Addressing Rating Issues

Disability Evaluation Unit
Attn: DEU Rater

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Disability Evaluation Unit

Addressing Spine Impairment

Three Primary Regions

- Cervical
- Thoracic
- Lumbar

Rated similarly but separately
Correct Use of Spine Method

DRE vs. ROM

When ROM Method is used

- Multi-level or bilateral radiculopathy
- Multi-level fracture
- Multi-level fusion
- Recurrent radiculopathy

Which Method?

- MRI Bulging discs L3-L4, L4-5, L5-S1
- No radicular symptoms
- DRE or ROM?
DRE Categories

<table>
<thead>
<tr>
<th>DRE</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>DRE I</td>
<td>Subjective findings only</td>
</tr>
</tbody>
</table>
| DRE II | Muscle guarding, asymmetric ROM  
Unverified radiculopathy  
Resolved verified radiculopathy |
| DRE III | Unresolved verified radiculopathy  
Spine surgery one level |
| DRE IV | Alteration motion segment integrity (fusion)  
Bilateral or multi-level radiculopathy (cervical thoracic spines) |
| DRE V | Alteration motion segment integrity  
With radiculopathy |

ROM Method

Three components of ROM Method

- Diagnosis (Table 15-7)
- Spine ROM
- Spine nerve deficit – sensory/motor
Spinal Nerve Deficit

- Part of ROM method
- Not always applicable
- If not addressed, look for sensory or motor complaints in report

Spinal Nerve Deficit Method

- Identify nerve(s)
- Determine maximum motor and sensory deficits (Tables 15-17, 15-18)
- Physician Provides nerve deficit %
- Multiply maximum value by nerve deficit %
When Both Methods Applicable

- Multi-level or bi-lateral radiculopathy in Cervical or thoracic spine
- Multi-level fusion (Example 15-11)
- Rate higher of two methods when both applicable

ROM Method in Multiple regions

- AMA Guides page 381
- Use ROM Method once
- Other regions DRE method
Corticospine Injury

**Table 15-6 Impairments**
- One Upper extremity
- Two Upper extremities
- Station and Gait Disorders
- Bladder Impairment
- Anorectal Impairment
- Sexual Impairment
- Impairment of Respiration

Corticospine Example

- **Fish and Game Warden, 45 years old**
- Spinal cord injury at L3 resulting in DRE III = 13 WP
- Necessity for use of wheelchair, Class 4 = 55 WP
- No voluntary control of bladder or bowel
  - Bladder, Class 4 = 50 WP
  - Anorectal, Class 3 = 50 WP
- No sexual function, Class 3 = 20 WP
Corticospine Example

15.03.01.00 – 13 – [5]17 – 490I – 23 – 24 PD (A)
15.04.03.00 – 55 – [5]70 – 490I – 77 – 79 PD (A)
15.04.05.00 – 50 – [2]57 – 490H – 63 – 65 PD (A)
15.04.06.00 – 20 – [2]23 – 490F – 23 – 24 PD (A)

79 C 65 = 93
93 C 65 = 98
98 C 24 = 98
98 C 24 = 98 Final PD

Addressing Pain Add-on

- Maximum 3 WP
- AMA impairments account for common pain
- Must increase burden in excess of pain component already incorporated
Pain Add-On

- Physician should assign to body part
- Must be added to a ratable impairment
- Exception for headaches

-Table 18-1
  - No method for rating headaches

DEU Approach

- 3 WP maximum for pain
- Add-on to ratable impairment only
- Exception for headaches (13.01.00.99)
- Will assign pain to body part if physician does not
Properly Combining of Impairments

- Values are rounded off at each step
- Extremity impairments in same region are combined at extremity index
- Table 17-2 applied for LE impairments

Combining Example

- Left knee injury
- Knee DJD 2 mm
- Muscle strength Grade 4 flex/ext
# Arthritis Calculation

**Table 17-31** Arthritis Impairments Based on Roentgenographically Determined Cartilage Intervals

<table>
<thead>
<tr>
<th>Joint</th>
<th>Cartilage Interval</th>
<th>Whole Person (Lower Extremity) [Foot] Impairment (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3 mm</td>
<td>2 mm</td>
</tr>
<tr>
<td>Sacroiliac (3 mm)*</td>
<td>—</td>
<td>1 (2)</td>
</tr>
<tr>
<td>Hip (4 mm)</td>
<td>3 (7)</td>
<td>8 (20)</td>
</tr>
<tr>
<td>Knee (4 mm)</td>
<td>3 (7)</td>
<td>8 (20)</td>
</tr>
<tr>
<td>Patellofemoral</td>
<td>—</td>
<td>4 (10)</td>
</tr>
<tr>
<td>Ankle (4 mm)</td>
<td>2 (5)</td>
<td>6 (15) [21]</td>
</tr>
<tr>
<td>Talonavicular (2-3 mm)</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Calcaneocuboid</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>First metatarsophalangeal</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Other metatarsophalangeal</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

# Muscle Strength Calculation

**Table 17-8** Impairment Due to Lower Extremity Muscle Weakness

<table>
<thead>
<tr>
<th>Muscle Group</th>
<th>Grade 0</th>
<th>Grade 1</th>
<th>Grade 2</th>
<th>Grade 3</th>
<th>Grade 4</th>
</tr>
</thead>
</table>

*Myotonia weakness is included as an abnormal worse impairment see Table (17-7).
## Combining Impairments
*(Table 17-2 Condensed)*

<table>
<thead>
<tr>
<th></th>
<th>Gait</th>
<th>Atrophy</th>
<th>Muscle Strength</th>
<th>ROM</th>
<th>DJD</th>
<th>DBE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gait</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Atrophy</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Muscle Strength</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>ROM</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>DJD</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DBE</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Combining Example

DJD 2 mm = \(20\) LE

Muscle Strength = \(12 + 12 = 23\) LE

\(23 \times .4 = 9\) WP
DEU Approach

• Combine impairments per PDRS 1-11

• Make corrections

• Annotate corrections

• Apply combining rules within context of Almaraz/Guzman rating

Distal Clavicle Arthroplasty

• Table 16-27

• 10 UE

• Often excluded in physician impairment

• May be combined with strength and ROM
DEU Approach

• Will rate distal clavicle arthroplasty

• Annotate if physician does not include

• Combine with other shoulder impairments at UE index

Table Impairment Corrections

• Physician provides measurements

• Any knowledgeable observer may check findings with Guides criteria

• Choice of impairment class is physician decision
DEU Approach

- Look up table values
- Correct table impairments
- Correct math errors
- Annotate corrections

Muscle Strength

Cannot be rated if maximum strength prevented by

- Decreased motion
- Pain
- Amputation
Muscle Strength Impairment

• Cannot be combined with other impairments unless due to different
  - Etiologic cause
  - Patho-mechanical cause

Key to Strength Impairment

• Ask physician

• Cause of strength loss

• Then ask if AMA Guides page 508 preclusion apply
DEU Approach

Do not rate strength impairment for

- Peripheral nerve injuries
- CRPS injuries
- Grip impairment for elbow and shoulder injuries

SB 863 Changes

- No add-on for sleep or sexual dysfunction or psychiatric disorder
- LC 4660.1
- Arising out of compensable physical injury
- Psychiatric exception for violent act or catastrophic injury
No Add-on for Psychiatric Disorder

What is a catastrophic injury?

Term not defined

Includes
• Loss of limb
• Severe burn
• Severe head injury
• Paralysis

Rating Formula Changes

• LC 4660.1
• Elimination of FEC modifier
• Replacement with 1.4 modifier
• First modification of standard WP impairment
New Rating Formula

2012 DOI

17.05.05.00 – 9 – [2]10 – 360G – 12 – 13 PD

2013 DOI

17.05.05.00 – 9 – [1.4]13 – 360G – 15 – 16 PD

Addressing Almaraz/Guzman
**DEU General Approach**

- Provide both a standard AMA Guides impairment rating and Almaraz/Guzman rating whenever possible
- Consider body part injured when assigning impairment numbers
- Follow rules of combining unless physician directs otherwise as part of Almaraz/Guzman rating

**Almaraz/Guzman Example**

- Lumbar spine injury with pain radiating into both legs
- Radiculopathy verified by positive MRI findings
- Physician assigns Lumbar DRE III rating
- Provides alternative rating analogy to Hernia Class 2 -19 WP due to difficulty with heavy lifting
DEU Consultative Ratings

Rating per AMA Guides
DRE III: 13 WP
15.03.01.00 – 13 – [5]17 – 360G – 19 – 22 PD
Note due to bilateral radiculopathy ROM method could apply

Rating per Almaraz Case
Lumbar analogy to Hernia class 2: 19 WP

Impairment Number Assignment

DEU Considerations

• Body part injured

• Is physician analogizing to another body part?

• Is impairment based on physical measurements?
Almaraz/Guzman Case

- ADJ6719136 Kite vs. East Bay
- Bilateral hip replacements
- Physician adds rather than combining PD
- Most accurate reflection of PD

Kite vs. East Bay

- WCALJ Award 66% PD

Left Hip
Right Hip
33 + 33 = 66 PD

- Defendant asked for reconsideration
- Decision Upheld
DEU Consultative Ratings

Rating per AMA Guides

Left Hip

Right Hip

33 C 33 = 55 PD

Combined Values Chart

• CVS is how disabilities are combined

• Residual chart A + B (1-A)

• Compaction increases with larger numbers

• Difficult to reach 100%
DEU Consultative Ratings

Rating per Almaraz Case

Left Hip

Right Hip

33 + 33 = 66 PD

Rationale for Almaraz/Guzman

• Almaraz/Guzman rating not automatic

• Must be substantial medical evidence

• Within four corners of AMA Guides

• Physician rationale required
Physician Rationale

- Why departure from AMA Guides standard rating?
- Cannot use work restrictions
- No fishing expedition

DEU Approach

- Provide both standard AMA Guides Rating and Almaraz/Guzman rating
- Consider body part injured with Almaraz/Guman ratings by analogy
Almaraz/Guzman Rationale

David vs. Walt Disney (ADJ3864345)

Two level cervical fusion

AME Report:
Cervical DRE IV: 26 WP
3 WP for pain

David vs. Walt Disney

Physician gave alternative rating

AMA Guides Figure 15-19

60% loss of capacity of cervical spine: 48 WP
Add on for pain \[\underline{3 \text{ WP}}\]
Almaraz/Guzman rating \[50 \text{ WP}\]

Rating did not account for work impairment
David vs. Walt Disney

- Judge rejected Almaraz/Guzman rating
- Cervical Spine rated
- Applicant petition for reconsideration
- WCAB denied reconsideration

Formal Ratings

- DEU rater will follow Judge’s instructions
- If physician provides both standard AMA Guides rating and Almaraz/Guzman rating – Judge must choose
- Body part listed on formal instruction may affect impairment number used
Follow Up on DEU Annotations

Apportionment

LC 4663

- Physician should address in medical report
- Provide percentage caused by injury
- Percentage caused by other factors
Apportionment

Escobedo Case (70CCC604)

• Explain how other factor is contributing to disability

• Why the percentage chosen

• Specific to individual

4664 Apportionment

LC 4664 (b)

• To prior award
• Overlap of disabilities required

LC 4664 (c)

• 100% cap to region of body
LC 4664 (B) 100% Cap

1) Hearing
2) Vision
3) Mental and behavioral
4) Spine
5) Upper extremities
6) Lower extremities
7) Head, face, heart, respiratory, and all other

4664 (c) Apportionment

- Prior injury heart award 64%
- Current respiratory PD 52%
- What is the maximum PD on respiratory injury?