



## **FACTUAL HISTORY**

OWCP accepted that on February 11, 2009 appellant, then a 58-year-old mechanic, sustained a median nerve crush injury to his left wrist and distal forearm while removing mail stuck in a sorting machine. Appellant stopped work at the time of the injury and received treatment in a hospital emergency room.<sup>2</sup> On February 12, 2009 Dr. Russell L. Ashinoff, an attending Board-certified plastic and reconstructive surgeon, performed an open release of the left median nerve at the carpal tunnel and distal forearm. He diagnosed a crush injury of the left distal forearm causing acute compression syndrome of the left median nerve.

Appellant received compensation for temporary total disability from March 29 to July 17, 2009.<sup>3</sup> In an October 23, 2009 report, Dr. Ashinoff noted two-point discrimination at eight millimeters at the distal tip of the left index and middle fingers. He released appellant to full duty as of October 27, 2009.

On June 10, 2010 appellant claimed a schedule award. He submitted a February 24, 2010 impairment rating by Dr. Arthur Becan, an orthopedic surgeon, under the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, "A.M.A., *Guides*"). Dr. Becan reviewed a history of injury and treatment. He obtained Disabilities of the Arm, Shoulder and Hand (*QuickDASH*) score of 36 for the left arm. On examination of the left wrist, Dr. Becan observed hypertrophy of the surgical scar, a positive Tinel's sign over the median nerve, dorsiflexion and palmar flexion limited to 50 degrees and ulnar deviation limited to 25 degrees. He diagnosed adhesive capsulitis of the left wrist, noting that appellant had reached maximum medical improvement.

Dr. Becan relied on Table 15-21<sup>4</sup> of the sixth edition of the A.M.A., *Guides* to evaluate appellant's left wrist, finding a 17 percent impairment of the left upper extremity due to a class for diagnosis (CDX) of a class 2 median nerve entrapment below the left mid-forearm with sensory deficit. Referring to Table 15-7,<sup>5</sup> Dr. Becan assessed a grade modifier for Functional History (GMFH) of 1 for the *QuickDASH* score of 36 percent. He found no grade modifier for Physical Examination (GMPE) findings. Dr. Becan found a grade modifier for Clinical Studies (GMCS) of 1 due to February 11, 2009 x-rays showing osteoarthritis in the left hand and wrist. Using the net adjustment formula of (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX), or (1-1) + (0-1) + (1-1), he arrived at a net adjustment of 2. Dr. Becan determined that this raised the CDX to equal a 14 percent impairment of the left upper extremity.

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<sup>2</sup> February 11, 2009 x-rays of the left wrist and hand showed mild osteoarthritic changes without dislocation or fracture.

<sup>3</sup> In a June 22, 2009 report, Dr. Alexander M. Marcus, an attending Board-certified orthopedic surgery specializing in surgery of the hand, noted appellant's complaints of pain and paresthesias in the left hand with some contraction of the middle finger. On examination, he observed diminished two-point discrimination testing.

<sup>4</sup> Table 15-21, page 438 of the sixth edition of the A.M.A., *Guides* is entitled "Peripheral Nerve Impairment: Upper Extremity Impairments."

<sup>5</sup> Table 15-7, page 406 of the sixth edition of the A.M.A., *Guides* is entitled "Adjustment Grid -- Summary."

In a June 4, 2010 report, an OWCP medical adviser reviewed the medical record and statement of accepted facts and stated that Dr. Becan utilized inappropriate portions of the A.M.A., *Guides*. The medical adviser explained that the appropriate diagnosis was “an acute carpal tunnel syndrome -- crush injury of the median nerve in the carpal tunnel” based on Dr. Ashinoff’s February 12, 2009 surgical report. Therefore, Dr. Becan should have based the CDX on Table 15-23<sup>6</sup> regarding compression neuropathy and not Table 15-21 which graded peripheral nerve impairments. The medical adviser found a GMFH of 1, a GMPE of zero and a GMCS of 1. Using the net adjustment formula of (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX), or  $1 + 0 + 1 = 2$ , he derived a grade modifier of 1, less than the default of 2 for acute carpal tunnel syndrome. Therefore, appellant had a two percent impairment of the left upper extremity.

By decision dated October 15, 2010, OWCP granted appellant a schedule award for a two percent impairment of the left upper extremity.

In an October 19, 2010 letter, appellant requested a hearing, held on February 15, 2011. At the hearing, he described difficulties with activities of daily living such as trimming his fingernails and putting on his socks. Counsel contended that appellant was entitled to a 14 percent impairment rating as OWCP should have allowed the more favorable rating method to base the schedule award. Alternatively, he asserted a conflict of medical opinion arose between Dr. Becan and OWCP’s medical adviser.

By decision dated and finalized April 14, 2011, an OWCP hearing representative affirmed the October 5, 2010 schedule award determination. The hearing representative accorded the weight of the medical evidence to OWCP’s medical adviser, who explained why Table 15-23 was the appropriate grading scheme for appellant’s impairment, as opposed to Dr. Becan’s use of Table 15-21. The hearing representative noted that appellant was not entitled to an impairment rating based on an inappropriate grading method.

### **LEGAL PRECEDENT**

The schedule award provisions of FECA<sup>7</sup> provide 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

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<sup>6</sup> Table 15-23, page 449 of the sixth edition of the A.M.A., *Guides* is entitled “Entrapment/Compression Neuropathy Impairment.”

<sup>7</sup> 5 U.S.C. § 8107.

has concurred in such adoption.<sup>8</sup> For schedule awards after May 1, 2009, the impairment is evaluated under the sixth edition of the A.M.A., *Guides*, published in 2008.<sup>9</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>10</sup> Under the sixth edition, the evaluator identifies the impairment class CDX, which is then adjusted by grade modifiers based on GMFH, GMPE and GMCS.<sup>11</sup> The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).

### ANALYSIS

OWCP accepted that appellant sustained a left median nerve crush injury on February 11, 2009. Dr. Ashinoff, an attending Board-certified plastic and reconstructive surgeon, performed a left median nerve decompression on February 12, 2010. Appellant claimed a schedule award on June 10, 2010. On February 24, 2010 counsel obtained an impairment rating from Dr. Becan, an orthopedic surgeon, who found a 14 percent impairment of the left upper extremity due to sensory impairment and osteoarthritis.

An OWCP medical adviser reviewed Dr. Becan's report on June 24, 2010 and disagreed with his impairment rating. The medical adviser explained that Dr. Ashinoff diagnosed an acute median nerve crush injury of the left distal forearm, demonstrable during the February 12, 2009 surgery. However, Dr. Becan based his impairment rating on peripheral neuropathy, a condition not supported by the medical evidence. The Board finds that OWCP's medical adviser properly utilized the A.M.A., *Guides* in rating a two percent impairment of the left arm. He explained why Dr. Ashinoff's report supported a CDX impairment based on a crush injury. The adviser then used Dr. Becan's clinical findings to determine a GMFH of 1, GMPE of 0 and a GMCS of 1. Using the net adjustment formula of (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX), OWCP's medical adviser found a grade modifier of 1, less than the default grade of 2. He therefore calculated a two percent impairment of the left upper extremity.

On appeal, counsel contends that OWCP chose the less favorable of two rating methods to calculate appellant's schedule award. As noted, Dr. Becan's impairment rating of 14 percent was based on an incorrect diagnosis, whereas the medical adviser used the appropriate rating scheme based on Dr. Ashinoff's surgical report. For this reason there is no conflict between Dr. Becan and the medical adviser regarding the percentage of permanent impairment.

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<sup>8</sup> *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>9</sup> 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).

<sup>10</sup> A.M.A., *Guides* 3 (6<sup>th</sup> ed. 2008), section 1.3, "The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement."

<sup>11</sup> A.M.A., *Guides* 494-531 (6<sup>th</sup> ed. 2008).

The Board finds that the medical adviser applied the appropriate portions of the A.M.A., *Guides* to the clinical findings of record. Therefore, OWCP's April 14, 2011 decision affirming the October 15, 2010 schedule award is proper under the law and facts of this case.

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 not established that he sustained more than a two percent impairment of the left upper extremity, for which he received a schedule award.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 14, 2011 is affirmed.

Issued: March 20, 2012  
Washington, DC

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

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

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