United States Department of Labor
Employees' Compensation Appeals Board

B.P., Appellant	)	
and	)	**Docket No. 26-0572**
	)	**Issued: September 23, 2026**
DEPARTMENT OF VETERANS AFFAIRS, PERRY POINT VA MEDICAL CENTER, Perry Point, MD, Employer	)	

Appearances:
Daren Sarphie, Esq., for the appellant[1]
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 June 5, 2026 appellant, through counsel, filed a timely appeal from a March 17, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish an injury in the performance of duty on May 21, 2025, as alleged.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq*.

FACTUAL HISTORY

On May 22, 2025 appellant, then a 78-year-old program support assistant filed a traumatic injury claim (Form CA-1) alleging that at approximately 7:40 a.m. on May 21, 2025 she sustained multiple injuries, including injuries to the face, head, right shoulder, right middle finger, and knee while in the performance of duty. She asserted that, while she was walking from the garage through the University of Maryland Baltimore (UMB) hospital to reach the employing establishment building she slipped and fell. On the reverse side of the claim form, M.M., appellant's immediate supervisor, reported that appellant had fixed hours of work from 8:00 a.m. to 4:30 p.m., Monday through Friday. She contended that appellant was not in the performance of duty during the May 21, 2025 incident because she was injured prior to arriving at work and was not on employing establishment property when injured.

In a development letter dated May 27, 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 afforded 60 days to respond. In a separate development letter of even date, OWCP requested that the employing establishment submit additional information regarding appellant's claim, including comments from a knowledgeable supervisor and afforded 30 days for a response. It specifically requested that the employing establishment explain whether she was injured on a premises that it owned, operated or controlled. OWCP also requested that the employing establishment provide a diagram showing the boundaries of its premises and the site of appellant's injury in relation to the premises.

On May 29, 2025 the employing establishment merely responded that appellant was leaving her assigned parking garage and walking through the UMB hospital to reach employing establishment property, and that she fell at the entrance of the UMB hospital, not on employing establishment property.

In a follow-up July 1, 2025 letter, 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 its May 27, 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 additional evidence. In an August 21, 2024 e-mail, the employing establishment related that available parking assignments from staff were augmented. On September 23, 2024 appellant's application for parking was accepted and her permit for the Penn Street garage was complete. In a November 29, 2024 e-mail, the employing establishment related that the contract-provided shuttles to and from employee parking garages would no longer be available.

By decision dated August 5, 2025, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that her alleged injury "arose during the course of employment and within the scope of compensable work factors" as defined by FECA. Specifically, it found that the location where appellant was injured was not part of the employing establishment's premises, and it was not owned, controlled, or managed by the employing establishment.

On August 22, 2025 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In a September 7, 2025 statement, appellant asserted that she was assigned a parking space through the employing establishment in the Penn Street garage, which was owned and operated by the UMB hospital. The employing establishment deducted $30.00 every two weeks to cover this assigned parking. Appellant alleged that her parking location was not optional, that it was designated by the employing establishment, and that access to the employing establishment premises "requires employees to pass through the UMB Hospital premises using a secured walkway and bridge system." She noted that on May 21, 2025 she parked at 7:40 a.m. in the Penn Street garage, walked toward the employing establishment *via* UMB hospital, took an elevator from the basement to the first floor, walked through the corridor toward the pedestrian bridge, and slipped and fell on the floor near the first-floor corridor sustaining injury. Appellant asserted, "[t]he fall occurred on the [UMB] Hospital premises, just before the entrance to the [employing establishment] Hospital." She alleged that her fall occurred within her designated route on an area without protective carpeting. Appellant stated, "This route was not one of convenience, but a condition of my employment. The [employing establishment] required me to park in the [UMB] Penn Street [g]arage, deducted the cost directly from my pay, and granted me access through [UMB hospital] security using my [employing establishment] identification card." Appellant related that although alternative public routes existed, these routes were unsafe due to the high-crime area surrounding the employing establishment. She noted that the employing establishment provided security bulletins warning of robberies and assaults. Appellant asserted that the route through the UMB hospital was "the only practical and secure path from the designated parking facility to the [employing establishment]."

Appellant provided a series of documents regarding employing establishment parking. In a July 21, 2022 brochure, the employing establishment related the parking garage was undergoing repairs and that it had procured an additional 356 parking spaces from UMB hospital. On July 27, 2022 appellant was notified that the employing establishment parking garage would be closed for approximately three months commencing August 1, 2022. Shuttle services would be available. On September 20, 2024 appellant applied for UMB parking. On September 23, 2024 her parking permit for the Penn Street garage was processed. In a November 29, 2024 e-mail, the employing establishment announced that the contracted shuttles to and from the employee parking garages and mass transit stations would no longer be available. It further related that employing establishment shuttles would be increased. The employing establishment explained, "As a part of the campus of the [UMB hospital] employees of the [employing establishment] were authorized to subscribe to UMB Alerts." This system provided important information about emergencies, police activities, security issues, road closures, and traffic updates throughout the UMB campus.

A hearing was held before an OWCP hearing representative on January 27, 2026. Appellant testified that on May 21, 2025 she parked at the Penn Station parking garage and walked in the rain approximately one half block to the ground floor of the UMB hospital, caught the elevator to the first floor, walked down the corridor and slipped and fell. She related that employees were allowed to use their employing establishment identification cards to enter the UMB hospital building, and that there was a pedestrian bridge that connected UMB hospital with the employing establishment. Appellant testified that she could walk to the employing establishment from the parking garage, but that she felt it was unsafe to walk the one and one

half block distance, given her age and gender. She explained that payment for the Penn Station parking garage was deducted from her employing establishment pay, in the amount of $30.00, every two weeks.

By decision dated March 17, 2026, OWCP's hearing representative affirmed OWCP's August 5, 2025 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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,[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]

The phrase "sustained while in the performance of duty" has been interpreted by the Board to be the equivalent of the commonly found prerequisite in workers' compensation law of "arising out of and in the course of employment."[7] The phrase "in the course of employment" is recognized as related to the work situation, and more particularly, relating to elements of time, place, and circumstance. To arise "in the course of employment," in general, an injury must occur: (1) at a time when the employee may reasonably be said to be engaged in the 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.[8]

It is well established as a general rule of workers' compensation law that, under the premises doctrine, off-premises injuries sustained by employees having fixed hours and places of work while going to or from work or during a lunch period, are not compensable, as they do not arise out of and in the course of employment. Rather, such injuries are merely the ordinary,

[3] *Id.*

[4] *C.E.,* Docket No. 24-0490 (issued June 7, 2024); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *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] *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] *C.L.*, Docket No. 19-1985 (issued May 12, 2020); *S.F.*, Docket No. 09-2172 (issued August 23, 2010); *Valerie C. Boward*, 50 ECAB 126 (1998).

[8] *A.S.*, Docket No. 18-1381 (issued April 8, 2019); *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Mary Keszler*, 38 ECAB 735, 739 (1987).

nonemployment hazards of the journey itself, which are shared by all travelers, subject to certain exceptions.[9]

Exceptions to the premises doctrine have been made to protect activities that are so closely related to the employment itself as to be incidental thereto,[10] or which are in the nature of necessary personal comfort or ministration.[11] One of these exceptions is the proximity exception to the premises rule, which allows constructive extension of the premises to those hazardous conditions which are proximate to the premises and may, therefore, be considered as hazards of the employment.[12] The Board has determined that underlying the proximity principle is the principle that course of employment should extend to any injury that occurred at a point where the employee was within the range of dangers associated with the employment.[13] This exception has two components. The first is the presence of a special hazard at the particular off-premises point. The second is the close association of the access route with the premises, so far as going and coming is concerned.[14]

ANALYSIS

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

In a May 27, 2025 development letter, OWCP requested additional factual information from the employing establishment with regard to whether appellant was in the performance of duty when injured on May 21, 2025. It specifically requested that the employing establishment explain whether appellant was injured on a premises that it owned, operated or controlled. OWCP also requested that the employing establishment provide a diagram showing the boundaries of its premises and the site of appellant's injury in relation to the premises. In its May 29, 2025 response, the employing establishment merely noted that appellant was leaving her assigned parking garage and walking through the UMB hospital to reach employing establishment property, and that she fell at the entrance of the UMB hospital, not on employing establishment property. The employing establishment provided no further explanation regarding who owned or maintained the parking lot or premises, or whether it contracted for the exclusive use of the parking lot. It also did not address whether employees were required to park in this parking lot, and if other options were available if an employee wished to pay for parking. The employing establishment further failed to elaborate on the location, usage, and access of the other parking lots. Despite receiving a response from the employing establishment, which did not fully answer the posed questions, OWCP did not conduct any further development of the evidence before it issued its decision.[15] The Board finds, therefore, that OWCP did not properly

[9] *V.P.*, Docket No. 13-0074 (issued July 1, 2013); *M.L.*, Docket No. 12-0286 (issued June 4, 2012); *John M. Byrd*, 53 ECAB 684 (2002).

[10] *M.T.*, Docket No. 17-1695 (issued May 15, 2018).

[11] *J.L.*, Docket No. 14-368 (issued August 22, 2014).

[12] *K.D.*, Docket No. 18-0617 (issued February 13, 2019); *D.K.*, Docket No. 11-1029 (issued February 1, 2012).

[13] *J.K.*, Docket No. 17-0756 (issued July 11, 2018); *Eugene G. Chin*, 39 ECAB 598 (1988).

[14] *B.H.*, Docket No. 14-0829 (issued July 8, 2015).

[15] *See C.E., supra* note 4; *G.R.*, Docket No. 18-1490 (issued April 4, 2019).

develop the evidence with respect to whether appellant's slip-and-fall injury occurred on the employing establishment's premises.[16]

Proceedings under FECA are not adversarial in nature, and while appellant has the burden to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.[17] It has an obligation to see that justice is done.[18] OWCP procedures further provide that it should obtain relevant information, including relevant diagrams, from an official superior if it requires clarification before determining whether the employee was on the premises.[19] As OWCP failed to request all the information as required under its procedures, the Board shall remand the case for further development.[20]

On remand, OWCP shall obtain further information from the employing establishment regarding whether appellant was injured in the performance of duty on May 21, 2025. This shall include whether the employing establishment contracted for the exclusive use by its employees of the parking area or premises, whether parking spaces in the lot were assigned by the employing establishment to its employees, whether the parking areas were checked to see that no unauthorized cars were parked in the lot, whether the public was permitted to use the lot, and whether other parking was available to the employees. The employing establishment shall also be asked to address whether the corridor in which appellant fell was owned, controlled, or maintained by the employing establishment,[21] used exclusively or principally by employees of the employing establishment for the convenience of the employer,[22] and whether the corridor was a necessary point of ingress/egress.[23] Following this and other such development as deemed necessary, OWCP shall issue a *de novo* decision.

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[16] *See S.V.*, Docket No. 18-1299 (issued November 5, 2019) (case was remanded for OWCP to obtain additional information from the employing establishment regarding whether a satellite parking lot was considered on the premises of the employing establishment).

[17] *C.L.*, Docket No. 18-0812 (issued February 22, 2019); *Wilmar Lewis Prescott*, 22 ECAB 318 (1971).

[18] *See S.M., claiming as son of J.M.*, Docket No. 16-1725 (issued May 11, 2017) (Board remanded the case for OWCP to obtain additional information from the employing establishment regarding why appellant remained at work after his work shift ended).

[19] *See e.g., M.G.*, Docket No. 18-1310 (issued April 16, 2019); *Walter A. Fundinger, Jr.*, 37 ECAB 200, 204 (1985); *Dorothy L. Sidwell*, 36 ECAB 699, 707 (1985); *Michael Gallo*, 29 ECAB 159, 161 (1978); *William N. Saathoff*, 8 ECAB 769, 770-71 (1956).

[20] *See A.J.*, Docket No. 18-0905 (issued December 10, 2018); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983); *Gertrude E. Evans*, 26 ECAB 195 (1974).

[21] *See J.K.*, Docket No. 17-0756 (issued July 11, 2018) (the Board found that an employee who slipped on ice on the sidewalk in front of the employing establishment's door was not within the performance of duty because the rental lease showed that the employing establishment leased the property from a private owner who was responsible for maintaining the property space).

[22] *See Idalaine L. Hollins-Williamson*, 55 ECAB 655 (2004) (the Board found that an employee's slip-and-fall injury on a public sidewalk while walking from a parking lot to the employing establishment did not occur in the performance of duty as the employee did not establish that the sidewalk on which she fell was used exclusively or principally by the employees of the employing establishment).

[23] *See J.D.*, Docket No. 16-0104 (issued April 5, 2016).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the March 17, 2026 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 23, 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