United States Department of Labor
Employees' Compensation Appeals Board

A.T., Appellant	)	
	)	
and	)	**Docket No. 26-0447**
	)	**Issued: August 7, 2026**
DEPARTMENT OF THE AIR FORCE, TINKER AIR FORCE BASE, OK, Employer	)	

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 April 16, 2026 appellant filed a timely appeal from a March 11, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish greater than one percent permanent impairment of the larynx (air passages) for which he previously received a schedule award.

[1] 5 U.S.C. § 8101 *et seq*.

FACTUAL HISTORY

This case has previously been before the Board on a different issue.[2] The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On October 30, 2019 appellant, then a 36-year-old inventory management specialist, filed an occupational disease claim (Form CA-2) alleging that he developed throat and sinus conditions, and a respiratory infection due to factors of his federal employment, including exposure to mold. He noted that he first became aware of his condition and realized its relationship to his federal employment on October 21, 2019. Appellant stopped work on October 21, 2019 and returned on October 22, 2019.[3] On June 11, 2021 OWCP accepted the claim for allergic rhinitis. On July 26, 2021 it expanded acceptance of the claim to include temporary aggravations of other allergic rhinitis, postnasal drip, seasonal allergic rhinitis, and allergic rhinitis due to pollen.

In an August 30, 2021 report, Dr. John W. Ellis, a Board-certified family practitioner, examined appellant due to impairment of his respiratory function. He reviewed a July 16, 2021 sinus computerized tomography (CT) scan which demonstrated mild inflammatory changes in the maxillary sinuses with small fluid accumulations and a mucous retention cyst posteriorly on the left. On physical examination Dr. Ellis observed that nasal mucosa was an appropriate color, that there was no indication of inflammation, that nares are patent, that there were no obvious polyps, and that inspection of the throat revealed some mild cobble stoning consistent with a posterior nasal drip. He diagnosed allergic rhinitis, postnasal drip, seasonal allergic rhinitis, and allergic rhinitis due to pollen and advised that appellant had reached maximum medical improvement (MMI). Dr. Ellis opined that due to the changes in air flow and nasal obstruction appellant had developed air passage deficits with thickening of the nasal and sinus mucosa due to inflammation caused by allergens, pollutants, and environmental exposures. He related that continuous rhinitis led to "a postnasal drip causing irritation and inflammation in larynx causing feelings of itchiness and irritation in the back of his throat causing him to cough and clear his throat regularly." Dr. Ellis applied the criteria for rating impairment due to air passage deficits 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*)[4] and identified the class of diagnosis (CDX) as air passage deficits under Table 11-6, page 267 and opined that appellant had seven percent whole person permanent impairment due to upper air passage deficits for allergic rhinitis and posterior drip.

On September 2, 2021 appellant filed a claim for compensation (Form CA-7) for a schedule award.

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[2] Docket No. 20-0731 (issued September 30, 2020).

[3] In an undated work status report (Form CA-3), the employing establishment informed OWCP that appellant had stopped work on October 21, 2019, after filing his claim, and returned to work without restrictions on October 22, 2019.

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

On October 21, 2021 OWCP forwarded a copy of Dr. Elllis' reports along with a September 13, 2021 statement of accepted facts (SOAF) and the medical record to Dr. David I. Krohn, a Board-certified internist serving as OWCP's district medical adviser (DMA), for review.

In an October 27, 2021 report, Dr. Krohn reviewed the medical evidence and indicated that Dr. Ellis attributed appellant's air passage deficits to thickening of the nasal and sinus mucosa due to inflammation caused by allergens, pollutants, and environmental exposures. He reviewed the CT scan and related that the radiologist specifically commented that there was no evidence of obstruction to the air passages. Dr. Krohn opined that impairment for functional loss of use of the lungs could not be established by the evidence of record.

On May 15, 2022 OWCP requested that Dr. Krohn review Dr. Ellis' impairment rating based on air passage deficits and clarify if appellant was entitled to a permanent impairment rating based on the larynx/tongue, sinus/pharynx, nose, or "other body part referenced on Table 11-6." In his report of even date, he reviewed Dr. Ellis' physical finding including "mild cobble stoning of the posterior pharynx consistent with a posterior nasal drip." Dr. Krohn noted that Dr. Ellis had attributed appellant's air passage deficits to thickening of the nasal and sinus mucosa due to inflammation caused by allergens, pollutants, and environmental exposures. He further noted no complaint of dyspnea at rest, a Class 0 impairment, which resulted in no ratable permanent impairment in accordance with Table 11-6. Dr. Krohn converted the whole person impairment of Table 11-6 in accordance with OWCP's procedures, to reach zero percent impairment due to air passage deficits.[5]

On November 8, 2022 OWCP declared a conflict in medical opinion between Dr. Ellis and Dr. Krohn regarding appellant's permanent impairment. It referred appellant, along with the medical record, the SOAF, and a series of questions to Dr. Gregg Govett, a Board-certified otolaryngologist selected as the impartial medical examiner (IME), to resolve the conflict of the medical opinion evidence.

In a January 10, 2023 report, Dr. Govett performed a physical examination observing that the oropharynx revealed a normal uvula, soft palate, posterior pharyngeal wall, and tonsils and diagnosing allergic rhinitis. He related that appellant had no asthma complaints and no issues with his airways. Dr. Govett found "nasal congestion as a result of allergic rhinitis along with some sneezing and mucus in the throat, but no compromise to his pulmonary functions or problems related to stridor."

On February 17, 2023 OWCP requested a supplemental report from Dr. Govett addressing appellant's permanent impairment. In a March 7, 2023 report, Dr. Govett diagnosed allergic rhinitis with no septal deviation. He reviewed the air passage deficits provisions of the A.M.A., *Guides,* pages 265 through 269, and found "no complaint of dyspnea at rest, no interference of normal daily activities, no changes in the larynx, pharynx, or trachea." Dr. Govett found that appellant had zero percent impairment of nasal function.

By decision dated April 14, 2023, OWCP denied appellant's schedule award claim as the medical evidence of record did not demonstrate a ratable permanent impairment of a scheduled

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

member or function of the body. It attributed the special weight of the medical evidence to Dr. Govett, the IME.

On June 1, 2023 Dr. Ellis reviewed Dr. Govett's report and agreed with his physical findings while disagreeing with his application of the A.M.A., *Guides.* He related that in accordance with the criteria for rating impairment due to air passage deficits, Table 11-6, page 267 Class 1 impairment included no complaints of dyspnea at rest, that activities requiring intensive effort maybe interfered with or require prophylactic restriction of activity or require medication to maintain optimal function.[6] Dr. Ellis contended that appellant's use of Zyrtec and Nasonex indicated that he required medication to maintain optimal function in accordance with a Class 1 air passage deficit, and that the sinus CT scan demonstrated mild mucosal thickening or inflammatory changes in the maxillary sinuses and a mild retention cyst which indicated mild obstruction or five percent permanent impairment of the whole person due to air passage deficits. He converted a five percent whole person impairment by utilizing OWCP's formula to reach nine percent permanent impairment due to air passage deficits.

On June 12, 2023 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated June 20, 2023, OWCP denied appellant's June 12, 2023 request for review of the written record as untimely filed. It found that the request was not made within 30 days of its April 14, 2023 decision. OWCP further exercised its discretion and determined that the issue in the case could equally well be addressed through a request for reconsideration before OWCP along with the submission of new evidence.

On July 10, 2023 appellant requested reconsideration.

On August 31, 2023 OWCP referred the medical evidence to Dr. Krohn serving as OWCP's DMA, for review. In a September 10, 2023 report, he reviewed Dr. Ellis' June 1, 2023 report and evaluated the schedule award claim in accordance with impairment of the lungs. He found no ratable impairment. Dr. Krohn further evaluated permanent impairment resulting in air passage deficits, disagreed with Dr. Ellis' interpretation of the A.M.A., *Guides* finding that Class 1 impairment included interference with "activities requiring intensive effort" and determined that there was no ratable impairment based on review of the physical findings in the medical record.

By decision dated September 15, 2023, OWCP denied modification.

In an October 10, 2024 report, Dr. Ellis opined that appellant had reached MMI and provided a schedule award impairment for the lungs, based on Table 11-6, page 267, addressing air passage deficits. He again opined that based on chronic nasal obstruction and persistent symptoms, Class 1 impairment of seven percent permanent impairment of the whole person was

[6] Application of this provision under the A.M.A., *Guides* also requires mild changes to the oropharynx, laryngopharynx, larynx, upper trachea, or incomplete and episodic obstruction of the nose or nasopharynx. It requires mild mucosal thickening on sinus CT scan, mild obstruction of the nasopharynx or oropharynx, or laryngoscopy may show mild alteration in the vocal fold (cord) function. A.M.A., *Guides,* p. 267.

appropriate. Dr. Ellis then converted the whole person impairment to head and face[7] utilizing the formula 7 percent whole person impairment multiplied by 3.5 resulted in 24.5 percent permanent regional impairment of the head and face.

On March 11, 2025 appellant filed an additional schedule award claim.

On July 16, 2025 OWCP referred a March 26, 2025 SOAF and the medical record to Dr. Alan J. Goodman, a Board-certified internist and Board-certified allergist and immunologist serving as a DMA. In an August 22, 2025 report, he utilized A.M.A., *Guides*, Table 11-6 and found a Class 1 impairment, with no complaints of dyspnea at rest, the use of Zyrtec daily, and no documentation of any interference with activities. Dr. Goodman found minimal changes with cobble stoning on physical examination and no obstruction of the nose or oropharynx. He related that the presence of nares consistent with allergic rhinitis was not a statement of obstruction and that the CT scan did not demonstrate obstruction. Dr. Goodman applied the A.M.A., *Guides* finding that the default value of Class 1 impairment was five percent and then moved two places to the left to reach one percent permanent impairment. He then determined that appellant reached MMI on August 30, 2021 and concluded, "This claimant has Class 0 with a [one percent] air passage deficit [permanent partial impairment]."

By decision dated March 11, 2026, OWCP granted appellant a schedule award for one percent permanent impairment of his larynx (air passages). The award ran for 1.6 weeks for the period from August 30 through September 10, 2021.

LEGAL PRECEDENT

The schedule award provisions of FECA[8] and its implementing federal regulations,[9] 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 shall be determined. For consistent results and to ensure equal justice under the law for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.[10] As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.[11]

[7] FECA provides in section 8107(c)(21) that, for serious disfigurement of the face, head or neck of a character likely to handicap an individual in securing or maintaining employment, proper and equitable compensation not to exceed $3,500.00 shall be awarded in addition to any other compensation payable under this schedule. 5 U.S.C. § 8107(c)(21). There is no other schedule award afforded under FECA for impairment of the head and face.

[8] 5 U.S.C. § 8107.

[9] 20 C.F.R. § 10.404.

[10] *Id*. at § 10.404(a).

[11] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (February 2013); see also Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

No schedule award is payable for a member, function, or organ of the body that is not specified in FECA or in the implementing regulations.[12] The list of schedule members includes the eye, arm, hand, fingers, leg, foot, and toes. Additionally, FECA specifically provides for compensation for loss of hearing and loss of vision.[13] By authority granted under FECA, the Secretary of Labor expanded the list of schedule members to include the breast, kidney, larynx, lung, penis, testicle, tongue, ovary, uterus/cervix and vulva/vagina, and skin.[14] Neither FECA nor the regulations provide for the payment of a schedule award for the permanent loss of use of the back or the body as a whole.[15]

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to OWCP's DMA for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides*, with the DMA providing rationale for the percentage of impairment specified.[16]

ANALYSIS

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

Dr. Ellis, in his reports dated August 30, 2021 through October 10, 2024, opined that appellant had air passage deficits due to his accepted conditions of allergic rhinitis, temporary aggravations of other allergic rhinitis, postnasal drip, seasonal allergic rhinitis, and allergic rhinitis due to pollen. However, he did not specify the scheduled member which resulted in the air passage deficits.

OWCP referred these reports to Dr. Goodman, acting as DMA for review. He opined that appellant had Class 0 one percent permanent impairment due air passage defect in accordance with Table 11-6 of the A.M.A., *Guides*, but did not specify the scheduled member.[17] OWCP then granted appellant a schedule award for one percent permanent impairment of the larynx (air passages).

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. OWCP shares responsibility in the development of the evidence and has an obligation to see that

[12] *T.E.,* Docket No. 25-0785 (issued November 21, 2025); *L.A*., Docket No. 23-0212 (issued May 22, 2023); *J.G*., Docket No. 16-1533 (issued March 15, 2018); *W.C*., 59 ECAB 372, 374-75 (2008); *Anna V. Burke*, 57 ECAB 521, 523-24 (2006).

[13] 5 U.S.C. § 8107(c)(13) and (14).

[14] *Id*. at § 8107(c)(22); 20 C.F.R. § 10.404(b).

[15] *Id*. at § 8107(c); *id*. at § 10.404(a*); see Jay K. Tomokiyo*, 51 ECAB 361, 367 (2000).

[16] *See supra* note 10 at Chapter 2.808.6(f) (March 2017); *see also J.S*., Docket No. 23-0456 (issued October 2, 2023); *R.M*., Docket No. 18-1313 (issued April 11, 2019); *C.K*., Docket No. 09-2371 (issued August 18, 2010).

[17] *See L.D*., Docket No. 08-0827 (issued September 10, 2008) (finding that no physician had explained how appellant's diagnosed conditions resulted in ratable impairment of the larynx).

justice is done.[18] Once it undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.[19]

Neither Dr. Ellis nor Dr. Goodman, OWCP's DMA, provided appellant's permanent impairment rating in terms of a scheduled member or function of the body, pursuant to FECA[20] and OWCP's regulations.[21] As such, the case must be remanded for further medical development.[22]

On remand, OWCP shall refer appellant, together with a SOAF, and the case record to a second opinion, in the appropriate field of medicine, for a well-rationalized medical opinion as to whether appellant has any permanent impairment of a scheduled member or function of the body warranting a schedule award. Following 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.

[18] *R.S.,* Docket No. 25-0699 (issued September 16, 2025); *D.L.*, Docket No. 20-1299 (issued May 5, 2022); *J.H.*, Docket No. 19-1476 (issued March 23, 20201); *H.T.*, Docket No. 18-0979 (issued February 4, 2019); *John J. Carlone*, 41 ECAB 354, 358-60 (1989).

[19] *See V.H.*, Docket No. 23-1013 (issued July 24, 2025); *M.S.*, Docket No. 23-1125 (issued June 10, 2024); *E.B.*, Docket No. 22-1384 (issued January 24, 2024); *J.R.*, Docket No. 19-1321 (issued February 7, 2020); *S.S.*, Docket No. 18-0397 (issued January 15, 2019).

[20] *Supra* note 11.

[21] *See* 20 C.F.R. § 10.404.

[22] *R.S., supra* note 18.

ORDER

IT IS HEREBY ORDERED THAT the March 11, 2026 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further development consistent with this decision of the Board.

Issued: August 7, 2026
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