



authorized. Dr. Robert T. Semba, a Board-certified orthopedic surgeon, performed surgery. Appellant received wage-loss compensation for disability. Effective November 7, 2011, he released appellant to resume her regular duties.

Appellant filed a claim (Form CA-7) for a schedule award. On November 28, 2011 OWCP requested that her physician prepare an impairment rating in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (2008).

Dr. Blair A. Rhode, a Board-certified orthopedic surgeon, examined appellant on July 5, 2012. He found a combined three percent right upper extremity impairment. Dr. Rhode's diagnoses included right shoulder rotator cuff tendinopathy and right carpal tunnel syndrome. He rated two percent impairment due to CTS under Table 15-23, Entrapment/Compression Neuropathy Impairment, A.M.A., *Guides* 449 (6<sup>th</sup> ed. 2008). Dr. Rhode also found one percent upper extremity impairment under Table 15-5, Shoulder Regional Grid, A.M.A., *Guides* 401-05 (6<sup>th</sup> ed. 2008).

On March 30, 2013 Dr. Christopher Gross, a district medical adviser, reviewed appellant's claim and concurred with Dr. Rhode's rating of three percent right upper extremity impairment. He found that appellant reached maximum medical improvement on September 21, 2011.

By decision dated May 31, 2013, OWCP granted a schedule award for three percent right arm impairment. The award covered 9.36 weeks.

### **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.<sup>2</sup> 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.<sup>3</sup> Effective May 1, 2009, schedule awards are determined in accordance with the sixth edition of the A.M.A., *Guides* (2008).<sup>4</sup>

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<sup>2</sup> 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).

<sup>3</sup> 20 C.F.R. § 10.404 (2012).

<sup>4</sup> 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 (February 2013).

### ANALYSIS

Appellant's physician, Dr. Rhode, rated upper extremity impairment at three percent under the A.M.A., *Guides* (6<sup>th</sup> ed. 2008). Dr. Gross concurred with Dr. Rhode's July 5, 2012 impairment rating. The physicians rated two percent impairment attributable to mild CTS under Table 15-23, A.M.A., *Guides* 449 (6<sup>th</sup> ed. 2008). One percent impairment was also allowed for right shoulder tendinitis under Table 15-5, A.M.A., *Guides* 402 (6<sup>th</sup> ed. 2008).

The Board finds that the reports of Dr. Rhode and Dr. Gross represent the weight of medical opinion. This finding is in accordance with the A.M.A., *Guides* (6<sup>th</sup> ed. 2008). Appellant has not submitted any medical evidence to establish greater than three percent impairment of the right upper extremity.

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

Appellant has not established that she has greater than three percent impairment of the right upper extremity.

### ORDER

**IT IS HEREBY ORDERED THAT** the May 31, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 19, 2013  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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