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

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| **R.S., Appellant** | ) | |
| **and** | ) | **Docket No. 26-0657** |
| | ) | **Issued: October 8, 2026** |
| **U.S. POSTAL SERVICE, NORTH TEXAS PROCESSING & DISTRIBUTION CENTER, Coppell, TX, 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 July 9, 2026 appellant filed a timely appeal from a May 22, 2026 merit decision and a July 2, 2026 nonmerit 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]

## ***ISSUES***

The issues are: (1) whether appellant has met his burden of proof to establish an injury in the performance of duty on September 12, 2025, as alleged; and (2) whether OWCP properly

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the July 2, 2026 decision, OWCP received additional evidence. 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.*

denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

## ***FACTUAL HISTORY***

On March 13, 2026 appellant, then a 34-year-old city delivery specialist, filed a traumatic injury claim (Form CA-1) alleging that on September 12, 2025 he fractured his left foot due to continuous standing for a four-hour period while in the performance of duty.[3] On the reverse side of the claim form, the employing establishment controverted the claim. It noted that the dates included on the medical evidence that appellant provided indicated that he was first seen on May 21, 2025, but that the date of injury was September 12, 2025. Additionally, the employing establishment indicated that appellant was not injured in the performance of duty as he had previously referenced that he hurt his foot playing basketball outside of work hours. Appellant stopped work on September 13, 2025, and returned to work on December 30, 2025.

In a form report dated September 24, 2025, Dr. Andrew Garrett, a chiropractor, diagnosed nondisplaced fracture of fourth metatarsal bone of the left foot. He noted that symptoms first appeared on September 16, 2025.

In a March 17, 2026 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. OWCP specifically requested that appellant provide further details clarifying how his injury actually occurred. It also requested that he respond to the concerns raised by the employing establishment in controverting his claim. OWCP afforded appellant 60 days to submit the necessary evidence.

In a medical report dated March 25, 2026, Dr. Sumit Katyal, Board-certified in anesthesiology and pain medicine, noted that appellant related complaints of pain in his left foot, which he attributed to "a work injury in which he was involved on September 12, 2025" where "during the course of his workday, he began to experience pain and swelling in his left foot." He documented physical examination findings and reviewed a left foot x-ray dated September 16, 2025. Dr. Katyal diagnosed displaced fracture of fourth metatarsal bone of the left foot due to "walking on a hard surface for [six] hours daily." He explained that standing and walking caused repeated submaximal loading and a stress fracture mechanism.

A magnetic resonance imaging (MRI) scan of the left foot dated April 4, 2026 demonstrated a mild bunion, osteoarthritis, and bursitis.

In a follow-up letter dated April 13, 2026, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the March 17, 2026 letter to submit the necessary evidence. OWCP further

[3] OWCP assigned the present claim OWCP File No. xxxxxx740. Appellant previously filed a Form CA-1 for a January 3, 2020 injury, which OWCP accepted for lateral meniscus tear and medial collateral ligament sprain, left foot fracture and sprain, and left ankle sprain under OWCP File No. xxxxxx429. He also previously filed a Form CA-1 for a June 6, 2022 injury, which OWCP accepted for left ankle/foot strain and left ankle sprain under OWCP File No. xxxxxx929. OWCP has not administratively combined OWCP File Nos. xxxxxx429 and xxxxxx929 with the present claim, OWCP File No. xxxxxx740.

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 May 22, 2026, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the September 12, 2025 employment incident occurred in the performance of duty, as alleged. Therefore, it concluded that the requirements had not been met to establish an injury as defined by FECA.

On June 11, 2026 appellant requested reconsideration of OWCP's May 22, 2026 decision.

By decision dated July 2, 2026, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

## ***LEGAL PRECEDENT -- ISSUE 1***

An employee seeking benefits under FECA[4] 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,[5] 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.[6] 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.[7]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is that the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury and can be established only by medical evidence.[8]

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action. The employee has not met his or her burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain

[4] *Supra* note 1.

[5] *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).

[6] *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).

[7] *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).

[8] *T.H.,* Docket No. 19-0599 (issued January 28, 2020); *K.L.,* Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone,* 41 ECAB 354 (1989).

medical treatment may, if otherwise unexplained, cast serious doubt on the employee's statements in determining whether a *prima facie* case has been established.[9]

## ***ANALYSIS -- ISSUE 1***

The Board finds that appellant has not met his burden of proof to establish an injury in the performance of duty on September 12, 2025, as alleged.

In his Form CA-1, appellant indicated that on September 12, 2025 he injured his left foot due to standing continuously for four hours. On the reverse side of the claim form, the employing establishment controverted the claim. It noted that the dates included on the medical evidence that appellant provided indicated that he was first seen on May 21, 2025, but that the date of injury was September 12, 2025. Additionally, the employing establishment indicated that appellant was not injured in the performance of duty as he had previously referenced that he hurt his foot playing basketball outside of work hours. In March 17 and April 13, 2026 development letters, OWCP informed appellant of the deficiencies of his claim and provided a questionnaire for his completion. It specifically requested that he provide further details clarifying how his injury actually occurred. OWCP also requested that appellant respond to the concerns raised by the employing establishment in controverting his claim. It subsequently received medical evidence, including a medical form by Dr. Garrett, who indicated that his symptoms began on September 16, 2025, and a medical report by Dr. Katyal, who indicated that his symptoms began on September 12, 2025. Appellant did not respond to OWCP's development questionnaire, nor did he otherwise provide clarification regarding how his injury actually occurred or respond to the concerns raised by the employing establishment.

The Board thus finds that the record lacks sufficient factual evidence to establish specific details of how the claimed injury occurred.[10] As such, appellant has not met his burden of proof.[11] Consequently, it is unnecessary to address the medical evidence of record.[12]

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.

[9] *C.M.,* Docket No. 20-1519 (issued March 22, 2021); *Betty J. Smith,* 54 ECAB 174 (2002).

[10] *See A.M.,* Docket No. 24-0460 (issued September 25, 2024); *K.C.,* Docket No. 24-0226 (issued July 17, 2024); *R.B.,* Docket No. 19-1026 (issued January 14, 2020); *M.S.,* Docket No. 18-0059 (issued June 12, 2019); *L.A.,* Docket No. 17-0138 (issued April 5, 2017); *John R. Black,* 49 ECAB 624 (1998); *Judy Bryant,* 40 ECAB 207 (1988); *Martha G. List,* 26 ECAB 200 (1974).

[11] *S.R.,* Docket No. 25-0117 (issued February 3, 2025); *J.P.,* Docket No. 18-0190 (issued May 22, 2018).

[12] *S.R., id.*; *see also M.P.,* Docket No. 15-0952 (issued July 23, 2015); *Alvin V. Gadd,* 57 ECAB 172 (2005).

## ***LEGAL PRECEDENT -- ISSUE 2***

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his or her own motion or on application.[13]

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.[14]

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.[15] If it chooses to grant reconsideration, it reopens and reviews the case on its merits.[16] If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.[17]

## ***ANALYSIS -- ISSUE 2***

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

On June 11, 2026 appellant requested reconsideration of OWCP's May 22, 2026 decision. However, he neither showed that OWCP erroneously applied or interpreted a specific point of law, nor did he advance a relevant legal argument not previously considered by OWCP. Accordingly, the Board finds that appellant is not entitled to a review of the merits of his claim based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).[18]

[13] 5 U.S.C. § 8128(a); *see L.D.*, Docket No. 18-1468 (issued February 11, 2019); *V.P.*, Docket No. 17-1287 (issued October 10, 2017); *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

[14] 20 C.F.R. § 10.606(b)(3); *see M.S.*, Docket No. 18-1041 (issued October 25, 2018); *L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

[15] 20 C.F.R. § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (version 1.2, issued May 4, 2026)). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). *Id*. at Chapter 2.1602.4b (version 1.2, issued May 4, 2026).

[16] *Id*. at § 10.608(a); *see D.C.*, Docket No. 19-0873 (issued January 27, 2020); *M.S.*, 59 ECAB 231 (2007).

[17] *Id*. at § 10.608(b); *see T.V.*, Docket No. 19-1504 (issued January 23, 2020); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

[18] *See L.W.,* Docket No. 21-0607 (issued October 18, 2022).

Appellant also did not submit any relevant and pertinent new evidence with his request for reconsideration. Therefore, he was not entitled to a review of the merits of his claim based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).[19]

The Board, therefore, finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

## ***CONCLUSION***

The Board finds that appellant has not met his burden of proof to establish an injury in the performance of duty on September 12, 2025, as alleged. The Board finds that OWCP properly denied his request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).[20]

## ***ORDER***

**IT IS HEREBY ORDERED THAT** the May 22 and July 2, 2026 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 8, 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

[19] *See* 20 C.F.R. § 10.606(b)(3)(iii); *see also S.W.,* Docket No. 25-0261 (issued February 24, 2025).

[20] Upon return of the case record, OWCP may consider combining the present claim with OWCP File Nos. xxxxxx429 and xxxxxx929.