



## **ISSUE**

The issue is whether OWCP properly determined appellant's pay rate for payment of wage-loss compensation.

## **FACTUAL HISTORY**

On April 11, 2011 appellant, then a 50-year-old plant protection and quarantine technician, filed a traumatic injury claim (Form CA-1) alleging on that date, she sustained a left knee injury when she tripped on a tree root, fell to the ground, and struck her left knee on a rock while in the performance of duty. OWCP initially accepted appellant's claim for contusion of the left knee and lower leg.<sup>4</sup> It paid appellant wage-loss compensation for disability from work on the supplemental rolls, effective March 25, 2013, and on the periodic rolls, effective May 31, 2015.

By decision dated December 15, 2016, OWCP reduced appellant's compensation, effective December 13, 2016, based on her capacity to earn wages in the constructed position of bookkeeping clerk, at the rate of \$485.20 per week. It noted that the decision to reduce appellant's wage-loss compensation benefits was made on the basis that she was no longer totally disabled. OWCP determined that the position of bookkeeping clerk was medically and vocationally suitable for appellant, and that the position fairly and reasonably represented her wage-earning capacity. It attached a calculation of appellant's loss of wage-earning capacity (LWEC), in which it found that she had an LWEC of 41 percent. OWCP noted that appellant had a weekly pay rate of \$855.77 when disability began on May 4, 2015.

By decision dated April 4, 2025, OWCP modified its December 15, 2016 LWEC determination to reflect that appellant had no wage-earning capacity. It noted that Dr. Omar Hussamy, a Board-certified orthopedic surgeon serving as an OWCP referral physician, had opined in his February 7, 2025 report that appellant's condition had worsened to the point that she could no longer perform the duties of the modified position which was representative of her wage-earning capacity. OWCP stated, "Therefore, the evidence provided warrants modification of the formal LWEC decision dated [December 15, 2016]. Because the LWEC determination issued on [December 15, 2016] has been modified, we are in the process of paying your claim for total disability compensation effective [April 16, 2024]."

The case record contains payment records from April 2025, including a manual adjustment form, regarding appellant's wage-loss compensation payments beginning April 16, 2024. The records indicate that appellant had a weekly pay rate of \$855.77 when disability began on May 4, 2015.

In an April 19, 2025 letter, counsel noted, "Please advise as to what you are using as the current weekly pay for the job when injured and [appellant's] pay with supporting pay roll records when injured." He indicated that when the LWEC determination was first applied in 2017 the weekly pay being used was \$1,175.31, whereas now \$1,146.17 was apparently being used as the weekly wage.

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<sup>4</sup> OWCP later expanded the acceptance of appellant's claim to include pain disorder with related psychological factors, causalgia of the left lower limb, and complex regional pain syndrome I of other specified site.

By decision dated August 22, 2025, OWCP determined that it had properly calculated appellant's compensation for disability from work. It indicated that the weekly pay rate used to compute her gross compensation was \$855.77, that she was paid at the basic 66 2/3 percent (2/3) compensation rate, that her gross payment every four weeks was \$3,058.00, and that her net payment every four weeks was \$2,646.78. OWCP advised that its April 4, 2025 LWEC determination was made due to a change in appellant's work status. It noted that it placed appellant on the periodic rolls for wage-loss compensation given her total disability status and utilized the weekly pay rate of the date disability began, \$855.77. OWCP advised that appellant did not return to full-time work after her April 11, 2011 employment injury and therefore it was unable to use a date of recurrence pay rate. It further indicated, "Also, in response to the correspondence we have received from [counsel] concerning the weekly pay that was used of \$1,146.17 and \$1,175.31 is that these two amounts were used for the LWEC compensation computation." OWCP noted that the "two mentioned amounts represent what your current pay was of the position you held with your employing agency at the Date of Injury...." It indicated that the "current pay for Grade/Step when injured" was separate from the "pay for Grade/Step when actually injured," and that the "current pay for Grade/Step when injured" was what the weekly pay would be "if appellant were initially injured on that specific date." OWCP advised that the "pay for Grade/Step when actually injured" was the weekly pay of the date appellant was actually injured and unable to perform her work duties. It noted that as appellant had not returned to work on a full-time basis such that she qualified for a date of recurrence pay rate, her "most recent pay for Grade/Step when actually injured," which it also characterized as the weekly pay rate for the date disability began, was used for compensation. OWCP then provided the general *Shadrick* formula, developed in the case of *Albert C. Shadrick*,<sup>5</sup> that it indicated was used for appellant's LWEC payments, but the formula did not delineate the *Shadrick* calculation which was actually made in appellant's case.

### **LEGAL PRECEDENT**

Under FECA the term "disability" means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.<sup>6</sup> Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.<sup>7</sup> An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.<sup>8</sup> When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in his or her employment, he or she is entitled to compensation for loss of wages.<sup>9</sup>

Section 8105(a) of FECA provides: "If the disability is total, the United States shall pay the employee during the disability monthly monetary compensation equal to 66 2/3 percent of his

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<sup>5</sup> 5 ECAB 376 (1953), codified at 20 C.F.R. § 10.403.

<sup>6</sup> 20 C.F.R. § 10.5(f).

<sup>7</sup> See *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

<sup>8</sup> See *K.H.*, Docket No. 19-1635 (issued March 5, 2020).

<sup>9</sup> See *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

monthly pay, which is known as his basic compensation for total disability.”<sup>10</sup> Section 8101(4) of FECA defines “monthly pay” for purposes of computing compensation benefits as follows: “[T]he monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if the recurrence begins more than six months after the injured employee resumes regular full-time employment with the United States, whichever is greater....”<sup>11</sup>

The formula for determining LWEC, developed in the case of *Albert C. Shadrick*,<sup>12</sup> has been codified at section 10.403(c)-(e) of OWCP’s regulations.<sup>13</sup> Under the *Shadrick* formula, OWCP calculates an employee’s wage-earning capacity in terms of percentage by dividing the employee’s actual earnings (or constructed earnings) by the current or updated pay rate for the position held at the time of injury.<sup>14</sup> The employee’s wage-earning capacity in dollars is computed by first multiplying the pay rate for compensation purposes, defined in 20 C.F.R. § 10.5(a) as the pay rate at the time of injury, the time disability begins, or the time disability recurs, whichever is greater, by the percentage of wage-earning capacity. The resulting dollar amount is then subtracted from the pay rate for compensation purposes to obtain LWEC.<sup>15</sup> The regulations further provide:

“The employee’s wage-earning capacity in terms of percentage is computed by dividing the employee’s earnings by the current pay rate. The comparison of earnings and ‘current’ pay rate for the job held at the time of injury need not be made as of the beginning of partial disability. OWCP may use any convenient date for making the comparison as long as both wage rates are in effect on the date used for comparison.”<sup>16</sup>

### ANALYSIS

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

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<sup>10</sup> 5 U.S.C. § 8105(a). Section 8110(b) of FECA provides that total disability compensation will equal three fourths of an employee’s monthly pay when the employee has one or more dependents. 5 U.S.C. § 8110(b).

<sup>11</sup> 5 U.S.C. § 8101(4).

<sup>12</sup> *Supra* note 5.

<sup>13</sup> 20 C.F.R. § 10.403(c)-(e).

<sup>14</sup> *Id.* at § 10.403(c)-(d). In the *Shadrick* formula, line (1) represents the weekly pay rate of record as derived from section 8101(4) and associated sections of FECA; line (2) represents the current weekly pay rate for the job and step when injured; and line (3) represents the injured employee’s constructed or actual weekly earnings. See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Determining Wage-Earning Capacity Based on Actual Earnings*, Chapter 2.815.4b (June 2013). When the job held at injury included additional pay elements (such as night differential pay and Sunday premium pay), which would also be included in the pay rate for compensation purposes, the additional pay should be reflected in the current pay rate for job and step when injured portion of the *Shadrick* formula. This adjustment is made by increasing the additional pay elements by the same percentage as the original base pay was increased by these elements. *Id.* at Chapter 2.900.2 (March 2011).

<sup>15</sup> 20 C.F.R. § 10.403(e).

<sup>16</sup> *Id.* at § 10.403(d).

In its August 22, 2025 decision, OWCP noted that its calculation of appellant's wage-loss compensation beginning April 16, 2024 was based on utilization of the weekly pay rate when disability began, which it identified as \$855.77.<sup>17</sup> It further indicated, "Also, in response to the correspondence we have received from [counsel] concerning the weekly pay that was used of \$1,146.17 and \$1,175.31 is that these two amounts were used for the LWEC compensation computation." OWCP noted that the "two mentioned amounts represent what your current pay was of the position you held with your employing agency at the Date of Injury...." However, it did not explain how \$1,146.17 and \$1,175.31 figures were utilized in its calculations. In its August 22, 2025 decision, OWCP provided the general *Shadrick* formula that it indicated was used to determine appellant's LWEC payments. However, the formula itself did not include the *Shadrick* calculation which was actually made in appellant's case, and OWCP did not clearly identify appellant's current weekly pay rate for the date-of-injury position, which it suggested it had utilized in its LWEC calculation.<sup>18</sup>

Section 8124(a) of FECA<sup>19</sup> provides that OWCP shall determine and make a finding of fact and an award for or against payment of compensation.<sup>20</sup> Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings and facts and a statement of reasons.<sup>21</sup> As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.<sup>22</sup>

In its August 22, 2025 decision, OWCP did not adequately explain its findings regarding its wage-loss compensation payments to appellant for disability from work beginning April 16, 2024. The Board therefore finds that OWCP did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the precise defect of her claim and the kind of evidence which would overcome it.<sup>23</sup>

As such, the Board shall set aside OWCP's August 22, 2025 decision and remand the case for findings of fact and a statement of reasons for its decision pursuant to the standard set forth in section 5 U.S.C. § 8124(a) and 20 C.F.R. § 10.126.<sup>24</sup> After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

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<sup>17</sup> See *supra* note 11.

<sup>18</sup> See *supra* notes 5 and 12 through 15.

<sup>19</sup> 5 U.S.C. § 8101 *et seq.*

<sup>20</sup> *Id.* at § 8124(a).

<sup>21</sup> 20 C.F.R. § 10.126.

<sup>22</sup> Federal (FECA) Procedure Manual Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013) (all decisions should contain findings of fact sufficient to identify the benefit being denied and the reason for the disallowance).

<sup>23</sup> See *id.*; see also *N.R.*, Docket No. 22-0958 (issued February 21, 2025); *D.W.*, Docket No. 18-0483 (issued March 7, 2019).

<sup>24</sup> *D.O.*, Docket No. 22-0315 (issued June 29, 2022).

**CONCLUSION**

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

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 22, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for proceedings consistent with this decision of the Board.

Issued: February 13, 2026  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board