

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT J. MARKLEY and U.S. POSTAL SERVICE,
POST OFFICE, Phoenix, AZ

*Docket No. 98-255; Submitted on the Record;
Issued August 17, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has more than a 14 percent impairment of his left lower extremity.

The Board has reviewed the case record and concludes that appellant has no more than a 14 percent impairment of his left lower extremity, for which he received a schedule award.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a left tibia plateau fracture and authorized left knee surgery as a result of his injury in the performance of duty on December 9, 1996. Appellant subsequently requested a schedule award. In a decision dated September 18, 1997, the Office granted appellant a schedule award for 14 percent impairment of his left lower extremity.

On July 15, 1997 Dr. Evan Lederman, appellant's treating physician and a an orthopedic surgeon, examined appellant. He indicated that appellant's range of motion was minus 5 degrees to 128 degrees. Dr. Lederman also noted that appellant complained of some stiffness and pain in his knee, but he indicated that appellant had returned to full activity. He indicated that appellant had a permanent disability of his left lower extremity of approximately 25 percent based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fourth edition). He stated that this was essentially based on range of motion and pain limitations.

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulations,² set forth that schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment is to be determined. For consistent

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

results and to ensure equal justice for all claimants, the Office has adopted the A.M.A., *Guides* as a standard for determining the percentage of impairment.³

In obtaining medical evidence for schedule award purposes, the Office must obtain an evaluation by a physician which includes a detailed description of the impairment including, where applicable, the loss in degrees of motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation or other pertinent descriptions of the impairment. The description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.⁴ If the physician has provided a detailed description of the impairment, but has not properly evaluated the impairment pursuant to the A.M.A., *Guides*, the Office may request that the Office medical adviser review the case record and determine the degree of appellant's impairment utilizing the description provided by the attending physician and the A.M.A., *Guides*.⁵

Following the receipt of Dr. Lederman's report, the Office requested that its medical adviser apply the A.M.A., *Guides* to the measurements of impairment provided by Dr. Lederman. The Office medical adviser thereafter evaluated appellant's impairment in a report dated July 29, 1997. The Office medical adviser noted that Dr. Lederman's findings of some stiffness and pain in appellant's left knee with a return to full activity indicated a Grade 3 description of pain pursuant to Table 11, page 48, of the A.M.A., *Guides* resulting in a 60 percent sensory deficit. The medical adviser then properly multiplied the 60 percent sensory deficit grade by 7 percent, the impairment of the femoral nerve structure for dysesthesia, as listed in Table 68, page 89, of the A.M.A., *Guides* to determine that appellant had a 4.2 percent impairment due to his subjective complaints of pain. The medical adviser rounded this number off to determine that appellant's impairment due to pain in the lower extremity was four percent. The medical adviser then noted that Dr. Lederman's findings of a range of motion from -5 degrees extension to 128 degrees flexion constituted a mild impairment pursuant to Table 41, page 78, of the A.M.A., *Guides* indicated that appellant had a 10 percent permanent impairment of the left lower extremity due to loss of motion. The medical adviser then utilized the Combined Values Chart on page 322 of the A.M.A., *Guides* to find that appellant's 4 percent impairment for pain and his 10 percent impairment for loss of motion of the left lower extremity constituted a 14 percent permanent impairment of the left lower extremity. The Office medical adviser also noted that appellant could not receive a greater schedule award pursuant to Table 64, page 85 of the A.M.A., *Guides*, inasmuch as the award for a displaced plateau fracture with 5 degrees to 9 degrees angulation yielded only a 12 percent impairment of the left lower extremity which could not be combined with nondiagnosis based estimates of impairment.

As the Office medical adviser properly utilized the description of appellant's impairment provided by Dr. Lederman and the A.M.A., *Guides* to evaluate appellant's impairment and there is no other evidence of record that appellant has more than a 14 percent permanent impairment

³ *Leisa D. Vassar*, 40 ECAB 1287 (1989).

⁴ *Joseph D. Lee*, 42 ECAB 172 (1990).

⁵ *Paul R. Evans, Jr.*, 44 ECAB 646 (1993).

of the left lower extremity, the Office properly found that appellant had a 14 percent impairment of the left lower extremity.

The decision of the Office of Workers' Compensation Programs dated September 18, 1997 is affirmed.

Dated, Washington, D.C.
August 17, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member