

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

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<b>C.O., Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 25-0883</b>
	)	<b>Issued: November 24, 2025</b>
<b>DEPARTMENT OF VETERANS AFFAIRS, LYONS VA MEDICAL CENTER, Lyons, NJ, Employer</b>	)	
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*Appearances:*  
*Appellant, pro se*  
*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 September 15, 2025 appellant filed a timely appeal from an August 11, 2025 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.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish a traumatic injury in the performance of duty on February 4, 2025, as alleged.

**FACTUAL HISTORY**

On May 8, 2025 appellant, then a 57-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that on February 4, 2025 she twisted her right ankle at 9:00 a.m. descending stairs

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

in building 8, while in the performance of duty. She explained that as she was walking down a stairwell, her feet shifted, she twisted her ankle, and she lost her balance but did not fall. Appellant's supervisor noted that appellant's duty hours were from 7:30 a.m. to 4:00 p.m. and acknowledged that appellant was injured in the performance of duty. The supervisor also noted that she was not notified of the alleged injury until May 8, 2025. Appellant stopped work on February 4, 2025 and returned to work on February 5, 2025.

In a May 14, 2025 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence required and provided a questionnaire for her completion. OWCP afforded appellant 60 days to respond.

In a May 7, 2025 report, Dr. Bin Yang, a specialist in occupational and preventive medicine, noted that appellant was seen that day for right ankle pain. He recounted appellant's history of injury on February 4, 2025 as appellant's right ankle twisted while she was descending stairs on the Lyons campus, she did not fall as she was able to grab the siderails. Dr. Yang also noted that appellant had a prior history of injury to the same site, however, since the incident on February 4, 2025, appellant had on and off pain and swelling. Diagnoses were listed as right ankle ligament sprain and right ankle effusion.

OWCP also received employing establishment health unit notes dated May 7 through 15 2025, which were signed by Dr. Yang, noting the history of the February 4, 2025 incident and that appellant was seen for continuing right ankle pain complaints.

A May 7, 2025 work capacity evaluation form signed by Dr. Yang noted an injury date of February 4, 2025 and released appellant to full-time work with limitations. Diagnoses included right ankle ligament sprain and right ankle effusion.

In a May 14, 2025 podiatry consult, Dr. Dhaval K. Amin, a podiatrist, noted that appellant was seen for right ankle and foot pain. He recounted the history of appellant's February 4, 2025 incident, reviewed diagnostic tests, and provided examination findings. Dr. Amin diagnosed right ankle pain and right insertional Achilles tendinitis.

In a letter dated May 15, 2025, the employing establishment controverted appellant's claim, asserting appellant was not performing her assigned duties at the time of the alleged incident nor did she seek medical care or report the injury on the date of the alleged injury.

In a May 21, 2025 work capacity evaluation, Dr. Yang noted unchanged findings.

In a follow-up development letter dated August 8, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from its May 14, 2025 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. No additional evidence was received.

By decision dated August 11, 2025, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish that the February 4, 2025 employment incident occurred, as alleged. It noted that appellant had not responded to the development questionnaire

and it therefore could not determine how the injury occurred. OWCP concluded that the requirements had not been met to establish an injury as defined by FECA.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,<sup>3</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether fact of injury has been established.<sup>6</sup> Generally, fact of injury consists of two components that must be considered in conjunction with one another. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged.<sup>7</sup> Second, the employee must submit sufficient evidence to establish that the employment incident caused an injury.<sup>8</sup>

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action. The employee has not met his or her burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast serious doubt on the employee's statements in determining whether a *prima facie* case has been established.<sup>9</sup> An employee's statement

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<sup>2</sup> *Id.*

<sup>3</sup> See *T.K.*, Docket No. 25-0194 (issued January 28, 2025); *B.G.*, Docket No. 24-0869 (issued November 7, 2024); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *T.K.*, *id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *T.K.*, *id.*; *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *T.K.*, *id.*; *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

<sup>7</sup> *T.K.*, *id.*; *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>8</sup> *T.K.*, *id.*; *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Caralone*, 41 ECAB 354 (1989).

<sup>9</sup> *T.K.*, *id.*; *M.F.*, Docket No. 18-1162 (issued April 9, 2019); *Charles B. Ward*, 38 ECAB 667 (1987).

alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.<sup>10</sup>

### **ANALYSIS**

The Board finds that appellant has met her burden of proof to establish a traumatic incident occurred in the performance of duty on February 4, 2025, as alleged.

In her Form CA-1, appellant alleged that, on February 4, 2025, she twisted her right ankle at 9:00 a.m. while descending stairs in building 8. She further explained that as she was walking down a stairwell, her feet shifted, she twisted her ankle, and she lost her balance but did not fall. Appellant's supervisor indicated on Form CA-1 that the alleged injury occurred in the performance of duty.

As noted, an employee's statement alleging that an incident occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.<sup>11</sup> Dr. Yang in multiple reports dated from May 7 to 15, 2025 related appellant's history of injury, consistent with her CA-1 allegations. As did Dr. Amin in his May 14, 2025 podiatry consult. As appellant has provided consistent and sufficiently-detailed statements, the Board finds that appellant has established that the employment incident occurred on February 4, 2025, as alleged.

As appellant has established that the February 4, 2025 employment incident occurred as alleged, the question becomes whether this incident caused an injury.<sup>12</sup> Thus, the Board shall set aside OWCP's August 11, 2025 decision and remand the case for consideration of the medical evidence. Following any further development as deemed necessary, OWCP shall issue a *de novo* decision addressing whether appellant has met her burden of proof to establish an injury causally related to the accepted February 4, 2025 employment incident.

### **CONCLUSION**

The Board finds that appellant has met her burden of proof to establish a traumatic incident in the performance of duty on February 4, 2025, as alleged.

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<sup>10</sup> *T.K., id.; B.M.*, Docket No. 21-1185 (issued March 4, 2022); *L.D.*, Docket No. 16-0199 (issued March 8, 2016); *Betty J. Smith*, 54 ECAB 174 (2002).

<sup>11</sup> *Id.*

<sup>12</sup> See *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).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 11, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: November 24, 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