

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

C.W., Appellant	)	
	)	
and	)	<b>Docket No. 26-0257</b>
	)	<b>Issued: May 5, 2026</b>
U.S. POSTAL SERVICE, POST OFFICE,	)	
Miami, FL, 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  
JANICE B. ASKIN, Judge

**JURISDICTION**

On January 18, 2026 appellant filed a timely appeal from a November 18, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>1</sup> Pursuant to the Federal

---

<sup>1</sup> 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, appellant asserted that oral argument should be granted because the seriousness and employment-related nature of her shoulder condition were not immediately apparent, and the delay in filing her claim was not willful or due to neglect. 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 Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>3</sup>

### **ISSUE**

The issue is whether appellant filed a timely claim for compensation, pursuant to 5 U.S.C. § 8122(a).

### **FACTUAL HISTORY**

On August 16, 2025 appellant, then a 66-year-old city mail carrier, filed an occupational disease claim (Form CA-2) alleging that she developed shoulder arthritis, rotator cuff tendinitis and bursitis due to factors of her federal employment, including sorting, casing, lifting, and delivering mail. She explained that she began to experience pain in her right shoulder while performing her regular job duties, and that this pain developed gradually over time due to repetitive work motion. Appellant noted that she first became aware of her condition and realized its relation to her federal employment on October 21, 2021. On the reverse side of the form, the employing establishment indicated that she was last exposed to conditions alleged to have caused the claimed condition on June 25, 2025.

Appellant submitted medical evidence to support her claim.

In an August 21, 2025 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence. In a separate development letter dated August 22, 2025, it requested additional information from the employing establishment, including comments from a knowledgeable supervisor regarding the accuracy of appellant's statements.<sup>4</sup> OWCP afforded the employing establishment 30 days to respond.

In an August 29, 2025 statement, appellant explained that the physical requirements of her position involved repetitive lifting, carrying and delivery of mail weighing 35 pounds or more, frequent overhead reaching and pulling, and extended periods of carrying heavy satchels. She explained that the pain and stiffness in her right shoulder gradually worsened over the years, until recent months when her shoulder pain and stiffness increased and she sought medical treatment. A copy of appellant's job description was provided.

---

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> The Board notes that following the November 18, 2025 decision, appellant submitted additional evidence to OWCP and with her appeal to the Board. 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.*

<sup>4</sup> The Board notes that the development letter referenced the June 9, 2023 date of injury.

Appellant continued to submit medical evidence in support of her claim. In an undated statement, she explained that she delayed filing her claim because she believed her shoulder discomfort was minor and would heal without formal treatment. Appellant initiated a claim once it became clear that the condition was ongoing and work related.

In a follow-up letter dated October 30, 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 21, 2025 letter to submit the requested supporting 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 response was received.

By decision dated November 18, 2025, OWCP denied appellant's occupational disease claim, finding that she had not filed a timely claim for compensation within the requisite three-year time limitation under 5 U.S.C. § 8122(a).

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>5</sup> 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, that the claim was timely filed within the applicable time limitation period of FECA,<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>

The issue of whether a claim was timely filed is a preliminary jurisdictional issue that precedes a determination on the merits of the claim.<sup>9</sup> In cases of injury on or after September 7, 1974, section 8122(a) of FECA provides that an original claim for compensation, for disability or death must be filed within three years after the injury or death.<sup>10</sup>

In a case of occupational disease, the time for filing a claim begins to run when the employee first becomes aware, or reasonably should have been aware, of a possible relationship between his or her condition and his or her employment. Such awareness is competent to start the

---

<sup>5</sup> *Supra* note 1.

<sup>6</sup> *L.S.*, Docket No. 20-0705 (issued January 27, 2021); *M.O.*, Docket No. 19-1398 (issued August 13, 2020); *G.L.*, Docket No. 18-1057 (issued April 14, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>7</sup> *L.S.*, *id.*, *J.R.*, Docket No. 20-0496 (issued August 13, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>8</sup> *L.S.*, *id.*, *B.M.*, Docket No. 19-1341 (issued August 12, 2020); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>9</sup> *A.R.*, Docket No. 24-0385 (issued May 22, 2024); *M.B.*, Docket No. 20-0066 (issued July 2, 2020); *Charles Walker*, 55 ECAB 238 (2004); *Charles W. Bishop*, 6 ECAB 571 (1954).

<sup>10</sup> 5 U.S.C. § 8122(a); *F.F.*, Docket No. 19-1594 (issued March 12, 2020); *W.L.*, 59 ECAB 362 (2008).

limitation period even though the employee does not know the precise nature of the impairment or whether the ultimate result of such affect would be temporary or permanent.<sup>11</sup> Where the employee continues in the same employment after he or she reasonably should have been aware that he or she has a condition which has been adversely affected by factors of federal employment, the time limitation begins to run on the date of the last exposure to the implicated factors.<sup>12</sup>

Section 8122(b) of FECA provides that the time for filing in latent disability cases does not begin to run until the claimant is aware or by the exercise of reasonable diligence should have been aware, of the causal relationship between the employment and the compensable disability.<sup>13</sup> The Board has emphasized that an employee need only be aware of a possible relationship between his or her condition and his or her employment to commence the running of the applicable statute of limitations,<sup>14</sup> and that, if an employee continues to be exposed to injurious working conditions after such awareness, the time limitation begins to run on the last date of this exposure.<sup>15</sup> It is the employee's burden to establish that a claim is timely filed.<sup>16</sup>

### ANALYSIS

The Board finds that appellant filed a timely claim for compensation, pursuant to 5 U.S.C. § 8122(a).

On her Form CA-2, filed on August 16, 2025, appellant noted that she first became aware of her condition and realized its relation to her federal employment on October 21, 2021. On the reverse side of the claim form, the employing establishment however indicated that she was last exposed to the identified employment factors on June 25, 2025.

The three-year time limitation for filing a claim does not begin to run until appellant is no longer exposed to the identified factors alleged to have contributed to an employment injury.<sup>17</sup> As

---

<sup>11</sup> *M.B.*, *supra* note 9; *S.O.*, Docket No. 19-0917 (issued December 19, 2019); *R.T.*, Docket No. 18-1590 (issued February 15, 2019), *Larry E. Young*, 52 ECAB 264 (2001).

<sup>12</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Time*, Chapter 2.801.6 (March 1993); *see id.*, *see also* *G.M.*, Docket No. 18-0768 (issued October 4, 2018).

<sup>13</sup> 5 U.S.C. § 8122(b).

<sup>14</sup> *D.H.*, Docket No. 24-0783 (issued December 12, 2024); *S.F.*, Docket No. 19-0283 (issued July 15, 2019); *J.M.*, Docket No. 10-1965 (issued May 16, 2011); *Larry E. Young*, *supra* note 11.

<sup>15</sup> *D.R.*, Docket No. 18-1754 (issued April 4, 2019); *Mitchel Murray*, 53 ECAB 601 (2002); *Garyleane A. Williams*, 44 ECAB 441 (1993).

<sup>16</sup> *M.B.*, *supra* note 9; *D.D.*, Docket No. 19-0548 (issued December 16, 2019); *Gerald A. Preston*, 57 ECAB 270 (2005).

<sup>17</sup> *R.W.*, Docket No. 23-0101 (issued May 1, 2023); *C.L.*, Docket No. 16-0854 (issued August 24, 2016); *James W. Beavers*, 57 ECAB 254 (2005). *Larry E. Young*, *supra* note 11; *Linda J. Reeves*, 48 ECAB 373 (1997).

the Board has held, if an employee continues to be exposed to injurious working conditions, the time limitation begins to run on the last date of this exposure.<sup>18</sup>

As appellant remained exposed to the work factors alleged to have caused her disease or illness until June 25, 2025, the Board finds that the claim was timely filed.

**CONCLUSION**

The Board finds that appellant filed a timely claim for compensation, pursuant to 5 U.S.C. § 8122(a).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 18, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: May 5, 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

---

<sup>18</sup> *R.W., id.; C.L., id.; R.A.*, Docket No. 16-0090 (issued March 21, 2016).