www.pdratings.com
Craig Andrew Lange
craig@pdratings.com
California Workers Compensation
AMA Impairment & Disability Rating Specialists
Luis Pérez-Cordero
luis@pdratings.com
Voice: (415) 861-4040 / Fax: (415) 276-3741

Back to Basics 2005 to 2013
California Impairment-to-Disability Ratings Using the AMA Guides 5th Edition

Comprehensive Ratings That Abide to the WCAB Blackledge Decision

- **Blackledge, pg. 15:** **"*the rater may use his or her expertise to annotate any errors or defects that the rater believes exist in the report and to annotate the higher or lower WPI(s) that would result if the AMA Guides was applied correctly.*** *Annotated non-formal ratings can alert the parties of the need to obtain a supplemental report from and/or depose the physician to clarify the physician's assessment of the injured employee's WP. Even at an MSC or Rating MSC, however, if the annotated rating identifies potential defects in the physician's application of the AMA Guides a WCJ may order a case off calendar or continue the hearing to allow the parties to obtain a clarifying supplemental report or to depose the physician. (Lab. Code, § 5502.5; Cal. Code Regs., tit. 8, §§ 10243, 10353(b).)*

1. Our ratings offer you a comprehensive / educational tool to facilitate your case handling decisions: Need for supplemental report, QME Process, Depositions, Settlement, etc.
2. We abide to the requirements of Blackledge in our comprehensive rating analysis.
3. We provide annotations for errors and defects, comparisons of the physician's impairment analysis to the AMA Guides rating criteria along with multiple ratings (with/without corrections) to make you aware of the potential range of permanent disability.

- **Fully described & calculated Impairment ratings allow anyone to check with the Guides criteria and determine if the proper estimate of impairment has been provided for the injured worker.**

1. The perception that no one but a medical professional can verify or confirm the correct application of the AMA Guides in the calculation of an impairment rating is a misconception**.** The reality is (true in every edition of the AMA Guides) that when clinical findings are fully described, any experienced and trained observer can check the findings with the *Guides criteria.* (Guides, p.17)
2. Ratings are not only reviewed by other physicians, but also non-medical professionals. The documentation of any impairment calculation will; (1) lead to an understanding of the method used, (2) validate the reliability of the medical report, and (3) allow all parties to have the information needed to provide statutory benefits.
3. At MMI, consistency of objective diagnostic studies to measurable clinical findings, to the medical/treatment histories, to subjective complaints or excessive pain factors, and to the impairment rating criteria of the AMA Guides, bind together to become the substantial medical evidence in support of the reasoned medical opinion.

Disability Ratings for Injuries Between 01-01-2005 and 12-31-2012

2005: LC § 4660(b)(1) adopted the 5th Edition of the AMA Guides descriptions, measurements of physical impairments and their corresponding percentages of impairments as the first step towards a disability determination. A California Permanent Disability Determination begins with an AMA Guides 5th Edition Impairment Rating. The impairment is then adjusted by The California Schedule for Rating Permanent Disabilities (PDRS) modifiers [diminished earning capacity, occupation and age] to determine an injured employee's level of permanent disability. **In California, only the 5th Edition of the AMA Guides is to be used in the determination of an impairment rating.**

Disability Ratings for Injuries After 01-01-2013

2013: LC Section § 4660.1:

(a) In determining the percentages of permanent partial or permanent total disability, account shall be taken of the nature of the physical injury or disfigurement, the occupation of the injured employee, and his or her age at the time of injury.

(b) For purposes of this section, the "nature of the physical injury or disfigurement" shall incorporate the descriptions and measurements of physical impairments and the corresponding percentages of impairments published in the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment (5th Edition) with the employee's whole person impairment, as provided in the Guides, **multiplied by an adjustment factor of 1.4 (40%).**

(c) (1) Except as provided in paragraph (2), there shall be no increases in impairment ratings for sleep dysfunction, sexual dysfunction, or psychiatric disorder, or any combination thereof, arising out of a compensable physical injury.

(d) … **Until the new schedule of age and occupational modifiers is implemented, for injuries occurring on or after January 1, 2013, permanent disabilities shall be rated using the age and occupational modifiers in the current permanent disability rating schedule adopted as of January 1, 2005.**

(e) The schedule of age and occupational modifiers shall promote consistency, uniformity, and objectivity.

(f) The schedule of age and occupational modifiers and any amendment thereto or revision thereof shall apply prospectively and shall apply to and govern only those permanent disabilities that result from compensable injuries received or occurring on and after the effective date of the adoption of the schedule, amendment, or revision, as the case may be.

(g) Nothing in this section shall preclude a finding of permanent total disability in accordance with Section 4662.

(h) ***In enacting the act adding this section, it is not the intent of Legislature to overrule the holding in Milpitas Unified School District v. Workers' Comp Appeals Bd. (Guzman) 2010 187 Cal. App. 4th 808.*** **(Also know as Guzman-3.)**

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- ***"Chapters 1 and 2 are in essence the Constitution of the Guides."*** Mohammed Ranavaya, MD, JD, Contributor & Senior Editor, AMA Guides 5th and 6th Editions.

- **The Fundamental Principles of the Guides found in these Chapters, including special considerations for rating impairments in California, can be summarized as follows:**

1. Concepts and philosophy in Chapters 1 and 2 are the fundamental rules of the *AMA Guides and preempt* anything in subsequent chapters that conflicts-with or disputes these principles.
2. No impairment may exceed a 100% whole person. No impairment arising from a member or organ of the body may exceed the amputation value of that member; i.e., for the hand region the value of each digit when impairment factors due to multiple findings can be combined (sensory loss, amputation, and rom).

California Impairment-to-Disability Ratings Using the AMA Guides 5th Edition (cont)

3. To be considered substantial medical evidence, an impairment evaluation report based on the *5th Edition of the Guides* must contain the elements described in Section 2.6, Guides, p. 21.

   3.1. For each injured region of body system a discussion of how the medical findings relate-to, compare-to and meet the applicable criteria of the *AMA Guides*. Section 2.6b Principles, p. 22.

   3.2. An explanation of how each impairment value was calculated with a listing of all Charts, Tables and AMA Guides page numbers used for the calculations of each region or body system being rated must be included. Section 2.6c Principles, p. 22 & Master the AMA Guides, pg. 30

4. AMA Guides states that all regional impairments in the same organ or body system shall be combined in their native scale first, as prescribed by the rules; i.e., digit, upper or lower extremity scale. They can be combined with other regional impairments at the whole person (WP) level.

5. In California regional or body system impairments are first adjusted by PDRS modifiers and then they are combined, not as a Whole Person Percentage of Impairment but as a California modified percentage of Permanent Disability.

   5.1. Before combining a regional WP impairment (elbow) with another regional impairment in the same extremity (shoulder) and/or other body systems (cardiovascular), each must be adjusted by the Permanent Disability Rating Schedule (PDRS) modifiers.

      5.1.1. **For Dates of Injury 1/1/05 to 12/31/2012, WP Impairments are adjusted by modifiers for diminished earning capacity, occupation and age.**

         5.1.1.1. Formula for a Cervical DRE IV (Construction Worker – Age 57, At Maximum Rate: **15.01.01.00 - 28 - [5] 36 – 480I - 45 = 53% = $67,907.50**

      5.1.2. **For Dates of Injury after 01/01/2013, WP Impairments are multiplied by 1.4 (40%) and then modified for occupation and age.**

         5.1.2.1. Formula for a Cervical DRE IV (Construction Worker – Age 57, At Maximum Rate: **15.01.01.00 - 28 - [x 1.4] 39 – 480I - 48 = 56% = $86,197.50**

   5.2. A combined WPI percentage can be 'deconstructed' into its basic components and then converted into a California Permanent Disability Rating, if the physician has calculated each impairment rating in accordance with the protocols, objective criteria & procedures set forth in the proper Clinical Chapters of the *Guides*.

6. **A Permanent &Stationary (P&S) report must stand alone and impairment factors, findings and calculations must be found within the body of the medical report.** Computer program worksheets standing alone, although helpful to verify mathematical calculations, do no constitute 'substantial medical evidence'.

7. **The *Guides* is based on objective criteria**. Physician must use clinical knowledge, skill, and abilities in determining whether the measurements, test results, or written historical information are consistent and concordant with the pathology being evaluated that is due to an injury. **If such findings or an impairment estimate based on these findings, conflict with established medical principles, they cannot be used to justify an impairment rating.**

   7.1. Impairments must be rated in accordance with the chapter relevant to the organ or system where the injury primarily arose or where the greatest dysfunction consistent with objectively documented pathological remaining factors exist.

California Impairment-to-Disability Ratings Using the AMA Guides 5th Edition (cont)

8. **Physician needs to explain the medical basis for determining that the individual is at MMI.** If the condition is neither static nor well stabilized, the physician has an obligation to inform the requesting party about the condition and recommendations for further medical assessment.

9. **Anticipated 'future' impairment is not ratable**. The *Guides* does not permit the rating of future impairment. Ratings must be based on measurable factors present at MMI, as a result of an injury.

   9.1. The California Workers Compensation System allows for the re-opening of a disability award within a specific time frame, to address augmented disability due to the industrial injury.

10. The final calculated impairment rating must be mathematically rounded to the nearest whole number. Numbers ending in .05-to-.09 must be mathematically rounded up in favor of the injured worker. Numbers ending in .04 or less are rounded down. AMA Guides Section 2.5d, pg. 20

    10.1. Impairment values for motion measurements falling between those shown in a pie chart or table may be adjusted or interpolated proportionally in the corresponding intervals. Mathematical rounding principles, still apply. **An impairment rating is no longer rounded to the nearest 05% as indicated in earlier editions of the Guides.** – Master the AMA Guides, pg. 14 and 38

11. ROM and strength measurement techniques should be assessed carefully in the presence of apparent self inhibition secondary to pain or fear. **Measurements must fall within 10% of each other and are mathematically rounded to the nearest whole number.** Precision, accuracy, reliability and validity are critical issues in defining impairment. If, in spite of an observation or test results, the medical evidence is insufficient to support the impairment, the physician can modify the rating accordingly, clearly explaining the reasons for the modifications as part of the calculation. However, for the spine, if after repeating the tests the results remain inconsistent, they must be discarded**.** Section 15.8c Principles, p. 399.

12. **Duplication:** It is not always appropriate to combine all impairment standards resulting from a single injury, since two or more impairments may have duplicative effect on the function of the injured body part or body system. The AMA Guides provides direction on what impairments can be used in combination.

    12.1. Physician must have good understanding of pathomechanics and apply proper judgment to avoid duplication of impairment ratings.

    12.2. If the *Guides* provide more than one method to rate a particular impairment or condition that is properly supported by medical findings, the method producing the higher rating must be used.

13. **Subjective complaints alone are generally not ratable under the *Guides.* (Chapter18)**

    13.1. **In California a formal pain assessment is not required but a description of how the pain impacts activities of daily living will serve to support the validity of the additional impairment.**

    13.2. Since pain is an add-on to a regional or body system impairment, it should be addressed separately from the conventional rating.

    13.3. 2005 Permanent Disability Rating Schedule (05PDRS) page 1-12: The Maximum allowance for pain resulting from a single injury is 03% WP regardless of the number of impairments resulting from the injury. When multiple impairments are present, physician can assign the entire 03% WP to one body region or divide it among all. The major consideration should be the excessive impact of pain on activities of daily living. However, without a conventional WP Impairment rating greater than 'zero', a 03% WPI based only on Chapter 18 criteria, is not ratable.

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13.3.1. An example would be to assign a 01 to 03 WP to any of the three spinal DRE I Categories.

14. **Excess pain in the context of a verifiable ratable condition can merit a 01 to 03 WP Impairment add-on.** If the conventional rating appears to adequately encompass the pain, leave the impairment rating as calculated. But, "if the individual appears to have pain-related impairment that has increased the burden of his/her condition the examiner may award an impairment add-on of up to 03%." AMA Guides p. 573 of errata.

14.1. When there is excess pain in the context of a verifiable medical condition, the evaluating physician may increase the conventional impairment by up to 03%, including those addressed under the spinal DRE Categories.

15. **Ratings (By Analogy) or ratings for an unscheduled condition require equivalent objective factors to a scheduled condition found in the AMA Guides: Require Comparable measurable objective clinical impairment factors. -** Section 1.5, AMA Guides 5th Edition, p. 10)

15.1. Example: Worker with a Non-Surgical Carpal Tunnel Diagnosis (CTS) has positive nerve conduction studies and symptoms affecting activities of daily living. It can justify up to 05 Upper Extremity Impairment Rating.

15.2. Example: Out of a possible 10% UE Impairment, evaluating gives 08 UE Impairment rating for an acromial resection based on analogy to distal clavicle resection and similarity of post-operative impact on Activities of Daily Living (ADL's).

WCAB Blackledge EnBanc Decision

- **Blackledge, pgs. 01, 07 & 09: "*Among other things, to constitute substantial evidence regarding WPI a physician's opinion must comport with the AMA Guides*."**

  "The physician's role is to assess the injured employee's whole person impairment percentage(s) by a report that sets forth facts and reasoning to support its conclusions and that comport with the AMA Guides and case law. *… (See AMA Guides, § 2.6, at pp. 21-22*

- ***"Failure to follow all of the instructions in the first two chapters could result in useless evidence, inadequate diagnostic reasoning, and inaccurate and inconsistent ratings****. (Almaraz-Guzman-3, pg 20)"*

Luis Pérez-Cordero & Craig Andrew Lange
Certified, AMA Guides Impairment & California Disability Rating Specialists
American College of Disability Medicine & Board of Independent Medical Examiners
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