

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

C.B., Appellant

and

DEPARTMENT OF VETERANS AFFAIRS,
JESSE BROWN VA MEDICAL CENTER,
Chicago, IL, Employer

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) **Docket No. 25-0322**
) **Issued: March 10, 2025**
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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 17, 2025 appellant filed a timely appeal from a December 17, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 entitlement to continuation of pay (COP).

FACTUAL HISTORY

On December 9, 2024 appellant, then a 38-year-old lead human resources specialist, filed a traumatic injury claim (Form CA-1) alleging that on October 22 and November 25, 2024 he

¹ 5 U.S.C. § 8101 *et seq.*

sustained high blood pressure, depression, and anxiety leading to other illnesses as a result of bullying, harassment, and a hostile work environment while in the performance of duty. Appellant stopped work on October 22, 2024.

In a letter to OWCP dated December 16, 2024, the employing establishment controverted appellant's claim, contending that the medical evidence of record was insufficient to establish the claimed events and/or exposure occurred over more than one working day, the claim should be classified as an occupational disease.

In a letter to appellant also dated December 16, 2024, the employing establishment informed appellant that it would controvert appellant's request for COP because the disability was a result of an occupational disease and because the injury was not reported on a form approved by OWCP within 30 days of the injury.

By decision dated December 17, 2024, OWCP denied entitlement to COP, finding that his disability was not the result of a traumatic injury. It noted that although appellant had submitted his claim on a Form CA-1, OWCP converted his claim to a claim for an occupational disease (Form CA-2) because the evidence indicated that the claim involved incidents or events occurring over the course of more than one work shift. OWCP further noted that this decision did not affect appellant's 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 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 (if that form is not available, using another form would not alone preclude receipt); and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.⁵

² *Id.* at § 8118(a)

³ *Id.* at § 8122(a)(2).

⁴ *C.B.*, Docket No. 23-1035 (issued June 5, 2024); *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 C.B., id.; 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).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish entitlement to COP.

The record reflects that on December 9, 2024 appellant filed written notice of a traumatic injury on a Form CA-1, alleging that on October 22 and November 25, 2024 he sustained high blood pressure, depression, and anxiety leading to other illnesses due to bullying, harassment, and a hostile work environment while in the performance of duty. The case record indicates that appellant stopped work on October 22, 2024. By decision dated December 17, 2024, OWCP denied entitlement to COP, finding that his disability was not the result of a traumatic injury. It converted his claim to a claim for an occupational disease because the evidence indicated that the claim involved incidents or events occurring over the course of more than one work shift.

As appellant's claimed injury occurred over the course of more than a single workday or shift, the Board finds that OWCP properly determined that his claim was one for an occupational disease rather than a traumatic injury.⁶ Consequently, he is not eligible for COP.⁷

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish entitlement to COP.

⁶ 20 C.F.R. §§ 10.5(q), 10.5(ee); *see also* *A.B.*, Docket No. 19-0842 (issued September 17, 2019); *J.F.*, Docket No. 10-2134 (issued July 6, 2011).

⁷ *See M.B.*, Docket No. 24-0405 (issued June 28, 2024); *R.M.*, Docket No. 21-0446 (issued January 12, 2022); *S.G.*, Docket No. 20-0538 (issued December 9, 2020).

ORDER

IT IS HEREBY ORDERED THAT the December 17, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 10, 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