

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

_____)	
C.J., Appellant)	
)	
and)	Docket No. 26-0216
)	Issued: May 6, 2026
U.S. POSTAL SERVICE, LIVINGSTON POST OFFICE, Columbus, OH, Employer)	
_____)	

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 January 2, 2026 appellant filed a timely appeal from August 5 and December 17, 2025 merit decisions 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

ISSUE

The issue is whether appellant has met her burden of proof to establish a traumatic injury in the performance of duty on April 25, 2025, as alleged.

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.*

FACTUAL HISTORY

On May 21, 2025 appellant, then a 53-year-old custodian, filed a traumatic injury claim (Form CA-1) alleging that on April 25, 2025 she injured her lower back, neck, and right knee when a vehicle ran a red light and struck the vehicle she was operating while in the performance of duty. On the reverse side of the claim form, the employing establishment acknowledged that she was in the performance of duty when injured. Appellant stopped work on the date of injury and returned to work on July 14, 2025.

In a development letter dated May 30, 2025, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a questionnaire for her completion. OWCP specifically requested that appellant provide the following information: the address where the accident occurred, including a road map with the site of the accident plainly marked; the most direct route between the point of last official duty and the next expected official duty at the time of the April 25, 2025 incident; and a police report or employing establishment investigation report. It afforded her 60 days to submit the necessary evidence.

OWCP thereafter received an April 25, 2025 medical report by Dr. Mitchell B. Graham, an emergency medicine physician, who noted the history of the motor vehicle accident (MVA) and documented physical examination findings. Dr. Graham obtained computerized tomography (CT) scans of the cervical and lumbar areas of the spine, which were negative, and diagnosed low back and left leg pain. He noted that appellant had a prior history of sciatica and left lower back pain.

In a medical report dated May 7, 2025, Dr. Victoria Charpentier, an internist, diagnosed left-sided low back pain with left-sided sciatica.

In a statement dated May 20, 2025, appellant indicated that on April 25, 2025 she left the Livingston Post Office at approximately 1:15 p.m. to travel to the Bexley Post Office. She stopped at the Livingston Library to “run off a copy.” Appellant then left the library, turned onto Livingston Avenue from Zettler Road, and was struck by another driver on the passenger side of her vehicle.

In a note dated June 16, 2025, Dr. Allison Huffman, an internist, indicated that appellant could return to work on July 1, 2025, after an appointment with a spine specialist.

In a statement dated June 25, 2025, S.J., an employing establishment supervisor, explained that appellant left the Livingston Post Office to travel to the Gahanna Post Office. Thirty minutes later, she reported that she was involved in an MVA and was in an ambulance heading to the hospital. S.J. indicated that her job duties included traveling in her personal vehicle to clean three post office locations.

In a letter dated June 26, 2025, the employing establishment controverted the claim, asserting that appellant was not permitted to make personal stops while travelling to the other offices.

In a note dated June 30, 2025, Amber N. Abukwiek, an advanced practice registered nurse, recommended that appellant remain off work through July 4, 2025.

In a follow-up letter dated July 3, 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 May 30, 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.

OWCP subsequently received a police report dated April 25, 2025, which included a diagram of the vehicle collision. The report indicated that appellant was turning left onto Livingston Avenue from Zettler Road, and the collision occurred on Livingston Avenue.

In a July 15, 2025 attending physician's report (Form OWCP-20), Dr. Laura C. Hart, a Board-certified internist, noted the history of the April 25, 2025 employment incident and her examination findings. She diagnosed lumbar degenerative disease and opined that "the accident is what caused the pain."

In narrative statements dated July 17, 2025, appellant explained that she was on her way to clean the Bexley Post Office, not the Gahanna Post Office, at the time of the April 25, 2025 employment incident. While traveling west on Livingston Avenue en route to the Bexley Post Office, she stopped at the Livingston Library for five minutes to fax information about her driver's license. After leaving the library, she made a left turn back onto Livingston Avenue to drive to the Bexley Post Office and was struck on the passenger side of her vehicle by another driver.

In a note dated August 1, 2025, Dr. Kaeli Zoretich, an internist, determined that appellant was unable to work until September 5, 2025 due to back pain.

By decision dated August 5, 2025, OWCP found that appellant had established that the April 25, 2025 incident occurred as alleged, and that a medical condition had been diagnosed in connection with the incident. It denied her claim, however, finding that she had deviated from the most direct route to her next duty station to complete non-work-related tasks of a personal nature and, therefore, was not in the performance of duty at the time of the April 25, 2025 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury in the performance of duty as defined under FECA.

On September 2, 2025 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

OWCP continued to receive evidence.

Appellant submitted an additional narrative statement on December 4, 2025, indicating that, she was "on duty" at the time of the accident.

By decision dated December 17, 2025, OWCP's hearing representative affirmed the August 5, 2025 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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

³ *Supra* note 1.

States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,⁴ 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.⁵ 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.⁶

In providing for a compensation program for federal employees, Congress did not contemplate an insurance program against any and every injury, illness, or mishap that might befall an employee contemporaneous or coincidental with his or her employment. Liability does not attach merely upon the existence of an employee-employer relation. Instead, Congress provided for the payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.⁷

The Board has interpreted the phrase “sustained while in the performance of duty” has been interpreted to be the equivalent of the commonly found prerequisite in workers’ compensation law of “arising out of and in the course of employment.”⁸ The phrase “in the course of employment” is recognized as relating to the work situation, and more particularly, relating to elements of time, place, and circumstance. In addressing the issue, the Board has held that in the compensation field, to occur 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 his or her master’s business; (2) at a place where 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.⁹ In deciding whether an injury is covered by FECA, the test is whether, under all the circumstances presented, causal relationship exists between the employment itself, or the conditions under which it is required to be performed, and the resultant injury.¹⁰

The Board has recognized that, as a general rule, off-premises injuries sustained by employees having fixed hours and places of work while going to or coming from work, are not compensable, as they do not arise out of and in the course of employment. Such injuries are merely the ordinary, nonemployment hazards of the journey itself, which are shared by all travelers. There are recognized exceptions which are dependent upon the particular facts relative to each claim:

⁴ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *G.A.*, Docket No. 21-1362 (issued February 23, 2023); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *M.H.*, Docket No. 21-0891 (issued December 22, 2021); *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *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).

⁷ 5 U.S.C. § 8102(a).

⁸ See *M.Z.*, Docket No. 20-1078 (issued December 16, 2022); *N.B.*, Docket No. 20-1446 (issued March 19, 2021); *M.T.*, Docket No. 17-1695 (issued May 15, 2018); *S.F.*, Docket No. 09-2172 (issued August 23, 2010); *Charles Crawford*, 40 ECAB 474, 476-77 (1989).

⁹ See *N.B.*, *id.*; *M.T.*, *id.*; *Mary Keszler*, 38 ECAB 735, 739 (1987).

¹⁰ *A.G.*, Docket No. 18-1560 (issued July 22, 2020); *J.C.*, Docket No. 17-0095 (issued November 3, 2017); *Mark Love*, 52 ECAB 490 (2001).

(1) where the employment requires the employee to travel on the highways; (2) where the employing establishment contracts to and does furnish transportation to and from work; (3) where the employee is subject to emergency calls, as in the case of firefighters; and (4) where the employee uses the highway to do something incidental to his employment with the knowledge and approval of the employing establishment.¹¹

ANALYSIS

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

Appellant alleged that on April 25, 2025, she sustained injuries to her lower back, neck, and right knee when a vehicle ran a red light and struck the vehicle she was operating while in the performance of duty. In a development letter dated May 30, 2025, OWCP informed appellant of the deficiencies of her claim and provided a questionnaire for her completion requesting that she provide the following information: the address where the accident occurred, including a road map with the site of the accident plainly marked; the most direct route between the point of last official duty and the next expected official duty at the time of the April 25, 2025 incident; and a police report or investigation report. OWCP, however, did not request information from the employing establishment regarding the accuracy of appellant's allegations.

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While appellant has the burden of proof to establish entitlement to compensation, OWCP shares the responsibility in the development of the evidence, particularly when such evidence is of the character normally obtained from the employing establishment or other governmental source.¹² For workers having a fixed place of employment, who are injured while on an errand or special mission, the claims examiner will obtain the same information as for workers in travel status.¹³

The case shall therefore be remanded for further development. On remand, OWCP shall obtain all relevant information from the employing establishment necessary to determine whether he was injured in the performance of duty, including a map or diagram showing the location of the place where official duty was last performed, the place where the employee was next expected to perform official duty, and the shortest or most direct route between these points. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

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

¹¹ *K.G.*, Docket No. 18-1725 (issued May 15, 2019); *J.H.*, Docket No. 10-0185 (issued July 19, 2010); *Connie J. Higgins (Charles H. Higgins)*, 53 ECAB 451 (2002); *Melvin Silver*, 45 ECAB 677 (1994).

¹² *A.C.*, Docket No. 16-0081 (issued August 15, 2016); *Richard Kendall*, 43 ECAB 790 (1992).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.5d-e (August 1992).

ORDER

IT IS HEREBY ORDERED THAT the August 5 and December 17, 2025 decisions of the Office of Workers' Compensation Programs are set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: May 6, 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