United States Department of Labor
Employees' Compensation Appeals Board

D.D., Appellant	)	
and	)	**Docket No. 08-394**
	)	**Issued: July 17, 2008**
U.S. POSTAL SERVICE, POST OFFICE, Grand Rapids, MI, Employer	)	

Appearances:
Jeffrey P. Zeelander, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 19, 2007 appellant, through her attorney, filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated August 27, 2007 granting appellant schedule awards. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has more than 17 percent impairment of her right arm and 20 percent impairment of her left arm, for which she received schedule awards.

FACTUAL HISTORY

On June 2, 2003 appellant, then a 55-year-old clerk, filed an occupational disease claim alleging that she developed arthritic spurs on her neck and shoulder due to repetitive movement of her arm and lifting tubs of mail constantly. The Office accepted this claim for aggravation of cervical radiculopathy on June 29, 2003. It noted that appellant had a 1986 claim accepted for neck and shoulder conditions as well as bilateral carpal tunnel syndrome. The Office authorized

a cervical discectomy at C5-6 and C6-7 on August 26, 2003. Appellant underwent epidural injections on August 20 and September 2, 2003, which relieved a significant portion of her symptoms. On October 15, 2004 she underwent C5-6 and C6-7 anterior cervical discectomies and fusions. The Office entered her on the periodic rolls on November 5, 2004. Appellant filed a recurrence of disability on January 24, 2005. The Office accepted this claim on March 7, 2005. Appellant filed a second claim for recurrence on May 16, 2005 alleging that she was totally disabled due to her January 20, 2003 employment injury beginning May 4, 2005. On October 3, 2005 appellant withdrew this claim.

On August 5, 2003 she filed a notice of occupational disease alleging that she developed severe arthritis in her hands due to repetitious keying and lifting mail. Appellant first became aware of her condition on August 12, 1997. On August 13, 2003 the Office accepted appellant's claim for aggravation of trapezial metacarpal joint arthritis on the right and metacarpal trapezial osteoarthritis on the left. Appellant underwent interposition arthroplasty of the trapeziometacarpal join on the right on September 2, 2004. She underwent left interposition arthroplasty of the trapezium and de Quervain's release on September 8, 2005.

Appellant was approved for disability retirement effective December 13, 2005. By decision dated April 20, 2006, the Office found that appellant was no longer entitled to compensation benefits for wage loss as she was capable of light-duty work, which was available for her when she elected disability retirement.

On January 18, 2006 appellant requested a schedule award. In a report dated February 7, 2007, Dr. David Frye, an osteopath, noted that she sustained a head injury in 1986 and underwent bilateral carpal tunnel releases in 1997 as well as surgical decompression and instrumented fusion of C5-6. He reported appellant's bilateral hand surgeries due to trapezial osteoarthritis. Dr. Frye opined that appellant had reached maximum medical improvement. He listed appellant's range of motion of the right shoulder as forward flexion 150 degrees, extension 40 degrees, adduction 30 degrees, abduction 170 degrees, external rotation 90 degrees and internal rotation 10 degrees. Dr. Frye concluded that appellant had nine percent impairment of her right shoulder due to loss of range of motion. In regard to appellant's right thumb, he found that she had metacarpophalangeal (MP) extension of negative 5 degrees, MP flexion of 70 degrees, interphalangeal (IP) extension of 0 degrees, IP flexion of 65 degrees, radial abduction of 50 degrees; adduction of three centimeters and opposition of four centimeters. Dr. Frye found that appellant had 14 percent impairment of her thumb or 6 percent impairment of her hand to reach a combined upper extremity rating of 14 percent. He noted that a resection arthroplasty of the thumb resulting in an impairment rating would be 11 percent. As to her left upper extremity, Dr. Frye found shoulder flexion of 145 degrees, extension of 35 degrees, adduction of 30 degrees, abduction of 160 degrees, external rotation of 85 degrees and internal rotation of 15 degrees totaling 11 percent impairment. He examined appellant's left thumb and found 1 percent impairment due to loss of IP flexion, 4 percent impairment due to thumb adduction impairment and 9 percent impairment due to loss of opposition for 15 percent impairment of the left thumb or 6 percent impairment of the left hand. Dr. Frye found that appellant had 16 percent impairment of her left upper extremity due to loss of range of motion of the thumb and shoulder.

An Office medical adviser reviewed this report on June 7, 2007 and found 9 percent impairment of the right upper extremity due to loss of range of motion in the shoulder and 14 percent impairment of the right thumb due to loss of range of motion as well as 11 percent impairment of the right thumb due to resection arthroplasty of the right thumb for total thumb impairment of 23 percent or 9 percent impairment of the right hand and 17 percent impairment of the right upper extremity. In regard to appellant's left upper extremity, the Office medical adviser found 11 percent impairment due to loss of range of motion of the left shoulder and 15 percent impairment of the left thumb due to loss of range of motion and combined this rating with 11 percent impairment for resection arthroplasty of the left thumb for 24 percent impairment of the left thumb or 10 percent impairment of the left hand and 20 percent impairment of the left upper extremity.

Appellant requested to receive her schedule award as a lump sum on August 9, 2007. The Office noted that appellant filed a claim in 2003, which was accepted for a neck injury and that she was entitled to a schedule award as she was receiving disability retirement. By decision dated August 27, 2007, it granted appellant a schedule award for 17 percent impairment of her right upper extremity and 20 percent impairment of her left upper extremity.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act[1] and its implementing regulation[2] set 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 all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.[3] Effective February 1, 2001, the Office adopted the fifth edition of the A.M.A., *Guides* as the appropriate edition for all awards issued after that date.[4]

Before the A.M.A., *Guides* can be utilized, a description of appellant's impairment must be obtained from her physician. In obtaining medical evidence required for a schedule award, the evaluation made by the attending physician must include a description of the impairment including, where applicable, the loss in degrees of active and passive 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. This description must

[1] 5 U.S.C. § 8107.

[2] 20 C.F.R. § 10.404 (1999).

[3] *Id.*

[4] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(a) (August 2002).

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.[5]

ANALYSIS

On February 7, 2007 Dr. Frye determined that appellant had reached maximum medical improvement following her cervical and thumb surgeries. Dr. Frye provided the range of motion figures for appellant's shoulders and thumbs. The Office medical adviser reviewed the figures and concurred with Dr. Frye's application of the A.M.A., *Guides*. For the right shoulder 150 degrees of forward flexion is 2 percent impairment,[6] extension of 40 degrees is 1 percent impairment,[7] adduction of 30 degrees is 1 percent impairment[8] and both abduction of 170 degrees[9] and external rotation of 90 degrees[10] are not ratable impairments, while internal rotation of 10 degrees[11] is 5 percent impairment of the upper extremity, totaling 9 percent impairment of the right upper extremity due to loss of range of motion of the shoulder. Appellant also demonstrated loss of range of motion of the right thumb with MP extension of negative 5 degrees and MP flexion of 70 degrees both not ratable impairments under the A.M.A., *Guides*,[12] IP extension of 0 degrees or one percent impairment and IP flexion of 65 degrees or one percent impairment,[13] radial abduction of 50 degrees or zero percent impairment[14] adduction of three centimeters or three percent impairment[15] and opposition of four centimeters or nine percent impairment of the thumb.[16] The Office medical adviser found that appellant had 14 percent impairment of her thumb due to loss of range of motion and combined this rating with that for the resection arthroplasty of the thumb[17] or 11 percent, for total thumb impairment of 23 percent[18] or 9 percent of the right hand.[19] Nine percent impairment of the right hand is

[5] *Robert B. Rozelle*, 44 ECAB 616, 618 (1993).

[6] A.M.A., *Guides*, 476, Figure 16-40.

[7] *Id.*

[8] *Id*. at 477, Figure 16-43.

[9] *Id.*

[10] *Id*. at 479, Figure 16-46.

[11] *Id.*

[12] *Id*. at 457, Figure 16-15.

[13] *Id*. at 456, Figure 16-12.

[14] *Id*. at 459, Table 16-8a.

[15] *Id*. at 459, Table 16.8b.

[16] *Id*. at 460, Table 16-9.

[17] *Id*. at 505, 506, Table 16-27.

[18] *Id*. at 604.

[19] *Id*. at 438, Table 16-1.

equivalent to 8 percent impairment of the upper extremity,[20] which combined with 9 percent impairment of the shoulder results in 16 percent impairment of the right upper extremity.[21]

As to her left upper extremity, the Office medical adviser found shoulder flexion of 145 degrees was three percent impairment,[22] extension of 35 degrees was one percent impairment,[23] adduction of 30 degrees was one percent impairment,[24] abduction of 160 degrees was one percent impairment,[25] external rotation of 85 degrees was zero percent impairment and internal rotation of 15 degrees was five percent impairment.[26] The Office medical adviser then found that appellant had 11 percent of the left upper extremity due to loss of range of motion in the shoulder.

Concerning her left thumb, the Board notes that Dr. Frye did not provide his range of motion figures for this digit. Instead, he merely provided the impairment ratings based on the A.M.A., *Guides*. The Office medical adviser apparently utilized the range of motion figures Dr. Frye provided for appellant's right thumb in determining her left thumb impairment and reached a slightly higher impairment rating of the left thumb of 15 percent due to loss of range of motion. As the Board is unable to determine the correct range of motion figures for appellant left thumb and visualize the extent of her impairment, the case is not in posture for decision and will be remanded for additional development of the medical evidence. On remand, the Office should request that Dr. Frye provided additional medical evidence and issue an appropriate decision.

CONCLUSION

The Board affirms the Office schedule award to the right arm and finds that the case is not in posture for decision as appellant's attending physician did not provide all the relevant range of motion figures for her left upper extremity.

[20] *Id*. at 439, Table 16-2.

[21] *Id*. at 438, 604. The Office medical adviser failed to convert appellant's right hand impairment to a right upper extremity impairment and therefore combined nine percent for the hand with nine percent for the shoulder rather than eight percent impairment resulting from conversion of the thumb to the hand and the hand to the upper extremity with nine percent from the shoulder to reach 17 percent impairment of the right upper extremity.

[22] *Id*. at Figure 16-40.

[23] *Id.*

[24] *Id*. at 477, Figure 16-43.

[25] *Id.*

[26] *Id*. at 479, Figure 16-46.

ORDER

IT IS HEREBY ORDERED THAT the August 27, 2007 decision of the Office of Workers' Compensation Programs is affirmed in part with regard to the schedule award to the right arm and set aside with regard to the award to the left arm. The case is remanded for further development consistent with this decision of the Board.

Issued: July 17, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board