

FACTUAL HISTORY

The case has previously been before the Board. By decision dated September 12, 2012, the Board remanded the case for further development of the medical evidence with respect to a schedule award.³ The Board noted that the referee physician, Dr. Andrew Carollo, a Board-certified orthopedic surgeon, had reported examination findings in a February 16, 2011 report that range of motion for hip flexion in both hips was 100 degrees, with normal reported as 120 degrees.⁴ The Board remanded the case for an OWCP medical adviser's opinion as to whether the report from Dr. Carollo required clarification.

On return of the case record, OWCP requested that an OWCP medical adviser review Dr. Carollo's report and provide an opinion with respect to a permanent impairment under the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). In a report dated October 16, 2012, the medical adviser stated that Dr. Carollo found no weakness or atrophy, normal reflexes and normal sensation. He did not discuss hip range of motion. The medical adviser opined that appellant had no impairment under the A.M.A., *Guides*.

By decision dated November 30, 2012, OWCP found that appellant was not entitled to a schedule award. On December 19, 2012 appellant requested a review of the written record. By decision dated February 7, 2013, the hearing representative affirmed the November 30, 2012 decision. He found that the weight of the medical evidence did not establish a permanent impairment.

LEGAL PRECEDENT

5 U.S.C. § 8107 provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.⁵ Neither FECA nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.⁶ For schedule awards after May 1, 2009, the impairment is evaluated under the sixth edition.⁷

³ Docket No. 12-790 (issued September 12, 2012).

⁴ Dr. Carollo had also stated that hip measurements "were within normal limits" without further explanation.

⁵ 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

⁶ *A. George Lampo*, 45 ECAB 441 (1994).

⁷ FECA Bulletin No. 09-03 (issued March 15, 2009).

ANALYSIS

In the present case, the Board had remanded the case for an OWCP medical adviser to review the referee physician report, specifically with reference to Dr. Carollo's findings with respect to the hips. OWCP asked a medical adviser to review Dr. Carollo's report, although it did not specifically discuss the hip range of motion. The medical adviser did not comment on the question of hip range of motion.

The Board notes that, under the A.M.A., *Guides*, an impairment based loss of range of motion in the lower extremities may be determined in accord with section 16.7.⁸ This method is used "only if no other approach is available" to rate the impairment.⁹ The report from OWCP's medical adviser indicates that a diagnosis-based method would not result in a ratable impairment. The medical adviser stated that Dr. Carollo found no weakness or atrophy, normal reflexes and normal sensation.

A medical question remains, however, as to whether an impairment based on loss of range of motion would be appropriate in this case. The 100 degrees of hip flexion range of motion reported by Dr. Carollo would result in a five percent leg impairment if a range of motion approach was utilized.¹⁰ To properly resolve the conflict, the referee physician, Dr. Carollo, must address his findings regarding hip flexion and specifically clarify his opinion as to an impairment under the A.M.A., *Guides*. OWCP should note the reported range of motion findings and the applicable provisions of the A.M.A., *Guides* with respect to an impairment based on loss of range of motion and secure a probative medical opinion from the referee physician that is sufficient to resolve the conflict. After such further development as OWCP deems necessary, it should issue an appropriate decision.

CONCLUSION

The Board finds that the case is not in posture for decision and is remanded to OWCP for further development of the medical evidence.

⁸ A.M.A., *Guides* 543-53.

⁹ *Id.* at 552.

¹⁰ A.M.A., *Guides* 549, Table 16-24. Under Table 16-24, hip flexion of 80 to 100 degrees is a "mild" leg impairment of five percent.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 7, 2013 is set aside and the case remanded for further action consistent with this decision of the Board.

Issued: September 5, 2014
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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