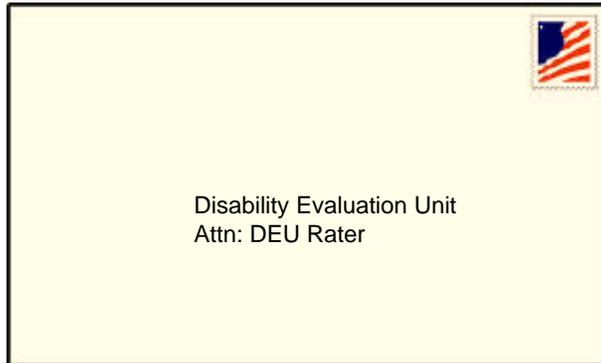


Addressing Rating Issues



*Presented by
Annalisa Jo Becker and Barry Knight
Disability Evaluation Unit*

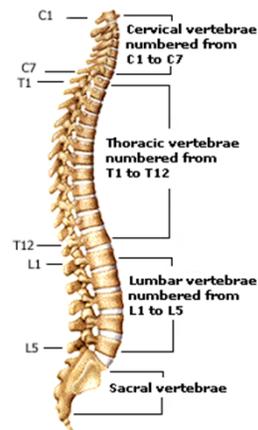
1

Addressing Spine Impairment

Three Primary Regions

- Cervical
- Thoracic
- Lumbar

Rated similarly but
separately



2

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

3

Which Method?

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



4

DRE Categories

DRE I	Subjective findings only
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

5

ROM Method

Three components of ROM Method

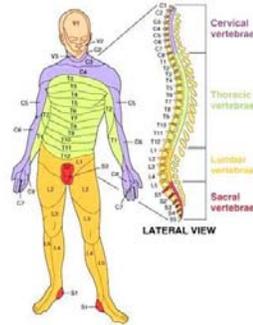
- Diagnosis (Table 15-7)
- Spine ROM
- Spine nerve deficit – sensory/motor



6

Spinal Nerve Deficit

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



7

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 %

8

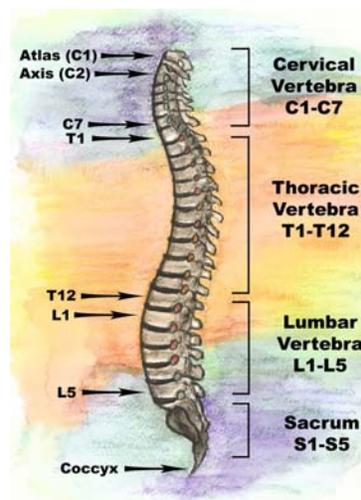
When Both Methods Applicable

- 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

9

ROM Method in Multiple regions

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

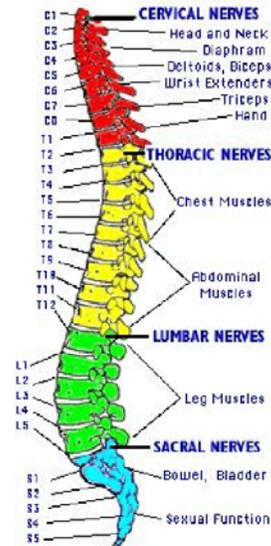


10

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



11

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

12

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)
15.04.04.00 – 50 – [2]57 – 490H – 63 – 65 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

13

Addressing Pain Add-on

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



14

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

15

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



16

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

17

Combining Example

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

18

Arthritis Calculation

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

Joint	Whole Person (Lower Extremity) [Foot] Impairment (%)			
	Cartilage Interval			
	3 mm	2 mm	1 mm	0 mm
Sacroiliac (3 mm)*	—	1 (2)	3 (7)	3 (7)
Hip (4 mm)	3 (7)	8 (20)	10 (25)	20 (50)
Knee (4 mm)	3 (7)	8 (20)	10 (25)	20 (50)
Patellofemoral†	—	4 (10)	6 (15)	8 (20)
Ankle (4 mm)	2 (5) [7]	6 (15) [21]	8 (20) [28]	12 (30) [43]
Subtalar (3 mm)	—	2 (5) [7]	6 (15) [21]	10 (25) [35]
Talonavicular (2-3 mm)	—	—	4 (10) [14]	8 (20) [28]
Calcaneocuboid	—	—	4 (10) [14]	8 (20) [28]
First metatarsophalangeal	—	—	2 (5) [7]	5 (12) [17]
Other metatarsophalangeal	—	—	1 (2) [3]	3 (7) [10]

19

Muscle Strength Calculation

Table 17-8 Impairment Due to Lower Extremity Muscle Weakness

Muscle Group		Whole Person (Lower Extremity) [Foot] Impairment (%)				
		Grade 0	Grade 1	Grade 2	Grade 3	Grade 4
Hip	Flexion	6 (15)	6 (15)	6 (15)	4 (10)	2 (5)
	Extension	15 (37)	15 (37)	15 (37)	15 (37)	7 (17)
	Abduction*	25 (62)	25 (62)	25 (62)	15 (27)	10 (25)
Knee	Flexion	10 (25)	10 (25)	10 (25)	7 (17)	5 (12)
	Extension	10 (25)	10 (25)	10 (25)	7 (17)	5 (12)
Ankle	Flexion (plantar flexion)	15 (37) [53]	15 (37) [53]	15 (37) [53]	10 (25) [35]	7 (17) [24]
	Extension (dorsiflexion)	10 (25) [35]	10 (25) [35]	10 (25) [35]	10 (25) [35]	5 (12) [17]
	Inversion	5 (12) [17]	5 (12) [17]	5 (12) [17]	5 (12) [17]	2 (5) [7]
	Eversion	5 (12) [17]	5 (12) [17]	5 (12) [17]	5 (12) [17]	2 (5) [7]
	Great toe	Extension	3 (7) [10]	3 (7) [10]	3 (7) [10]	3 (7) [10]
	Flexion	[17]	(12) [17]	5 (12) [17]	5 (12) [17]	2 (5) [7]

* Hip adduction weakness is evaluated as an obturator nerve impairment (see Table 17-37).

20

Combining Impairments (Table 17-2 Condensed)

	Gait	Atrophy	Muscle Strength	ROM	DJD	DBE
Gait		X	X	X	X	X
Atrophy	X		X	X	X	X
Muscle Strength	X	X		X	X	X
ROM	X	X	X		X	X
DJD	X	X	X	X		
DBE	X	X	X	X		

21

Combining Example

DJD 2 mm = 20 LE

Muscle Strength = 12 C 12 = 23 LE

23 x .4 = 9 WP

22

DEU Approach

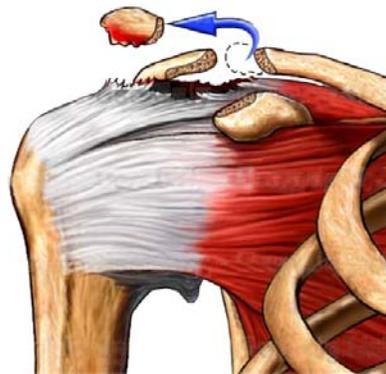
- Combine impairments per PDRS 1-11
- Make corrections
- Annotate corrections
- Apply combining rules within context of Almaraz/Guzman rating



23

Distal Clavicle Arthroplasty

- Table 16-27
- 10 UE
- Often excluded in physician impairment
- May be combined with strength and ROM



24

DEU Approach



- Will rate distal clavicle arthroplasty
- Annotate if physician does not include
- Combine with other shoulder impairments at UE index

25

Table Impairment Corrections



- Physician provides measurements
- Any knowledgeable observer may check findings with Guides criteria
- Choice of impairment class is physician decision

26

DEU Approach

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



27

Muscle Strength

Cannot be rated if maximum strength prevented by

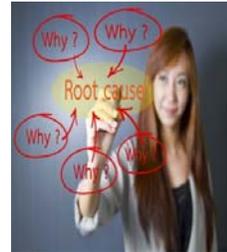
- Decreased motion
- Pain
- Amputation



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Muscle Strength Impairment

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



29

Key to Strength Impairment

- Ask physician
- Cause of strength loss
- Then ask if AMA Guides page 508 preclusion apply



30

DEU Approach



Do not rate strength impairment for

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

31

SB 863 Changes



DOI 2-13

- 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

32

No Add-on for Psychiatric Disorder

What is a catastrophic injury?

Term not defined

Includes

- Loss of limb
- Severe burn
- Severe head injury
- Paralysis



33

Rating Formula Changes

- LC 4660.1
- Elimination of FEC modifier
- Replacement with 1.4 modifier
- First modification of standard WP impairment

34

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

35

Addressing Almaraz/Guzman



36

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

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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

38

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

15.03.01.99 – 19 – [5]24 – 360G – 27 – 30 PD

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Impairment Number Assignment

DEU Considerations

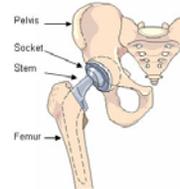


- Body part injured
- Is physician analogizing to another body part?
- Is impairment based on physical measurements?

40

Almaraz/Guzman Case

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



41

Kite vs. East Bay

- WCALJ Award 66% PD

Left Hip

17.03.10.01 – 20 – [5]25 – 351G – 28 – 33 PD

Right Hip

17.03.10.01 – 20 – [5]25 – 351G – 28 – 33 PD

33 + 33 = 66 PD

- Defendant asked for reconsideration
- Decision Upheld

42

DEU Consultative Ratings

Rating per AMA Guides



Left Hip

17.03.10.01 – 20 – [5]25 – 351G – 28 – 33 PD

Right Hip

17.03.10.01 – 20 – [5]25 – 351G – 28 – 33 PD

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%

1	2
2	3
3	4
4	5
5	6
6	7
7	8
8	9
9	10
10	11
11	12
12	13
13	14
14	15
15	16
16	17
17	18
18	19
19	20
20	21
21	22
22	23
23	24
24	25
25	26
26	27
27	28
28	29
29	30
30	31
31	32
32	33
33	34
34	35
35	36
36	37
37	38
38	39
39	40
40	41
41	42
42	43
43	44
44	45
45	46
46	47
47	48
48	49
49	50

DEU Consultative Ratings

Rating per Almaraz Case



Left Hip

17.03.10.01 – 20 – [5]25 – 351G – 28 – 33 PD

Right Hip

17.03.10.01 – 20 – [5]25 – 351G – 28 – 33 PD

33 + 33 = 66 PD

45

Rationale for Almaraz/Guzman

- Almaraz/Guzman rating not automatic
- Must be substantial medical evidence
- Within four corners of AMA Guides
- Physician rationale required

46

Physician Rationale

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



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DEU Approach



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

48

Almaraz/Guzman Rationale

David vs. Walt Disney (ADJ3864345)

Two level cervical fusion

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



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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	<u>3 WP</u>
Almaraz/Guzman rating	50 WP

Rating did not account for work impairment

50

David vs. Walt Disney

- Judge rejected Almaraz/Guzman rating
- Cervical Spine rated

15.01.01.00 – 29 – [5]37 – 560J – 49 – 49 PD

- Applicant petition for reconsideration
- WCAB denied reconsideration

51

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



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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

55

4664 Apportionment

LC 4664 (b)



- To prior award
- Overlap of disabilities required

LC 4664 (c)

- 100% cap to region of body

56

LC 4664 (B) 100% Cap

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

57

4664 (c) Apportionment

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

58