United States Department of Labor
Employees' Compensation Appeals Board

C.D., Appellant	)	
and	)	**Docket No. 26-0023**
	)	**Issued: January 29, 2026**
DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, LANDER FIELD OFFICE, Lander, WY, Employer	)	

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 October 1, 2025 appellant filed a timely appeal from an August 18, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 an injury in the performance of duty on March 7, 2025, as alleged.

FACTUAL HISTORY

On March 7, 2025 appellant, then a 41-year-old land law examiner, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her head and neck while in the

[1] 5 U.S.C. § 8101 *et seq*.

performance of duty. She noted that she arrived at the employing establishment's front parking lot, at approximately 7:30 a.m. and slipped and fell on ice when she exited her vehicle. On the reverse side of the claim form, the employing establishment acknowledged that appellant was injured in the performance of duty and indicated that its knowledge of the facts about the injury comported with statements made by appellant and witnesses. Appellant stopped work on the date of injury and returned to work on March 10, 2025.

In a witness statement dated March 7, 2025, L.L., appellant's coworker, indicated that she observed appellant fall backward and hit her back and head while exiting a vehicle after arriving at the employing establishment's parking lot at 7:31 a.m. She noted that the parking lot was very icy and covered with a light layer of snow, which obscured the ice. L.L. helped appellant get up and walk to the employee entrance of the building. She attached a photograph of the area where appellant had slipped and fell.

On March 7, 2025, the employing establishment executed an authorization for examination and/or treatment (Form CA-16), which authorized appellant to seek medical treatment for her neck due to a slip and fall on ice on that date.

In an attending physician's report, Part B of the Form CA-16, dated March 7, 2025, Tras Pfeifer, a physician assistant, noted that appellant had a history of a cervical fusion one year prior and had slipped and fallen on ice, striking her head and hyperextending her neck. He recommended that she remain off work until cleared by orthopedics.

A note dated March 10, 2025 indicated that Dr. Christopher Hills, a Board-certified orthopedic surgeon, had reviewed appellant's x-rays and determined "there is no concern and she may return to work."

In a development letter dated March 14, 2025, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of medical evidence needed and afforded her 60 days to submit the necessary evidence.

OWCP thereafter received an emergency room report dated March 7, 2025 by Mr. Pfeifer, who noted that appellant related complaints of pain while turning her neck from side to side. Dr. Pfeifer diagnosed a cervical and possible traumatic brain injury.

In a medical note dated March 12, 2025, Dr. Greg Clifford, a Board-certified family medicine physician, diagnosed post-concussional syndrome. In a work note of even date, he recommended that she remain out of work for four days.

In a medical report dated March 21, 2025, Dr. Kacie Gallo, a Board-certified family medicine specialist, noted that appellant related complaints of dizziness and nausea, which she attributed to a slip and fall on ice in the parking lot at work. She performed a physical examination and diagnosed post-concussional syndrome and nausea.

In a development letter dated April 14, 2025, OWCP requested information from the employing establishment, including whether the parking lot where appellant fell was owned, controlled, or managed by the employing establishment; whether appellant was required to use/park in that lot; and whether other parking was available to appellant. It afforded the employing establishment 30 days to respond.

In a follow-up letter dated April 23, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence of record remained insufficient to establish her claim. It provided her with a questionnaire for completion and noted that she had 60 days from the March 14, 2025 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.

On April 29, 2025 OWCP received appellant's response to its development questionnaire, which indicated that she arrived late for work on March 7, 2025 because her car became stuck in snow at her home. Appellant indicated that the parking lot where she fell was not owned, operated, or managed by the employing establishment, that it was accessible to the general public, and that the parking spaces within the lot were not formally assigned by the employing establishment. She also answered "not applicable" as to whether the employing establishment required her to park in that specific lot or whether alternative parking was available.

On May 2, 2025 OWCP received an employing establishment response to its development questionnaire, which indicated that appellant "was unable to get out of her driveway due to the snow," L.L. "went to her house to try to get her un-stuck with no success" and then drove her to work. The employing establishment answered "Yes" to indicate that appellant was injured while in its parking lot. It also confirmed that the employing establishment did not own, control, or manage the parking lot. Rather, it rented the facility. It explained that the public is permitted to use the lot, parking spaces are not assigned by the employing establishment, the parking area is not monitored to ensure that no unauthorized cars are parked there; employees are not responsible for paying for parking; and employees are not entitled to reimbursement for travel to/from the parking lot or for parking expenses.

By decision dated May 13, 2025, OWCP denied appellant's traumatic injury claim, finding that she had not established that the March 7, 2025 incident occurred in the performance of duty, as alleged.

On May 22, 2025 appellant requested reconsideration of OWCP's May 13, 2025 decision. In support thereof, she submitted a copy of a commercial lease agreement between a private company, and the employing establishment, executed on July 7, 2022, by which the employing establishment leased the building. The lease agreement indicated that in the appurtenant area, 56 surface/outside parking spaces would be reserved for the exclusive use of the employing establishment. It also provided that the employing establishment could post rules and regulations governing conduct on federal property within the parking area.

OWCP also received agency-specific requirements for the employing establishment's real estate leasing services dated April 14, 2021.

In a development letter dated July 22, 2025, OWCP requested additional information from the employing establishment, including whether the 56 spaces referenced in the commercial lease included certain spaces within the lot for exclusive use by the employing establishment and whether appellant was parked in one of those spaces at the time of the injury.

In an August 8, 2025 agency memorandum to OWCP, the employing establishment indicated "no response needed."

By decision dated August 18, 2025, OWCP denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA,[3] that the claim was timely filed within the applicable time limitation period of FECA, 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.[4] 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.[5]

The phrase "sustained 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."[6] To arise in the course of employment, in general, an injury must occur: (1) at a time when the employee may reasonably be stated to be engaged in the master's business; (2) at a place when he or she may reasonably be expected to be in connection with his or her employment; and (3) while he or she was reasonably fulfilling the duties of his or her employment or engaged in doing something incidental thereto.[7]

It is well established as a general rule of workers' compensation law that, under the premises doctrine, off-premises injuries sustained by employees having fixed hours and places of work while going to or from work or during a lunch period, are not compensable, as they do not arise out of and in the course of employment. Rather, such injuries are merely the ordinary, nonemployment hazards of the journey itself, which are shared by all travelers, subject to certain exceptions.[8]

The Board has held that factors which determine whether a parking area used by employees may be considered a part of the employing establishment's premises include whether the employing establishment contracted for the exclusive use by its employees of the parking area, whether parking spaces in the garage were assigned by the employing establishment to its

[2] *Id.*

[3] *S.S.*, Docket No. 19-1815 (issued June 26, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *S.A.*, Docket No. 19-1221 (issued June 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] *C.L.*, Docket No. 19-1985 (issued May 12, 2020); *S.F.*, Docket No. 09-2172 (issued August 23, 2010); *Valerie C. Boward*, 50 ECAB 126 (1998).

[7] *S.V.*, Docket No. 18-1299 (issued November 5, 2019); *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Mary Keszler*, 38 ECAB 735, 739 (1987).

[8] *V.P.,* Docket No. 13-0074 (issued July 1, 2013); *M.L.,* Docket No. 12-0286 (issued June 4, 2012); *John M. Byrd,* 53 ECAB 684 (2002).

employees, whether the parking areas were checked to see that no unauthorized cars were parked in the garage, whether parking was provided without cost to the employees, whether the public was permitted to use the garage, and whether other parking was available to the employees. Mere use of a parking facility alone is insufficient to bring the parking garage within the definition of the premises of the employing establishment. The premises doctrine is applied to those cases where it is affirmatively demonstrated that the employing establishment owned, maintained, or controlled the parking facility, used the facility with the owner's special permission, or provided parking for its employees.[9]

ANALYSIS

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

Whether an injury occurs in the performance of duty is a preliminary issue to be addressed before the remaining merits of the claim are adjudicated.[10] In determining whether appellant's injury in the parking lot area of the employing establishment as she was walking away from her parked vehicle to the employee entrance occurred while in the performance of duty, the Board must first consider the factors necessary to determine whether the parking area should be considered part of the employing establishment's premises.[11] The Board has held that factors which determine whether a parking area used by employees may be considered a part of the employing establishment's premises include whether the employing establishment contracted for the exclusive use by its employees of the parking area, whether parking spaces in the garage were assigned by the employing establishment to its employees, whether the parking areas were checked to see that no unauthorized cars were parked in the lot, whether parking was provided without cost to the employees, whether the public was permitted to use the lot, and whether other parking was available to the employees. The premises doctrine is applied to those cases where it is affirmatively demonstrated that the employing establishment owned, maintained, or controlled the parking facility, used the facility with the owner's special permission, or provided parking for its employees.[12]

In a July 22, 2025 follow-up development letter, OWCP requested additional factual information from the employing establishment with regard to whether appellant was in the performance of duty when injured on March 7, 2025, including specific questions as to whether the 56 spaces referenced in its commercial lease agreement included certain spaces within the lot for exclusive use by the employing establishment and whether appellant was parked in one of those spaces at the time of the injury. In an August 8, 2025 memorandum, the employing establishment indicated "no response needed." It did not elaborate on whether the 56 parking spaces included

[9] *S.V.*, Docket No. 20-1586 (issued February 24, 2022); *S.S.*, Docket No. 20-1349 (issued February 16, 2021); *T.T.*, Docket No. 20-0383 (issued August 3, 2020); *C.L.*, *supra* note 6; *R.M.*, Docket No. 07-1066 (issued February 6, 2009); *Diane Bensmiller*, 48 ECAB 675 (1997).

[10] *T.H.,* Docket No. 17-0747 (issued May 14, 2018); *P.L.,* Docket No. 16-0631 (issued August 9, 2016); *see also M.D.,* Docket No. 17-0086 (issued August 3, 2017).

[11] *See R.E.,* Docket No. 18-0515 (issued February 18, 2020); *see also S.V., supra* note 9.

[12] *C.D.,* Docket No. 20-1174 (issued June 11, 2021); *see also R.M., supra* note 9; *Diane Bensmiller, supra* note 9; *Rosa M. Thomas-Hunter,* 42 ECAB 500 (1991); *Edythe Erdman,* 36 ECAB 597 (1985); *Karen A. Patton,* 33 ECAB 487 (1982).

certain spaces within the lot for exclusive use by the employing establishment. As the employing establishment did not sufficiently respond to OWCP's questions, OWCP should have further developed the evidence prior to issuing its decision.[13]

Proceedings under FECA are not adversarial in nature, and while appellant has the burden to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.[14] It has an obligation to see that justice is done.[15] OWCP's procedures further provide that it should obtain relevant information from an official superior if it requires clarification before determining whether the employee was on the premises.[16] As OWCP failed to request all the information as required under its procedures to determine whether appellant's injury was on the employing establishment's premises, the case must be remanded for further development.[17] Following this and other such development as deemed necessary, OWCP shall issue a *de novo* decision regarding appellant's traumatic injury claim.

CONCLUSION

The Board finds that the case is not in posture for decision.[18]

[13] *See G.R.,* Docket No. 18-1490 (issued April 4, 2019).

[14] *See e.g., M.G.,* Docket No. 18-1310 (issued April 16, 2019); *Walter A. Fundinger, Jr.,* 37 ECAB 200, 204 (1985); *Dorothy L. Sidwell,* 36 ECAB 699, 707 (1985); *Michael Gallo,* 29 ECAB 159, 161 (1978); *William N. Saathoff,* 8 ECAB 769, 770-71 (1956).

[15] *See A.J.,* Docket No. 18-0905 (issued December 10, 2018); *William J. Cantrell,* 34 ECAB 1233, 1237 (1983); *Gertrude E. Evans,* 26 ECAB 195 (1974).

[16] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.4d, f, and g (August 1992); *see also L.P.,* Docket No. 17-1031 (issued January 5, 2018).

[17] *See C.E.,* Docket No. 24-0490 (issued June 7, 2024); *R.H.,* Docket No. 20-1011 (issued February 17, 2021).

[18] The Board notes that the employing establishment issued a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *S.G.*, Docket No. 23-0552 (issued August 28, 2023); *J.G.,* Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the August 18, 2025 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: January 29, 2026
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