

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

A.H., Appellant)	
)	
and)	Docket No. 26-0211
)	Issued: May 12, 2026
U.S. POSTAL SERVICE, NORTH MIAMI)	
BEACH POST OFFICE, Miami, FL, 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 December 31, 2025 appellant filed a timely appeal from August 25 and November 6, 2025 merit decisions and a December 17, 2025 nonmerit 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.²

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish entitlement to continuation of pay (COP); (2) whether appellant has met her burden of proof to establish a diagnosed medical condition in connection with the accepted factors of her federal employment;

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the December 17, 2025 decision, OWCP received additional evidence. 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.*

and (3) whether OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

FACTUAL HISTORY

On August 11, 2025 appellant, then a 57-year-old retail sales clerk, filed a traumatic injury claim (Form CA-1) alleging that, on July 28, 2025, she developed a rash on her face, legs, and body, as well as breathing issues, due to inhaling mold and mildew while in the performance of duty. She stopped work on July 28, 2024, and returned to work on September 23, 2025.

In a note dated July 30, 2025, Dr. Ludwig Rommel Pierre, an internist, advised that appellant should avoid work until the presumed mold problem at her employment was solved. Dr. Pierre, in a hospital emergency room discharge summary of even date, recounted that appellant was seen for a rash over her body. Appellant related that she had apparently been exposed to mold at work. Dr. Pierre diagnosed hyperkalemia, chronic kidney disease, and skin rash.

In an August 14, 2025 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a factual questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence. In an August 14, 2025 development letter, it requested that the employing establishment provide additional information regarding appellant's claim, including comments from a knowledgeable supervisor. OWCP afforded the employing establishment 30 days to respond.

On August 20, 2025 appellant filed a claim for compensation (Form CA-7) for disability from work for the period July 29 through September 29, 2025. On the reverse side of the claim form, the employing establishment indicated that appellant was claiming COP.

In an August 21, 2025 response, the employing establishment related that dust/dirt had been found on the heating, ventilation, and air conditioning outtake vents. It further related that mild dust had been found on ceiling tiles, and that filters had been changed.

On August 22, 2025 OWCP received an undated statement wherein appellant attributed her condition to mold exposure at her worksite. Appellant related that, during the week prior to July 28, 2025, she developed breathing difficulties, hives, and severe itching, which progressively worsened until she sought medical care at the emergency room on July 28, 2025. She noted that these symptoms only occurred when she was at work, and that the symptoms improved when she was not at work.

By decision dated August 25, 2025, OWCP denied appellant's claim for COP. It found that appellant's claim was for an occupational disease, not a traumatic injury, as she alleged that her body rash had been caused by incidents or events occurring over more than one work shift. OWCP advised that it had converted her claim to a claim for occupational disease (Form CA-2).

In a follow-up letter dated September 24, 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 the August 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. No additional evidence was received from appellant.

By decision dated November 6, 2025, OWCP denied the claim, finding that the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted factors of appellant's federal employment.

On December 10, 2025 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review with regard to the November 6, 2025 decision.

By decision dated December 17, 2025, OWCP denied appellant's request for a review of the written record, finding that it was untimely filed. It further exercised its discretion and determined that the issue in the case could equally well be addressed by a request for reconsideration before OWCP along with the submission of new evidence.

LEGAL PRECEDENT -- ISSUE 1

Section 8118 of FECA³ provides for payment of continuation of pay, not to exceed 45 days, to an employee who has filed a claim for a period of wage loss due to traumatic injury with his or her immediate supervisor on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title. Section 8122(a)(2) provides that written notice of injury must be given as specified in section 8119. The latter section provides in part that notice of injury shall be given in writing within 30 days after the injury.⁴ The context of section 8122 makes clear that this means within 30 days of the injury.⁵

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; and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.⁶

The employee must provide a written report on a Form CA-1 to the employing establishment within 30 days of the injury.⁷

³ *Supra* note 1 at § 8118.

⁴ *Id.* at § 8119(a), (c). *See also Gwen Cohen-Wise*, 54 ECAB 732 (2003).

⁵ *T.N.*, Docket No. 21-0402 (issued January 31, 2022); *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).

⁶ 20 C.F.R. § 10.205(a)(1-3); *see also J.M.*, Docket No. 09-1563 (issued February 26, 2010); *Dodge Osborne*, 44 ECAB 849, 855 (1993); *William E. Ostertag*, 33 ECAB 1925(1982).

⁷ *Id.* at § 10.210(a).

ANALYSIS -- ISSUE 1

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

Appellant initially filed a Form CA-1 for a traumatic injury, but she later explained in her statement that her claimed facial and body rash was caused by exposure to mold at work over a period of time. As her alleged conditions occurred over more than a single workday or shift, the Board finds that OWCP properly determined that appellant's claim was one for an occupational disease rather than a traumatic injury.⁸ Consequently, appellant is not eligible for COP.⁹

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.

LEGAL PRECEDENT -- ISSUE 2

An employee seeking benefits under FECA¹⁰ 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,¹¹ 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.¹² 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.¹³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which

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

⁹ *R.M.*, Docket No. 21-0446 (issued January 12, 2022); *S.G.*, Docket No. 20-0538 (issued December 9, 2020); *C.C.*, Docket No. 18-0912 (issued July 11, 2019); *J.V.*, Docket No. 15-0942 (issued March 8, 2016).

¹⁰ *Supra* note 1.

¹¹ *J.P., Jr.*, Docket No. 25-0860 (issued January 5, 2026); *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

¹² *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

¹³ *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.¹⁴

Pursuant to OWCP's procedures, no development of a claim is necessary where the condition reported is a minor one, which can be identified on visual inspection by a lay person (e.g., burn, laceration, insect sting, or animal bite).¹⁵ No medical report is required to establish a minor condition.¹⁶

ANALYSIS -- ISSUE 2

The Board finds that appellant has established a skin rash causally related to the accepted factors of her federal employment.

In a report dated July 30, 2025, Dr. Pierre recounted that appellant was seen for a rash over her body. He diagnosed skin rash and related that appellant had reported that she had been exposed to mold at work.

As explained above, OWCP's procedures provide that, if a condition reported is a minor one which can be identified on visual inspection by a lay person, a case may be accepted without a medical report.¹⁷

As appellant has established a visible injury, the Board finds that she has met her burden of proof to establish a skin rash causally related to the accepted employment factors. The case shall, therefore, be remanded for payment of related medical expenses and any attendant disability.¹⁸

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish entitlement to COP. The Board further finds that appellant has established a skin rash causally related to the accepted factors of her federal employment.¹⁹

¹⁴ *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett, id.*

¹⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6a (May 2023). *See also* Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3c (May 2023); *see also D.J.*, Docket No. 25-0581 (issued September 17, 2025).

¹⁶ *Id.*; *see also N.H.*, Docket No. 26-0014 (issued January 28, 2026); *S.G.*, Docket No. 22-0016 (issued October 31, 2022); *J.B.*, Docket No. 21-1322 (issued April 4, 2022).

¹⁷ *Id.*; *see also J.B.*, Docket No. 21-1322 (issued April 4, 2022); *M.C.*, Docket No. 19-0624 (issued December 8, 2020).

¹⁸ *See J.B., id.*; *M.C., id.*

¹⁹ In light of the Board's disposition of Issue 2, Issue 3 is rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the August 25, 2025 decision of the Office of Workers' Compensation Programs is affirmed. The November 6, 2025 decision of Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board. The December 17, 2025 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: May 12, 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