

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

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L.D., Appellant)	
)	
and)	Docket No. 24-0812
)	Issued: September 10, 2024
U.S. POSTAL SERVICE, NORTH HOUSTON)	
POST OFFICE, Houston, TX, Employer)	
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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 August 6, 2024 appellant filed a timely appeal from a July 15, 2024 merit decision 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.

ISSUE

The issue is whether appellant has met her burden of proof to establish entitlement to continuation of pay (COP).

FACTUAL HISTORY

On June 13, 2024 appellant, then a 50-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on April 10, 2024 she sprained her left knee when she slipped when exiting her vehicle, causing her left leg to bend, while in the performance of duty.

¹ 5 U.S.C. § 8101 *et seq.*

On the reverse side of the claim form, appellant’s supervisor acknowledged that appellant was injured in the performance of duty.

In a statement dated July 9, 2024, appellant contended that she reported the injury to a supervisor, P.O., on April 10, 2024. She stated that on April 13, 2024 another supervisor, A.N., gave her a “paper that was prefilled to go be seen at Cap Rock.” Appellant noted that on April 29, 2024 P.O. told her that she had lost appellant’s original paperwork regarding the April 10, 2024 injury. She contended that she later spoke to B.W., who told her that P.O. needed to “put the claim in the system” due to her continued pain. Appellant noted that subsequently, B.W., a senior supervisor, informed her that she could file the claim for compensation herself. She stated that she did so on June 13, 2024. Appellant explained that the original 30-day deadline was missed because she was not made aware of her options and how to advocate for herself properly. She contended that the missed deadline was not due to her own negligence, but due to lack of guidance from leadership.

On July 15, 2024 OWCP accepted appellant’s claim for left knee sprain.

By decision dated July 15, 2024, OWCP denied appellant’s claim for COP, finding that she had not reported her injury on an OWCP-approved form within 30 days of her accepted April 10, 2024 employment injury. It noted that the denial of COP did not preclude appellant from filing a claim for disability due to the effects of her claimed injury.

LEGAL PRECEDENT

Section 8118(a) of FECA authorizes COP, not to exceed 45 days, to an employee who has filed a claim for a period of wage loss due to a traumatic injury with his or her immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title.² This latter section provides that written notice of injury shall be given within 30 days.³ The context of section 8122 makes clear that this means within 30 days of the injury.⁴

OWCP’s regulations provide, in pertinent part, that to be eligible for COP, an employee must: (1) have a traumatic injury which is job related and the cause of the disability and/or the cause of lost time due to the need for medical examination and treatment; (2) file Form CA-1 within 30 days of the date of the injury; and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.⁵

² *Supra* note 1 at § 8118(a).

³ *Id.* at § 8122(a)(2).

⁴ *S.G.*, Docket No. 23-1033 (issued February 14, 2024); *E.M.*, Docket No. 20-0837 (issued January 27, 2021); *J.S.*, Docket No. 18-1086 (issued January 17, 2019); *Robert M. Kimzey*, 40 ECAB 762-64 (1989); *Myra Lenburg*, 36 ECAB 487, 489 (1985).

⁵ 20 C.F.R. § 10.205(a)(1-3); *see also S.G., id.*; *T.S.*, Docket No. 19-1228 (issued December 9, 2019); *J.M.*, Docket No. 09-1563 (issued February 26, 2010); *Dodge Osborne*, 44 ECAB 849 (1993); *William E. Ostertag*, 33 ECAB 1925(1982).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish entitlement to COP.

The record reflects that appellant filed written notice of her traumatic injury with a Form CA-1 on June 13, 2024, alleging that on April 10, 2024 she sustained a left knee sprain while in the performance of duty when her left foot slipped as she readied herself to exit her postal vehicle, causing her left leg to bend. As noted above, to be eligible for COP, a claimant must file a Form CA-1 within 30 days of the date of injury.⁶ As appellant filed her Form CA-1 on June 13, 2024, more than 30 days after the April 10, 2024 date of injury, the Board finds that she is not entitled to COP.⁷ The evidence of record does not demonstrate that appellant filed a claim for a period of wage loss due to a traumatic injury with the immediate superior on an OWCP-approved form earlier than June 13, 2024.⁸

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 her burden of proof to establish entitlement to COP.

⁶ *Id.*

⁷ *See S.G., supra* note 4; *A.H.*, Docket No. 23-0171 (issued June 16, 2023).

⁸ *See supra* note 3.

ORDER

IT IS HEREBY ORDERED THAT the July 15, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 10, 2024
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