

due to repetitive upper extremity motion in the performance of duty. Appellant remained under medical treatment through 1998. OWCP accepted a recurrence of disability commencing on or about February 8, 1999.² Appellant filed a claim for schedule award on March 25, 2010.

On April 2, 2010 OWCP requested that Dr. Fred Blackwell, an attending Board-certified orthopedic surgeon, provide an impairment rating. By report dated June 7, 2010, Dr. Blackwell opined that appellant had attained maximum medical improvement in approximately March 1999. He diagnosed bilateral elbow, forearm and cervical sprains, and a thoracic strain and sprain. On examination, Dr. Blackwell noted limited cervical motion, with left lateral rotation at 60 degrees, and forward flexion at two inches above the chest. He also found bilateral tenderness over the lateral epicondyle, a bilaterally positive Finkelstein's test, reduced grip strength on the right, an equivocally positive impingement sign in both shoulders, and a possible tear of the common extensor tendon in the right elbow. Referring generally to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, "A.M.A., *Guide*"), Dr. Blackwell found 20 percent impairment of the right upper extremity for the right shoulder, and seven percent impairment of the left upper extremity related to the elbow. His medical notes on page four states that the permanent impairment worksheet provided by the claims examiner had been completed and was enclosed. However, the rating sheet was not received and is not in evidence.

OWCP advised appellant on December 14, 2010 that the schedule award claim could not be processed because appellant was receiving compensation for total disability.

On August 26, 2010 OWCP obtained a second opinion from Dr. Ramon Jimenez, a Board-certified orthopedic surgeon, who opined that appellant had active injury-related residuals but could perform full-time light-duty work. Following a vocational rehabilitation program and job placement effort, OWCP issued a May 10, 2013 notice, finalized on July 6, 2012, reducing appellant's compensation based on her ability to earn wages in the selected position of surveillance system monitor.

Following a December 17, 2012 request from appellant's representative to move forward on the schedule award. OWCP forwarded the case record to an OWCP medical adviser for an impairment rating consistent with the A.M.A., *Guides*, sixth edition.

In a February 24, 2013 report, OWCP medical adviser reviewed the medical record and statement of accepted facts. She concurred with Dr. Blackwell that appellant had reached maximum medical improvement by June 7, 2010. Regarding the right shoulder, the medical adviser found a Class of Diagnosis impairment (CDX) for tendinitis according to Table 15-5,³ with a default grade of C, equaling three percent impairment of the right upper extremity. She explained that there was no applicable modifier for Clinical Studies (GMCS). The medical adviser assessed a grade modifier of 2 for findings on Physical Examination (GMPE) according

² Appellant again stopped work in August 2009 and February 26, 2010 during which she received wage-loss compensation.

³ Table 15-5, page 401 of the sixth edition of the A.M.A., *Guides* is entitled "Shoulder Regional Grid: Upper Extremity Impairments."

to Table 15-8.⁴ She also found a grade modifier for Functional History (GMFH) of 2 according to Table 15-7.⁵ Applying the net adjustment formula of (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX), or (2-1) + (2-1), resulted in a net adjustment of +2, moving the default CDX grade from C to E, equaling an additional two percent impairment of the right shoulder, for a total of five percent. The medical adviser referred to Table 15-5 to provide identical impairment ratings for both elbows for epicondylitis without surgery, finding a class 1 CDX with a default grade of C, equaling one percent arm impairment. She found a GMCS of 1 according to Table 15-9, a GMPE of 2 according to Table 15-8, and a GMFH of 2, according to Table 15-7. Applying the net adjustment formula of (2-1) + (2-1) + (1-1) resulted in a modification factor of +2, moving the default position from C to D, equaling two percent impairment of each elbow. For the right arm, the medical adviser combined the five percent impairment for shoulder tendinitis to the two percent impairment for the elbow epicondylitis to equal seven percent impairment.

OWCP medical adviser found two percent impairment of the left elbow due to epicondylitis. The medical adviser noted that Dr. Blackwell did not provide rationale supporting the percentages of impairment he offered, and that it was not clear, from the physical findings he reported, how Dr. Blackwell arrived at those percentages.

By decision dated July 11, 2013, OWCP granted appellant a schedule award for seven percent impairment of the right arm and two percent impairment of the left arm, based on the medical adviser's interpretation of Dr. Blackwell's findings.

In an August 9, 2013 letter, appellant's representative requested a hearing, which was later changed to request a review of the written record. Appellant submitted periodic reports from Dr. Blackwell dated from July 12 to October 18, 2013 noting continued upper extremity symptoms and restricted motion of the cervical spine. No additional impairment rating from Dr. Blackwell was received or supplemented.

By decision dated January 16, 2014, an OWCP hearing representative affirmed the July 11, 2013 schedule award, finding that OWCP medical adviser's February 24, 2013 impairment rating continued to represent the weight of the medical evidence. The hearing representative found that Dr. Blackwell had not explained how he derived the offered percentages of impairment nor referred to specific tables or grading schemes of the A.M.A., *Guides*. OWCP therefore properly referred Dr. Blackwell's reports to an OWCP medical adviser to obtain an impairment rating. The hearing representative found that OWCP medical adviser provided clear medical reasoning supporting her impairment calculations, referencing the appropriate portions of the A.M.A., *Guides*.

⁴ A.M.A., *Guides* 408, Table 15-8 of the sixth edition is entitled "Physical Examination Adjustment: Upper Extremities."

⁵ A.M.A., *Guides* 406, Table 15-7 of the sixth edition is entitled "Functional History Adjustment: Upper Extremities."

LEGAL PRECEDENT

The schedule award provisions of FECA⁶ 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 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.⁷ As of May 1, 2009 all impairment ratings are calculated using the sixth edition of the A.M.A., *Guides*.⁸

The sixth edition of the A.M.A., *Guides* provide a diagnosis-based method of evaluation utilizing the World Health Organization's International Classification of Functioning, Disability and Health (ICF).⁹ Under the sixth edition, the evaluator identifies the impairment class for the diagnosis, which is then adjusted by grade modifiers based on functional history, physical examination, and clinical studies.¹⁰ Under the sixth edition, the evaluator identifies the impairment class for the diagnosed condition, which is then adjusted by grade modifiers based on functional history, physical examination, and clinical studies. The net adjustment formula is (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX).

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*.¹¹ 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 medical adviser which gives a percentage based on reported findings and the A.M.A., *Guides* may constitute the weight of the medical evidence.¹²

⁶ 5 U.S.C. § 8107.

⁷ *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5(a) (February 2013).

⁹ A.M.A., *Guides* 3, (6th ed., 2008), Section 1.3, "The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement."

¹⁰ A.M.A., *Guides* 494-531 (6th ed. 2008).

¹¹ *Supra* note 8 at 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).

¹² *Supra* note 8 at Chapter 2.810.8(j) (September 2010).

ANALYSIS

OWCP accepted that appellant sustained a bilateral shoulder sprain, bilateral elbow sprain, neck sprain, and a back sprain. Appellant claimed a schedule award. Dr. Blackwell, an attending Board-certified orthopedic surgeon, provided a June 7, 2010 impairment rating. He opined that appellant attained maximum medical improvement regarding diagnosed bilateral epicondylitis of the elbow and right shoulder tendinitis. Dr. Blackwell referred generally to the sixth edition of the A.M.A., *Guides*, finding 20 percent impairment of the right arm for the right shoulder, and seven percent impairment of the left arm related to the elbow.

As Dr. Blackwell was not shown to apply the rating criteria of the A.M.A., *Guides*, OWCP properly relied on the medical adviser's February 24, 2013 report. The medical adviser applied the appropriate sections of the sixth edition of the A.M.A., *Guides* to Dr. Blackwell's clinical findings. She found five percent impairment for right shoulder tendinitis according to Table 15-5. The medical adviser assessed grade modifiers for findings on examination and functional history. Applying the net adjustment formula of (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX), or (2-1) + (2-1), resulted in a net adjustment of the default diagnosis-based impairment upward for C to E, equaling five percent impairment of the right upper extremity. The medical adviser found identical impairments of both elbows due to epicondylitis. Application of the net adjustment formula to the diagnosis-based impairment resulted in two percent impairment of each elbow. The medical adviser therefore found a total of seven percent impairment of the right arm and two percent impairment of the left arm. She provided a detailed discussion of how each element of the rating scheme related to the clinical findings observed by Dr. Blackwell.

The Board finds that OWCP properly relied on the medical adviser's February 7, 2014 impairment rating. The medical adviser properly applied the appropriate portions of the A.M.A., *Guides* to Dr. Blackwell's clinical findings.¹³ She provided detailed explanations and calculations for each rating element. Therefore, OWCP's January 16, 2014 decision affirming the July 11, 2013 schedule award for seven percent impairment of the right arm and two percent impairment of the left arm, was proper under the facts and circumstances of this case. There is no probative medical evidence establishing a greater percentage of impairment.

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 established greater than two percent impairment of the left arm and seven percent impairment of the right arm, for which she received a schedule award.

¹³ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 16, 2014 is affirmed.

Issued: January 13, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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