

¹ The Board notes that during the pendency of this appeal, OWCP issued a decision dated June 4, 2026 finding that the medical evidence of record was insufficient to establish permanent impairment of a scheduled member or function of the body causally related to his accepted employment injury. This decision is null and void as the Board and OWCP may not simultaneously exercise jurisdiction over the same underlying issue in a case on appeal. 20 C.F.R. §§ 501.2(c)(3), 10.626; *see e.g., M.C.*, Docket No. 18-1278 (issued March 7, 2019); *Lawrence Sherman*, 55 ECAB 359, 360 n.4 (2004); *Douglas E. Billings*, 41 ECAB 880 (1990).

In support of his claim, appellant submitted audiograms and hearing conservation data dated November 24, 2009 through November 12, 2024 from the employing establishment's hearing conservation program.

In a development letter dated October 3, 2025, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him of the type of factual and medical evidence needed to establish his claim and afforded him 60 days to provide the necessary evidence. In a separate development letter of even date, OWCP requested information from the employing establishment, including comments from a knowledgeable supervisor regarding appellant's allegations. It afforded the employing establishment 30 days to respond.

In a narrative response received on October 4, 2025, appellant related that under OWCP File No. xxxxxx614 he had an accepted claim for non-Hodgkin lymphoma sustained while working at the employing establishment. He also noted that he had undergone chemotherapy which caused a known side effect of hearing loss.

On November 14, 2025 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Gregg Govett, a Board-certified otolaryngologist, for a second opinion examination regarding the nature and extent of appellant's hearing loss, and whether there was any causal relationship between appellant's diagnosed hearing loss and his accepted employment exposure. In the attached SOAF, OWCP noted that appellant's claim had been accepted for "other and unspecified complications of medical care." It also noted that under OWCP File No. xxxxxx614, appellant's claim was accepted for non-Hodgkin lymphoma. OWCP related that appellant had undergone seven rounds of chemotherapy, and that certain kinds of chemotherapy could be toxic to the inner ear.

Appellant submitted an audiogram dated November 24, 2025.

In a December 10, 2025 report, Dr. Govett diagnosed bilateral constant tinnitus and sensorineural hearing loss. He calculated that appellant had a 72.9375 percent binaural hearing loss which he opined did not appear to be related to his federal employment. In support of this conclusion, Dr. Govett stated that the audiogram performed that day was unreliable because the pure tone averages and speech-reception thresholds did not correlate. Additionally, appellant's ototoxic chemotherapy for his non-Hodgkin lymphoma could cause hearing loss. He recommended Auditory Brainstem Response (ABR) testing.

In a report dated February 19, 2026, D. Kelly Worth, Au.D., to whom OWCP referred appellant, reviewed an ABR test performed that day, which noted a history of severe sensorineural hearing loss, and normal ABR results with no evidence of retro cochlear pathology.

By decision dated March 18, 2026, OWCP denied appellant a schedule award, finding that the medical evidence of record was insufficient to establish that appellant sustained a permanent impairment of a scheduled member or function of the body causally related to his accepted employment injury.

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

In his December 10, 2025 report, Dr. Govett noted that chemotherapy could cause hearing loss and that appellant should undergo ABR testing. OWCP referred the case to Dr. Worth for

ABR testing, which was performed on February 19, 2026. However, OWCP denied appellant's claim without obtaining a supplemental report from Dr. Govett with regard to the nature and extent of appellant's hearing loss based on the results of the ABR testing.

Proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.² Once OWCP undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.³

The case must therefore be remanded to OWCP for further development. On remand, for full and fair adjudication, OWCP shall administratively combine OWCP File Nos. xxxxxx614 and xxxxxx562.⁴ It shall then obtain a supplemental second opinion report from Dr. Govett. Following this, and other such further development as deemed necessary, it shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the March 18, 2026 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this order of the Board.

² See *J.C.*, Docket No. 26-0371 (issued June 29, 2026); *M.S.*, Docket No. 23-1125 (issued June 20, 2024).

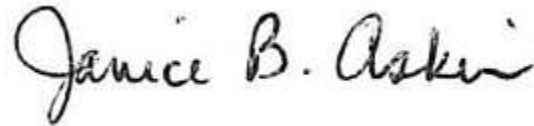
³ *Id.*

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c(3) (March 16, 2026); see also *Order Remanding Case, L.W.*, Docket No. 26-0265 (issued April 22, 2026); *K.K.*, Docket No. 20-0581 (issued September 14, 2020).

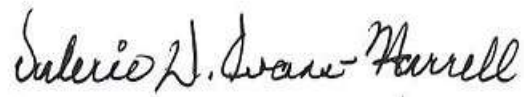
Issued: July 13, 2026
Washington, DC

A handwritten signature in black ink, reading "Patricia H. Fitzgerald". The signature is written in a cursive style with a large, prominent "P" and "F".

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

A handwritten signature in black ink, reading "Janice B. Askin". The signature is written in a cursive style with a large, prominent "J" and "A".

Janice B. Askin, Judge
Employees' Compensation Appeals Board

A handwritten signature in black ink, reading "Valerie D. Evans-Harrell". The signature is written in a cursive style with a large, prominent "V" and "E".

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