

**United States Department of Labor  
Employees' Compensation Appeals Board**

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<b>J.W., Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 25-0587</b>
	)	<b>Issued: August 1, 2025</b>
<b>U.S. POSTAL SERVICE, PASADENA POST OFFICE, Pasadena, CA, Employer</b>	)	
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*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On May 30, 2025 appellant filed a timely appeal from a May 28, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met his burden of proof to establish greater than one percent permanent impairment of the left lower extremity (leg), for which he previously received a schedule award.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that following the May 28, 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 July 12, 2022 appellant, then a 41-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he developed severe pain in his feet and numbness in his left leg due to factors of his federal employment, including prolonged walking on his mail route. He noted that he first became aware of his condition on July 11, 2022, and realized its relation to his federal employment on July 12, 2022. Appellant stopped work on July 12, 2022 and returned the next day in a limited-duty position. He stopped work again on June 6, 2023. OWCP accepted the claim for left plantar fascial fibromatosis. On January 29, 2024 appellant returned to work in a modified position as a dispatcher.

In order to determine the extent and degree of any disability and/or residuals causally related to the accepted employment injury, OWCP referred appellant to Dr. Arash Dini, an orthopedic surgeon and second opinion physician. In a February 22, 2024 report, Dr. Dini opined that appellant's objective findings of tenderness on the plantar calcaneal facet was expected of an individual diagnosed with plantar fasciitis. He also opined that appellant had reached maximum medical improvement (MMI) and was able to work for six hours in any sedentary or light-duty position, including the city carrier assistant described in the statement of accepted facts (SOAF), and completed a work capacity evaluation (Form OWCP-5c) on February 27, 2024. In April 2 and May 2, 2024 addendums, Dr. Dini explained that appellant's plantar fasciitis had not resolved, and he could only perform light duty.

On November 20, 2024 appellant filed a claim for compensation (Form CA-7) for a schedule award.

In a November 25, 2024 development letter, OWCP requested that appellant submit an impairment evaluation addressing whether he had reached maximum medical improvement (MMI) and provide an impairment rating using the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).<sup>3</sup> It afforded him 30 days to submit additional medical evidence in support of his schedule award claim.

On November 26, 2024 appellant informed OWCP that his treating physician did not provide impairment ratings under the sixth edition of the A.M.A., *Guides*.

On December 4, 2024 OWCP referred the case record, along with a SOAF, to Dr. Clive M. Segil, a Board-certified orthopedic surgeon, for a second opinion examination and evaluation of appellant and any permanent impairment under the sixth edition of the A.M.A., *Guides*.<sup>4</sup>

In January 8 and March 12, 2025 progress reports, Dr. Julie M. Fuller, a Board-certified internist, indicated in relevant part, that appellant had reached MMI on July 12, 2023. She provided examination findings of the left foot and right knee and diagnosed left plantar fasciitis, left calcaneal spur and right knee joint pain. Dr. Fuller opined that the diagnosed conditions should be appellant's accepted conditions rather than left plantar fascia fibromatosis. She also opined that appellant's right knee pain was a direct consequence of his left foot injury due to

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

<sup>4</sup> *Id.*

overcompensation. Dr. Fuller additionally concurred with Dr. Dini that appellant needed permanent restrictions and could not return to full duty.

In a February 11, 2025 report, Dr. Segil reviewed the SOAF and medical record, noting that appellant had been working modified duties as a dispatcher since January 29, 2024. He set forth his February 6, 2025 examination findings of the left foot, noting that appellant had difficulty walking on his heels, had tenderness over the plantar aspect of the calcaneus and full range of motion (ROM) of all toes. Neurological examination findings of the lower limbs were also provided. Dr. Segil diagnosed mild plantar fasciitis, left foot. He opined that appellant reached MMI on February 6, 2025. Utilizing the diagnosis-based impairment (DBI) methodology of the A.M.A., *Guides*,<sup>5</sup> Table 16-2 (Foot and Ankle Regional Grid), page 501, he found that appellant's class of diagnosis (CDX) for plantar fasciitis resulted in a Class 1, grade C or one percent permanent impairment. He assigned a grade modifier for functional history (GMFH) of 1, a grade modifier for physical examination (GMPE) of 1, and a grade modifier for clinical studies (GMCS) of 1. Dr. Segil utilized the net adjustment formula and found that appellant had a final impairment rating of grade C or one percent left lower extremity permanent impairment. Copies of Dr. Segil's February 6, 2025 worksheets were provided.

On March 27, 2025 OWCP routed Dr. Segil's February 11, 2025 report, along with the case record, and SOAF to Dr. William Tontz, Jr., a Board-certified orthopedic surgeon serving as OWCP's district medical adviser (DMA), for review and determination of appellant's date of MMI and any permanent impairment of his left lower extremity under the sixth edition of the A.M.A., *Guides*.

On April 8, 2025 Dr. Tontz applied the A.M.A., *Guides* to Dr. Segil's physical findings. He opined that MMI was reached on February 6, 2025, the date of Dr. Segil's evaluation. Dr. Tontz noted that the A.M.A., *Guides* did not allow for use of ROM methodology as an alternative rating method for the diagnosis in question. He utilized the DBI methodology under Table 16-2, page 501, and concurred with Dr. Segil's impairment rating.

By decision dated May 28, 2025, OWCP granted appellant a schedule award for one percent permanent impairment of the left lower extremity (left leg). The award ran for 2.88 weeks from February 6 to 26, 2025.

### **LEGAL PRECEDENT**

The schedule award provisions of FECA<sup>6</sup> and its implementing regulations<sup>7</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, OWCP has adopted the A.M.A., *Guides* as

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<sup>5</sup> *Id.*

<sup>6</sup> 5 U.S.C. § 8107.

<sup>7</sup> 20 C.F.R. § 10.404.

the uniform standard applicable to all claimants.<sup>8</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>9</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>10</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 (ICF): A Contemporary Model of Disablement*.<sup>11</sup> Under the sixth edition, for lower extremity impairments, the evaluator identifies the impairment of the CDX, which is then adjusted by a GMFH, a GMPE, and/or a GMCS.<sup>12</sup> The net adjustment formula is  $(GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX)$ .<sup>13</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>14</sup>

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed through OWCP's DMA for an opinion concerning the nature and extent of impairment in accordance with the A.M.A., *Guides*, with the DMA providing rationale for the percentage of impairment specified.<sup>15</sup>

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish greater than one percent permanent impairment of the left lower extremity (leg), for which he previously received a schedule award.

In accordance with its procedures, OWCP properly referred appellant, along with a SOAF, the case record, and a series of questions to Dr. Segil for a second opinion examination and permanent impairment evaluation. In his February 11, 2025 report, he noted physical examination findings of February 6, 2025 for appellant's left foot and calculated one percent permanent

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<sup>8</sup> *Id.*; see *J.M.*, Docket No. 25-0212 (issued May 1, 2025); *A.D.*, Docket No. 20-0553 (issued April 19, 2021); see also *T.T.*, Docket No. 18-1622 (issued May 14, 2019).

<sup>9</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017); *id.* at Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

<sup>10</sup> See *J.M.*, *id.*; *D.C.*, Docket No. 20-1655 (issued August 9, 2021); *P.R.*, Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera*, 12 ECAB 348 (1961).

<sup>11</sup> A.M.A., *Guides*, page 3, section 1.3.

<sup>12</sup> *Id.* at 493-556.

<sup>13</sup> *Id.* at 521.

<sup>14</sup> *R.R.*, Docket No. 17-1947 (issued December 19, 2018); *R.V.*, Docket No. 10-1827 (issued April 1, 2011).

<sup>15</sup> See *K.P.*, Docket No. 25-0278 (issued March 7, 2025); *supra* note 9 at Chapter 2.808.6f (March 2017).

impairment of the left lower extremity under the DBI impairment rating methodology due to his plantar fasciitis left foot condition.

On April 8, 2025 Dr. Tontz, OWCP's DMA, reviewed the February 11, 2025 report from Dr. Segil. He opined that MMI was reached on February 6, 2025, the date of Dr. Segil's examination. Dr. Tontz agreed with Dr. Segil's use of the DBI impairment rating methodology for evaluation of appellant's permanent impairment, having explained that the sixth edition of the A.M.A., *Guides*, did not allow for the use of ROM-based impairment ratings in the setting of a plantar fasciitis condition. He thereafter rated appellant's permanent impairment utilizing the DBI methodology. Referring to Table 16-2 of the A.M.A., *Guides*, he noted a Class 1, grade C or one percent permanent impairment for the CDX of plantar fasciitis. Dr. Tontz assigned a GMFH of 1, a GMPE of 1, and a GMCS of 1 and found the net adjustment formula resulted in 0, or final grade C for one percent permanent impairment of the left lower extremity.

The Board finds that OWCP properly relied upon the opinion of Dr. Tontz, serving as the DMA, as he appropriately applied the DBI methodology found in the sixth edition of the A.M.A., *Guides* in determining that appellant had one percent permanent impairment of the left lower extremity (leg).<sup>16</sup>

As the medical evidence of record is insufficient to establish greater than the one percent permanent impairment of the left lower extremity (leg), for which he previously received a schedule award, the Board finds that appellant has not met his burden of proof.<sup>17</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 his burden of proof to establish greater than one percent permanent impairment of the left lower extremity (leg), for which he previously received a schedule award.

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<sup>16</sup> See *K.P.*, Docket No. 25-0278 (issued March 7, 2025); *D.B.*, Docket No. 24-0168 (issued April 19, 2024).

<sup>17</sup> See *K.P. id.*; *P.S.*, Docket No. 22-1051 (issued May 4, 2023); *M.H.*, Docket No. 20-1109 (issued September 27, 2021); *R.H.*, Docket No. 20-1472 (issued March 15, 2021); *L.D.*, Docket No. 19-0495 (issued February 5, 2020).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 28, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 1, 2025  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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