

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

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**L.G., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
San Diego, CA, Employer**

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**Docket No. 13-1007  
Issued: September 11, 2013**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
ALEC J. KOROMILAS, Alternate Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On March 19, 2013 appellant filed a timely appeal from a February 26, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</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 more than 50 percent impairment to her right leg and 35 percent impairment to her left leg, for which she received schedule awards.

**FACTUAL HISTORY**

Appellant, a 41-year-old letter carrier, filed a Form CA-2 claim for benefits on August 21, 1999, alleging a left knee condition causally related to employment factors. OWCP accepted the claim for a left knee sprain, left leg sprain and a meniscus tear of the left knee.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

On August 30, 2000 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of her left lower extremity.

By decision dated September 29, 2000, OWCP granted a schedule award for a seven percent permanent impairment of the left leg. The schedule award ran for the period June 16 to November 3, 2000, a total of 20.16 weeks of compensation.

By letter dated October 9, 2000, appellant requested an oral hearing which was held on February 28, 2011.

By decision dated May 22, 2001, an OWCP hearing representative affirmed the September 29, 2000 decision.

In 2002, OWCP accepted the condition of consequential right knee recurrent tear of the right medial meniscus.

By decision dated February 3, 2003, OWCP granted appellant an additional 28 percent permanent impairment award for the left leg and a 15 percent permanent impairment award for the right leg.

On December 9, 2010 appellant underwent surgery for a total left knee replacement. The procedure was performed by Dr. Richard Greenfield, Board-certified in sports medicine and a specialist in orthopedic surgery. OWCP authorized the surgery.

On July 12, 2011 appellant filed a claim for additional schedule awards based on the partial loss of use of her right and left lower extremities.

In a report dated August 19, 2011, Dr. Greenfield found that appellant had a 53 percent right leg impairment and a 37 percent left leg impairment pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fifth edition) (A.M.A., *Guides*). With regard to the right lower extremity, he found that she had persistent medial pain which resulted in limited bending, stooping and squatting. Dr. Greenfield advised that appellant could walk up and down stairs, but must do so slowly. He stated that she walked with a good gait, with excellent alignment. Dr. Greenfield advised that active range of motion of the right knee was 0 to 120 degrees with tenderness and crepitation. He obtained x-rays of the right knee which showed bone-on-bone deformity, medially to the right knee. Dr. Greenfield stated that subjective factors of disability for the right knee were slight, intermittent pain which became slight, constant pain with prolonged standing and walking and moderate, occasional pain, when she was doing stairs. Under Table 17-31, page 544, appellant had 50 percent impairment of the right knee based on no articular cartilage remaining, medially. She had an additional 2 percent right lower extremity impairment for persistent patellofemoral crepitation or a combined 53 percent right lower extremity impairment.

With regard to the left knee, Dr. Greenfield advised that appellant had achieved a good result from her December 9, 2010 left total knee replacement. Appellant had occasional pain in the left knee but was able to walk and had no instability. X-rays of the left knee indicated that it was well aligned, with medial, lateral, anterior and posterior stability and no effusion. Dr. Greenfield advised that active range of motion of the left knee was 0 to 90 degrees. He stated that subjective factors of disability included minimal, intermittent pain, which became

slight, occasional pain with prolonged standing and slight, constant pain with going up and down stairs. Dr. Greenfield rated a 37 percent left leg impairment based on the left knee replacement under Table 17-35, page 549. Using the rating scale at page 549, he scored 45 points for mild occasional pain; 18 points for 90 degrees of active range of motion; 10 points for good anterior posterior stability; and 15 points for good medial lateral stability, for a total of 88 points. Pursuant to Table 17-33 at page 547, a score of 88 points represented a 37 percent left lower extremity impairment.

In a September 25, 2011 report, Dr. Leonard A. Simpson, a specialist in orthopedic surgery and OWCP medical adviser, reviewed Dr. Greenfield's August 19, 2011 report. He found that appellant had a 50 percent right lower extremity impairment and a 21 percent left lower extremity impairment under the sixth edition of the A.M.A., *Guides*. Dr. Simpson used the diagnosis-based impairment method, finding that, under Table 16-3, pages 509 and 511, Knee Regional Grid, Lower Extremity Impairments, the section for arthritis, appellant's primary right knee osteoarthritis yielded a class IV rating for primary knee joint arthritis, for no articular cartilage interval remaining or a 50 percent default lower extremity impairment."<sup>2</sup> He determined that she had a functional history grade modifier 1, to which he added 1 due to class 4 impairment, for a total grade modifier 2, a moderate problem, pursuant to the Adjustment Grid, Functional History, at Table 16-6, page 516 of the A.M.A., *Guides*,<sup>3</sup> functional history adjustment for the lower extremities. With regard to the physical examination, Dr. Simpson assigned a grade modifier 1 based on range of motion of 0 to 120 degrees with tenderness and crepitation, plus 1 for class 4 impairment, for a total grade modifier 2, a moderate problem, pursuant to Table 16-7, Section 16.3b, page 517 of the A.M.A., *Guides*, the table pertaining to rating lower extremity impairments based on physical examination.<sup>4</sup> He assigned no grade for clinical studies pursuant to Section 16.3c and Table 16-8, page 519 of the A.M.A., *Guides*<sup>5</sup> as this was used for class placement. Using the net adjustment formula at page 521,<sup>6</sup> Dr. Simpson subtracted the grade modifier 1 from functional history and physical examination for a net adjustment of minus three, which produced an adjusted class IV, grade A impairment of 50 percent for the right leg.

With respect to the leg, Dr. Simpson found that, under Table 16-3, pages 509 and 511, diagnosis of left knee replacement, appellant had a good result based on good position; *i.e.*, a stable, functional postsurgical condition, which yielded a class 2 rating, for a 25 percent default lower extremity impairment."<sup>7</sup> He determined that she had a functional history grade modifier 1, a mild problem, noting her subjective complaints of minimal intermittent pain and slight occasional pain with prolonged standing, slight constant pain with going up and down stairs. With regard to physical examination, Dr. Simpson assigned a grade modifier 1, a mild problem, based on range of motion of 0 to 90 degrees. He assigned no grade for clinical studies pursuant

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<sup>2</sup> A.M.A., *Guides* 509.

<sup>3</sup> *Id.* at 516.

<sup>4</sup> *Id.* at 517.

<sup>5</sup> *Id.* at 519.

<sup>6</sup> *Id.* at 521.

<sup>7</sup> *Id.* at 509.

to Section 16.3c and Table 16-8, page 519 of the A.M.A., *Guides*<sup>8</sup> since this was used for class placement. Using the net adjustment formula at page 521,<sup>9</sup> Dr. Simpson subtracted the grade modifier 1 from functional history and physical examination for a net adjustment of minus two, to total an adjusted class 2, grade A impairment of 21 percent for the left leg. He concluded that appellant had an additional 35 percent right lower extremity impairment and was not entitled to any additional impairment for the left lower extremity.

By decision dated July 31, 2012, OWCP granted a schedule award for an additional 35 percent permanent impairment of the right leg. It denied an additional schedule award for the left lower extremity. The right leg schedule award ran for the period June 3, 2012 to May 9, 2014 or a total of 100.8 weeks of compensation.

On August 24, 2012 appellant requested an oral hearing, which was held on December 12, 2012.

By decision February 26, 2013, an OWCP hearing representative affirmed the July 12, 2012 decision.

### **LEGAL PRECEDENT**

The schedule award provision of FECA<sup>10</sup> and its implementing regulations<sup>11</sup> 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.<sup>12</sup> The claimant has the burden of proving that the condition for which a schedule award is sought is causally related to his or her employment.<sup>13</sup>

The A.M.A., *Guides* provide a diagnosis-based method of evaluation utilizing the World Health Organization's International Classification of Functioning, Disability and Health (ICF).<sup>14</sup> Under the sixth edition, for upper extremity impairments the evaluator identifies the impairment class for the diagnosed condition (CDX), which is then adjusted by grade modifiers based on

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<sup>8</sup> *Id.* at 519.

<sup>9</sup> *Id.* at 521.

<sup>10</sup> 5 U.S.C. § 8107.

<sup>11</sup> 20 C.F.R. § 10.404. Effective May 1, 2009, OWCP began using the A.M.A., *Guides* (6<sup>th</sup> ed. 2009).

<sup>12</sup> *Id.*

<sup>13</sup> *Veronica Williams*, 56 ECAB 367, 370 (2005).

<sup>14</sup> A.M.A., *Guides*, *supra* note 2 at 3, section 1.3, The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement.

Functional History (GMFH), Physical Examination (GMPE) and Clinical Studies (GMCS).<sup>15</sup> The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).<sup>16</sup>

### ANALYSIS

OWCP accepted the conditions of bilateral sprains of unspecified sites, knee and leg; bilateral tears of the medial meniscus of the knees; bilateral osteoarthritis in the lower legs, and authorized surgery for total left knee replacement. Appellant's treating physician, Dr. Greenfield, rated her permanent impairment utilizing the fifth edition of the A.M.A., *Guides*. The Board notes that the sixth edition of the A.M.A., *Guides* is to be used in rating impairment after May 1, 2009.<sup>17</sup> Since Dr. Greenfield's report was not in accordance with the appropriate edition of the A.M.A., *Guides*, his rating of impairment is of reduced probative value.<sup>18</sup> He did however provide proper clinical findings describing appellant's impairment.<sup>19</sup>

Dr. Simpson, OWCP's medical adviser, reviewed Dr. Greenfield's findings on physical examination and applied the sixth edition of the A.M.A., *Guides* to rate impairment to appellant's lower extremities.

The Board notes that the A.M.A., *Guides* directs examiners to rate diagnosis-based impairments for the lower extremities pursuant to Chapter 16. At page 497, Section 16.2a such impairments are defined by class and grade.<sup>20</sup> In accordance with this section, the examiner is instructed to utilize the net adjustment formula outlined at pages 521-22 of the A.M.A., *Guides*,<sup>21</sup> to obtain the proper impairment rating. Dr. Simpson rated right lower extremity impairment by using the Knee Regional Grid, Lower Extremity Impairments Table 16-3, page 509 and 511 of the A.M.A., *Guides*. He applied the section on arthritis and found that appellant had a class 4 rating for primary knee osteoarthritis with no cartilage interval remaining, for a default score of 50 percent lower extremity impairment. Dr. Simpson then utilized the net adjustment formula, finding a grade modifier 2 for functional history and physical examination and no grade modifier for clinical studies. He compared these net adjustments and calculated a class 4 default impairment of minus three, for a grade C, 50 percent right lower extremity impairment.

As to the left lower extremity, Dr. Simpson used the diagnosis of total knee replacement at Table 16-3, pages 509 and 511. He found that appellant had a class 2 rating for good result, good position, stable, functional, for a default score of 25 percent lower extremity impairment. Dr. Simpson then utilized the net adjustment formula, finding the grade modifiers of 1 for

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<sup>15</sup> *Id.* at 385-419.

<sup>16</sup> *Id.* at 411.

<sup>17</sup> See *Linda Beale*, 57 ECAB 429 (2006).

<sup>18</sup> *J.H.*, Docket No. 10-1927 (issued June 1, 2011).

<sup>19</sup> If the clinical findings are fully described, any knowledgeable observer may correlate the findings with the A.M.A., *Guides*. See *Tara L. Hein*, 56 ECAB 431 (2005).

<sup>20</sup> A.M.A., *Guides* 497.

<sup>21</sup> *Id.* at 521-22.

functional history and physical examination and no grade modifier for clinical studies. He compared these net adjustments and calculated a class 2 default impairment of minus two, for a grade A, 21 percent left lower extremity impairment.

The Board finds that Dr. Simpson properly relied on the impairment guidelines set forth at page 497, Section 16.2a to obtain the proper impairment ratings for appellant's accepted bilateral knee conditions. Based on his report, OWCP properly determined in its July 31, 2012 decision that appellant had an additional 35 percent impairment to her right leg but did not have any additional impairment to her left lower extremity.

Appellant did not submit any other medical evidence rating impairment under the sixth edition of the A.M.A., *Guides*. The Board will affirm OWCP's February 26, 2013 decision.

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 50 percent impairment of her right leg and 35 percent impairment to her left lower extremity.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the February 26, 2013 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: September 11, 2013  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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