

ISSUE

The issue is whether OWCP properly denied appellant's request for concurrent payment of schedule award compensation and wage-loss compensation for total disability due to his accepted employment injury.

FACTUAL HISTORY

On August 25, 2023 appellant, then a 49-year-old former customs and border protection officer, filed an occupational disease claim (Form CA-2) alleging that he sustained osteoarthritis and degenerative joint disease of the hips, and lumbar spinal stenosis with neurogenic claudication, due to factors of his federal employment, including wearing 40 pounds of equipment, frequent running, prolonged walking, repetitive heavy lifting, fighting, climbing, kneeling, and stooping. He noted that he first became aware of his condition and realized its relation to his federal employment on December 30, 2020. Appellant stopped work on August 31, 2021 and retired from federal employment. OWCP accepted the claim for acceleration of primary osteoarthritis of the hips, and permanent aggravation of lumbar spinal stenosis. It subsequently paid appellant wage-loss compensation on the supplemental rolls for the period September 1, 2021 through February 24, 2024, and on the periodic rolls commencing February 25, 2024.

In a June 10, 2024 OWCP second opinion report, Dr. Frederic R. Martin, a Board-certified neurologist, reviewed the medical record and a statement of accepted facts (SOAF). On examination, he found active residuals of appellant's accepted lumbar and bilateral hip conditions which continued to disable appellant from his date-of-injury position. Dr. Martin related that appellant was limited to sedentary work with restrictions.

On August 7, 2024 appellant filed a Form CA-7 for a schedule award.

OWCP subsequently received a May 24, 2024 report from Dr. John G. Lane, a Board-certified orthopedic surgeon, wherein he related appellant's history of injury and treatment and presented findings on examination. He diagnosed aggravation of bilateral hip degenerative joint disease, status-post right and left total hip arthroplasties, and underlying spinal stenosis. Dr. Lane opined that the accepted conditions had reached maximum medical improvement (MMI). He utilized the diagnosis-based impairment (DBI) rating methodology of the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (A.M.A., *Guides*)³ to find 31 percent permanent impairment of appellant's left lower extremity and 31 percent permanent impairment of his right lower extremity for bilateral total hip arthroplasties with fair result and mild motion deficit. Dr. Lane concluded that appellant's permanent impairments were causally related to his accepted employment injury.

In a September 6, 2024 report, Dr. Nathan Hammel, a Board-certified orthopedic surgeon, serving as a district medical adviser (DMA), reviewed the SOAF and medical record. He concurred with Dr. Lane's impairment rating of 31 percent permanent impairment of the left lower extremity and 31 percent permanent impairment of the right lower extremity.

³ A.M.A., *Guides* (6th ed. 2009).

In a September 25, 2024 letter, counsel requested that OWCP pay appellant a schedule award for 31 percent permanent impairment of the left lower extremity and 31 percent permanent impairment of the right lower extremity concurrently with wage-loss compensation for his accepted lumbar employment injury.

In an October 1, 2024 letter, OWCP advised counsel that wage-loss compensation and schedule award compensation could not be paid concurrently in the same claim. It noted that it would stop paying wage-loss compensation during the period of the schedule award.

By decision dated October 1, 2024, OWCP granted appellant a schedule award for 31 percent permanent impairment of the left leg and 31 percent permanent impairment of the right leg. The decision noted that the period of the award ran for 178.56 weeks for the period September 8 through October 5, 2024.

In an October 31, 2024 letter, counsel contended that a “schedule award for one injury may be paid concurrently with a compensation for wage loss paid for another injury, as long as the two injuries do not involve the same part of the body or extremity.”

In a November 21, 2024 letter, OWCP reiterated that appellant could not concurrently receive wage-loss compensation and a schedule award for the same injury. It afforded appellant 30 days to submit additional evidence to support concurrent payment of compensation. No response was received.

By decision dated December 23, 2024, OWCP denied appellant’s request for concurrent payment of wage-loss compensation and a schedule award for the same injury.⁴

On January 17, 2025 appellant, through counsel, requested a review of the written record by a representative of OWCP’s Branch of Hearings and Review.

By decision dated August 13, 2025, OWCP’s hearing representative affirmed the December 23, 2024 decision.

LEGAL PRECEDENT

The schedule award provisions of FECA⁵ and its implementing regulations⁶ 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 of a member shall be determined. For consistent results and to ensure equal justice under the law for all claimants, OWCP has adopted the A.M.A.,

⁴ OWCP noted that the period of the schedule award ran from September 8, 2024 through February 9, 2028.

⁵ *Supra* note 2.

⁶ 20 C.F.R. § 10.404.

Guides as the uniform standard applicable to all claimants.⁷ As of May 1, 2009, the sixth edition of the A.M.A., *Guides*, is used to calculate schedule awards.⁸

A schedule award is payable consecutively, but not concurrently, with an award for wage loss for disability arising from the same injury.⁹ A schedule award for one injury may be paid concurrently with compensation for wage loss paid for another injury, as long as the two injuries do not involve the same part of the body and/or extremity.¹⁰

ANALYSIS

The Board finds that OWCP properly denied appellant's request for concurrent payment of schedule award compensation and wage-loss compensation for total disability due to his accepted employment injury.

The record reflects that OWCP paid appellant wage-loss compensation for total disability on the supplemental rolls effective September 1, 2021, and on the periodic rolls effective February 25, 2024, due to the accepted employment injury. By decision dated October 1, 2024, OWCP granted appellant a schedule award for 31 percent permanent impairment of the right leg and 31 percent permanent impairment of the left leg, also due to the same accepted employment injury. The schedule award ran for the period September 8, 2024 through February 9, 2028.

Counsel argued before OWCP and this Board that appellant should be paid concurrently as his schedule award and wage-loss compensation payments were for different injuries. As explained above, a schedule award is payable consecutively, but not concurrently, with an award for wage loss for disability for the same injury.¹¹ Appellant's schedule award compensation and wage-loss compensation both arise from the same injury/employment factors. Therefore, he is precluded from concurrent payment.¹²

Neither OWCP nor the Board has the authority to enlarge the terms of FECA or to make an award of benefits under terms other than those specified in the statute.¹³ Accordingly, the Board finds that OWCP properly denied appellant's request for concurrent payment of schedule award

⁷ *Id.*; see also *Jacqueline S. Harris*, 54 ECAB 139 (2002).

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

⁹ *Id.* at Chapter 2.808.4a(3) (February 2013); see *B.H.*, Docket No. 25-0589 (issued July 3, 2025); *S.M.*, Docket No. 17-1557 (issued September 4, 2018); *E.S.*, Docket No. 16-1248 (issued May 15, 2017).

¹⁰ *Id.* at Chapter 2.808.4a(5); *B.H.*, *id.*; *J.B.*, Docket No. 08-1178 (issued December 22, 2008); *Michael J. Biggs*, 54 ECAB 595, 596-97 (2003).

¹¹ *Supra* note 10.

¹² *Id.*

¹³ *G.S.*, Docket No. 17-1318 (issued October 11, 2017); *S.K.*, Docket No. 08-848 (issued January 26, 2009).

compensation and wage-loss compensation for total disability due to his accepted employment injury.

CONCLUSION

The Board finds that OWCP properly denied appellant's request for concurrent payment of schedule award compensation and wage-loss compensation for total disability due to his accepted employment injury.

ORDER

IT IS HEREBY ORDERED that the August 13, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 8, 2026
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