United States Department of Labor
Employees' Compensation Appeals Board

S.L., Appellant	)	
and	)	**Docket No. 15-0247**
	)	**Issued: February 19, 2016**
U.S. POSTAL SERVICE, POST OFFICE, Kansas City, MO, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 12, 2014 appellant filed a timely appeal of a July 25, 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 to consider the merits of the case.[2]

ISSUE

The issue is whether appellant has more than four percent impairment of her left upper extremity for which she received a schedule award.

[1] 5 U.S.C. § 8101 *et seq.*

[2] By decision dated June 26, 2014 OWCP denied appellant's claim for compensation benefits. No appeal was filed from the June 26, 2014 decision and therefore the issue of the termination of appellant's compensation benefits is not before the Board.

FACTUAL HISTORY

On October 25, 2012 appellant, then a 46-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she developed pain lifting trays and pulling down mail. She underwent a magnetic resonance imaging (MRI) scan on October 29, 2012 which demonstrated in the right shoulder mild-to-moderate rotator cuff tendinopathy with mild degenerative arthrosis at the glenohumeral joint. In the left shoulder, appellant's MRI scan demonstrated rotator cuff tendinopathy with probable high-grade tear of the anterior supraspinatus footplate. OWCP accepted her claim for bilateral tendinitis of the rotator cuff and partial tear of the left rotator cuff on January 25, 2013. It authorized compensation benefits. Appellant accepted light-duty work four hours a day on March 22, 2013.

Appellant underwent a second left shoulder MRI scan on May 15, 2013 which demonstrated mild intra-articular biceps tendinosis and mild acromioclavicular osteoarthritis. In a decision dated June 5, 2013, OWCP corrected her accepted conditions to bilateral bicipital tendinosis and sprain of the left shoulder, upper arm, and rotator cuff. On July 1, 2013 appellant underwent a left shoulder arthroscopy with debridement with biceps tenotomy and subacromial decompression with partial acromioplasty. OWCP authorized compensation benefits for temporary total disability following her surgery. Appellant returned to light duty for four hours a day on July 23, 2013. Her work restrictions were no overhead work, no lifting more than 15 pounds, and working four hours a day. On September 9, 2013 appellant's attending physician, Dr. Tyler Fox, a Board-certified orthopedic surgeon, released appellant to return to full duty with no restrictions. Appellant returned to full-duty work on September 11, 2013.

In a report dated November 6, 2013, Dr. Fox confirmed that appellant had returned to full-duty work. Appellant reported lingering discomfort lifting her arm out to the side behind the plane of her chest. She stated that she performed this maneuver repetitively at work. Dr. Fox found that appellant had reached maximum medical improvement and could continue to work without restrictions.

On December 26, 2013 Dr. Fox indicated that appellant was totally disabled from December 20, 2013 through January 2, 2014. In a report dated January 3, 2014, he indicated that appellant could not perform overhead lifting, lifting over five pounds, or repetitive motions with the left arm.

On January 3, 2014 appellant filed a claim (Form CA-7) requesting a schedule award. In a letter dated January 10, 2014, OWCP requested that she provide a narrative report addressing her permanent impairment in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.[3]

In reports dated January 8 and February 3, 2014, Dr. Fox noted that appellant aggravated her shoulder at work with repetitive reaching and lifting activities. Appellant reported pain when reaching overhead or reaching out to lift. Dr. Fox found Neer and Hawkin's impingement maneuvers were positive and diagnosed subacromial bursitis. He noted, "I have discussed with [appellant] frankly that a job in which she performed repetitive lifting and reaching maneuvers

[3] A.M.A., *Guides*, 6th ed. (2009).

with her left arm is not likely in her best interest given her past experiences." Dr. Fox indicated that she could return to modified duty on February 7, 2014 with no lifting over five pounds with her left arm, no overhead activity, no repetitive reaching, pushing, or pulling with the left arm.

On March 6, 2014 Dr. Fox opined that appellant had reached maximum medical improvement. He noted her work restrictions and found that appellant had full range of motion. Dr. Fox found good strength in all planes of rotator cuff testing. He noted that Neer and Hawkin's maneuvers were positive and seemed to reproduce appellant's symptoms.

Appellant underwent a functional capacity evaluation which determined that she could work at the light level eight hours a day lifting up to 20 pounds occasionally and up to 10 pounds frequently. Dr. Fox completed a work restriction evaluation form and indicated that appellant could work eight hours a day with restrictions on pushing, pulling, and lifting as well as reaching and reaching above the shoulder. He confirmed that she had reached maximum medical improvement.

OWCP referred appellant for a second opinion evaluation on May 29, 2014 with Dr. Kala Danushkodi, a physician Board-certified in physical medicine and rehabilitation.

Dr. Danushkodi completed a report on June 19, 2014 and reviewed appellant's medical history. She found that appellant's range of motion in her left shoulder was 110 degrees of abduction and forward flexion, 70 degrees of external rotation, and 80 degrees of internal rotation. Dr. Danushkodi diagnosed a left rotator cuff tear. She applied the A.M.A., *Guides* and found that appellant had a class 1 impairment with a midgrade of three percent in accordance with Table 15-5. Dr. Danushkodi noted that appellant's physical examination grade modifier was 2, moderate problem with tenderness and limited range of motion. She found that appellant's clinical findings were not applicable as this was the basis of the diagnosis. Dr. Danushkodi found that appellant's functional history grade modifier was 1, a mild problem, pain with strenuous activities. Applying the net adjustment formula, she concluded that appellant had four percent impairment of the left upper extremity.

An OWCP medical adviser reviewed Dr. Danushkodi's report on July 7, 2014 and found that it comported with the standards of the A.M.A., *Guides*. He agreed with the impairment rating of four percent of the left upper extremity.

By decision dated July 25, 2014, OWCP granted appellant a schedule award for four percent impairment of her left upper extremity.

LEGAL PRECEDENT

The schedule award provision of FECA[4] and its implementing regulations[5] set forth the number of weeks of compensation payable to employees sustaining permanent impairment for loss or loss of use, of scheduled members or functions of the body. FECA, however, does not

[4] *Supra* note 1.

[5] 20 C.F.R. § 10.404.

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 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. OWCP evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*.[6]

In addressing upper extremity impairments, the sixth edition requires identification of the impairment class for the Class of Diagnosis (CDX), which is then adjusted by grade modifiers based on Functional History (GMFH), Physical Examination (GMPE), and Clinical Studies (GMCS). The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).[7]

ANALYSIS

Appellant's attending physician, Dr. Fox, found that she reached maximum medical improvement regarding her accepted left shoulder conditions on March 6, 2014. However, he did not provide an impairment rating in accordance with the sixth edition of the A.M.A., *Guides*.

OWCP referred appellant for a second opinion evaluation with Dr. Danushkodi. In her June 19, 2014 report, Dr. Danushkodi provided findings on physical examination of appellant and applied the A.M.A., *Guides*. She diagnosed a left rotator cuff tear and applied the regional grid to reach a class 1 impairment with a default value of 3.[8] Dr. Danushkodi found that a clinical studies grade modifier was not applicable as this was the basis of the diagnosis.[9] She noted that the physical examination grade modifier was 2, moderate problem with tenderness and limited range of motion.[10] Dr. Danushkodi found that appellant's functional history grade modifier was 1, a mild problem, pain with strenuous activities.[11] Applying the net adjustment formula (GMFH - CDX) + (GMPE - CDX) or (1-1) + (2-1) she concluded that appellant had grade D or four percent impairment of the left upper extremity.[12] The medical adviser agreed with Dr. Danushkodi's findings and conclusions. As there is no medical opinion evidence supporting more than four percent impairment of appellant's left upper extremity, the Board finds that she has not established greater than four percent impairment.

[6] For new decisions issued after May 1, 2009 OWCP began using the sixth edition of the A.M.A., *Guides*. A.M.A., *Guides*, 6th ed. (2009); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.5a (February 2013); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010).

[7] A.M.A., *Guides* 411.

[8] *Id.* at 403, Table 15-5.

[9] *Id.* at 407, 15.3c Adjustment Grid: Clinical Studies.

[10] *Id.* at 408, Table 15-8.

[11] *Id.* at 406, Table 15-7.

[12] *Id.* at 403, Table 15-5.

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 no more than four percent impairment of her left upper extremity for which she has received a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the July 25, 2014 decision of the Office of Workers' Compensation Programs is affirmed.[13]

Issued: February 19, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

[13] James A. Haynes, Alternate Judge, participated in the original decision but was no longer a member of the Board effective November 16, 2015 and did not participate in the preparation of this order.