

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

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G.M., Appellant)	
)	
and)	
)	Docket No. 25-0575
)	Issued: March 5, 2026
DEPARTMENT OF HOMELAND SECURITY,)	
U.S. CUSTOMS AND BORDER PROTECTION,)	
Charleston, SC, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 20, 2025 appellant filed a timely appeal from an April 14, 2025 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 an injury in the performance of duty on February 10, 2024, as alleged.

FACTUAL HISTORY

On February 12, 2024 appellant, then a 26-year-old agriculture specialist, filed a traumatic injury claim (Form CA-1) alleging that on February 10, 2024 he sustained neck, back, and shoulder

¹ 5 U.S.C. § 8101 *et seq.*

injuries due to a motor vehicle accident while in the performance of duty. He noted that he was on temporary duty (TDY) at the time of the accident. On the reverse side of the claim form, appellant's supervisor controverted the claim, asserting that appellant was not injured in the performance of duty.

The employing establishment, in a letter dated February 13, 2024, further contended that at the time of the accident, 1:15 a.m., he was traveling in a rented government vehicle from his mother-in-law's home in Baltimore, Maryland back to his hotel in Brunswick, Maryland, near the employing establishment's training center in Harper's Ferry, West Virginia. Appellant was driving the vehicle on Interstate 70 when the vehicle's left front tire blew, and the vehicle spun into a ditch. The employing establishment related that appellant had traveled approximately 72 miles for dinner with his mother-in-law and had therefore deviated from his TDY status at the time of the injury. It included a map which indicated the route and travel time from appellant's hotel to his mother-in-law's home north of Baltimore, Maryland.

In a development letter dated February 16, 2024, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of additional factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond.

OWCP subsequently received medical evidence in support of his claim.

In a March 16, 2024 response to OWCP's development questionnaire, appellant explained that the injury occurred while returning from dinner with a family member. The accident occurred in Jefferson, Maryland and was less than seven miles from his hotel in Brunswick, Maryland where he was staying for training. Appellant stated that his official duty was performed at the Advanced Training Center in Harpers Ferry, West Virginia and he had returned to his hotel in Brunswick, Maryland following the final day of training at 4:30 p.m. At the time of the accident, he was returning from dinner to the hotel in Brunswick, Maryland to pack and sleep for his return trip the following morning.

On March 18, 2024 appellant submitted a travel authorization document summary for hazardous material class training from February 5 through 10, 2024, being held in Harpers Ferry, West Virginia. Rental vehicle guidance related that, according to the employing establishment's Motor Vehicle Management Handbook (HB 5200-14B), vehicles rented using government funds may only be used for official travel which is limited to transportation between the work site and places of temporary lodging, and between the work site, places of temporary lodging, and places necessary for the subsistence, comfort, or health of the employee (*i.e.*, suitable eating places) to foster the continued performance of Government business.

In a letter dated March 27, 2024, OWCP informed appellant that it had performed an interim review of his claim and found the evidence of record remained insufficient to establish his claim. It requested clarification regarding the primary purpose and destination of the trip he was returning from when he was involved in the motor vehicle accident. No response was received.

By decision dated April 25, 2024, OWCP denied appellant's claim, finding he was not in the performance of duty at the time of the February 10, 2024 accident.

OWCP subsequently received a March 15, 2024 memorandum from the employing establishment regarding the February 10, 2024 accident, and a February 10, 2024 State of Maryland Motor Vehicle Crash Report. The Maryland State police report indicated that appellant was traveling westbound on Route 340 in the area of Lander Road when the crash occurred at 1:10 a.m.

On May 21, 2024 appellant, through his then-counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated September 4, 2024, OWCP's hearing representative set aside the April 25, 2024 decision and remanded the case for OWCP to obtain further information regarding factual discrepancies as to whether appellant had engaged in a personal deviation from duty, and whether the deviation had ended.

On remand, in another development letter dated September 16, 2024, OWCP requested that appellant address the destination of his trip after finishing his work duties on February 9, 2024, the full address, the purpose of the trip, location of any deviation, and number of miles from the beginning point of his trip. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information regarding appellant's claim, including comments from a knowledgeable supervisor. It noted that appellant's statement indicated it occurred on Interstate 70 on the Form CA-1, but the Maryland State Police accident report identified Route 340 as the location where the accident occurred.

In a statement dated September 18, 2024, C.B., an employing establishment supervisor, related that while appellant did not specifically request, nor was he given specific authorization to travel to Baltimore, Maryland it was not uncommon for students to use the rental vehicle to go to an event or to the employing establishment's headquarters in Washington, District of Columbia during off-duty hours.

In an October 3, 2024 statement, appellant recounted that on February 9, 2024 he dropped off a coworker at Dulles International Airport in Dulles, Virginia at approximately 6:00 p.m. He then returned to his hotel in Brunswick, Maryland to prepare for an early departure the next morning. Appellant's preparation included refueling his vehicle, acquiring travel incidentals, and packing his bags. He submitted an invoice from a gas station located in Herndon, Virginia. Appellant recounted that he then traveled to Falls Road in Baltimore, Maryland to have dinner with his fiancé's mother. On the return trip, it was his "intent" to stop again at a gas station adjacent to his hotel in Brunswick, Maryland to refuel in preparation for his drive to Dulles International Airport the following morning. Appellant reiterated that the distance between the accident site and his hotel was 6.6 miles.

In a letter dated October 4, 2024, appellant's then-counsel argued that even if appellant had deviated from his job-related activities, his deviation had ended and he was performing job-related activities at the time of the accident as he was on the way to refuel his rental vehicle and pick up items for his return flight.

In a memorandum dated November 8, 2025, the employing establishment related that it was an accepted work-related duty for employees/coworkers to provide transportation for one

another. Appellant had authorization to use his rental car to drive a coworker to Dulles International Airport on February 9, 2024, and that he was authorized to buy gasoline in Herndon, Virginia. However, he deviated from authorized travel when he drove to Baltimore, Maryland for dinner with his finance's mother. The employing establishment also noted that appellant was within the TDY location when purchasing gasoline by his hotel, but that the necessity for the additional fuel was due to a voluntary deviation and should not be reimbursable.

By *de novo* decision dated December 18, 2024, OWCP denied appellant's claim, finding that he was not in performance of duty when injured as his trip distance to Baltimore, Maryland was not reasonable for dinner and was personal in nature.

On December 29, 2024 appellant, through his then-counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on March 7, 2025.

By decision dated April 14, 2025, OWCP's hearing representative affirmed the December 18, 2024 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim, including 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.³ 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.⁴

FECA provides for payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.⁵ The phrase sustained while in the performance of duty is regarded as the equivalent of the coverage formula commonly found in workers' compensation laws, namely, arising out of and in the course of employment.⁶ Arising in the course of employment relates to the elements of time, place, and work activity.⁷ An injury is stated to arise in the course of employment when it takes place within the period of the

² *Id.*

³ *M.L.*, Docket No. 23-1023 (issued January 14, 2025); *C.B.*, Docket No. 21-0323 (issued April 18, 2024); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *C.B., id.*; *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁵ *Id.*

⁶ *J.M.*, Docket No. 25-0784 (issued December 15, 2025); *R.A.*, Docket No. 07-814 (issued June 19, 2008); *Bernard D. Blum*, 1 ECAB 1 (1947).

⁷ *C.P.*, Docket No. 22-1215 (issued March 5, 2025); *V.O.*, 59 ECAB 500 (2008); *R.S.*, 58 ECAB 660 (2007).

employment, at a place where the employee reasonably may be and while they are fulfilling their duties or are engaged in doing something incidental thereto.⁸ Arising out of employment relates to the causal connection between the employment and the injury claimed.⁹

Under FECA, an employee on travel status or a temporary-duty assignment or special mission for his or her employer is in the performance of duty and therefore under the protection of FECA 24 hours a day with respect to any injury that results from activities essential or incidental to his or her special duties.¹⁰ Examples of such activities are eating,¹¹ returning to a hotel after eating dinner, and engaging in reasonable activities within a short distance of the hotel where the employee is staying.¹² However, when a claimant voluntarily deviates from such activities and engages in matters, personal or otherwise, which are not incidental to the duties of his or her temporary assignment, they cease to be under the protection of FECA. Any injury occurring during these deviations is not compensable.¹³ Examples of such deviations include visits to relatives or friends while in official travel status.¹⁴

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 is reasonably incidental to the employee's work assignment or represented such a departure from the work assignment that the employee becomes engaged in personal activities unrelated to his or her employment.¹⁵

It is well established that an identifiable deviation from a business trip for personal reasons takes the employee out of the course of his employment until he or she returns to the route of the business trip, unless the deviation is so small as to be disregarded as insubstantial.¹⁶

⁸ See *C.D.*, Docket No. 26-0023 (issued January 29, 2026); *L.K.*, 59 ECAB 465 (2008); *D.L.*, 58 ECAB 667 (2007).

⁹ See *J.R.*, Docket 23-0141 (issued January 8, 2026); see also *Charles Crawford*, 40 ECAB 474 (1989) (the phrase arising out of and in the course of employment encompasses not only the concept that the injury occurred in the work setting, but also the causal concept that the employment caused the injury); see also *Robert J. Eglinton*, 40 ECAB 195 (1988); *Clayton Varner*, 37 ECAB 248 (1985); *Thelma B. Barenkamp (Joseph L. Barenkamp)*, 5 ECAB 228 (1952).

¹⁰ *M.L.*, *supra* note 3; *Ann P. Drennan*, 47 ECAB 750 (1996); *Janet Kidd (James Kidd)*, 47 ECAB 670 (1996); *William K. O'Connor*, 4 ECAB 21 (1950).

¹¹ *T.C.*, Docket No. 16-1070 (issued January 24, 2017); *Michael J. Koll, Jr.*, 37 ECAB 340 (1986); *Carmen Sharp*, 5 ECAB 13 (1952).

¹² *T.C.*, *id.*; *Ann P. Drennan*, *supra* note 10; *Janet Kidd (James Kidd)*, *supra* note 10; *Theresa B.L. Grissom*, 18 ECAB 193 (1966).

¹³ *T.C.*, *id.*; *Karl Kuykendall*, 31 ECAB 163 (1979).

¹⁴ *T.C.*, *id.*; *Ethyl L. Evans*, 17 ECAB 346 (1966) (travelling to a friend's house to spend the night was a deviation from the course of employment); *Miss Leo Ingram*, Docket No. 9 ECAB 796 (1958) (driving 200 miles to visit relatives was a deviation from the course of employment).

¹⁵ See *C.P.*, *supra* note 7; *Phyllis A. Sjoberg*, 57 ECAB 409 (2006).

¹⁶ *S.M.*, Docket No. 16-0875 (issued December 12, 2017).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish an injury in the performance of duty on February 10, 2024, as alleged.

It is undisputed that appellant was on official travel status in Harper's Ferry, West Virginia from February 5 through 10, 2024. His assigned hotel was located in Brunswick, Maryland. The record establishes that, on the evening of February 9, 2024, he left his hotel and drove 72 miles to Baltimore, Maryland to have dinner at his fiancé's mother's home. The Board has held that when an employee deviates from the normal incidents of his or her trip and engages in activities, personal or otherwise, which are not reasonably incidental to the duties of the temporary assignment, he or she ceases to be within the protection of FECA and an injury occurring during such deviation is not compensable.¹⁷ Appellant's trip to Baltimore, Maryland was personal in nature and not incidental to his employment. In determining whether the distance travelled on a personal errand while on TDY was of such significance to take the employee out of coverage, the Board has found that travel to have dinner 50 miles from the duty station constituted a deviation, as the choice of restaurant 50 miles away was "a distinct departure on a personal errand."¹⁸ Similarly, in the present case, appellant's choice to have dinner 72 miles away in Baltimore, Maryland was not reasonable. The Board thus finds that appellant's deviation of 72 miles was substantial.

Consequently, the Board must determine whether, at the time of the accident, appellant had completed the personal errand and returned to the performance of duty.¹⁹ Appellant was driving back to his hotel in Brunswick, Maryland when he was injured in a motor vehicle accident at 1:10 a.m. in Jefferson, Maryland. Appellant asserted that the accident location was less than 7 miles from his assigned hotel and it was his intent to stop at a gas station adjacent to his hotel in Brunswick, Maryland to refuel in preparation for his drive to Dulles International Airport the following morning. However, as his trip to his fiancé's mother's home for dinner 72 miles away constituted a substantial deviation from his employment, the mere fact that he was returning to his hotel in Brunswick, Maryland when injured is insufficient to bring him under the protection of FECA.²⁰

The Board, therefore, finds that appellant has not met his burden of proof to establish an injury in the performance of duty on February 10, 2024, as alleged.

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

¹⁷ See *S.T.*, Docket No. 16-1710 (issued September 27, 2017); see also, *James E. Johnson*, 35 ECAB 695, 699 (1984).

¹⁸ *Janet Kidd (James Kidd)*, *supra* note 10. See also *supra* note 14.

¹⁹ *S.M.*, Docket No. 16-0875 (issued December 12, 2017).

²⁰ See *George D. Cockerham*, 49 ECAB 678 (1998); see also *A.D.*, Docket No. 13-490 (issued August 6, 2013); *George W. Stark*, 7 ECAB 275 (1954).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish an injury in the performance of duty on February 10, 2024, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the April 14, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 5, 2026
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