constant pain. However, she has not identified any specific medical evidence demonstrating impairment in excess of the 20 percent right upper extremity rating calculated by the DMA.

Appellant's physician, Dr. Douglas, did not apply the proper edition of the A.M.A. *Guides*. The DMA, relying on Dr. Douglas' July 27, 2011 examination, found 20 percent right upper extremity impairment under Table 15-26, A.M.A., *Guides* 454 (6<sup>th</sup> ed. 2008). The rating was based on a diagnosis of complex regional pain syndrome. The DMA found that the functional impairment exhibited on July 27, 2011 represented "class 2" (moderate) upper extremity impairment, with a corresponding default grade of "C" or 20 percent. The Board finds that the DMA's September 19, 2011 impairment rating conforms to the A.M.A., *Guides* (6<sup>th</sup> ed. 2008), and thus, represents the weight of the medical evidence regarding the extent of appellant's right upper extremity impairment. The current record does not include any credible medical evidence indicating right upper extremity impairment greater than 20 percent.

As noted, the DMA found 20 percent impairment of the right upper extremity under Table 15-26, A.M.A., *Guides* 454 (6<sup>th</sup> ed. 2008), but the claims examiner mistakenly awarded 20 percent impairment of the "[r]ight [h]and." Whereas a 20 percent loss of use of the hand represents 48.8 weeks' compensation (.20 x 244 weeks), a 20 percent loss of use of an arm represents 62.4 weeks' compensation (.20 x 312 weeks).<sup>7</sup> The DMA's impairment rating was not limited to appellant's hand, but instead encompassed her right upper extremity. Accordingly, appellant is entitled to an additional 13.6 weeks' compensation.

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<sup>4</sup> For total loss of use of a hand, an employee shall receive 244 weeks' compensation. 5 U.S.C. § 8107(c)(3). For total loss of use of an arm, the amount of compensation increases to 312 weeks. 5 U.S.C. § 8107(c)(1).

<sup>5</sup> 20 C.F.R. § 10.404.

<sup>6</sup> See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards & Permanent Disability Claims*, Chapter 2.808.6a (January 2010).

<sup>7</sup> See *supra* note 5.

**CONCLUSION**

The current record demonstrates that appellant has no more than 20 percent impairment of the right arm rather than to the right hand.<sup>8</sup> Accordingly, she is entitled to 62.4 weeks' compensation rather than 48.8 weeks as previously awarded. The September 27, 2011 schedule award is amended to reflect an award of 20 percent impairment of the right arm.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 27, 2011 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: August 1, 2012  
Washington, DC

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

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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<sup>8</sup> Appellant may request a schedule award or an 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.