

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

A.B., Appellant

and

**DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
DEKALB-PEACHTREE AIRPORT,
Chamblee, GA, Employer**

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) **Docket No. 22-1396**
) **Issued: December 16, 2025**
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 30, 2022 appellant filed a timely appeal from an April 14, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant is entitled to additional compensation for other wage loss for the periods March 23 through April 5, 2014 and August 10 through 23, 2014.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the April 14, 2022 decision, appellant submitted additional evidence to OWCP. 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

This case has previously been before the Board.³ The facts and circumstances as set forth in the Board's prior decision and prior orders are incorporated herein by reference. The relevant facts are as follows.

On May 18, 2010 appellant, then a 31-year-old airway transportation systems specialist, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his right wrist when he fell to the ground and braced himself with his right arm while in the performance of duty. OWCP initially accepted the claim for right wrist sprain. It subsequently expanded the acceptance of the claim to include post-traumatic stress disorder (PTSD) and aggravation of osteoarthritis, localized in the right hand/wrist. Appellant worked intermittently until he was removed from employment for cause, effective March 1, 2014.

The case record contains a Merit Systems Protection Board (MSPB) settlement agreement dated August 21, 2014, which provided that the employing establishment would cancel appellant's removal, effective March 1, 2014, and reassign him to a transportation assistant position, which was a downgraded position. The employing establishment also agreed to pay appellant five months of back pay, retroactive to March 9, 2014, and to update his leave balances.

On August 24, 2014 appellant returned to full-time, limited duty as a transportation assistant. OWCP applied the formula set forth in *Albert C. Shadrick*⁴ to calculate his loss of wage-earning capacity (LWEC). It paid appellant wage-loss compensation for loss of wage-earning capacity on the supplemental rolls, effective August 24, 2014, and on the periodic rolls, effective September 21, 2014.⁵

On February 13, 2018 appellant filed a claim for compensation (Form CA-7) for other wage loss for the period June 28, 2013 through August 23, 2014 due to a "downgrade."

In a February 8, 2018 statement, received by OWCP on February 13, 2018, appellant alleged that he was entitled to other wage loss for this period because he was reassigned to the transportation assistant position, and that the employing establishment agreed to pay him back pay for lost wages. He submitted a copy of the August 21, 2014 MSPB settlement agreement and indicated that he would submit CA-7 claim forms.

In a letter dated February 15, 2018, the employing establishment indicated that OWCP had paid appellant based on an LWEC for the period August 24, 2014 through March 7, 2015. It noted that he was now requesting similar payment for the period June 28, 2013 through August 23, 2014.

In a development letter dated February 20, 2018, OWCP informed appellant of the deficiencies of his claim for compensation. It advised him of the type evidence needed to establish

³ Docket No. 15-1530 (issued January 14, 2016); *Order Dismissing Appeal in Docket No. 18-0472 and Dismissing Petition for Reconsideration in Docket No. 15-1530*; Docket Nos. 18-0472 & 15-1530 (issued August 23, 2018); *Order Remanding Case*, Docket No. 20-0167 (issued May 3, 2021).

⁴ 5 ECAB 376 (1953); codified by regulation at 20 C.F.R. § 10.403(c)-(e); *C.G.*, Docket No. 21-0495 (issued April 13, 2022).

⁵ Appellant retired from federal employment due to disability, effective November 12, 2014.

his claim, including additional information to establish that his salary was reduced, effective June 28, 2013 through August 23, 2014. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP received a notification of personnel action (Standard Form (SF) 50), which documented appellant's reassignment from airway transportation system assistant to transportation assistant, effective August 24, 2014. The SF 50 indicated that his annual salary was reduced from \$53,145.00 to \$36,868.00.

Appellant submitted medical evidence in support of his claim.

By decision dated April 17, 2018, OWCP denied appellant's claim for compensation for other wage loss for the period June 28, 2013 through August 23, 2014. It found that the evidence of record was insufficient to establish the claim.

On May 15, 2018 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. He indicated that he returned to work at the employing establishment, effective August 24, 2014, after he signed a settlement agreement. Appellant noted that, pursuant to the August 21, 2014 settlement agreement, he received back pay from the employing establishment. He alleged, however, that he was entitled to other wages, due to the downgrade. Appellant submitted a printout of his payment history report, which indicated that he received wage-loss compensation for his LWECE beginning August 24, 2014.

A hearing was held on October 19, 2018.

By decision dated July 11, 2019, OWCP's hearing representative set aside the April 17, 2018 decision, in part, finding that if appellant received a reduced salary based upon his light-duty job to accommodate his work-related injury, he would be entitled to wage-loss compensation based on an LWECE for the period March 8 through August 23, 2014. The hearing representative remanded the case for further development of the factual evidence from the employing establishment regarding appellant's specific earnings and withholdings due to back pay for the period March 8 through August 23, 2014 in order to calculate appellant's LWECE.

In a July 19, 2019 letter, OWCP requested that the employing establishment provide additional information regarding appellant's earnings and withholdings for the period March 8 through August 23, 2014 in order to determine whether appellant sustained an LWECE during this period.

OWCP received several additional SF 50 forms. A Form SF 50 dated January 12, 2014 demonstrated that appellant was employed as an airway transportation system assistant with an annual salary of \$53,145.00. A Form SF 50 dated August 24, 2014 demonstrated that he was employed as a transportation assistant with an annual salary of \$36,868.00.

By decision dated October 18, 2019, OWCP denied appellant's wage-loss compensation claim for the periods March 23 through April 5, 2014, and August 10 through 23, 2014. It found that the evidence of record failed to establish that he sustained an LWECE during that period.

Appellant appealed to the Board.⁶

By order dated May 3, 2021, the Board set aside the October 18, 2019 decision, finding that OWCP did not sufficiently explain how appellant's LWEC was calculated, consistent with OWCP's procedures, such that he could understand the precise defect of the claim and the kind of evidence which would overcome it. The Board specifically noted that OWCP's procedures indicate that if a claimant is entitled to compensation for partial wage loss after return to work, the claims examiner should compute entitlement using the principles developed in *Albert C. Shadrick*,⁷ now codified at 20 C.F.R. § 10.403, in order to calculate the adjustment in the claimant's compensation. Accordingly, the Board remanded the case for OWCP to make proper findings of fact and provide a statement of reasons for its decision regarding why appellant was not entitled to wage-loss compensation for an LWEC for the periods March 23 through April 5, 2014, and August 10 through 23, 2014.⁸

In a letter dated June 16, 2021, OWCP requested that the employing establishment verify appellant's work status for the period August 10 through 23, 2014. It specifically requested that the employing establishment clarify whether he received wages during this period.

In a June 16, 2021 *Shadrick* documentation memorandum, OWCP noted that the weekly pay rate for the date that disability began, effective March 18, 2011, was \$986.10 and the current weekly pay rate for job and step when injured, effective March 23, 2014, was \$1,022.02. It indicated that appellant's actual earnings were \$677.87 per week. OWCP determined that he had a wage-earning capacity of 66 percent by dividing his actual weekly earning capacity (\$677.87) by the current weekly pay rate of his job and step when injured (\$1,022.02). Thus, appellant's new four-week compensation amount was \$1,024.00.

In a letter dated July 1, 2021, OWCP informed appellant that it was notified that he was employed as a transportation assistant from March 23 through April 5, 2014. It advised appellant that it was reducing his compensation, effective March 23, 2014, based on his actual earnings. Applying the *Shadrick* formula, OWCP calculated that appellant's salary as of March 18, 2011, the date disability began, was \$986.10 per week; his current adjusted pay rate for his job on the date of injury was \$1,022.02, effective March 23, 2014; and that he was capable of earning \$677.87 per week, the rate of a transportation assistant. Therefore, it determined that appellant had a wage-earning capacity of 66 percent by dividing appellant's actual weekly earning capacity (\$677.87) by the current weekly pay rate of his job and step when injured. Thus, appellant's new weekly compensation was \$256.00 per week.

In a July 16, 2021 memorandum, the employing establishment informed OWCP that appellant did not earn leave or wages during the period August 10 through 23, 2014.

⁶ During the pendency of the appeal, OWCP determined that appellant had been paid at the incorrect pay rate and provided a *Shadrick* calculation memorandum dated June 19, 2020, which noted that the correct pay rate for the date disability began, effective April 17, 2012, was \$995.96 per week. It asserted that it had paid additional wage-loss compensation for the period June 28, 2013 through August 24, 2014 based on the correct pay rate.

⁷ See *supra* note 4.

⁸ *Order Remanding Case*, Docket No. 20-0167 (issued May 3, 2021).

In an e-mail dated October 7, 2021, the employing establishment indicated that appellant did not return to work until pay period 19 of 2014.

In a December 29, 2021 statement, appellant indicated that he had received a copy of the September 20, 2021 letter sent to the employing establishment. He reiterated that, according to the terms of the August 21, 2014 MSPB settlement agreement, the employing establishment agreed to reinstate him to the transportation assistant position, effective August 25, 2014, and pay five months of back pay. Appellant contended that OWCP should compensate him for the period of August 10 through 23, 2014 because the employing establishment had shown that there were no wages earned.

By *de novo* decision dated April 14, 2022, OWCP denied appellant's claim for other wage loss for the periods March 23 through April 5, 2014 and August 10 through 23, 2014. It provided detailed calculations and explained that it had applied the *Shadrick* formula. For the period March 9 through September 20, 2014, OWCP paid appellant a total of \$17,396.25 in compensation for total disability and wage-earning capacity. It further explained that his correct entitlement for the period March 9 through September 20, 2014 was \$15,334.00.⁹ However, OWCP found that appellant was not entitled to additional compensation as he was already paid more than what he was owed.

LEGAL PRECEDENT

An employee who has a physical impairment causally related to his or her federal employment, but who nonetheless has the capacity to earn the wages that he or she was receiving at the time of injury, has no disability and is not entitled to compensation for an LWEC.¹⁰ When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing employment, the employee is entitled to compensation for any loss of wages.¹¹ If the employee has actual earnings which fairly and reasonably represent his wage-earning capacity, those earnings will form the basis for payment of compensation for partial disability.¹²

ANALYSIS

The Board finds that appellant is not entitled to additional compensation for other wage loss for the periods March 23 through April 5, 2014 and August 10 through 23, 2014.

In its *de novo* April 14, 2022 decision, OWCP provided detailed calculations showing that it had applied the *Shadrick* formula. It then thoroughly explained that, for the period March 9 through September 20, 2014, it paid appellant a total of \$17,396.25 in compensation for total disability and wage-earning capacity. OWCP further explained that his correct entitlement for the

⁹ This included \$461.50 for wage-earning capacity from March 23 through April 5, 2014 and \$461.50 for wage-earning capacity from August 10, through 23, 2014.

¹⁰ See *D.N.*, Docket No. 19-1344 (issued November 6, 2020); *G.R.*, Docket No. 19-0940 (issued December 20, 2019); *S.M.*, 58 ECAB 166 (2006); *Bobbie F. Cowart*, 55 ECAB 746 (2004).

¹¹ See *M.S.*, Docket No. 25-0770 (issued November 25, 2025).

¹² See *T.K.*, Docket No. 15-1635 (issued September 15, 2015).

period March 9 through September 20, 2014 was \$15,334.00.¹³ However, it determined that he was denied additional compensation as he was already paid \$17,396.25. The Board, having reviewed OWCP's calculations, finds that appellant is not entitled to additional compensation for other wage loss for the claimed periods.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant is not entitled to additional compensation for other wage loss for the periods March 23 through April 5, 2014 and August 10 through 23, 2014.

ORDER

IT IS HEREBY ORDERED THAT the April 14, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 16, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

¹³ This included \$461.50 for wage-earning capacity from March 23 through April 5, 2014 and \$461.50 for wage-earning capacity from August 10, through 23, 2014.