

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELIZABETH F. BURCH and U.S. POSTAL SERVICE,
POST OFFICE, Glens Falls, NY

*Docket No. 01-1755; Submitted on the Record;
Issued April 3, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has more than a 10 percent permanent impairment of each upper extremity, for which she received a schedule award.

On March 28, 1994 appellant, then a 35-year-old letter carrier, filed an occupational injury claim asserting that her bilateral carpal tunnel syndrome was the result of her federal employment. The Office of Workers' Compensation Programs accepted her claim for bilateral carpal tunnel syndrome and authorized surgical releases on both wrists.

Appellant filed a claim for a schedule award. On January 23, 1997 however her attending orthopedic specialist, Dr. Carol S. Fisher, recommended that the Office consult with another specialist to get an opinion on permanent impairment, as she did not perform that type of evaluation. The Office referred appellant to another physician for evaluation, who recommended further electrical studies. It was determined that appellant had not reached maximum medical improvement.

On January 18, 1999 Dr. Fisher reported that appellant had bilateral peripheral neuropathy documented by nerve conduction velocity abnormalities in all fingers and both thumbs bilaterally. She reported that this condition was permanent and that appellant had reached maximum medical improvement. Dr. Fisher stated:

“According to the A.M.A., [American Medical Association] Guides to the Evaluation of Permanent Impairment, a permanent partial sensory loss of all of the fingers and both of the thumbs of both hands is classified as a partial transverse sensory loss which receives 25 percent of the amputation impairment value.”

The Office referred appellant to Dr. Joseph Quellman, an orthopedic surgeon, for a second opinion. In a report dated July 13, 1999, Dr. Quellman related appellant's history and indicated his review of her records. Clinical findings included the following:

“Examination of her hands and wrists reveals no deformity, discoloration or swelling. There is supple full movement of wrists and fingers bilaterally. There are healed surgical scars over the carpal tunnels and the palms bilaterally. These are nontender. Tinel's signs are negative. Thenar and intrinsic musculature is not atrophied. Grip strengths are qualitatively intact. Sensory examination is unimpaired as well. Circulation and pulses are intact. Adson is negative bilaterally. A volar radial ganglion, olive sized, is noted on the left wrist. Resistance testing to Finkelstein's maneuver and forearm extension is negative for tendinitis of the wrist or elbow. Bilateral elbow examinations are also unremarkable.”

Dr. Quellman diagnosed status postbilateral carpal tunnel releases. He reported: “Based on A.M.A., [*Guides*] [f]ourth [e]dition, referencing page 57, Table 16, upper extremity impairment due to entrapment neuropathy, determining a mild degree of severity and impairment, a 10 percent scheduled loss of use for each upper extremity is determined.”

On August 13, 1999 an Office medical adviser reviewed Dr. Quellman's evaluation and concurred with the rating of 10 percent for each upper extremity using Table 16, page 57, of the A.M.A., *Guides*, 4th ed. 1995.

On August 17, 1999 the Office issued a schedule award for a 10 percent permanent impairment to each upper extremity.

In a decision dated June 6, 2000, an Office hearing representative affirmed the August 17, 1999 schedule award. The hearing representative found that the Office properly issued a schedule award based on the rating reported by the Office medical adviser, who reviewed Dr. Quellman's evaluation. The hearing representative found that Dr. Fisher's rating was of limited probative value because she failed to reference pages and tables in the A.M.A., *Guides* and failed to identify what the amputation value was.

Appellant requested reconsideration. She submitted a transcript of her evaluation by Dr. Quellman to support its brevity and his lack of attention to paresthesias. She also submitted a supplemental report from Dr. Fisher, dated June 22, 2000, stating the following:

“I have been referencing the A.M.A., *Guide[s] to the Evaluation of Permanent Impairment*, 4th [e]d., Chapter 3, page 21.

“I feel this patient has a partial transverse sensory loss which according to this guide reference receives 25 percent of the amputation impairment value which is indicated on [T]ables 4 and 9 on pages 25 and 31.”

On March 22, 2001 an Office medical adviser reviewed Dr. Fisher's supplemental report and stated that she "for some reason persists in using the amputation impairment value (25 percent of this value) for a partial transverse sensory loss." The medical adviser found that Dr. Quellman's report was more specific and more rationalized.

In a decision dated March 30, 2001, the Office reviewed the merits of appellant's claim and denied modification of its prior decision. The Office found that Dr. Quellman's report represented the weight of the medical opinion evidence.

The Board finds that the weight of the medical evidence fails to establish that appellant has more than a 10 percent permanent impairment of each upper extremity.

The schedule award provision of the Federal Employees' Compensation Act sets forth the number of weeks of compensation payable to employees who sustain permanent impairment from loss, or loss of use, of scheduled members, organs or functions of the body.¹ The Office evaluates the degree of impairment according to the specified edition of the A.M.A., *Guides*.²

Dr. Quellman evaluated appellant's impairment using Table 16, page 57, of the A.M.A., *Guides*. Table 16, upper extremity impairment due to entrapment neuropathy, estimates a 10 percent impairment of the upper extremity for the entrapment of the median nerve at the wrist with mild severity. His rating of 10 percent for each upper extremity and appellant's August 17, 1999 schedule award, is, therefore, clearly supported by the A.M.A., *Guides*.

Dr. Fisher made reference to the section of the A.M.A., *Guides* for evaluating sensory loss of the digits.³ The A.M.A., *Guides* states at page 56 that impairment of the hand and upper extremity secondary to entrapment neuropathy may be derived by measuring the sensory and motor deficits "as described in preceding parts of this section." Dr. Fisher, however, failed to provide sufficient clinical findings to support that appellant had a partial transverse sensory loss. She offered no findings on two-point discrimination consistent with the procedures outlined. And while the A.M.A., *Guides* provides that a partial transverse sensory loss is a 50 percent sensory loss and receives 25 percent of the amputation value,⁴ Dr. Fisher failed to use these amputation values to complete and report an actual impairment rating of each upper extremity. For these reasons the Board finds that Dr. Fisher's report is of diminished probative value and is insufficient to establish that appellant has more than a 10 percent permanent impairment of each upper extremity.

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

³ A.M.A., *Guides*, Chapter 3.1c, pages 20, 30.

⁴ *Id.* at 21.

The March 30, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 3, 2002

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member