United States Department of Labor
Employees' Compensation Appeals Board

J.L., Appellant **and** **U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER FINANCE POST OFFICE, San Francisco, CA, Employer**	)))))))))	**Docket No. 25-0840** **Issued: February 27, 2026**

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
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 September 2, 2025 appellant, through counsel, filed a timely appeal from an August 18, 2025 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.[3]

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[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*.

[3] The Board notes that following the August 18, 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.*

ISSUES

The issues are: (1) whether appellant has met her burden of proof to expand the acceptance of her claim to include bilateral first thumb carpometacarpal (CMC) joint osteoarthritis and bilateral carpal tunnel syndrome as causally related to, or as a consequence of, her accepted employment conditions; and (2) whether appellant has met her burden of proof to establish greater than four percent permanent impairment of the right upper extremity and four percent permanent impairment of the left upper extremity, for which she previously received schedule award compensation.

FACTUAL HISTORY

This case has previously been before the Board.[4] The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On June 3, 2018 appellant, then a 57-year-old mail processing clerk, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral thumb, wrist, and forearm conditions due to factors of her federal employment including sweeping and feeding mail into the information unit. She noted that she first became aware of her condition on April 19, 2018, and realized its relationship to her federal employment on May 4, 2018.[5] OWCP accepted the claim for bilateral hand tenosynovitis and sprains of the interphalangeal joints of the thumbs.

In a report dated September 29, 2022, Dr. Robert Bruce Miller, a Board-certified physiatrist, noted that appellant had been treated for bilateral hand complaints. Appellant's physical examination revealed tenderness along the volar crease on palpation, decreased full wrist extension and adduction right thumb, C6 dermatomes paresthesia, and bilateral positive Flick sign. Dr. Miller reported paresthesia, right-hand pain greater than the left hand, and history of left greater de Quervain's tenosynovitis. He referred appellant for a consultation with Dr. Edward Damore, a Board-certified orthopedic surgeon, for her persistent pain. Dr. Miller stated that it was unclear whether appellant had carpal tunnel syndrome or de Quervain's tenosynovitis.

On December 11, 2022 appellant, through counsel, requested a schedule award and submitted a May 26, 2022 report from Dr. Miller. In his May 26, 2022 report, Dr. Miller diagnosed left greater than right de Quervain's tenosynovitis, flexor tendinitis left greater than right, and paresthesias. He opined that causation was not at issue as appellant had no complaints regarding her right and left thumb, hand, wrist or forearms prior to the date of injury. Dr. Miller noted appellant's physical examination findings including right and left upper extremity range of motion (ROM) findings. He determined the date of maximum medical improvement (MMI) was May 26, 2022. Dr. Miller utilized Table 15-2 (Digit Regional Grid) on page 401 and Table 15-12 (Impairment Values Correlated from Digit Impairment) on page 421 of the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*)[6] and applied the diagnosis-based impairment (DBI) rating method. He determined that

[4] Docket No. 24-0373 (issued June 7, 2024).

[5] Appellant resigned from the employing establishment with August 7, 2020 as the last day in pay status.

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

appellant's class of diagnosis (CDX) for muscle tendon sprain fell under a Class 1 impairment with a default value of grade C. Dr. Miller assigned a grade modifier for functional history (GMFH) of 2; a grade modifier for physical examination (GMPE) of 2; and a grade modifier for clinical studies (GMCS) of 1. He utilized the net adjustment formula, which resulted in an adjustment of 2, which would not change the default value, and found that the result was six percent permanent impairment of the left upper extremity. Dr. Miller recorded ROM measurements three times for the right hand and wrist. Using the ROM rating methodology, under Table 15-12, he opined that appellant had 18 percent left upper extremity impairment, based on 9 percent impairment due to loss of flexion, 3 percent impairment due to loss of extension, 4 percent due to loss of ulnar deviation, and 2 percent for loss of radial deviation. Dr. Miller concluded that appellant had 18 percent permanent impairment of the left upper extremity. Next, he determined that appellant had 16 percent permanent impairment of the right upper extremity using the ROM rating methodology as appellant had 9 percent impairment for loss of flexion, 3 percent impairment for loss of extension, 2 percent for loss of ulnar deviation, and 2 percent for loss of radial deviation. Dr. Miller concluded that appellant had 16 percent permanent impairment of the right upper extremity and 80 percent permanent impairment of the left upper extremity.

In a development letter dated January 6, 2023, OWCP informed appellant that the evidence of record was insufficient to establish her claim for a schedule award, noting that Dr. Miller's ROM findings did not clearly indicate bilateral ROM measurements. It advised her regarding the evidence required to support her claim and afforded her 30 days to submit the requested evidence.

In a progress report dated February 9, 2023, Dr. Miller related that appellant's left-hand still had decreased radial deviation, but that it was closer to normal. On palpation appellant still had some tenderness to the carpometacarpal ligament of the fifth digit, and strength of the left hand was still four out of five.

On May 18, 2023 OWCP referred appellant, along with the medical record, statement of accepted facts (SOAF), and list of questions, to Dr. Charles F. Xeller, a Board-certified orthopedic surgeon, for a second opinion regarding her work-related conditions, and to provide a permanent impairment rating of the hands and thumbs.

On June 15, 2023 appellant, through counsel, requested expansion of the acceptance of the claim to include the conditions of bilateral first thumb CMC joint osteoarthritis and bilateral carpal tunnel syndrome. In support of her request, she submitted a May 31, 2023 report from Dr. Damore who noted extensive physical examination findings and diagnosed bilateral first thumb CMC joint osteoarthritis, and bilateral carpal tunnel syndrome. Under history of injury, Dr. Damore reported that appellant developed bilateral hand pain, numbness, and tingling from her repetitive work duties. He opined that appellant had developed a bilateral hand repetitive injury.

By development letter dated June 15, 2023, OWCP advised that it had reviewed Dr. Damore's report and requested a supplemental report addressing how "the newly diagnosed conditions were caused or aggravated by the accepted work factors under this claim or consequential to the accepted conditions or work factors." It allotted appellant 30 days to submit the requested evidence.

In a report dated July 12, 2023, Dr. Xeller reviewed the SOAF and medical record. He provided appellant's physical examination findings and diagnosed moderately severe bilateral de Quervain's tenosynovitis. Dr. Xeller recorded ROM measurements three times for both wrists,

noting normal wrist ROM except for ulnar deviation. He opined that appellant had reached MMI on May 26, 2022. Utilizing the DBI methodology of the sixth edition of the A.M.A., *Guides*, Dr. Xeller identified the CDX for the diagnosis of bilateral wrist sprain/strain related to de Quervain's tenosynovitis as Class 1 under Table 15-3, page 395. He assigned a GMFH of 2, in accordance with Table 15-7, page 406, a GMPE of 2, in accordance with Table 15-8, page 408, and indicated that the GMCS was not applicable. Utilizing the net adjustment formula, (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX) = (2- 1) + (2 - 1) = 2, Dr. Xeller calculated that appellant had a net adjustment of 2, resulting in movement from the default grade of C to E and corresponding to two percent permanent impairment of the left wrist and two percent impairment for the right wrist. Next, he utilized Table 15-32 on page 473 to determine that appellant had four percent permanent impairment due to limited ROM of the left wrist and a four percent permanent impairment due to limited ROM of the right wrist, due to her ulnar deviation. Dr. Xeller explained that using the ROM methodology of rating produced a higher impairment rating for each upper extremity than would be calculated under the DBI methodology. Regarding appellant's accepted thumb conditions, he related that appellant had full ROM of the fingers and her flexor digitorum profundus and flexor digitorum superficialis functioned normally. Thus, Dr. Xeller concluded that she had four percent permanent impairment of the left upper extremity and four percent permanent impairment of the right upper extremity under the sixth edition of the A.M.A., *Guides*.

On July 31, 2023 OWCP referred appellant's medical records to Dr. Amanda C. Trimpey, Board-certified in occupational medicine serving as an OWCP district medical adviser (DMA) and requested that she review the medical evidence and evaluate appellant's permanent impairment under the sixth edition of the A.M.A., *Guides*.

In a report dated August 9, 2023, Dr. Trimpey reviewed the medical records, SOAF, and OWCP's series of questions. She noted the accepted conditions were bilateral hand tenosynovitis and bilateral thumb joint interphalangeal sprain and determined the date of MMI to be July 12, 2023. Dr. Trimpey reviewed the medical evidence, including Dr. Miller's May 26, 2022 impairment rating and February 9, 2023 report, and Dr. Xeller's July 12, 2023 impairment rating. She noted that it was difficult to follow Dr. Miller's report due to the multiple numbers related for measurements in his report. In addition, Dr. Trimpey reported that in his February 9, 2023 report, Dr. Miller reported an improved physical examination and near normal ROM findings. She advised that appellant had four percent permanent impairment of her left upper extremity and four percent permanent impairment of her right upper extremity under the sixth edition of the A.M.A., *Guides*, based upon permanent impairment of the wrists. Dr. Trimpey provided impairment calculations that mirrored those of Dr. Xeller.

By decision dated August 18, 2023, OWCP denied expansion of the acceptance of appellant's claim to include bilateral first thumb CMC joint osteoarthritis and bilateral carpal tunnel syndrome.

By decision dated August 21, 2023, OWCP granted appellant a schedule award for four percent permanent impairment of the right upper extremity and four percent permanent impairment of the left upper extremity. The date of MMI listed was July 12, 2023, the date of Dr. Xeller's report. The award covered a period of 24.96 weeks and ran from July 12, 2023 through January 2, 2024.

On August 31, 2023 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on December 7, 2023.

Appellant subsequently submitted reports from Dr. Miller covering the period February 24 through December 22, 2023. Dr. Miller reported that appellant had left-hand pain greater than the right hand with paresthesia and chronic paresthesia. He also noted placement of a transcutaneous electrical nerve stimulation (TENS) unit.

By decision dated February 6, 2024, OWCP's hearing representative affirmed the August 21, 2023 schedule award decision.

In a decision also dated February 6, 2024, OWCP's hearing representative affirmed the August 18, 2023 decision denying appellant's request to expand the acceptance of her claim to include bilateral CMC osteoarthritis and bilateral carpal tunnel syndrome.

On February 27, 2024 appellant, through counsel, filed an appeal with the Board.[7] By decision dated June 7, 2024, the Board affirmed the February 6, 2024 decisions. The Board found that appellant had not met her burden of proof to expand the acceptance of her claim to include bilateral first thumb CMC joint osteoarthritis and bilateral carpal tunnel syndrome as causally related to, or as a consequence of, her accepted employment conditions. The Board also affirmed the February 6, 2024 hearing representative decision which affirmed the August 21, 2023 schedule award decision The Board found that appellant had not met her burden of proof to establish greater than four percent permanent impairment of the left upper extremity and greater than four percent permanent impairment of the right upper extremity for which she previously received schedule award compensation.

OWCP continued to receive office visit notes covering the period January 1, 2024 through August 1, 2025 from Dr. Miller who diagnosed bilateral hand pain with paresthesias, greater on the left and chronic paresthesias.

Dr. Miller, in reports dated June 16, July 29, September 17, and October 21, 2024, diagnosed bilateral carpal tunnel syndrome, right cubital tunnel syndrome, and bilateral hand pain with paresthesias, greater on the left.

In office visit notes dated June 27 and September 24, 2024, Dr. Miller related that appellant was seen for the same bilateral hand complaints. On physical examination he reported ruborous distal forearms and bilateral hands discoloration with bilateral gross hand musculature atrophy, tenderness on palpation throughout bilateral carpal wrist bones, decreased bilateral wrist ROM, tenderness on palpation over the CMC bilateral first digit joints, and grossly diminished but symmetric bilateral median and ulnar nerve distributions. Dr. Miller diagnosed bilateral carpal tunnel syndrome, right cubital tunnel syndrome, and bilateral hand pain with paresthesias, greater on the left.

On March 27, 2025 appellant, through counsel, requested reconsideration of the June 7, 2024 decision. In support of her request, she submitted reports dated May 23 and 30, 2024 from Dr. Miller. Dr. Miller related that appellant was seen by Dr. Damore on May 31, 2023, and that

[7] *Supra* note 3.

Dr. Damore diagnosed bilateral carpal tunnel syndrome, bilateral wrist pain, and bilateral first CMC osteoarthritis. He reviewed appellant's electromyography and nerve conduction (EMG/NCV) studies which indicated abnormal and demonstrated bilateral sensory median nerve wrist entrapment consistent with carpal tunnel syndrome.

Appellant subsequently submitted a March 25, 2025 report from Dr. Miller who diagnosed chronic paresthesias, right wrist severe Triangular Fibrocartilage Complex (TFCC) degenerative changes, and bilateral hand pain with paresthesias, greater on the left.

Dr. Miller, in reports dated April 3 and June 24, 2025, diagnosed chronic paresthesias, right wrist severe TFCC degenerative changes, left wrist degenerative changes and perforation to the TFCC, and bilateral hand pain with paresthesias, greater on the left.

In progress notes dated April 25 and July 10, 2025, Dr. Damore noted appellant's bilateral hand complaints. On physical examination he reported decreased bilateral radial digits sharp-dull discrimination, positive Tinel's and Phalen's signs, negative bilateral CMC grind, TFC pain, diffuse wrist pain, and mild dorsoradial wrist aspect swelling. A review of appellant's March 21, 2025 left wrist magnetic resonance imaging (MRI) arthrogram revealed scapholunate ligament and lunotriquetral ligament degeneration, TFCC perforation tear with synovitis, distal ulna chondromalacia, mild triscaphoid joint osteoarthritis, and first CMC joint arthrosis. Dr. Damore also reviewed appellant's January 31, 2025 right wrist MRI arthrogram which he related revealed scapholunate ligament degenerative changes, high-grade distal ulna chondromalacia, moderate first CMC joint osteoarthritis, and mild-to-moderate triscaphoid articulation degenerative changes. He diagnosed bilateral carpal tunnel syndrome, bilateral wrist pain, and bilateral first CMC osteoarthritis.

On May 27, 2025 OWCP referred appellant, along with the medical record, SOAF, and list of questions, to Dr. John Welborn, a Board-certified orthopedic surgeon, for a second opinion evaluation regarding expansion of her claim to include additional conditions.

Dr. Miller, in a July 15, 2025 report, diagnosed chronic bilateral hand paresthesias greater on the left and bilateral carpal tunnel syndrome with sensory component only, greater on the right than the left.

In a report dated July 21, 2025, Dr. Miller diagnosed bilateral carpal tunnel syndrome, right cubital tunnel syndrome left wrist degenerative changes and TFCC perforation, right wrist severe TFCC degenerative changes, chronic paresthesias, and bilateral hand pain with paresthesias, greater on the left.

In a report dated July 23, 2025, Dr. Welborn recounted appellant's history of injury, reviewed the SOAF, and medical records. He noted that appellant had developed bilateral hand pain and numbness in 2018 as a result of repetitive use as a mail handler. On physical examination Dr. Welborn reported that appellant had bilateral wrist, right hand, and right forearm tenderness. A review of appellant's January 31, 2025 MRI scan demonstrated TFCC perforation and severe degeneration high grade distal ulna chondromalacia, moderate first CMC arthrosis, and mild-to-moderate extensor carpi ulnaris (ECU) tendinitis. Dr. Welborn noted that OWCP had accepted bilateral hand and thumb interphalangeal (IP) joint sprains, likely due to repetitive 2018 work injury. Under assessment he diagnosed unspecified wrist and hand sprain, wrist arthropathy, and carpal tunnel syndrome. Dr. Welborn opined that the accepted conditions had resolved and that

appellant currently suffered from nonindustrial carpal tunnel syndrome and wrist arthritis, which were diagnosed in 2023 after she stopped work in 2019.

By decision dated August 18, 2025, OWCP denied modification.

LEGAL PRECEDENT -- ISSUE 1

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.[8]

When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to the claimant's own intentional misconduct.[9] Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.[10]

The claimant bears the burden of proof to establish a claim for a consequential injury.[11] As part of this burden, the claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, establishing causal relationship. The opinion must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment injury.[12] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.[13]

Section 8123(a) of FECA provides, in pertinent part: "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 (known as a referee physician or an impartial medical examiner (IME) who shall make an examination."[14] This is called an impartial medical examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case. When there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an IME for the purpose of resolving the

[8] *S.D.*, Docket No. 21-0085 (issued August 9, 2021); *T.B.*, Docket No. 20-0182 (issued April 23, 2021); *W.L.*, Docket No. 17-1965 (issued September 12, 2018); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

[9] *See I.S.*, Docket No. 19-1461 (issued April 30, 2020); *see Charles W. Downey*, 54 ECAB 421 (2003).

[10] *Id.*; *see also Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

[11] *See C.H.*, Docket No. 20-0228 (issued October 7, 2020); *P.P.*, Docket No. 19-1359 (issued April 30, 2020).

[12] *K.W.*, Docket No. 18-0991 (issued December 11, 2018); *P.M.*, Docket No. 18-0287 (issued October 11, 2018).

[13] *P.M.*, *id.*

[14] *S.M.*, Docket No. 26-0010 (issued January 28, 2026); *P.B.,* Docket No. 20-0984 (issued November 25, 2020); *R.C.,* 58 ECAB 238 (2006).

conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.[15]

ANALYSIS -- ISSUE 1

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

Preliminarily, the Board notes that it is unnecessary to consider the evidence appellant submitted prior to the issuance of OWCP's February 6, 2024 merit decisions as the Board considered it in its June 7, 2024 decision.[16] Findings made in prior Board decisions are *res judicata* absent further merit review by OWCP under section 8128 of FECA.[17]

In support of her claim, appellant submitted reports from Dr. Miller wherein he provided appellant's physical examination findings and diagnosed bilateral carpal tunnel syndrome, right cubital tunnel syndrome left wrist degenerative changes and TFCC perforation, right wrist severe TFCC degenerative changes, chronic paresthesias, and bilateral hand pain with paresthesias, greater on the left. Dr. Miller attributed the diagnosed conditions to appellant's employment. Appellant also submitted reports from Dr. Damore who provided examination findings and diagnosed bilateral carpal tunnel syndrome, bilateral wrist pain, and bilateral first CMC osteoarthritis. Dr. Damore attributed the diagnosed conditions to appellant's repetitive work activities.

In his July 23, 2025 report, Dr. Wellborn, OWCP's second opinion physician, diagnosed unspecified wrist and hand sprain, wrist arthropathy, and carpal tunnel syndrome. He opined that the accepted bilateral hand and thumb conditions had resolved and that appellant currently suffered from nonindustrial carpal tunnel syndrome and wrist arthritis.

As explained above, if there is a disagreement between an employee's physician and an OWCP referral physician, OWCP will appoint an IME who shall make an examination. The Board finds that a conflict in medical opinion exists between Dr. Damore and Dr. Miller, appellant's treating physicians, and Dr. Wellborn, an OWCP second opinion physician, regarding whether the acceptance of appellant's claim should be expanded to include bilateral wrist degenerative changes, bilateral carpal tunnel syndrome, and bilateral first thumb CMC joint osteoarthritis, as causally related to, or as a consequence of, her accepted employment conditions.

As there is an unresolved conflict in medical opinion regarding whether the acceptance of appellant's claim should be expanded to include bilateral wrist and thumb conditions as causally related to, or consequential to, her accepted April 19, 2018 employment injury, the case must be remanded for OWCP to refer appellant, along with the case record, an updated SOAF, and a series of questions to an IME for resolution of the conflict in medical opinion evidence in accordance

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[15] *S.M.*, *id.*; *see W.N.,* Docket No. 21-0123 (issued December 29, 2021); *A.G.,* Docket No. 21-0315 (issued December 29, 2021); *R.R.,* Docket No. 19-0086 (issued February 10, 2021); *Darlene R. Kennedy,* 57 ECAB 414 (2006); *Gloria J. Godfrey,* 52 ECAB 486 (2001); *James P. Roberts,* 31 ECAB 1010 (1980).

[16] *See supra* note 4.

[17] *M.J.*, Docket No. 20-1565 (issued January 24, 2023); *B.D.*, Docket No. 20-1365 (issued December 21, 2022); *M.D.*, Docket No. 19-0510 (issued August 6, 2019); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1998).

with 5 U.S.C. § 8123(a). Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.[18]

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the August 18, 2025 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 27, 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

[18] In light of the Board's disposition of Issue 1, Issue 2 is not in posture for decision.