

accepted for effusion of joint in the lower left leg and tear of the medial meniscus of the left knee. OWCP authorized a July 30, 2012 left medial meniscectomy and chondroplasty performed by Dr. Daniel J. Linehan, a Board-certified orthopedic surgeon.

In a Form CA-7 dated October 10, 2012, appellant requested a schedule award. In a November 21, 2012 form report, Dr. Linehan advised that she had two percent leg impairment or one percent whole person impairment due to her work injury. He indicated generally that the rating was calculated under the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6th ed. 2009) (*hereinafter*, A.M.A., *Guides*) and incorporated the net adjustment formula.

In a report dated January 5, 2013, Dr. Christopher Gross, an OWCP medical adviser, stated that, since appellant's surgery, there were no medical notes on her condition. He requested recent medical and physical therapy records before rendering an opinion on permanent impairment.

By letter dated February 1, 2013, OWCP requested that appellant provide additional medical evidence.

OWCP received medical reports that predated appellant's July 30, 2012 left knee surgery. In an August 8, 2012 report, Dr. Linehan saw appellant for follow up and noted that the portals were healed, clean and dry, with minimal swelling. He indicated that range of motion was supple, but tender beyond 100 degrees of flexion. Dr. Linehan recommended physical therapy for range of motion and strengthening. OWCP received August 31, 2012 physical therapy notes discharging appellant. The physical therapist noted that appellant had left knee range of motion from 0 to 136 degrees. Appellant displayed a full range of motion in both flexion and extension with a return to full duty. In a September 5, 2012 report, Dr. Linehan stated that appellant was doing very well and had "excellent resolution of her knee pain." He noted that she had "full range of motion, no effusion and quite good strength." Dr. Linehan indicated that appellant could return to work without restrictions. He opined that appellant had "five percent permanent partial disability compared to amputation at the level of the knee."

In a June 9, 2013 report, Dr. Gross reviewed appellant's history of injury and treatment. He noted that she underwent arthroscopic debridement of the medial meniscus tear on July 30, 2012. On September 5, 2012 appellant's physician related that she had excellent resolution of her knee pain and full range of motion with normal strength. He referred to Table 16-3² to determine that she had a class 1 diagnosis with a partial medial meniscectomy. Dr. Gross referred to Table 16-6³ for functional history and determined that appellant had a normal gait with no orthotics and had a grade 0 modifier. Regarding physical examination findings, he referred to Table 16-7⁴ and noted that they were essentially normal with the exception of mild intermittent pain, warranting a grade 1 modifier. Dr. Gross utilized the net

² A.M.A., *Guides* 509.

³ *Id.* at 517.

⁴ *Id.* at 509.

adjustment formula to determine that appellant had a net adjustment of -1 and which moved the default grade C one place to the left for a grade B. He explained that this resulted in two percent impairment of the left leg. Dr. Gross noted that appellant reached maximum medical improvement on September 5, 2012. He noted that Dr. Linehan did not explain how he arrived at a five percent impairment rating.

By decision dated June 17, 2013, OWCP granted appellant a schedule award for two percent permanent impairment of the left leg. The award covered the period September 8 to October 18, 2012, for a total of 5.76 weeks of compensation.

LEGAL PRECEDENT

The schedule award provision of FECA⁵ and its implementing regulations⁶ 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. For decisions issued after May 1, 2009, the A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁷

In addressing lower extremity impairments, the sixth edition requires identifying 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).⁸ The net adjustment formula is (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX).⁹

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 nature and percentage of impairment in accordance with the A.M.A., *Guides*, with OWCP's medical adviser providing rationale for the percentage of impairment specified.¹⁰

ANALYSIS

OWCP accepted that appellant sustained effusion of joint in the lower left leg and tear of the medial meniscus of the knee, left. It authorized surgery to include arthroscopic debridement of the medial meniscus tear performed on July 30, 2012.

⁵ 5 U.S.C. § 8107.

⁶ 20 C.F.R. § 10.404.

⁷ FECA Bulletin No. 09-03 (issued March 15, 2009). A.M.A., *Guides* (6th ed. 2008).

⁸ A.M.A., *Guides* 494-531; *see J.B.*, Docket No. 09-2191 (issued May 14, 2010).

⁹ *Id.* at 521.

¹⁰ *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(f) (February 2013).

In support of her claim for a schedule award, appellant submitted a November 21, 2012 Wisconsin Workers' Compensation form report from Dr. Linehan who found that she had two percent impairment or one percent whole person impairment due to her work injury. However, Dr. Linehan did not provide any findings from examination to support his opinion. As noted, on January 5, 2013 the medical adviser noted that additional medical evidence was needed as to her postsurgical status. Appellant provided the treatment records from Dr. Linehan, including a September 5, 2012 report in which he stated that she was doing very well and had a "full range of motion, no effusion and quite good strength. Dr. Linehan listed that she had a five percent permanent impairment "compared to amputation at the level of the knee;" but did not explain how he arrived at his rating or how it was made under the A.M.A., *Guides*. Thus, this rating is of reduced probative value and is insufficient to establish appellant's impairment.¹¹ OWCP properly referred the matter to its medical adviser for further opinion.¹²

On June 9, 2013 Dr. Gross determined that appellant had reached maximum medical improvement on September 5, 2012 and had two percent left leg impairment. He utilized the Knee Regional Grid, Table 16-3, page 509, and identified a class 1 diagnosis based upon a partial medial meniscectomy, with a default (grade C) impairment of two percent. For the functional history grade modifier, Table 16-6, the medical adviser accorded a grade modifier of 0 since the record indicated that appellant had a normal gait and no orthotics.¹³ For the physical examination grade modifier, Table 16-7,¹⁴ he found a grade modifier of 1 for essentially normal physical examination with the exception of mild intermittent pain. Dr. Gross applied the net adjustment formula,¹⁵ which resulted in a net adjustment of -1, which resulted in a grade adjustment from C to B. The corresponding lower extremity impairment for a class 1, grade B partial meniscectomy is two percent.¹⁶ The Board finds that OWCP's medical adviser properly applied the A.M.A., *Guides* to rate impairment to appellant's left leg. The medical adviser reviewed the medical evidence and determined that appellant had two percent impairment under the formula of the sixth edition. This is also consistent with Dr. Linehan's November 21, 2012 report which found two percent impairment of the leg due to appellant's injury. The Board finds that the weight of medical evidence establishes that appellant has no more than two percent impairment of the left leg. Appellant has not submitted any medical evidence, in accordance with the A.M.A., *Guides*, to support a greater impairment.

¹¹ See *I.F.*, Docket No. 08-2321 (issued May 21, 2009) (an opinion which is not based upon the standards adopted by OWCP and approved by the Board as appropriate for evaluating schedule losses is of diminished probative value in determining the extent of permanent impairment).

¹² See *J.Q.*, 59 ECAB 366 (2008) (it is well established that, when the examining physician does not provide an estimate of impairment conforming to the A.M.A., *Guides*, OWCP may rely on the impairment rating provided by a medical adviser); see *supra* note 10.

¹³ A.M.A., *Guides* 516.

¹⁴ *Id.* at 517.

¹⁵ See *supra* note 9.

¹⁶ A.M.A., *Guides* 509.

On appeal, appellant argued that she should have also received one percent whole person impairment as set forth by Dr. Linehan. However, FECA does not authorize schedule awards for impairment of the whole person.¹⁷ Appellant also submitted additional evidence on appeal. The Board has no jurisdiction to review this evidence for the first time on appeal.¹⁸

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 not met her burden of proof to establish that she has more than two percent impairment of the left lower extremity.

ORDER

IT IS HEREBY ORDERED THAT the June 17, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 12, 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

¹⁷ *N.D.*, 59 ECAB 344 (2008).

¹⁸ 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).