



On April 30, 2009 appellant filed a claim for a schedule award. In a July 14, 2009 impairment evaluation, Dr. Wright W. Singleton, who specializes in occupational medicine, diagnosed internal derangement of the right shoulder. On examination, he noted moderate crepitus with full strength in the right shoulder. He found that appellant had reached maximum medical improvement. Applying the fourth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (4<sup>th</sup> ed. 1993) (A.M.A., *Guides*), Dr. Singleton concluded that appellant had 8 percent impairment due to loss of range of motion and 12 percent impairment due to moderate crepitus of the right shoulder. He selected the higher value to find a total right upper extremity impairment of 12 percent.

On August 20, 2009 the Office referred appellant to Dr. James Hood, a Board-certified orthopedic surgeon, for an impairment evaluation under the sixth edition of the A.M.A., *Guides*. In a September 17, 2009 report, Dr. Hood found some right arm atrophy, scapular winging and impingement. He measured range of motion for the right shoulder of 30 degrees extension, 90 degrees flexion, 90 degrees abduction, 40 degree adduction, 60 degrees internal rotation and 70 degrees external rotation. Dr. Hood discussed the diagnosis-based impairment ratings set forth in the sixth edition of the A.M.A., *Guides*. He found, however, that he could not use the diagnosis-based impairments because of the abnormal motion. Applying Table 15-34 on page 475 of the A.M.A., *Guides*, Dr. Hood determined that 50 degrees extension yielded no impairment, 90 degrees flexion yielded three percent impairment, 90 degrees abduction yielded three percent impairment, 40 degrees adduction yielded no impairment, 70 degrees external rotation yielded no impairment and 60 degrees internal rotation yielded two percent impairment.<sup>1</sup> He added the impairments due to loss of range of motion to find an eight percent right arm impairment.

On October 20, 2009 the Office medical adviser concurred with Dr. Hood's finding that appellant had eight percent right shoulder impairment due to loss of range of motion.

By decision dated December 14, 2009, the Office granted appellant a schedule award for an eight percent impairment of the right arm. The period of the award ran for 24.96 weeks from September 9, 2009 to March 2, 2010.

On appeal appellant contends that Dr. Hood's examination lacked the thoroughness of Dr. Singleton's examination, whose impairment rating should be given greater weight.

### **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees' Compensation Act,<sup>2</sup> and its implementing federal regulations,<sup>3</sup> 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

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<sup>1</sup> Dr. Hood measured range of motion for extension as 30 percent rather than 50 percent.

<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404.

loss shall be determined. For consistent results and to ensure equal justice under the law for all claimants, the Office has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.<sup>4</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>5</sup>

### ANALYSIS

The Office accepted that appellant sustained a sprain of the AC joint of the right shoulder and a sprain of the upper arm and right rotator cuff on May 21, 2008. It authorized surgery to repair a full-thickness tear of the right rotator cuff.

On April 30, 2009 appellant filed a claim for a schedule award. He submitted an impairment evaluation dated July 14, 2009 from Dr. Singleton. Utilizing the fourth edition of the A.M.A., *Guides*, Dr. Singleton found that appellant had 12 percent impairment of the right upper extremity due to moderate crepitus. The applicable edition of the A.M.A., *Guides* for determining impairments subsequent to May 1, 2009, however, is the sixth edition. Dr. Singleton based his impairment determination on the fourth edition of the A.M.A., *Guides*. A medical opinion not based on the appropriate edition of the A.M.A., *Guides* has diminished probative value in determining the extent of a claimant's permanent impairment.<sup>6</sup>

The Office referred appellant to Dr. Hood for a second opinion examination. On September 17, 2009 Dr. Hood measured range of motion for the right shoulder and concluded that appellant had eight percent impairment due to loss of range of motion. He noted that the sixth edition of the A.M.A., *Guides* provided a diagnosis-based evaluation method but found that this method was not applicable given the loss of range of motion. The Shoulder Regional Grid set forth in Table 15-5 of the sixth edition of the A.M.A., *Guides* indicates that a full thickness rotator cuff tear yields from a one to seven percent shoulder impairment, depending on the class of impairment and grade modifiers. Table 15-5 marks the shoulder impairment due to a rotator cuff tear with an asterisk. The asterisk provides that, if motion loss is present, the shoulder impairment may alternatively be assessed using loss of range of motion.<sup>7</sup> The impairment due to loss of range of motion stands alone and is not combined with a diagnosis-based impairment.<sup>8</sup> Dr. Hood thus properly applied Table 15-34, relevant to determining impairments of the shoulder due to loss of range of motion, to his findings on examination. He determined that 50 degrees extension yielded no impairment, 90 degrees flexion yielded three percent impairment, 90 degrees abduction yielded three percent impairment, 40 degrees adduction yielded no impairment, 70 degrees external rotation yielded no impairment and 60 degrees internal rotation

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<sup>4</sup> *Id.* at § 10.404(a).

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6.6a (January 2010); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

<sup>6</sup> *Fritz A. Klein*, 53 ECAB 642 (2002).

<sup>7</sup> A.M.A., *Guides* 403, 405, Table 15-5.

<sup>8</sup> *Id.* at 405, Table 15-5.

yielded two percent impairment, which he added to find a total right arm impairment of eight percent. An Office medical adviser concurred with Dr. Hood's finding. The Board notes, however, that Dr. Hood measured extension of 30 degrees rather than 50 degrees, which yields an addition one percent impairment of the shoulder.<sup>9</sup>

On appeal appellant argues that the opinion of Dr. Singleton should be given greater weight because he provided a more thorough examination. As noted, however, he based his impairment rating on the fourth edition of the A.M.A., *Guides*, which is no longer used by the Office for schedule award determinations. Consequently, Dr. Singleton's opinion is of diminished probative value.<sup>10</sup>

### **CONCLUSION**

The Board finds that appellant has a nine percent impairment of the right arm.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the December 14, 2009 decision of the Office of Workers' Compensation Programs is affirmed as modified to reflect that appellant has a nine percent right arm impairment.

Issued: February 18, 2011  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>9</sup> *Id.* at 475, Table 15-34.

<sup>10</sup> *Fritz A. Klein, supra* note 6.