

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

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**M.D., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Rella, MO, Employer**

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**Docket No. 11-1346  
Issued: March 16, 2012**

*Appearances:*

*Thomas S. Harkins, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On May 12, 2011 appellant, through her attorney, filed a timely appeal from a November 23, 2010 merit decision of the Office of Workers' Compensation Programs (OWCP). 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 this case.

**ISSUE**

The issue is whether appellant sustained permanent impairment of her left lower extremity.

**FACTUAL HISTORY**

This is the second appeal before the Board. Appellant, a 45-year-old rural carrier, injured her left hip and left hamstring on December 24, 2002 when the vehicle she was driving slid on a patch of ice and landed in a ditch. OWCP accepted the claim for left hip and left thigh sprain

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

with contusions, left biceps, femoris partial tear; and aggravation of right ankle posterior tibialis tendinitis. On December 10, 2003 appellant slipped on an icy parking lot and experienced pain in her lower back. OWCP accepted the claim for lumbar strain with right sciatic nerve irritation and aggravation of lumbar strain.

On April 12, 2006 OWCP granted appellant a schedule award for a four percent permanent impairment of the right leg for the period March 23 to June 11, 2006. It also determined that she had no impairment of the left leg. By decision dated May 11, 2007, OWCP denied modification of the April 12, 2006 schedule award decision. In an August 7, 2008 decision,<sup>2</sup> the Board affirmed OWCP's April 12, 2006 and May 11, 2007 decisions. The complete facts of this case as set forth in the Board's August 7, 2008 decision are incorporated by reference.

By decision dated October 16, 2009, OWCP denied modification of the April 12, 2006 schedule award decision.

By letter dated October 5, 2010, appellant's attorney requested reconsideration.

In a March 11, 2010 report, Dr. Joann Mace, Board-certified in physical medicine and rehabilitation and appellant's treating physician, found that appellant had a 13 percent permanent impairment of the left leg pursuant to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). She rated impairment for the left knee due to atrophy of the quadriceps, under Table 16-7, at page 517 of the A.M.A., *Guides*, which yielded a grade modifier of 3 and an impairment for range of motion of the left hip pursuant to Table 16-4 at page 512 of the A.M.A., *Guides*, which yielded a class 1 impairment. Dr. Mace administered the range of motion measurements in an examination dated May 19, 2009.

In a report dated October 26, 2010, OWCP's medical adviser found that Dr. Mace did not provide sufficient findings to support the impairment rating. The impairment rating based on the left knee was not valid because OWCP never accepted a condition for the left knee. The medical adviser further found that impairment based on loss of range of motion was not ratable because Dr. Mace did not submit a diagnosis for a hip impairment, as required in the guidelines for rating impairments in a regional grid pursuant to the net adjustment formula at page 521 of the A.M.A., *Guides*, and under the regional hip grid at Table 16-4, pages 512-15. The A.M.A., *Guides* provide that if the examiner uses the hip regional grid, range of motion is not ratable except as a grade modifier; in these cases, a specific diagnosis from grid must be cited and then all of the grade modifiers based on history and examination findings as discussed on pages 529 and 530 of the A.M.A., *Guides* must be reported. Dr. Mace, however, did not provide a diagnosis from the grid. The medical adviser concluded, there was no basis for using the calculations at Table 16-4 and no left leg impairment.

By decision dated November 23, 2010, OWCP denied modification of the prior decision.

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<sup>2</sup> Docket No. 07-2069 (issued August 7, 2008).

## LEGAL PRECEDENT

The schedule award provision of FECA<sup>3</sup> and its implementing regulations<sup>4</sup> 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 to all claimants, good administrative practice necessitates 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 the implementing regulations as the appropriate standard for evaluating schedule losses.<sup>5</sup> The claimant has the burden of proving that the condition for which a schedule award is sought is causally related to his or her employment.<sup>6</sup>

## ANALYSIS

In support of her request for a schedule award for permanent impairment of the left lower extremity, appellant submitted Dr. Mace's March 11, 2010 report. Dr. Mace rated a 13 percent left leg impairment based on atrophy of the left quadriceps, for a left knee impairment and loss of range of motion of the left hip. OWCP's medical adviser reviewed this report and found that it did not adequately support permanent impairment of the left leg. As noted, OWCP did not accept a left knee condition. Further appellant was not entitled to a rating based on loss of range of motion for the left leg. The Board notes that section 16.7 of the A.M.A., *Guides*, at page 543, states that section 16.2, which pertains to diagnosis-based impairment, is the method of choice for rating lower extremity impairment. Range of motion is used principally as a factor in the adjustment grid for physical examination. Section 16.7 states: "This section is to be used as a stand-alone rating when other grids refer you to this section or no other diagnosis-based sections of this chapter are applicable for impairment rating of a condition."

This principle is reiterated in the summary at Chapter 16.8, page 552 of the A.M.A., *Guides*, which states: "12. Only if no other approach is available to rating, calculate impairment based on range of motion, as explained in [s]ection 16.7."

In accordance with these principles, OWCP's medical adviser stated that the loss of range of motion was not ratable because Dr. Mace did not provide a diagnosis for any hip impairment or the necessary findings based on physical examination. The guidelines for rating impairments in a regional grid pursuant to the net adjustment formula are listed at page 521 of the A.M.A., *Guides*, and under the regional hip grid at Table 16-4, pages 512-15. The medical adviser indicated, where the examiner uses the hip regional grid, range of motion is not ratable except as a grade modifier. Where Dr. Mace does rely on the hip regional grid, a specific diagnosis from the grid must be cited and then all of the grade modifiers, based on history and examination

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<sup>3</sup> 5 U.S.C. § 8107.

<sup>4</sup> 20 C.F.R. § 10.404. Effective May 1, 2009, OWCP began using the A.M.A., *Guides* (6<sup>th</sup> ed. 2009).

<sup>5</sup> *Id.*

<sup>6</sup> *Veronica Williams*, 56 ECAB 367, 370 (2005).

findings as discussed on pages 529 and 530 of the A.M.A., *Guides*, must be documented; the examiner is instructed to utilize the net adjustment formula outlined at pages 521-22 of the A.M.A., *Guides* to obtain the proper impairment rating. She, however, did not provide a diagnosis from the hip regional grid and did not rely on the net adjustment formula. Furthermore, lacking any diagnosis of appellant's left hip and thigh conditions, she has not established that her lack of range of motion is causally related to the accepted conditions. The medical adviser therefore properly found that Dr. Mace's report did not provide a basis for using the calculations at Table 16-4 and therefore no basis for a left lower extremity impairment rating.<sup>7</sup>

The Board finds that OWCP's medical adviser properly determined that appellant had no permanent impairment of the left lower extremity stemming from her accepted left hip and left thigh conditions, as he rendered his calculations based on the applicable protocols and tables of the sixth edition of the A.M.A., *Guides*. As appellant did not submit medical evidence to support a schedule award for the left lower extremity, the Board will affirm OWCP's November 23, 2010 decision.

Appellant may request an increase schedule award, at anytime, 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 OWCP properly found that appellant is not entitled to a schedule award for the left lower extremity.

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<sup>7</sup> The Board notes that a description of appellant's impairment must be obtained from her physician, which must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations. See *Peter C. Belkind*, 56 ECAB 580, 585 (2005).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs<sup>3</sup> dated November 23, 2010 is affirmed.

Issued: March 16, 2012  
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