United States Department of Labor
Employees' Compensation Appeals Board

L.D., Appellant	)	
and	)	**Docket No. 26-0303**
	)	**Issued: June 11, 2026**
DEPARTMENT OF THE AIR FORCE, TRAVIS AIR FORCE BASE, CA, Employer	)	

Appearances:
Daniel M. Goodkin, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 5, 2026 appellant, through counsel, filed a timely appeal from a September 18, 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 September 18, 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*.

ISSUE

The issue is whether appellant has met his burden of proof to establish greater than 12 percent permanent impairment of his right upper extremity and/or 9 percent permanent impairment of his left upper extremity, for which he previously received a schedule award.

FACTUAL HISTORY

On October 13, 2021 appellant, then a 59-year-old general physical scientist (environmental), filed an occupational disease claim (Form CA-2) alleging that he developed tendinitis in his wrists due to factors of his federal employment, including increased use of a keyboard and mouse. He noted that he first became aware of his condition and realized its relationship to his federal employment on September 24, 2020. Appellant did not stop work. OWCP accepted the claim for primary osteoarthritis and other specified disorders of tendons of the wrists.

In a permanent impairment evaluation rating report dated March 22, 2023, Dr. James Brien, a Board-certified anesthesiologist, noted the details of the employment injury and that appellant was previously diagnosed with multiple sclerosis (MS) in 2007. He indicated that appellant related bilateral wrist pain with popping and snapping, right worse than left, that extended into his right forearm and thumb, left forearm, and left fourth and fifth digits. Dr. Brien applied the diagnosis-based impairment (DBI) and range of motion (ROM) rating methodologies of the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*)[4] to physical examination findings on March 15, 2023 and opined that appellant had a total of 12 percent permanent impairment of the right upper extremity for post-traumatic degenerative joint disease of the wrist and underlying MS, and a total of 9 percent permanent impairment of the left upper extremity for wrist sprain/strain and underlying MS.

In a report dated May 14, 2023, Dr. Michael M. Katz, a Board-certified orthopedic surgeon serving as an OWCP district medical adviser (DMA), applied the A.M.A., *Guides* to the March 15, 2023 examination findings and concurred with Dr. Brien's permanent impairment ratings. He indicated that appellant had reached maximum medical improvement (MMI) on March 15, 2023.

By decision dated July 28, 2023, OWCP granted appellant a schedule award for 12 percent permanent impairment of the right upper extremity and 9 percent permanent impairment of the left upper extremity. The award ran for 65.52 weeks from March 15, 2023 through June 15, 2024.

OWCP continued to receive medical evidence.

An October 17, 2024 magnetic resonance imaging (MRI) scan of the right wrist demonstrated degeneration of the triangular fibrocartilage complex (TFCC) and scapholunate and lunotriquetral ligaments, chondromalacia of the distal ulna, severe subchondral sclerosis and arthrosis of the first carpometacarpal (CMC) joint with subluxation, tendinitis, and tenosynovitis.

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

A November 23, 2024 MRI scan of the left wrist demonstrated interstitial tears of the TFCC, mild degeneration of the scapholunate and lunotriquetral ligaments, and severe tendinosis with moderate tenosynovitis and severe interstitial tearing of the flexor carpi radialis tendon.

In a March 5, 2025 impairment rating evaluation report, Dr. Brien noted appellant's complaints of worsening pain, popping, and snapping in his wrists, and worsening MS symptoms, especially on the left. He reviewed medical reports dated June 20 and October 29, 2024 by Dr. Mark Waheed, a Board-certified neurologist, who documented worsening MS with impairment of the left upper extremity and who opined that appellant was permanently disabled due to MS. Dr. Brien also reviewed a December 14, 2024 physical examination by Ashley Cook, an occupational therapist, who found no atrophy of the upper arms and forearms, normal sensation, normal muscle strength. Repeated ROM measurements were also noted as follows: in the right wrist 60 degrees, 60 degrees, and 50 degrees of flexion, 50 degrees, 50 degrees, and 40 degrees of extension, 20 degrees of radial deviation, and 30 degrees, 30 degrees, and 40 degrees of ulnar deviation; and, in the left wrist, 60 degrees, 50 degrees, and 60 degrees of flexion, 60 degrees, 60 degrees, and 50 degrees of extension, 30 degrees, 20 degrees, and 30 degrees of radial deviation, and 30 degrees, 40 degrees, and 30 degrees of ulnar deviation.

Dr. Brien applied the A.M.A., *Guides* to Ms. Cook's December 14, 2024 physical examination findings. For the right wrist, under Table 15-3, Wrist Regional Grid, page 395, he found for the class of diagnosis (CDX) for post-traumatic degenerative disease, a Class 1 impairment with a default value of five percent permanent impairment of the right upper extremity. Dr. Brien indicated that the October 17, 2024 MRI scan demonstrated a progression of the condition. He found a grade modifier for functional history (GMFH) of 2 based on a *Quick*DASH score of 45, a grade modifier for physical examination (GMPE) of 1 for ROM deficits, and that a grade modifier for clinical studies (GMCS) was not applicable. Dr. Brien applied the net adjustment formula and reached a final rating of seven percent permanent impairment of the right upper extremity. He also evaluated appellant's right wrist using the ROM rating methodology, which yielded a lower rating at three percent permanent impairment of the right upper extremity. Utilizing Table 13-11, Criteria for Rating Permanent Impairments of the Upper Extremities for Central Nervous System Dysfunction, page 335, Dr. Brien found an additional 12 percent permanent impairment of the right upper extremity for appellant's MS condition. He explained that when these ratings were combined using the Combined Values Chart, the result was 18 percent permanent impairment of the right upper extremity.

Regarding the left upper extremity, Dr. Brien applied Table 15-3, page 395, and found a Class 1 impairment with a default value of eight percent for the CDX of TFCC tear with severe tendinosis. He provided a GMFH of 2 for a *Quick*DASH score of 45, a GMPE of 1 for popping and clicking on examination, and that a GMCS was not applicable. Dr. Brien applied the net adjustment formula, which yielded +1 for a final rating of nine percent permanent impairment of the left upper extremity. He also applied the ROM rating methodology and found no permanent impairment. Using Table 13-11, page 335, Dr. Brien found an additional 14 percent permanent impairment due to MS, which resulted in a combined value of 22 percent permanent impairment of the left upper extremity.

On March 26, 2025 appellant filed a claim for compensation (Form CA-7) for an increased schedule award.

In an April 29, 2025 report, Dr. Katz, serving as OWCP's DMA, reviewed an updated SOAF and the medical record, including Dr. Brien's March 5, 2025 permanent impairment rating report. He concurred with Dr. Brien's ratings of 18 percent permanent impairment of the right upper extremity and 22 percent permanent impairment of the left upper extremity. Dr. Katz noted that appellant was entitled to an additional schedule award of 13 percent of the left upper extremity but that he was not entitled to an additional award for the right upper extremity as he had not shown any worsening of the accepted employment-related conditions.[5] He opined that he had reached MMI as of December 14, 2024, the date of the examination upon which impairment was based.

In a May 12, 2025 letter, Dr. Brien requested that OWCP provide clarification regarding Dr. Katz' April 29, 2025 permanent impairment rating.

On May 23, 2025 OWCP referred appellant, along with the medical record and SOAF, to Dr. Charles F. Xeller, a Board-certified orthopedic surgeon, for a second opinion and to provide a permanent impairment rating.

In a July 14, 2025 report, Dr. Xeller noted his review of the SOAF and documented physical examination findings. Regarding the right upper extremity, he indicated that the ROM rating methodology was more appropriate for generalized degenerative joint disease and, using Table 15-32, page 473, he found six percent permanent impairment of the right wrist. For appellant's diagnoses of severe basal joint arthritis for which fusion was recommended, Dr. Xeller applied Table 15-2, Digit Regional Grid, page 394 and found a Class 3 impairment, with a default value of 30 percent of the thumb. He found a GMFH of 2 and a GMPE of 2, and noted that a GMCS was not applicable. After applying the net adjustment formula, Dr. Xeller found 28 percent right thumb permanent impairment, which converted to 10 percent permanent impairment of the right upper extremity, resulting in a combined value of 15 percent permanent impairment of the right upper extremity.

Regarding the left upper extremity, under Table 15-13, Wrist Regional Grid, page 396, Dr. Xeller found a Class 1 impairment with a default value of eight percent of the left upper extremity for the CDX of carpal degeneration and TFCC tear. He further found a GMFH of 2 for weakness, pain, and fatigue,[6] a GMPE of 1 for limited motion, and that a GMCS was not applicable. Dr. Xeller applied the net adjustment formula, which resulted in a final rating of nine percent permanent impairment of the left upper extremity. He noted that the DBI rating methodology yielded a higher impairment rating than the ROM rating methodology for appellant's left upper extremity.

[5] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims,* Chapter 2.808.5d (March 2017) (As long as the work-related injury has affected any residual usefulness, in whole or in part, of a scheduled member, a schedule award may be appropriate. Similarly, an increase in schedule award may be appropriate as long as a material change in the work-related injury is at least in part contributory to an increase in impairment of the scheduled member.)

[6] Dr. Xeller noted that he had reviewed a July 24, 2024 medical report by Dr. Waheed, who indicated that appellant related complaints of difficulty typing, using a mouse, buttoning a shirt, and severe fatigue on a regular basis due to progressive MS.

On August 8, 2025 OWCP referred a SOAF and the case record, including the July 14, 2025 report of Dr. Xeller, to Dr. Nathan Hammel, a Board-certified orthopedic surgeon serving as OWCP's DMA, for a permanent impairment rating.

In a September 2, 2025 report, Dr. Hammel reviewed the medical record and SOAF and agreed with Dr. Xeller that appellant had nine percent permanent impairment of the left upper extremity. However, he disagreed that he had 15 percent permanent impairment of the right upper extremity, noting that he had not undergone CMC arthroplasty. Dr. Hammel applied a Class 1 impairment for the CDX of CMC degenerative joint disease, with a default value of six percent of the thumb. He applied the net adjustment formula and found eight percent of the thumb or three percent permanent impairment of the right upper extremity for CMC arthritis, which yielded a combined value of nine percent permanent impairment of the right upper extremity. Dr. Hammel indicated that the "awards would replace the prior awards and since they are the same or less provide no additional impairment." He noted that appellant had reached MMI on June 14, 2025, the date of Dr. Xeller's examination.

By decision dated September 18, 2025, OWCP denied appellant's claim for an increased schedule award. It accorded the weight of the medical evidence to Dr. Hammel, OWCP's DMA.

LEGAL PRECEDENT

The schedule award provisions of FECA[7] and its implementing regulations[8] 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.[9] As of May 1, 2009, the sixth edition of the A.M.A., *Guides*, is used to calculate schedule awards.[10]

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 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).[11]

[7] *Supra* note 2.

[8] 20 C.F.R. § 10.404.

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

[10] *Supra* note 5 at Chapter 2.808.5a (March 2017); *see also*, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

[11] *See* A.M.A., *Guides* (6th ed. 2009) at 405-12. Table 15-2 also provides that, if motion loss is present for a claimant with certain diagnosed digit 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 394, 468-469.

The A.M.A., *Guides* also provide that the ROM 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.[12] 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.[13] 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.[14]

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.[15] 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.*"[16] (Emphasis in the original.)

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.[17]

ANALYSIS

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

OWCP's procedures provide that rated impairment should reflect the total loss as evaluated for the scheduled member (*i.e*., arm, leg, *etc*.) at the time of the rating examination.[18] There are no provisions for apportionment under FECA. As such, schedule awards include permanent impairment resulting from conditions accepted by OWCP as job related as well as any

[12] *Id*. at 461.

[13] *Id*. at 473.

[14] *Id*. at 474.

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

[16] *Id.*

[17] *Supra* note 9 at Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017).

[18] *See Raymond E. Gwynn,* 35 ECAB 247, 253 (1983).

nonindustrial permanent impairment present in the same scheduled member at the time of the rating examination.[19]

In his July 14, 2025 second opinion report, Dr. Xeller found 15 percent permanent impairment of the right upper extremity for CMC arthritis and severe basal joint arthritis, and 9 percent permanent impairment of the left upper extremity for carpal degeneration and TFCC tear. In his September 2, 2025 report, Dr. Hammel noted that he agreed with Dr. Xeller's rating of 9 percent permanent impairment of the left upper extremity, but found only 9 percent permanent impairment of the right upper extremity for CMC arthritis. However, neither physician offered an opinion regarding whether there was any nonindustrial permanent impairment present in the right or left upper extremities due to appellant's preexisting MS condition.

Once OWCP undertakes development of the medical evidence, it must resolve the relevant issues in the case.[20] In a situation where OWCP secures an opinion from a second opinion physician and the opinion from such second opinion physician requires clarification or elaboration, it has the responsibility to secure a supplemental report from the physician for the purpose of correcting the defect in the original opinion.[21]

The case shall therefore be remanded for OWCP to request clarification from Dr. Xeller regarding whether there was any permanent impairment present in the right or left upper extremities due to appellant's preexisting MS condition. If Dr. Xeller is unavailable or unwilling to provide such clarification, OWCP must refer the case to a new second opinion physician for a rationalized medical opinion on the issue in question.[22] Following this and such other further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

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

[19] *Supra* note 5.

[20] *See K.A.*, Docket No. 23-0773 (issued November 1, 2024); *S.A.*, Docket No. 18-1024 (issued March 12, 2020); *L.B.*, Docket No. 19-0432 (issued July 23, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

[21] *See G.L.*, Docket No. 23-0584 (issued April 1, 2024); *M.F.*, Docket No. 23-0881 (issued December 6, 2023); *G.T.*, Docket No. 21-0170 (issued September 29, 2021); *Ayanle A. Hashi*, 56 ECAB 234 (2004) (when OWCP refers a claimant for a second opinion evaluation and the report does not adequately address the relevant issues, OWCP should secure an appropriate report on the relevant issues).

[22] *S.F.*, Docket No. 23-0509 (issued January 24, 2024); *D.W.*, Docket No. 20-0674 (issued September 29, 2020).

ORDER

IT IS HEREBY ORDERED THAT the September 18, 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: June 11, 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