United States Department of Labor
Employees' Compensation Appeals Board

F.T., Appellant	)	
and	)	**Docket No. 14-553**
	)	**Issued: August 11, 2014**
U.S. POSTAL SERVICE, DORAVILLE POST OFFICE, Atlanta, GA, Employer	)	

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 January 13, 2014 appellant filed a timely appeal of a November 26, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 greater than two percent permanent impairment of the left and right upper extremities, for which he received schedule awards.

FACTUAL HISTORY

On August 27, 2012 appellant, then a 45-year-old letter carrier, filed an occupational disease claim alleging that on March 1, 2012 he first realized that his bilateral carpal tunnel

[1] 5 U.S.C. § 8101 *et seq.*

syndrome was due to his employment duties of sorting and delivering mail. OWCP accepted the claim for bilateral carpal tunnel syndrome.

In an August 23, 2013 report, Dr. Randall D. Alexander, a Board-certified orthopedic surgeon with a subspecialty in hand surgery, diagnosed bilateral carpal tunnel syndrome with associated persistent pain. Using the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) he determined that appellant had five percent right upper extremity impairment and five percent left upper extremity impairment, after reporting nonspecific discomfort in the hand, full hand motion and no atrophy.

On September 25 and October 16, 2013 appellant filed claims for a schedule award.

On October 24, 2013 OWCP's medical adviser reviewed Dr. Alexander's August 23, 2013 report. He determined that maximum medical improvement occurred on August 23, 2013, the date of Dr. Alexander's report; however, his rating was based on an incorrect edition of the A.MA., *Guides*. The medical adviser referred to Table 15-23[2] for entrapment/compression neuropathy impairment to find, based on the test results of Dr. Alexander, a two percent impairment to both the right and left upper extremities using the sixth edition of the A.M.A., *Guides*. Under test results, he found a grade modifier of zero as postoperative tests showed slow to normal motor and sensation. The medical adviser found a grade modifier of one under history for general hand discomfort and a grade modifier of one for the diagnosed condition. Under physical examination, he found a grade modifier of zero. The medical adviser noted the grade modifiers bilaterally totaled -1, which represented a final rating category of grade one or two percent impairment to appellant's extremities.

By decision dated November 26, 2013, OWCP granted appellant schedule awards for two percent right arm impairment and a two percent left arm impairment. The number of weeks was 12.48 and the period of the awards was from August 23 to November 16, 2013.

LEGAL PRECEDENT

Under section 8107 of FECA[3] and section 10.404 of the implementing federal regulations[4] schedule awards are payable for permanent impairment of specified body members, functions or organs. FECA, however, does not specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for 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.[5]

[2] A.M.A., *Guides* 449.

[3] 5 U.S.C. § 8107.

[4] 20 C.F.R. § 10.404

[5] *D.J.*, 59 ECAB 620 (2008); *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

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).[6] Under the sixth edition, the evaluator identifies the impairment class for the diagnosed condition (CDX), which is then adjusted by grade modifiers based on Functional History (GMFH), Physical Examination (GMPE) and Clinical Studies (GMCS).[7] The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).[8]

Impairment due to carpal tunnel syndrome is evaluated under the scheme found in Table 15-23 (Entrapment/Compression Neuropathy Impairment) and accompanying relevant text.[9] In Table 15-23, grade modifiers levels (ranging from zero to four) are described for the categories test findings, history and physical findings. The grade modifier levels are averaged to arrive at the appropriate overall grade modifier level and to identify a default rating value. The default rating value may be modified up or down by one percent based on functional scale, an assessment of impact on daily living activities.[10]

OWCP procedures provide that, after obtaining all necessary medical evidence, the file should be routed to OWCP's medical adviser for an opinion concerning the percentage of impairment using the A.M.A., *Guides*.[11]

ANALYSIS

The Board finds that appellant failed to establish that he has more than a two percent impairment of the right or left arms. The accepted condition is bilateral carpal tunnel syndrome. On November 26, 2013 OWCP granted appellant schedule awards for impairments of two percent of both upper extremities.

For decisions issued after May 1, 2009, the sixth edition of the A.M.A., *Guides* is to be used in calculating schedule awards.[12] The relevant medical evidence includes an August 23, 2013 report from Dr. Alexander who rated appellant's upper extremities in accordance with the fifth edition of the A.M.A., *Guides*. A medical opinion not based on the appropriate edition of the A.M.A., *Guides* is of diminished probative value in determining the extent of a claimant's permanent impairment.[13] Therefore, Dr. Alexander's August 23, 2013 report is not determinative of the extent of permanent impairment.

[6] A.M.A., *Guides* (6th ed., 2009), page 3, section 1.3, The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement.

[7] *Id.* at 383-419.

[8] *Id.* at 411.

[9] *Id*. at 449.

[10] *Id*. at 448-50.

[11] *Tommy R. Martin*, 56 ECAB 273 (2005).

[12] FECA Bulletin No. 09-03 (issued March 15, 2009).

[13] *See Fritz A. Klein*, 53 ECAB 642 (2002).

OWCP's medical adviser provided an October 24, 2013 report which he reviewed Dr. Alexander's August 23, 2013 report. He found that maximum medical improvement was reached on August 6, 2012 and advised that, under Table 15-23 of the sixth edition, appellant had a diagnosed condition grade modifier of one, a functional history grade modifier of one, a physical examination grade modifier of zero and a clinical studies grade modifier of zero. The medical adviser totaled these values and arrived at a net adjustment of zero. This yielded a grade 1 modifier representing an impairment rating under Table 15-23 of two percent for each upper extremity.

The Board finds that the medical evidence of record supports that appellant has a two percent right upper extremity impairment and a two percent left upper extremity impairment due to bilateral carpal tunnel syndrome. There is no medical evidence in accordance with the A.M.A., *Guides* to support greater permanent impairment.

On appeal, appellant argues that OWCP should have based the schedule award determination based on Dr. Alexander's impairment rating as he was more aware of his situation than OWCP's medical adviser. As noted, OWCP properly relied upon the rating of OWCP's medical adviser as it was based upon application of the correct edition of the A.M.A., *Guides.* Dr. Alexander provided an impairment rating using the fifth instead of the sixth edition of the A.M.A., *Guides* and, thus, his rating was of diminished probative value.

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 no more than a two percent right upper extremity impairment and two percent left upper extremity impairment, for which he received schedule awards.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 26, 2013 is affirmed.

Issued: August 8, 2014
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