

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**S.N., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Richmond, VA, Employer**

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**Docket No. 11-1206  
Issued: January 12, 2012**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
ALEC J. KOROMILAS, Judge  
COLLEEN DUFFY KIKO, Judge

**JURISDICTION**

On April 21, 2011 appellant filed a timely appeal from a March 28, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP) concerning her schedule award. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant has more than one percent impairment of her left upper extremity, for which she received a schedule award.

**FACTUAL HISTORY**

On September 8, 2003 appellant, then a 39-year-old letter carrier, was injured when a cluster box door came down on her left index, middle and ring fingers. OWCP accepted the claim for closed fracture of the left three fingers and subsequently accepted the condition of left

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

trigger finger. On February 7, 2006 appellant underwent left ring finger A1 pulley (trigger finger) release. She received appropriate compensation benefits.

On October 25, 2006 appellant requested a schedule award. In a March 31, 2008 report, Dr. Keith A. Glowacki, a Board-certified hand specialist, stated that she reached maximum medical improvement one year post left ring finger trigger release of February 7, 2006. Under the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), he opined that appellant had 10 percent upper extremity impairment due to loss of grip strength. Dr. Glowacki also stated that there was a loss of extension in the last five degrees at the metatarsophalangeal (MP) joint of her ring finger.

On February 20, 2009 an OWCP medical adviser reviewed the medical evidence and considered appellant's impairment. Under Figure 16-5, page 464 of the fifth edition of the A.M.A., *Guides*, the medical adviser found Dr. Glowacki's determination that a loss of the terminal five degrees of extension of the MP joint of the ring finger equated to two percent impairment of the ring finger. Under Table 16-1 and Table 16-2, page 438-39, he found two percent impairment of the ring finger resulted in zero percent hand and upper extremity impairment. The medical adviser found, however, that the 10 percent grip strength loss reported by Dr. Glowacki resulted in 10 percent upper extremity impairment under Table 16-2, page 439.

OWCP subsequently asked its medical adviser to utilize the sixth edition of the A.M.A., *Guides* in determining an impairment rating. On December 10, 2009 an OWCP medical adviser noted that appellant was still symptomatic from the trigger finger release. Under Table 15-2, page 392, the medical adviser stated that the trigger finger resulted in six percent digit impairment which equaled one percent arm impairment under Table 15-12, page 421. He advised maximum medical improvement was reached on February 7, 2007, one year after surgery.

By decision dated November 10, 2010, OWCP awarded one percent impairment to the left upper extremity. The award ran 3.12 weeks for the period February 17 to March 10, 2007.

On December 20, 2010 appellant requested reconsideration. She contended that her schedule award should have been based on the fifth edition as her paperwork was already in the system. In a December 13, 2010 report, Dr. Glowacki opined that appellant had eight percent loss of her left ring finger based on class 1 impairment under the sixth edition of the A.M.A., *Guides*.

By decision dated March 28, 2011, OWCP denied modification of its previous decision.

### **LEGAL PRECEDENT**

The schedule award provision of FECA provides for compensation to employees sustaining impairment from loss or loss of use of specified members of the body. FECA, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound 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. The A.M.A., *Guides* has been adopted by OWCP as a standard for evaluation of schedule losses and the Board has concurred in such adoption.<sup>2</sup> Schedule award decisions issued between February 1, 2001 and April 30, 2009 utilize the fifth edition of the A.M.A., *Guides*.<sup>3</sup> Effective May 1, 2009, OWCP adopted the sixth edition of the A.M.A., *Guides*,<sup>4</sup> published in 2008, as the appropriate edition for all awards issued after that date.<sup>5</sup>

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).<sup>6</sup> 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).<sup>7</sup> The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).

OWCP procedures provide that, after obtaining all necessary medical evidence, the file should be routed to an OWCP medical adviser for an opinion concerning the percentage of impairment using the A.M.A., *Guides*.<sup>8</sup>

### ANALYSIS

OWCP accepted that appellant sustained a fracture of three left fingers (index, middle and ring) and a left trigger ring finger, for which she underwent a trigger release on February 7, 2006. By decision dated November 10, 2010, it granted her a schedule award for one percent left upper extremity impairment. By decision dated March 28, 2011, OWCP denied modification of its prior award, finding that appellant was not entitled to any additional schedule award.

Initially, the Board notes that OWCP properly based appellant's schedule award on the sixth edition of the A.M.A., *Guides*. The proper edition of the A.M.A., *Guides* is not determined by the date of maximum medical improvement or when the schedule award claim is filed. As noted, the sixth edition applies to all schedule award decisions issued after May 1, 2009.<sup>9</sup> Appellant's schedule award decision was issued November 10, 2010, after the date of the sixth

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<sup>2</sup> *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>3</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 4 (June 2003).

<sup>4</sup> FECA Bulletin No. 09-03 (issued March 15, 2009).

<sup>5</sup> Federal (FECA) Procedure Manual, *supra* note 3, Exhibit 1 (January 9, 2010).

<sup>6</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2008), page 3, section 1.3, The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement.

<sup>7</sup> A.M.A., *Guides* 494-531 (6<sup>th</sup> ed. 2008).

<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(d) (August 2002).

<sup>9</sup> *See supra* notes 4-5.

edition of the A.M.A., *Guides*. Thus, OWCP properly based appellant's schedule award on the sixth edition of the A.M.A., *Guides*.

In his March 31, 2008 report, Dr. Glowacki found that appellant had 10 percent left arm impairment due to loss of grip strength under the fifth edition of the A.M.A., *Guides*. As the sixth edition of the A.M.A., *Guides* became applicable beginning May 1, 2009, his impairment rating under the fifth edition of the A.M.A., *Guides*, was insufficient to establish her impairment.<sup>10</sup> OWCP properly referred appellant's case to its medical adviser for an impairment rating pursuant to the sixth edition of the A.M.A., *Guides*.<sup>11</sup> It may follow the advice of its medical adviser or consultant where he or she has properly applied the A.M.A., *Guides*.

An OWCP medical adviser reviewed Dr. Glowacki's March 31, 2008 report under the sixth edition of the A.M.A., *Guides* and determined that under Table 15-2, page 392, the symptomatic trigger ring finger resulted in a class 1 or six percent digit impairment. The medical adviser also used Table 15-12, page 432 to convert the six percent digit impairment from the ring finger to one percent upper extremity impairment. He did not explain, however, how he determined impairment under Table 15-2. The sixth edition of the A.M.A., *Guides* provides a diagnosis-based method of evaluation. It requires identifying the impairment class for the diagnosed condition (CDX), which is then adjusted by grade modifiers based on (GMFH), (GMPE) and (GMCS).<sup>12</sup> The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMC - CDX). OWCP's medical adviser identified only the table used without providing any explanation of the diagnosis category, class rating or evaluation of the grade modifiers. As discussed, grade modifiers should be considered for functional history, physical examination and clinical studies and these grade modifiers can change the extent of a given impairment rating.<sup>13</sup> The medical adviser did not explain how he considered grade modifiers in finding impairment under Table 15-2. Consequently, the Board finds that the opinion of OWCP's medical adviser is of limited probative value.

The case is remanded for an appropriate examination under the sixth edition. Following this and such further development as OWCP deems necessary, it should issue an appropriate *de novo* merit decision.

### CONCLUSION

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

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<sup>10</sup> While Dr. Glowacki, on December 13, 2010, subsequently found impairment of eight percent under the sixth edition of the A.M.A., *Guides*, his report is of diminished probative value as he did not explain how he determined this rating based on the A.M.A., *Guides*. See *Carl J. Cleary*, 57 ECAB 563, 568 n.14 (2006) (an opinion which is not based upon the standards adopted by OWCP as appropriate for evaluating schedule losses is of little probative value in determining the extent of a claimant's impairment).

<sup>11</sup> *R.V.*, Docket No. 10-1827 (issued April 1, 2011).

<sup>12</sup> *Supra* note 7.

<sup>13</sup> *T.T.*, Docket No. 10-880 (issued November 9, 2010).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 28, 2011 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: January 12, 2012  
Washington, DC

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

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board