



she contracted COVID-19 after providing services to infected inmates while in the performance of duty. She stopped work on January 7, 2022.<sup>2</sup>

In support of her claim, appellant submitted a rapid antigen test result, collected on January 12, 2022, which revealed that she tested positive for COVID-19.

By decision dated February 14, 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 the date of last exposure.

On February 18, 2022 appellant requested reconsideration. In a statement of even date, she clarified that the last day she worked at the employing establishment was January 7, 2022. Appellant reported contacting her physician on January 10, 2022 and had her appointment on January 12, 2022. She advised that she was out of the office from January 10 through 25, 2022.

By decision dated March 23, 2022, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

### **LEGAL PRECEDENT -- ISSUE 1**

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>3</sup> This latter section provides that written notice of injury shall be given within 30 days.<sup>4</sup> The context of section 8122 makes clear that this means within 30 days of the injury.<sup>5</sup>

FECA Bulletin No. 20-05 (issued March 31, 2020), provides that "If the employer supports the claim and that the exposure occurred, and the CA-1 is filed within 30 days, the employee is eligible to receive Continuation of Pay for up to 45 days." 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>6</sup>

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<sup>2</sup> On the reverse side of the claim form, appellant's supervisor indicated that appellant stopped work at 7:00 a.m. on Monday, January 10, 2022. However, appellant's work schedule is noted as 7:00 a.m. to 3:30 p.m. Monday through Friday. As such, the Board concludes that appellant's date of last exposure was Friday, January 7, 2022.

<sup>3</sup> *Id.* at § 8118(a).

<sup>4</sup> *Id.* at § 8122(a)(2).

<sup>5</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>6</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).

FECA Bulletin No. 21-09 at subsection II.2. provides that, “The FECA program considers COVID-19 to be a traumatic injury since it is contracted during a single workday or shift (see 20 C.F.R. § 10.5(ee)) and considers the date of last exposure prior to the medical evidence establishing the COVID-19 diagnosis as the Date of Injury since the precise time of transmission may not always be known due to the nature of the virus.”<sup>7</sup>

### ANALYSIS

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

Appellant filed her Form CA-1 on February 7, 2022. She stopped work on January 7, 2022. As previously noted, FECA Bulletin No. 21-09 defines date of injury as the date of last exposure, which in this case was January 7, 2022.<sup>8</sup> Thirty days following January 7, 2022 was February 6, 2022. As this fell on a Sunday, appellant had until the next business day, Monday, February 7, 2022 to file her claim.<sup>9</sup> Because she filed her Form CA-1 on February 7, 2022 the Board finds that it was timely filed.

### CONCLUSION

The Board finds that appellant has met her burden of proof to establish entitlement to COP.<sup>10</sup>

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<sup>7</sup> FECA Bulletin No. 21-09.II.2 (issued April 29, 2021). On March 11, 2021 the American Rescue Plan Act of 2021 (ARPA) was signed into law. Pub. L. No. 117-2. OWCP issued FECA Bulletin No. 21-09 to provide guidance regarding the processing of COVID-19 FECA claims as set forth in the ARPA. Previously, COVID-19 claims under FECA were processed under the guidelines provided by FECA Bulletin No. 20-05 (issued March 31, 2020) and FECA Bulletin No. 21-01 (issued October 21, 2020). FECA Bulletin No. 21-09 supersedes FECA Bulletin Nos. 20-05 and 21-01.

<sup>8</sup> *Id.*

<sup>9</sup> *K.G.*, Docket No. 23-0027 (issued November 29, 2023); *Gwen Cohen-Wise*, Docket No 03-1021 (issued July 23, 2003).

<sup>10</sup> In light of the Board’s disposition of Issue 1, Issue 2 is rendered moot.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 14, 2022 decision of the Office of Workers' Compensation Programs is reversed. The March 23, 2022 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: January 22, 2024  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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