

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TRACIE A. EUDALEY and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Poplar Bluff, MO

*Docket No. 01-1687; Submitted on the Record;
Issued February 11, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has more than an 11 percent impairment of her right upper extremity for which she received a schedule award.

On May 28, 1998 appellant, then a 35-year-old medical technologist, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that the numbness in her right hand was due to her federal employment. The Office of Workers' Compensation Programs accepted the claim for right wrist carpal tunnel syndrome (mild), paid compensation and authorized surgery.

On March 14, 2000 appellant filed a claim for a schedule award.

In response to a March 23, 2000 letter from the Office, Dr. Steve C. Winters, an attending Board-certified orthopedic surgeon, concluded that appellant had a three percent permanent impairment of her wrist.

In a report dated May 30, 2000, Dr. Martin B. Wice, a second opinion Board-certified internist, reported a positive Tinel's sign at the right carpal tunnel, negative Tinel's signs at the other major nerves in the right upper extremity, mild thenar muscle atrophy, extension of the wrist was 75 degrees and flexion was 65 degrees. He stated that, pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993), appellant had a 10 percent permanent impairment due to loss of function from sensory deficit, pain or discomfort based on Table 11 at page 48 and a 1 percent permanent impairment due to right thenar muscle atrophy based on Table 12 at page 49 for a total combined permanent impairment of the right upper extremity of 11 percent.

On June 28, 2000 the Office medical adviser reviewed the case record and the May 30, 2000 report by Dr. Wice. He stated that, pursuant to the A.M.A., *Guides* (4th ed. 1993) the rating was acceptable.

On July 11, 2000 the Office granted appellant a schedule award for an 11 percent impairment of the right upper extremity.

The Board finds that appellant has no greater than an 11 percent impairment to the right upper extremity.

Section 8107 of the Federal Employees' Compensation Act¹ provides that, if there is permanent disability involving the loss or loss of use of a specific enumerated member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.² The Act does not specify the manner by which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants the Office has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.³

In this case, there is no evidence that appellant has a greater than 11 percent right upper extremity impairment. Dr. Winters concluded that appellant had a three percent impairment without applying the A.M.A., *Guides* to his findings. The Office, therefore, referred the case record and a statement of accepted facts to Dr. Wice, a Board-certified internist and Office medical consultant, for a schedule award evaluation in accordance with the A.M.A., *Guides*.

Applying the A.M.A., *Guides*, Dr. Wice rated appellant's impairment calculated a 10 percent impairment based upon chronic pain and a 1 percent impairment due to right thenar muscle atrophy and then relied on the Combined Values Chart to determine that appellant had an 11 percent permanent impairment of the right upper extremity. The Office medical consultant concurred in Dr. Wice's calculation that appellant had an 11 percent impairment in the right upper extremity pursuant to the A.M.A., *Guides*, and there is no medical evidence of record that appellant has more than an 11 percent permanent impairment of the right upper extremity. The Office therefore properly granted appellant a schedule award for an 11 percent permanent impairment of the right upper extremity

¹ 5 U.S.C. §§ 8101-8193; § 8107.

² *Id.* This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

³ *Mary L. Henninger*, 51 ECAB ____ (Docket No. 00-552, issued June 20, 2001); 20 C.F.R. § 10.404 (1999). The Office first utilized *A Guide to the Evaluation of Permanent Impairment of the Extremities and Back*, published in The Journal of the American Medical Association, Special Edition, February 15, 1958. From 1958 until 1971 a series of 13 *Guides* was published in the Journal of the American Medical Association. The American Medical Association published the first hardbound compilation edition of the *Guides* in 1971, which revised the previous series of JAMA *Guides*.

The decision of the Office of Workers' Compensation Programs dated July 11, 2000 is hereby affirmed.

Dated, Washington, DC
February 11, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member