

performance of duty. He reported that he was working in the nurses' station and came into contact with an employee that had to leave after testing positive for COVID-19. On the reverse side of the claim form, the employing establishment acknowledged that appellant was injured in the performance of duty, but controverted COP because the claim was not filed within 30 days of the injury. Appellant stopped work on July 18, 2022, and returned to work on July 27, 2022.

Appellant submitted an antigen laboratory test result, collected by the employing establishment on July 17, 2022, which revealed that he tested positive for COVID-19.

By decision dated August 24, 2022, OWCP denied appellant's claim for COP, finding that he had not reported his injury on an OWCP-approved form within 30 days of the accepted employment injury. It noted that the COP denial did not affect his entitlement to other compensation benefits.

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 the 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's Form CA-1 was timely filed, with regard to COP.

Appellant filed a Form CA-1 on August 15, 2022. By decision dated August 24, 2022, OWCP denied his request for COP, as his claim was not filed within 30 days of the alleged July 14, 2022 employment injury.

In a COP case, the Board has held that if the date of the 30-day period in which to file notice of injury would have expired was a Saturday, the time for filing a notice of injury does not

² 5 U.S.C. § 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, 763-64 (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).

expire until the next business day.⁶ In the present case, the 30th day following July 14, 2022 was Saturday, August 13, 2022. Therefore, appellant had until Monday, August 15, 2022, to request COP.⁷ As he filed his claim on Monday, August 15, 2022, his Form CA-1 claim was timely filed with regard to COP.⁸

CONCLUSION

The Board finds that appellant's Form CA-1 was timely filed, with regard to COP.

ORDER

IT IS HEREBY ORDERED THAT the August 24, 2022 decision of the Office of Workers' Compensation Programs is reversed.

Issued: January 17, 2024
Washington, DC

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

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

⁶ *A.J.*, Docket No. 22-0580 (issued August 11, 2022); *M.F.*, Docket No. 22-0467 (issued August 11, 2022); *Gwen Cohen-Wise*, Docket No. 03-1021 (issued July 23, 2003).

⁷ *Id.*

⁸ *Id.*