

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

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<p><b>J.M., Appellant</b></p> <p>and</p> <p><b>U.S. POSTAL SERVICE, GLENNVILLE POST OFFICE, Glennville, GA, Employer</b></p>	) ) ) ) ) ) )	<b>Docket No. 25-0784</b> <b>Issued: December 15, 2025</b>
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*Appearances:*

*Paul H. Felsner, Esq., for the appellant<sup>1</sup>*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On August 19, 2025 appellant, through counsel, filed a timely appeal from an August 13, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met his burden of proof to establish a traumatic injury in the performance of duty on December 24, 2023, as alleged.

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on an appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On January 19, 2024 appellant, then a 50-year-old postmaster, filed a traumatic injury claim (Form CA-1) alleging that, on December 24, 2023 at 7:45 a.m., he sustained injuries to his face, including the left jaw; ear canal; facial nerves; and carotid artery, when he was in a motor vehicle accident and the airbag deployed, while in the performance of duty. He stated that he was on his way to work and was checking on a backing spot for a rural carrier when the accident occurred. On the reverse side of the claim form, D.H., appellant's supervisor and manager of post office operations (MPOO), controverted the claim, contending that appellant was not in the performance of duty as he did not report that he was enroute to his duty station and he was not scheduled to work on December 24, 2023, a Sunday. Appellant stopped work on December 24, 2023.

In a development letter dated January 24, 2024, 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 submit the necessary evidence. No additional evidence was received.

In a letter dated February 21, 2024, OWCP notified appellant that it had performed an interim review and determined that the evidence of record remained insufficient to establish his claim. It advised that he had 60 days from the January 24, 2024 letter to submit the 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.

OWCP thereafter received medical evidence which provided diagnoses resulting from appellant's December 24, 2023 motor vehicle accident.

In an undated statement, appellant related that he went into work on Christmas Eve 2023, a Sunday. He explained that he was driving on old Highway 250 to investigate an "excessive reverse" infraction by a carrier when he was involved in the motor vehicle accident. Appellant stated that, as the postmaster, he set the schedule but did not post his own schedule. He explained that the MPOO frequently stated that a member of management should be present if employees were working, whether during the week or weekends, and on December 24, 2023, five carriers and a clerk were scheduled to work. Appellant also alleged that working Sundays was the only way he could thoroughly perform his job.

In development letters dated March 4 and 6, 2024, OWCP requested that the employing establishment provide additional factual information regarding the circumstances of the December 24, 2023 injury, including information regarding whether there was a past practice of working or engaging in official duties on Sundays, whether appellant was engaged in official duties which required him to be off premises, and whether such duties or activity was reasonably incidental to his assignment. It also requested that the employing establishment provide support for its contentions that appellant did not work on Sundays, and/or whether it had prior knowledge of and previously approved overtime or activities incidental to his employment. OWCP allotted the employing establishment 20 days to respond.

In a March 12, 2024 response, D.H. reiterated that appellant was not scheduled to work and she was not aware that he would be working on December 24, 2023. She stated that there was no reason for him to be at work, and he did not notify her in advance that he would be working

that Sunday, December 24, 2023. D.H. indicated that all postmasters have a set schedule and were required to notify her if they were not working their schedule. She also denied that a member of management must always be present with craft employees, noting that clerks often covered for postmasters and worked alone without any supervision.

In support of her assertions, D.H. submitted a Notification of Absence form that postmasters were required to submit to her in advance of any schedule change, indicating that she needed to be told who was “covering” for them in their absence. With regard to Sunday operations and office coverage, D.H. submitted several statements from postmasters, indicating that only a trained employee needed to be present for Sunday operations when management was not present.<sup>3</sup> A map was also submitted, which D.H. alleged contradicted appellant’s statement that he was on his way to work on December 24, 2023.

By decision dated March 26, 2024, OWCP denied appellant’s claim, finding that the evidence of record was insufficient to establish that he sustained an injury in the performance of duty on December 24, 2023, as alleged, as he was not scheduled to work that day.

On April 4, 2024 appellant requested a review of the written record by a representative of OWCP’s Branch of Hearings and Review.

In an April 2, 2024 e-mail, appellant stated that, at the time of his injury, it was peak holiday season and he had been working 27 consecutive days. He reiterated his assertion that he had been instructed that a member of management needed to be present if employees were working. Appellant further stated that witnesses had seen him that day and could verify that he worked on Sundays. The witness statements received indicated that the holiday peak season, which was from mid-October through mid-January, produced a heavier workload. Appellant’s office was short-staffed and appellant worked late almost every day, including practically every weekend, because of call outs and understaffing.

In an April 3, 2024 e-mail, R.T., a coworker, asserted that appellant worked late almost every day and practically every weekend, because of call outs and/or understaffing. He stated that if appellant got a call that they were shorthanded on a Saturday or Sunday, he would drive an hour to help out. In an April 3, 2024 e-mail signed on April 11, 2024, D.H., a rural carrier associate, indicated that since January 9, 2023 she worked long hours together with appellant Monday through Sunday. She stated that during holiday peak season (mid-October through mid-January), they were required to work up to 10 consecutive days straight and could work 11 to 12 hours a day, as the workload was heavier due to parcels that needed to be delivered in addition to their network parcels. D.H. indicated that per district management, they could not clock out until all parcels for the day were delivered. She stated that their office was short-staffed and the holiday workload made it nearly impossible to complete with the influx of parcels and the fact that

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<sup>3</sup> In a March 7, 2024 statement, Postmaster K.B. indicated the only directive D.H. gave her for Sunday operations was that management did not have to be present as long as a trained employee was present to fill in when management was on leave/absent. In a March 7, 2024 e-mail, Postmaster J.J., indicated that all that was required on Sundays was that “someone” have “DRT access, be able to route the packages, and put the projections in.” In a March 8, 2024 e-mail, Postmaster E.S. stated that it was never said or required for Sunday operations that management had to be on-site while craft employees were working, noting that five Savannah stations operate on Sunday with craft employees working without supervision. In an e-mail dated March 11, 2024, Postmaster S.S. related that she was given the direction that if a competent craft employee was able to run the reports and clear the carriers, she as postmaster was not required to work on Sunday or holidays.

appellant, two other employees and herself, had to complete the routes of the two employees that rarely came in when scheduled. D.H. noted that there was no guarantee that workers from other offices could assist.

In a June 4, 2024 memorandum of telephone call (Form CA-110), appellant explained that he used his personal vehicle (POV) when traveling to investigate sites, perform carrier evaluations, *etc.* as his post office was small and no government vehicle was available.

In another June 4, 2024 Form CA-110, D.H. stated that there was no contractual coverage for employees to drive to work except for rural carriers. Government vehicles were usually approved in advance for longer trips. D.H. also stated that postmaster schedules were for Monday through Friday and that any request to work outside the regular 40 hours must be pre-approved.

In an undated statement, appellant contended that he was not aware that he needed pre-approval to use his POV for work-related activities, noting that he used his POV for work activities nearly every day. He indicated that another postmaster was also unaware that such approval was needed. Appellant further denied being instructed on how to obtain approval to use a POV.

By decision dated July 1, 2024, OWCP's hearing representative affirmed the March 26, 2024 decision.

In a September 17, 2024 statement, appellant indicated that his CA-1 form incorrectly noted that he was on the way to work on December 24, 2023 at the time of the accident. He explained that he was on his way back to the post office, as he had already reported to work, had checked on the office workload, and then had driven out to investigate where the two carriers used excessive backing. Appellant reiterated that he was not required to be on the daily schedule, noting that he never saw a postmaster on a schedule in over 30 years of service. He alleged that he was expected to be at work, explaining that small post offices, such as his, did not have supervisors and extra clerks that could be put in management for a specific day to help cover the operation. Appellant included a text message from the MPOO the Sunday before his accident, which asked questions about his operation. He stated performance and results mattered more than his schedule and that the postmasters were responsible for making sure the job was completed. Appellant stated that while he was not authorized by the MPOO to work on Sunday, December 24, 2023, he was expected to be there on weekends. He further noted that while he was not on schedule the previous weekend, he had received several texts from the MPOO to verify that he was at work and that his operation was covered. Appellant further stated that on Sunday, December 24, 2023 he had investigated three infractions by carriers and it was a coincidence that his accident had coincided with one of his travel routes to and from work.

Appellant submitted several additional witness statements, attesting to the expectations and availability of a postmaster and the expectations of the office operations, especially during holiday peak season. This included a February 7, 2025 statement from D.H., a rural carrier associate, which reiterated her prior April 11, 2024 statement; statements from other postmasters which confirmed the expectation that postmasters were supposed to get the job done, especially during peak season; that it was common practice for postmasters to work outside their posted hours during peak season; that it was common practice for postmasters to use their personal vehicles to complete their duties; and that appellant's post office was small and he was performing the job of two managers.

In a February 4, 2025 statement, R.B., a retired postmaster, stated that whenever she had problems making her deadline or any other office had a problem, the MPOO told them to call appellant to help. She provided examples of appellant helping her, noting that it was always after hours or on Sundays. R.B. also stated that postmasters were expected to be available or at their office to take care of any situation 24/7.

In a February 7, 2025 statement, J.P., a non-traditional full-time clerk, noted that she was a postmaster from 1994 through 2016. She stated that she was responsible for delivery operations in the office. If a back-up spot was needed to be checked, it was her job to verify its safety by going on the route to the spot, which she did in her POV. J.P. stated that it was common practice among managers and postmasters to use their POV. She indicated that the MPOOs she had worked had said that if a route was dropped, the postmaster was responsible for delivering it. J.P. noted that she did that many times, noting that she had worked the entire month of December with no day off, to try and stay ahead of the Christmas packages. She also stated that she was never instructed not to work on Sunday, but to just get the job done. J.P. further stated that the postmaster in the Glennville office, where appellant worked, was doing the job of two managers, noting that the number of regular routes had increased and the office grade level system indicated that the office was half an employee away from qualifying for a supervisor.

In a July 31, 2024 statement, D.H., a retired postmaster, described her duties as a postmaster in a level 18 office, noting that working outside her posted hours seemed to be the norm, particularly during Christmas. She indicated that she worked Saturdays and Sundays in order to be successful on Monday. D.H. further stated that often times she drove her personal vehicle to complete her duties, including checked/approved backing locations, as well as working outside the “realm” of her job description to make her office successful. She stated that she never knew she needed to ask “permission” to perform the duties she felt made her office successful; she thought those actions were expected of her as a manager.

On May 22, 2025 appellant, through counsel, requested reconsideration.

In a March 27, 2025 statement, appellant indicated that he and J.J., another postmaster, often texted each other to ensure their operations were covered. He stated that on the morning of his accident, J.J. had texted him while he was at work, asking about the workload. A screenshot of a December 24, 2023 text exchange with J.J. at 7:31 a.m. discussed work matters. Additional text messages dated December 10, 11, and 17, 2023 wherein J.J. and appellant discussed work matters, were also received.

In a March 25, 2025 statement, J.J. stated that Sundays were not scheduled days for postmasters, but indicated that some postmasters would come into the office to ensure a smooth operation. She noted that she usually went in for a few hours, two to three Sundays a month. J.J. further noted that she had texted appellant on several Sundays to make sure his office was good and to inquire about volume and truck arrival time.

In a June 6, 2025 development letter, OWCP requested that the employing establishment provide additional factual information regarding appellant’s claim, including whether he was at his duty station location prior to his injury; whether he, either expressly or impliedly, could perform his postmaster duties on Sundays and how often he worked on Sundays without pre-approval; whether his investigation of the area where two carriers had used excessive backing was a preparatory or incidental act to benefit the employing establishment; and whether he was required

to use his POV each day and if he needed his vehicle to perform his employment duties on December 24, 2023. It afforded the employing establishment 20 days to respond. No response was received.

By decision dated August 13, 2025, OWCP denied modification.

### **LEGAL PRECEDENT**

FECA provides for the payment of compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of duty.<sup>4</sup> The phrase while in the performance of duty has been interpreted by the Board to be the equivalent of the commonly found prerequisite in workers compensation law of arising out of and in the course of employment. In addressing the issue, the Board has stated that for an incident to occur in the course of employment, in general, an injury must occur: (1) at a time when the employee may reasonably be said to be engaged in his master's business; (2) at a place where he may reasonably be expected to be in connection with the employment; and (3) while he was reasonably fulfilling the duties of his employment or engaged in doing something incidental thereto.<sup>5</sup>

The Board has recognized that, as a general rule, off-premises injuries sustained by employees having fixed hours and places of work while going to or coming from work, are not compensable, as they do not arise out of and in the course of employment. Such injuries are merely the ordinary, nonemployment hazards of the journey itself, which are shared by all travelers. There are recognized exceptions which are dependent upon the particular facts relative to each claim: (1) where the employment requires the employee to travel on the highways; (2) where the employing establishment contracts to and does furnish transportation to and from work; (3) where the employee is subject to emergency calls, as in the case of firefighters; and (4) where the employee uses the highway to do something incidental to his employment with the knowledge and approval of the employing establishment.<sup>6</sup>

OWCP procedures provide that if the employee knowingly engages in an act prohibited by his employing establishment, there may be no right to compensation if the injury is the result of willful misconduct.<sup>7</sup> The procedures further provide that OWCP should ascertain whether the employee was aware of the prohibition and whether and how the prohibition was enforced. It should also obtain statements from coworkers or witnesses advising whether they were aware of the prohibition and how the prohibition was communicated.<sup>8</sup>

In determining whether an injury occurs in a place where the employee may reasonably be or constitutes a deviation from the course of employment, the Board will focus on the nature of the activity in which the employee was engaged and whether it was reasonably incidental to the

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<sup>4</sup> 5 U.S.C. § 8102(a).

<sup>5</sup> See *C.P.*, Docket No. 22-1215 (issued March 5, 2025); *George E. Franks*, 52 ECAB 490 (2001).

<sup>6</sup> *A.C.*, Docket No. 24-0764 (issued March 4, 2025); *K.G.*, Docket No. 18-1725 (issued May 15, 2019); *J.H.*, Docket No. 10-0185 (issued July 19, 2010); *Connie J. Higgins (Charles H. Higgins)*, 53 ECAB 451 (2002); *Melvin Silver*, 45 ECAB 677 (1994).

<sup>7</sup> Federal (FECA) Procedure Manual -- Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.13 (March 1994).

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

employee's work assignment or represented such a departure from the work assignment that the employee became engaged in personal activities unrelated to employment.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has met his burden of proof to establish a traumatic incident in the performance of duty on December 24, 2023, as alleged.

Appellant alleged that on December 24, 2023 he was involved in a motor vehicle accident at approximately 7:45 a.m. in his POV after he left the employing establishment to investigate carrier infractions and was returning to the employing establishment.

The evidence of record establishes that appellant routinely worked on weekends, outside his Monday through Friday schedule, particularly during the holiday peak season. In witness statements dated April 3, 2024, R.T. and D.H. indicated that the holiday peak season, which was from mid-October through mid-January, produced a heavier workload, appellant's post office was short-staffed, and that appellant worked late almost every day and practically every weekend because of call-outs or understaffing. D.H. specifically indicated that during holiday peak season, they could work up to 10 consecutive days, 11 to 12 hours a day as district management directed they could not clock out until all parcels for the day were delivered. Statements from other postmasters confirmed the expectation that postmasters were supposed to get the job done, especially during peak season, and it was common practice for postmasters to work outside their posted hours during peak season. Therefore, the Board finds that the evidence of record establishes that appellant routinely worked on weekends, in addition to his Monday through Friday schedule.

The evidence further reflects that appellant used his POV for work activities nearly every day. The evidence provided from J.P. and D.H. substantiates that POVs were used by postmasters to carry out duties of their position. There is no evidence to support the employing establishment's allegation that pre-approval was required to use a POV for work-related reasons or that appellant was aware that such pre-approval was needed. Thus, appellant's POV use was not prohibited.

In detailing his activities on the morning of December 24, 2023, appellant alleged that he had been at the employing establishment and had checked on the amount of mail, he then drove to check carrier's backing spots, conducted an investigation into the sites, and was on his way back to the employing establishment at approximately 7:45 a.m. when the incident occurred. He stated that he had investigated three infractions by carriers. As previously noted, compensation would not be payable if appellant had deviated from the assignment and was engaged in a personal activity which was not related to work. The Board finds that there is no evidence of record that he was engaged in a personal activity unrelated to work at the time of the incident. The Board therefore concludes that appellant has established that the incident occurred in the performance of duty on December 24, 2023, as alleged.

As appellant has established that the December 24, 2023 incident occurred in the performance of duty, the question becomes whether this incident caused an injury.<sup>10</sup> Following

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<sup>9</sup> *Phyllis A. Sjoberg*, 57 ECAB 409 (2006).

<sup>10</sup> See C.O., Docket No. 25-0883 (issued November 24, 2025); S.T., Docket No. 21-0317 (issued August 11, 2021); B.S., Docket No. 19-0524 (issued August 8, 2019); *Willie J. Clements*, 43 ECAB 244 (1991).

any further development as deemed necessary, OWCP shall issue a *de novo* decision addressing whether appellant has met his burden of proof to establish an injury causally related to the accepted December 24, 2023 employment incident.

**CONCLUSION**

The Board finds that appellant has met his burden of proof to establish a traumatic incident in the performance of duty on December 24, 2023, as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 13, 2025 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: December 15, 2025  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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