United States Department of Labor
Employees' Compensation Appeals Board

M.S., Appellant	)	
and	)	**Docket No. 26-0166**
	)	**Issued: June 23, 2026**
U.S. POSTAL SERVICE, CITYGATE RETAIL POST OFFICE, Columbus, OH, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
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 December 9, 2025 appellant, through counsel, filed a timely appeal from a November 17, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that following the November 17, 2025 decision, appellant submitted additional evidence to OWCP. 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.*

ISSUE

The issue is whether appellant has met her burden of proof to establish greater than 12 percent permanent impairment of her left upper extremity for which she previously received schedule award compensation, and/or any permanent impairment of her right upper extremity.

FACTUAL HISTORY

On July 14, 2009 appellant, then a 61-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on June 13, 2009 she sustained a left shoulder injury lifting tubs of flats while in the performance of duty. She stopped work on the date of injury and returned to work on June 16, 2009. OWCP accepted the claim for sprain of the left shoulder and upper arm, acromioclavicular (AC), sprain of neck, and permanent aggravation of cervical spondylosis without myelopathy or radiculopathy. Appellant retired effective February 9, 2010.

On February 19, 2019 appellant filed a claim for compensation (Form CA-7) for a schedule award.

By decision dated October 29, 2019, OWCP granted appellant a schedule award for four percent permanent impairment of the left upper extremity, based on the diagnosis of left shoulder AC joint injury. The date of maximum medical improvement (MMI) was listed as September 4, 2018. The award covered a period of 12.48 weeks and ran from September 4 through November 30, 2018.

In a report dated November 15, 2021, Dr. Sami E. Moufawad, a Board-certified physiatrist, provided a permanent impairment rating. Utilizing the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),[4] he found that appellant had 29 percent left upper extremity permanent impairment. Dr. Moufawad explained his calculations to find that appellant had 15 percent permanent impairment of the left shoulder using the range of motion (ROM) methodology, and 16 percent permanent impairment of the left upper extremity due to motor and sensory loss from C5 and C6 radiculopathy, for a combined left upper extremity permanent impairment of 29 percent. He also found that she had four percent right upper extremity permanent impairment due to right-sided C6 sensory radiculopathy of moderate intensity.

On November 20, 2021 appellant, through counsel, requested an increased schedule award.

On May 19, 2022 OWCP forwarded a copy of Dr. Moufawad's report along with the July 10, 2019 statement of accepted facts (SOAF) and the medical record to Dr. Michael M. Katz, a Board-certified orthopedic surgeon serving as OWCP's district medical adviser (DMA), for review.

In a May 25, 2022 report, Dr. Katz recommended that a second opinion permanent impairment evaluation be obtained due to the significant differences in the neurological findings between appellant's 2019 examination findings and Dr. Moufawad's 2021 examination.

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

On June 24, 2022 OWCP referred appellant, along with the case record and the July 10, 2019 SOAF, to Dr. Gerald Rosenberg, a Board-certified orthopedic surgeon, for a second opinion examination.

In a July 20, 2022 report, Dr. Rosenberg opined that appellant reached MMI on September 4, 2018. He concluded that she had four percent permanent impairment of the left shoulder for AC joint sprain, under the diagnosis-based impairment (DBI) methodology. Dr. Rosenberg also noted that appellant had no ongoing signs of radiculopathy and therefore had no permanent impairment of the left or right upper extremity due to sensory or motor loss.

By decision dated August 29, 2022, OWCP denied appellant's claim for an increased schedule award. It afforded the weight of the medical evidence to Dr. Rosenberg, the second opinion physician.

On September 9, 2022 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated November 16, 2022, OWCP's hearing representative set aside the August 29, 2022 decision and remanded the case for additional medical development.

On January 26, 2023 OWCP forwarded a copy of the medical record with a January 26, 2023 updated SOAF to Dr. Katz, the DMA, for review.[5]

In a January 30, 2023 report, Dr. Katz opined that there was a conflict in medical opinion between Dr. Moufawad and Dr. Rosenberg regarding the degree of permanent impairment. He recommended that appellant be referred to an impartial medical examiner (IME) for an impartial medical evaluation.

On February 23, 2023 OWCP requested that Dr. Katz clarify his opinion regarding the conflict of medical evidence.

In a March 1, 2023 addendum, Dr. Katz indicated that Dr. Rosenberg's examination was largely confined to the left shoulder and further detail regarding ROM measurements was needed.

As Dr. Rosenberg was no longer conducting schedule award evaluations, on April 5, 2023 OWCP referred appellant, the January 26, 2023 SOAF and the medical record, to Dr. Albert E. Becker, a Board-certified orthopedic surgeon, for a second opinion permanent impairment evaluation.

In a May 4, 2023 report, Dr. Becker diagnosed spondylosis without myelopathy or radiculopathy, cervical region, sprain of left shoulder and upper arm, AC, and neck sprain. He opined that appellant reached MMI at the time of his May 4, 2023 evaluation. Using the A.M.A., *Guides*, Dr. Becker set forth his findings and calculated appellant's permanent impairment. For the left shoulder, he found 5 percent upper extremity permanent impairment for AC joint impairment under the DBI methodology, and 25 percent permanent impairment under the ROM

[5] The January 26, 2023 SOAF did not mention that appellant was awarded four percent permanent impairment of the left upper extremity.

methodology. Dr. Becker explained that there was no evidence of any neurological, sensory or motor changes in the left upper extremity.

On August 30, 2023 OWCP declared a conflict in medical opinion between "Dr. Moufawad and Dr. Rosenberg" regarding appellant's permanent impairment. It referred appellant, along with the medical record, the January 26, 2023 SOAF, and a series of questions to Dr. Pietro Seni, a Board-certified orthopedic surgeon selected as the IME, to resolve the conflict of medical evidence.

In an October 20, 2023 report, Dr. Seni related appellant's physical examination findings. He opined that appellant had reached MMI on October 20, 2023, the date of his examination. Dr. Seni concluded that appellant had no neurologic or sensory impairment of the cervical spine consistent with cervical radiculopathy, causing permanent impairment of either the right or left upper extremities.

For the right upper extremity, under Table 15-34, Dr. Seni opined that appellant had 9 percent permanent right upper extremity impairment under the ROM methodology. Under Table 15-34, he opined that appellant's left shoulder loss of ROM totaled 20 percent permanent impairment of the left upper extremity (12 percent whole person impairment). Dr. Seni opined that appellant reached MMI on October 20, 2023.

In a November 27, 2023 letter, OWCP advised that appellant was previously compensated for four percent permanent impairment of the left upper extremity. It requested that Dr. Seni clarify whether the 12 percent permanent impairment of the left upper extremity included or was in addition to the 4 percent impairment rating previously paid.

In a December 15, 2023 addendum, Dr. Seni indicated that the 12 percent total permanent impairment of appellant's left upper extremity included the prior 4 percent permanent impairment rating.

On March 15, 2024 OWCP forwarded a copy of the medical record with the January 26, 2023 SOAF to Dr. Arthur S. Harris, a Board-certified orthopedic surgeon serving as OWCP's DMA, for review. It noted that the case was referred to an IME to resolve the conflict of medical opinion between "Dr. Moufawad and Dr. Katz, the DMA," with regard to permanent impairment.

In a March 26, 2024 report, Dr. Harris, the DMA, reviewed the SOAF and Dr. Seni's reports. He opined that appellant reached MMI on October 30, 2023, when she was evaluated by Dr. Seni.[6] For the right shoulder, Dr. Harris stated that he could not verify or calculate permanent impairment under the ROM methodology as Dr. Seni did not document retained shoulder adduction. He found that under Table 15-5, page 401 appellant had two percent right upper extremity impairment for right shoulder sprain, using the DBI methodology.

Dr. Harris observed that as Dr. Seni found no neurologic deficit in either upper extremity due to cervical radiculopathy, this was consistent with a Class 0 impairment based on the DBI methodology of *The Guides Newsletter, Rating Spinal Nerve Extremity Impairment Using the Sixth Edition* (July/August 2009) (*The Guides Newsletter*).

[6] Dr. Seni evaluated appellant on October 20, 2023.

For the left shoulder, Dr. Harris found that, under the DBI methodology, appellant had four percent permanent upper extremity impairment for AC joint sprain. Under the ROM methodology, he found that appellant had 12 percent upper extremity impairment. Under Table 15-34, Dr. Harris found loss of flexion equaled three percent impairment; loss of extension equaled two percent impairment; loss of abduction equaled three percent impairment; loss of internal rotation equaled two percent impairment; and loss of external rotation equaled two percent impairment.[7] As the ROM methodology represented the greater impairment, he opined that appellant had 12 percent impairment of the left upper extremity.

By decision dated April 18, 2024, OWCP granted appellant an additional schedule award for 8 percent permanent impairment of the left upper extremity, for a total award of 12 percent permanent impairment of the left upper extremity (left arm). It found no evidence of an accepted right shoulder injury and no measurable impairment to the right upper extremity due to aggravation of preexisting cervical spondylosis. The date of MMI was listed as October 30, 2023. The award covered a period of 24.96 weeks and ran from October 30, 2023 through April 21, 2024. The weight of the evidence was accorded to the reports of Dr. Seni and Dr. Harris, the DMA.

On April 23, 2024 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated May 31, 2024, OWCP's hearing representative set aside the April 18, 2024 decision and remanded the case for additional medical development.

On July 9, 2024 OWCP sought clarification from Dr. Harris, the DMA. OWCP asked him to assess and independently apply the impairment findings from Dr. Becker and Dr. Seni to the A.M.A., *Guides* and provide rationale explaining the final permanent impairment rating.

In a July 10, 2024 report, Dr. Harris observed that the medical record established cervical spine sprain, left shoulder AC joint sprain, and right shoulder sprain.[8] Utilizing Dr. Seni's physical examination findings, he observed that appellant had two percent permanent impairment of the right upper extremity for the diagnosis of shoulder sprain, under the DBI methodology of the A.M.A., *Guides*. Dr. Harris concurred that appellant had 9 percent right upper extremity permanent impairment and 12 percent left upper extremity permanent impairment, based on the ROM methodology. He also related that appellant had no permanent impairment for either a right or left cervical radiculopathy under *The Guides Newsletter* as appellant did not have any neurologic deficit in the upper extremities. Dr. Harris opined that MMI was October 30, 2023, when appellant was evaluated by Dr. Seni.

In letters dated August 9, September 26, and October 15, 2024, OWCP requested a supplemental report from Dr. Seni which provided appellant's retained shoulder adduction for the right upper extremity.

By decision dated December 12, 2024, OWCP granted appellant a schedule award for two percent permanent impairment of the right upper extremity. It noted that while Dr. Seni, the IME,

[7] The range of motion values were not indicated.

[8] OWCP has not accepted a right shoulder sprain.

did not respond to its clarification request regarding appellant's retained right shoulder adduction, the DMA had approved the two percent upper extremity rating for the right upper extremity. The date of MMI was listed as October 30, 2023. The award covered a period of 6.24 weeks and ran from April 22 through June 4, 2024.

On December 19, 2024 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

By *de novo* decision dated February 26, 2025, OWCP denied appellant's claim for an increased left upper extremity schedule award.

On March 5, 2025 OWCP received Dr. Seni's October 1, 2024 addendum regarding appellant's retained right shoulder adduction which he related was zero percent.

A telephonic hearing was held on April 4, 2025.

By decision dated June 18, 2025, an OWCP hearing representative set aside the December 12, 2024 decision and remanded the case for additional medical development. The hearing representative noted that appellant had been granted a schedule award for two percent permanent impairment of the right shoulder, which was not an accepted condition. On remand OWCP was to request that the DMA address whether appellant had any impairment to the right or left upper extremity due to the accepted cervical spine conditions.

On July 2, 2025 OWCP sought clarification and an addendum report from Dr. Harris, the DMA, as to whether appellant had a right or left upper extremity permanent impairment related to the cervical spine injury, and whether appellant sustained any permanent impairment to the right upper extremity as a result of the accepted left shoulder and cervical spine conditions.

In a July 9, 2025 report, Dr. Harris, the DMA, reviewed the SOAF, the medical reports and Dr. Seni's reports dated October 30, 2023 and October 1, 2024. He opined that MMI was reached October 30, 2023. Dr. Harris indicated that the medical record established the diagnoses of cervical spine strain, left shoulder AC joint strain, and right shoulder sprain. For the accepted cervical condition, he found that the A.M.A., *Guides* did not allow impairment to be calculated by the ROM methodology. Dr. Harris found that appellant did not have any neurologic deficit in either the right or left upper extremity consistent with cervical radiculopathy, under Table 1 of *The Guides Newsletter*. For the right shoulder sprain condition, he found that using the DBI methodology, under Table 15-5, appellant had two percent right upper extremity permanent impairment. Utilizing the ROM methodology, Dr. Harris found, under Table 15-34, nine percent total upper extremity impairment. This was comprised of three percent permanent impairment for loss of shoulder flexion; one percent impairment for loss of shoulder extension; three percent impairment for loss of shoulder abduction; and two percent impairment for loss of shoulder external rotation. As the ROM methodology resulted in the greater impairment, Dr. Harris opined that appellant had nine percent right upper extremity permanent impairment. For the left shoulder, he found that using the DBI methodology, under Table 15-5, appellant had four percent permanent impairment for the diagnosis of AC joint sprain. Using the ROM methodology, Dr. Harris also found, under Table 15-34, that appellant had 12 percent total upper extremity impairment. This was comprised of three percent impairment for loss of shoulder flexion; two precent impairment for loss of shoulder extension; three percent impairment for loss of shoulder abduction; two percent impairment for loss of shoulder internal rotation; two percent impairment for loss of shoulder

external rotation. As the ROM methodology resulted in the greater impairment, Dr. Harris opined that appellant had 12 percent permanent impairment of the left upper extremity.

By *de novo* decision dated August 26, 2025, OWCP found that appellant had previously received 12 percent schedule award for permanent impairment of the left upper extremity and was not entitled to an increased schedule award. It also found that she had no permanent impairment of the right and left upper extremities due to the cervical spine injury. Regarding the right upper extremity, OWCP noted that Dr. Seni's October 1, 2024 addendum report indicated that appellant had 0 percent permanent impairment for retained right shoulder adduction.

On October 13, 2025 appellant, through counsel, requested reconsideration. He submitted a duplicative copy of Dr. Moufawad's November 15, 2021 report.

By decision dated November 17, 2025, OWCP denied modification of the August 26, 2025 schedule award decision.

LEGAL PRECEDENT

The schedule award provisions of FECA,[9] and its implementing federal regulation,[10] 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 for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.[11] As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.[12]

In determining impairment for the upper or lower extremities under the DBI rating method of the sixth edition of the A.M.A., *Guides*, an evaluator must establish the appropriate diagnosis for each part of the extremity to be rated. With respect to the shoulder, reference is made to Table 15-5 (Shoulder Regional Grid).[13] After the class of diagnosis (CDX) is determined from the Shoulder Regional Grid (including identification of a default grade value), the net adjustment formula is applied using the grade modifier for functional history (GMFH), grade modifier for physical examination (GMPE), and grade modifier for clinical studies (GMCS). The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).

[9] 5 U.S.C. § 8107.

[10] 20 C.F.R. § 10.404.

[11] *Id. See also T.T.,* Docket No. 18-1622 (issued May 14, 2019).

[12] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5 (March 2017); *id.* at Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

[13] *Supra* note 5 at 401-05, Table 15-5.

Regarding the application of ROM or DBI impairment methodologies in rating permanent impairment of the upper extremities, FECA Bulletin No. 17-06 provides:

> "As the [A.M.A.,] *Guides* caution that, if it is clear to the evaluator evaluating loss of ROM that a restricted ROM has an organic basis, three independent measurements should be obtained and the greatest ROM should be used for the determination of impairment, the CE [claims examiner] should provide this information (*via* the updated instructions noted above) to the rating physician(s).
>
> "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*."[14] (Emphasis in the original.)

The Bulletin further advises:

> "If the rating physician provided an assessment using the ROM method and the [A.M.A.,] *Guides* allow for use of ROM for the diagnosis in question, the DMA should independently calculate impairment using both the ROM and DBI methods and identify the higher rating for the CE."[15]

Neither FECA nor its implementing regulations provide for the payment of a schedule award for the permanent loss of use of the back/spine or the body as a whole.[16] However, a schedule award is permissible where the employment-related spinal condition affects the upper and/or lower extremities.[17] 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.[18]

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

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

[15] *Id.*

[16] 5 U.S.C. § 8107(c); 20 C.F.R. § 10.404(a) and (b); *see A.G.,* Docket No. 18-0815 (issued January 24, 2019); *Jay K. Tomokiyo,* 51 ECAB 361, 367 (2000).

[17] *Supra* note 12 at Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5c(3) (March 2017).

[18] *Supra* note 12 at Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 4 (January 2010).

shall appoint a third physician who shall make an examination.[19] 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 IME 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.[20]

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.[21]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish greater than 12 percent permanent impairment of her left upper extremity for which she previously received schedule award compensation.

After initial development of the record, a conflict in medical opinion existed between Dr. Moufawad, appellant's treating physician, and Dr. Becker, OWCP's second opinion physician, regarding appellant's permanent impairment of the bilateral upper extremities. In order to resolve the conflict, OWCP properly referred her to Dr. Seni for an IME, pursuant to 5 U.S.C. § 8123(a).

In his October 20, 2023 report, Dr. Seni related appellant's physical examination findings, including three sets of ROM measurements for the bilateral upper extremities. He opined that MMI was reached October 20, 2023, the date of his examination. For the left upper extremity, Dr. Seni opined that appellant had a total 20 percent permanent impairment under the ROM methodology.

In accordance with its procedures,[22] OWCP properly routed the case record to its DMA, Dr. Harris. In his July 9, 2025 report, Dr. Harris properly applied the A.M.A., *Guides* to Dr. Seni's findings. For the accepted left shoulder condition, using the DBI methodology, he found, under Table 15-5, four percent permanent impairment for AC joint sprain. Utilizing the ROM methodology, Dr. Harris found, under Table 15-34, 12 percent permanent upper extremity impairment. He found that appellant's shoulder flexion of 100 degrees equaled three percent impairment; shoulder extension of 20 degrees equaled two percent impairment; shoulder abduction of 90 degrees equaled three percent impairment; adduction 75 degrees equaled zero percent impairment; internal rotation 65 degrees equaled two percent impairment; shoulder external

[19] 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).

[20] 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).

[21] *See supra* note 17 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).

[22] *See id.*

rotation 30 degrees equaled two percent impairment. As the ROM methodology resulted in the greater impairment, Dr. Harris opined that appellant had 12 percent permanent impairment of the left upper extremity.

For the accepted cervical radiculopathy condition, Dr. Harris found that as appellant did not have any neurologic deficit consistent with cervical radiculopathy, under Table 1 of *The Guides Newsletter*, this was a Class 0 impairment, which resulted in zero percent left upper extremity impairment. The Board therefore finds that Dr. Harris properly determined that appellant had 12 percent permanent impairment of the left upper extremity. His report, thus, constitutes the weight of the medical evidence regarding left upper extremity impairment.

The Board further finds that the case is not in posture for decision regarding appellant's permanent impairment rating for the right upper extremity.

The record establishes that Dr. Harris concurred with Dr. Seni that, under the ROM methodology of Table 15-34, appellant had nine percent total right upper extremity permanent impairment based upon an right shoulder sprain. The June 18, 2025 hearing representative's decision noted that OWCP had not accepted the condition of right shoulder sprain. Consequently, the hearing representative remanded the case for further medical development to determine whether appellant had sustained any impairment of the right upper extremity as a result of the accepted cervical spine conditions and any resulting permanent impairment. However, OWCP did not follow the hearing representative's remand instructions by first determining whether there was an employment-related right upper extremity condition, and if so, whether there was any resulting permanent impairment.

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to schedule award compensation, OWCP shares the responsibility in the development of the evidence to see that justice is done. As OWCP undertook development of the evidence by referring appellant for an evaluation on the issue of right upper extremity impairment, it had the duty to resolve the issue.

The case shall be remanded for further development to determine whether appellant has any right upper extremity condition causally related to the June 13, 2009 employment injury, and if so, whether she is entitled to a schedule award for any permanent impairment. Following this and any other development, OWCP shall issue a *de novo* decision regarding appellant's entitlement to an additional schedule award for right upper extremity permanent impairment.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish greater than 12 percent permanent impairment of her left upper extremity for which she previously received schedule award compensation. The Board further finds that the case is not in posture for decision as to whether appellant is entitled to a schedule award for any right upper extremity condition causally related to the accepted June 13, 2009 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the November 17, 2025 decision of the Office of Workers' Compensation Programs is affirmed in part and set aside in part. The case is remanded to OWCP for further proceedings consistent with this decision of the Board.

Issued: June 23, 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