

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DOROTHY CEDUSKY and GENERAL SERVICES ADMINISTRATION,
ROUGH & READY ISLAND, Stockton, CA

*Docket No. 00-938; Submitted on the Record;
Issued January 26, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has greater than a nine percent permanent loss of use of her right leg causally related to her April 30, 1996 employment injury.

The Office of Workers' Compensation Programs accepted that appellant sustained a tear of the lateral meniscus of her right knee on April 30, 1996 by turning in her chair. On October 21, 1998 appellant underwent arthroscopic surgery on her right knee to correct her meniscal tear.

On September 8, 1999 the Office issued appellant a schedule award for a two percent permanent loss of use of her right leg. Appellant requested reconsideration and submitted an additional medical report. On December 1, 1999 the Office issued appellant a schedule award for an additional seven percent permanent loss of use of her right leg, for a total of nine percent.

The Board finds that the case is not in posture for a decision.

The Office based its schedule award for a nine percent loss of use of appellant's right knee on the October 20, 1999 report of Dr. Robert Burri, the Board-certified orthopedic surgeon who performed the surgery on appellant's right knee. An Office medical adviser properly applied the Table 64 of Chapter 3 of the 4th edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*¹ to assign two percent for appellant's partial lateral meniscectomy. This Office medical adviser stated that Table 62 of Chapter 3 of the A.M.A., *Guides* was used to rate the post-traumatic degenerative joint disease of the cartilage of the

¹ The schedule award provision of the Federal Employees' Compensation Act, section 8107, and its implementing regulation, 20 C.F.R. § 10.404, set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of specified members or functions of the body. However, the Act 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 Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses. *Quincy E. Malone*, 31 ECAB 846 (1980).

lateral compartment of appellant's right knee reported by Dr. Burri. Table 62, however, requires measurement by x-ray of the cartilage interval of the knee, and there is no indication this was done by Dr. Burri. The case will therefore be remanded for the Office to obtain such measurement, to be followed by an appropriate decision on the permanent loss of use of appellant's right leg.

The decision of the Office of Workers' Compensation Programs dated December 1, 1999 is set aside and the case remanded to the Office for action consistent with this decision of the Board.

Dated, Washington, DC
January 26, 2001

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member