United States Department of Labor
Employees' Compensation Appeals Board

J.R., Appellant	)	
and	)	**Docket No. 26-0614**
	)	**Issued: September 25, 2026**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Oklahoma City, OK, Employer	)	

Appearances:
Appellant, pro se
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
JANICE B. ASKIN, Judge

JURISDICTION

On June 22, 2026 appellant filed a timely appeal from a May 19, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the May 19, 2026 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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 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 September 16, 2005 appellant, then a 52-year-old custodial laborer, filed a traumatic injury claim (Form CA-1) alleging that on September 3, 2005 he sustained a hernia when he moved mail equipment and pushed tubs filled with trash while in the performance of duty. He noted that he experienced stomach pain after the incident and noticed a small lump to the right of his navel. Appellant initially did not stop work. On September 26, 2005 he underwent ventral incisional hernia repair with mesh. On November 4, 2005 OWCP accepted the claim for unilateral inguinal hernia.[3]

On February 23, 2006 appellant filed a claim for compensation (Form CA-7) for a schedule award.

In a development letter dated March 12, 2007, OWCP advised appellant of the deficiencies of his schedule award claim and requested a medical report from an attending physician assessing his permanent impairment. Appellant subsequently submitted medical evidence, but he did not submit a rating of permanent impairment.

By decision dated August 22, 2007, OWCP denied appellant's claim for a schedule award, finding that the medical evidence of record was insufficient to establish permanent impairment of a scheduled member or function of the body, warranting a schedule award.

On March 5, 2008 appellant underwent laparoscopic cholecystectomy with open repair of recurrent ventral incisional hernia with incarcerated mesh. On September 17, 2009 he underwent recurrent left inguinal hernia repair with mesh.

On January 12, 2026 OWCP received an April 1, 2025 report wherein Dr. John W. Ellis, a Board-certified family practitioner, documented physical examination findings, noting that appellant had persistent residual findings in the left inguinal region, including a palpable defect in the supporting structures underlying the left inguinal surgical area, persistent tenderness to palpation, and chronic activity-related discomfort.[4] Dr. Ellis opined that, utilizing Table 6-10 (Criteria for Rating Permanent Impairment due to Herniation) on page 122 of the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),[5] appellant's accepted inguinal hernia condition fell under class 1, and corresponded to

[3] Appellant stopped work, and OWCP paid him wage-loss compensation for disability from work on the supplemental rolls, effective January 23, 2006.

[4] On November 11, 2025 OWCP had received an October 25, 2025 report, entitled "interim report," wherein Dr. Ellis documented physical examination findings obtained on October 25, 2025. Dr. Ellis noted that appellant remained off work since October 8, 2009 due, in part, to pain and functional limitations related to his inguinal hernia, but he did not provide an assessment of permanent impairment.

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

three percent permanent impairment of the whole person.[6] Utilizing Table 16-10 (Impairment Values Calculated From Lower Extremity Impairment) on page 530-31, Dr. Ellis opined that the three percent permanent impairment of the whole person corresponded to eight percent permanent impairment of the left lower extremity.[7] He determined that appellant reached maximum medical improvement (MMI) on April 1, 2025.

On January 12, 2026 appellant filed a Form CA-7 for a schedule award.

By decision dated March 19, 2026, OWCP denied appellant's schedule award, finding that the medical evidence of record was insufficient to establish permanent impairment of a scheduled member or function of the body, warranting a schedule award. It noted that an inguinal hernia was not a listed member, organ, or function of the body for the purposes of granting a schedule award under FECA.

On April 28, 2026 appellant requested reconsideration of his claim.

On April 28, 2026 OWCP received an April 1, 2026 report wherein Dr. Ellis again determined, utilizing Table 6-10 and Table 16-10 of the sixth edition of the A.M.A., *Guides*, that appellant had three percent permanent whole person impairment, which in turn corresponded to eight percent permanent impairment of his left lower extremity. Dr. Ellis indicated that his April 1, 2025 report was not intended to request compensation for whole-person impairment as a stand-alone award under FECA. He advised that it remained his opinion that appellant reached MMI on April 1, 2025.

By decision dated May 19, 2026, OWCP denied modification of its March 19, 2026 decision.

LEGAL PRECEDENT

The schedule award provisions of FECA,[8] and its implementing federal regulations,[9] 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. FECA, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such a determination is a matter which rests in the discretion of OWCP. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. OWCP evaluates the degree of permanent impairment according to the standards set forth in the

[6] *See id.* at 122, Table 6-10. The history modifier fell under class 1 due to occasional mild discomfort at the site of the defect; and the physical findings modifier fell under class 1 due to palpable defect in supporting structures. There was no movement from the default value of three percent permanent impairment of the whole person. *Id.*

[7] *Id.* at 530-31, Table 16-10.

[8] 5 U.S.C. § 8107.

[9] 20 C.F.R. § 10.404.

specified edition of the A.M.A., *Guides*, published in 2009.[10] 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.[11]

No schedule award is payable for a member, function, or organ of the body not specified in FECA or in the implementing regulations.[12] FECA identifies members such as the arm, leg, hand, foot, thumb, and finger, organs to include the eye, and the functions of loss of hearing and loss of vision.[13] Section 8107(c)(22) of FECA provides for the payment of compensation for permanent loss of any other important external or internal organ of the body as determined by the Secretary of Labor.[14] The Secretary of Labor has made such a determination and, pursuant to the authority granted in section 8107(c)(22), added the breast, kidney, larynx, lung, penis, testicle, ovary, uterus, and tongue to the schedule.[15]

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

ANALYSIS

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

Appellant submitted April 1, 2025 and April 1, 2026 reports wherein Dr. Ellis determined that, under the standards of the sixth edition of the A.M.A., *Guides*, appellant's accepted hernia condition corresponded to three percent permanent impairment of the whole person, which in turn corresponded to eight percent permanent impairment of the left lower extremity. OWCP did not request an opinion from a DMA, as required by its procedures.

[10] For decisions issued after May 1, 2009, the sixth edition of the A.M.A., *Guides* is used. A.M.A., *Guides* (6th ed. 2009); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims,* Chapter 2.808.5a (version 1.2, issued May 4, 2026); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (version 1.2, issued May 4, 2026).

[11] *J.M.,* Docket No. 24-0833 (issued March 20, 2024); *P.R.,* Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera,* 12 ECAB 348 (1961).

[12] *See A.T.,* Docket No. 26-0447 (issued August 7, 2026); *G.S.,* Docket No. 17-1318 (issued October 11, 2017); *Leroy M. Terska*, 53 ECAB 247 (2001).

[13] 5 U.S.C. § 8107(c). *See M.A*., Docket No. 16-0387 (issued April 8, 2016).

[14] *Id.* at § 8122(c)(22).

[15] 20 C.F.R. § 10.404; *A.B.,* Docket No. 23-0673 (issued December 5, 2023); *Henry B. Floyd, III*, 52 ECAB 220 (2001).

[16] *See supra* note 10 at Chapter 2.808.6(f) (version 1.2, issued May 4, 2026); *see also J.S.*, Docket No. 23-0456 (issued October 2, 2023); *R.M*., Docket No. 18-1313 (issued April 11, 2019); *C.K*., Docket No. 09-2371 (issued August 18, 2010).

As noted above, 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.[17]

This case shall therefore be remanded for further development. On remand, OWCP shall refer the case record, including the reports by Dr. Ellis, and an updated statement of accepted facts, to a DMA for an opinion regarding permanent impairment of a scheduled member, organ, or function of the body pursuant to the sixth edition of the A.M.A., *Guides*.[18] After this and other such further proceedings as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the May 19, 2026 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: September 25, 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

[17] *Id.*

[18] *See J.A.,* Docket No. 25-0767 (September 8, 2025).