United States Department of Labor
Employees' Compensation Appeals Board

D.J., Appellant	)	
and	)	**Docket No. 23-0528**
	)	**Issued: April 8, 2026**
DEPARTMENT OF THE NAVY, FLEET READINESS CENTER, Cherry Point, NC, Employer	)	

Appearances:
Aaron B. Aumiller, Esq., for appellant[1]
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
JANICE B. ASKIN, Judge

JURISDICTION

On March 3, 2023 appellant filed a timely appeal from an October 27, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish permanent impairment of a scheduled member or function of the body, warranting a schedule award.

FACTUAL HISTORY

On February 19, 2019 appellant, then a 67-year-old retired sandblaster, filed an occupational disease claim (Form CA-2) alleging that he developed Parkinson's disease due to the factors of his federal employment, including exposure to chemicals at work. OWCP accepted the claim for Parkinson's disease.[3]

On November 18, 2019 appellant filed a claim for compensation (Form CA-7) for a schedule award.

On July 7, 2020 OWCP referred the record and a SOAF to Dr. Mohan C. Deochand, a Board-certified neurologist and clinical neurophysiologist, for a second opinion evaluation to determine the extent of permanent impairment of appellant's bilateral upper and lower extremities under the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).[4]

In a July 23, 2020 report, Dr. Deochand reviewed the medical record and SOAF, and opined that appellant had attained maximum medical improvement (MMI) on July 26, 2019. He performed a physical examination, which revealed pill-rolling hand tremors; a shuffling, slow, cautious, stiff, and unsteady gait; a dysphonic voice; reduced temperature and decreased sensation to vibration in a stocking glove pattern in the bilateral lower extremities; cogwheel rigidity in the bilateral upper extremities; decreased reflexes in all dermatomes; impaired tandem and heel/toe walking; no grasp reflex or sucking reflex; poor memory for recent events; decreased blinking; and a depressed mood. Dr. Deochand diagnosed advanced Parkinson's disease and generalized weakness. Referring to Chapter 13, The Central and Peripheral Nervous System, and Table 13-12 (Station and Gait Disorders), page 336, he placed appellant in Class 3 and found a whole person impairment of 35 percent.

On September 16, 2020 OWCP referred appellant's case to Dr. David I. Krohn, a Board-certified internal medicine specialist serving as a district medical adviser (DMA), to obtain an impairment rating. In an October 18, 2020 report, Dr. Krohn noted that he had reviewed the medical record and found that Dr. Deochand's use of the upper limit of Class 3 on Table 13-12 to arrive at 35 percent whole person impairment was reasonable, but noted that he did not utilize the requisite FECA formula by which to convert whole person impairment to a percentage of a particular organ function. He explained that Parkinson's disease was a complex condition with diverse clinical features that included neuropsychiatric and other nonmotor manifestations in addition to its motor symptomatology. Dr. Krohn thereafter applied the conversion chart contained

[3] Appellant retired from federal service, effective January 10, 2014.

[4] A.M.A., *Guides* (6th ed. 2009).

in OWCP's procedures[5] and determined that the 35 percent whole person impairment converted to a 70 percent permanent impairment of gait and station disorders. He further applied Table 13-11 (Upper Extremity Central Nervous System (CNS) Dysfunction), page 335, and found a Class 1 impairment for the ability to use involved extremities for activities of daily living, holding, and difficulty with digital dexterity in the dominant and non-dominant hands. Dr. Krohn assigned a rating of five percent whole person impairment, which he then converted to a rating of eight percent permanent impairment for upper extremity CNS dysfunction. He agreed that appellant reached the MMI on July 26, 2019.

On November 19, 2020 OWCP requested clarification from Dr. Krohn regarding division of the whole person impairment ratings between the upper and lower extremities.

In a December 29, 2020 supplemental report, Dr. Krohn indicated that OWCP's procedures instructed that "rather than computing each impairment separately, the above impairments must be combined." He noted that the maximum whole person impairment under Table 13-12 was 50 percent and the maximum whole person impairment under Table 13-11 was 60 percent. Using the Combine Values Chart, on page 605 of the sixth edition of the A.M.A., *Guides*, Dr. Krohn calculated a combined value of 80 percent, which became the denominator. He then combined the previously assigned whole person impairments of 35 percent and 5 percent and arrived at 38 percent, which became the numerator. The result was 48 percent permanent impairment of the CNS, which he described as a "scheduled organ." Dr. Krohn further opined that there was no reasonable method to assign the 48 percent permanent impairment of the CNS to either the right or left side.

In an April 9, 2021 memorandum, Dr. Christopher R. Armstrong, a Board-certified occupational and aerospace medicine physician and OWCP's Chief Medical Officer, indicated that "Parkinson's disease is a progressive disorder of the central nervous system (brain and spinal cord) in which certain nerve cells in the brain gradually die. In addition to problems with posture and balance, Parkinson's disease patients have decreased ability to perform unconscious movements like blinking or smiling, difficulty maintaining their blood pressure when transitioning to a standing position, tremors, difficulty swallowing, dementia, depression, insomnia, and a host of other problems." Dr. Armstrong instructed that all those manifestations of the disease be taken into consideration when rating Parkinson's disease using the A.M.A., *Guides*.

By decision dated April 23, 2021, OWCP denied appellant's schedule award claim, finding that the evidence of record was insufficient to establish permanent impairment of a scheduled member or function of the body.

On May 24, 2021 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. After a preliminary review, by decision dated August 5, 2021, OWCP's hearing representative set aside the April 23, 2021 decision and remanded the case to OWCP for further development, including sending the claim back to the DMA to clarify whether upper and lower extremity impairment could be determined by another methodology.

[5] Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4(d)(2) (January 2010).

In a September 16, 2021 report, Dr. Nizar Souayah, a Board-certified neurologist and neuromuscular medicine specialist, serving as DMA, assigned 35 percent whole person impairment under Table 13-12 and a 5 percent whole person impairment under Table 13-13 (Neurogenic Bowel), page 337.

In a narrative report dated October 15, 2021, Dr. Joshua B. Macht, a Board-certified internal medicine specialist, reviewed the reports of Dr. Deochand and Krohn, and agreed that Table 13-12 was the appropriate table to assess appellant's Parkinson's disease and agreed with the 35 percent whole person impairment. He opined that the ability to ambulate was equally controlled by each of the lower extremities and, therefore, he assigned equal weight to each lower extremity. Referring to Table 16-10 (Impairment Values Calculated from Lower Extremity Impairment), page 531, Dr. Macht calculated 49 percent permanent impairment of the right lower extremity and 49 percent permanent impairment of the left lower extremity. He further explained that when these ratings were combined using the Combined Values Formula, the result was a whole person impairment of 35 percent. Dr. Macht further noted that he disagreed with Dr. Krohn's assessment of a five percent whole person impairment for upper extremity CNS dysfunction, as he did not provide a rating for each upper extremity. He opined that under Table 13-11, page 335, appellant had 5 percent whole person impairment for his non-dominant left upper extremity and 10 percent whole person impairment for the dominant right upper extremity. Dr. Macht then referred to Table 15-11 (Impairment Values Calculated from Upper Extremity Impairment), page 420, and converted the whole person impairment ratings to 8 percent permanent impairment of the left upper extremity and 17 percent permanent impairment of the right upper extremity as a result of appellant's upper extremity CNS dysfunction.

On February 9, 2022 OWCP again requested clarification from the DMA, Dr. Krohn, and submitted a series of questions, including: (1) whether upper and/or lower extremity impairment can be determined by using Table 13-11, page 335, and Table 15-11, page 420, for the upper extremities and Table 13-12, page 336, and Table 16-10, page 530, for lower extremities; and (2) whether the extremity impairment could be calculated using the methodology adopted for spinal injuries in *The Guides Newsletter, Rating Spinal Nerve Extremity Impairment Using the Sixth Edition* (July/August 2009) (*The Guides Newsletter*), which could take into account sensory and motor deficits.

In a March 4, 2022 amended report, Dr. Krohn reiterated his prior assignment of 35 percent whole person impairment under Table 13-12 and agreed with Dr. Macht that, under Table 13-11, page 335, appellant had 5 percent whole person impairment for his non-dominant left upper extremity and 10 percent whole person impairment for the dominant right upper extremity. He also added 35 percent whole person impairment under Table 13-5 (Episodic Loss of Consciousness or Awareness), page 328, Class 3, for dementia, postural hypertension, and additional neurologic symptoms or signs of a focal or generalized nature, in accordance with Dr. Armstrong's instruction to consider all symptoms. Dr. Krohn again indicated that OWCP's procedures required that multiple impairments for the same organ be combined and referred to the CNS as a "scheduled organ." He combined the whole person impairments and converted the total to 67 percent permanent impairment of the CNS due to Parkinson's disease.

By decision dated April 8, 2022, OWCP denied appellant's schedule award claim, finding that the evidence of record was insufficient to establish permanent impairment of a scheduled

member or function of the body. It found that the CNS was not included in the list of scheduled members under the FECA and its implementing regulations.

On April 19, 2022 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on August 17, 2022.

By decision dated October 27, 2022, OWCP's hearing representative affirmed the April 6, 2022 decision.

LEGAL PRECEDENT

The schedule award provisions of FECA[6] and its implementing regulations[7] 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. 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 has adopted the A.M.A., *Guides* as the appropriate standard for evaluating schedule losses.[8] As of May 1, 2009, schedule awards are determined in accordance with the sixth edition of the A.M.A., *Guides*.[9] 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.[10]

The sixth edition of the A.M.A., *Guides* provides a diagnosis-based method of evaluation utilizing the World Health Organization's *International Classification of Functioning Disability and Health (ICF): A Contemporary Model of Disablement*.[11] For upper and lower extremity impairments, the evaluator identifies the impairment class for the class of diagnosis (CDX), which is then adjusted by a grade modifier for functional history (GMFH), a grade modifier for physical examination (GMPE), and/or a grade modifier for clinical studies (GMCS). The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).[12] Evaluators are directed to

---

[6] 5 U.S.C. § 8107.

[7] 20 C.F.R. § 10.404.

[8] *Id*. *See also T.T.*, Docket No. 18-1622 (issued May 14, 2019).

[9] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (September 2022); *see also* Chapter 3.700.2 and Exhibit 1 (January 2010).

[10] *P.R.*, Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera*, 12 ECAB 348 (1961).

[11] A.M.A., *Guides* (6th ed. 2009), p. 3, section 1.3.

[12] *Id.* at 411, 521; *see also G.W.*, Docket No. 23-0600 (issued September 20, 2023); *R.Z.*, Docket No. 10-1915 (issued May 19, 2011).

provide reasons for their impairment rating choices, including the choices of diagnoses from regional grids and calculations of modifier scores.[13]

Neither FECA nor its implementing regulations provide for the payment of a schedule award for the permanent loss of use of the back/spine or the body as a whole.[14] However, a schedule award is permissible where the employment-related spinal condition affects the upper and/or lower extremities.[15] The sixth edition of the A.M.A., *Guides* provides a specific methodology for rating spinal nerve extremity impairment in *The Guides Newsletter*. It was designed for situations where a particular jurisdiction, such as FECA, mandated ratings for extremities and precluded ratings for the spine. FECA-approved methodology is premised on evidence of radiculopathy affecting the upper and/or lower extremities. The appropriate tables for rating spinal nerve extremity impairment are incorporated in the Federal (FECA) Procedure Manual.[16]

ANALYSIS

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

OWCP referred appellant to its DMA, Dr. Krohn, for an opinion regarding appellant's permanent impairment in accordance with the sixth edition of the A.M.A., *Guides*. In his October 18, 2020 report, Dr. Krohn provided whole person impairment ratings for station and gait disorders and upper extremity CNS dysfunction. OWCP subsequently requested clarification as to permanent impairment of each extremity. In his December 29, 2020 report, Dr. Krohn calculated 48 percent permanent impairment for the "combined upper and lower extremities [CNS] dysfunction," which he indicated was mandated by OWCP's procedures as the CNS was a "scheduled organ." On April 23, 2021 OWCP denied appellant's schedule award claim. By decision dated August 5, 2021, OWCP's hearing representative vacated the April 23, 2021 OWCP decision and remanded the case for the DMA to clarify whether upper and lower extremity impairment could be determined by another methodology.

On February 9, 2022 OWCP again requested clarification from Dr. Krohn. It specifically asked: (1) whether upper and/or lower extremity impairment can be determined by using Table 13-11, page 335, and Table 15-11, page 420, for the upper extremities and Table 13-12, page 336, and Table 16-10, page 530, for lower extremities; and (2) whether the extremity impairment could be calculated using the methodology adopted for spinal injuries in *The Guides Newsletter.* Dr. Krohn, however, did not sufficiently respond. In his March 4, 2022 addendum report, he

---

[13] *J.S.*, Docket No. 21-1390 (issued September 1, 2023); *R.R.*, Docket No. 17-1947 (issued December 19, 2018); *J.W.*, Docket No. 11-289 (issued September 12, 2011).

[14] 5 U.S.C. § 8107(c); 20 C.F.R. § 10.404(a) and (b); *see J.S.*, Docket No. 21-1390 (issued September 1, 2023); *B.W.*, Docket No. 18-1415 (issued March 8, 2019); *J.M.*, Docket No. 18-0856 (issued November 27, 2018); *N.D.*, 59 ECAB 344 (2008); *Tania R. Keka*, 55 ECAB 354 (2004).

[15] *Id*. at § 8107(c); *id*. at § 10.404(a) and (b); *see C.W.*, Docket No. 19-1590 (issued September 24, 2020); *A.G.*, Docket No. 18-0815 (issued January 24, 2019); *Jay K. Tomokiyo*, 51 ECAB 361, 367 (2000).

[16] *Supra* note 5 at Chapter 3.700, Exhibit 4 (January 2010).

reiterated his prior assignment of 35 percent whole person impairment under Table 13-12 and agreed with Dr. Macht that, under Table 13-11, page 335, appellant had a 5 percent whole person impairment for his non-dominant left upper extremity and a 10 percent whole person impairment for the dominant right upper extremity. He also added 35 percent whole person impairment under Table 13-5 (Episodic Loss of Consciousness or Awareness), page 328, Class 3, for dementia, postural hypertension, and additional neurologic symptoms or signs of a focal or generalized nature. Dr. Krohn again indicated that OWCP's procedures required that multiple impairments for the same organ be combined and he referred to the CNS as a "scheduled organ."[17] He combined the whole person impairments and converted the total to 67 percent permanent impairment of the CNS due to Parkinson's disease. As Dr. Krohn failed to sufficiently respond to the questions posed by OWCP in its February 9, 2022 referral, further development is required.

It is well established that, proceedings under FECA are not adversarial in nature, and while the employee has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.[18] Once OWCP undertook development of the evidence by referring appellant's file to a DMA, it had an obligation to do a complete job and obtain a fully-rationalized opinion regarding the issue in this case.[19]

The case shall, therefore, be remanded for OWCP to obtain a supplemental opinion from Dr. Krohn. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

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

[17] The Board notes that neither FECA nor its implementing regulations provide for the payment of a schedule award for the permanent loss of use of the back, the spine, the CNS, or the body as a whole. 5 U.S.C. § 8107(c); 20 C.F.R. § 10.404(a) and (b); *see also A.G.*, Docket No. 18-0815 (issued January 24, 2019); *Jay K. Tomokiyo, supra* note 15.

[18] *See W.W.*, Docket No. 18-0093 (issued October 9, 2018); *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

[19] *See* 5 U.S.C. § 8101(19); *J.K.*, Docket Nos. 19-1420 & 19-1422 (issued August 12, 2020); *Francesco C. Veneziani*, 48 ECAB 572 (1997).

ORDER

IT IS HEREBY ORDERED THAT the October 27, 2022 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for proceedings consistent with this decision of the Board.

Issued: April 8, 2026
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board