

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUDITH M. PATTERSON and U.S. POSTAL SERVICE,
POST OFFICE, Rogers, AK

*Docket No. 00-1476; Submitted on the Record;
Issued March 14, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has more than a 12 percent permanent impairment to her right upper extremity.

On November 1, 1999 the Office of Workers' Compensation Programs awarded appellant a 12 percent impairment for the right upper extremity (arm). The Office noted that appellant was entitled to 37.44 weeks of compensation at two-thirds of her weekly pay, resulting in weekly compensation of \$419.43. The award ran from October 5, 1999 to June 23, 2000.

The Board has duly reviewed the record on appeal and finds that the evidence supports no more than a 12 percent permanent impairment.

Section 8107 of the Federal Employees' Compensation Act¹ and section 10.304 of the implementing federal regulations² authorize the payment of schedule awards for the loss or permanent impairment of specified members, functions or organs of the body. Neither the Act nor the regulations specify, however, how the percentage of impairment shall be determined. For consistent results and to ensure equal justice for all claimants, the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the standard for determining the percentage of impairment and the Board has concurred in such adoption.³

The Office applied these standards to the clinical findings of Dr. Tom Patrick Coker, a Board-certified orthopedic surgeon. On October 5, 1999 he reported that appellant, whose claim was accepted for an impingement syndrome, right shoulder, a magnetic resonance imaging scan

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

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

and right shoulder arthroscopic surgery, was eight months from surgery and had reached maximum medical improvement. He noted that appellant had approximately 150 degrees of forward flexion and abduction to about 110 degrees, had regained about 35 to 40 degrees of external rotation, had good internal rotation but had weakness with external rotation as well as overhead lifting. Dr. Coker also noted that appellant had intact neurovascular status but pain associated with overhead lifting, with abduction greater than 90 degrees and forward flexion greater than about 120 degrees. He opined that appellant had a 12 percent impairment to her right upper extremity.

Applying the A.M.A., *Guides* (4th ed. 1993), an Office medical adviser determined from Dr. Coker's findings that, under Figure 38, page 43, forward elevation to 150 degrees equated to a 2 percent impairment and, under Figure 41, page 44, abduction to 110 degrees equated to a 3 percent impairment. Under Figure 44, page 45, external elevation to 40 degrees equated to a 1 percent impairment. This totaled a six percent impairment of the right upper extremity due to loss of range of motion. Utilizing Table 15, page 54, the maximum upper extremity impairment due to suprascapular nerve motor deficit was 16 percent. Utilizing Table 12, page 49, the Office medical adviser graded appellant's pain at 3 for pain which may interfere with activity, and noted that a 40 percent sensory deficit was allowed.⁴

Following the procedure set forth at Table 11, he multiplied the 40 percent sensory deficit by the 6 percent maximum impairment value, to arrive at a 6 percent impairment value of the right upper extremity due to pain. Utilizing the Combined Values Chart, page 322, 6 percent impairment due to loss of motion combined with 6 percent due to pain equated to a 12 percent impairment of the right upper extremity.

The Board finds that the Office followed standard procedures and that the medical evidence supports no more than a 12 percent permanent impairment of the right upper extremity, for which appellant received a schedule award on November 1, 1999.

Appellant argues on appeal that because her work injury is permanent she should be compensated "for much longer than the approximately eight months" as noted in her award letter. She stated that she should be compensated for as long as she has the disability, noting that she cannot return to her regular position and that she has been required to alter her lifestyle as a result of her disability.

Although the impairment is permanent, the Act limits compensation for permanent impairment to a specified number of weeks of compensation. The Act thus limits compensation for the complete loss of an arm to 312 weeks of compensation.⁵ A 12 percent permanent impairment of an upper extremity is compensated proportionately with 37.44 weeks of compensation, which the Office awarded.⁶

⁴ The Office medical adviser inferred from Dr. Coker's data that appellant had a Grade 3 for pain.

⁵ 5 U.S.C. § 8107(c)(1).

⁶ *Id.* at § 8107(c)(19).

The November 1, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
March 14, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member