

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

<hr/>		
A.A., Appellant)	
)	
and)	
)	Docket No. 26-0161
)	Issued: March 30, 2026
DEPARTMENT OF JUSTICE, FEDERAL)	
BUREAU OF PRISONS, FEDERAL)	
CORRECTIONAL COMPLEX LOMPOC,)	
Lompoc, CA Employer)	
<hr/>)	

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 December 2, 2025 appellant filed a timely appeal from an August 29, 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.

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish greater than five percent permanent impairment of the right lower extremity, for which he previously received a schedule award; and (2) whether OWCP properly determined the date of appellant's maximum medical improvement (MMI).

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On September 11, 2024 appellant, then a 47-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on September 5, 2024 he strained his right knee when he responded to an “institutional emergency” while in the performance of duty. OWCP accepted the claim for partial tear of right posterior horn of the medial meniscus.

On January 21, 2025 appellant underwent OWCP-authorized arthroscopic surgery to his right knee performed by Dr. Richard D. Scheinberg, a Board-certified orthopedic surgeon, including subtotal medial meniscectomy, chondroplasty of the medial femoral condyle, removal of loose bodies, and tricompartmental synovectomy.

In an April 25, 2025 permanent impairment evaluation report, Dr. Scheinberg opined that appellant had reached MMI and should be rated permanent and stationary. He observed physical examination findings of full range of motion and healed arthroscopic portals. Dr. Scheinberg diagnosed status post right knee arthroscopic medial meniscectomy with chondroplasty for grade 3 to 4 arthritis. He applied the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*)² and found that appellant had two percent whole person impairment for bilateral partial medial meniscectomies.³

On June 30, 2025 appellant filed a claim for compensation (Form CA-7) for a schedule award.

OWCP referred the medical record, including Dr. Scheinberg’s April 25, 2025 report, and a statement of accepted facts (SOAF) to Dr. Michael M. Katz, a Board-certified orthopedic surgeon serving as a district medical advisor (DMA), for review and an opinion regarding appellant’s permanent impairment.

In a report dated July 26, 2025, Dr. Katz noted his review of the SOAF and medical record, including Dr. Scheinberg’s report, which he indicated was dated March 7, 2025.⁴ He opined that appellant had reached MMI on March 7, 2025, per Dr. Scheinberg’s assessment. Dr. Katz applied the sixth edition of the A.M.A., *Guides*⁵ to his examination findings. Applying the diagnosis-based impairment (DBI) rating methodology, he utilized Table 16-4 (Knee Regional Grid), page 509-11, for the class of diagnosis (CDX) total medial meniscectomy, which he found was a Class 1, grade C, impairment with a default rating of seven percent permanent impairment of the right lower extremity. Dr. Katz assigned zero as a grade modifier for functional history (GMFH) and zero as a grade modifier for physical examination (GMPE) and noted that a grade modifier for clinical studies (GMCS) was not applicable. He applied the net adjustment formula, which

² A.M.A., *Guides* (5th ed. 2001).

³ Appellant has a previously accepted July 11, 2023 traumatic injury for left knee medial meniscus tear under OWCP File No. xxxxxx987.

⁴ This appears to be a typographical error as Dr. Scheinberg’s permanent impairment evaluation report is dated April 25, 2025

⁵ A.M.A., *Guides* (6th ed. 2009).

resulted in a modifier of -2 to equal a Class 1, grade A impairment, or five percent permanent impairment of the right lower extremity.

By decision dated August 29, 2025, OWCP granted appellant a schedule award for five percent permanent impairment of the right lower extremity. It accorded the weight of the medical opinion evidence to the July 26, 2025 report of Dr. Katz, the DMA. The award ran for 14.4 weeks from March 9 to June 17, 2025. The date of MMI was listed as March 7, 2025.

LEGAL PRECEDENT -- ISSUE 1

The schedule award provisions of FECA⁶ and its implementing regulations⁷ 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.⁸ As of May 1, 2009, the sixth edition of the A.M.A., *Guides*, is used to calculate schedule awards.⁹

It is the claimant's burden of proof to establish permanent impairment of the scheduled member or function of the body as a result of an employment injury.¹⁰ OWCP procedures provide that, to support a schedule award, the file must contain competent medical evidence which shows that the impairment has reached a permanent and fixed state and indicates the date on which this occurred (date of MMI), describes the impairment in sufficient detail so that it can be visualized on review, and computes the percentage of impairment in accordance with the A.M.A., *Guides*.¹¹

The sixth edition of the A.M.A., *Guides* provides a DBI method of evaluation utilizing the World Health Organization's *International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement*.¹² Under the sixth edition, for lower extremity impairments, the evaluator identifies the impairment of the CDX, which is then adjusted by a GMFH, a GMPE, and/or a GMCS.¹³ The net adjustment formula is (GMFH - CDX) + (GMPE -

⁶ *Supra* note 1.

⁷ 20 C.F.R. § 10.404.

⁸ *Id.*; see also *Jacqueline S. Harris*, 54 ECAB 139 (2002).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

¹⁰ *E.D.*, Docket No. 19-1562 (issued March 3, 2020); *Edward Spohr*, 54 ECAB 806, 810 (2003); *Tammy L. Meehan*, 53 ECAB 229 (2001).

¹¹ Federal (FECA) Procedure Manual, *supra* note 9 at Chapter 2.808.5 (March 2017).

¹² A.M.A., *Guides*, page 3, section 1.3.

¹³ *Id.* at 493-556.

CDX) + (GMCS - CDX).¹⁴ Evaluators are directed to provide reasons for their impairment choices, including the choices of diagnoses from regional grids and calculations of modifier scores.¹⁵

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to OWCP's 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.¹⁶

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish greater than five percent permanent impairment of his right lower extremity, for which he previously received a schedule award.

Dr. Scheinberg, in his April 25, 2025 report, opined that appellant had two percent whole person impairment. The Board notes that his report is of limited probative value as FECA does not allow schedule awards for impairment of the body as a whole.¹⁷ In addition, Dr. Scheinberg utilized the fifth edition of the A.M.A., *Guides*, rather than the sixth edition, to rate appellant's impairment of the right lower extremity.¹⁸ Accordingly, his report does not comport with OWCP's procedures and is insufficient to establish any ratable impairment.¹⁹

In his report dated July 26, 2025, Dr. Katz reviewed the medical record and SOAF and properly applied the sixth edition of the A.M.A., *Guides* to Dr. Scheinberg's physical examination findings. Using the DBI rating methodology, he utilized Table 16-4 (Knee Regional Grid), page 509-11, for the CDX for total medial meniscectomy, which he found was a Class 1, grade C, impairment with a default rating of seven percent permanent impairment of the right lower extremity. He assigned grade modifiers and applied the net adjustment formula, which resulted in a modifier of -2 to equal a Class 1, grade A impairment, or five percent permanent impairment of the right lower extremity.

The Board finds that OWCP properly relied upon the opinion of Dr. Katz, serving as the DMA, as he appropriately applied the DBI methodology found in the sixth edition of the A.M.A., *Guides* in determining that appellant had five percent permanent impairment of the right lower

¹⁴ *Id.* at 521.

¹⁵ *R.R.*, Docket No. 17-1947 (issued December 19, 2018); *R.V.*, Docket No. 10-1827 (issued April 1, 2011).

¹⁶ *See supra* note 9 at Chapter 2.808.6(f) (March 2017); *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).

¹⁷ *See D.K.*, Docket No. 21-0303 (issued July 8, 2021); *M.M.*, Docket No. 17-0197 (issued May 1, 2018); *J.G.*, Docket No. 12-0995 (issued October 22, 2012).

¹⁸ *See supra* note 9; *G.M.*, Docket No. 19-1931 (issued May 28, 2020).

¹⁹ *See M.M.*, *supra* note 17.

extremity.²⁰ There is no probative medical evidence of record demonstrating greater impairment than that previously awarded.²¹

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

LEGAL PRECEDENT -- ISSUE 2

The period covered by a schedule award commences on the date that the employee reaches MMI from the residuals of the employment injury. MMI means that the physical condition of the injured member of the body has stabilized and will not improve further.²² The determination of the date of MMI is factual in nature and depends primarily on the medical evidence.²³ The date of MMI is usually considered to be the date of the evaluation accepted as definitive by OWCP.²⁴ The Board also has noted a reluctance to find a date of MMI which is retroactive to the award, as retroactive awards often result in payment of less compensation benefits. The Board, therefore, requires persuasive proof of MMI if OWCP selects a retroactive date.²⁵

ANALYSIS -- ISSUE 2

The Board finds that OWCP improperly determined the date of MMI for appellant's schedule award.

On August 29, 2025, OWCP granted appellant a schedule award for five percent permanent impairment of the right lower extremity, which ran for 14.4 weeks from March 9 to June 17, 2025. However, the Board finds that the August 29, 2025 schedule award decision sets forth an incorrect date of MMI of March 7, 2025. OWCP's DMA, Dr. Katz, found that appellant reached MMI on March 7, 2025, the date of Dr. Scheinberg's assessment. However, the record reflects that Dr. Scheinberg performed appellant's permanent impairment evaluation on April 25, 2025. There is no evidence to support that Dr. Scheinberg performed a permanent impairment evaluation on

²⁰ See *S.W.*, Docket No. 23-0804 (issued January 2, 2024); *B.L.*, Docket No. 22-0068 (issued October 12, 2022); *J.S.*, Docket No. 19-1567 (issued April 1, 2020); *J.M.*, Docket No. 18-1334 (issued March 7, 2019).

²¹ See *S.W.*, *id.*; *D.S.*, Docket No. 20-0670 (issued November 2, 2021); *D.F.*, Docket No. 17-1474 (issued January 26, 2018); *A.T.*, Docket No. 16-0738 (issued May 19, 2016).

²² See *N.A.*, Docket No. 12-1299 (issued September 16, 2013); *Adela Hernandez-Piris*, 35 ECAB 839 (1984).

²³ *J.B.*, Docket No. 11-1469 (issued February 14, 2012); *Franklin L. Armfield*, 28 ECAB 445 (1977).

²⁴ Federal (FECA) Procedure Manual, *supra* note 9 at Chapter 3.700.3.a (January 2010).

²⁵ *P.S.*, Docket No. 22-1051 (issued May 4, 2023); *James E. Earle*, 51 ECAB 567 (2000).

March 7, 2025.²⁶ As Dr. Katz reported that appellant reached MMI when he was evaluated by Dr. Scheinberg, the Board finds that appellant's date of MMI was April 25, 2025.²⁷

Accordingly, the Board modifies OWCP's August 29, 2025 decision to find that appellant reached MMI on April 25, 2025, and that the period of his schedule award should begin on that date.²⁸

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish greater than five percent permanent impairment of his right lower extremity, for which he previously received a schedule award. The Board further finds that the date of MMI for schedule award purposes is modified to reflect April 25, 2025.

ORDER

IT IS HEREBY ORDERED THAT the August 29, 2025 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: March 30, 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

²⁶ See *supra* note 4.

²⁷ *P.S.*, *supra* note 25; *G.G.*, Docket No. 12-1106 (issued November 2, 2012).

²⁸ *Id.* See also *C.B.*, Docket No. 24-0757 (issued August 30, 2024).