

**United States Department of Labor  
Employees' Compensation Appeals Board**

|  |   |                               |
|--|---|-------------------------------|
| C.L., Appellant                            | ) |                               |
|  | ) |                               |
| and  | ) | <b>Docket No. 25-0300</b>     |
|  | ) | <b>Issued: April 17, 2025</b> |
| <b>U.S. POSTAL SERVICE, GREENSBORO</b>     | ) |                               |
| <b>PROCESSING AND DISTRIBUTION CENTER,</b> | ) |                               |
| <b>Greensboro, NC, Employer</b>            | ) |                               |
|  | ) |                               |

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On February 5, 2025 appellant filed a timely appeal from a December 30, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the December 30, 2024 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## ISSUE

The issue is whether appellant has met his burden of proof to establish entitlement to continuation of pay (COP).

## FACTUAL HISTORY

On September 4, 2024 appellant, then a 35-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 29, 2024 at 11:41 a.m. he injured his right foot when delivering mail while in the performance of duty. He stopped work on July 30, 2024 and returned to work on July 31, 2024. On the reverse side of the claim form, appellant's supervisor, M.F., reported that the employing establishment first received notice of appellant's injury on September 4, 2024.

The case record contains an emergency department report and after-visit summary, received by OWCP on July 31, 2024, wherein Anna Hallock, a physician assistant, noted that appellant was treated in the emergency department on July 29, 2024 for a foot injury. Ms. Hallock further noted that x-rays of appellant's right foot were taken and he was diagnosed with closed nondisplaced fracture of distal phalanx of the right great toe. Copies of the x-ray image of appellant's right foot were also received.

In a September 9, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond.

On September 10, 2024 the employing establishment challenged appellant's claim.

In a follow-up development letter dated October 7, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the September 9, 2024 letter to submit the requested necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In an October 9, 2024 response to the development letter, appellant indicated that, on July 29, 2024, while walking a loop, he injured his foot on a guardrail. He asserted that he had reported his injury to his station manager and supervisor on July 29, 2024 *via* text message, along with x-ray images.

By decision dated October 10, 2024, OWCP accepted appellant's claim for nondisplaced fracture of distal phalanx of the right great toe, initial encounter for a closed fracture.

By decision dated October 15, 2024, 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 July 29, 2024 employment injury. It further noted that the decision affected only his entitlement to COP and did not affect his entitlement to other compensation benefits.

On October 22, 2024 appellant requested reconsideration, asserting that he submitted the Form CA-1 within 30 days of the July 29, 2024 date of injury. He explained that he had filed his claim *via* the Employees' Compensation Operations & Management Portal (ECOMP) on July 31, 2024, and referenced the medical documentation that was received by OWCP on July 31, 2024. Appellant further explained that, on August 9, 2024, he received a text message from his station manager, M.F., requesting he "resubmit" his claim *via* ECOMP. On August 31, 2024 he logged into ECOMP and received an error message stating that his claim was "returned for resubmission" for the following reason: "Employee not under my supervision." Appellant was not sure why his station manager had returned his claim because, on the date of injury, M.F. was the station manager for the designated work location where the injury occurred.

In support of his request for reconsideration, appellant resubmitted the July 29, 2024 emergency department report, after-visit summary, and right foot x-ray previously of record. The document indicated that it was "printed from ECOMP," and on the bottom right corner it was stamped as received on July 31, 2024. Appellant also submitted a copy of the Form CA-1 filed through ECOMP, which had been "Returned by Supervisor to Filer for Resubmission." OWCP also received a copy of a text message from M.F. to appellant dated August 9, 2024 that stated: "your ecomp is sitting on the computer website please resubmit it."

By decision dated October 24, 2024, OWCP denied modification of the October 15, 2024 decision.

OWCP subsequently received additional evidence.

On November 13, 2024 appellant asserted that he had submitted his Form CA-1 on July 31, 2024, but it was mishandled by his station manager M.F. He requested that OWCP, therefore, consider his Form CA-1 filed through ECOMP, text message from M.F., and medical documents that support he timely submitted his claim on an approved form.

On November 13, 2024 appellant requested reconsideration.

On December 3, 2024 appellant again asserted that he had filed his claim within the 30-day time period and that he should be entitled to COP. He reiterated that his manager chose not to submit his original Form CA-1 due to a misunderstanding.

By decision dated December 30, 2024, OWCP denied modification of the October 15, 2024 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 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>

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>

The employee must provide a written report on a Form CA-1 to the employing establishment within 30 days of the injury.<sup>7</sup> OWCP's procedures provide that another OWCP-approved form, such as CA-2, CA-2a, or CA-7 forms, which contain words of claim, can be used to satisfy timely filing requirements.<sup>8</sup>

### ANALYSIS

The Board finds that this case is not in posture for a decision.

OWCP found that appellant's claim for COP was untimely because he filed his claim more than 30 days after his accepted July 29, 2024 employment injury. The Board notes that case record, however, contains conflicting evidence regarding whether appellant timely filed his claim for COP. While the Form CA-1 of record was dated September 4, 2024, the case record establishes that, on July 31, 2024, OWCP received an emergency department report, after-visit summary, and right foot x-ray in relation to the present claim file, wherein Ms. Hallock, a physician assistant, noted that appellant was treated in the emergency department on July 29, 2024 and was diagnosed with closed nondisplaced fracture of distal phalanx of the right great toe. On reconsideration, appellant resubmitted a copy of this evidence, marked "printed from ECOMP" and on the bottom right corner it was stamped as received on July 31, 2024. Furthermore, the case record also contains a copy of a Form CA-1 filed through ECOMP, which had been "Returned by Supervisor to Filer for Resubmission" and a copy of a text message from M.F. to appellant dated August 9, 2024 that stated: "your ecomp is sitting on the computer website please resubmit it." As this evidence indicates an earlier filing of a Form CA-1 *via* ECOMP, further development is required.

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<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).

<sup>7</sup> *Id.* at § 10.210(a).

<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Continuation of Pay and Initial Payments*, Chapter 2.8075 (June 2012).

On remand, OWCP shall consider the evidence of the earlier filing of a Form CA-1 *via* ECOMP to determine whether he filed a timely claim for COP.<sup>9</sup> After this and other such further development as deemed necessary, it shall issue a *de novo* decision.

**CONCLUSION**

The Board finds that this case is not in posture for a decision.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 30, 2024 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: April 17, 2025  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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

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<sup>9</sup> *Id.*