
Almaraz/Guzman from a Rating Point of View: 05PDRS cannot be used to Rate functional loss under Almaraz/Guzman

Applying the 05PDRS modifiers to an impairment-disability rating standard under Almaraz/Guzman is not an automatic process: Consideration of duplication is required. Not unlike LC § 4663 apportionment determinations, a WCAB Administrative Law Judge would need to address which modifiers are or are not to be used in the final rating formula of permanent disability. This applies when the impairment rating is not based on the AMA Guides 5th edition as per LC § 4660(b)(1). A ‘mechanical’ approach of the 05PDRS modifiers will result in a duplication of impairment which fails to consider the compacting nature of disability.

1. When an evaluating physician steps out of the rating principles of the AMA Guides, and for example, determines that an injured worker has a 50% loss of pre-injury capacity for gripping, he has not rated impairment. He has rated disability; e.g., a 60% WPI value of amputation for an arm (Table 16-4) multiplied by 50% loss of function. This disability determination ignores that grip is not a function of the entire extremity but only a function of the lower arm, only to be used for weakness relating to the hand wrist or forearm.
2. If ‘by analogy’ physician determines a disability rating standard for work functional loss, the 05PDRS can not be used to determine the final disability.
3. When evaluating physician considers Almaraz/Guzman in the determination of such an impairment, physician is being asked to consider both the impact of subjective work functional loss, in both work activities and/or their impact in the ability to compete the open labor market (diminished future earning capacity).
4. When evaluating physician uses and considers components of work functional loss in the determination of the ‘impairment rating standard’, (components that belonged to the 97PDRS), physician invalidates the use of the 05PDRS. The 05PDRS’ purpose was to incorporate and to adjust impairment rating standards from the 5th Edition of the AMA Guides - LC § 4660 (b)(1). It was never intended to adjust or modify a disability impairment standard which already considers one or more of the PDRS modifiers.
5. The 05PDRS is invalidated when physician considers in his WPI determination components that the PDRS will consider again when the WPI is modified by DFEC, Occupation and Age.

The California impairment-to-disability rating formula converts the impact of an impairment into disability by adjusting for occupation, loss of future earning capacity and an individual’s age. **The 05PDRS cannot be used to duplicate factors of impairment already considered in the determination of a ‘disability rating standard’, outside the rating protocols of the 5th Edition of the AMA Guides.**

Once physician steps out from the mandate of LC § 4660(b)(1), the remainder of the schedule becomes null and void. Page 1-2 of the 05PDRS states: *“The calculation of a permanent disability rating is initially based on an evaluating physician’s impairment rating, in accordance with the medical evaluation protocols and rating procedures set forth in the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment, 5th Edition.”*

It is not in question that a percentage of permanent disability based on the 05PDRS can be rebutted. However under the Labor Code, only the AD has the final authority to alter, modify and/ or re-write the PDRS – LC § 4660(c). The WCAB in Almaraz/Guzman opened the door for physicians to determine a disability rating standard which could only be ‘mechanically rated’ under any of no longer applicable pre 2005 Permanent Disability Rating Schedules.