

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

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**W.W., Appellant**

**and**

**U.S. POSTAL SERVICE, CHARLOTTE  
PROCESSING & DISTRIBUTION CENTER,  
Charlotte, NC, Employer**

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**Docket No. 12-1007  
Issued: October 4, 2012**

*Appearances:*

*Daniel F. Read, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
PATRICIA HOWARD FITZGERALD, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On April 5, 2012 appellant filed a timely appeal from a November 2, 2011 decision of the Office of Workers' Compensation Programs (OWCP) regarding a schedule award.<sup>1</sup> Pursuant to the Federal Employees' Compensation Act<sup>2</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 has established that he sustained more than a 10 percent impairment of the left arm, for which he received a schedule award.

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<sup>1</sup> Counsel did not appeal an August 31, 2011 schedule award for a 10 percent impairment of the right arm. In his correspondence to the Board, he indicated that the right arm was related to a separate claim for a traumatic back injury under File No. xxxxxx076, appealed to the Board on March 28, 2012 and docketed as No. 12-969. Therefore, the Board will not review the issue of permanent impairment of the right arm on the present appeal.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

On appeal, counsel explained that appellant filed the present claim because OWCP denied a traumatic March 27, 2010 back injury under a separate claim.

### **FACTUAL HISTORY**

OWCP accepted that on or before June 9, 2010 appellant, then a 53-year-old mail processing clerk, sustained bilateral acromioclavicular impingement due to repetitive lifting at work.

Dr. Jeffrey A. Knapp an attending Board-certified orthopedic surgeon, submitted reports dated April 7 to June 18, 2010 diagnosing severe left thoracic and scapular pain.<sup>3</sup> Appellant was then seen by Dr. Ranjan Maitra, an attending Board-certified orthopedic surgeon, who diagnosed bilateral acromioclavicular arthrosis on July 28, 2010. As conservative measures failed to relieve appellant's symptoms, on October 1, 2010, Dr. Maitra performed a left shoulder arthroscopy with subacromial decompression and distal clavicle resection, approved by OWCP. In a February 7, 2011 report, Dr. Maitra diagnosed resolved impingement of the left shoulder and released appellant to full duty with no restrictions. He opined that appellant had attained maximum medical improvement. Dr. Maitra assessed 10 percent impairment of the left arm.

On July 6, 2011 appellant claimed a schedule award. On August 31, 2011 OWCP referred the medical record and a statement of accepted facts to a medical adviser to determine the percentage of permanent impairment to the left arm utilizing the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, "A.M.A., *Guides*").

In an August 31, 2011 report, Dr. H.P. Hogshead, an OWCP medical adviser, reviewed the medical record. He concurred with Dr. Maitra's finding that appellant had reached maximum medical improvement. Referring to Table 15-5, page 403<sup>4</sup> of the sixth edition of the A.M.A., *Guides*, Dr. Hogshead found a class 1 diagnosis-based impairment (CDX) for a distal clavicle resection, entailing a default rating of 10 percent. He noted a grade modifier for Functional History (GMFH) of 1 according to Table 15-7, page 406<sup>5</sup> as appellant was released to full duty and a grade modifier for Physical Examination (GMPE) of 1 according to Table 15-8.<sup>6</sup> The medical adviser noted that the grade modifier for Clinical Studies (GMCS) was not applicable according to Table 15-9<sup>7</sup> as appellant had no residuals after surgery. Using the net adjustment formula of (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX), or (1-1) + (1-1) + (0-1), he calculated a grade adjustment of zero, resulting in a 10 percent impairment of the left upper extremity.

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<sup>3</sup> An April 22, 2010 magnetic resonance imaging (MRI) scan of the cervical spine showed mild left C5-6 foraminal stenosis. A June 10, 2010 thoracic MRI scan showed multilevel degenerative disc disease.

<sup>4</sup> Table 15-5, page 403 of the A.M.A., *Guides* is entitled "Shoulder Regional Grid."

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

<sup>6</sup> Table 15-8, page 408 of the A.M.A., *Guides* is entitled "Physical Examination Adjustment: Upper Extremities."

<sup>7</sup> Table 15-9, page 410 of the A.M.A., *Guides* is entitled "Clinical Studies Adjustment: Upper Extremities."

By decision dated November 2, 2011, OWCP granted appellant a schedule award for a 10 percent permanent impairment of the left upper extremity. The period of the award ran from October 20, 2011 to May 25, 2012.

### **LEGAL PRECEDENT**

The schedule award provisions of FECA<sup>8</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 American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by OWCP as a standard for evaluation of schedule losses and the Board has concurred in such adoption.<sup>9</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>10</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>11</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 GMFH, GMPE and GMCS.<sup>12</sup> The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX). The A.M.A., *Guides* divides the upper extremity into regions for rating purposes. The shoulder is one of the designated regions.<sup>13</sup>

### **ANALYSIS**

OWCP accepted that appellant sustained bilateral acromioclavicular impingement. Dr. Maitra, an attending Board-certified orthopedic surgeon, performed a left rotator cuff repair with subacromial decompression and distal clavicle resection on October 1, 2010, approved by OWCP. Appellant claimed a schedule award on July 6, 2011.

In support of his claim for a permanent impairment of the left upper extremity, appellant submitted a February 7, 2011 report from Dr. Maitra finding that he had attained maximum

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<sup>8</sup> 5 U.S.C. § 8107.

<sup>9</sup> *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>10</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards & Permanent Disability Claims*, Chapter 2.808.6.6a (January 2010); *see also* Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

<sup>11</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>12</sup> *Id.* at 494-531.

<sup>13</sup> *Id.* at 384, Figure 15-1, "Upper Extremity Regions."

medical improvement, with a 10 percent impairment of the left arm. However, Dr. Maitra did not refer to the A.M.A., *Guides* or address how he rated the impairment to appellant's left arm. To determine the appropriate percentage of permanent impairment, OWCP referred the medical record and statement of accepted facts to an OWCP medical adviser.

In an August 31, 2011 report, Dr. Hogshead found that according to Table 15-5 of the A.M.A., *Guides*, appellant had a class 1 CDX for a distal clavicle resection, with a default rating of 10 percent. He opined that as appellant had an excellent surgical result with no residual symptoms, the net adjustment formula of (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX), or (1-1) + (1-1) + (0-1), resulted in a grade adjustment of zero. This resulted in a 10 percent impairment of the left upper extremity.

The Board finds that the medical adviser applied the appropriate tables and grading schemes of the A.M.A., *Guides* in determining the 10 percent impairment using the diagnosis-based rating method. Dr. Hogshead based his opinion on the medical record and a statement of accepted facts. He correctly applied the A.M.A., *Guides*' net adjustment formula to calculate a 10 percent diagnosis-based impairment of the right upper extremity. Dr. Maitra also found a 10 percent impairment of the left upper extremity. Therefore, OWCP's November 2, 2011 schedule award determination is appropriate 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 10 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 November 2, 2011 is affirmed.

Issued: October 4, 2012  
Washington, DC

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

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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