United States Department of Labor
Employees' Compensation Appeals Board

M.A., Appellant	)	
and	)	**Docket No. 26-0003**
	)	**Issued: February 27, 2026**
U.S. POSTAL SERVICE, DALLAS BULK MAIL CENTER, Dallas, TX, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On September 30, 2025, appellant filed a timely appeal from a September 16, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP) under OWCP File No. xxxxxx737. 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.[2]

ISSUE

The issue is whether appellant has met his burden of proof to establish greater than 8 percent permanent impairment of his left upper extremity and/or 10 percent permanent impairment of his right upper extremity, for which he previously received schedule award compensation.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the September 16, 2025 decision, OWCP received additional evidence. 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.*

FACTUAL HISTORY

On August 23, 2012, appellant, then a 45-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that he sustained injuries to his neck, elbows, and wrists due to factors of his federal employment. He noted that he first became aware of his condition and realized its relation to his federal employment on July 17, 2012. OWCP assigned the claim OWCP File No. xxxxxx313 and accepted it for neck sprain, bilateral carpal tunnel syndrome, and bilateral lesion of the ulnar nerve. Appellant stopped work on July 28, 2012.[3]

On August 16, 2013, appellant underwent OWCP-authorized left carpal tunnel and ulnar nerve (cubital tunnel) release. On January 31, 2014, he underwent OWCP-authorized right carpal tunnel and right cubital tunnel release.

On January 17, 2025, appellant filed a claim for compensation for a schedule award.

On February 4, 2025, OWCP referred appellant, along with a statement of accepted facts (SOAF) dated January 17, 2025, the medical record, and a series of questions to Dr. Thomas M. DeBerardino, a Board-certified orthopedic surgeon, for a second opinion examination and permanent impairment evaluation in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (A.M.A., *Guides*).[4] The SOAF listed appellant's other accepted claims, but did not mention the May 19, 2009 schedule award under OWCP File No. xxxxxx110 for 10 percent permanent impairment of the right upper extremity. Additionally, the SOAF did not list the right wrist sprain accepted under OWCP File No. xxxxxx281.

In a February 28, 2025 report, Dr. DeBerardino noted appellant's history of injury and medical treatment and reviewed the SOAF. He performed a physical examination of appellant's upper extremities and observed well-healed surgical scars at the elbows and wrists, mildly decreased sensation in the bilateral median and ulnar nerves, and a positive Tinel's sign at both elbows and wrists. Dr. DeBerardino provided measurements for ranges of motion of both elbows with flexion at 120 degrees with pain, extension at zero degrees, pronation at 80 degrees, and supination at 70 degrees. He also measured ulnar deviation of both wrists at 20 degrees and radial deviation of both wrists at 15 degrees. Dr. DeBerardino noted that appellant was unable to perform wrist flexion and extension due to pain. He administered a *Quick*DASH questionnaire with a score of 50. Dr. DeBerardino diagnosed bilateral carpal tunnel syndrome, bilateral ulnar nerve lesion,

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[3] Appellant has prior claims before OWCP. Under OWCP File No. xxxxxx281, OWCP accepted appellant's traumatic injury claim (Form CA-1) for a March 16, 2007 right wrist sprain. Under OWCP File No xxxxxx110, OWCP accepted appellant's occupational disease claim (Form CA-2) for bilateral rotator cuff syndrome of shoulder and allied disorders, and sprain of shoulder and upper arm, acromioclavicular, bilateral as of April 2006. By decision dated May 19, 2009 under OWCP File No. xxxxxx110, OWCP granted appellant a schedule award for 10 percent permanent impairment of the right upper extremity for loss of motion of the right shoulder. The period of the award ran 31.2 weeks, from February 10 through September 16, 2009. Under OWCP File No. xxxxxx737, OWCP accepted appellant's occupational disease claim (Form CA-2) for lumbar sprain; other affections of the left shoulder not otherwise classified; lateral meniscus tears of both knees; patellar chondromalacia of both knees; bilateral bunions; degeneration of lumbar or lumbosacral intervertebral disc; and displacement of lumbar intervertebral disc without myelopathy as of May 15, 2012. Appellant's claims under OWCP File Nos. xxxxxx313, xxxxxx281, xxxxxx737, and xxxxxx110 have been administratively combined, with the latter serving as the master file.

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

and neck sprain. He opined that appellant had reached maximum medical improvement (MMI) as of that date.

Regarding permanent impairment of the right and left upper extremities caused by carpal tunnel syndrome, Dr. DeBerardino referred to Table 15-23 (Entrapment/Compression Neuropathy Impairment), page 449 of the A.M.A., *Guides*. He assigned a grade modifier for clinical studies (GMCS) of 1 for test findings with conduction delay, a grade modifier for functional history (GMFH) of 2 for significant intermittent symptoms, and a grade modifier for physical examination (GMPE) of 2 for mildly decreased sensation in the median nerve distribution. Dr. DeBerardino totaled and averaged the grade modifiers to find a net modifier of two, to equal five percent permanent impairment of the right upper extremity and five percent permanent impairment of the left upper extremity.

Regarding permanent impairment of the right and left upper extremities for cubital tunnel syndrome status postsurgical release, Dr. DeBerardino referred to Table 15-23 to assign a GMCS of 1, a GMFH of 2, and a GMPE of 3. He totaled and averaged the grade modifiers to find a net modifier of two, to equal a GMPE of 2, and a GMCS of 1 for conduction delay, which resulted in a net modifier of 2 to equal five percent permanent impairment of the right upper extremity and five percent permanent impairment of the left upper extremity.

Dr. DeBerardino referred to *The Guides Newsletter, Rating Spinal Nerve Impairment Extremity Impairment Using the Sixth Edition* (July/August 2009) (*The Guides Newsletter*) to find no applicable impairment of the upper extremities related to the accepted cervical spine injury as sensation and motor strength were normal throughout both upper extremities.

Dr. DeBerardino explained that for multiple neuropathies, the nerve with the lower impairment is reduced by 50 percent. He calculated that 50 percent of 5 was 2.5 percent, rounded upward to 3 percent. Dr. DeBerardino applied the Combined Values Chart to find eight percent permanent impairment of the right upper extremity, and eight percent permanent impairment of the left upper extremity.

On April 3, 2025, under OWCP File No. xxxxxx737, OWCP referred the case record and SOAF to Dr. William Tontz, a Board-certified orthopedic surgeon serving as OWCP's district medical adviser (DMA). In a July 28, 2025 report, Dr. Tontz found that Dr. DeBerardino correctly applied the diagnosis-based impairment (DBI) rating method as the range of motion (ROM) method was not applicable to appellant's diagnoses. He concurred with Dr. DeBerardino's February 28, 2025 findings and permanent impairment rating. Dr. Tontz applied the Combined Values Chart to combine the 10 percent permanent impairment rating for the right upper extremity under OWCP File No. xxxxxx110 with the 8 percent permanent impairment, resulting in 17 percent permanent impairment of the right upper extremity.

By decision dated September 16, 2025, under OWCP File No. xxxxxx737, OWCP granted appellant a schedule award for eight percent permanent impairment of the left upper extremity, with zero percent additional impairment of the right upper extremity. It accorded the weight of the medical evidence to Dr. Tontz as the DMA. OWCP found that, as appellant had previously received a schedule award for 10 percent permanent impairment of the right upper extremity under OWCP File No. xxxxxx110, he was not entitled to an increased schedule award as the 8 percent permanent impairment under the present claim was less than that previously awarded. The period of the award ran 25 weeks, for the period February 28 through August 21, 2025.

LEGAL PRECEDENT

The schedule award provisions of FECA[5] and its implementing regulations[6] 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., *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]

Impairment due to carpal tunnel syndrome is evaluated under the scheme found in Table 15-23 (Entrapment/Compression Neuropathy Impairment) and accompanying relevant text.[9] In Table 15-23, grade modifiers levels (ranging from zero to four) are described for the categories of test findings, history, and physical findings. The grade modifier levels are averaged to arrive at the appropriate overall grade modifier level and to identify a default rating value. The default rating value may be modified up or down based on functional scale, an assessment of impact on daily living activities.[10]

OWCP issued FECA Bulletin No. 17-06 to explain the use of the DBI methodology versus the ROM methodology for rating of upper extremity impairments.[11] FECA Bulletin No. 17-06 provides:

> "Upon initial review of a referral for upper extremity impairment evaluation, the DMA should identify: (1) the methodology used by the rating physician (i.e., DBI or ROM); and (2) whether the applicable tables in Chapter 15 of the [A.M.A.,] *Guides* identify a diagnosis that can alternatively be rated by ROM. *If the [A.M.A., Guides] allow for the use of both the DBI and ROM methods to calculate an impairment rating for the diagnosis in question, the method producing the higher rating should be used.*"[12] (Emphasis in the original).

In determining impairment for the upper extremities under the sixth edition of the A.M.A., *Guides*, an evaluator must establish the appropriate diagnosis for each part of the upper extremity to be rated. With respect to the fingers and hand, the relevant portions of the arm for the present case, reference is made to Table 15-2 (Digital Regional Grid) beginning on page 391. After the

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[5] *Supra* note 1.

[6] 20 C.F.R. § 10.404.

[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); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

[9] A.M.A., *Guides* (6th ed. 2009) 449.

[10] *Id.* at 448-49.

[11] FECA Bulletin No. 17-06 (issued May 8, 2017).

[12] *Id.*

CDX is determined from the appropriate regional grid (including identification of a default grade value), the net adjustment formula is applied using a GMFH, a GMPE, and/or a GMCS. The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to its 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.[13]

It is well established that benefits payable under 5 U.S.C. § 8107(c) are reduced by the period of compensation paid under the schedule for an earlier injury if: (1) compensation in both cases is for impairment of the same member or function or different parts of the same member or function; and (2) the latter impairment in whole or in part would duplicate the compensation payable for the preexisting impairment.[14]

ANALYSIS

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

OWCP obtained a February 28, 2025 second opinion report by Dr. DeBerardino, who found a total of eight percent permanent impairment of the right upper extremity and eight percent permanent impairment of the left upper extremity. The Board notes, however, that the January 17, 2025 SOAF provided to Dr. DeBerardino was incomplete, as it failed to include information about the May 19, 2009 schedule award under OWCP File No. xxxxxx110 for 10 percent permanent impairment of the right upper extremity due to limited motion of the right shoulder. Additionally, the SOAF did not list the right wrist sprain accepted under OWCP File No. xxxxxx281. OWCP's procedures and Board precedent dictate that, when an DMA for OWCP, second opinion specialist, or impartial medical examiner renders a medical opinion based on a SOAF which is incomplete or inaccurate or does not use the SOAF as the framework in forming his or her opinion, the probative value of the opinion is seriously diminished or negated altogether.[15]

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.[16] Once OWCP undertook development of the

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[13] *Supra* note 10 at Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5(a) (March 2017).

[14] 20 C.F.R. § 10.404(d); *see T.W.*, Docket No. 25-0800 (issued December 17, 2025); *J.S.,* Docket No. 23-0579 (issued January 30, 2024); *S.M.,* Docket No. 17-1826 (issued February 26, 2018); *T.S.,* Docket No. 16-1406 (issued August 9, 2017); *T.S.,* Docket No. 09-1308 (issued December 22, 2009).

[15] *See T.W.*, *id.*; *M.T.,* Docket No. 24-0457 (issued June 6, 2024); *R.S.,* Docket No. 23-1093 (issued March 12, 2024); *N.P.,* Docket No. 19-0296 (issued July 25, 2019); *M.D.,* Docket No. 18-0468 (issued September 4, 2018); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.3 (October 1990).

[16] *See T.W.*, *id.*; *M.T., id.*; *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).

evidence, it had an obligation to do a complete job and obtain a proper evaluation and a report that would resolve the issue in this case.[17]

The case shall therefore be remanded for further development. On remand, OWCP shall refer appellant, along with the case record and a complete and accurate updated SOAF, to a new physician in the appropriate field of medicine for a second opinion relative to permanent impairment. 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 September 16, 2025 decision of the Office of Workers' Compensation Programs under OWCP File No. xxxxxx737 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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

[18] OWCP shall file the *de novo* decision under OWCP File No. xxxxxx313 as that is file under which this schedule award claim was initiated.