

amputation through the distal phalanx. OWCP accepted his claim for traumatic amputation other finger (partial), with complications (left).² On February 22, 2010 appellant returned to work in a limited-duty capacity. He resumed his regular duties on April 13, 2010.

On February 23, 2011 appellant filed a claim for a schedule award (Form CA-7). Appellant's surgeon, Dr. Nicholas A. Smerlis, a Board-certified orthopedic surgeon with a subspecialty in hand surgery, provided a February 7, 2011 impairment rating pursuant to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) (6th ed. 2008). He found that the partial amputation through the distal phalanx of appellant's left middle finger represented a seven percent impairment of the digit or one percent impairment of both the hand and upper extremity. Dr. Smerlis referenced Figure 15-5, A.M.A., *Guides* 426 (6th ed. 2008) as support for the seven percent digit impairment. Additionally, Table 15-12, A.M.A., *Guides* 421 (6th ed. 2008) was referenced to convert the impairment of the digit (seven percent) to a hand (one percent) and upper extremity (one percent) rating.

In a report dated March 31, 2012, Dr. Lawrence A. Manning, the district medical adviser, concurred with Dr. Smerlis' impairment rating. He identified February 7, 2011 as the date of maximum medical improvement, which corresponded to the date of Dr. Smerlis' impairment rating.

By decision dated April 18, 2012, OWCP granted a schedule award for one percent impairment of the left upper extremity. The award covered a period of 3.12 weeks from February 7 to 28, 2011.

LEGAL PRECEDENT

Section 8107 of FECA sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.³ FECA, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the A.M.A., *Guides* as the appropriate standard for evaluating schedule losses.⁴ Effective May 1, 2009, schedule awards are determined in accordance with the sixth edition of the A.M.A., *Guides* (6th ed. 2008).⁵

² ICD-9 Code No. 886.1.

³ For a total or 100 percent loss of use of an arm, an employee shall receive 312 weeks' compensation. 5 U.S.C. § 8107(c)(1). A total loss of use of a hand corresponds to 244 weeks' compensation. *Id.* at § 8107(c)(3). A 100 percent loss of use of the middle (second) finger warrants 30 weeks' compensation. *Id.* at § 8107(c)(9).

⁴ 20 C.F.R. § 10.404.

⁵ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards & Permanent Disability Claims*, Chapter 2.808.6a (January 2010).

ANALYSIS

On appeal appellant questions why OWCP awarded him one percent impairment for the upper extremity when his surgeon also noted one percent impairment of the hand and seven percent impairment of the left middle finger. While the DMA and Dr. Smerlis identified three different impairment ratings, the individual ratings for the middle (second) finger, hand and upper extremity do not represent separate impairments, but are merely different methods of quantifying the partial amputation of the tip of appellant's left middle finger. Appellant is not entitled to a combination of all three ratings. OWCP paid him for the impairment that represented the greatest number of weeks' compensation (.01 x 312 weeks).⁶ Had it paid appellant for the seven percent impairment of the finger, he would have received only 2.1 weeks' compensation (.07 x 30 weeks).⁷ If he had been paid for the one percent impairment of the hand, he would have received 2.44 weeks' compensation (.01 x 244 weeks).⁸

Citing Figure 15-5, A.M.A., *Guides* 426 (6th ed. 2008), Dr. Smerlis determined that the approximate six-millimeter amputation of the distal phalanx represented seven percent impairment of the left middle finger.⁹ Pursuant to Table 15-12, A.M.A., *Guides* 421 (6th ed. 2008), a seven percent impairment of a digit corresponds to one percent impairment of the hand or one percent impairment of the upper extremity. Appellant has not submitted any competent medical evidence indicating he has greater than one percent impairment of the left upper extremity.

CONCLUSION

The Board finds that appellant has not established that he has greater than one percent impairment of the left upper extremity.¹⁰

⁶ See *supra* note 4.

⁷ *Id.*

⁸ *Id.*

⁹ A complete amputation of the distal phalanx to the DIP joint represents 45 percent impairment of the digit. See Figure 15-5 and Table 15-28, A.M.A., *Guides* 426, 457 (6th ed. 2008).

¹⁰ Appellant may request a schedule award or increased schedule award based on evidence of new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment.

ORDER

IT IS HEREBY ORDERED THAT the April 18, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 18, 2012
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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