

was subsequently expanded by OWCP to accept the following additional conditions: right carpal tunnel syndrome, traumatic arthropathy, right hand, chondrocalcinosis due to dicalcium phosphate, crystals, right hand.

Appellant underwent surgery for a four corner fusion with excision of scaphoid of the right wrist on July 23, 2010. The procedure was performed by Dr. Olayinka Ogunro, Board-certified in hand surgery and orthopedic surgery.

On October 20, 2010 Dr. Ogunro performed surgery for removal of hardware from the four corner fusion and trigger release involving the right little finger.

On August 18, 2011 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of his right upper extremity.

In an August 5, 2011 report, Dr. Ogunro found that appellant had a 12 percent impairment of the right upper extremity pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (sixth edition) (A.M.A., *Guides*). Applying the net adjustment formula at pages 406, 410 and 411 of the A.M.A., *Guides*,² he found that appellant had a class 1 impairment, the rating utilized at the wrist regional grid at Table 15-3, page 397 for successful arthrodesis/fusion, scaphoid. Dr. Ogunro found that the grade at Table 15-7, page 406 for functional history was 2, for a moderate problem which included pain/symptoms with normal activity; the grade at Table 15-8, page 408 for physical examination was 2, for moderate decrease in range of motion from normal; and the grade at Table 15-9, page 410 for clinical studies was 3, for severe joint space narrowing.³ Pursuant to the formula set forth at Table 15-21, he then subtracted the grade modifier of 1 from functional history, physical examination and clinical history, which yielded a net adjusted grade of 1 plus 1 plus 2 -- a total net adjustment of 4, which moved the default value from C to E, for a 12 percent impairment of the right upper extremity at Table 15-3, page 397 of the A.M.A., *Guides*, the table used for rating wrist regional impairment.⁴

In an August 29, 2011 report, an OWCP medical adviser adopted Dr. Ogunro's findings and conclusions and found that appellant had a 12 percent permanent impairment of the right upper extremity.

By decision dated September 20, 2011, OWCP granted appellant a schedule award for a 12 percent permanent impairment of the right upper extremity for the period August 5, 2011 to April 23, 2012, for a total of 37.44 weeks of compensation.

² A.M.A., *Guides* 406, 410-11.

³ *Id.* at 406, 408, 410.

⁴ *Id.* at 397.

LEGAL PRECEDENT

The schedule award provision of FECA⁵ and its implementing regulations⁶ 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.⁷

ANALYSIS

In its September 20, 2011 decision, OWCP granted appellant a schedule award for a 12 percent impairment of the right upper extremity, using the applicable tables of the sixth edition of the A.M.A., *Guides*. The section of the A.M.A., *Guides* which rates diagnosis-based impairments for the upper extremities is located at chapter 15, which states at page 387, section 15.2 that impairments are defined by class and grade. This section states:

“The impairment class is determined first, by using the corresponding diagnosis-based regional grid. The grade is then determined using the adjustment grids provided in [s]ection 15.3.

“Once the impairment class has been determined, based on the diagnosis, the grade is initially assigned the default value, ‘C.’ The final impairment grade, within the class, is calculated using the grade modifiers, or nonkey factors, as described in [s]ection 15.3. Grade modifiers include functional history, physical examination, and clinical studies. The grade modifiers are used on the [n]et [a]djustment [f]ormula described in [s]ection 15.3d to calculate a net adjustment. The final impairment grade is determined by adjusting the grade up or down from the default value C by the calculated net adjustment. The lowest possible grade is A, and adjustments less than [minus] 2 from the default value C will automatically be considered A; the highest possible grade is E, and adjustments greater than [plus] 2 will automatically be considered E.”

The regional grid is used for two purposes: (1) to determine the most appropriate class for specific regional diagnosis and (2) to determine the final impairment after appropriate adjustments are made using the grade modifiers.⁸ In applying a diagnosis-based impairment, the A.M.A. *Guides* indicate that in most cases, only one diagnosis in a region will be appropriate,

⁵ 5 U.S.C. § 8107.

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

⁷ *Id.*

⁸ A.M.A., *Guides* 387.

and if a patient has two significant diagnoses, the examiner should use the diagnosis with the highest impairment in that region.⁹

Dr. Ogunro properly selected the diagnosis with the highest potential impairment rating, arthrosis/fusion of the wrist, and then applied the proper adjustment factors for functional and clinical history to determine the degree of impairment of appellant's right upper extremity.

Using the formula above and the net adjustment formula outlined at pages 406 to 411 of the A.M.A., *Guides*, Dr. Ogunro found that appellant had a grade modifier of 1 for functional history at Table 15-3, which yielded a grade of 2; he then applied the net adjustment formula at pages 406, 410 and 411 of the A.M.A., *Guides*, subtracting a grade modifier of 1 from 2 at Table 15-7 at page 406, for a net, adjusted total of 1. He also found a grade modifier of 1 for physical examination at Table 15-8 at page 408, subtracting a grade modifier of 1 from 2, for a net, adjusted total of 1. Applying the net adjustment formula, Dr. Ogunro determined that appellant had a grade modifier of 3 for clinical studies at Table 15-9, page 410, from which he subtracted the grade of 1; this equaled a grade of 2 for clinical studies, as adjusted. He added the grade 1 calculations for functional history and clinical history, for an adjusted overall grade of 4, which produced an adjusted grade of class E. This resulted in a 12 percent right upper extremity impairment for successful wrist fusion at the wrist regional grid, Table 15-3, page 397. OWCP's medical adviser adopted these findings in his August 29, 2011 report and concurred in Dr. Ogunro's 12 percent impairment rating for the right upper extremity.

The Board finds that appellant has a 12 percent permanent impairment of his right upper extremity, as this rating was based on the applicable protocols and tables of the sixth edition of the A.M.A., *Guides*. As appellant did not submit any medical evidence to support an additional schedule award greater than the 12 percent for the right upper extremity, the Board will affirm OWCP's September 20, 2011 decision.

Appellant may request an increased schedule award, at any time, 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 no more than a 12 percent permanent impairment of the right upper extremity, for which he received a schedule award.

⁹ *Id.* at 497.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' September 20, 2011 decision be affirmed.

Issued: May 16, 2012
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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