

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

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D.C., Appellant)	
)	
and)	
)	Docket No. 26-0084
)	Issued: February 24, 2026
U.S. POSTAL SERVICE, POST OFFICE,)	
Ashford, AL, Employer)	
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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
JANICE B. ASKIN, Judge

JURISDICTION

On November 13, 2025 appellant filed a timely appeal from a November 10, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal

¹ Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of appellant's oral argument request, he asserted that oral argument should be granted so that he could further explain the delay in filing his request for continuation of pay (COP). The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied and this decision is based on the case record as submitted to the Board.

Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

ISSUE

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

FACTUAL HISTORY

On October 27, 2025 appellant, then a 56-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 27, 2025 he suffered a concussion, torn left bicep, torn left rotator cuff, fractured right big toe, and vertigo during in a motor vehicle accident while in the performance of duty. On the claim form, appellant requested COP.

By decision dated November 10, 2025, OWCP denied appellant's claim for COP, finding that he had not reported his injury on an OWCP-approved form within 30 days of his May 27, 2025 employment injury. It further noted that the decision affected only his entitlement to COP and 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 this title.⁴ This latter section provides that written notice of injury shall be given within 30 days.⁵ The context of section 8122 makes clear that this means within 30 days of the injury.⁶

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

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that following the November 10, 2025 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.*

⁴ *Supra* note 2 at § 8118(a).

⁵ *Id.* at § 8122(a)(2).

⁶ *G.C.*, Docket No. 25-0726 (issued September 12, 2025); *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).

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.⁷

The employee must provide a written report on a Form CA-1 to the employing establishment within 30 days of the injury.⁸ 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.⁹

The Board has held that section 8122(d)(3) of FECA,¹⁰ which allows OWCP to excuse failure to comply with the time limitation provision for filing a claim for compensation because of exceptional circumstances, is not applicable to section 8118(a), which sets forth the filing requirements for continuation of pay. Thus, there is no provision in the law for excusing an employee's failure to file a claim within 30 days of the employment injury.¹¹

ANALYSIS

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

Appellant filed written notice of his May 27, 2025 traumatic injury on a Form CA-1 on October 27, 2025. As noted above, to be eligible for COP, a claimant must file a Form CA-1 within 30 days of the date of injury.¹² Because appellant filed his Form CA-1 on October 27, 2025, more than 30 days after the May 27, 2025 date of injury, the Board finds that he has not met his burden of proof. There is no other evidence provided which contains words of claim that can be used to satisfy timely filing requirements.¹³

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.

⁷ 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).

⁸ *Id.* at § 10.210(a).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Continuation of Pay and Initial Payments*, Chapter 2.807.5 (June 2012).

¹⁰ 5 U.S.C. § 8122(d)(3).

¹¹ *Dodge Osborne*, *supra* note 7.

¹² *Id.* *See also* *G.C.*, *supra* note 6; *D.D.*, Docket No. 21-1425 (issued July 29, 2025); *A.B.*, Docket No. 25-0205 (issued January 28, 2025).

¹³ *Supra* note 9.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the November 10, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 24, 2026
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board