

<sup>2</sup> The Board notes that, following the issuance of the February 4, 2025 decision, OWCP received additional evidence. However, the Board’s *Rules of Procedure* provides: “The Board’s review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal.” 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **FACTUAL HISTORY**

On January 16, 2023, appellant, then a 60-year-old compliance inspection and support officer, filed a traumatic injury claim (Form CA-1) alleging that on January 12, 2023 she sustained a left knee contusion when she was involved in a golf cart accident while in the performance of duty. She noted that the golf cart struck a wall, and her left knee struck the inside of the golf cart. Appellant stopped work on the date of injury. On February 7, 2023, OWCP accepted the claim for left knee contusion.

On July 5, 2023, appellant underwent OWCP-authorized left knee arthroscopic meniscal debridement and chondroplasty, performed by Dr. Mahesh R. Bagwe, a Board-certified orthopedic surgeon. Dr. Bagwe indicated a preoperative diagnosis of left knee medial meniscus tear, and postoperative diagnoses of left knee medial meniscus tear, and chondromalacia, femoral condyles and patellofemoral joint.

In a November 10, 2023 report, Dr. Bagwe provided his findings on physical examination, where he observed that appellant's left knee was stable to varus and valgus stress. Appellant also had negative knee joint effusion, a non-antalgic gait, and 5/5 knee flexion and extension strength. Dr. Bagwe provided an impression of status post left knee arthroscopy. He advised that appellant could return to full-duty work without restrictions.

In a November 27, 2023 letter, Dr. Bagwe recounted a history of the accepted January 12, 2023 employment injury, that appellant underwent surgery on July 5, 2023 to address her left knee injury, and that she had returned to full-duty work on October 3, 2023. Based on his physical examination, diagnosis, and treatment of the work-related injury, he opined that she had three percent permanent impairment of her left knee due to loss of a portion her left knee meniscus and residual stiffness. Dr. Bagwe indicated that no preexisting conditions contributed to his impairment rating. He further indicated that appellant had no permanent work restrictions. Dr. Bagwe determined that she had reached maximum medical improvement (MMI) on November 10, 2023.

On October 10, 2024, appellant filed a claim for compensation (Form CA-7) for a schedule award.

In a development letter dated October 30, 2024, OWCP informed appellant of the deficiencies of her claim. It requested that she submit a detailed narrative medical report from her treating physician based on a recent examination, setting forth an opinion on the date of MMI and a rating of permanent impairment in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).<sup>3</sup>

OWCP thereafter received a duplicate copy of Dr. Bagwe's November 27, 2023 report.

On December 9, 2024, OWCP routed Dr. Bagwe's November 27, 2023 report, the case record, and a series of question to Dr. Arthur S. Harris, a Board-certified orthopedic surgeon serving as an OWCP district medical adviser (DMA), for review and a determination of appellant's

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<sup>3</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2009).

date of MMI and any permanent impairment of her left lower extremity under the sixth edition of the A.M.A., *Guides*.

In a December 16, 2024 report, Dr. Harris opined that appellant reached MMI as of November 10, 2023, the date of Dr. Bagwe's examination. He noted that, on July 5, 2023, she underwent the OWCP-authorized left knee arthroscopic medial meniscal debridement and chondroplasty. The DMA concurred with Dr. Bagwe's November 27, 2023 permanent impairment rating of three percent permanent impairment of the left lower extremity. He referred to the sixth edition of the A.M.A., *Guides*, and utilized the diagnosis-based impairment (DBI) methodology to rate appellant's permanent impairment. The DMA referred to Table 16-3, page 509, and found that appellant had a Class 1 grade E impairment due to her left knee partial meniscectomy which resulted in three percent permanent impairment of the left lower extremity. He also noted that appellant's diagnosed condition did not meet any of the criteria discussed in Section 16.7, page 543 of the A.M.A., *Guides*, to allow the impairment to be calculated utilizing the range of motion (ROM) methodology.

By decision dated February 4, 2025, OWCP granted appellant a schedule award for three percent permanent impairment of the left leg, based on the opinions of her physician, Dr. Bagwe, and the DMA, Dr. Harris. The award ran for 8.64 weeks from November 10, 2023 through January 9, 2024.

### **LEGAL PRECEDENT**

The schedule award provisions of FECA<sup>4</sup> and its implementing regulations<sup>5</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use of scheduled members or functions of the body. However, FECA does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. Through its implementing regulations, OWCP adopted the A.M.A., *Guides* as the appropriate standard for evaluating schedule losses.<sup>6</sup> As of May 1, 2009, schedule awards are determined in accordance with the sixth edition of the A.M.A., *Guides* (2009).<sup>7</sup> The Board has approved the use by OWCP of the A.M.A., *Guides* for the purpose of determining the percentage loss of use of a member of the body for schedule award purposes.<sup>8</sup>

The sixth edition of the A.M.A., *Guides* provides a DBI method of evaluation utilizing the World Health Organization's *International Classification of Functioning, Disability and Health*

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<sup>4</sup> 5 U.S.C. § 8107.

<sup>5</sup> 20 C.F.R. § 10.404.

<sup>6</sup> *Id.*; see also Ronald R. Kraynak, 53 ECAB 130 (2001).

<sup>7</sup> See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017).

<sup>8</sup> *P.R.*, Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera*, 12 ECAB 348 (1961).

(ICF): *A Contemporary Model of Disablement*.<sup>9</sup> Under the sixth edition, for lower extremity impairments, the evaluator identifies the impairment of the class of diagnosis (CDX), which is then adjusted by a grade modifier for functional history (GMFH), grade modifier for physical examination (GMPE), and/or grade modifier for clinical studies (GMCS).<sup>10</sup> The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).<sup>11</sup> Evaluators are directed to provide reasons for their impairment choices, including the choices of diagnoses from regional grids and calculations of modifier scores.<sup>12</sup>

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed through an OWCP medical adviser for an opinion concerning the nature and extent of impairment in accordance with the A.M.A., *Guides*, with an OWCP medical adviser providing rationale for the percentage of impairment specified.<sup>13</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that she has greater than three percent permanent impairment of her left leg, for which she previously received a schedule award.

OWCP received a November 27, 2023 report from Dr. Bagwe, appellant's treating surgeon, who opined that she had three percent permanent impairment of the left lower extremity under the DBI method of rating permanent impairment, based her partial left knee medial meniscectomy.

In a December 16, 2024 report, Dr. Harris, the DMA for OWCP, reviewed Dr. Bagwe's report and the medical record and opined that appellant reached MMI as of November 10, 2023, the date of Dr. Bagwe's examination. He concurred with Dr. Bagwe's November 27, 2023 permanent impairment rating of three percent permanent impairment of the left lower extremity. The DMA referred to Table 16-3, page 509, and found that appellant's left knee partial meniscectomy, Class 1 grade E, resulted in three percent permanent impairment of the left lower extremity.

The Board finds that the weight of the medical evidence rests with the opinion of Dr. Harris, the DMA, as he provided a permanent impairment rating that properly applied the sixth edition of the A.M.A., *Guides*.<sup>14</sup> The record does not contain any other medical evidence establishing greater than the three percent permanent impairment of the left lower extremity previously awarded. Accordingly, appellant has not met her burden of proof to establish

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<sup>9</sup> A.M.A., *Guides*, page 3, section 1.3.

<sup>10</sup> *Id.* at 493-556.

<sup>11</sup> *Id.* at 521.

<sup>12</sup> *R.R.*, Docket Federal (FECA) Procedure Manual, *supra* note 7 at Chapter 2.808.5b (March 2017).

<sup>13</sup> *See supra* note 7 at Chapter 2.808.6f (March 2017). *See also P.W.*, Docket No. 19-1493 (issued August 12, 2020); *Frantz Ghassan*, 57 ECAB 349 (2006).

<sup>14</sup> *See L.D.*, Docket No. 19-0797 (issued October 2, 2019).

entitlement to a schedule award for a percentage of impairment greater than the three percent permanent impairment of the left leg previously awarded.<sup>15</sup>

Appellant may request a schedule award or increased schedule award at any time based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased permanent impairment.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish that she has greater than three percent permanent impairment of her left leg, for which she previously received a schedule award.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the February 4, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 22, 2025  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>15</sup> See *T.W.*, Docket No. 18-0765 (issued September 20, 2019).