

**United States Department of Labor
Employees' Compensation Appeals Board**

L.W., Appellant))
)
and)	Docket No. 25-0771
U.S. POSTAL SERVICE, LOS ANGELES POST OFFICE, Los Angeles, CA, Employer)	Issued: January 7, 2026
)

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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 6, 2025 appellant filed a timely appeal from a June 23, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 26 percent permanent impairment of the right upper extremity (right wrist) and 8 percent permanent impairment of the left upper extremity, for which he previously received schedule award compensation.

FACTUAL HISTORY

On July 19, 2019 appellant, then a 78-year-old motor vehicle operator, filed an occupational disease claim (Form CA-2) alleging that he sustained injuries to both hands and

¹ 5 U.S.C. § 8101 *et seq.*

wrists due to factors of his federal employment including repetitive lifting, pushing, pulling, gripping, and grasping movements. He noted that he first became aware of his claimed conditions and realized their relationship to his federal employment on July 19, 2019. Appellant did not stop work. OWCP accepted the claim for other synovitis and tenosynovitis, right hand; other synovitis and tenosynovitis, left hand; rheumatoid arthritis without rheumatoid factor, right wrist; subluxation of distal radioulnar joint of right wrist; other specified sprain of right wrist; and sprain of carpal joint of left wrist.² Appellant retired effective February 28, 2020.

On December 11, 2020 appellant filed a claim for compensation (Form CA-7) for a schedule award.

By decision dated March 1, 2021, OWCP granted appellant a schedule award for 26 percent permanent impairment of the right upper extremity (right wrist) in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).³ The award was based on a July 25, 2020 report of Dr. Charles Xeller, a Board-certified orthopedic surgeon and treating physician, and a February 16, 2021 report of Dr. David J. Slutsky, a Board-certified orthopedic surgeon, serving as an OWCP district medical adviser (DMA). The award ran for 81.12 weeks from July 25, 2020 through February 12, 2022.

On March 28, 2021 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on July 7, 2021.

By decision dated August 12, 2021, OWCP's hearing representative affirmed the March 1, 2021 decision, finding that the weight of the medical evidence was properly accorded to Dr. Slutsky.

On July 1, 2024 appellant filed a Form CA-7 claim for an additional schedule award.

In an April 26, 2024 report, Dr. Xeller discussed appellant's factual and medical history and reported the findings of his physical examination. With regard to the right wrist, he noted that the examination did not reveal carpal or cubital tunnel syndrome despite April 5, 2024 bilateral electrodiagnostic testing indicating some underlying peripheral neuropathy. Dr. Xeller diagnosed subluxation of distal radioulnar joint right wrist, right wrist triangular fibrocartilage complex tear, and synovitis and tenosynovitis bilateral wrists. He found that appellant had reached maximum medical improvement (MMI) as of April 8, 2020. Dr. Xeller applied the standards of the sixth edition of the A.M.A, *Guides* and determined that, under Table 15-3 (Wrist Regional Grid), appellant had 28 percent permanent impairment or Class 3, grade B impairment for the class of diagnosis (CDX) of functional right wrist arthrodesis. He noted that he had assigned a grade modifier for physical examination (GMPE) of 3 and a grade modifier for functional history (GMFH) of 2. Dr. Xeller concluded that since the 28 percent permanent impairment rating exceeded the prior award of 26 percent permanent impairment of the right upper extremity, he was entitled to an additional 2 percent permanent impairment for a total of 28 percent permanent

² OWCP assigned the present claim OWCP File No. xxxxxx913. Under OWCP File No. xxxxxx321, OWCP accepted a June 27, 2019 traumatic injury (Form CA-1) for a left wrist contusion.

³ A.M.A., *Guides* (6th ed. 2009).

impairment for the right upper extremity (right wrist). With regard to the left wrist, Dr. Xeller opined that appellant suffered from persistent tendinitis of the wrist, which manifested as 15 degrees of radial motion and 20 degrees of ulnar motion. He rated appellant under the range of motion (ROM) methodology and opined that appellant had a total of three percent left upper extremity permanent impairment.

On July 1, 2024 OWCP again referred appellant's case along with an updated statement of accepted facts (SOAF) to Dr. Slutsky, in his capacity as a DMA, and requested that he review Dr. Xeller's April 26, 2024 report and provide a permanent impairment rating assessment.

In a July 23, 2024 report, Dr. Slutsky advised that he had reviewed Dr. Xeller's April 26, 2024 report, the SOAF, and the medical record. He noted that appellant had a significant history of rheumatoid arthritis and that the July 23, 2019 magnetic resonance imaging scan of appellant's right wrist revealed erosive changes at the distal radius and ulna, along with pronounced tenosynovitis of the fourth and fifth tendons and extensor carpi ulnaris. Dr. Slutsky opined that this was consistent with aggravation of a preexisting disorder or rheumatoid arthritis of the right wrist. He noted that the closest impairment class to this condition was that of post-traumatic degenerative joint disease (DJD) which, under Table 15-3 of the A.M.A., *Guides*, had a five percent default upper extremity impairment rating. Dr. Slutsky further noted that appellant could not be assigned to the impairment class for wrist arthrodesis as a decreased wrist ROM does not qualify as an arthrodesis and appellant had some ROM in all planes. He further stated that under Table 15-3, if motion loss is present, the impairment may be assessed using section 15.7, ROM impairment. Dr. Slutsky utilized the DBI rating methodology to find that, under Table 15-3, appellant's right wrist DJD resulted in nine percent permanent impairment of the upper extremity. He noted that appellant's CDX for DJD resulted in a Class 1 impairment with a default impairment rating of five percent. Dr. Slutsky found that appellant had a GMFH of 2, a GMPE of 2, and a grade modifier for clinical studies (GMCS) of 2. He applied the net adjustment formula and calculated a Class 1, grade E impairment, or nine percent permanent impairment of the right upper extremity. Dr. Slutsky also utilized the ROM methodology and noted Dr. Xeller's three separate ROM measurements. He found that, under Table 15-32, appellant had 3 percent impairment due to flexion of 34 degrees, 3 percent impairment due to extension of 33 degrees, 0 percent impairment due to radial deviation of 20 degrees, and 12 percent impairment due to 12 degrees of ulnar deviation. Dr. Slutsky also applied Table 15-36 (functional history grade adjustment) and found that the grade modifier for ROM was 2. He advised that since the GMFH was also 2, appellant's right wrist permanent impairment remained at 18 percent. As the ROM methodology yielded a higher impairment value of 18 percent *versus* the DBI rating of 9 percent, he found appellant had a total of 18 percent right upper extremity permanent impairment. He further explained, that as appellant had previously been awarded compensation for 26 percent permanent impairment of the right upper extremity (right wrist), no additional impairment was due.

With regard to the left wrist, Dr. Slutsky utilized Table 15-3 and found that appellant's left wrist DJD was a Class 1, grade C or five percent impairment. He found that appellant had a GMFH of 1, a GMPE of 1, and a GMCS of 1. Applying the net adjustment formula, he calculated a Class 1, grade C impairment, or five percent permanent impairment of the left upper extremity. Using the ROM methodology, under Table 15-32, he found three percent impairment for 47 degrees flexion, three percent impairment for 43 degrees wrist extension, zero percent impairment for 15 degrees radial deviation; and two percent impairment for 21 degrees ulnar deviation, for a total of eight percent permanent impairment. Dr. Slutsky also applied Table 15-36 and found a GMFH of

1, and that no adjustment was required. Thus, he opined that appellant had eight percent permanent impairment of the left upper extremity. As the ROM methodology yielded a higher impairment value than the DBI methodology, Dr. Slutsky found that appellant had eight percent left upper extremity impairment. He determined that appellant reached MMI on April 26, 2024, the date of Dr. Xeller's impairment evaluation.

By decision dated August 14, 2024, OWCP denied appellant's claim for an additional schedule award with regard to the right upper extremity. However, it also awarded eight percent permanent impairment of the left upper extremity. The award ran for 24.96 weeks from April 26 through October 17, 2024.

In a report dated January 31, 2025, Dr. Xeller explained why he rated appellant for an arthrodesis of his right wrist. He indicated that, while technically it was not an arthrodesis, the only way appellant had any functional use of his right wrist and fingers was if he kept his wrist in a tight wrist sprint, effectively causing an arthrodesis.

On March 24, 2025 appellant requested reconsideration of the August 14, 2024 decision.

On May 2, 2025 OWCP requested clarification from Dr. Slutsky regarding his July 23, 2024 report.

In a June 10, 2025 supplemental report, Dr. Slutsky explained that the A.M.A., *Guides* at page 471 indicate that ROM may be used as a stand-alone approach for total wrist impairment. He opined that despite appellant's functional disability, there was no wrist ankylosis *per se* even though the wrist ROM was limited. Dr. Slutsky, therefore, concluded that his prior impairment rating was correct as it considered loss of wrist motion.

By decision dated June 23, 2025, OWCP denied modification.

LEGAL PRECEDENT

The schedule award provisions of FECA⁴ and its implementing regulations⁵ 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.⁶ As of May 1, 2009, the sixth edition of the A.M.A., *Guides*, is used to calculate schedule awards.⁷

⁴ 5 U.S.C. § 8107.

⁵ 20 C.F.R. § 10.404.

⁶ *Id.*; see also Jacqueline S. Harris, 54 ECAB 139 (2002).

⁷ 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).

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 wrist, the relevant portion of the arm for the present case, reference is made to Table 15-3 (Wrist Regional Grid) beginning on page 395. After the 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).⁸

The A.M.A., *Guides* also provide that the ROM impairment methodology is to be used as a stand-alone rating for upper extremity impairments when other grids direct its use or when no other diagnosis-based sections are applicable.⁹ If ROM is used as a stand-alone approach, the total of motion impairment for all units of function must be calculated. All values for the joint are measured and added.¹⁰ Adjustments for functional history may be made if the evaluator determines that the resulting impairment does not adequately reflect functional loss and functional reports are determined to be reliable.¹¹

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.¹² 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.*”¹³ (Emphasis in the original).

OWCP’s procedures provide that, after obtaining all necessary medical evidence, the file should be routed to a 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.¹⁴

⁸ See A.M.A., *Guides* (6th ed. 2009) at 395-397. Table 15-3 also provides that, if motion loss is present for a claimant with certain diagnosed ligament/bone/joint conditions, permanent impairment may alternatively be assessed using Section 15.7 (ROM impairment). Such a ROM rating stands alone and is not combined with a DBI rating. *Id.* at 397.

⁹ *Id.* at 461.

¹⁰ *Id.* at 473.

¹¹ *Id.* at 474.

¹² FECA Bulletin No. 17-06 (issued May 8, 2017).

¹³ *Id.*

¹⁴ See *supra* note 7 at Chapter 2.808.6(f) (March 2017). See also P.W., Docket No. 19-1493 (issued August 12, 2020); *Frantz Ghassan*, 57 ECAB 349 (2006).

Section 8123(a) of FECA provides that, 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 who shall make an examination.¹⁵ This is called a referee examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case. In situations where there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical examiner for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.¹⁶

ANALYSIS

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

With regard to the right wrist, Dr. Xeller, in his April 26, 2024 report, opined that appellant had 28 percent permanent impairment of the right upper extremity for Class 3, grade B impairment for the CDX of functional right wrist arthrodesis under the DBI methodology. In his July 23, 2024 and June 10, 2025 reports, Dr. Slutsky, the DMA, on the other hand, rated appellant's right wrist as a post-traumatic DJD diagnosis. He noted that appellant's history and diagnostic findings were consistent with an aggravation of a preexisting disorder or rheumatoid arthritis of the wrist, which equated to a post-traumatic DJD diagnosis.

With regard to the left wrist, Dr. Xeller opined that appellant suffered from persistent tendinitis of the wrist which manifested as 15 degrees of radial motion and 20 degrees of ulnar motion. He rated appellant under the ROM methodology and found that 15 degrees of radial motion equated to one percent impairment and 20 degrees of ulnar motion equated to two percent impairment, for a total of three percent left upper extremity permanent impairment. Dr. Slutsky on the other hand, opined that appellant had eight percent permanent impairment based on appellant's loss of ROM of the left wrist. Utilizing the ROM methodology, Dr. Slutsky found that 47 degrees flexion yielded three percent impairment; 43 degrees wrist extension yielded three percent impairment; 15 degrees radial deviation yielded zero percent impairment; and 21 degrees ulnar deviation yielded two percent impairment, for a total of eight percent permanent impairment.

The Board, therefore, finds that a conflict exists in the medical opinion evidence as to appellant's permanent impairment of the right and left upper extremities.¹⁷

The case shall therefore be remanded for an impartial medical evaluation to resolve the conflict. On remand, the impartial medical examiner shall provide a rationalized medical opinion as to the degree of permanent impairment of the right and left upper extremities under the sixth

¹⁵ 5 U.S.C. § 8123(a). *See R.C.*, Docket No. 18-0463 (issued February 7, 2020); *see also G.B.*, Docket No. 16-0996 (issued September 14, 2016).

¹⁶ 20 C.F.R. § 10.321. *See also J.H.*, Docket No. 22-0981 (issued October 30, 2023); *N.D.*, Docket No. 21-1134 (issued July 13, 2022); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts*, 31 ECAB 1010 (1980).

¹⁷ *Supra* notes 15 and 16.

edition of the A.M.A., *Guides*. After this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the June 23, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: January 7, 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