United States Department of Labor
Employees' Compensation Appeals Board

R.J., Appellant	)	
and	)	**Docket No. 16-1561**
	)	**Issued: January 9, 2017**
DEPARTMENT OF THE AIR FORCE, WHITEMAN AIR FORCE BASE, MO, Employer	)	

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

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On July 26, 2016 appellant filed a timely appeal from a June 22, 2016 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 the case.

ISSUE

The issue is whether appellant has more than two percent permanent impairment of the left lower extremity for which he received a schedule award.

FACTUAL HISTORY

On July 18, 2012 appellant, then a 53-year-old aircraft overhaul leader, sustained a left knee injury when he missed a rung while descending an aircraft step ladder and fell. OWCP

[1] 5 U.S.C. § 8101 *et seq.*

accepted appellant's claim for left knee sprain and expanded his claim to include tear of the medial meniscus of the left knee and synovitis. Appellant did not stop work but returned to light duty. Appellant underwent arthroscopic surgery on November 14, 2012. He was off work from November 12 to December 2, 2012 after undergoing surgery and returned to full duty on January 14, 2013. Appellant retired on June 8, 2015.

Appellant was treated by Dr. Robert F. Greiner II, an osteopath, from July 31 to October 9, 2012, for the July 18, 2012 work-related left knee injury when he fell while descending a ladder. He diagnosed left knee pain and sprain and strain of the knee and leg. On November 14, 2012 the physician performed left knee arthroscopic surgery, partial medial meniscectomy and arthroscopic three compartment major synovectomy. Dr. Greiner diagnosed left knee meniscus tear. A left knee magnetic resonance imaging (MRI) scan on September 21, 2012 revealed an intrasubstance signal of the posterior horn of the medial meniscus suspicious for a tear, a small subchondral lesion at the medial femoral condyle peripherally, probably degenerative, and a possible small nonacute subchondral fracture.

On March 3, 2016 appellant filed a claim for a schedule award (Form CA-7). He submitted a July 28, 2015 report from Dr. Greiner who noted that appellant presented with radiating left knee pain and a limp. Left knee findings included crepitus in the patellofemoral region, intact anterior and posterior cruciate ligament, intact medial and lateral collateral ligaments, negative McMurray's sign, and strength of 4/5. Dr. Greiner diagnosed left knee pain, internal derangement of the knee and sprain and strain of the medial collateral ligament of the knee. He noted that appellant had reached maximum medical improvement for the left knee. In an August 31, 2015 report, Dr. Greiner opined that based on appellant's medical history, clinical findings and physical examination of July 28, 2015, he sustained 16 percent permanent impairment of the left knee in accordance with the sixth edition of the A.M.A., *Guides*[2] as a result of the work-related injury. He indicated that appellant's work-related injury led to permanent loss of physical function. In a March 17, 2016 report, Dr. Greiner reiterated that, based on appellant's medical history, clinical findings, and physical examination of July 28, 2015, appellant had permanent impairment of 16 percent of the left knee in accordance with the A.M.A., *Guides* as a result of the work injury. He based his findings on range of motion of the knee from the prior examination and the related surgery.

In a report dated April 14, 2016, an OWCP medical adviser reviewed Dr. Greiner's report and disagreed with his findings. He indicated that Dr. Greiner referenced no tables or charts and provided no worksheets, narrative, or calculations to explain the method by which he arrived at his determination. Further, the medical adviser indicated that Dr. Greiner based his rating determination on range of motion findings. However, the examinations of July 7 and 28, 2015 failed to document left knee range of motion measurements. He recommended appellant be referred to a second opinion physician for an impairment evaluation.

On April 21, 2016 OWCP referred appellant for a second opinion to Dr. Kala Danushkodi, a Board-certified physiatrist, for a determination of whether he had permanent impairment attributable to his accepted conditions. In a report dated May 10, 2016,

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

Dr. Danushkodi noted a history of appellant's work-related condition and subsequent treatment. She noted examination findings of no swelling or effusion, mild patellofemoral crepitus, mild tenderness of the right medial femoral condyle, negative anterior drawer signs, negative varus and valgus stress testing, normal knee range of motion, mild pain with knee hyperflexion, mildly antalgic gait, normal manual strength in the leg, and intact sensory examination. Dr. Danushkodi diagnosed left knee partial medial meniscectomy. She noted, pursuant to Table 16-3, page 511 of the A.M.A., *Guides*, Knee Regional Grid, Medial Meniscus tear, status post partial meniscectomy, appellant was a class 1 impairment, grade C, with default impairment of two percent of the left leg. Dr. Danushkodi noted that pursuant to Table 16-6, the grade modifier for Functional History (GMFH) was 1 for antalgic limp; pursuant to Table 16-7, the grade modifier for Physical Examination (GMPE) was 1 for palpatory findings; and pursuant to Table 16-8, the grade modifier for Clinical Studies (GMCS) was not applicable as it was used in the diagnosis grid. She utilized the net adjustment formula to find a net adjustment of zero which would place appellant at grade C with two percent permanent left lower extremity impairment.

In a May 26, 2016 report, the medical adviser agreed with Dr. Danushkodi's impairment rating determination of two percent permanent impairment of the left lower extremity.

In a decision dated June 22, 2016, OWCP granted appellant a schedule award for two percent permanent impairment of the left lower extremity. The period of the award was from May 10 to June 19, 2016.

LEGAL PRECEDENT

The schedule award provision of FECA[3] and its implementing federal regulations,[4] 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 for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.[5] For decisions issued beginning May 1, 2009, the sixth edition of the A.M.A., *Guides* will be used.[6]

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).[7] Under the sixth edition, for lower extremity impairments the evaluator identifies the impairment Class of Diagnosis (CDX) condition, which is then adjusted by grade

[3] 5 U.S.C. § 8107.

[4] 20 C.F.R. § 10.404.

[5] *Id.* at § 10.404(a).

[6] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (February 2013); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

[7] A.M.A., *Guides*, 3, section 1.3, The International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement.

modifiers based on functional history, physical examination, and clinical studies.[8] The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).[9] The grade modifiers are used on the net adjustment formula described above to calculate a net adjustment. The final impairment grade is determined by adjusting the grade up or down the default value C, by the calculated net adjustment.[10]

OWCP procedures provide that, after obtaining all necessary medical evidence, the file should be routed to the OWCP medical adviser for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides* with the OWCP medical adviser providing rationale for the percentage of impairment specified.[11]

ANALYSIS

OWCP accepted the claim for left knee sprain, left knee medial meniscus tear, and left knee synovitis. It authorized a left knee arthroscopic surgery which was performed on November 14, 2012. On June 22, 2016 appellant received a schedule award for two percent permanent impairment of his left lower extremity. The Board finds that appellant has not met his burden of proof to establish more than two percent permanent impairment.

In support of his request appellant submitted a report from Dr. Greiner dated July 28, 2015 who noted that his examination of the left knee revealed crepitus in the patellofemoral region, intact anterior and posterior cruciate ligament, intact medial and lateral collateral ligaments, and strength of 4/5. Dr. Greiner diagnosed left knee pain, internal derangement of the knee and sprain and strain of the medial collateral ligament of the knee. He noted that appellant reached maximum medical improvement for the left knee. In reports dated August 31, 2015 and March 17, 2016, Dr. Greiner opined that based on appellant's medical history, clinical findings and physical examination of July 28, 2015, appellant had permanent impairment of 16 percent of the left knee under the A.M.A., *Guides* as a result of the work-related condition. On March 17, 2016 he indicated that he based his findings on range of motion of the knee from the prior examination and the related surgery. However upon review of Dr. Greiner's reports dated July 7 and 28, 2015, he fails to document range of motion figures for the left knee and did not otherwise explain how he arrived at his impairment rating pursuant to specific provisions of the A.M.A., *Guides*. Dr. Greiner failed to cite tables or charts in the A.M.A., *Guides* to support his impairment rating or provide his calculations in support of his determination. It is well established that when an attending physician's report provides an estimate of impairment but

[8] *Id.* at 494-531.

[9] *Id.* at 521.

[10] A.M.A., *Guides* 497.

[11] *See Federal* (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(f) (February 2013).

does not address how the rating was made under the A.M.A., *Guides*, it is of little probative value.[12]

OWCP referred appellant for a second opinion evaluation to Dr. Danushkodi. In a May 10, 2016 report, Dr. Danushkodi diagnosed left knee post partial medial meniscectomy. She properly noted that, under Table 16-3, page 511 of the A.M.A., *Guides*, Knee Regional Grid, Medial Meniscus Tear status post partial meniscectomy, appellant was a class 1 impairment, grade C, with a default impairment rating of two percent. Dr. Danushkodi noted pursuant to Table 16-6, page 516, the grade modifier for functional history was 1 for appellant's antalgic limp; pursuant to Table 16-7, page 517, the grade modifier for physical examination was 1 for positive palpatory findings; and pursuant to Table 16-8, the grade modifier for clinical studies was not applicable as it was used in the diagnosis grid. She properly utilized the net adjustment formula to find a net adjustment of zero which would place appellant at grade C for two percent of the left leg. Dr. Danushkodi opined that appellant had two percent permanent impairment of the left leg.

In a May 26, 2016 report, OWCP's medical adviser reviewed Dr. Danushkodi's May 10, 2016 report. He agreed with the diagnosis and class of diagnosis used by Dr. Danushkodi. The medical adviser also agreed that appellant's functional history grade modifier, GMFH, was 1; that his physical examination grade modifier (GMPH) was 1, and that GMCS was not applicable. Using the net adjustment formula the medical adviser concurred with a net adjustment of zero for a final grade of C which yields two percent impairment of the left lower extremity.

The Board finds that OWCP's medical adviser and Dr. Danushkodi properly calculated permanent impairment under the A.M.A., *Guides.* There is no current medical evidence in accordance with the A.M.A., *Guides* which supports that appellant sustained more than two percent permanent impairment for the left leg for which he previously received a schedule award.

On appeal appellant asserts that Dr. Greiner performed an impairment evaluation under the A.M.A., *Guides* on August 31, 2015 and determined that he had 16 percent permanent impairment of the left lower extremity. Appellant advised that he also submitted a March 17, 2016 report from Dr. Greiner who attached his office notes and operative report. He asserts that Dr. Greiner's report supports that he has 16 percent permanent impairment. However, as noted above, Dr. Greiner's report failed to clearly explain how he arrived at 16 percent left lower extremity impairment rating under the A.M.A., *Guides*. Appellant also contended that the second opinion physician examined him for seven minutes, that she was not thorough, and that she failed to mention his pain in her report. The Board found that Dr. Danushkodi's report was sufficiently rationalized and properly based on the sixth edition of the A.M.A., *Guides*. Appellant has offered no evidence to support his contentions.

Appellant may request a schedule award or increased schedule award at any time based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment.

[12] *See Paul R. Evans, Jr.*, 44 ECAB 646 (1993); *John Constantin*, 39 ECAB 1090 (1988) (medical report not explaining how the A.M.A., *Guides* are utilized is of little probative value).

CONCLUSION

The Board finds that appellant has not established that he has more than two percent permanent impairment of the left lower extremity.

ORDER

IT IS HEREBY ORDERED THAT the June 22, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 9, 2017
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board