

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MURIEL M. LAWRENCE and DEPARTMENT OF VETERANS AFFAIRS,
LAKESIDE MEDICAL CENTER, Hines, IL

*Docket No. 99-241; Submitted on the Record;
Issued April 5, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's claim for continuation of pay on the grounds that she failed to give written notice of her injury within the time specified by the Federal Employees' Compensation Act.

On July 15, 1998 appellant, then a 60-year-old food service worker, filed a traumatic injury claim (Form CA-1), indicating that on May 1, 1998 she sustained an injury to her back which radiated into her right leg as a result of lifting a crate of milk in the performance of her duties. She stopped working that day and returned on July 8, 1998.

By decision dated August 25, 1998, the Office denied appellant's claim for continuation of pay on the grounds that she failed to file written notice of injury within 30 days of the date of the injury.

The Board finds that the Office properly denied appellant's claim for continuation of pay on the grounds that she failed to give written notice of injury within the time specified by the Act.

Section 8118(a) of the Act provides for payment of continuation of pay, not to exceed 45 days, to an employee "who has filed a claim for a period of wage loss due to a traumatic injury with his immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title."¹ Section 8122(a)(2) provides that written notice of

¹ 5 U.S.C. § 8118(a).

the injury shall be given “within 30 days.”² The context of section 8122 makes clear that this means within 30 days of the date of the injury.³

The document in the case record that serves as a claim for continuation of pay is the Form CA-1, which appellant filed on July 15, 1998. As this claim was filed more than 30 days after appellant’s injury of May 1, 1998, the Board finds that her claim for continuation of pay is barred by statute.

The decision of the Office of Workers’ Compensation Programs dated August 25, 1998 is hereby affirmed.⁴

Dated, Washington, D.C.
April 5, 2000

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

² 5 U.S.C. § 8122(a)(2).

³ *Robert E. Kimzey*, 40 ECAB 762,763-64 (1989); *Myra Lenburg*, 36 ECAB 487, 489 (1985).

⁴ This decision does not preclude appellant from receiving compensation benefits as distinguished from continuation of pay. In this regard, the Board notes that, by letter dated August 25, 1998, the Office accepted appellant’s claim for lumbago and advised her that she was eligible to receive all compensation benefits associated therewith.