



and acromioplasty, which was performed on June 5, 1997.<sup>1</sup> Appellant stopped work for various periods and received appropriate compensation. On August 11, 1998 she returned to light-duty work for eight hours a day and on September 8, 1998 she returned to regular duty.

In November 2003 appellant claimed entitlement to a schedule award for permanent impairment of her left arm. In March 2004 the Office referred appellant to Dr. John Gragnani, Board-certified in physical medicine and rehabilitation, for an examination and an opinion regarding the extent of the permanent impairment of her left arm.

In a report dated April 14, 2004, Dr. Gragnani indicated that on examination appellant had normal vibration sensation and sharp discrimination proximally in both arms. He indicated that she did not exhibit any specific muscle weakness and there was no basis for an impairment rating under Table 16-35 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed. 2001). Dr. Gragnani indicated that, although appellant reported left shoulder pain, she did not have pain or sensory loss which would warrant a rating under Table 16-10 of the A.M.A., *Guides*. He detailed the results of range of motion testing for her left shoulder and stated that she had a 2 percent impairment rating for 148 degrees of flexion; a 1 percent rating for 35 degrees of extension; a 3 percent rating for 108 degrees of abduction; a 0 percent rating for 48 degrees of adduction; a 0 percent rating for 71 degrees of external rotation; and a 2 percent rating for 58 degrees of internal rotation. Dr. Gragnani indicated that appellant reached maximum medical improvement in June 1998 and concluded that she had an eight percent impairment of her left arm due to limited shoulder motion.

In a report dated April 18, 2004, an Office medical adviser indicated that Dr. Gragnani properly determined that appellant had an eight percent impairment due to limited shoulder motion. He indicated that Dr. Gragnani correctly did not assign any impairment ratings for sensory loss, pain or weakness deficits.

By decision dated April 26, 2004, the Office granted appellant a schedule award for an eight percent permanent impairment of her left arm. The award ran for 24.96 weeks from June 30 to December 21, 1998.

### **LEGAL PRECEDENT**

The schedule award provision of the Act<sup>2</sup> and its implementing regulation<sup>3</sup> sets 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, 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

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<sup>1</sup> For a period after her surgery, appellant worked less than eight hours a day in a light-duty position.

<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404 (2003).

all claimants. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.<sup>4</sup>

### ANALYSIS

The Board finds that Dr. Gragnani, a physician Board-certified in physical medicine and rehabilitation who served as an Office referral physician, properly determined that appellant had an eight percent permanent impairment of her left arm. In an April 14, 2004 report, he applied the proper standards of the A.M.A., *Guides* to find that appellant was entitled to such a schedule award due to the following impairments for limited shoulder motion: a 2 percent impairment rating for 148 degrees of flexion; a 1 percent rating for 35 degrees of extension; a 3 percent rating for 108 degrees of abduction; and a 2 percent rating for 58 degrees of internal rotation.<sup>5</sup> The total loss of range of motion was eight percent. He also correctly determined that appellant did not exhibit any specific muscle weakness that would serve as a basis for a rating under Table 16-35 of the A.M.A., *Guides*.<sup>6</sup> Finally, he correctly determined that appellant did not have pain or sensory loss which would warrant a rating under the A.M.A., *Guides*. Although appellant reported left shoulder pain, Table 16-10 and its associated tables are designed to calculate ratings for pain associated with peripheral nerve disorders.<sup>7</sup> Dr. Gragnani did not indicate that appellant had pain associated with a peripheral nerve disorder. In a report dated April 18, 2004, an Office medical adviser agreed with Dr. Gragnani's assessment of appellant's permanent impairment.

As the reports of Dr. Gragnani and the Office medical adviser provided the only evaluations which conform with the A.M.A., *Guides*, they constitute the weight of the medical evidence.<sup>8</sup> The Board notes that the number of weeks of compensation for a schedule award is determined by the compensation schedule at 5 U.S.C. § 8107(c). For complete loss of use of the arm, the maximum number of weeks of compensation is 312 weeks. Since appellant's permanent impairment was 8 percent, she is entitled to 8 percent of 312 weeks, or 24.96 weeks of compensation. Appellant has received the correct amount of schedule award compensation in the present case.

### CONCLUSION

The Board finds that appellant did not meet her burden of proof that she has more than an eight percent permanent impairment of her left arm for which she received a schedule award.

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<sup>4</sup> *Id.*

<sup>5</sup> See A.M.A., *Guides* 476-79, Figures 16-40, 16-43, 16-45.

<sup>6</sup> See A.M.A., *Guides* 510. Moreover, the A.M.A., *Guides* specifically provides that strength deficits measured by functional tests should only rarely be included in the calculation of an upper extremity impairment and the facts do not support the inclusion of this form of strength impairment rating in the present case. See *id.* at 508.

<sup>7</sup> See *id.* at 480-94.

<sup>8</sup> See *Bobby L. Jackson*, 40 ECAB 593, 601 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 26, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 14, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member