United States Department of Labor
Employees' Compensation Appeals Board

S.S., Appellant	)	
	)	**Docket No. 15-90**
and	)	**Issued: March 12, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Memphis, TN, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 15, 2014 appellant filed a timely appeal from a July 15, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUE

The issue is whether appellant established greater than a two percent impairment of the left upper extremity and a two percent impairment of the right upper extremity, for which she received a schedule award.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that appellant did not appeal a July 16, 2014 decision regarding an overpayment of compensation of $409.80, created when appellant received compensation for total disability from May 27 to 31, 2014, after she returned to work.

FACTUAL HISTORY

OWCP accepted that on or before September 17, 2012 appellant, then a 56-year-old city letter carrier, sustained bilateral carpal tunnel syndrome in the performance of duty. The presence of the condition was first documented by February 11, 2013 electromyography (EMG) and nerve conduction velocity (NCV) studies showing moderate-to-severe median entrapment neuropathy at both wrists.

Dr. Arsen H. Manugian, an attending Board-certified orthopedic surgeon, provided September 25 and October 30, 2013 reports diagnosing bilateral carpal tunnel syndrome and stenosing tenosynovitis of the right thumb. He performed a left carpal tunnel release on January 8, 2014 and a right carpal tunnel release on February 5, 2014. OWCP approved the procedures, and also authorized Dr. Manugian's request for a right trigger thumb procedure which he did not perform. Appellant was off work from February 8 to May 27, 2014 and received wage-loss compensation. She participated in physical therapy. Appellant's postoperative course was marked by an infection of the right hand, resolved with medication. Dr. Manugian injected her right trigger thumb, after which she had no further incidents of locking. He released appellant to full duty as of May 21, 2014 and discharged her from care.

On June 4, 2014 appellant claimed a schedule award. In support of her claim, she submitted a May 14, 2014 impairment rating from Julie Dixon, a physical therapist. Referring to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter, A.M.A., *Guides*), Ms. Dixon found a Class of Diagnosis (CDX) for carpal tunnel syndrome of each wrist at grade modifier two, with a default rating of five percent according to Table 15-23.[3] She noted a grade modifier of three for Clinical Studies (GMCS), a grade modifier of one for Functional History (GMFH) based on *Quick*DASH scores of 59 percent on the right and 61 percent on the left, and a grade modifier of two for findings on Physical Examination (GMPE) due to sensory loss as demonstrated by Semmes-Weinstein monofilaments at 3.61. Applying the net adjustment formula of (GMFH - CDX) + (GMPE – CDX) + (GMCS - CDX), Ms. Dixon found an average modifier of two, raising the default grade of five percent to six percent. She noted that appellant's *Quick*DASH scores were "somewhat high for diagnosis and stage of recovery." Ms. Dixon commented that the A.M.A., *Guides* allowed exclusion of *Quick*DASH scores if they were considered unreasonable.

Dr. Manugian reviewed Ms. Dixon's impairment rating on May 27, 2014. He found that appellant had reached maximum medical improvement. Dr. Manugian affirmed her calculation of six percent impairment of each upper extremity.

In a June 10, 2014 letter, appellant stated that she still had tenderness in her right hand and wore a protective glove. She contended that Dr. Manugian did not perform surgery on her right trigger thumb although OWCP authorized the procedure, instead administering a postoperative cortisone injection.

[3] Table 15-23, page 449 of the sixth edition of the A.M.A., *Guides* is entitled "Entrapment/Compression Neuropathy Impairment."

On June 11, 2014 OWCP's medical adviser reviewed Dr. Manugian's reports, concurring that appellant had reached maximum medical improvement. He found a class of diagnosis of one according to Table 15-23, a grade modifier of one for functional history, and a grade modifier of zero for physical examination. There was no applicable modifier for clinical studies as these were included in the class of diagnosis. Applying the net adjustment formula of (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX), the medical adviser calculated an average modifier of negative one half, rounded up to zero. The resulting class 1C class of diagnosis equaled a two percent impairment of each upper extremity.

On June 24, 2014 Dr. Manugian reviewed the medical adviser's impairment rating and found that Ms. Dixon's calculations were in error as she misclassified the severity of appellant's class of diagnosis as grade 2 whereas clinical findings substantiated only grade 1. He explained that appellant had normal two-point discrimination testing, with mild intermittent symptoms and conduction delay on preoperative studies. Dr. Manugian found that she had the default two percent impairment of each upper extremity under grade modifier one, rather than six percent under grade modifier two. He released appellant from care.[4]

By decision issued July 15, 2014, OWCP granted appellant a schedule award for two percent impairment of the right upper extremity and two percent impairment of the left upper extremity, based on Dr. Manugian's opinion as reviewed by the medical adviser.

LEGAL PRECEDENT

The schedule award provisions of FECA[5] provide for compensation to employees sustaining impairment from loss or loss of use of specified members of the body. It, 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 mater 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.[6] For schedule awards after May 1, 2009, the impairment is evaluated under the sixth edition of the A.M.A., *Guides*, published in 2008.[7]

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).[8] In addressing upper extremity impairments, the sixth edition requires

[4] July 9, 2014 EMG and NCV studies showed mild right median nerve compression, significantly improved since February 11, 2013 testing.

[5] 5 U.S.C. § 8107.

[6] *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

[7] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.6a (January 2010); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

[8] A.M.A., *Guides*, 3, section 1.3, "The ICF: A Contemporary Model of Disablement" (6th ed. 2008).

identifying the impairment class for the class of diagnosis, which is then adjusted by grade modifiers based on functional history, physical examination, and clinical studies.[9] The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).[10]

The A.M.A., *Guides* provide a specific rating process for entrapment neuropathies such as carpal tunnel.[11] This rating process requires that the diagnosis of a focal neuropathy syndrome be documented by sensory or motor nerve conduction studies or electromyogram. The A.M.A., *Guides* do not allow additional impairment values for decreased grip strength, loss of motion, or pain.[12] Table 15-23 provides a compilation of the grade modifiers for test findings, history, and physical findings which are averaged and rounded to the nearest whole number. This table also provides the range of impairment values as well as the function scale modifier which determines the impairment value within the impairment scale.[13]

OWCP procedures provide that, after obtaining all necessary medical evidence, the file should be routed to the medical adviser for an opinion concerning the percentage of impairment using the A.M.A., *Guides.*[14] *I*n some instances, the 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.[15]

ANALYSIS

OWCP accepted that appellant sustained bilateral carpal tunnel syndrome in the performance of duty, necessitating bilateral carpal tunnel releases. Appellant claimed a schedule award on June 4, 2014. Dr. Manugian, an attending Board-certified orthopedic surgeon, opined on May 27, 2014 that appellant had six percent impairment of each arm, based on findings observed by Ms. Dixon, a physical therapist. He discovered errors in Ms. Dixon's impairment rating, finding that appellant had a grade 1 class of diagnosis, not grade 2 as Ms. Dixon had found. Applying the net adjustment formula to the clinical findings observed or affirmed by

[9] *Id*. at 385-419; *see also M.P.*, Docket No. 13-2087 (issued April 8, 2014).

[10] *Id*. at 411.

[11] *Id.* at. 432-50.

[12] *Id.* at 433.

[13] *Id*.

[14] 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).

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

Dr. Manugian, the medical adviser calculated two percent impairment of each arm. On June 24, 2014 report Dr. Manugian explained that his earlier rating had been in error, as it was based on Ms. Dixon's assignment of a grade 2 class of diagnosis, whereas the medical record supported a grade 1 class of diagnosis. He concurred with the medical adviser's calculation of two percent impairment of each arm based on a grade 1 class of diagnosis.

The Board finds that the medical adviser applied the appropriate tables and grading schemes of the A.M.A., *Guides,* in determining the bilateral two percent impairments. The medical adviser applied the grading schemes of Table 15-23 to appellant's clinical findings. He explained why her bilateral upper extremity deficits most closely fit a grade 1 class of diagnosis, and calculated a grade modifier of one for functional history based on her continuing symptoms. The medical adviser accurately applied the net adjustment formula, (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX), or (1-1) + (0-1), equaling -1/2, rounded up to zero. He therefore assigned the default grade 1 class of diagnosis impairment rating of two percent for each arm. Dr. Manugian later agreed with this impairment calculation method. He did not offer any evidence demonstrating a higher percentage of impairment pursuant to the A.M.A., *Guides*. Therefore, OWCP properly issued the July 15, 2014 schedule award for two percent impairment of the right upper extremity and two percent impairment of the left upper extremity.

On appeal, appellant notes that she had been a postal employee for 55 years and had no reason to exaggerate the severity of her condition. She notes that she worked for a year despite her pain symptoms while waiting for OWCP to approve her surgical requests. Appellant argues that Dr. Manugian erred by lowering his initial impairment rating from six to two percent of each arm. As stated above, Dr. Manugian explained that he lowered his impairment rating as he found errors in the physical therapist's report on which he based the higher rating. Appellant contends that she has not yet reached maximum medical improvement as she still has pain and swelling in her hands. The Board notes that Dr. Manugian released appellant from care and found her able to perform full duty as of May 21, 2014. Dr. Manugian reaffirmed this opinion on June 24, 2014.

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 more than a two percent impairment of each upper extremity, for which she received a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 15, 2014 is affirmed.

Issued: March 12, 2015
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

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