United States Department of Labor
Employees' Compensation Appeals Board

J.B., Appellant	)	
and	)	**Docket No. 26-0458**
	)	**Issued: May 21, 2026**
U.S. POSTAL SERVICE, POST OFFICE, Boston, MA, 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 April 21, 2026 appellant filed a timely appeal from an April 7, 2026 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.[2]

ISSUE

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

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the April 7, 2026 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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 January 16, 2026 appellant, then a 47-year-old heavy truck driver, filed an occupational disease claim (Form CA-2) alleging that he sustained an injury due to factors of his federal employment. He noted that he first became aware of his claimed condition and realized its relation to factors of his federal employment on May 18, 2016. On the reverse side of the claim form, the employing establishment noted that appellant first reported his condition to a supervisor on January 16, 2026. It further noted that he had separated from the employing establishment on September 1, 2024 and that this was not an employing establishment claim.

On January 22, 2026 OWCP received several notification of personnel action forms (PS Form 50) dated May 10, 2021 through December 2, 2023 documenting appellant's periodic employment at the employing establishment.

In a February 4, 2026 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual evidence needed, including evidence which established that his claim was filed within three years of the date of injury or that his immediate supervisor had actual knowledge of the injury within 30 days of the injury. OWCP noted, "Evidence is not sufficient to support that you provided timely notification of your work injury." It afforded appellant 60 days to submit the necessary evidence.

On February 5, 2026 OWCP received a statement in which appellant acknowledged, "I was working for [Veterans Transportation Services, Massachusetts Bay Transportation Authority] the ride injured on [May 18, 2016]."[3]

In a follow-up letter dated March 12, 2026, OWCP advised appellant that it had conducted an interim review and had determined that the evidence remained insufficient to establish his claim. It noted that he had 60 days from the February 4, 2026 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.

By decision dated April 7, 2026, OWCP denied appellant's claim, finding that it was untimely filed, pursuant to 5 U.S.C. § 8122(a).

LEGAL PRECEDENT

The issue of whether a claim was timely filed is a preliminary jurisdictional issue that precedes any determination on the merits of the claim.[4] In cases of injury on or after September 7, 1974, section 8122(a) of FECA provides that an original claim for compensation, disability, or

[3] On February 17, 2026 appellant filed another occupational disease claim (Form CA-2) alleging that he sustained an injury due to factors of his federal employment. He noted that he first became aware of his claimed condition and realized its relation to factors of his federal employment on May 18, 2016. On the reverse side of the claim form, the employing establishment noted that appellant first reported his condition to a supervisor on February 17, 2026. It reiterated that he separated from the employing establishment on September 1, 2024.

[4] *C.S.,* Docket No. 18-0009 (issued March 22, 2018); *David R. Morey,* 55 ECAB 642 (2004); *Charles Walker,* 55 ECAB 238 (2004); *Charles W. Bishop,* 6 ECAB 571 (1954).

death, must be filed within three years after the injury or death.[5] Even if a claim is not filed within the three-year period of limitation, it would still be regarded as timely under section 8122(a)(1) if the immediate supervisor had actual knowledge of his or her alleged employment-related injury within 30 days or written notice of the injury was provided within 30 days pursuant to section 8119.[6] The knowledge must be such as to put the immediate superior reasonably on notice of an on-the-job injury or death.[7] It is the employee's burden of proof to establish that a claim is timely filed.[8]

When a traumatic injury definite in time, place, and circumstances is involved, the time for giving notice of injury and filing for compensation begins to run at the time of the incident, even though the employee may not have been aware of the precise nature, seriousness, or ultimate consequences of his or her injury.[9] The Board has found that the statute of limitations begins to run on the date that the employee actually knows of the possible relationship between the employee's condition and his or her employment, or reasonably should have known of the possible relationship.[10]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that he timely filed a claim for compensation, pursuant to 5 U.S.C. § 8122(a).

Appellant alleged that he sustained an injury due to factors of his federal employment. He noted that he first became aware of his claimed condition and realized its relation to factors of his federal employment on May 18, 2016. However, appellant did not file his claim for an employment-related condition until January 16, 2026. Therefore, he did not file his claim within the requisite three-year time limitation set forth under 5 U.S.C. § 8122(a).[11]

Appellant's claim would still be regarded as timely under section 8122(a)(1) of FECA if his immediate supervisor had actual knowledge of the alleged employment-related injury within 30 days or written notice of the injury was provided within 30 days pursuant to section 8119.[12] On the reverse side of the claim form, the employing establishment noted that he first reported his condition to a supervisor on January 16, 2026. It further noted that appellant had separated from the employing establishment on September 1, 2024 and that this was not an employing establishment claim. On February 5, 2026 OWCP received a statement in which appellant acknowledged, "I was working for [Veterans Transportation Services, Massachusetts Bay

[5] 5 U.S.C. § 8122(a); *see also S.F.,* Docket No. 19-0283 (issued July 15, 2019); *W.L.,* 59 ECAB 362 (2008).

[6] 5 U.S.C. §§ 8122(a)(1), 8122(a)(2); *see also D.D.,* Docket No. 19-0548 (issued December 16, 2019).

[7] *R.H.,* Docket No. 17-0251 (issued November 28, 2018); *B.H.,* Docket No. 15-0970 (issued August 17, 2015).

[8] *A.S.,* Docket No. 18-1094 (issued February 7, 2019).

[9] *Delmont L. Thompson*, 51 ECAB 155 (1999); *Emma L. Brooks*, 37 ECAB 407, 411 (1986).

[10] *William A. West*, 36 ECAB 525, 528-29 (1985).

[11] *See supra* note 7.

[12] *See supra* note 8.

Transportation Authority] the ride injured on [May 18, 2016]. Therefore, the case record does not contain any evidence documenting that an immediate superior either had actual knowledge of or received written or verbal notification about his conditions and the possible relationship to his employment within 30 days of its occurrence.

As the evidence of record is insufficient to establish a timely claim for compensation pursuant to 5 U.S.C. § 8122(a), the Board finds that he has not met his burden of proof.

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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he timely filed a claim for compensation, pursuant to 5 U.S.C. § 8122(a).

ORDER

IT IS HEREBY ORDERED THAT the April 7, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 21, 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