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Points

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Time

- For injuries and deaths that occurred on or after Sept. 7, 1974, written notice of an injury or death must be filed within 30 days after the occurrence of the injury or death. 5 USC 8119 ; FECA PM 2-0801-3.
- The OWCP generally accepts as a notice of injury or death any written document received by the employing agency or the OWCP which is signed by the claimant or someone acting on the claimant's behalf and which contains the name of the employee, the date and location of the injury or death, and the cause and nature of the injury, or the employment factors believed to be the cause. FECA PM 2-0801-3.
- An original claim for compensation for disability or death must be filed within three years after the occurrence of the injury or death under 5 USC 8122. If a claim is not filed within three years, compensation may still be allowed if:
    - Written notice of injury or death was given within 30 days as specified in 5 USC 8119 ; or
    - The immediate superior had actual knowledge (including verbal notification) of the injury or death within 30 days after its occurrence. The knowledge or notification must be such as to put the immediate superior reasonably on notice of an on-the-job injury or death. FECA PM 2-0801-3.
- In occupational disease cases, the three-year time limit 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 condition and his employment. In a case of latent disability, the time for filing a claim does not begin to run until the employee has a compensable disability and is aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship of the

compensable disability to the employment. *S.O. and Department of the Army,* 120 LRP 1309 (ECAB 2019).

- For more information on time limitations, see our Quick Start Guide: Time Limitations on Claims.

Employee status

- The FECA defines a federal employee as a civil officer or employee in any branch of the government of the United States, including an officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance of use of the service or authorizes payment of travel or other expenses of the individual. 5 USC 8101 (1).
- 20 CFR 10.5 defines a federal employee as:
    - A civil officer or employee in any branch of the government of the United States, including an officer or employee of an instrumentality wholly owned by the United States;
    - An individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service, or authorizes payment of travel or other expenses of the individual.
- Although FECA coverage does not specifically extend to active duty or reserve members of the U.S. Armed Forces, it does provide coverage for members of the ROTC. As the claimant was a U.S. Army reserve commissioned officer at the time of his injury, the ECAB found he was not an employee as defined under the FECA. *H.S. and Department of the Army,* 120 LRP 1337 (ECAB 2019).
- With regard to whether a claimant is a federal employee for purposes of FECA, the ECAB has noted that such a determination must be made considering the particular facts and circumstances surrounding his or her employment. Included among the many factors to be considered are the right of control of the work activities, the right to hire and fire, the nature of the work performed, the method of payment for the work, the length of time of the job, and the intention of the parties. Other factors to be considered include whether the claimant has been rendering service similar to the service of a federal employee and whether the employing establishment was authorized by statute to accept such services. *S.R. and U.S. Postal Service,* 119 LRP 32256 (ECAB 2019).
- An injury that occurs while an individual is packing to move to her duty station -- before she has ~~begun performing any federal duties -- will not be compensable where she does not receive any~~ compensation before the starting date and she is not reimbursed for her moving expenses. *F.N. and Department of the Air Force,* 111 LRP 56202 (ECAB 2011).
- The claimant did not submit sufficient evidence that he was an employee of the United States for purposes of FECA coverage. The only link between the claimant and the federal government was the subcontract his employer had to work on government helicopters. He did not work for the federal government pursuant to a statute that authorized the acceptance of the use of his services, and the United States neither hired him nor controlled or supervised his work activities. Further, he could pursue workers' compensation benefits through his employer. *R.L. and Department of the Army, U.S. Army Materiel Command,* 111 LRP 6277 (ECAB 2011).

Fact of injury

- This element of the claim consists of two components, which must be considered together:
    - Whether the claimant actually experienced the accident, untoward event, or employment factor that is alleged to have occurred. This is a factual determination.
    - Whether a medical condition has been diagnosed in connection with this event. To make this determination, medical evidence is required. FECA Procedure Manual 2-0803-2.

- In establishing the first of these components, the employee's statement as to how the injury occurred is of great probative value and will stand unless refuted by strong or persuasive evidence. *D.C. and Department of the Navy,* 119 LRP 37902 (ECAB 2019).
- To establish fact of injury in an occupational disease claim, an employee must submit: 1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; 2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and 3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee. *M.W. and Department of Veterans Affairs,* 119 LRP 16652 (ECAB 2019).
- The ECAB found that the claimant met her burden of proof to establish that the employment incident occurred as alleged. It found that the claimant's description of the incident that occurred during physical training and the statement from an instructor were sufficient to establish that the employment incident occurred at the time, place, and in the manner alleged. The claimant provided a consistent account of the mechanism of injury that was not refuted by evidence. *A.R. and Department of Veterans Affairs,* 119 LRP 32287 (ECAB 2019).
- The ECAB found that contradictory evidence created an uncertainty as to the time, place, and manner in which the claimant sustained his alleged left hand injury. Therefore, the claimant failed to establish fact of injury. *A.S. and Department of Veterans Affairs,* 116 LRP 52040 (ECAB 2016).
- A 78-year-old service representative's inability to explain "which activity actually caused her to sustain a stroke during her work shift" resulted in the denial of her claim that she suffered a mini-stroke caused by frustration and stress at work. While the claimant provided a general description of her work activities on the day in question, she did not connect a factor of her employment to her claimed condition. *C.Y. and Department of Veterans Affairs,* 112 LRP 9822 (ECAB 2012).
- At issue in *T.L. and Department of Justice,* 112 LRP 10393 (ECAB 2012) was whether a criminal investigator proved that a knee strike to his rib cage during training caused an injury. The medical evidence fell short because it failed to diagnose a specific medical condition. The treating physician referred to trauma and pain, but the ECAB pointed out that pain "is generally a symptom of an unidentified medical condition," and that a firm diagnosis of the injury is necessary to support the element of fact of injury.
- A mail clerk's delay in reporting her injury; vague responses when questioned about how, where, and when her claimed injury occurred; and denial that she ran several long-distance races in the weeks leading up to the claimed injury date despite Facebook postings to the contrary led to the denial of her claim. *R.R. and U.S. Postal Service,* 112 LRP 3566 (ECAB 2011).
- An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his disability and/or specific condition for which compensation is claimed are causally related to the injury. FECA Procedure Manual 2-0803-2.
- For more information on fact of injury, see our Quick Start Guide: Fact of Injury.

Performance of duty

- The phrase "while in the performance of duty" has been interpreted by the ECAB to be the equivalent of the commonly found prerequisite in worker's compensation law of arising out of and in the course of employment. *E.O. and Department of Veterans Affairs,* 120 LRP 2506 (ECAB 2020).
- To occur 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 employer's business; 2) at a place where he may reasonably be expected to be in connection with the employment; and 3) while he was reasonably fulfilling the duties of his employment or engaged in something incidental thereto. *S.B. and Department of Veterans Affairs,* 119 LRP 45079 (ECAB 2019).
- Arising out of the employment encompasses not only the work setting but also a causal concept, the requirement being that an employment factor caused the injury; it must be related to the

performance of day-to-day regular duties, to specially assigned duties, or to a requirement imposed by the employer. *K.K. and U.S. Postal Service,* 112 LRP 4595 (ECAB 2012); *T.L. and Department of Justice,* 119 LRP 44969 (ECAB 2019).

- For complete details on performance of duty and related issues, see our Quick Start Guide: Performance of Duty.

Causal relationship

- The claimant has the burden of establishing by the weight of reliable, probative, and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment. *N.P. and U.S. Postal Service,* 119 LRP 35852 (ECAB 2019).
- Causal relationship is a medical issue, and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.*D.M. and U.S. Postal Service,* 120 LRP 1258 (ECAB 2019).
- The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. *S.J. and U.S. Postal Service,* 120 LRP 2521 (ECAB 2020).