PD RATING ISSUES

LC 4660.1 – 1/1/13 DOI
Rating Pain
Combine or Add – CVC
Rating Hearing Loss
Rating Psyche Injury

Tim Mussack
Bradford & Barthel, LLP
AMA Analysis and Ratings Division

Contact Information

Bradford & Barthel, LLP - AMA Analysis & Ratings

Tim Mussack
(916) 569-0790
tmussack@bradfordbarthel.com

Marlene Phillips
(909) 476-0552
mphillips@bradfordbarthel.com

ratings@bradfordbarthel.com
4660.1

- 4660.1. This section shall apply to injuries occurring on or after January 1, 2013.
- (b)...(AMA) Guides...whole person impairment, as provided in the Guides, multiplied by an adjustment factor of 1.4.
- (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. Nothing in this section shall limit the ability of an injured employee to obtain treatment for sleep dysfunction, sexual dysfunction, or psychiatric disorder, if any, that are a consequence of an industrial injury.
  - (paragraph 2 addresses psychiatric injury associated with violent act, or catastrophic injury)
FUTURE EARNING CAPACITY (FEC) ADJUSTMENT TABLE

Directors: To adjust for earning capacity, look up the impairment standard in the top row (bolded numbers), and read down to the entry corresponding to the applicable future earning capacity rank.

<table>
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<tr>
<th>FEC Rank</th>
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AMA Whole Person Impairment Standard

Section 18.5, on pages 583-584, includes an Errata, and explains “How to Rate Pain-Related Impairment.” On page 584, step 5b states “if pain related impairment increases the individual’s burden of illness significantly beyond that indicated by his or her conventional impairment rating, award the conventional impairment and combine this with discretionary quantitative pain-related impairment of 1%, 2%, or 3%.” (italics in original.)

The DEU expressed in the 15th Annual DWC Educational Conference, that a pain add-on “assumes an underlying body system impairment rating greater than zero” (Current Rating Issues, page 18). This has also been affirmed in the Blackledge en banc decision of 6/3/10 (page 22).
Pain

There may be exceptions:

City of Sacramento v WCAB and Arthur Cannon, 3rd Appellate District Court of Appeal (12/26/13) – allowed the use of rating by analogy for pain related functional deficit, without ratable objective findings “no objective abnormalities were identifiable, but he continued to experience pain in his left heel that affected weight-bearing activities”.

Page 1-12 of the 2005 PDRS:

**Page 1-12 of the 2005 PDRS:**

“The addition of up to 3% for pain is to be made at the whole person level. For example, if an elbow were to be increased by 5% for pain, the rating for the elbow would first be converted to the whole person scale, and then increased. The resultant rating would then be adjusted for diminished future earning capacity, occupation and age.”

“In the case of multiple impairments, the evaluating physician shall, when medically justifiable, attribute the pain in whole number increments to the appropriate impairments. The additional percentage added for pain will be applied to the respective impairments as described in the preceding paragraph.”

**Example:** 41 year old truck driver with loss of elbow range of motion calculated at 10% UE, plus 2% WPI for pain.

10% UE is converted, to 6% WPI. 2% WPI for pain is added, and 8% WPI is the standard rating.

16.03.01.00 – 8 – [1.4]11 – 350H – 14 – 14% PD
Headaches

- The DEU adopted the position that, following direct trauma to the head, up to 3% WPI can be assigned due to residual headaches.
- Impairment # 13.01.00.99, as a 'consciousness disorder', has been assigned.
- Table 13-2, page 309 of the Guides, is used to evaluate Impairment of Consciousness and Awareness, and is rated using impairment # 13.01.00.00.
- Only the “most severe cerebral impairment”, from Tables 13-2 to 13-8 can be used (page 308).

Combine or Add, and CVC

- Numbers that are put together for evaluation of impairment/ PD must be either added or combined.

When to combine:
- COMBINE – for most situations -- unless specific instructions state to ADD impairment values. The effect/ purpose of combining is that it prevents the combined value from exceeding 100.

When to add:
- The most notable exception to combining impairments is with the evaluation of range of motion impairment for the same part of the body (for example, right ankle motion, left shoulder motion, lumbar spine motion). ADD range of motion impairments for the same part of the body (see exception for fingers, below).
Combine or Add, and CVC

- Chapter 15 – Spine
  - ADD
    - Table 15-7 – page 404: ROM Method – Spinal Disorder – “ADD”
    - Range of Motion impairments – “ADD” (page 408)
  - Combine – ROM Method:
    - spinal disorder with range of motion (p 403)
    - UE or LE impairment from more than one nerve root (Table 15-17, 15-18)

Combine or Add, and CVC

- Chapter 16 – The Upper Extremities
  - ADD
    - ROM for the same part of the body (for example, four motions for the wrist; range of motion impairment for the wrist and shoulder are added only for each joint.)
  - Exception:
    - The evaluation of hands/ multiple digits, is quite complex. The instructions within Chapter 16 are summarized on page 511. For the thumb, add all ROM impairment at the digit impairment level. For digits 2-5, add ROM impairment for the same joint; combine impairment for separate joints.
Combine or Add, and CVC

Chapter 16 – The Upper Extremities

- **Combine** impairments from separate methods of evaluation for the same body part, including digits (for example, ROM and digital sensory loss).
- The Upper Extremity Impairment Evaluation Record, on pages 436-437, also includes instruction.
- Figure 16-1b, Section II, instructs to combine Regional Impairment of the upper extremity. **For California WC, we do not use “regional impairment”**. Each body part is adjusted separately (eg, hand, wrist, elbow, shoulder).

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**COMBINE**

- Peripheral Nerve – **COMBINE** sensory/motor deficit impairments (each injured nerve is adjusted separately as allowed by impairment numbers on page 2-4 of the 2005 PDRS).
Combine or Add, and CVC

Chapter 17

ADD
- ROM for the same part of the body – (page 533)

COMBINE
- Atrophy (example 17-4, page 531)
- Strength (example 17-5, page 532)
- Arthritis - (knee – patellofemoral with knee, lateral or medial compartment, if applicable)
- Peripheral Nerve – (page 550)

How to combine:
- Page 1-11 of the 2005 PDRS:
  - Multiple impairments such as those involving a single part of an extremity, e.g. two impairment involving a shoulder such as shoulder instability and limited range of motion, are combined at the upper extremity level, then converted to whole person impairment and adjusted before being combined with other parts of the same extremity.
  - Impairments with disability numbers in the 16.01 and 17.01 series are converted to whole person impairment and adjusted before being combined with any other impairment of the same extremity.
  - Impairments of an individual extremity are adjusted and combined at the whole person [PD] level with other impairments of the same extremity before being combined with impairments of other body parts. For example, an impairment of the left knee and ankle would be combined before further combination with an impairment of the opposing leg or the back.
Combine or Add, and CVC

CVC – Combined Values Chart:
- Section 8 of the 2005 PDRS. Based on the formula: \( a + b(1-a) \)
  where “a” and “b” are the decimal equivalents of the impairment or disability percentages. “a” is the higher number of the 2 being combined.
- Combine largest to smallest
- With PD (following adjustment for FEC or 1.4, occupation, and age) combine PD for a single extremity first; then combine largest to smallest.
- For impairment for the same part of an extremity, combine at extremity impairment value, and then convert to WPI.

COMBINED VALUES CHART

DIRECTIONS: To combine any two values, locate the larger value on the left side of the chart and the smaller value at the bottom of the chart. The intersection of that row and column contains the combined value.
Combined Values Chart

- Use the chart in the PDRS (Section 8)
- The Combined Values Chart in the AMA Guides has 5 errors (pages 604 – 606)
- The Chart uses the following formula:
  \[ A + B(1 - A) \]
  
  A = greatest value and B = next greatest value
  A and B are decimal equivalents of PD %
- Ensures that summary value will not exceed 100%

A + B (1-A)

- A and B are decimal equivalents of PD %; 1 = 100%
- Eg: after adjustment, spine = 30% PD, right knee = 10% PD
- Combine (same date of injury): 30% PD, 10% PD
  
  \[ .30 + .10 (1 - .30) \]
  \[ .30 + .10 (.70) \]
  \[ .30 + .07 = .37 = 37\% PD \]
AMA Guides Corrections

- 54 c 12 = 60
- 58 c 12 = 69
- 94 c 78 = 99
- 95 c 30 = 97
- 95 c 34 = 97

Combine or Add, and CVC

Example:

- 3/5/2014 DOI – 41 year old bus driver (250)
  - Lumbar spine: DRE II – 6% WPI
  - Right shoulder: ROM – 3% UE + 2% UE + 3% UE + 1% UE + 1% UE + 0% UE = 10% UE; distal clavicle resection – 10% UE. 10 c 10 = 19% LE = 11% WPI
  - Right wrist: ROM – 4% UE + 4% UE + 1% + 1% = 10% UE = 6% WPI
  - Right knee: arthritis – 1 mm = 25% LE; DBE – partial med & lat meniscectomy = 10% LE. 25 c 10 = 33% LE = 13% WPI
Combine or Add, and CVC

Example: 41 year old bus driver (250)

- Lumbar: 15.03.01.00 – 6 – [1.4]8 – 250F – 8 – 8%
- Right shoulder: 16.02.02.00 –11–[1.4]15–250F–15–15% (A)
- Right wrist: 16.04.01.00 –6–[1.4]8 –250F–8–8% (A)
- Right knee: 17.05.06.00 –13–[1.4]18–250F–18 –18%

Combine or Add, and CVC

Example: 41 year old bus driver (250)

- Combine
- 15 c 8 = 22% (Right UE – shoulder, wrist)
- 22 c 18 = 36;
- 36 c 8 = 41% Total PD
Hearing Loss Chapter 11

Section 11.1 – page 246:
- Assistive devices must not be used during the determination of a hearing impairment rating.

Section 11.2a
- Criteria for Rating Impairment Due to Hearing Loss, pages 246 – 251

Instructions on page 247:
Audiometric Measures
- Without assistive devices
- Decibel (loudness)
  - Scale of 0 dB -100 dB is used – below 0 and above 100 are taken as minimum 0 and maximum 100
- Frequency (pitch – in Hz)
  - Ratable frequencies:
    - 500, 1000, 2000, 3000 (Most speech falls within these frequencies)
    - Add dB level from each of these four frequencies = DSHL (decibel sum hearing loss).

Table 11-2 (pages 248-249) – BHI - Binaural Hearing Impairment – match DSHL from both ears to obtain BHI (11-1 = monaural hearing loss)

Tinnitus – page 246 – “in the presence of...hearing impairment may impair speech discrimination”. If so, “add up to 5%” if it impacts ADLs. (Example 11-2 clarifies that the value of that “up to 5%” is in BHI.)

Table 11-3 - Conversion of BHI total to WPI
Example 11-3 – page 251:

<table>
<thead>
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<th>Frequency, Hz</th>
<th>Right Ear (thousands)</th>
<th>Left Ear (thousands)</th>
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<td>8</td>
<td>20 15 60 80 85 70</td>
<td>25 15 60 65 65 60</td>
</tr>
</tbody>
</table>

Diagnosis: Sensorineural healing impairment, bilateral.

Impairment Rating: 8% impairment of the whole person.

Comment: The impairment calculated from this audiogram is based on the DSHL. The DSHL for the right ear is 175 (20 + 15 + 60 + 80), and the DSHL for the left ear is 160 (25 + 15 + 60 + 60).

Combine 175 (worse ear) and 160 (better ear) using Table 11-2 for a binaural hearing impairment (BHI) of 23.4%. Use Table 11-3 to obtain the 8% whole person impairment.

(What if 3% BHI is added for right ear tinnitus? What is the WPI?)
Rating Psyche Injury
(Labor Code 4660.1 relevant to DOI 1/1/13 and later)

- AMA Guides – Chapter 14, page 361
- Percentages are not provided to estimate mental impairment in this edition of the Guides. Unlike cases with some organ systems, there are no precise measures of impairment in mental disorders. The use of percentages implies a certainty that does not exist. Percentages are likely to be used inflexibly by adjudicators, who then are less likely to take into account the many factors that influence mental and behavioral impairment. In addition, the authors are unaware of data that show the reliability of the impairment percentages. After considering this difficult matter, the Committee on Disability and Rehabilitation of the American Psychiatric Association advised Guides contributors against the use of percentages in the chapter on mental and behavioral disorders of the fourth edition and that remains the opinion of the authors of the present chapter.
Rating Psyche Injury

- American Psychiatric Association
- *Diagnostic and Statistical Manual of Mental Disorders, Third Edition-Revised (DSM-III - R)* 1987
- *DSM-IV-TR* (Text Revision), released in 2000 included some changes to the table
- The DSM-IV describes the use of the GAF Score in the following way:
  - "Axis V is for reporting the clinician’s judgment of the individual’s overall level of functioning. This information is useful in planning treatment and measuring its impact, and in predicting outcome.
  - The reporting of overall functioning on Axis V is done using the Global Assessment of Functioning (GAF) Scale. The GAF scale may be particularly useful in tracking the clinical progress of individuals in global terms, using a single measure. The GAF Scale is to be rated with respect only to psychological, social, and occupational functioning. The instructions specify, “Do not include impairment in functioning due to physical (or environmental) limitations.”
- *DSM V – 2013 – GAF was eliminated*

2005 PDRS, pages 1-12 – 1-16

- “Psychiatric impairment shall be evaluated by the physician using the Global Assessment of Function (GAF) scale shown below. The resultant GAF score shall then be converted to a whole person impairment rating using the GAF conversion table…”
  - \( [91-100 \text{ (superior functioning)} – 1-10 \text{ (persistent danger of severely hurting self or others OR persistent inability to maintain minimal personal hygiene OR serious suicidal act); 0 = inadequate information} \]
- Page 1-16 includes the GAF conversion table.
- GAF from the doctor’s assessment (Axis V diagnosis) is converted to WPI.
Rating Psyche Injury

- The two most frequently used GAF ranges in workers compensation seem to be:
  - 60 – 51 Moderate symptoms (e.g., flat affect and circumstantial speech, occasional panic attacks) OR moderate difficulty in social, occupational, or school functioning (e.g., few friends, conflicts with peers or co-workers).
  - 70 – 61 Some mild symptoms (e.g., depressed mood and mild insomnia) OR some difficulty in social, occupational, or school functioning (e.g., occasional truancy, or theft within the household), but generally functioning pretty well, has some meaningful relationships.
- For reference, the next higher GAF range:
  - 80 - 71 If symptoms are present, they are transient and expectable reactions to psycho-social stressors (e.g., difficulty concentrating after family argument); no more than slight impairment in social, occupational, or school functioning (e.g., temporarily falling behind in schoolwork).

For reference, for a 55 year old property manager:

- GAF 51 – 29% WPI:
  - 14.01.00.00 – 29 – [8]41 – 213I – 50 – 56%
- GAF 55 – 23% WPI:
- GAF 60 – 15% WPI:
  - 14.01.00.00 – 15 – [8]21 – 213I – 28 - 33%
- GAF 61 – 14% WPI:
  - 14.01.00.00 – 14 – [8]20 – 213I – 27 – 32%
- GAF 65 – 8% WPI:
  - 14.01.00.00 – 8 – [8]11 – 213I – 16 - 19%
- GAF 70 – 0% WPI:
  - 14.01.00.00 – 0 – [8]0 – 213I – 0 - 0%
The American Psychiatric Association also publishes a Desk Reference to the Diagnostic Criteria from DSM-IV-TR. On page 3 of that desk reference, severity "specifiers" are provided.

- **Mild.** Few, if any, symptoms in excess of those required to make the diagnosis are present, and symptoms result in no more than minor impairment in social or occupational functioning.
- **Moderate.** Symptoms or functional impairment between "mild" and "severe" are present.
- **Severe.** Many symptoms in excess of those required to make the diagnosis, or several symptoms that are particularly severe, are present, or the symptoms result in marked impairment in social or occupational functioning.

The AMA Guides, in Table 14-1 on page 363, describes classes of impairment:
- Class 1 – no impairment
- Class 2 – Mild – impairment levels are compatible with most useful functioning
- Class 3 - Moderate -Impairment levels are compatible with some, but not all, useful functioning.
- Class 4 – Marked – impairment levels significantly impede useful functioning.

The four areas of function to be evaluated are:
- 1. Ability to perform activities of daily living:
- 2. Social functioning:
- 3. Concentration, persistence and pace:
- 4. Deterioration or decompensation in work or work-like setting/adaptation:

Data from a psyche report might include:
- **Current Complaints:**
- **Current Activities of Daily Living:**
- **Interpersonal Activities/ Relationships:**
- **Mental Status Exam (MSE):**
- **Psychological Testing (these are self-report inventories):**
Rating Issues

- “In order to constitute substantial medical evidence, a medical opinion must be predicated on reasonable medical probability. Also, a medical opinion is not substantial evidence if it is based on facts no longer germane, on inadequate medical histories or examination, on incorrect legal theories, or on surmise, speculation, conjecture, or guess. Further, a medical report is not substantial evidence unless it sets forth the reasoning behind the physician’s opinion, not merely his or her conclusions.”

- The 6th District Court of Appeal’s response to the Milpitas School District’s Petition for Review of Guzman on 8/19/10.

Summary

PD Rating Issues

- LC 4660.1 – 1/1/13 DOI
  - Adjustment factor 1.4; statutory preclusions for add-on PD
- Rating Pain
  - Maximum 3% WPI – added to WPI before adjustment
- Headaches
  - Maximum 3% WPI for direct trauma, headaches without residual objective findings
- Combine or Add – CVC
  - Combine unless instructions state otherwise (eg, ROM for same body part = add)
- Rating Hearing Loss
  - Example 11-3 explains the Guides’ instructions
- Rating Psyche
  - no WPI given in the AMA Guides; GAF conversion; Inherently subjective
- Impairment Recommendations
  - Must be supported by evidence and reasoning