

claim form, his supervisor challenged the claim based on lack of medical evidence and controverted COP. Appellant stopped work on the claimed date of injury and returned to work on March 12, 2023.

Appellant submitted factual and medical evidence in support of his claim.

By decision dated May 2, 2023, OWCP accepted appellant's traumatic injury claim for sprain of ligament of the right ankle. By separate decision of even date, it denied his claim for COP, finding that he had failed to report the February 2, 2023 employment injury on a form approved by OWCP within 30 days, as required.

Appellant resigned from his federal employment on March 13, 2023.

Appellant requested reconsideration on May 10, 2023.

By decision dated July 26, 2023, OWCP denied modification of its May 2, 2023 COP decision.

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 their immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of FECA.² This latter section provides that written notice of injury shall be given within 30 days.³ The context of section 8122 makes clear that this means within 30 days of the injury.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

ANALYSIS

The Board finds that appellant has met his burden of proof to establish entitlement to COP.

Appellant filed a Form CA-1 on March 6, 2023 alleging injury when he rolled his right ankle when walking down a steep driveway while in the performance duty on February 2, 2023.

² *Supra* note 1 at § 8118(a).

³ *Id.* at § 8122(a)(2).

⁴ *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).

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); *William E. Ostertag*, 33 ECAB 1925 (1982).

With regard to entitlement to COP, the Board has held that if the date of 30-day period in which to file notice of injury would have expired is a Saturday, the time for filing a notice of injury does not expire until the next business day.⁶ In the present case, the 30th day following February 2, 2023 was Saturday, March 4, 2023. As appellant filed his claim on Monday, March 6, 2023, his traumatic injury claim was timely filed with regard to COP. The Board thus finds that he has met his burden of proof.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish entitlement to COP.

ORDER

IT IS HEREBY ORDERED THAT the May 2 and July 26, 2023 decisions of the Office of Workers' Compensation Programs are reversed.

Issued: November 28, 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

⁶ See *M.F.*, Docket No. 22-0467 (issued August 11, 2022); *Gwen Cohen-Wise*, Docket No. 03-1021 (issued July 23, 2003).