

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

M.Y., Appellant)	
and)	Docket No. 26-0025
U.S. POSTAL SERVICE, ROYAL PALM PROCESSING & DISTRIBUTION CENTER, Opa Locka, FL, Employer)	Issued: January 20, 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

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 6, 2025 appellant filed a timely appeal from a July 28, 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.²

ISSUE

The issue is whether appellant has met her burden of proof to establish permanent impairment of a scheduled member or function of the body, warranting a schedule award.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the July 28, 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.*

FACTUAL HISTORY

On February 11, 2019 appellant, then a 62-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that she injured her back due to factors of her federal employment, including constantly maneuvering 500-pound cages for 18 years. She noted that she first became aware of her condition and realized its relationship to her federal employment on December 14, 2018. Appellant worked with restrictions and OWCP paid her wage-loss compensation for partial disability on the supplemental rolls.³ OWCP accepted the claim for lumbar sprain and lumbar radiculopathy.

On February 14, 2025 appellant filed a claim for compensation (Form CA-7) for a schedule award.

In a February 14, 2025 development letter, OWCP requested that appellant submit a medical report addressing whether she had reached maximum medical improvement and providing a permanent impairment evaluation using the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).⁴

OWCP thereafter received a February 4, 2025 medical report by Dr. Ramon E. Alegret, Board-certified in pain medicine, anesthesiology, and internal medicine, who noted that appellant related complaints of low back pain, which radiated to her right lower extremity. Dr. Alegret performed a physical examination and observed limited range of motion (ROM) of the lumbar spine, tenderness in the sacral area, and a positive facet loading test. He diagnosed low back pain.

On March 27, 2025 OWCP referred appellant, along with a statement of accepted facts (SOAF), the medical record, and a series of questions to Dr. Peter J. Millheiser, a Board-certified orthopedic surgeon, for a second opinion examination and permanent impairment evaluation.

In an April 22, 2025 report, Dr. Millheiser noted appellant's history of injury and medical treatment and reviewed the SOAF. He performed a physical examination of the lumbar spine and lower extremities and observed reduced ROM of the lumbar spine, mild facet and paraspinal muscle tenderness, normal gait, normal strength, normal sensation, and negative Kemp, Bragard, and straight leg raise tests. Dr. Millheiser referred to the sixth edition of the A.M.A., *Guides*, and *The Guides Newsletter, Rating Spinal Nerve Impairment Extremity Impairment Using the Sixth Edition* (July/August 2009) (*The Guides Newsletter*) and opined that appellant had zero percent permanent based on radiculopathy and that the lumbar sprain resolved within two months of the date of injury. He explained that her physical examination was basically negative and that her radicular complaints were not supported by objective findings or diagnostic studies. Dr. Millheiser noted September 10, 2019 as the date of maximum medical improvement (MMI).

On June 17, 2025 OWCP referred appellant's claim to Dr. Kenechukwu Ugokwe, a Board-certified neurosurgeon serving as OWCP's District Medical Adviser (DMA). In a July 2, 2025 report, Dr. Ugokwe concurred with Dr. Millheiser's findings and permanent impairment rating. He explained that spinal nerve injury is determined under *The Guides Newsletter*. Dr. Ugokwe

³ Appellant retired from federal service on October 30, 2022.

⁴ A.M.A., *Guides* (6th ed 2009).

determined that appellant was neurologically intact and, therefore, she had no ratable impairment for the accepted conditions. He listed the date of MMI as September 10, 2019.

By decision dated July 28, 2025, OWCP denied appellant's schedule award claim, finding that there was no permanent impairment of a scheduled member or function of the body.

LEGAL PRECEDENT

The schedule award provisions of FECA⁵ and its implementing regulations⁶ 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 to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. Through its implementing regulations, OWCP adopted the A.M.A., *Guides* as the appropriate standard for evaluating schedule losses.⁷ As of May 1, 2009, schedule awards are determined in accordance with the sixth edition of the A.M.A., *Guides* (2009).⁸ The Board has approved the use by OWCP of the A.M.A., *Guides* for the purpose of determining the percentage loss of use of a member of the body for schedule award purposes.⁹

Neither FECA nor its implementing regulations provide for a schedule award for impairment to the back or to the body as a whole.¹⁰ However, a schedule award is permissible where the employment-related spinal condition affects the upper and/or lower extremities.¹¹ The sixth edition of the A.M.A., *Guides* (2009) provides a specific methodology for rating spinal nerve extremity impairment in *The Guides Newsletter*. It was designed for situations where a particular jurisdiction, such as FECA, mandated ratings for extremities and precluded ratings for the spine. The FECA-approved methodology is premised on evidence of radiculopathy affecting the upper and/or lower extremities. The appropriate tables for rating spinal nerve extremity impairment are incorporated in the Federal (FECA) Procedure Manual.¹²

⁵ 5 U.S.C. § 8107.

⁶ 20 C.F.R. § 10.404.

⁷ *Id.* See also A.S., Docket No. 20-1068 (issued April 15, 2025); R.C., Docket No. 20-0274 (issued May 13, 2021) *Ronald R. Kraynak*, 53 ECAB 130 (2001).

⁸ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010); Federal Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017).

⁹ M.D., Docket No. 20-0007 (issued May 13, 2020); P.R., Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera*, 12 ECAB 348 (1961).

¹⁰ K.Y., Docket No. 18-0730 (issued August 21, 2019); L.L., Docket No. 19-0214 (issued May 23, 2019); N.D., 59 ECAB 344 (2008); *Tania R. Keka*, 55 ECAB 354 (2004).

¹¹ *Supra* note 8 at Chapter 2.808.5c(3) (March 2017).

¹² *Supra* note 8 at Chapter 3.700, Exhibit 4 (January 2010); see L.H., Docket No. 20-1550 (issued April 13, 2021); N.G., Docket No. 20-0557 (issued January 5, 2021).

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.¹³

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish permanent impairment of a scheduled member or function of the body, warranting a schedule award.

In support of her claim, appellant submitted a February 4, 2025 report from Dr. Alegret, who related his examination findings and appellant's diagnoses. This report, however, did not provide a permanent impairment rating of a scheduled member or function of the body.

In his April 22, 2025 report, Dr. Millheiser opined that appellant had no ratable impairment of the lower extremities. He explained that her physical examination was basically negative and that her radicular complaints were not supported by objective findings or diagnostic studies. The Board finds that Dr. Millheiser properly applied *The Guide Newsletter* in finding that appellant had no ratable permanent impairment of the lower extremities based on neurologic deficits of sensory and motor loss.¹⁴

In accordance with its procedures, OWCP properly routed the case record to Dr. Ugokwe, its DMA, who opined that appellant had no permanent impairment. Dr. Ugokwe noted that pursuant to *The Guides Newsletter*, appellant was not entitled to a schedule award for a lower extremity spinal nerve impairment based on Dr. Millheiser's normal neurologic examination findings. He agreed with Dr. Millheiser that there was no permanent impairment of any spinal nerve due to motor or sensory deficits due to a spinal nerve, and thus no permanent impairment under FECA due to the accepted spinal conditions. The Board finds that the DMA properly used Dr. Millheiser's findings and provided an explanation in conformance with the A.M.A., *Guides* and *The Guides Newsletter*, that appellant had no permanent impairment of her lower extremities due to either a motor or sensory deficit of the spinal nerve. The weight of the medical evidence is represented by the opinions of Dr. Millheiser and the DMA, Dr. Ugokwe, and establishes that appellant has no permanent impairment of a scheduled member or function of the body warranting a schedule award. The Board finds that appellant has not met her burden of proof.

Appellant may request a schedule award or increased schedule award at any time based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased permanent impairment.

¹³ See *supra* note 8 at Chapter 2.808.6f (February 2013). See also *J.T.*, Docket No. 17-1465 (issued September 25, 2019); *C.K.*, Docket No. 09-2371 (issued August 18, 2010); *Frantz Ghassan*, 57 ECAB 349 (2006).

¹⁴ *E.S.*, Docket No. 25-0791 (issued November 20, 2025); *B.J.*, Docket No. 25-0323 (issued March 13, 2025); *T.T.*, Docket No. 24-0079 (issued April 1, 2024).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish permanent impairment of a scheduled member or function of the body, warranting a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the July 28, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 20, 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