



## ISSUE

The issue is whether appellant met her burden of proof to establish that she has more than five percent permanent impairment of her right thumb, for which she received a schedule award.

## FACTUAL HISTORY

On July 22, 2011 appellant, then a 49-year-old nurse, filed a traumatic injury claim (Form CA-1) claiming that on July 18, 2011 she sustained injury when she hit her right thumb on a medical cart tray. OWCP initially accepted that appellant sustained a sprain of hand (right thumb) and it later expanded her claim to include acceptance of ulnar collateral ligament rupture of her right thumb.<sup>3</sup>

On July 21, 2011 Dr. Alexander Blevins, an attending Board-certified orthopedic surgeon, performed an ulnar collateral ligament repair of the metacarpophalangeal joint of appellant's right thumb. The surgery was authorized by OWCP.

In a June 12, 2012 report, Dr. Blevins noted that appellant reported her right thumb condition was "still the same" and that she was unable to bring her thumb all the way up to her palm. He indicated that she had five percent permanent impairment of her right thumb under Table 15-2 of the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6<sup>th</sup> ed. 2009) (A.M.A., *Guides*).

On November 20, 2014 appellant filed a claim for compensation (Form CA-7) claiming a schedule award due to her accepted work injury.

Due to a lack of a recent impairment evaluation, OWCP referred appellant in March 2014 for an examination and impairment evaluation to Dr. Joseph McGowin, III, a Board-certified orthopedic surgeon.

In an April 15, 2015 report, Dr. McGowin described appellant's factual and medical history and detailed the findings of his physical examination on that date. He noted that she reported pain in the metacarpophalangeal joint of her right thumb. Dr. McGowin recorded right thumb range of motion findings and noted that neurovascular examination of both hands was unremarkable. He diagnosed right thumb sprain, ulnar collateral ligament rupture, and surgical repair with objective findings of laxity and limited range of motion and subjective complaints of pain along the ulnar border of the metacarpophalangeal joint of the right thumb. Appellant had 15 degrees of laxity of the right metacarpophalangeal joint upon extension and 10 degrees of laxity of the right metacarpophalangeal joint upon flexion. Dr. McGowin noted, "Impairment Rating from Table 15-2, page 392, is a class 1 impairment with a [grade modifier for functional history] equal to 1, a [grade modifier for physical examination] equal to 2, and [grade modifier for clinical studies] equal to 0. This results in an adjustment of 0 and a default impairment of five percent of the digit."

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<sup>3</sup> After her injury, appellant began working in a light-duty position for the employing establishment. She returned to full duty in April 2012.

In a supplemental report dated April 28, 2015, Dr. McGowin noted, “Utilizing Table 15-2 as provided in your notice, the five percent impairment rating of the thumb noted on the April 15, 2015 [second opinion evaluation] would translate to a two percent impairment of the hand or a two percent impairment of the upper extremity.”

On May 1, 2015 an OWCP medical adviser indicated that he had reviewed the medical evidence of record, including the reports of Dr. McGowin. He noted that, under Table 15-2 on page 392 of the sixth edition of the A.M.A., *Guides*, appellant’s right thumb condition fell under the diagnosis category of thumb metacarpophalangeal sprain with 10 to 20 degrees of laxity. The medical adviser indicated that appellant fell under the class 1, grade C default value of five percent and noted that he agreed with Dr. McGowin’s assessment that she had a total right thumb impairment of five percent.

In a May 1, 2015 report, another OWCP medical adviser indicated that appellant’s right thumb was the only area affected by the July 18, 2011 work injury.

In a May 7, 2015 decision, OWCP granted appellant a schedule award for five percent permanent impairment of her right thumb. The award ran for 3.75 weeks from June 12 to July 8, 2012 and was based on the impairment rating of OWCP’s medical adviser who evaluated the medical findings of record, including those of Dr. McGowin.

Appellant, through counsel, requested a telephone hearing with an OWCP hearing representative. During the hearing held on January 12, 2016, counsel argued that appellant should have been given an impairment rating for her right hand or upper extremity.

By decision dated March 30, 2016, OWCP’s hearing representative affirmed OWCP’s May 7, 2015 decision noting that appellant had not shown that she has more than five percent permanent impairment of her right thumb, for which she received a schedule award. She determined that the evidence of record did not show that appellant had permanent impairment that extended beyond her right thumb into other parts of her right hand or right upper extremity.

### **LEGAL PRECEDENT**

The schedule award provision of FECA<sup>4</sup> and its implementing regulations<sup>5</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. However, FECA does not specify the manner in which the percentage of loss shall be determined. 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. The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.<sup>6</sup>

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<sup>4</sup> 5 U.S.C. § 8107.

<sup>5</sup> 20 C.F.R. § 10.404 (1999).

<sup>6</sup> *W.B.*, Docket No. 14-1982 (issued August 26, 2015). For OWCP decisions issued after May 1, 2009, the sixth edition of the A.M.A., *Guides* is used. *B.M.*, Docket No. 09-2231 (issued May 14, 2010).

In determining impairment for the upper extremity under the sixth edition of the A.M.A., *Guides*, an evaluator must establish the appropriate diagnosis for each part of the upper extremity to be rated. With respect to the right thumb, the relevant portion of the right upper extremity for the present case, reference is made to Table 15-2 (Digit Regional Grid) beginning on page 391.<sup>7</sup> After the Class of Diagnosis (CDX) is determined from the Digit Regional Grid (including identification of a default grade value), the net adjustment formula is applied using the grade modifier for Functional History (GMFH), grade modifier for Physical Examination (GMPE) and grade modifier for Clinical Studies (GMCS). The net adjustment formula is (GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX).<sup>8</sup>

OWCP procedures provide that where the residuals of an injury to a member of the body specified in the schedule award provisions of FECA extend into an adjoining area of a member also enumerated in the schedule, such as an injury of the finger into the hand, or of the hand into the arm, the schedule award should be made on the basis of the percentage loss of use of the larger member.<sup>9</sup> OWCP procedures also advise that in general, loss of one digit should be computed in terms of impairment to the digit itself, unless there is impairment extending to an adjoining member.<sup>10</sup>

### ANALYSIS

OWCP found that on July 18, 2011 appellant sustained a sprain of the hand (right thumb) and ulnar collateral ligament rupture of her right thumb. On July 21, 2011 she underwent OWCP-authorized ulnar collateral ligament repair of the metacarpophalangeal joint of her right thumb. Appellant claimed entitlement to schedule award compensation and on May 7, 2015 OWCP granted her a schedule award for five percent permanent impairment of her right thumb. The award was based on the May 2015 impairment rating of OWCP's medical adviser who evaluated the medical findings of record, including those obtained by Dr. McGowin.

The Board finds that appellant did not meet her burden of proof to establish that she has more than five percent impairment of her right thumb, for which she received a schedule award.

The Board finds that the May 1, 2015 evaluation of OWCP's medical adviser shows, which includes the clinical findings of Dr. McGowin, that appellant does not have more than five percent impairment of her right thumb. The medical adviser properly noted that, under Table 15-2 on page 392 of the sixth edition of the A.M.A., *Guides*, appellant's right thumb condition fell under the diagnosis category of thumb metacarpophalangeal sprain with 10 to 20 degrees of laxity.<sup>11</sup> He indicated that appellant fell under the class 1, grade C default value of five percent

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<sup>7</sup> See A.M.A., *Guides* 391-405 (6<sup>th</sup> ed. 2009).

<sup>8</sup> *Id.* at 405-11.

<sup>9</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5e (February 2013); see *Tonya D. Bell*, 43 ECAB 845, 849 (1992).

<sup>10</sup> See *id.*

<sup>11</sup> A.M.A., *Guides* 392, Table 15-2.

on Table 15-2 and correctly noted that application of the net adjustment formula to the grade modifiers (grade modifier for functional history of 1, grade modifier for physical examination of 2, and grade modifier for clinical studies of 0) meant that appellant did not move from the default value of five percent.<sup>12</sup> Therefore, appellant has a total right thumb impairment of five percent. The record does not contain a rationalized impairment rating showing that appellant has more than five percent permanent impairment of her right thumb.

On appeal counsel argues that appellant's impairment rating extends beyond her right thumb into her right upper extremity and that she has two percent permanent impairment of her right upper extremity. As noted above, when residuals of an injury to a member of the body specified in the schedule award provisions of FECA extend into an adjoining area of a member also enumerated in the schedule, the schedule award should be made on the basis of the percentage of loss of use of the larger member.<sup>13</sup> In the present case, the evidence demonstrates that appellant sustained five percent permanent impairment of her right thumb. There is no evidence that residuals of appellant's work injury extended into an adjoining area of the affected member.<sup>14</sup> Therefore, there is no basis for converting the schedule award to an award for the right hand or right upper extremity. For these reasons, appellant has not shown that she has more than five percent impairment of her right thumb.

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 did not meet her burden of proof to establish that she has more than five percent permanent impairment of her right thumb, for which she received a schedule award.

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<sup>12</sup> See *supra* note 7.

<sup>13</sup> See *supra* note 8.

<sup>14</sup> In a report dated April 28, 2015, Dr. McGowin noted, "Utilizing Table 15-2 as provided in your notice, the five percent impairment rating of the thumb noted on the April 15, 2015 [second opinion evaluation] would translate to a two percent impairment of the hand or two percent impairment of the upper extremity." However, Dr. McGowin did not provide any explanation of how appellant's right thumb impairment extended into her right hand or right upper extremity.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 30, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 19, 2016  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board