

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

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<b>E.S., Appellant</b>	)	
<b>and</b>	)	<b>Docket No. 25-0791</b>
<b>U.S. POSTAL SERVICE, NORTH SHEPHERD POST OFFICE, Houston, TX, Employer</b>	)	<b>Issued: November 20, 2025</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 August 20, 2025 appellant filed a timely appeal from a July 31, 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 met his burden of proof to establish permanent impairment of a scheduled member or function of the body, warranting 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 July 31, 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 October 22, 2024 appellant, then a 43-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on October 19, 2024 he sustained injuries to his neck, chest, and back when his mail truck was struck by a vehicle while in the performance of duty. He stopped work that day. OWCP accepted the claim for lower back muscle, fascia, and tendon strain. It paid appellant wage-loss compensation on the supplemental rolls from December 9, 2024 through January 25, 2025, on the periodic rolls from January 26 through March 22, 2025, and again on the supplemental rolls from March 23 through May 2, 2025.

On October 25, 2024 appellant filed a claim for compensation (Form CA-7) for a schedule award.

In a development letter dated November 6, 2024, OWCP requested that appellant submit a permanent impairment calculation addressing whether he had reached maximum medical improvement (MMI) and providing 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 indicated that, to date, no medical evidence had been received in support of his claim for a schedule award. OWCP advised that, if appellant's physician was unable or unwilling to provide the required report, to notify OWCP in writing and if his case met the essential elements for a schedule award claim, he would be scheduled to be seen by a second opinion specialist. It afforded him 30 days to submit the necessary medical evidence.

OWCP subsequently received reports dated October 31 and November 21, 2024 from Dr. Brian Arenare, a Board-certified internist, who diagnosed lumbar strain.

In a report dated December 3, 2024, Dr. Abraham Thomas, a physician Board-certified in pain medicine and anesthesiology, recounted appellant's history of injury, provided examination findings, and diagnosed cervical, shoulder, and lower back sprains/strains. He recommended C2-4 medial branch blocks and L5-S1 epidural steroid injections due to the lack of improvement with conservative treatment.

In a report dated December 5, 2025, Dr. Niloufar Aghakasiri, a physician Board-certified in occupational medicine and lifestyle medicine, related appellant's physical examination findings, and diagnosed lumbar disc annular tear, lumbar disc herniation, lumbar nerve root impingement, closed sacral fracture, and left rib contusion.

In a December 9, 2024 report, Dr. Ra'Kerry K. Rahman, a Board-certified orthopedic surgeon, detailed physical examination findings and diagnosed cervical and lumbar prolapsed intervertebral disc displacement, and lumbar spinal stenosis.

By decision dated December 18, 2024, OWCP denied appellant's schedule award claim.

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

OWCP continued to receive reports from Dr. Arenare, Dr. Thomas, and Dr. Rahman, which were repetitive of their prior reports.

In an April 9, 2025 report, Dr. Rosa Belena-Bruce, a physician Board-certified in occupational medicine, provided physical examination findings, which included normal motor strength and sensation intact to light touch. She diagnosed lumbar intervertebral disc displacement, lumbar disc herniation, lumbar nerve root impingement, left rib contusion, cervical strain, and scalp contusion. Dr. Belena-Bruce noted that appellant was at functional goal, but not at the end of healing. She also noted that appellant had been sent for an impairment rating for the lower back, which resulted in zero percent permanent impairment. Dr. Belena-Bruce noted that appellant requested an impairment rating for all body parts and would be sent for a second impairment rating.

By decision dated April 29, 2025, OWCP expanded acceptance of appellant's claim to include lumbar intervertebral disc displacement; lumbar spinal stenosis without neurogenic claudication; scalp contusion; neck muscle, fascia, and tendon strain; and left thorax front wall contusion.

On April 29, 2025 appellant filed another claim for compensation (Form CA-7) for a schedule award.

In an April 24, 2025 report, Dr. Belena-Bruce provided physical examination findings, again noting normal motor strength and sensation. She diagnosed lumbar intervertebral disc displacement; lumbar spinal stenosis without neurogenic claudication; scalp contusion; neck muscle, fascia, and tendon strain; and left thorax front wall contusion. Dr. Belena-Bruce determined that appellant no longer required medical care and could return to work with no restrictions.

In a development letter dated May 13, 2025, OWCP noted that an April 24, 2025 medical report found that he had reached MMI. However, the record was devoid of a permanent impairment rating. OWCP requested that he submit a narrative report from his treating physician providing an impairment rating using the sixth edition of the A.M.A., *Guides*. It afforded him 30 days to submit the necessary medical evidence.

In an unsigned, undated report, Dr. Belena-Bruce provided examination findings, and diagnosed cervical sprain, thorax contusion, and right forehead scalp contusion. On physical examination she reported normal appearing cervical and lumbosacral spine; cervical and lumbosacral bilateral paraspinal tenderness; normal cervical and lumbosacral motor strength; normal lumbosacral motor tone; limited cervical range of motion (ROM); and negative bilateral straight leg raise. Dr. Belena-Bruce determined that appellant had no permanent impairment due to the accepted conditions. She explained that appellant's scalp contusion and thoracic wall contusion had completely healed and were non-ratable conditions with zero percent permanent impairment. Dr. Belena-Bruce also determined that appellant had zero percent permanent impairment of the cervical spine noting no diagnostic electromyograph (EMG) test had been performed confirming spinal nerve compromise and he had 5/5 bilateral upper extremity strength.

On June 11, 2025 OWCP referred appellant's claim to Dr. Michael D. Katz, a Board-certified orthopedic surgeon, serving as OWCP's District Medical Adviser (DMA), to review the medical evidence of record, including Dr. Belena-Bruce's report, and provide an opinion regarding permanent impairment in accordance with the sixth edition of the A.M.A., *Guides*.

In his June 18, 2025 report, the DMA concurred with Dr. Belena-Bruce's findings and permanent impairment rating. He explained that spinal nerve injury is determined under *The Guides Newsletter, Rating Spinal Nerve Extremity Impairment Using the Sixth Edition* (July/August 2009) (*The Guides Newsletter*). Dr. Belena-Bruce determined that appellant had no motor or sensory deficits in either upper extremity, therefore she had no ratable impairment for the accepted upper extremity conditions.

By decision dated July 31, 2025, OWCP denied appellant's schedule award claim, finding that there was no permanent impairment of a scheduled member or function of the body.

### **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. FECA, however, does not specify the manner in which the percentage of loss of a member shall be determined. OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.<sup>6</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>7</sup>

It is the claimant's burden of proof to establish permanent impairment of a scheduled member or function of the body as a result of an employment injury.<sup>8</sup> OWCP's procedures provide that, to support a schedule award, the file must contain competent medical evidence, which shows that the impairment has reached a permanent and fixed state and indicates that the date on which this occurred (date of MMI), describes the impairment in sufficient detail so that it can be visualized on review, and computes the percentage of impairment in accordance with the A.M.A., *Guides*.<sup>9</sup>

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> 20 C.F.R. § 10.404

<sup>6</sup> *Id.* at § 10.404 (a).

<sup>7</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>8</sup> *V.D.*, Docket No. 22-0123 (issued April 20, 2023); *J.P.*, Docket No. 21-0801 (issued December 22, 2021); *Edward Spohr*, 54 ECAB 806, 810 (2003); *Tammy L. Meehan*, 53 ECAB 229 (2001).

<sup>9</sup> *Supra* note 7 at Chapter 2.808.5 (March 2017).

Neither FECA nor its implementing regulations provide for a schedule award for impairment to the back or to the body as a whole.<sup>10</sup> Furthermore, the back is specifically excluded from the definition of organ under FECA.<sup>11</sup> The sixth edition of the A.M.A., *Guides* does not provide a separate mechanism for rating spinal nerve injuries as impairments of the extremities. Recognizing that FECA allows ratings for extremities and precludes ratings for the spine, *The Guides Newsletter* offers an approach to rating spinal nerve impairments consistent with sixth edition methodology. For peripheral nerve impairments to the upper or lower extremities resulting from spinal injuries, OWCP's procedures indicate that *The Guides Newsletter* is to be applied.<sup>12</sup> The Board has recognized the adoption of this methodology for rating extremity impairment, including the use of *The Guides Newsletter*, as proper in order to provide a uniform standard applicable to each claimant for a schedule award for extremity impairment originating in the spine.<sup>13</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.

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish permanent impairment of a scheduled member or function of the body, warranting a schedule award.

The record contains reports from Drs. Arenare, Thomas, Aghakasiri, and Rahman which related their examinations and appellant's diagnoses. These reports, however, did not provide a permanent impairment rating of a scheduled member or function of the body.

In her May 27, 2025 report, Dr. Belena-Bruce opined that, on physical examination, appellant had no upper extremity sensory or motor deficits. The Board finds that she properly applied *The Guides Newsletter* in finding that appellant had no ratable permanent impairment of the upper extremity based on neurologic deficits of sensory and motor loss.<sup>14</sup>

In accordance with its procedures, OWCP properly routed the case record to Dr. Katz, its DMA, who opined that appellant had no permanent impairment. He opined that pursuant to *The Guides Newsletter*, appellant was not entitled to a schedule award for an upper extremity spinal nerve impairment based on Dr. Belena-Bruce's normal sensory and motor examination findings. Dr. Katz agreed with Dr. Belena-Bruce that there was no permanent impairment of any spinal

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<sup>10</sup> *O.W.*, Docket No. 24-0005 (issued July 31, 2025); *G.W.*, Docket No. 23-0600 (issued September 20, 2023); *K.Y.*, Docket No. 18-0730 (issued August 21, 2019); *L.L.*, Docket No. 19-0214 (issued May 23, 2019); *N.D.*, 59 ECAB 344 (2008); *Tania R. Keka*, 55 ECAB 354 (2004).

<sup>11</sup> See 5 U.S.C. § 8101(19); see also *O.W.*, *id.*; *T.M.*, Docket No. 23-0211 (issued August 10, 2023); *G.S.*, Docket No. 18-0827 (issued May 1, 2019); *Francesco C. Veneziani*, 48 ECAB 572 (1997).

<sup>12</sup> *Supra* note 7 at Chapter 3.700 (January 2010). *The Guides Newsletter* is included as Exhibit 4.

<sup>13</sup> *O.W.*, *supra* note 10; *C.J.*, Docket No. 21-1389 (issued July 24, 2023); *E.D.*, Docket No. 13-2024 (issued April 24, 2014); *D.S.*, Docket No. 13-2011 (issued February 18, 2014).

<sup>14</sup> *B.J.*, Docket No. 25-0323 (issued March 13, 2025); *T.T.*, Docket No. 24-0079 (issued April 1, 2024).

nerve due to motor or sensory deficits due to a spinal nerve, and thus no permanent impairment under FECA due to the accepted spinal conditions. The Board finds that the DMA properly used Dr. Belena-Bruce's findings and provided an explanation in conformance with the A.M.A., *Guides* and *The Guides Newsletter*, that appellant had no permanent impairment of his upper extremities due to either a motor or sensory deficit of the spinal nerve.<sup>15</sup>

As the medical evidence of record is insufficient to establish permanent impairment of a scheduled member or function of the body, the Board finds that appellant has not met his burden of proof.

Appellant may request a schedule award or increased schedule award at any time based on evidence of new exposure, or medical evidence showing a 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 permanent impairment of a scheduled member or function of the body, warranting a schedule award.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision dated July 31, 2025 of the Office of Workers' Compensation Programs is affirmed.

Issued: November 20, 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

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<sup>15</sup> C.G., Docket No 25-0697 (issued August 28, 2025); J.U., Docket No. 21-1298 (issued February 16, 2023).