

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

G.M., Appellant)

and)

U.S. POSTAL SERVICE, NORTH HILLS POST)
OFFICE, San Fernando, CA, Employer)
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Docket No. 20-1196
Issued: May 1, 2023

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
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On May 21, 2020 appellant filed a timely appeal from a May 1, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

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 his oral argument request, appellant asserted that oral argument should be granted in order to explain how his impairment lessened and why he now owed OWCP money. The Board, in exercising its discretion, denies his request for oral argument because this matter requires an evaluation of the factual and medical evidence. As such, the arguments on appeal can be adequately 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.*

³ The Board notes that following the May 1, 2020 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.*

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish greater than 25 percent permanent impairment of the left lower extremity for which he previously received schedule award compensation; (2) whether appellant received an overpayment of compensation in the amount of \$8,329.07 for the period October 25, 2015 through February 22, 2016, for which he was without fault, as he received schedule award compensation to which he was not entitled; and (3) whether OWCP properly denied waiver of recovery of the overpayment.

FACTUAL HISTORY

On June 29, 2002 appellant, then a 49-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained a torn meniscus of his left knee causally related to factors of his federal employment. OWCP accepted the claim for a left knee meniscus tear and assigned OWCP File No. xxxxxx890. It subsequently expanded its acceptance of the claim to include left knee derangement of the meniscus, a left knee sprain, and localized primary osteoarthritis of the left lower leg.⁴

Under OWCP File No. xxxxxx890, appellant underwent partial medial and lateral meniscectomies of the left knee on February 27, 2003 and January 16, 2008. On January 7, 2013 he underwent a total left knee arthroplasty.

On February 19, 2014 appellant filed a claim for compensation (Form CA-7) for a schedule award.

In an impairment evaluation dated November 13, 2013, Dr. Domenick J. Sisto, a Board-certified orthopedic surgeon, measured range of motion of the knees and found full motor strength of the lower extremities bilaterally. He advised that x-rays showed no loosening of the components of the knees. Dr. Sisto diagnosed bilateral knee osteoarthritis after bilateral total knee arthroplasties. He noted that appellant had done “relatively fair” after his surgeries and had reached maximum medical improvement (MMI). Dr. Sisto opined that appellant had 20 percent whole person impairment of each knee, pursuant to the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).⁵

On August 6, 2014 Dr. Sisto discussed appellant’s complaints of continued left knee pain and stiffness. He related, “At this time I have no changes to my permanent and stationary report, as [appellant] is not happy with the results of his total knee arthroscopy.”

On September 17, 2014 OWCP requested that appellant submit an impairment rating using the sixth edition of the A.M.A., *Guides*.⁶

⁴ OWCP had previously accepted that appellant sustained a tear of the right medial meniscus on August 10, 1998, assigned OWCP File No. xxxxxx413. It administratively combined OWCP File No. xxxxxx413 and OWCP File No. xxxxxx890, with the latter serving as the master file.

⁵ A.M.A., *Guides* (5th ed. 2001).

⁶ A.M.A., *Guides* (6th ed. 2009).

In a report dated October 29, 2014, Dr. Sisto indicated that, according to the sixth edition of the A.M.A., *Guides*, appellant had 20 percent permanent impairment of the right knee due to his fair result after a total knee replacement. In a progress report of even date, he noted that appellant had pain and loss of motion of the left knee.

On January 23, 2015 Dr. Leonard A. Simpson, an orthopedic surgeon serving as a district medical adviser (DMA), reviewed Dr. Sisto's reports. He identified a class 3 total knee replacement with a fair result, which yielded a default impairment rating of 37 percent under Table 16-3 on page 511 of the A.M.A., *Guides*. Dr. Simpson applied a grade modifier for functional history (GMFH) of one, a grade modifier for physical examination (GMPE) of two, found that a grade modifier for clinical studies (GMCS) was not applicable as it was used to determine the class. He used the net adjustment formula to find 31 percent permanent impairment of the left lower extremity.

By decision dated February 11, 2015, OWCP granted appellant a schedule award for 31 percent permanent impairment of the left lower extremity. The period of the award ran for 89.28 weeks from June 8, 2014 to February 22, 2016.

On April 4, 2017 appellant underwent a complete synovectomy of the left knee with removal of a loose body and a lysis of adhesions. On September 11, 2018 he underwent a left knee lysis of adhesions, subcutaneous lateral release, partial synovectomy and a removal of a loose body with manipulation.

Appellant returned to his usual employment on November 19, 2018.

On July 5, 2019 appellant filed a Form CA-7 claim for an increased schedule award.

In a development letter dated July 22, 2019, OWCP requested that appellant submit a report from his physician addressing whether he had reached MMI and providing an impairment rating in accordance with the sixth edition of the A.M.A., *Guides*.

In a report dated August 7, 2019, Dr. Sisto indicated that appellant related that he was "doing fair following his left knee arthroplasty and subsequent arthroscopic surgery." On examination, he found minimal intra-articular effusion and pain to palpation over the medial joint line. Dr. Sisto determined that appellant had no atrophy, soft-tissue swelling, or ecchymosis and that the patellar seemed well positioned. He further found a negative patellar apprehension sign and grind test, minimal patellar crepitus, and that the patella "appears to track smoothly within the trochlea of the femur during flexion and extension arc of the knee." Dr. Sisto measured 0 degrees extension of the left knee and 115 degrees flexion. He found intact sensation and full motor strength of the lower extremities. Dr. Sisto diagnosed a grade III medial meniscus tear of the left knee, and opined that appellant had reached MMI. He identified the class of diagnosis (CDX) as a class 3 total knee arthroplasty. Dr. Sisto concluded that, according to the sixth edition of the A.M.A., *Guides*, appellant had 43 percent lower extremity impairment.

On September 17, 2019 Dr. Michael M. Katz, a Board-certified orthopedic surgeon serving as a DMA, identified the CDX as a total knee replacement with a good result, stable, functional, and in good position, which yielded a default value of 25 percent according to Table 16-3 on page 511 of the A.M.A., *Guides*. He applied a GMFH of 2, a GMPE of 2, and a GMCS of two, which yielded no adjustment from the default value, and a total left lower extremity impairment of 25 percent. Dr. Katz related that his impairment rating was lower than Dr. Sisto's based on his

determination that the examination findings had shown no ratable motion deficit or instability, and thus failed to support a class 3 CDX. He further noted that Dr. Sisto failed to apply grade modifiers or explain how he found 43 percent permanent impairment of the left lower extremity. Dr. Katz indicated that range of motion was not available as an alternative method for calculating the impairment for the applicable diagnosis. He advised that since the 25 percent permanent impairment rating was less than and duplicated the prior award of 31 percent permanent impairment, appellant was not entitled to an additional schedule award for the left lower extremity.

By decision dated October 3, 2019, OWCP denied appellant's claim for an increased schedule award.

In a preliminary overpayment determination dated October 16, 2019, OWCP advised appellant of its preliminary finding that he had received an overpayment of \$8,329.07 for the period June 8, 2014 through February 22, 2016 as he had previously received a schedule award for 31 percent permanent impairment, but the current evidence supported only 25 percent permanent impairment of the left lower extremity. It found that his current weekly pay rate was \$1,214.31, which it multiplied by 75 percent as he was entitled to augmented compensation and then by 72 weeks to find that it should have paid him \$65,572.74 in schedule award compensation for 25 percent permanent impairment of the left lower extremity. OWCP subtracted \$65,572.74 from the amount that it had paid appellant, \$73,901.81, to find an overpayment of \$8,329.07. It further advised him of its preliminary determination that he was without fault in the creation of the overpayment. OWCP requested that appellant submit a completed overpayment recovery questionnaire (Form OWCP-20) to determine a reasonable payment method and informed him that he could request waiver of recovery of the overpayment. It further requested that he submit supporting financial documentation, including copies of income tax returns, bank account statements, bills and canceled checks, pay slips, and any other records supporting income and expenses. Additionally, OWCP provided an overpayment action request form and notified appellant that, within 30 days of the date of the letter, he could request a telephone conference, a final decision based on the written evidence, or a preresoupment hearing.

On October 27, 2019 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review regarding the October 3, 2019 denial of an increased schedule award.

In an overpayment action request form dated October 30, 2019, appellant disagreed that the overpayment had occurred and requested waiver of recovery of the overpayment as he was without fault in its creation. In an OWCP-20 form, he again indicated that he was without fault and questioned how OWCP determined that he had 25 percent permanent impairment. Appellant did not provide financial information or supporting documentation.

A telephonic preresoupment hearing was held on March 5, 2020.

In a statement dated March 23, 2020, appellant advised that he and his wife had assets in cash, checking accounts, and stocks and bonds totaling \$471,754.00. He further listed his income and expenses.

By decision dated May 1, 2020, OWCP's hearing representative finalized the preliminary finding that appellant had received a \$8,329.07 overpayment of schedule award compensation, but modified the period of the overpayment to October 25, 2015 through February 22, 2016. He found

appellant without fault in creation of the overpayment, but denied waiver of recovery of the overpayment as appellant's assets exceeded the applicable resource base. The hearing representative considered appellant's monthly income and expenses and determined that he should submit \$800.00 monthly as repayment of the overpayment.

LEGAL PRECEDENT -- ISSUE 1

The schedule award provision of FECA,⁷ and its implementing federal regulation,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. 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 specified edition of the A.M.A., *Guides*, published in 2009.⁹ 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.¹⁰

The sixth edition of the A.M.A., *Guides* provides a diagnosis-based method of evaluation utilizing the World Health Organization's International Classification of Functioning Disability and Health (ICF).¹¹ Under the sixth edition, the evaluator identifies the impairment class of diagnosis (CDX), which is then adjusted by grade modifiers based on functional history (GMFH), physical examination (GMPE) and clinical studies (GMCS).¹² The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).¹³ Evaluators are directed to provide reasons for their impairment choices, including the choices of diagnoses from regional grids and calculations of modifier scores.¹⁴

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to a DMA for an opinion concerning the percentage of permanent impairment using the A.M.A., *Guides*.¹⁵

⁷ *Supra* note 2.

⁸ 20 C.F.R. § 10.404.

⁹ 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 2.808.6 (March 2017); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010).

¹⁰ *P.R.*, Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera*, 12 ECAB 348 (1961).

¹¹ A.M.A., *Guides* (6th ed. 2009), p.3, section 1.3, International Classification of Functioning, Disability and Health (ICF): A Contemporary Model of Disablement.

¹² *Id.* at 494-531.

¹³ *Id.* 411.

¹⁴ *R.R.*, Docket No. 17-1947 (issued December 19, 2018); *R.V.*, Docket No. 10-1827 (issued April 1, 2011).

¹⁵ *Supra* note 9 at Chapter 2.808.6(f) (March 2017); *B.B.*, Docket No. 18-0782 (issued January 11, 2019).

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish greater than 25 percent permanent impairment of the left lower extremity for which he previously received schedule award compensation.

On January 23, 2015 Dr. Simpson, a DMA, reviewed the medical evidence and found that appellant had 37 percent permanent impairment of the left lower extremity due to his class 3 total knee replacement pursuant to Table 16-3 on page 511 of the A.M.A., *Guides*.

By decision dated February 11, 2015, OWCP granted appellant a schedule award for 31 percent permanent impairment of the left lower extremity. The award ran for 89.28 weeks from June 8, 2014 through February 22, 2016.

Appellant subsequently underwent additional left knee surgery. On April 4, 2017 he had a synovectomy of the left knee with removal of a loose body and a lysis of adhesions and on September 11, 2018 he had a left knee lysis of adhesions, subcutaneous lateral release, partial synovectomy and a removal of a loose body with manipulation.

On July 5, 2019 appellant requested an increased schedule award.

In an August 7, 2019 impairment evaluation, Dr. Sisto found that appellant's patella was well positioned and tracked smoothly during flexion and extension. He measured left knee extension of 0 degrees and flexion of 115 degrees. Dr. Sisto found minimal patellar crepitus and no atrophy, swelling of the soft tissue, or ecchymosis. He identified the CDX as a class 3 total knee arthroplasty under Table 16-3 on page 511, applicable to an arthroplasty with a fair position, mild instability, and/or mild motion deficit. Dr. Sisto concluded that appellant had 43 percent permanent impairment of the left lower extremity. He did not, however, explain how he categorized appellant's knee replacement as a class 3 given his findings on examination of good position of the patella, normal range of motion, and no finding of instability. Dr. Sisto further failed to describe his application of grade modifiers in determining that he had 43 percent permanent impairment. The Board has held that an opinion on permanent impairment is of limited probative value if it is not derived in accordance with the standards adopted by OWCP and approved by the Board as appropriate for evaluating schedule losses.¹⁶

On September 17, 2019 Dr. Katz reviewed Dr. Sisto's impairment evaluation and identified the CDX as a class 2 total knee replacement as appellant's knee was stable, functional, and in good position, which yielded a default value of 25 percent according to Table 16-3 on page 511 of the A.M.A., *Guides*. He applied a GMFH, GMPE, and GMCS of two, to find no adjustment from the default value of 25 percent.¹⁷ Dr. Katz noted that Dr. Sisto's examination findings showed no instability or ratable impairment due to reduced motion. He found that appellant had

¹⁶ See *S.M.*, Docket No. 20-1667 (issued June 24, 2021).

¹⁷ Utilizing the net adjustment formula discussed above, $(GMFH-CDX) + (GMPE-CDX) + (GMCS-CDX)$, or $(2-2) + (2-2) + (2-2) = 0$, yielded a zero adjustment.

25 percent permanent impairment of the left lower extremity and noted that it duplicated the prior award of 31 percent permanent impairment.¹⁸

The Board finds that the weight of the medical evidence rests with the opinion of the DMA, Dr. Katz, as he properly applied the appropriate provisions and grading schemes of the sixth edition of the A.M.A., *Guides* to Dr. Sisto's clinical findings in determining that appellant had 25 percent permanent impairment of the left lower extremity based on her accepted left knee condition.¹⁹ Dr. Katz's finding of a good result after a total knee arthroplasty is supported by Dr. Sisto's findings on examination. Accordingly, the Board finds that appellant has no more than 25 percent permanent impairment of the left lower extremity.

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 impairment.

LEGAL PRECEDENT -- ISSUE 2

Section 8102(a) of FECA provides that the United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of duty.²⁰ Section 8129(a) of FECA provides, in pertinent part, that when an overpayment has been made to an individual under this subchapter because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which an individual is entitled.²¹

If a claimant receives a schedule award and the medical evidence does not support the degree of permanent impairment awarded, an overpayment may be created.²² OWCP's procedures provide that claims for an increased schedule award based on the same edition of the A.M.A., *Guides* are subject to overpayment.²³

ANALYSIS -- ISSUE 2

The Board finds that appellant received an overpayment of compensation in the amount of \$8,329.07, for which he was without fault, for the period October 25, 2015 through February 22, 2016.

¹⁸ When the prior impairment is due to a previous work-related injury, and a schedule award has been granted for such prior impairment, the percentage already paid is subtracted from the total percentage of impairment. 20 C.F.R. § 10.404(d). See *A.R.*, Docket No. 21-0346 (issued July 1, 2021); *D.P.*, Docket No. 19-1514 (issued October 21, 2020).

¹⁹ See *K.F.*, Docket No. 21-0021 (issued September 28, 2021); *G.W.*, Docket No. 19-0430 (issued February 7, 2020).

²⁰ 5 U.S.C. § 8102(a).

²¹ *Id.* at § 8129(a).

²² *Supra* note 7 at Chapter 2.808.9(e) (February 2013); *R.S.*, Docket No. 20-0311 (issued July 8, 2020); *J.C.*, Docket No. 09-1526 (issued June 1, 2010).

²³ *Id.*; see also *F.P.*, Docket No. 20-1646 (issued August 3, 2021).

In the present case, appellant received \$73,901.81 in schedule award compensation for 31 percent permanent impairment of his left lower extremity. However, for the reasons explained above, he was only entitled to receive \$65,572.74 in schedule award compensation for 25 percent permanent impairment of his right upper extremity. The difference between these two amounts, \$8,329.07, constitutes an overpayment of compensation. As noted above, OWCP's procedures allow for the declaration of such an overpayment as both awards were calculated under the same edition of the A.M.A., *Guides*.²⁴ Therefore, OWCP properly determined that appellant received an \$8,329.07 overpayment of schedule award compensation.

On appeal, appellant questions the overpayment finding. Section 8107 provides for 288 weeks of compensation for 100 percent permanent impairment of a lower extremity. Twenty-five percent of 288 weeks equals 72 weeks. As appellant received compensation for 31 percent permanent impairment, or 89.28 weeks, he received an overpayment of compensation.

LEGAL PRECEDENT -- ISSUE 3

Section 8129 of FECA²⁵ provides that an overpayment must be recovered unless incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of FECA or would be against equity and good conscience. Thus, a finding that appellant was without fault does not automatically result in waiver of the overpayment. OWCP must exercise its discretion to determine whether recovery of the overpayment would defeat the purpose of FECA or would be against equity and good conscience.²⁶

According to 20 C.F.R. § 10.436, recovery of an overpayment would defeat the purpose of FECA if recovery would cause hardship because the beneficiary needs substantially all of his or her income (including compensation benefits) to meet current ordinary and necessary living expenses, and also, if the beneficiary's assets do not exceed a specified amount as determined by OWCP from data provided by the Bureau of Labor Statistics.²⁷ An individual's liquid assets include, but are not limited to, cash on hand, the value of stocks, bonds, savings accounts, mutual funds, and certificates of deposits. Nonliquid assets include, but are not limited to, the fair market value of an owner's equity in property such as a camper, boat, second home, furnishings/supplies, vehicle(s) above the two allowed per immediate family, retirement account balances (such as TSP or 401(k)), jewelry, and artwork.²⁸

Section 10.437 provides that recovery of an overpayment is against equity and good conscience when an individual who received an overpayment would experience severe financial

²⁴ *Supra* note 21.

²⁵ *Supra* note 1.

²⁶ *G.L.*, Docket No. 19-0297 (issued October 23, 2019).

²⁷ 20 C.F.R. § 10.436. OWCP procedures provide that a claimant is deemed to need substantially all his or her current net income to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than \$50.00. Its procedures further provide that assets must not exceed a resource base of \$6,200.00 for an individual or \$10,300.00 for an individual with a spouse or dependent plus \$1,200.00 for each additional dependent. Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4(a)(2) and (3) (September 2020).

²⁸ *Id.* at Chapter 6.400.4b(3)(a), (b).

hardship attempting to repay the debt and when an individual, in reliance on such payments or on notice that such payments would be made, gives up a valuable right or changes her position for the worse.²⁹

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly denied waiver of recovery of the overpayment.

As OWCP found appellant not at fault in the creation of the overpayment, waiver must be considered, and repayment is still required unless adjustment or recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience.³⁰

Appellant advised that he had assets in cash, checking accounts, and stocks and bonds of \$471,754.00. His stated assets exceed the resource base of \$10,300.00 for an individual with a spouse or one dependent, plus \$1,200.00 for each additional dependent, as provided in OWCP's procedures.³¹ Because appellant has not met the second prong of the two-prong test, of whether recovery of the overpayment would defeat the purpose of FECA, it is not necessary to consider the first prong of the test, *i.e.*, whether he needs substantially all of his current income to meet ordinary and necessary living expenses.³² He has not established that he was entitled to waiver on the basis of defeating the purpose of FECA.³³

Additionally, the evidence does not demonstrate that recovery of the overpayment would be against equity and good conscience. Appellant has not submitted evidence to substantiate that he would experience severe financial hardship in attempting to repay the debt, or that in reliance on such payment he gave up a valuable right or changed his position for the worse. Therefore, OWCP properly found that recovery of the overpayment would not defeat the purpose of FECA or be against equity and good conscience.³⁴

Because appellant has not established that recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience, the Board finds that OWCP properly denied waiver of recovery of the overpayment.³⁵

With respect to recovery of the overpayment, the Board's jurisdiction is limited to reviewing those cases where OWCP seeks recovery from continuing compensation benefits under

²⁹ 20 C.F.R. § 10.437(b)(1).

³⁰ *Id.* at § 10.436.

³¹ *Supra* note 25.

³² *See S.W.*, Docket No. 20-0363 (issued November 23, 2020); *M.H.*, Docket No. 19-1497 (issued September 9, 2020).

³³ *N.B.*, Docket No. 20-0727 (issued January 26, 2021); *R.D.*, Docket No. 19-1598 (issued April 17, 2020).

³⁴ *N.J.*, Docket No. 19-1170 (issued January 10, 2020); *V.T.*, Docket No. 18-0628 (issued October 25, 2018).

³⁵ *See T.C.*, Docket No. 21-0612 (issued December 2, 2021).

FECA.³⁶ As appellant is not receiving wage-loss compensation, the Board does not have jurisdiction with respect to the recovery of the overpayment under the Debt Collection Act.³⁷

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish greater than 25 percent permanent impairment of the left lower extremity for which he previously received schedule award compensation. The Board further finds that appellant received an overpayment of compensation in the amount of \$8,329.07 for the period October 25, 2015 through February 22, 2016, for which he was without fault, as he received schedule award compensation to which he was not entitled; and that OWCP properly denied waiver of recovery of the overpayment.

ORDER

IT IS HEREBY ORDERED THAT the May 1, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 1, 2023
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

³⁶ See *E.S.*, Docket No. 20-1018 (issued December 3, 2021); *E.F.*, Docket No. 18-1320 (issued March 13, 2019).

³⁷ *Id.*