United States Department of Labor
Employees' Compensation Appeals Board

P.M., Appellant	)	
	)	
and	)	**Docket No. 14-718**
	)	**Issued: August 5, 2014**
DEPARTMENT OF LABOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, San Francisco, CA, 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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 11, 2014 appellant filed a timely appeal of a January 2, 2014 Office of Workers' Compensation Programs' (OWCP) merit decision. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant has more than one percent impairment of her left upper extremity due to her accepted condition of de Quervain's disease.

FACTUAL HISTORY

On March 18, 2010 appellant, then a 50-year-old claims examiner, filed a traumatic injury claim alleging that on February 25, 2010 she injured her left forearm, wrist and thumb

[1] 5 U.S.C. § 8101 *et seq.*

attempting to lower her desk height. OWCP accepted appellant's claim for de Quervain's tenosynovitis left and left forearm tendinitis on July 13, 2010. Appellant underwent surgery for release of the first dorsal compartment with release of separate subsheath for extensor pollicis brevis tendon and synovectomy of the first dorsal compartment due to left de Quervain's tendinitis on May 18, 2011.

Appellant's attending physician, Dr. Basil R. Besh, a Board-certified orthopedic surgeon, reported on July 12, 2011 that appellant had significant hypersensitivity at her de Quervain's incision, as well as positive Tinel's sign, positive Phalen's test and positive compression test. He recommended pain management treatment. On August 8, 2011 Dr. Besh recommended electrodiagnostic testing for carpal tunnel syndrome.

Dr. Ravi Panjabi, a physician Board-certified in pain management, examined appellant on September 23, 2011 and diagnosed left wrist de Quervain's tenosynovitis and complex regional pain syndrome (CRPS) of the left upper extremity. He also noted appellant's extreme anxiety, depression and emotional distress and recommended treatment with a psychiatrist and psychologist.

Appellant underwent an electromyography (EMG) on October 6, 2011 which found no electrophysiologic abnormalities in the median, ulnar or radial nerves in the left arm. Dr. Besh examined appellant on October 18, 2011 and opined that she had reached maximum medical improvement from her diagnosed de Quervain's noting that her EMG was negative. He repeated this finding on December 5, 2011.

Appellant requested a schedule award on July 5, 2013. OWCP requested additional medical evidence in support of this claim on July 16, 2013. Dr. Besh completed a report dated July 25, 2013 and diagnosed left carpal tunnel syndrome and de Quervain's release. He noted intermittent paresthesias in the median nerve distribution as well as occasional pain at the dorsoradial aspect of her wrist. Dr. Besh stated that he was not familiar with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment.*

On August 12, 2013 Dr. Daniel O. Zimmer, a Board-certified orthopedic surgeon, stated that due to appellant's diagnosed carpal tunnel syndrome on the left it was not possible to reach an impairment rating due to her accepted condition of de Quervain's. Dr. Aubrey A. Swartz, a Board-certified orthopedic surgeon, completed a report on November 4, 2013 addressing all of appellant's accepted left upper extremity conditions. He found that appellant had no atrophy of the left forearm and that sensation was intact in both upper extremities with equal reflexes. Appellant demonstrated 60 degrees of dorsiflexion, 60 degrees of palmar flexion, 20 degrees of radial deviation and 25 degrees of ulnar deviation. Dr. Swartz found minimal tenderness over the radial styloid of the left wrist with no swelling. He noted that appellant's grip strength was 10, 11, 11 on the right and 22, 20, 19 on the left. Dr. Swartz applied Table 15-3[2] of the A.M.A., *Guides* with a default impairment of one percent. He found that the functional history adjustment would be grade modifier 1 and physical examination adjustment would be grade modifier 1 completing the upper extremity formula of the A.M.A., *Guides*, Dr. Swartz reached

[2] A.M.A., *Guides* 395, Table 15-3.

one percent upper extremity impairment due to this condition and found that appellant's date of maximum medical improvement was November 4, 2013.

Dr. Zimmer reviewed the record on December 21, 2013 and agreed with Dr. Swartz's finding of one percent impairment of the left upper extremity due to de Quervains.

By decision dated January 2, 2014, OWCP granted appellant a schedule award for one percent impairment of her left upper extremity.

LEGAL PRECEDENT

The schedule award provision of FECA[3] and its implementing regulations[4] set forth the number of weeks of compensation payable to employees sustaining permanent impairment for loss or loss of use, of scheduled members or functions 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 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. OWCP evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*.[5]

In addressing upper extremity impairments, the sixth edition requires identification of 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). The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).[6]

ANALYSIS

OWCP accepted appellant's claim for left side de Quervain's tenosynovitis and left forearm tendinitis on July 13, 2010. Appellant filed a claim for a schedule award on July 5, 2013. Appellant's physician, Dr. Besh, stated that he could not provide an impairment rating under the sixth edition of the A.M.A., *Guides*. Dr. Swartz completed a report on November 4, 2013 and applied Table 15-3[7] of the A.M.A., *Guides* with a default impairment of one percent for de Quervain's disease. He found that the functional history adjustment would be grade modifier 1[8] based on a mild problem of pain symptoms, physical examination adjustment

[3] 5 U.S.C. §§ 8101-8193, 8107.

[4] 20 C.F.R. § 10.404.

[5] For new decisions issued after May 1, 2009, OWCP began using the sixth edition of the A.M.A., *Guides*. A.M.A., *Guides*, 6th ed. (2009); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.6a (January 2010); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010).

[6] A.M.A., *Guides* 411.

[7] *Id*. at 395, Table 15-3.

[8] *Id*. at 406, Table 15-7.

would be grade modifier 1[9] based on a mild decrease of range of motion from the uninjured opposite side and that clinical studies would be grade modifier 0[10] as appellant's EMG was normal. Dr. Swartz completed the upper extremity formula of the A.M.A., *Guides* and reached one percent upper extremity impairment due to de Quervain's disease and found that appellant's date of maximum medical improvement was November 4, 2013. Dr. Zimmer reviewed this report and agreed with Dr. Swartz's conclusions. The Board finds this evaluation consistent with the A.M.A., *Guides*.

A wrist sprain or strain including persistent pain at maximum medical improvement such as de Quervain's disease is class 1 impairment with a grade C impairment of 1 percent.[11] Applying the net adjustment formula (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX) results in (1-1) + (1-1) + (0-1) = -1 or grade B, 1 percent impairment of the left upper extremity due to de Quervain's disease.[12] Thus, there is no other medical evidence based on the sixth edition of the A.M.A., *Guides* showing a higher impairment rating.

CONCLUSION

The Board finds that appellant has no more than one percent impairment of her left upper extremity due to her accepted condition of de Quervain's disease.

[9] *Id*. at 408, Table 15-8.

[10] *Id*. at 411, Table 15-9.

[11] *Id*. at 395, Table 15-3.

[12] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the January 2, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 5, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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