United States Department of Labor
Employees' Compensation Appeals Board

R.M., Appellant	)	
and	)	**Docket No. 26-0535**
	)	**Issued: September 21, 2026**
U.S. POSTAL SERVICE, PLEASANT HILL POST OFFICE, Pleasant Hill, IA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 24, 2026 appellant filed a timely appeal from a May 18, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] 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.

[1] Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of appellant's oral argument request, he asserted that during the second opinion impairment evaluation his arm dislocated and no further testing or measurements were taken after the dislocation. He also contended that the pay rate should be based on the date his arm was dislocated. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

[2] 5 U.S.C. § 8101 *et seq*.

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish greater than 18 percent permanent impairment of the left upper extremity (shoulder), for which he previously received schedule award compensation; and (2) whether OWCP properly determined appellant's pay rate for schedule award purposes.

FACTUAL HISTORY

On January 29, 2013 appellant, then a 24-year-old temporary letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 28, 2013 he bruised his left shoulder and elbow when a dog lunged at him, and he fell while in the performance of duty. He stopped work on January 28, 2013, and returned to limited-duty work the next day. OWCP accepted the claim for sprain of left shoulder and upper arm, superior glenoid labrum lesion; and recurrent dislocation of the left shoulder.

On October 22, 2014 appellant underwent a left shoulder arthroscopy, Bankart repair and inferior capsular shift. He returned to full-time modified work on November 17, 2014, and full-time full-duty work on February 9, 2015. On September 14, 2016 appellant underwent left shoulder arthroscopy, arthroscopic subacromial decompression, and arthroscopic distal clavicle excision. On September 14, 2016 he stopped work to undergo the second left shoulder arthroscopy, he returned to full-duty work on December 12, 2016. OWCP paid appellant appropriate wage-loss compensation.

On February 15, 2017 appellant filed a claim for compensation (Form CA-7) for a schedule award. By decision dated February 5, 2018, OWCP granted appellant a schedule award for 12 percent permanent impairment of the left upper extremity (shoulder). The period of the award ran from February 13 through November 2, 2017, for 37.44 weeks of compensation based on his September 14, 2016 pay rate.

On June 9, 2025 appellant filed a Form CA-7 for an increased schedule award. No medical evidence was received.

In a June 25, 2025 development letter, OWCP advised appellant of the evidence required to support his schedule award claim. It afforded him 30 days to submit the requested evidence.

In a July 30, 2025 note, appellant requested that OWCP re-open his case and schedule a second opinion examination for a permanent impairment rating examination.

On January 8, 2026 OWCP referred appellant, along with the medical record, an updated December 23, 2025 statement of accepted facts (SOAF), and a list of questions to Dr. Cody S. Harlan, a Board-certified orthopedic surgeon, for a second opinion evaluation to obtain an assessment of appellant's work-related condition, and to determine any additional increase in permanent impairment of the upper extremities.

In a February 10, 2026 report, Dr. Harlan noted his review of the December 23, 2025 updated SOAF and the medical record. He provided examination findings, which included three separate measurements for active range of motion of the shoulders. Dr. Harlan opined that

appellant was at maximum medical improvement (MMI) for his accepted recurrent dislocation, left shoulder, as of February 10, 2026. Utilizing the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),[3] he opined that as appellant did not have normal motion, the diagnosis-based impairment (DBI) methodology could not be used to rate impairment. Under the range of motion (ROM) methodology, Dr. Harlan found under Table 15-34, 3 percent impairment for 110 degrees flexion; 2 percent impairment for 10 degrees extension; 6 percent impairment for 80 degrees abduction; 1 percent impairment for 25 degrees adduction; 10 percent impairment for 0 degrees internal rotation; and 4 percent impairment for 30 degrees external rotation, for a total left upper extremity impairment of 26 percent. He opined that appellant had an additional 14 percent permanent impairment as he was previously awarded 12 percent impairment of the left upper extremity.

In a March 28, 2026 report, Dr. Arthur S. Harris, an OWCP district medical adviser (DMA), reviewed the medical record, including Dr. Harlan's February 10, 2026 permanent impairment report. Using the DBI methodology, he opined that under Table 15-5, appellant had a Class 1, grade E or 2 percent upper extremity impairment for shoulder instability requiring surgery without residual instability. Under the ROM methodology, Dr. Harris opined that appellant had 18 percent left upper extremity impairment. Under Table 15-34, he concurred with Dr. Harlan that appellant had three percent impairment for 110 degrees flexion; two percent impairment for 10 degrees extension; six percent impairment for 80 degrees abduction; one percent impairment for 25 degrees adduction; and four percent impairment for 0 degrees internal rotation. However, he opined that appellant had two percent impairment for 30 degrees external rotation as opposed to Dr. Harlan's assignment of four percent permanent impairment. Dr. Harris opined that since the ROM methodology resulted in the greater impairment value over the DBI methodology, appellant had 18 percent left upper extremity permanent impairment. He also opined that appellant reached MMI on February 10, 2026, the date of Dr. Harlan's impairment evaluation.

On April 17, 2026 OWCP requested that Dr. Harlan review the DMA's March 28, 2026 report and provide a supplement report explaining whether or not he agreed with the DMA's assessment and impairment rating.

In an April 24, 2026 supplemental report, Dr. Harlan concurred that appellant had 18 percent left upper extremity permanent impairment based on the ROM methodology.

On April 28, 2026 appellant filed a notice of recurrence (Form CA-2a) alleging a need for medical treatment commencing February 10, 2026 causally related to the accepted January 28, 2013 employment injury.[4] In an undated letter also received by OWCP on April 28, 2026, appellant contended that Dr. Harlan had dislocated his arm during the permanent impairment examination, took no measurements of his arm mobility, and had submitted fraudulent paperwork.

In a May 18, 2026 schedule award payment memorandum, OWCP utilized a date of recurrence pay rate of September 14, 2016. It found that appellant had an annual salary of

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

[4] As of the date that this appeal was filed OWCP had not issued a decision regarding appellant's April 28, 2026 recurrence claim.

$60,514.00 and a weekly base pay rate of $1,163.73, plus $11.64 weekly night differential for a total pay rate of $1,175.37. OWCP additionally found that appellant was entitled to cost-of-living adjustments and should be compensated at the augmented compensation rate of 75 percent (or ¾) as he had a spouse and children under 18 years.

By decision dated May 18, 2026, OWCP granted appellant a schedule award for an additional 6 percent permanent impairment of the left upper extremity, for a total schedule award of 18 percent permanent impairment. It accorded weight of the medical evidence to Dr. Harris as the DMA. The period of the award ran from February 10 through June 21, 2026 for a total of 18.72 weeks, based on his pay rate as of September 14, 2016. OWCP further determined that appellant was entitled to an augmented compensation rate of 75 percent (or ¾) of his weekly pay rate or $881.53, which, after cost-of-living adjustments, resulted in $1,157.75 for the initial period from February 10 through 28, 2026, and $1,187.75 for the period March 1 through June 21, 2026, and continuing payments every four weeks of $4,751.00.

LEGAL PRECEDENT -- ISSUE 1

The schedule award provisions of FECA[5] and its implementing regulations[6] 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.[7] As of May 1, 2009, the sixth edition of the A.M.A., *Guides*, is used to calculate schedule awards.[8]

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.[9] 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*

[5] *Supra* note 2.

[6] 20 C.F.R. § 10.404.

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

[8] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (version 1.2, issued May 4, 2026); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (version 1.2, issued May 4, 2026).

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

impairment rating for the diagnosis in question, the method producing the higher rating should be used."[10] (Emphasis in the original.)

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 shoulder, reference is made to Table 15-5 (Shoulder Regional Grid).[11] 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 a grade modifier for functional history (GMFH), a grade modifier for physical examination (GMPE), and/or a grade modifier for clinical studies (GMCS). The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).

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.*"[12] (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."[13]

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

[10] *Id.*

[11] *Supra* note 3 at 401-05, Table 15-5.

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

[13] *Id.*

impairment in accordance with the A.M.A., *Guides*, with the DMA providing rationale for the percentage of impairment specified.[14]

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish greater than 18 percent permanent impairment of the left upper extremity (shoulder), for which he previously received schedule award compensation.

Based on appellant's request and in accordance with its procedures, OWCP referred the evidence of record to Dr. Harlan for a second opinion examination and permanent impairment evaluation.[15] On February 10, 2026 Dr. Harlan examined appellant to rate his left upper extremity permanent impairment. He opined that as of February 10, 2026 appellant was at MMI for his accepted recurrent dislocation, left shoulder. Using the ROM methodology, he found appellant had 26 percent left upper extremity permanent impairment.

In accordance with its procedures,[16] OWCP properly routed the case record to its DMA, Dr. Harris. In his March 28, 2026 report, Dr. Harris reviewed the February 10, 2026 report from Dr. Harlan. He opined that MMI was reached as of the date of Dr. Harlan's examination. Dr. Harris provided both a DBI rating of 2 percent and ROM rating of 18 percent and found that as the ROM rating was higher, appellant had 18 percent total permanent impairment of the left upper extremity. Under Table 15-34, he concurred with Dr. Harlan's impairment assignments of three percent impairment for 110 degrees flexion; two percent impairment for 10 degrees extension; six percent impairment for 80 degrees abduction; one percent impairment for 25 degrees adduction; four percent impairment for 0 degrees internal rotation; but found two percent impairment for 30 degrees external rotation as opposed to Dr. Harlan's assignment of four percent impairment. In an April 24, 2026 supplemental report, Dr. Harlan agreed with Dr. Harris' impairment calculation that appellant had 18 percent total left upper extremity impairment based on the ROM methodology. The Board therefore finds that Dr. Harris properly determined that appellant had 18 percent total permanent impairment of the left upper extremity.[17] His report, thus, constitutes the weight of the medical evidence regarding left upper extremity impairment.[18]

[14] *See supra* note 8 at Chapter 2.808.6(f) (version 1.2 May 4, 2026); *see also C.J.,* Docket No. 25-0440 (issued May 12, 2025); *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).

[15] *See supra* note 8 at Chapter 2.808.6(f) (version 1.2 May 4, 2026).

[16] *Id.*

[17] The Board notes that as the 18 percent left upper extremity impairment represents the total impairment, the prior award of 12 percent left upper extremity impairment was subtracted from the total impairment which yielded the additional 6 percent impairment of the left upper extremity appellant received.

[18] *See K.S.*, 21-0238 (issued June 7, 2022); *M.J.,* Docket No. 20-1264 (issued February 16, 2021); *J.D.,* Docket No. 19-0414 (issued August 19, 2019); *P.L.,* Docket No. 17-0355 (issued June 27, 2018); *Ronald J. Pavlik*, 33 ECAB 1596 (1982).

As the medical evidence of record does not establish greater than the 18 percent permanent impairment of the left upper extremity previously awarded, the Board finds that appellant has not met his burden of proof.

Appellant may request a schedule award or increased schedule award at any time based 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

Under FECA, monetary compensation for disability or impairment due to an employment injury is paid as a percentage of the pay rate.[19] Section 8101(4) provides that monthly pay means the monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if the recurrence begins more than six months after the injured employee resumes regular full-time employment with the United States, whichever is greater.[20] The compensation rate for schedule awards is the same as compensation for wage loss.[21] When there is no prior injury-related disability, OWCP's procedures indicate that the pay rate date is the date of injury (DOI).[22]

In computing pay rate, section 8114(e) provides for the inclusion of certain premium pay received and, where the evidence indicates additional amounts received in Sunday premium or night differential pay fluctuated or may have fluctuated, OWCP determines the amount of additional pay received during the one-year period prior to injury.[23] When the job held at the time of injury includes elements of pay such as night or shift differential, extra compensation for work performed on Sundays and holidays, or pay for administratively uncontrolled overtime (AUO), OWCP must include the additional pay in the base pay.[24]

When an injury does not result in disability, but compensation is payable for permanent impairment, a beneficiary is eligible for cost-of-living adjustments under section 8146(a) of FECA where the award for such impairment began more than one year prior to the date the cost-of-living adjustment took effect.[25] OWCP's procedures provide that, "[w]here the schedule award represents the first payment for compensable disability, the claimant's entitlement to cost-of-living

[19] *Supra* note 2 at §§ 8105-8107.

[20] *Id.* at § 8101(4). *K.B.,* Docket No. 13-0569 (issued June 17, 2013).

[21] *See L.B.*, Docket No. 25-0165 (issued January 21, 2025); *S.K.,* Docket No. 20-0422 (issued December 2, 2020); *K.H.,* 59 ECAB 495 (2008).

[22] *Supra* note 8 at Part 2 – Claims, *Determining Pay Rates, Effective Date of Pay Rate*, Chapter 2.900.5c (version 1.2, issued May 4, 2026); *see also E.F.,* Docket No. 23-0505 (issued October 11, 2024); *S.K.,* Docket No. 20-0422 (issued December 2, 2020).

[23] 5 U.S.C. § 8114(e); *G.H.,* Docket No. 19-0770 (issued March 5, 2020); *Lottie M. Williams,* 56 ECAB 302 (2005).

[24] 5 U.S.C. § 8114(e); *supra* note 8 at Chapter 2.900.6.b(7), Claims, *Determining Pay Rates, Elements Included in Pay Rate* (version 1.2, issued May 4, 2026).

[25] 20 C.F.R. § 10.420(b). *See also D.G.,* Docket No. 16-1855 (issued August 28, 2017).

adjustments does not begin until one year after the award begins."[26] Its procedures additionally indicate that when a claimant has no disability for work before the date of MMI, "the one-year waiting period begins on the starting date of the award. This date represents the claimant's first entitlement to compensation, even though the effective date of the pay rate DOI is earlier."[27]

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly determined appellant's pay rate for schedule award purposes.

The case record establishes that appellant returned to full-time employment more than six months prior to September 14, 2016, when he sustained his second recurrence of disability. OWCP therefore properly determined that his pay rate for schedule award purposes was his recurrence pay rate of September 14, 2016.[28] The Board thus finds that OWCP used the appropriate pay rate date in determining appellant's 2026 schedule award.

Appellant's weekly payrate as of September 14, 2016 was $1,175.37, based on his base weekly payrate of $1,163.73, plus $11.64 weekly night differential. This equaled $881.53 at the augmented compensation rate of 75 percent (or ¾). After cost-of-living adjustments, OWCP found appellant's weekly compensation was $1,157.76 for the period February 10 through February 28, 2026 and $1,187.75 for the period March 1 through June 21, 2026, with continuing payments each four weeks of $4,751.00. Accordingly, the Board finds that OWCP properly determined appellant's pay rate for schedule award purposes.

OWCP also properly calculated appellant's schedule award for 18.72 weeks for the period February 10 through June 21, 2026 at the augmented compensation rate.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish greater than 18 percent permanent impairment of the left upper extremity (shoulder), for which he previously received schedule award compensation. The Board further finds that OWCP properly determined appellant's pay rate for schedule award purposes.

[26] *E.F., supra* note 22.

[27] *Id.*

[28] *See supra* note 22. *See also J.L.,* Docket No. 26-0350 (issued July 7, 2026).

ORDER

IT IS HEREBY ORDERED THAT the May 18, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 21, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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