



## **FACTUAL HISTORY**

OWCP accepted that on February 22, 2011 appellant, then a 33-year-old city carrier in transitional status, sustained a sprain of the right knee and leg and derangement of the right meniscus when she slipped and fell on an icy sidewalk. She stopped work on the date of injury. Appellant was separated from the employing establishment effective March 4, 2011 when her temporary appointment ended. She received compensation on the daily rolls from February 25, 2011 to April 7, 2012 and on the periodic rolls effective March 11, 2012.

Dr. Samuel S. Park, an attending Board-certified orthopedic surgeon, treated appellant beginning on March 9, 2011. By history appellant had undergone a surgical reconstruction of the right anterior cruciate ligament in 2003 with screw fixation. She had done well until her fall on February 22, 2011. Dr. Park diagnosed a right knee sprain superimposed on osteoarthritis of the right knee. An April 12, 2011 magnetic resonance imaging (MRI) scan of the right knee showed degenerative changes, chondromalacia, a Baker's cyst and a possible medial meniscal tear.

On May 13, 2011 Dr. Park performed an arthroscopic repair of a right medial meniscal tear and right anterior cruciate ligament tear, approved by OWCP. He diagnosed grade 2 to 3 chondromalacia. Dr. Park submitted periodic reports through November 5, 2012 finding that appellant attained maximum medical improvement as of July 12, 2012, with good stability, no atrophy and continued pain. He noted that x-rays showed severe osteoarthritis of the right knee. Dr. Park administered cortisone injections.<sup>3</sup>

On October 18, 2012 appellant claimed a schedule award. She submitted a December 8, 2012 impairment rating from Dr. Neil Allen, an attending Board-certified internist and neurologist, who provided a history of injury and treatment and reviewed medical evidence of record.<sup>4</sup> Dr. Allen related appellant's complaints of right knee pain, swelling and instability. On examination of the right knee, he found severe pain to palpation of the medial joint line, crepitus, diminished sensation laterally and medially to the joint line, 4/5 hamstring weakness bilaterally, no atrophy, flexion at 102 degrees with pain and crepitus, grade 1 laxity at 20 degrees flexion, and an antalgic limp favoring the right leg. Referring to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, the A.M.A., *Guides*), Dr. Allen noted a class 1 diagnosis-based impairment (CDX) according to Table 16-3 with a default value of 10 percent.<sup>5</sup> He found a grade modifier for Functional History (GMFH) of 1 according to Table 16-6<sup>6</sup> for a lower limb questionnaire score of 63, indicating a

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<sup>3</sup> In a November 5, 2012 decision, OWCP terminated appellant's wage-loss and medical compensation benefits effective that day on the grounds that the accepted right knee injury had resolved without residuals, based on Dr. Park's opinion. An OWCP hearing representative affirmed the termination by May 7, 2013 decision.

<sup>4</sup> Dr. Allen noted appellant's date of birth as "February 26, 1957." This appears to be a typographical error, as appellant's claim form and other medical evidence note that appellant was born on July 30, 1977.

<sup>5</sup> Table 16-3, pages 509-11 of the sixth edition of the A.M.A., *Guides* is entitled "Knee Regional Grid -- Lower Extremity Impairments."

<sup>6</sup> Table 16-6, page 516 of the sixth edition of the A.M.A., *Guides* is entitled "Functional History Adjustment - Lower Extremities."

mild deficit. Dr. Allen noted a grade modifier of 1 for findings on Physical Examination (GMPE) due to mild instability, mild flexion deficit and moderate palpatory findings according to Table 16-7.<sup>7</sup> He noted that he did not assess a grade modifier for Clinical Studies (GMCS) as he used the studies as a key factor in class placement. Applying the net adjustment formula of (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX),<sup>8</sup> or (1-1) + (1-1), Dr. Allen found that no adjustment in the default 10 percent value was necessary. He concluded that appellant had 10 percent impairment of the right leg.

On April 21, 2013 an OWCP medical adviser reviewed the medical record and performed an impairment rating. He found that appellant had reached maximum medical improvement as of November 12, 2012 according to Dr. Park's reports. The medical adviser asserted that Dr. Allen misapplied the A.M.A., *Guides* in assessing 10 percent impairment, as appellant had undergone a partial medial meniscectomy only, equaling 2 percent impairment. The 10 percent rating applied to partial medial and lateral meniscectomies conjunctively. The medical adviser concurred with Dr. Allen's finding of a zero percent net adjustment. He concluded that appellant had a two percent diagnosis-based impairment of the right lower extremity.

By decision dated June 10, 2013, OWCP issued a schedule award for two percent impairment of the right leg, based on OWCP's medical adviser's interpretation of Dr. Park's and Dr. Allen's clinical findings. It accorded the medical adviser the weight of the medical evidence because Dr. Allen misapplied the A.M.A., *Guides*.

In a June 20, 2013 letter, counsel requested a telephonic hearing, held November 26, 2013. At the hearing, he asserted that OWCP should accord the weight of the medical evidence to Dr. Park, as OWCP's medical adviser did not consider all clinical findings in his impairment rating. Counsel submitted November 13, 2013 reports from Dr. Park recommending removal of a right proximal tibial screw and washer as appellant had end-stage medial joint space collapse and the device was too large for the decreased space. OWCP approved the procedure, which Dr. Park performed on December 10, 2013.

By decision dated and finalized February 12, 2014, an OWCP hearing representative affirmed OWCP's June 10, 2013 schedule award determination. The hearing representative found that OWCP properly accorded OWCP's medical adviser's opinion on the weight of the medical evidence as Dr. Allen did not apply the correct charts and tables to his clinical findings.

### **LEGAL PRECEDENT**

The schedule award provisions of FECA<sup>9</sup> provide for compensation to employees sustaining impairment from loss or loss of use of specified members 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 sound discretion of

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<sup>7</sup> Table 16-7, page 517 of the sixth edition of the A.M.A., *Guides* is entitled "Physical Examination Adjustment -- Lower Extremities."

<sup>8</sup> The net adjustment formula is set forth at page 521 of the A.M.A., *Guides*.

<sup>9</sup> 5 U.S.C. § 8107.

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. The A.M.A., *Guides* has been adopted by OWCP as a standard for evaluation of schedule losses and the Board has concurred in such adoption.<sup>10</sup>

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).<sup>11</sup> Under the sixth edition, the evaluator identifies the impairment class for the diagnosed condition (CDX), which is then adjusted by grade modifiers based on GMFH, (GMPE) and GMCS.<sup>12</sup> The net adjustment formula is (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX). In determining entitlement to a schedule award, preexisting impairment to the scheduled member is to be included.<sup>13</sup>

OWCP procedures provide that, after obtaining all necessary medical evidence, the file should be routed to an OWCP medical adviser for an opinion concerning the percentage of impairment using the A.M.A., *Guides*.<sup>14</sup> In some instances, an OWCP medical adviser's opinion can constitute the weight of the medical evidence. This occurs in schedule award cases where an opinion on the percentage of permanent impairment and a description of physical findings is on file from an examining physician, but the percentage estimate by this physician is not based on the A.M.A., *Guides*. In this instance, a detailed opinion by OWCP's medical adviser which gives a percentage based on reported findings and the A.M.A., *Guides* may constitute the weight of the medical evidence.<sup>15</sup>

### ANALYSIS

Appellant claimed a schedule award for permanent impairment of the right leg caused by an accepted right knee sprain with meniscal derangement. She submitted a December 8, 2012 impairment rating from Dr. Allen who found that appellant had reached maximum medical improvement, based on the reports of Dr. Park, an attending physician. Referring to Table 16-3 of the A.M.A., *Guides*, Dr. Allen found 10 percent diagnosis-based impairment of the right lower extremity, with no grade modifier adjustments. On April 21, 2013 an OWCP medical adviser reviewed Dr. Allen's report and opined that he did not apply the appropriate element of Table

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<sup>10</sup> *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>11</sup> A.M.A., *Guides* (6<sup>th</sup> ed., 2008), page 3, Section 1.3, "The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement."

<sup>12</sup> A.M.A., *Guides* (6<sup>th</sup> ed., 2008), pp. 494-531.

<sup>13</sup> *A.M.*, Docket No. 14-787 (issued July 15, 2014); *M.H.*, Docket No. 14-591 (issued June 11, 2014); *Peter C. Belkind*, 56 ECAB 580 (2005).

<sup>14</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(f) (February 2013); *see also L.R.*, Docket No. 14-674 (issued August 13, 2014); *D.H.*, Docket No. 12-1857 (issued February 26, 2013).

<sup>15</sup> *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.8(j) (September 2010).

16-3. The medical adviser explained that status post partial meniscectomy with no instability equaled two percent impairment for either the medial or lateral meniscus. Dr. Allen applied the 10 percent rating which was appropriate for partial lateral and medial meniscectomies. The medical adviser concurred with Dr. Allen that there were no applicable grade modifiers. Based on an OWCP medical adviser's report, OWCP issued a June 20, 2013 schedule award for two percent impairment of the right lower extremity, affirmed by decision dated and finalized February 12, 2014.

As appellant's physicians did not provide an appropriate impairment rating, OWCP properly relied on the April 21, 2013 report of an OWCP medical adviser. The medical adviser applied the appropriate sections of the sixth edition of the A.M.A., *Guides* to Dr. Allen's clinical findings. He found two percent impairment of the right leg due to status post partial medial meniscectomy with no instability. The medical adviser explained that the applicable grade modifiers did not result in an adjustment.

The Board finds that the medical adviser correctly applied the appropriate portions of the A.M.A., *Guides* to Dr. Allen's clinical findings.<sup>16</sup> Therefore, OWCP's February 12, 2014 decision affirming the June 10, 2013 schedule award finding two percent impairment of the right leg was proper under the facts and circumstances of this case.

On appeal, counsel asserts that OWCP's February 12, 2014 decision is "contrary to law and fact." As stated above, OWCP's determination of two percent impairment of the right lower extremity was based on the correct application of the A.M.A., *Guides* to the physical findings provided by Dr. Allen. The Board notes that, while preexisting conditions affecting the scheduled member are to be included in the impairment rating,<sup>17</sup> Dr. Allen did not opine that appellant's preexisting osteoarthritis warranted an additional percentage of impairment. On December 10, 2013 Dr. Park removed fixation hardware placed during the 2003 procedure because the device no longer fit in the medial joint space, which is now collapsed due to osteoarthritis. However, he did not opine that additional impairment was warranted because of this procedure.

Appellant may request a schedule award or increased schedule award regarding the right lower extremity, 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 established that she sustained more than two percent impairment of the right lower extremity, for which she received a schedule award.

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

<sup>17</sup> *Supra* note 13. The Board notes that the record does not indicate if the 2003 right anterior cruciate ligament tear was related to appellant's federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 12, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 2, 2014  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

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