



Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>3</sup>

### **ISSUE**

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

### **FACTUAL HISTORY**

On July 17, 2023 appellant, then a 50-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on July 13, 2023, he sustained a right knee injury while attempting to assist an inmate while in the performance of duty. He explained that he found an unresponsive inmate, and as he dropped to perform cardiopulmonary resuscitation, he slammed his knees on the concrete floor. Appellant stopped work on July 14, 2023. On September 8, 2023 OWCP accepted the claim for bilateral knee contusions.<sup>4</sup> It paid appellant wage-loss compensation on the supplemental rolls from August 28 through September 24, 2023. Appellant returned to full-time limited duty on September 25, 2023.<sup>5</sup>

On January 19, 2024 OWCP expanded the acceptance of the claim to include aggravation of bilateral primary osteoarthritis of the knees, and aggravation of chondromalacia patellae of right knee.

On November 22, 2024 OWCP updated the list of accepted conditions to reflect that appellant's bilateral knee contusions had resolved, and that his aggravations of bilateral primary osteoarthritis and patellar chondromalacia of right knee were temporary from July 13 through

---

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> The Board notes that following the December 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.*

<sup>4</sup> OWCP assigned the present claim File No. xxxxxx903. Appellant has additional claims before OWCP under OWCP File Nos. xxxxxx572, xxxxxx831, and xxxxxx751 (accepted for a January 13, 2025 unspecified sprain of the left shoulder and sprain of unspecified site of left knee, and strain of muscles and tendons of the rotator cuff of right shoulder). OWCP has administratively combined appellant's claims, with the present claim serving as the master file.

<sup>5</sup> On June 11, 2025 the Office of Personnel Management (OPM) approved appellant's disability retirement due to osteoarthritis.

August 23, 2023. These findings were based on the September 13 and October 25, 2024 second opinion reports from Dr. John Barry, a Board-certified orthopedic surgeon.<sup>6</sup>

On February 3, 2025 appellant filed a claim for a schedule award.

In a development letter dated February 19, 2025, OWCP advised appellant of the type of evidence necessary to establish entitlement to a schedule award under the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).<sup>7</sup>

OWCP subsequently received a March 3, 2025 progress report from Dr. Yasmin Ahmed, a Board-certified family practitioner, who opined that the repetitive nature of appellant's job had exacerbated the bilateral osteoarthritis of both knees. Dr. Ahmed also opined that the July 13, 2023 traumatic employment incident had acted as a catalyst and exacerbated preexisting degenerative changes, which directly contributed to the development of chondromalacia and severe osteoarthritis. She advised that appellant could return to work in a permanent light-duty capacity.

By decision dated March 25, 2025, OWCP denied appellant's schedule award claim. It found that the 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.

In progress reports dated November 5, 2024 through July 15, 2025, Dr. Ahmed continued to opine that the repetitive nature of appellant's job had exacerbated his bilateral knee osteoarthritis. She explained that the July 13, 2023 traumatic employment incident had acted as a catalyst and exacerbated preexisting degenerative changes which directly contributed to the development of chondromalacia and severe osteoarthritis.

On April 1, 2025 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on August 19, 2025. The record remained open for 30 days to afford appellant the opportunity to submit additional evidence. No further evidence was received.

By decision dated September 19, 2025, OWCP's hearing representative affirmed the March 25, 2025 decision.

---

<sup>6</sup> In a September 13, 2024 report, Dr. Barry opined that appellant's bilateral contusions of the knees and the aggravation of chondromalacia patella at the right knee had resolved. He further opined that appellant continued to suffer active residuals of his preexisting bilateral primary osteoarthritis of the knees and preexisting chondromalacia patella of the right knee. Dr. Barry completed a work capacity evaluation (Form OWCP-5c) and opined that appellant should continue with light duty with permanent restrictions due to the limited ability to ambulate for any distance as a result of the preexisting osteoarthritis of both knees. Following OWCP's October 7, 2024 request for clarification, Dr. Barry, in an October 25, 2024 addendum report, opined appellant's preexisting knee conditions were temporarily aggravated for six weeks. He further opined that a diagnosis of posterior tibial tendinitis would not be associated with the July 13, 2023 employment injury.

<sup>7</sup> A.M.A., *Guides*, (6<sup>th</sup> ed. 2009).

On October 7, 2025 appellant, through counsel, requested reconsideration. In support thereof, counsel submitted a September 29, 2025 report from Dr. Robert W. Macht, a general surgeon.

In his September 29, 2025 report, Dr. Macht noted the history of appellant's July 13, 2023 employment incident. He related that appellant currently complained of moderate-to-severe pain in both knees, and that his knees were very weak, gave way, and were stiff. On physical examination, Dr. Macht observed that appellant's knee flexion was limited to 90 degrees, flexion contracture to 4 degrees bilaterally, flexion limited to 25/30/25 degrees, extension to 10 degrees. X-rays of appellant's right knee showed narrowing of the medial compartment of the right knee to 3.2 millimeters (mm), and lateral compartment to 3.9 mm. X-rays of appellant's left knee revealed narrowing of the medial compartment to 2.7mm and the lateral compartment to 3.7 mm. Dr. Macht diagnosed bilateral primary osteoarthritis of the knees, chondromalacia of right knee and contusion of both knees. He opined that appellant reached maximum medical improvement (MMI) on September 19, 2025.

Under the range of motion (ROM) rating methodology, Dr. Macht referred to Table 16-23, page 549, of the A.M.A., *Guides*, and opined that appellant had 10 percent impairment for each lower extremity due to loss of flexion of his knees. Under Table 16-7, he indicated that there was a grade modifier for physical examination (GMPE) of 1 based on ROM loss.

Under the diagnosis-based impairment (DBI) rating methodology, Dr. Macht referred to Table 16-3 on page 509, of the Knee Regional Grid and identified the class of diagnosis (CDX) for bilateral partial torn medial meniscus as Class 1, grade C, with a default value of two percent. He applied a grade modifier for functional history (GMFH) of 1, and a GMPE of 0, which pursuant to the net adjustment formula, moved the grade to D, resulting in a two percent bilateral knee permanent impairment rating. Dr. Macht also indicated that under Table 16-3, page 511, for the CDX of primary knee joint arthritis, appellant had a Class 1 or 7 percent impairment on the right side and a Class 2 or 20 percent impairment on the left side. For the right side, he indicated that appellant had GMFH of 1 and GMPE of 0, for a grade D or eight percent impairment. For the left side, Dr. Macht indicated that appellant had GMFH of 0 and GMPE of 1, for a grade B or 18 percent impairment. Thus, he concluded that appellant had 10 percent permanent impairment of the right lower extremity and 20 percent permanent impairment of the left lower extremity, pursuant to the DBI rating methodology. A lower limb questionnaire and September 19, 2025 x-rays of both knees were provided.

By decision dated December 17, 2025, OWCP denied modification of its March 25, 2025 decision.

### **LEGAL PRECEDENT**

The schedule award provisions of FECA<sup>8</sup> and its implementing regulations<sup>9</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from

---

<sup>8</sup> 5 U.S.C. § 8107.

<sup>9</sup> 20 C.F.R. § 10.404.

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.<sup>10</sup> As of May 1, 2009, schedule awards are determined in accordance with the sixth edition of the A.M.A., *Guides* (2009).<sup>11</sup> 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.<sup>12</sup>

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*.<sup>13</sup> Under the sixth edition, for lower extremity impairments, the evaluator identifies the impairment of the CDX,<sup>14</sup> which is then adjusted by a GMFH, a GMPE, and/or a grade modifier for clinical studies (GMCS).<sup>15</sup> The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).<sup>16</sup> Evaluators are directed to provide reasons for their impairment choices, including the choices of diagnoses from regional grids and calculations of modifier scores.<sup>17</sup>

OWCP's procedures provide that termination of a claim for all benefits due to a finding of no residuals of a work-related condition does not automatically bar a subsequent schedule award. Rather, it should consider the schedule award matter separately from the termination of benefits. If a claimant applies for a schedule award after termination and submits medical evidence reflecting permanent impairment as a result of the work-related injury or exposure, OWCP should develop the claim further, even if a finding of no residuals has previously been made.<sup>18</sup>

---

<sup>10</sup> *Id.* See also Ronald R. Kraynak, 53 ECAB 130 (2001).

<sup>11</sup> 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).

<sup>12</sup> *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).

<sup>13</sup> A.M.A., *Guides*, page 3, section 1.3.

<sup>14</sup> In the event that a specific diagnosis is not listed in the DBI impairment grid, Table 16-3, the examiner should identify a similar listed condition to be used as a guide to the impairment calculation and include rationale for his or her decision. *Id.* at page 500, section 16.2c.

<sup>15</sup> *Id.* at 493-556.

<sup>16</sup> *Id.* at 521.

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

<sup>18</sup> See *supra* note 11 at Chapter 2.808.11. (March 2017).

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to a district medical adviser (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.<sup>19</sup>

### **ANALYSIS**

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

In support of his schedule award claim, appellant submitted a September 29, 2025 permanent impairment report from Dr. Macht. This report provided detailed physical examination findings of appellant's knees and provided permanent impairment assessments under the ROM as well as DBI methodologies, pursuant to the A.M.A., *Guides*. Dr. Macht concluded that, pursuant to the DBI methodology of the Regional Knee Grid, appellant had two percent permanent impairment of each lower extremity for the CDX of partially torn medial meniscus. He also calculated that appellant had 7 percent permanent impairment of the right lower extremity and 18 percent permanent impairment of the left lower extremity for the CDX of primary knee joint arthritis.

OWCP, however, did not refer Dr. Macht's report to a DMA. OWCP's procedures provide that, if the claimant's physician provides a permanent impairment report, the case should be referred to the DMA for review.<sup>20</sup> The Board finds that OWCP failed to properly develop appellant's schedule award claim.

It is well established that proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter.<sup>21</sup> While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence and to see that justice is done.<sup>22</sup>

The case shall therefore be remanded for further development. On remand, OWCP shall refer the medical record to a DMA to determine the extent of appellant's employment-related bilateral lower extremity permanent impairment based on the A.M.A., *Guides* and the date he reached MMI. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision.

### **CONCLUSION**

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

---

<sup>19</sup> See *supra* note 11 at Chapter 2.808.6f (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).

<sup>20</sup> See *supra* note 11 at Chapter 2.808.6e (March 2017); *H.H.*, Docket No. 21-0055 (issued September 9, 2021).

<sup>21</sup> *T.O.*, Docket No. 18-0659 (issued August 8, 2019).

<sup>22</sup> *T.O.*, *id.*; *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *Jimmy A. Hammons*, 51 ECAB 219 (1999).

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 17, 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: May 14, 2026  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board