



cover, twisting her right ankle and foot, while in the performance of duty. She indicated on her claim form that she was claiming COP. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty. The employing establishment, however, controverted appellant's claim COP on November 19, 2021.

On January 25, 2022 OWCP accepted appellant's claim for right ankle sprain.

By decision dated July 21, 2022, OWCP denied appellant's claim for COP, finding that she had not reported her injury on an OWCP-approved form within 30 days of her accepted August 23, 2021 employment injury. It noted that the denial of COP did not preclude her from filing a claim for disability due to the effects of her claimed 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.<sup>2</sup> This latter section provides that written notice of injury shall be given within 30 days.<sup>3</sup> The context of section 8122 makes clear that this means within 30 days of the injury.<sup>4</sup>

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.<sup>5</sup>

### **ANALYSIS**

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

Appellant filed her Form CA-1 on November 13, 2021. By decision dated July 21, 2022, OWCP denied her claim for COP, as her claim was not filed within 30 days of the claimed employment injury.

The 30th day following August 23, 2021 was September 22, 2021. Because appellant filed her Form CA-1 on November 13, 2021, the Board finds that it was not filed within 30 days of the

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<sup>2</sup> *Id.* at § 8118(a).

<sup>3</sup> *Id.* at § 8122(a)(2).

<sup>4</sup> *E.M.*, Docket No. 20-0837 (issued January 27, 2021); *J.S.*, Docket No. 18-1086 (issued January 17, 2019); *Robert M. Kimzey*, 40 ECAB 762-64 (1989); *Myra Lenburg*, 36 ECAB 487, 489 (1985).

<sup>5</sup> 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); *William E. Ostertag*, 33 ECAB 1925 (1982).

claimed August 23, 2021 employment injury, as specified in sections 8118(a) and 8122(a)(2) of FECA.<sup>6</sup> As such, appellant has not met her burden of proof to establish entitlement to COP.

**CONCLUSION**

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

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 21, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 30, 2023  
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

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<sup>6</sup> *Supra* notes 2 and 3.