

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

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<b>D.W., Appellant</b>	)	)
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<b>and</b>	)	<b>Docket No. 25-0595</b>
<b>U.S. POSTAL SERVICE, CARDIIS COLLINS</b>	)	<b>Issued: July 18, 2025</b>
<b>POST OFFICE, Chicago, IL, 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  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On June 3, 2025, appellant filed a timely appeal from December 30, 2024, and April 1 and May 30, 2025 merit decisions 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>

**ISSUES**

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of \$1,481.23, for the period July 1 through 13, 2024, because he continued to receive wage-loss compensation for total disability following his return to work; (2) whether OWCP properly found appellant at fault in the creation of the overpayment,

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

<sup>2</sup> The Board notes that, following the May 30, 2025 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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.*

thereby precluding waiver of recovery of the overpayment; (3) whether OWCP properly required recovery of the overpayment by deducting \$50.00 from appellant's continuing compensation payments, every 28 days; (4) whether appellant has met his burden of proof to establish greater than 10 percent permanent impairment of his right lower extremity, for which he previously received a schedule award; and (5) whether OWCP properly denied appellant's request for an oral hearing or review of the written record, with regard to the schedule award claim, as untimely filed, pursuant to 5 U.S.C. § 8124(b).

### **FACTUAL HISTORY**

On March 31, 2022, appellant, then a 50-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on March 15, 2022 he fractured his right foot when an all-purpose container (APC) foot brake jammed, rolling his right foot and ankle while in the performance of duty. He stopped work on March 16, 2022. OWCP accepted the claim for displaced fracture of medial malleolus of right tibia, initial encounter for closed fracture. It paid appellant wage-loss compensation on the supplemental rolls, effective August 8, 2022, and on the periodic rolls, effective January 1, 2023.<sup>3</sup>

On January 9, 2023, appellant underwent open reduction and internal fixation (ORIF) of a right malleolar fracture nonunion, with bone allograft and screw fixation, performed by Dr. Jamal Ahmad, a Board-certified orthopedic surgeon.

On November 27, 2023, appellant underwent OWCP-approved repeat ORIF of a closed right tibial ankle fracture with nonunion, performed by Dr. Ahmad. Dr. Ahmad explained that as the nonunion was fibrotic and grossly appeared pathologic and/or necrotic, he removed the fixation screw, excised the fracture and nonunion fragment, and imbricated the deltoid ligament to the remaining medial malleolus. He submitted periodic progress notes through April 24, 2024 describing appellant's recovery, with the development of numbness and tingling in the plantar aspect of all toes of the right foot.

December 13, 2023 x-rays of the right ankle revealed a widened tibiotalar joint space and cast material overlying the ankle. The fracture site was not well seen.

In a May 29, 2024 work slip, Dr. Ahamd returned appellant to light-duty work effective May 30, 2024. He limited standing, walking, and weight bearing based on appellant's tolerance, and noted that he should not climb ladders.

On June 18, 2024, the employing establishment offered appellant a full-time limited-duty position as a modified mail handler equipment operator. The duties included driving a sit-down forklift and preparing flats for up to eight hours a day. The physical requirements included sitting,

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<sup>3</sup> OWCP paid appellant *via* electronic funds transfer (EFT). In a letter dated December 28, 2022, it advised appellant of his entitlement to compensation on the periodic rolls, that he should notify OWCP immediately when he returned to work, and that he should return any payment covering a period after he returned to work. In the accompanying EN-1049 form, OWCP advised him that, “[f]or payments sent by EFT, a notification of the date and amount of payment will appear on the statement from your financial institution. You are expected to monitor your EFT deposits carefully, at least every [two] weeks. If you have worked for any portion of the period for which a deposit was made, advise OWCP immediately so that the overpayment can be collected.”

bending, stooping, simple grasping/fine manipulation, reaching above shoulder, twisting, and driving a vehicle for up to eight hours a day.

In a July 3, 2024 report of work status (Form CA-3), the employing establishment indicated that appellant had returned to full-time limited-duty work on July 1, 2024.

In a July 10, 2024 report, Dr. Ahmad maintained appellant on light-duty work and renewed previous work restrictions.

In a July 31, 2024 report, Dr. Ahmad recounted that July 23, 2024 electromyogram and nerve conduction velocity (EMG/NCV) studies revealed lumbar radiculopathy as the likely cause of appellant's neuropathic foot and ankle symptoms. On examination of the right ankle, he observed a well-healed postoperative incision and opined that he had attained maximum medical improvement (MMI). Dr. Ahmad maintained appellant on light-duty work and renewed prior work restrictions.

In an August 6, 2024 overpayment memorandum and accompanying compensation payment history report, OWCP noted that on July 13, 2024 it had paid appellant \$3,190.34 in net wage-loss compensation *via* EFT for the 28-day period June 16 through July 13, 2024 (prorated to \$1,481.23 for the period July 1 through 13, 2024).

In a preliminary overpayment determination dated October 2, 2024, OWCP notified appellant that he had received an overpayment of compensation in the amount of \$1,481.23, for the period July 1 through 13, 2024, because he returned to work on July 1, 2024, but continued to receive wage-loss compensation through July 13, 2024. It further advised him of its preliminary determination that he was at fault in the creation of the overpayment as he had accepted payments that he knew or reasonably should have known to be incorrect. OWCP requested that appellant complete an overpayment action request form and overpayment recovery questionnaire (Form OWCP-20), and submit supporting financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and other records to support income and expenses. Additionally, it informed appellant that, within 30 days, he could request a final decision based on the written evidence or a prerecoupment hearing.

In an October 18, 2024 report, Dr. Samuel J. Chmell, a Board-certified orthopedic surgeon, noted his history of treatment and review of medical records, and indicated that appellant's findings on examination were unchanged. He opined that appellant had reached MMI with regard to the accepted employment injury.

In responses dated October 31 and November 8, 2024, appellant acknowledged that he returned to work on July 1, 2024. He requested a waiver of recovery of the overpayment due to financial hardship.

In a November 8, 2024 development letter, OWCP instructed appellant to complete the Form OWCP-20 previously provided and submit supporting financial documentation.

OWCP received a partially completed Form OWCP-20, wherein appellant reported \$3,400.00 in total monthly income and \$4,121.28 in total monthly expenses. In support thereof,

appellant submitted financial documentation, including copies of credit card statements, a bank statement, and a federal tax repayment coupon.

By decision dated December 30, 2024, OWCP finalized its preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of \$1,481.23, for the period July 1 through 13, 2024, because he continued to receive wage-loss compensation for total disability following his return to work. It was also found that he was at fault in the creation of the overpayment, but denied waiver of recovery of the overpayment. OWCP required recovery of the overpayment by deducting \$50.00 every 28 days from appellant's continuing compensation payments.

OWCP subsequently received a December 23, 2024 report, wherein Dr. Nikita Maniar, a neurologist, recounted a history of right ankle injury and surgery and an abnormal EMG/NCV study, with evidence of chronic right L5 and S1 and possible left L5 lumbosacral radiculopathy. Dr. Maniar related appellant's symptoms of pain and numbness at the surgical site on the right ankle. She diagnosed closed displaced fracture of medial malleolus of right tibia with malunion, and lumbosacral radiculopathy at L5.

On January 7, 2025, appellant filed a claim for compensation (Form CA-7) for a schedule award.

Thereafter, OWCP received reports dated March 28 through July 10, 2024, wherein Dr. Ahmad noted that appellant had developed paresthesias in the plantar aspect of all toes distal to the metatarsophalangeal joints. Dr. Ahmad returned appellant to light-duty work.

In a January 30, 2025 development letter, OWCP advised appellant of the evidence needed to establish his schedule award claim, including an impairment rating from his physician according to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).<sup>4</sup>

In response, appellant submitted a February 14, 2025 report wherein Dr. Chmell noted that, despite multiple surgeries, the fracture resulted in nonunion, "that is it did not heal." He continued to report pain, swelling, and stiffness of the right ankle. On January 23, 2025, examination, Dr. Chmell observed diminished strength of the right ankle, crepitus, tenderness, and effusion. He opined that appellant had reached MMI effective October 18, 2024. Referring to the A.M.A., *Guides*, Dr. Chmell noted that, while appellant also had diminished range of motion (ROM), the diagnosis-based impairment (DBI) rating methodology was more appropriate as it provided a greater percentage of impairment. Utilizing the DBI methodology of the A.M.A., *Guides*, Table 16-2 (Foot and Ankle Regional Grid), page 508, he found that appellant's class of diagnosis (CDX) resulted in a Class 3, impairment with a default value of 37. Dr. Chmell assigned a grade modifier for functional history (GMFH) of 3, a grade modifier for physical examination (GMPE) of 3, and a grade modifier for clinical studies (GMCS) of 3. He utilized the net adjustment formula, which resulted in a final rating of 40 percent permanent impairment of the right lower extremity.

On February 21, 2025, OWCP routed the medical record and a statement of accepted facts (SOAF) to Dr. Nathan Hammel, a Board-certified orthopedic surgeon serving as a district medical

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<sup>4</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2009).

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*.

In a report dated March 3, 2025, Dr. Hammel applied the A.M.A., *Guides* to Dr. Chmell's physical findings. He opined that appellant reached MMI on January 23, 2025, the date of Dr. Chmell's evaluation. Dr. Hammel agreed with the use of the DBI rating methodology as there was no permissible ROM-based impairment not ascribable to a specific DBI. He opined that Dr. Chmell misapplied the A.M.A., *Guides* as appellant had a "simple nonunion of a small malleolus fracture" without "rotation or angular deformity of the tibia." Dr. Hammel found appellant's CDX resulted in a Class 1 impairment with a default value of 10. He assigned a GMFH of 1 for continued pain, and a GMPE of 1 for tenderness. Dr. Hammel found that GMCS was not applicable as clinical studies were used to establish the diagnosis and proper placement in the regional grid. He applied the net adjustment formula, which resulted in 10 percent permanent impairment of the right lower extremity.

By decision dated April 1, 2025, OWCP granted appellant a schedule award for 10 percent permanent impairment of the right lower extremity (leg). The period of the award ran for 28.8 weeks, during the period January 23 through August 12, 2025. OWCP accorded Dr. Hammel's opinion as DMA the weight of the medical evidence.

On May 20, 2025, appellant requested an "appeal" of the April 1, 2025 schedule award determination before a representative of OWCP's Branch of Hearings and Review.

By decision dated May 30, 2025, OWCP denied appellant's request for a hearing or a review of the written record, pursuant to 5 U.S.C. § 8124(b). It found that the May 20, 2025 request was untimely since it was not made within 30 days of OWCP's April 1, 2025 schedule award decision. OWCP further exercised its discretion and determined that the issue in this case could equally well be addressed by a request for reconsideration before OWCP along with the submission of new evidence.

### **LEGAL PRECEDENT -- ISSUE 1**

Section 8102(a) of FECA provides that the United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of duty.<sup>5</sup> Section 8129(a) of FECA provides, in pertinent part, that when an overpayment has been made to an individual under this subchapter because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which an individual is entitled.<sup>6</sup>

A claimant is not entitled to receive temporary total disability benefits and actual earnings for the same time period.<sup>7</sup> OWCP regulations provide that compensation for wage loss due to

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<sup>5</sup> *Supra* note 1 at § 8102(a).

<sup>6</sup> *Id.* at § 8129(a).

<sup>7</sup> See *M.B.*, Docket No. 24-0908 (issued February 3, 2025); *K.A.*, Docket No. 25-0127 (issued December 11, 2024); *T.L.*, Docket No. 23-0424 (issued December 28, 2023); *S.S.*, Docket No. 20-0776 (issued March 15, 2021); *C.H.*, Docket No. 19-1470 (issued January 24, 2020); *L.S.*, 59 ECAB 350 (2008).

disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury.<sup>8</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount \$1,481.23 for the period July 1 through 13, 2024, because he continued to receive wage-loss compensation for total disability following his return to work.

The case record establishes that appellant returned to work on July 1, 2024. However, OWCP continued to pay him wage-loss compensation through July 13, 2024. As noted, a claimant is not entitled to receive wage-loss compensation benefits and actual earnings for the same time period.<sup>9</sup> Accordingly, the Board finds that OWCP has established fact of overpayment.<sup>10</sup>

With regard to the amount of the overpayment, OWCP explained that appellant received \$1,481.23 in net compensation for the period July 1 through 13, 2024, after he had returned to work. The Board has reviewed OWCP's calculations and finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$1,481.23, for the period July 1 through 13, 2024.

### **LEGAL PRECEDENT -- ISSUE 2**

Section 8129(b) of FECA provides as follows that adjustment or recovery by the United States may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.<sup>11</sup> No waiver of recovery of an overpayment is possible if the claimant is at fault in the creation of the overpayment.<sup>12</sup>

On the issue of fault, 20 C.F.R. § 10.433(a) provides that an individual is with fault in the creation of an overpayment who: (1) made an incorrect statement as to a material fact which the individual knew or should have known to be incorrect; (2) failed to furnish information which the individual knew or should have known to be material; or (3) with respect to the overpaid individual only, accepted a payment which the individual knew or should have been expected to know was incorrect.<sup>13</sup>

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<sup>8</sup> *T.L.*, *id.*; *S.S.*, *id.*; *C.H.*, *id.*; Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Identifying and Calculating an Overpayment*, Chapter 6.200.1a (September 2020).

<sup>9</sup> *Supra* note 6.

<sup>10</sup> *M.B.*, *supra* note 7; *see T.H.*, Docket No. 23-0194 (issued July 17, 2023); *A.C.*, Docket No. 22-0118 (issued December 15, 2022).

<sup>11</sup> 5 U.S.C. § 8129(b).

<sup>12</sup> *S.S.*, *supra* note 7; *B.W.*, Docket No. 19-0239 (issued September 18, 2020); *R.G.*, Docket No. 18-1251 (issued November 26, 2019); *C.L.*, Docket No. 19-0242 (issued August 5, 2019).

<sup>13</sup> 20 C.F.R. § 10.433(a).

Section 10.433(b) of OWCP regulations provides that whether OWCP determines that an individual was at fault with respect to the creation of an overpayment depends on the circumstances surrounding the overpayment. The degree of care expected may vary with the complexity of those circumstances and the individual's capacity to realize that he or she is being overpaid.<sup>14</sup>

The Board has held that an employee who receives payments from OWCP in the form of a direct deposit may not be at fault the first or second time that incorrect funds are deposited into his or her account, as he or she lacks the requisite knowledge in accepting payment.<sup>15</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that OWCP improperly found appellant at fault in the creation of the overpayment.

OWCP paid appellant wage-loss compensation on the periodic rolls *via* EFT every 28 days. As noted, appellant returned to work on July 1, 2024. OWCP issued a compensation payment on July 13, 2024 for the period July 1 through 13, 2024. There is no documentation or other evidence to demonstrate that appellant knew or should have known at the time he received the July 13, 2024 EFT that the payment was incorrect.<sup>16</sup> The Board thus finds that appellant was without fault in accepting the initial direct deposit covering the period July 1 through 13, 2024.

As appellant is without fault in the creation of the overpayment for the period July 1 through 13, 2024, the case must be remanded for OWCP to determine whether appellant is entitled to waiver of recovery of the overpayment covering that period.<sup>17</sup> Following any further development deemed necessary, it shall issue a *de novo* decision regarding waiver.<sup>18</sup>

### **LEGAL PRECEDENT -- ISSUE 4**

The schedule award provisions of FECA<sup>19</sup> and its implementing regulations<sup>20</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from

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<sup>14</sup> *Id.* at § 10.433(b); *S.S.*, *supra* note 7; *R.G.*, *supra* note 12; *C.L.*, *supra* note 12; *D.M.*, Docket No. 17-0983 (issued August 3, 2018); *see also* *supra* note 8 at Chapter 6.300.4d (September 2020).

<sup>15</sup> *See C.B.*, Docket No. 23-0769 (issued May 28, 2024); *R.S.*, Docket No. 20-0177 (issued September 3, 2021); *L.G.*, Docket No. 20-1342 (issued September 3, 2021); *M.J.*, Docket No. 19-1665 (issued July 29, 2020); *Tammy Craven*, 57 ECAB 689 (2006).

<sup>16</sup> *S.R.*, Docket No. 24-0338 (issued May 10, 2024); *M.T.*, Docket No. 20-1353 (issued May 9, 2022); *C.C.*, Docket No. 18-1268 (issued April 2, 2021); *K.P.*, Docket No. 19-1151 (issued March 18, 2020); *K.K.*, Docket No. 19-0978 (issued October 21, 2019); *C.Y.*, Docket No. 18-0263 (issued September 14, 2018); *see also M.M.*, Docket No. 15-0265 (issued May 27, 2015); *Danny E. Haley*, 56 ECAB 393 (2005).

<sup>17</sup> *S.R.*, *id.* *See also C.B.*, *supra* note 15; *D.R.*, Docket No. 21-0234 (issued November 17, 2022); *C.C.*, Docket No. 19-1268 (issued April 2, 2021).

<sup>18</sup> In light of the Board's disposition of Issue 2, Issue 3 is rendered moot.

<sup>19</sup> *Supra* note 1 at § 8107.

<sup>20</sup> 20 C.F.R. § 10.404.

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 the uniform standard applicable to all claimants.<sup>21</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>22</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>23</sup>

Chapter 16 of the sixth edition of the A.M.A., *Guides*, pertaining to the lower extremities, provides that DBI is the primary methodology of calculation for the lower limb and that most impairments are based on the DBI methodology, where impairment class is determined by the diagnosis and specific criteria as adjusted by a GMFH, a GMPE, and/or a GMCS. It further provides that alternative approaches are also provided for calculating impairment for peripheral nerve deficits, complex regional pain syndrome, amputation, and ROM. ROM is primarily used as a physical examination adjustment factor.<sup>24</sup> The A.M.A., *Guides*, however, also explains that some of the diagnosis-based grids refer to the ROM section when that is the most appropriate mechanism for grading the impairment. This section is to be used as a stand-alone rating when other grids refer to this section or no other DBI sections of the chapter are applicable for impairment rating of a condition.<sup>25</sup>

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to a DMA for an opinion concerning the percentage of permanent impairment using the A.M.A., *Guides*.<sup>26</sup>

Section 8123(a) of FECA provides that, if there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.<sup>27</sup> This is called a referee examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case. In situations where there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical examiner

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<sup>21</sup> *Id.*; see *A.D.*, Docket No. 20-0553 (issued April 19, 2021); see also *T.T.*, Docket No. 18-1622 (issued May 14, 2019).

<sup>22</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017); see also Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

<sup>23</sup> See *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>24</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2009) 497, section 16.2.

<sup>25</sup> *Id.* at 543; see *E.C.*, Docket No. 24-0686 (issued December 19, 2024); see also *M.D.*, Docket No. 16-0207 (issued June 3, 2016); *D.F.*, Docket No. 15-0664 (issued January 8, 2016).

<sup>26</sup> See *L.P.*, Docket No. 21-0282 (issued November 21, 2022); *A.C.*, Docket No. 19-1333 (issued January 8, 2020); *B.B.*, Docket No. 18-0782 (issued January 11, 2019); *supra* note 8 at Chapter 2.808.6f (March 2017).

<sup>27</sup> 5 U.S.C. § 8123(a); see *R.C.*, Docket No. 18-0463 (issued February 7, 2020); see also *G.B.*, Docket No. 16-0996 (issued September 14, 2016).

(IME) for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.<sup>28</sup>

#### **ANALYSIS -- ISSUE 4**

The Board finds that this case is not in posture for decision.

Appellant provided a February 14, 2025 impairment rating from Dr. Chmell. He found a Class 3 impairment, with a GMFH of 2, GMPE of 3, and GMCS of 3. Dr. Chmell calculated 40 percent permanent impairment of the right lower extremity using the DBI methodology and noted that the ROM method resulted in a lesser percentage of impairment. The DMA, Dr. Hammel, found a Class 1 impairment, with a GMFH of 1, GMPE of 1, and no applicable GMCS. He calculated 10 percent permanent impairment of the right lower extremity using the DBI rating methodology and noted that the ROM rating methodology was not applicable.

Thus, the Board finds that a conflict exists in the medical opinion evidence between Dr. Chmell and the DMA, Dr. Hammel, with regard to the extent of any permanent impairment due to the accepted condition of displaced fracture of medial malleolus of right tibia, initial encounter for closed fracture. This conflict in medical opinion necessitates referral to an IME for resolution of the conflict in accordance with 5 U.S.C. § 8123(a).<sup>29</sup>

On remand, OWCP shall refer appellant, along with an updated SOAF, the medical record, and a series of questions to an IME in the appropriate field of medicine for a reasoned opinion resolving the conflict. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision regarding appellant's schedule award claim.<sup>30</sup>

#### **CONCLUSION**

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$1,481.23, during the period July 1 through 13, 2024, because he continued to receive wage-loss compensation for total disability following his return to work. The Board further finds that OWCP improperly found appellant at fault in the creation of the overpayment. The Board also finds that the case is not in posture for decision regarding whether appellant has met his burden of proof to establish greater than 10 percent permanent impairment of his right lower extremity, for which he previously received a schedule award.

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<sup>28</sup> 20 C.F.R. § 10.321; *see also J.H.*, Docket No. 22-0981 (issued October 30, 2023); *N.D.*, Docket No. 21-1134 (issued July 13, 2022); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts*, 31 ECAB 1010 (1980).

<sup>29</sup> 5 U.S.C. § 8123(a). *See also S.L.*, Docket No. 24-0522 (issued June 17, 2024); *S.G.*, Docket No. 24-0529 (issued June 12, 2024).

<sup>30</sup> In light of the Board's disposition of disposition of Issue 4, Issue 5 is rendered moot.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 30, 2024 decision of the Office of Workers' Compensation Programs is affirmed in part and reversed in part, and the case is remanded for further proceedings consistent with this decision of the Board. The April 1, 2025 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board. The May 30, 2025 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: July 18, 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