



schedule award for 16 percent impairment of his right upper extremity and 9 percent impairment of his left upper extremity.

On June 11, 2013 appellant underwent a right reverse total shoulder arthroplasty and tenodesis of the biceps tendon. On February 6, 2014 Dr. Daniel P. Dare, the attending Board-certified orthopedic surgeon, reported that the arthroplasty was “doing actually quite well.” Range of motion was approximately 65 to 70 percent of normal. Pain was in the functional range with average strength. Appellant filed a claim for an increased schedule award.

In a decision dated November 19, 2014, OWCP denied an additional schedule award. It noted that Dr. Dare did not respond to a request for an impairment rating. Appellant acknowledged that his physician was not responding to the request for an impairment rating on his total right shoulder replacement. He therefore requested that OWCP refer him for a second opinion or to the district medical adviser.

OWCP referred appellant’s case to a medical adviser, who noted that the results of the June 11, 2013 surgery were satisfactory. Referring to Table 15-5, page 405, of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6<sup>th</sup> ed. 2009), the medical adviser noted that appellant’s right shoulder arthroplasty represented 24 percent permanent impairment of the upper extremity. As appellant had already received a schedule award for 16 percent impairment of his right upper extremity, he was entitled to an award for an additional 8 percent.

In March 2015 OWCP received a report from Dr. Dare, who apologized for the long delay, explaining the chart and associated documents were misplaced. Dr. Dare reviewed appellant’s history and found that he had done reasonably well following the arthroplasty. It was his opinion that appellant’s impairment was 24 percent of the right upper extremity.

Given the opinions of OWCP’s medical adviser and Dr. Dare, an OWCP hearing representative, reversed the November 19, 2014 denial of an increased schedule award and directed OWCP to pay additional benefits.

In a decision dated July 8, 2015, OWCP issued a schedule award for an additional eight percent impairment of appellant’s right upper extremity.

### **LEGAL PRECEDENT**

The schedule award provision of FECA<sup>2</sup> and the implementing regulations<sup>3</sup> 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. FECA, however, does not specify the manner in which the percentage of loss shall be determined. The method used in making such a determination is a matter that rests within the sound discretion of OWCP.<sup>4</sup>

---

<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404.

<sup>4</sup> *Linda R. Sherman*, 56 ECAB 127 (2004); *Danniel C. Goings*, 37 ECAB 781 (1986).

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. OWCP has adopted the A.M.A., *Guides* as the appropriate standard for evaluating schedule losses.<sup>5</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>6</sup>

### ANALYSIS

Under the A.M.A., *Guides*, diagnosis-based impairment is the primary method of evaluation for the upper extremities. The first step is to choose the diagnosis that is most applicable for the region being assessed.<sup>7</sup> Specific criteria for that diagnosis determine which class is appropriate: no objective problem, mild problem, moderate problem, severe problem, very severe problem approaching total function loss. The A.M.A., *Guides* assigns a default impairment rating for each diagnosis by class. This default impairment rating may then be adjusted using such grade modifiers as functional history, physical examination and clinical studies.<sup>8</sup>

Table 15-5, page 405, of the A.M.A., *Guides* shows that a shoulder arthroplasty implant represents a moderate impairment of the upper extremity ranging from 20 to 25 percent. The default impairment rating is 24 percent. Procedures require that the grade modifiers associated with functional history, physical examination, and clinical studies will be used to calculate a net adjustment that permits modification of the default value.<sup>9</sup> In other words, once the impairment class is determined according to diagnostic criteria, the final impairment grade within a particular class is determined by the grade modifiers.<sup>10</sup>

Both, Dr. Dare, the attending surgeon, and OWCP's medical adviser ignored appellant's functional history, physical examination, and clinical findings. They simply found the default impairment value for a shoulder arthroplasty implant and stopped there. They did not follow the procedures for determining appellant's final impairment.

The Board will therefore set aside OWCP's July 8, 2014 decision and remand the case for further development of the medical evidence. OWCP shall obtain a supplemental report from its medical adviser that follows the impairment calculation methodology set forth in the A.M.A., *Guides*. The medical adviser shall address each grade modifier and identify the findings that justify each modification of grade. After such further development of the evidence as may

---

<sup>5</sup> 20 C.F.R. § 10.404; *Ronald R. Kraynak*, 53 ECAB 130 (2001).

<sup>6</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.6a (January 2010).

<sup>7</sup> A.M.A., *Guides* 387, 389 (6<sup>th</sup> ed. 2009).

<sup>8</sup> *Id.* at 497.

<sup>9</sup> *Id.* at 405.

<sup>10</sup> *Id.* at 409.

become necessary, OWCP shall issue a *de novo* decision on appellant's claim for an additional schedule award.

**CONCLUSION**

The Board finds that this case is not in posture for decision. Further development of the medical evidence is warranted. The A.M.A., *Guides* requires the proper consideration of grade modifiers to determine appellant's final impairment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 8, 2014 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action.

Issued: October 27, 2015  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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