

FACTUAL HISTORY

On May 19, 2021 appellant, then a 41-year-old postal window services employee, filed a traumatic injury claim (Form CA-1) alleging that on March 15, 2021 he injured his right shoulder when distributing parcels while in the performance of duty. He explained that, while he was separating parcels, an object slammed a box towards his shoulder, which caused him to twist his shoulder. Appellant indicated by check mark that he was claiming COP. He stopped work on March 17, 2021.

Appellant submitted medical evidence in support of his claim.

OWCP, in a development letter dated July 29, 2021, informed appellant of the deficiencies of his claim. It advised him of the type of medical evidence necessary to establish his claim. OWCP afforded appellant 30 days to submit the necessary evidence.

Thereafter, OWCP received additional medical and factual evidence.

By decision dated September 17, 2021, OWCP accepted appellant's claim for sprain of cervical spine ligaments, right shoulder joint sprain, cervical subluxation complex (vertebral), and headache.

By separate decision of even date, OWCP denied appellant's claim for COP, finding that he had failed to report the March 15, 2021 employment injury on a form approved by OWCP within 30 days, as required. It advised him that the denial of COP did not affect his entitlement to compensation and that he could, therefore, file a claim for compensation (Form CA-7) for lost wages due to his accepted employment injury.

LEGAL PRECEDENT

Section 8118(a) of FECA authorizes COP, 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 or her immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title.³ This latter section provides that written notice of injury shall be given within 30 days.⁴

OWCP's regulations provide, in pertinent part, that to be eligible for COP, an employee must: (1) have a traumatic injury which is job related and the cause of the disability and/or the cause of lost time due to the need for medical examination and treatment; (2) file Form CA-1 within 30 days of the date of the injury; and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.⁵

³ *Supra* note 1 at § 8118(a).

⁴ *Id.* at § 8122(a)(2).

⁵ 20 C.F.R. § 10.205(a)(1-3); *see also T.S.*, Docket No. 19-1228 (issued December 9, 2019); *J.M.*, Docket No. 09-1563 (issued February 26, 2010); *Dodge Osborne*, 44 ECAB 849 (1993).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish entitlement to COP.

On May 19, 2021 appellant filed a claim for a March 15, 2021 traumatic injury. By decision dated September 17, 2021, OWCP denied his request for COP as his claim was not filed within 30 days of the accepted March 15, 2021 employment injury. It noted that the denial of COP did not preclude appellant from filing a claim for wage-loss benefits due to the effects of the accepted employment injury. Because appellant filed written notice of his traumatic injury claim (Form CA-1) on May 19, 2021, the Board finds that it was not filed within 30 days of the accepted March 15, 2021 injury, as specified in sections 8118(a) and 8122(a)(2) of FECA.⁶ Accordingly, he is not entitled to COP.⁷

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 entitlement to COP.

⁶ 5 U.S.C. §§ 8118(a), 8122(a)(2).

⁷ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the September 17, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 2, 2022
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