

TYPES OF CLAIMS

Traumatic Injury (CA-1)

According to the Federal Employees' Compensation Act (FECA) a traumatic injury is defined as:

“a wound or other condition of the body caused by external force, including stress or strain, which is identifiable as to the time and place of occurrence and member or function of the body affected. The injury must be caused by a specific event or incident or series of events or incidents within a single work day or work shift.”

The key to this definition is that an event or series of events must have occurred during one work day. If an injury or illness occurred due to a repetitious event, it should be filed as an occupational injury claim.

If an employee suffers an on-the-job traumatic injury, he/she should immediately notify a supervisor and request a CA-1 and authorization for medical treatment. The injured employee should request a Form CA-16 and identify the physician that has been selected to provide medical treatment for the injury.

If possible, the injured worker should take the CA-16 when first going to the doctor. The Postal Service should also provide a CA-17 (Duty Status Report) and a HCFA-1500 (AMA Uniform Health Insurance Claim Form) for the physician to complete and return to the Postal Service.

As soon as possible after the injury, the injured worker will want to complete a Form CA-1 (Federal Employees' Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation). This must be done within 30 days of the date of injury in order for the injured worker to be eligible for continuation of pay (COP). On the front of this form, the injured worker will want to mark the box indicating COP. COP is the continuation of regular pay with no charge to sick leave or annual leave for the first 45 calendar days of disability. Please retain the receipt and request a copy of the completed CA-1 from the supervisor.

After OWCP receives the CA-1 from the Postal Service, they will send the injured worker a postcard that identifies the OWCP case file number. The injured worker should receive this number in approximately 2 weeks from the date that OWCP receives the claim. Use this number on all documents submitted to OWCP. Instruct the doctor and other medical providers to include this case file number on all bills or other correspondence sent to OWCP.

If an injured worker is unable to work because of an injury, he or she may be eligible for COP. If the injured worker has requested COP on the CA-1 he or she must ensure that medical evidence is submitted to the Postal Service that shows he or she sustained a traumatic injury and are unable to work as a result of it. Forms CA-16 or CA-17, or a narrative report from the doctor would generally meet this requirement. The Postal Service may stop payment of COP if they do not receive medical evidence within 10 working days after the date the injured worker submitted the CA-1, or the date the injured worker stopped work, whichever is later.

If the injured worker elected to receive sick or annual leave instead of COP, and later elects COP for a period that he or she used leave, the Postal Service shall grant COP, provided the request for COP is submitted within one year of the date that leave was used, the Postal Service has received medical evidence that the injured worker was unable to work, and he or she was otherwise entitled to COP.

If the injured worker is not entitled to COP or the 45 calendar days have elapsed, and he or she is in a LWOP status or expect to lose pay because he or she is unable to work, the injured worker may claim compensation by filing Form CA-7 (Claim for Compensation on Account of Traumatic Injury or Occupational Disease) or may use leave.

Occupational Disease and Illness (CA-2)

An occupational disease is defined as a condition produced in the work environment over a period longer than one work day or shift. It may involve infection, repeated stress or strain, exposure to toxins, fumes or other continuing conditions of the work environment. Some of the more widely recognized occupational diseases/illnesses include orthopedic injuries due to repeated stress or strain such as carpal tunnel syndrome, rotator cuff strains, or tendonitis and physical or emotional conditions caused by emotional stress. These medical conditions are usually slow in developing and do not generally occur at a specific time and place.

Occupational disease claims are filed on a CA-2 form (Notice of Occupational Disease and Claim for Compensation). To establish a claim for compensation benefits for Occupational Disease or Illness, complete the front of the CA-2 and submit it to the supervisor as soon as possible, but not later than 30 days after being made aware of the connection between the disease or illness and the employment as a rural letter carrier, or 30 days after the injured worker was last exposed to the conditions of employment implicated in the claim, whichever is later. Failure to file written notice may result in loss of compensation rights.

Provide all the evidence outlined in the instructions on the reverse side of the CA-2. Submit all of the additional medical evidence necessary to support your claim. There are checklists available from the Post Office for specific medical conditions in order to serve as an aid (Forms CA-35a through g) (See Appendix C). This additional factual and medical evidence is essential to your Occupational Disease claim.

As with all Workers' Compensation claims, details are extremely important. This is more so for Occupational Disease claims. The injured worker must explain in detail the work that is done, as well as the type of injury he or she is claiming. The injured worker must urge the doctor to be as specific as possible in diagnosing the injury and showing how specific job functions have caused, aggravated or accelerated the condition¹. The injured worker will want to provide a very detailed description of what is done at work on a daily basis for the doctor. Keep in mind that the doctor might not get a clear picture of what is meant if the injured worker simply says "I case mail". Try to avoid postal related language and concentrate on the actual physical functions of the job. When describing the duties of a rural carrier, make sure that you elaborate as much as possible. The injured worker must remember that he or she is communicating to the doctor and the claims examiner. They may have no idea what the detailed job description is of a rural letter carrier.

An appropriate narrative should include information such as:

Upon reporting for work, retrieve mail from designated location and place on mail case ledge, cutting strings, straps, bands, etc.... as appropriate for returning equipment to its proper location. Pick up fold/crease newspaper sized articles to fit into one or two inch separations on a mail case. The mail case has approximately four hundred separations in a "U" shaped configuration. The bottom shelf is approximately three feet from the floor and extends upward to approximately six feet, with six shelves. This movement/action is repeated until all flats (newspaper type items) are inserted into the mail case. On my route I repeat this motion approximately .. (number of flats that you fold on your route).

Pick up handful of letters and hold in one hand with the other hand taking individual letter pieces to insert into the one or two inch separation of the mail case. This action is repeated .. (number of letter sized items on your route). Any other items which can be cased into the mail case of odd size or shape will be sorted.

Parcel post hamper is then retrieved from its designated location and brought to the mail case where parcels are then arranged in delivery sequence. Once all mail is inserted into the mail case, it is extracted from the case by pulling down the individual customer's mail from the one to two inch separations. This mail is held, tied, bundled, banded, or compressed by straps or containers until all mail that has been previously inserted into the mail case has been extracted into delivery sequence.

¹ See section addressing Medical Management for details

The mail (now in bundles, trays, etc....) is now taken to the vehicle and loaded (provide method of loading and approximate weight of trays). The carrier drives to the first delivery point (describe right or left hand drive vehicle that is used on your route). Then the carrier arrives at the first delivery point and pulls up to the mailbox. If the signal flag is raised, which indicates that there is mail to be picked up, the flag is lowered with the right hand, the mailbox lid is opened, and the mail is extracted from the box and placed in the designated location within the vehicle. Frequently, loose change is in the box (customers can purchase stamps, etc....) which requires picking up money/coins. The mail for that delivery is gathered and combined into one bundle to be inserted into the mailbox. At that point, the mailbox lid is closed and the carrier drives to the next stop. This is a typical action that is repeated .. (insert number of deliveries/boxes on your route).

Upon return to the office, the mail collected from the patrons on the route and other items that need to be brought to the post office are again loaded onto a conveyance and transported into the work location. Here, collected mail is placed into a designated location.

For Occupational Disease claims, the injured worker will also need to describe other office functions which indicate repetitive motion, stress, exposure or other issues that relate to the claimed injury or disease. The above written narrative is only to serve as a guideline. The injured worker will want to tailor it to the specific injury and what he or she believes has been the cause of the condition.

Once the injured worker has submitted the CA-2 and has provided supporting medical documentation, OWCP will receive the claim from the Postal Service. Approximately two weeks later the injured worker will receive a postcard in the mail that contains an OWCP case file number. Use this number on all documents, correspondence and billing information submitted to OWCP.

If the injured worker needs medical care for an Occupational Disease claim, he or she should arrange for such treatment. If OWCP approves the claim, they will pay for medical treatment related to the accepted condition(s). The Postal Service may not authorize medical treatment for Occupational Disease claims unless approved by OWCP. Keep in mind that the injured employee has the initial choice of physician.

If an injured worker is unable to work because of an Occupational Disease, he or she may use sick or annual leave, leave without pay, and/or claim compensation for wage loss. Occupational Disease claims are different from Traumatic Injury claims (CA-1) in that there is no provision for Continuation of Pay (COP). Occupational claims generally take longer to adjudicate and approve (generally in the area of 3 to 6 months, depending upon the medical support) and force the injured employee to think more carefully about how long they expect to be out of work and what their economic situation is like.

Recurrence (CA-2a)

Under the Federal Employees' Compensation Act (FECA), a recurrence is defined as follows:

A work stoppage that occurs after an employee has returned to work following a preceding period of disability and is the result of:

1. a spontaneous return of symptoms (disability) of a previously accepted work-related condition without intervening cause; or
2. a return or increase of disability due to a consequential injury.

In most cases, the key to differentiating a recurrence from a new injury is that, in a recurrence situation, the only evident cause of disability or increased symptoms is the original accepted injury. No new identifiable event or events are responsible for the increased symptoms or disability. The exception to this rule is a "consequential injury".

The following is an example of a Recurrence. This is an easily identifiable recurrence that would require the submission of a form CA-2a for claiming compensation.

Tom is a rural letter carrier who has a previously accepted left knee condition. Following initial disability, Tom returned to work in a limited duty position that met all of his medical restrictions, in which he is seated at a table answering the phone. There is no unusual use of the legs involved in this limited duty position.

Several weeks later, Tom's knee symptoms increased to the point that he was unable to continue in his limited duty position answering the phone. There was no identifiable cause for the increase in symptoms other than the original accepted injury. By definition, this would be classified as a recurrence. Tom should file a CA-2a for claiming workers' compensation benefits.

This is a relatively simple recurrence that is easily identified because there is no apparent, identifiable cause for the worsening of the condition other than the original condition itself.

Included in the definition of recurrence is the special case of "consequential injury". A consequential injury is a new injury which occurs as the result of a previously accepted work-related injury; for example, it occurs because of weakness or impairment caused by a work-related injury. Included in this definition are injuries sustained while obtaining medical care for a work-related injury.

Consequential injuries (recurrences) may resemble traumatic injuries in certain cases. Like a traumatic injury, a consequential injury may be the result of a specific, identifiable traumatic event. This event, however, must be related in some way to a previously accepted, work-related condition.

Unlike a traumatic injury, a consequential injury may be accepted even if it occurs when an employee is in a non-pay, non-working status (that is "off the clock").

It is important to differentiate between new traumatic injuries and consequential injuries. The procedures for claiming a consequential injury are different from the procedures for claiming a new traumatic injury.

As stated above, a consequential injury may result from medical treatment of a previously accepted injury. A consequential injury may affect the same body part as the previously accepted injury, as in the following example:

Tom has a previously accepted claim for a strain of the left knee, which was sustained when he slipped on a wet floor at work. While at his doctor's office for treatment of the strained left knee, Tom's left knee gave out and he fell to the floor, bruising the same knee. The new injury would be considered a consequential injury and a claim would be submitted on a form CA-2a.

A consequential injury to a new body part may result from medical treatment, as in the following example:

Tom has a previously accepted claim for a strain of the left knee. While attending physical therapy for his knee, Tom was involved in weight training. Tom developed a back injury due to the strengthening exercises. Tom must file a form CA-2a to claim this as a workers' compensation injury.

The following example shows a consequential injury sustained by a claimant in his own home:

Tom has an accepted claim for a strained left knee. Following initial disability, Tom was on crutches due to the accepted injury, working in a limited duty assignment. One day, while walking to his car, Tom's crutch slipped on a patch of ice in his driveway. He fell to the ground, worsening the condition in his left knee and making him unable to continue in his limited duty assignment. This would be considered a consequential injury (recurrence) and a form CA-2a would be filed by Tom to claim this injury.

Please note that, in all of the examples above, the consequential injuries were all caused by a previously accepted injury. This is the most important factor in identifying a consequential injury.

It is helpful to note that while a consequential injury may occur outside of work, a consequential injury infrequently occurs at work since a new condition or disability that develops as a result of an incident in the work place is almost always considered a new injury, not a recurrence.

SUBMITTING CLAIMS

Immediate Involvement With Traumatic Injuries and Occupational Illnesses

Notifying OWCP of Traumatic Injury or Occupational Illness or Disease

FECA requires written notice of an injury be given within 30 calendar days from the date on which the injury occurs. For an occupational disease the date of injury is the date of last injurious exposure. Failure to give notice within this 30-day period will result in a loss of entitlement to COP as well as a loss of compensation rights in the event that the claim for compensation is not filed within 3 years. The notice of traumatic injury is given on the CA-1. The notice of occupational disease is given on a CA-2.

Submitting the Claim to OWCP in a Timely Manner

If the injury meets the conditions for reporting to OWCP, meaning that medical expenses or lost wages were incurred or are expected, the ICCO submits the completed CA-1 or CA-2 and any other documents that have some bearing on the claim to the appropriate OWCP office within 10 working days after they are received by the employee. Under no circumstances may ICCO personnel revise any information submitted by the injured employee or by his or her representative or delay submission of the CA-1 or CA-2 to the OWCP within 10 working days from the date received by the supervisor.

Do not, under any circumstances, delay submission of the CA-1 or CA-2. The 10-day period begins from the date of receipt by the postal official who initially receives the document. If medical reports and supportive information are not available, send a cover letter with the completed CA-1 or CA-2 advising OWCP what additional information will be forthcoming. This action will allow OWCP to assign a claim number and initiate the claims process.

Responding to a Notice of Potential Occupational Disease or Illness

Upon receipt of CA-2, the ICCO will inform the employee of the following:

- COP is not applicable in cases of occupational disease
- He or she is to submit CA-7 if he or she wishes to make a claim for compensation on account of his or her job-related disease or illness or CA-8 if the disability continues and subsequent claims are made.
- Compensation benefits (i.e., payment for lost wages, payment of medical expenditures, etc.) are contingent upon OWCP's approval of the claim. If approved, compensation is not payable for the first 3 days of disability unless the disability extends beyond 14 calendar days.
- Medical care is authorized via CA-16 only with prior approval by OWCP
- Supporting medical and factual information as requested on the checklists, Forms CA-35a-h, will expedite OWCP's adjudication process.

Controversion and Challenge Fraud and Abuse

Controversion means disputing the entitlement of COP for a traumatic injury.

Challenge means disputing any aspect of a claim except COP entitlement or disputing the entire claim for either a traumatic injury, occupational disease or illness, or survivor benefits.

Investigating the Claim

According to FECA, the USPS does not have the right to participate actively in the claims adjudication process. However, the USPS may investigate the circumstances surrounding an injury to an employee and the extent of the employee's disability. The submission of the CA-1 or CA-2 can not be delayed pending any such investigation.

The investigation of injury compensation cases involving possible fraud and abuse comes under the jurisdiction of the Inspection Service. The objective of the Inspection Service is to assist ICCO personnel in reducing compensation costs resulting from fraudulent claims and to gather information leading to the removal of dishonest employees from the USPS.

Although the terms fraud and abuse are related, they are not interchangeable.

Fraud is an intentional deceptive act, or series of acts, committed by an individual with the intent to cause the USPS or OWCP to grant benefits that would not normally be provided under FECA, for example, a faked injury or concealment of facts indicating that an injury occurred off duty.

Abuse is excessive, extravagant, or improper use of FECA in a manner contrary to its legal use in order to acquire additional benefits for personal gain, for example, prolonging the length of the recovery period needed for a job-related injury.

The key difference between fraud and abuse is intent. When employees apply for or receive FECA benefits to which they are not entitled, they are abusing FECA. This abuse may occur because the employees are ignorant of the law and its provisions or because they genuinely feel that they are entitled to those benefits. When employees deliberately apply for FECA benefit that they know they are not entitled to, they are committing fraud. Abuse is not always fraud, but fraud is always abuse.

Recognizing the Penalty for Conviction of Fraudulent Workers' Compensation Claim

An individual convicted of a violation of 18 USC 1920, as amended, or of any other fraud related to the application for or receipt of benefits under Subchapter I, or III of Chapter 81 of Title 5, forfeits, as of the date of the conviction, all entitlement to any prospective benefits provided by Subchapter I or III for any injury occurring on or before the date of conviction. Such a forfeiture of benefits is in addition to any action the Secretary may take under section 8106 or 8129 of title 5, USC.

In other words, an individual who is convicted of fraud related to the receipt of compensation benefits, can not receive any further compensation benefits for any injury which occurred prior to the date of conviction.

RIGHTS AND BENEFITS

The USPS has the following obligations:

- To make sure the employee understands his or her rights and responsibilities;
- Provide the employee the sample letter called Rights, Responsibilities, and Initial Choice of Physicians
- Counsel the employee regarding rights and responsibilities, using the following summary, which is more detailed than in the letter.

Benefits available under the Federal Employees' Compensation Act (FECA):

1. **Continuation of Pay:** COP may be used in the case of job-related injury for a period not to exceed 45 calendar days.

If the employee elects COP, he or she must:

- a. Annotate the appropriate block on CA-1
- b. Complete Form 3971, Request for or Notification of Absence.

Advise the employee that:

- a. He or she has the right to select COP, annual leave, or sick leave.
- b. He or she is responsible for submitting or arranging for the submittal of prima facie medical evidence of a traumatic disabling injury within 10 working days after claiming COP. Prima facie medical evidence is medical evidence that indicates the employee is disabled as a result of a job-related injury and thus cannot perform the job held at the time of injury. Under the provisions of 20 CFR 10.204(a)(1), if such evidence is not received within that time frame, it may serve as sufficient reason for termination of COP, subject to reinstatement upon receipt of such evidence

(Reference Section 3 of this handbook for more information on COP)

2. **Sick or Annual Leave**

If the employee elects sick or annual leave, he or she must:

- a. Annotate the appropriate block on CA-1
- b. Complete Form 3971, Request for or Notification of Absence.

Advise the employee that:

- a. The use of annual or sick leave does not extend the 45-calendar-day COP period that begins with the first period of time lost after the day or shift of injury.
- b. Leave is limited to the amount the employee has accrued.
- c. An employee who elects to use sick or annual leave during the 45-day period in which COP is available is not entitled to buy back that leave with later compensation payments.
- d. The employee may subsequently request COP instead of previously requested sick and/or annual leave. However, such a request must be made within 1 year of the date that leave is used, or within 1 year of the date OWCP approves the claim, whichever is later. If COP is granted, then the employee's sick and annual leave used for the period of time covering the absences for the injury will be credited to the employee's leave balance.
- e. Pay attributable to the leave period (COP, sick leave, or annual leave) is subject to taxes and other usual payroll deductions

Compensation

If disability extends beyond the 45-day COP entitlement period, the employee is entitled to file with the OWCP for compensation payments.

Medical Care

Injured employees are entitled to receive medical and related services made necessary by the medical condition or conditions accepted as being job-related. These services are provided by a physician or hospital of the employee's choice. When possible, the employee's choice of physician should be in writing and made part of the claim file. The sample letter Employee Rights, Responsibilities and Choice of Physician will serve this purpose.

For continued payment of medical expenses by OWCP, a change of the employee's initial choice of physician is permitted only with OWCP approval. If an employee wishes to change his or her treating physician, refer the employee to either the ICCO or OWCP for assistance.

Surgery

To ensure payment by OWCP, the injured worker must obtain approval in advance from OWCP for any surgical procedure other than emergency surgery. A second opinion medical examination may be required before surgery is authorized. If non-emergency surgery was performed because of the claimed injury before the claim was approved, he or she should ask the doctor to submit a report stating why the surgery was necessary. The injured worker should also arrange for the hospital to submit a copy of the operative report.

If surgery is planned for the future, contact the district office of OWCP to request authorization at least 30 days before the doctor plans to schedule the procedure. The injured worker should arrange for the doctor to submit a medical report stating the need for the surgery and the expected benefits. OWCP will notify the injured worker whether the surgery is authorized at OWCP expense or not.

Return to Duty

Advise the employee of his or her obligation to return to duty (either full or limited) as soon as possible. To fulfill this obligation, the employee must:

1. Advise the attending physician that the USPS will accommodate most limitations.
2. Request that the physician specify the limitations and restrictions imposed by the injury.
3. Immediately advise the supervisor or control point of those limitations and restrictions.

If the USPS has identified specific alternative positions available, advise the employee to do the following:

1. Furnish the attending physician the description of such alternative positions.
2. Inquire whether and when he or she will be able to perform such duties.
3. Furnish the supervisor, the ICCO, or the control point with a copy of the physician's response.

Schedule Awards

Eligible employees may be entitled to a schedule award, defined as compensation for the permanent loss, or loss of use, of each of certain members, organs, and functions of the body as defined by 5 USC 8107. A schedule award is payable regardless of ability to work. A schedule award can not be paid for the same period as disability compensation.

Vocational Rehabilitation

Nurses

Depending on the kind of injury and how severe it is, OWCP may ask a registered nurse to contact the injured worker concerning his or her recovery and return to work. The nurse may contact the injured worker by telephone or pay a personal visit. The nurse will discuss medical progress with the injured worker and address any problems he or she may be having in returning to work. If necessary, the nurse will coordinate with other OWCP personnel, the physician and the employing agency.

The injured worker is responsible for asking his or her doctor when they can return to work, and for notifying the agency when their doctor says they can work in some capacity. If OWCP determines that the injured worker is indefinitely disabled for their usual job, and the agency has not provided light duty, the injured worker is eligible for vocational rehabilitation services. OWCP will try to arrange work with the employing agency, another Federal agency, or a private employer.

OWCP's policy is to assist permanently disabled employees, injured on the job, to return to gainful employment within their medically defined work restrictions. Consideration in the return-to-work effort is always given first to the previous employer.

The ICCO should advise employees that if they become eligible for participation in this program, they will be contacted by OWCP and/or the USPS ICCO. Employees may also request consideration. If disability continues the injured worker should submit through his or her employer additional Forms CA-8 (and CA-20a if needed) for each period claimed, unless OWCP informs otherwise.

Compensation may be terminated if the injured worker refuses work which is within his or her medical restrictions without good cause, and benefits may be reduced if he or she fails to cooperate with rehabilitation and placement efforts.

Return to Work

When an injured worker returns to work, or obtains new employment, notify the district office of OWCP right away. The injured worker may not receive payments for temporary total disability while employed. If he or she receives a compensation check which includes payment for a period worked, return it to OWCP immediately to prevent an overpayment.

The employing agency should also notify OWCP as soon as the employee has returned to duty by calling the telephone number shown on the acceptance letter or filing Form CA-3, Report of Termination of Disability and/or Payment.

Dual Benefits

An injured worker may not receive Federal retirement benefits and compensation for wage loss for the same periods of time. Compensation for wage loss includes payments for temporary total disability and for loss of wage-earning capacity. An injured worker may, however, receive compensation for schedule awards and retirement annuities for the same period.

Penalty

Any person who knowingly makes any false statement, misrepresentation, concealment of fact, or any other act of fraud to obtain compensation as provided by the Federal Employees' Compensation Act, or who knowingly accepts compensation to which he or she is not entitled, is subject to felony criminal prosecution and may, under appropriate U.S. criminal code provisions, be punished by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

Exhibit: CA-1009

When a claim for OWCP benefits has been accepted by the Department of Labor, the injured worker should be given Publication CA 1009. This publication is titled "Now That Your Claim Has Been Accepted..." In some instances, claims examiners neglect to provide this publication to each and every claimant. The following is a reprint of CA 1009.

Now that your claim has been accepted...

Now that your claim has been accepted, you will need information about payment of medical bills and compensation, and about your responsibilities in returning to work. You may also need to know about requesting authorization for surgery, avoiding situations where you receive benefits from more than one Federal agency, and obtaining rehabilitation services, including visits or telephone calls from nurses and counselors working for the Office of Workers' Compensation Programs (OWCP).

This pamphlet is designed to answer your basic questions about these subjects. You may obtain more detailed information from the OWCP district office handling your claim.

MEDICAL PAYMENTS

You are entitled to medical treatment for your accepted condition, up to the amount specified by the fee schedule used by the Office of Workers' Compensation Programs (OWCP).

- Medical bills from providers other than hospitals and pharmacies must be submitted on Form OWCP-1500 (also known as HCFA-1500). This form may be obtained from your agency if your physician does not have it. The physician must sign the form (a signature stamp may also be used).
- Hospital charges should be submitted on Form UB-82.
- Travel expenses should be submitted on Form SF-1012.

If any medical bills related to this injury were previously returned because your case had not been accepted, they may be resubmitted to the district office for consideration of payment.

Bills for medical treatment may not be paid if submitted more than one year beyond the calendar year in which you received treatment, or the calendar year in which OWCP first accepted the claim as compensable, whichever is later. Therefore, you should submit all bills for payment or reimbursement, including travel vouchers, as soon as possible after you incur the expense. You may ask your physician to submit bills directly to the district office, or you may pay the doctor and submit the paid bill for reimbursement.

Your acceptance letter states the medical condition(s) which OWCP has accepted as work related. Treatment for those conditions only should be billed to OWCP. If a health benefits carrier has paid medical bills for your accepted condition, you will need to provide a copy of your statement of benefits from the carrier before OWCP will reimburse you or the carrier.

Instructions for submission of bills to OWCP:

1. Medical provider may only submit bills for the accepted work-related condition. These must include both a verbal description of the diagnosis and the ICD-9 codes. Bills for non work-related conditions are not payable by OWCP.
2. All providers other than hospitals must submit bills on a HCFA-1500 form.
3. The provider's federal tax ID must be on the bill along with the full address.
4. Hospitals must submit bills on a UB-82 form.
5. Chiropractic care is only payable when the accepted condition is subluxation of the spine; only office visit, X-ray and manipulation are covered by OWCP.
6. Each bill must show the condition treated, the date of service, and the treatment performed. Don not submit "Balance Forward" bills. They will be discarded.
7. Providers must include ICD-9 diagnosis codes and AMA CPT codes to describe their services. They may not use state W/C codes. (Dentists, home nurses, hospital inpatient care and medical appliances do not require coding but do require advance approval by OWCP).
8. The provider's bill should only show services that are not yet paid.
9. Both the claimant and the provider should sign the bill in the appropriate blocks.
10. The provider must submit office notes and medical records for visits; failure to do so may cause non-payment on an otherwise payable bill.
11. The FECA case number must be on the bill.

Instructions for submission of reimbursement requests to OWCP:

1. You must submit a fully completed HCFA-1500 or UB-82 along with proof of payment. The is required for all reimbursements including but not limited to your doctor, therapist, supplier (for appliances such as canes, crutches, hearing aid batteries) or hospitals.
2. Proof of payment consists of photocopies of front and back of the canceled check, credit card receipt, a computer generated statement showing patient payment, or paid receipt with the full address of the provider.
3. The bills you submit for reimbursement have the same requirements as those submitted by the provider.
4. Pharmacy (drug) reimbursements are made by submitting the original label which must include the name of the drug, dosage, prescribing doctor, and claimant's name.
5. Travel vouchers may only be submitted for obtaining medical treatment or supplies (wheelchairs, canes, etc.) The voucher must include the origin, destination, and reason for travel. Travel other than directly to and from treatment is not payable. Tolls or parking will not be paid without original receipts. You should also include the time travel begins and ends. All travel vouchers will be matched with provider dates of service.
6. Your case number must be on the bill.

COMPENSATION PAYMENTS

If you lose, or expect to lose, pay because of your injury, you should:

- Obtain Form CA-7, Claim for Compensation on Account of Traumatic Injury or Occupational Disease, from your employing agency.
- Complete the front of the form (Part A). In box 6, you may claim the period your doctor thinks that you will be disabled for work, or until your next medical appointment, not to exceed 30 days of wage loss into the future.
- Give the form to your supervisor or compensation specialist for completion of the back of the form (Part B). To minimize any possible interruption of income, your employing agency should submit the completed Form CA-7 to the district office on the 40th day of continuation of pay (COP) and should include any medical evidence in its possession concerning the injury.

If you continue to lose pay because of work-related disability after the dates claimed on Form CA-7, your should:

- Obtain and complete Form CA-8, Claim for Continuing Compensation on Account of Disability.

- Arrange for your physician to complete Form CA-20a, Attending Physician's Supplemental Report (attached to Form CA-8), unless medical evidence supporting disability for the period claimed has already been submitted.
- Give Forms CA-8 and CA-20a to your supervisor or compensation specialist for submission to OWCP, preferably about five days before the end of the period claimed on Form CA-7.

EMPLOYEE'S APPEAL RIGHTS

OWCP includes a description of the available appeal rights with each formal decision. This formal decision will also outline the deficiencies in your claim and provide you with information as to what is needed to have the claim approved. According to the appeal rights provided, the employee may:

- A. **Oral Hearing:** Request an oral hearing before an OWCP representative. Such a request must be made in writing, within 30 days of the date of the decision, as determined by the postmark of his or her letter. The employee will be given the opportunity to present oral testimony and written evidence in further support of his/her claim. The hearing will be held at a location in the employee's area, and the employee may be represented at the hearing by any person authorized by him or her in writing. This process can take anywhere from 6 months to 1 year before an oral hearing is actually scheduled. Once a hearing has been held, a decision is generally rendered in 90 days.
- B. **Review of the Written Record:** Request review of the written record by a hearing representative appointed by the Director of OWCP. This examination must be requested within 30 days of the date of the decision. The employee will not be asked to attend or give oral testimony, but may submit additional written evidence. This process generally takes 90 days for a decision. Requests for oral hearing or review of the written record should be addressed to Branch of Hearings and Review, Office of Workers' Compensation Programs, P.O. Box 37117, Washington, DC 20013-7117. A request for a hearing (written or oral) must be made before any request for reconsideration by the district office. The employee will have the right to request reconsideration or appeal if he or she disagrees with the hearing representative's decision.
- C. **Reconsideration:** Request in writing that OWCP reconsider its decision. Such a request must be made within one year of the date of the decision, clearly state the grounds upon which reconsideration is being requested, and be accompanied by additional evidence not previously submitted, such as medical reports, or a legal argument not previously made. The request for reconsideration should be sent to the appropriate district office. Once received at the District Office and assigned to a senior claims examiner, a decision is generally made within 90 days. A request for reconsideration will not be considered if it is filed more than one year after the date of the decision which is being disputed.
- D. **ECAB:** If the employee believes that all available evidence has been submitted, he or she has the right to appeal to the Employees' Compensation Appeals Board (ECAB) for review of the decision. Review by the ECAB is limited to the evidence of record; no new evidence may be submitted. The request should be made within 90 days of the date of the decision and should be addressed to Employees' Compensation Appeals Board, 300 Reporters' Building, 7th and D Streets, S.W., Washington, DC 20210. The ECAB may waive the time for filing up to one year if good cause is shown for the delay and the application is made within one year from the date of the OWCP decision. Generally this is the most time consuming of appeal rights. It generally takes 1 year for the Board to meet to discuss your claim. If the ECAB fails to overturn the original denial, there is no further appeal right recourse. The ECAB is a separate entity in the U.S. Department of Labor which is authorized to consider and make final determinations on appeals from decisions made by OWCP.

Medical Management

INITIAL MEDICAL DOCUMENTATION

Medical documentation is critical for whatever type of injury or illness you are claiming to be work related. When making a claim for workers' compensation, your physician will be required to submit a narrative statement in support of your claim. This report should include:

- Carrier's name and address; and OWCP file number (if one has been assigned)
- History of occupational disease. This is a key item and should consist of a written statement by the physician reflecting knowledge of the conditions of the patient's employment believed to be the causative factors. It is suggested that the physician first be furnished with your written statement. The physician should ideally include or attach a copy of the statement referencing it with remarks similar to the following: "I have read the statement date...prepared by...regarding the conditions of employment at...during the period from...to..."
- Dates of examinations and/or treatment (past and present)
- Periods of hospitalization, if any
- Tests given, findings and results (x-rays, lab tests, EKG, MRI, etc....)
- Definitive diagnosis (no impressions)
- Opinion: was condition caused, permanently or temporarily aggravated, accelerated, or precipitated (hastened) by conditions of employment described by the patient?
- Medical reasons for opinion (i.e., how did the physician, from a medical point of view, arrive at the opinion?). This is very important and it should be as specific as possible and include how any test results helped form a basis for the opinion.
- Statement describing any concurrent medical conditions unrelated to the injury or Occupational Disease.
- Period(s) of disability and the extent of disability during the period(s). This should specify whether the disability is total or partial; and if partial, the work limitations in working while partially disabled. The work limitations should describe the restrictions and include the number of hours allowed for each function per day. Disability from any apparent concurrent medical conditions unrelated to the Occupational disease must be considered in determining the employee's ability to work; and an explanation included describing how any unrelated injuries affects the employee's ability to work. OWCP-5a, 5b, or 5c may be used for establishing work tolerance limitations.
- Statement concerning whether maximum medical improvement has been reached; and if so, the nature and extent of any remaining disability.
- Signature of physician (show specialty and Board Certifications); and date.

(Please note the each of the above items may not apply to each type of injury or illness claimed. These items are provided only as a guideline for your physician to follow.)

CHOICE OF PHYSICIAN AND CA-16 AUTHORIZATION

Ensuring Right to a Free Choice of Physician

Initial medical examination and treatment must be authorized in accordance with FECA provisions and applicable OWCP regulations and policies governing medical care. FECA guarantees the employee the right to a free choice of physician. The employee may select a physician or hospital within approximately 25 miles of his or her home or work site.

A physician is any surgeon, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, or osteopathic practitioner within the scope of his or her practice as defined by state law. Exceptions are as follows:

1. Chiropractors, if their reimbursable services are other than treatment consisting of manual manipulation of the spine to correct subluxation as demonstrated to exist by x-ray.
2. Naturopaths, faith healers and other practitioners of the healing arts, because they are not recognized as physicians within the meaning of FECA.

In non-emergency situations, a postal supervisor is not authorized to accompany the employee to the medical facility.

Issue CA-16 to authorize medical treatment:

- For all traumatic injuries requiring medical attention when the employee elects outside treatment, even if the initial treatment is provided by the contract physician, except as cited below.
- When the injured employee elects the USPS contract medical provider for continued medical treatment beyond the first-aid care (after the first two visits).
- Following a recurrence of disability, provided the ICCO agrees

Do not issue CA-16 to authorize medical treatment:

- For first-aid injuries when medical care is provided by a USPS contract medical provider for the first two visits and the employee voluntarily accepts this care.
- Following the submission of an occupational disease or illness claim (CA-2) or an occupational disease or illness recurrence claim (CA-2a) that has not been accepted by OWCP. Issuance of CA-16 for occupational disease or illness claims must have prior OWCP approval.
- At some future time or as the need arises. Advanced or blanket authorization is not to be given. A CA-16 should not be provided after the initial choice of physician has been made.

When the employee elects a physician of choice, ask the employee to contact the selected physician by telephone to determine if the physician is available and will accept the employee for treatment. If not, the employee should be encouraged to select another qualified physician or hospital in order to obtain prompt medical attention. Inform the employee of his or her obligation to advise the physician of the availability of limited duty, letting the physician know that that USPS will accommodate most restrictions.

USPS personnel must not interfere with the medical care prescribed by the employee's attending physician. Supervisory contact with a physician or a physician's staff is to be limited to inquiries regarding the employee's duty status.

The USPS has the authority to require the employee to undergo a medical examination to determine whether the employee meets the mandatory medical requirements of the position held or is able to perform the duties of that position. This examination cannot, however, interfere with issuance of CA-16, with the employee's free choice of

physician, or with any authorized examination or treatment. When the injury requires more than two visits, it is no longer considered a first-aid injury.

The USPS monitors the employee's medical progress and duty status by obtaining periodic medical reports to determine if the employee will be able to return to work in the near future or to further clarify medical work restrictions imposed. Inquiries are limited to information regarding the employee's ability to return to full or limited duty.

A fitness-for-duty examination (FFD) is a physical examination conducted by a contract medical provider to determine the employee's current medical status. The purposes of the FFD are to evaluate medical status, confirm or verify limited duty assignments and to assist in the rehabilitation effort. Fitness for duty examinations are under the authority of the Office of Personnel Management (OPM). They are unrelated to the Federal Employees' Compensation Act or OWCP.

MEDICAL BILL PROCESSING

Medical Payments

Medical payments may be paid either by the USPS or OWCP. The USPS pays medical bills for the following:

- First-aid cases treated by USPS contract medical providers.
- Management directed medical services, e.g., FFDs, consultative examinations, and tests.

Medical bills arising from these visits, including first-aid visits, may include office visits, X rays, lab work, pharmaceutical bills, and miscellaneous medical expenses. OWCP pays for all medical bills from a job-related injury or illness for which a CA-1 or CA-2 is filed.

The Federal Employees' Compensation Act provides that an employee shall be entitled to receive all medical services, appliances or supplies which are prescribed or recommended by a duly qualified physician and which the Office of Workers' Compensation Programs (OWCP) considers necessary for the treatment of an accepted job-related injury. Charges for authorized medical and surgical treatment, appliances or supplies furnished to injured employees should be submitted to OWCP for payment.

Submission of a bill without a compensation claim number and date of injury may result in a significant delay in processing or return of the bill for further information. The provider should ask the injured worker for his/her claim number, and insure that it is included on all billings or correspondence. If the injury was recently sustained and the injured worker has not received a claim number, OWCP recommends that the provider withhold submission of the bill until a number has been received.

Bills for medical treatment may not be paid if submitted more than one year beyond the calendar year in which the employee's claim was first accepted as compensable by OWCP.

When a Form CA-16 has been issued by the Postal Service to a qualified physician or hospital of the employee's choice, the physician/hospital is authorized to furnish treatment as medically necessary for the effects of this injury, including non-invasive testing (i.e., MRI, CT Scan, EMG, etc...) Any surgery or invasive procedure other than emergency must have prior OWCP approval.

Payment for medical and other health services furnished by physicians and other persons for work-related injuries or conditions may be limited by the U.S. Department of Labor's schedule of maximum allowable charges.

Since June 9, 1986, a schedule of maximum allowable medical charges has been applied to medical charges from certain provider types. For example, a claimant goes to a physical therapist for treatment. The therapist bills OWCP \$50.00 for the visit. OWCP does not automatically pay the entire \$50.00; rather, the therapist's zip code and the CPT code used for the service provided govern the amount of money he/she will receive based upon comparison to an elaborate computerized model which sets a limit of compensable fees based upon all bills paid for the same CPT code in the provider's zip code. The fee schedule is designed to guarantee that the provider of a service in a certain geographic area is billing a reasonable amount for the services provided.

A provider MAY NOT seek from the patient any additional charge or fee in excess of the charged allowed by OWCP. For example, if OWCP paid the above therapist \$35.00 for services rendered, the therapist could not bill the claimant for the additional \$15.00. If a provider disagrees with an amount of a reduction under the fee schedule, he/she must follow the directions supplied in the appeal rights that accompany the reduced payment.

Please note that the fee schedule is also applied to claimant reimbursements. In other words, if a claimant paid the therapist's charge of \$50.00 and then requested reimbursement from OWCP his/her bill would be bound by the fee schedule and he/she would only be reimbursed the \$35.00 allowable amount.

The following is a brief checklist that should be referred to when submitting bills to OWCP for payment or reimbursement and an overview of the Bill Processing System that is used by OWCP.

Direct Payment to Medical Providers:

1. A medical provider may only submit bills for the accepted work related condition. If an employee's claim has been accepted for a right ankle sprain, OWCP should not receive bills for a low back sprain. Bills for non-work-related conditions are not payable by OWCP.
2. All providers (doctors, physical therapists, etc.) must submit bills on a HCFA-1500 form. All providers are familiar with this form as it is universally used to bill private insurance as well. Bills an injured worker receives at home are most likely not on the HCFA-1500 form and should not be submitted to OWCP as they are not payable in that format and will only be returned. The HCFA-1500 is not required for treatment and supplies provided by hospitals, pharmacies, ambulance services and nursing homes.
3. The provider's Federal Tax Identification Number (also known as the EIN number) must appear on the bill along with the full street address, to include zip code. The HCFA-1500 should also include the provider's ink signature or facsimile stamp.
4. Hospitals must submit fully completed bills on a UB-82 or the updated UB-92 form. Once again, bills an injured worker receives at home from the hospital are most likely not on this form and should not be submitted to OWCP. A copy of the discharge summary should be submitted with the bill from the hospital.
5. Pharmacy, ambulance service, nursing home, and medical supply bills may be itemized on the provider's billhead stationary or a HCFA-1500. Bills for prescription drugs must include the generic or trade name of the drug, the quantity, prescription number, zip code, the date the prescription was filled, the federal tax ID number and indicate whether the claim(s) is for charge or reimbursement.
6. Chiropractic care is only payable when the accepted condition is a subluxation of the spine. Furthermore, only office visits, x-rays and manual manipulation are covered by OWCP. All other charges will be denied.
7. Each bill must show the condition treated, the date of service, and the treatment performed. Bills submitted with the phrase "Balance Forward" are not payable.
8. Providers must include the International Classification of Diagnosis codes (ICD-9) and the AMA Current Procedural Terminology code (CPT) to describe each service provided for each day of treatment. They may NOT use the state workers' compensation codes. Dentists, visiting nurses, hospital inpatient care and medical appliances, such as orthotics, do NOT require coding but must be approved by OWCP in advance.
9. Physical therapy bills must be itemized by date and have a separate line item with specific CPT code for each modality.
10. A provider's bill should only show itemized services that are not yet paid.
11. The provider should routinely submit office notes and medical records for visits. Failure to do submit these records may cause non-payment of an otherwise payable bill if questioned by an examiner.
12. The employee's case file number must appear on the bill.

Reimbursements of medical payments for an employee's accepted condition:

1. The claimant must submit a fully completed HCFA-1500 or UB-82 (or UB-92) form along with proof of payment. This is required for all reimbursements including but not limited to the attending physician, therapist, supplier (for appliances such as canes or orthotics), or hospitals.
2. Proof of payment consists of photocopies of the front and back of the canceled check or credit card receipt, a computer generated statement showing patient payment, or a paid receipt with the full address from the provider.
3. The bills claimants submit for reimbursement have the same requirements as those submitted by the provider listed above.
4. Pharmacy (drug) reimbursements are made by submitting the original label from the prescription which must include the name of the drug, dosage, prescribing doctor and claimant's name, along with the pharmacist's certification of payment from the claimant.
5. Travel vouchers may only be submitted for obtaining medical treatment or supplies (wheelchairs, canes, etc...) and not prescription drugs (unless the trip to the pharmacy is made in conjunction with a trip for medical treatment). The voucher must include the origin, destination with time, number of miles, and reason for travel. Travel other than directly to and from treatment is not payable. Tolls or parking will not be paid without original receipts. All travel vouchers will be matched with provider dates of service.

NURSE INTERVENTION

OWCP's Early Nurse Intervention Program

The OWCP Early Nurse Intervention Program uses registered nurses to intervene in identified compensation cases for purposes of assisting the injured employee, shortening the period of disability, and reducing compensation costs. The nurses interact with the injured employee, treating physician, employing office, and claims examiner to hasten the worker's recovery from the effects of the injury, and to promote a return to the pre-injury level of activities.

The role of the nurse is as follows:

- Establish a supportive relationship with the injured worker and instill confidence that the medical management efforts can be effective, beneficial, and lead to resumption of activities of the pre-injury level.
- Provide the injured worker an opportunity to discuss the injury and the medical treatment.
- Gather sufficient information about the injured worker's condition and ongoing medical treatment to recommend and coordinate appropriate medical services designed to expedite recovery.
- Assist the treating physician and injured worker to establish the best timing for and choice of medical services and treatment modalities.
- Monitor the injured worker's medical condition and the treatment provided.
- If necessary, assist the injured worker in obtaining authorizations or other services from OWCP district offices as well as provide information to OWCP about non-work-related medical conditions that may affect recovery.
- Encourage the injured worker to cooperate with medical treatment and other efforts to prepare for return to a higher level of activity, and, as feasible, return to work.
- Assist in identifying and reviewing limited duty assignments.

Currently, OWCP attempts to have nurse intervention occur within 45-90 days after the date of injury. The OWCP claims examiner decides which cases will be referred to the program. The program is especially useful in cases of orthopedic disability. Cases involving surgery, prolonged treatments such as physical therapy without clear goals or direction, multiple concurrent medical and psychological issues, and catastrophic injuries are also likely to benefit from the program.

Although the claims examiner decides whether a case should be referred for inclusion in this program, the ICCO may request the claims examiner to consider specific cases for referral. While the program is designed to target new injuries, other cases may also be recommended (e.g., medically stagnant cases).

Reviewing the Medical Documentation to Assess the Duty Status

When an employee is not totally disabled or has partially overcome the injury or disability, the USPS must make every effort to assign the employee to limited duty consistent with the employee's work limitation tolerance. The ICCO or the control point may contact the treating physician concerning the employee's work limitations and restrictions imposed by the effects of the injury and possible job assignment. However, when possible, this contact should be made by either the health unit or USPS medical provider personnel. No other contact with the treating physician for medical information is authorized by OWCP for any reason.

Authority for Medical Issues

No administrative action may be taken to change the employee's compensation or duty status until all medical issues are resolved. When the USPS contract medical provider does not agree with the treating physician, the injured employee's duty status may not be changed without the concurrence of the treating physician.

OWCP has sole authority regarding the disposition of medical issues, and the medical data on which the OWCP decision is based become the ruling medical authority. OWCP will determine if a second opinion or an independent medical examination (IME) is required and will schedule the appropriate examinations.

For purposes of work assignment, the USPS contract medical provider is permitted to further restrict an employee's work activities, but cannot less the restrictions placed on the employee by the treating physician or the OWCP's medical authority determination.

HEALTH BENEFITS

Initiating Actions for Continuing Health Benefits Enrollment

If the total period of disability is less than 29 days, no action needs to be taken on health benefits enrollment. When the total period of disability is more than 29 days in an LWOP-IOD status, coordinate with the personnel services office to ensure that necessary and appropriate actions are taken:

- If the employee is separated, contact OWCP to determine whether or not the enrollment can be transferred to OWCP.
 - If enrollment can be transferred, OWCP will request transfer by letter.
 - If OWCP does not request transfer for the employee who has been in LWOP-IOD status for 10 months, ICCO will coordinate with the personnel services office to send out a letter of transfer with supporting documentation to transfer health benefits enrollment to OCP
 - If enrollment cannot be transferred, terminate the enrollment.
- If the employee makes any permissible change in enrollment, notify OWCP by letter as soon as possible of the change and its effective date and file the letter in the IC file.
- If the enrollment has been transferred to OWCP and the employee subsequently is separated, notify OWCP by letter of the separation so that OWCP knows how to dispose of the enrollment if compensation payments cease.

Ensuring Refund of Health Benefits

The Health Benefits Refund Program is designed to reimburse injured employees for an over-deduction of health benefits premiums by the OWCP. For the first year of compensable disability, OWCP deducts the employee portion of health benefits premiums at the USPS rate. Thereafter, the deduction is made at the standard rate applied by the OPM for federal employees. The OPM employee share of the premium is higher than the USPS employee share. Therefore, injured employees may be eligible for a refund of over-deductions of health benefits premiums. (Form 202, Health Benefits Refund Payment Authorization)

OWCP AND HEALTH INSURANCE PREMIUMS

Once there is an approved on-the-job injury there are very few deductions or withholdings from an OWCP compensation check. The only withholdings that The Department of Labor / OWCP will take involve Health Insurance and Life Insurance premiums. The Department of Labor will not withhold contributions to the Thrift Savings Plan or Union Dues. The following general rules apply for the withholding of Health Insurance premiums.

Partial Disability: The Postal Service has indicated to the Department of Labor that health insurance premium withholdings will be made by the Postal Service for their employees while they are working limited duty or are using Sick/Annual Leave. Once an injured rural letter carrier is returned to limited duty, health insurance premiums will be deducted from the limited duty salary paid directly by the Postal Service. If he or she is totally disabled for a short period of time (i.e., less than 6 months in an LWOP status), premiums will be deferred until returned to either full duty or limited duty, at which time premiums will be withheld.

Total Disability: Enrollment in a Federal Employees' Health Benefit (FEHB) plan will continue for a rural carrier who is on the rolls of OWCP for total disability, if he/she has been enrolled in a FEHB plan for the five years of service immediately preceding the start of OWCP compensation, or during all service since his/her first opportunity to enroll.

Once it appears that an injured employee will be disabled for 6 months or more, the United States Postal Service will transfer FEHB coverage to the Department of Labor. Originally, the Postal Service would not transfer coverage until OWCP requested the transfer. This request generally came once the employee was in a LWOP status for 10 months. As a result of the delay in OWCP notifying the Postal Service to initiate the transfer, OWCP has

requested that the Postal Service initiate the transfer at a much earlier date, without waiting to be contacted by OWCP. This is an attempt to reduce the number of canceled health insurance policies. If coverage has been canceled due to 365 days of LWOP service due to an approved on-the-job injury, the Postal Service should void the termination and process the transfer of coverage to the Department of Labor.

The first year that an injured worker is receiving compensation from OWCP on total disability the employee's portion of the premium will remain the same amount that was being withheld from your check by the Postal Service. The second and all future years on compensation will show an increase in the employee's portion based on general federal premium amounts. This increased premium that is being withheld from your OWCP compensation check will be refunded by the U.S. Postal Service as long as you are still on agency rolls.

Form 202, Health Benefits Refund Payment Authorization, became obsolete after PP 18, FY 95 (September 1, 1995). It was replaced by the Health Benefits (HB) Refund Report electronically generated by the Workers' Compensation Information System (WCIS), which is on line and available to Postal Service Injury Compensation Specialists.

This HB Refund Report is the only authorized method for reimbursing injured employees for an overdeduction of health benefits premiums by the Office of Workers' Compensation Programs (OWCP).

In the past, it was necessary for injured workers to request reimbursement for this increased premium amount on a quarterly basis, but the new system is designed to automatically calculate the reimbursement and process the refund.

Conditions for the Acceptance of Claims

GENERAL REQUIREMENTS

For a claim to be compensable under FECA, it must satisfy five basic conditions:

1. **Time:** The claim must be filed within the statutory time limits as follows:
 - Written notice of injury or death must be filed within 30 days after the occurrence of the injury or death (a timely claim for compensation also constitutes a timely notice of injury.)
 - the original claim for disability or death compensation must be filed within 3 years after the occurrence of injury or death, although allowances will be made in the following cases:
 - The USPS had actual knowledge of the injury or death within 30 days after occurrence, acquired from the immediate supervisor's firsthand observation, from another employee, from USPS medical personnel, from an entry into the employee's OMF, or from results of tests conducted by the ICCO in connection with known occupational hazards.
 - Written notice of injury or death was given within 30 days of its occurrence.

Normally, timeliness is not a factor when applying for compensation benefits. It is rare that the 3 year time frame cited above is exceeded or that the 30-day requirement for filing written notice of injury for COP is exceeded.

(Reference: 5 USC 8122 for timely filing requirements in latent disability cases)

2. **Postal Service Employee:** The injured employee or decedent must have been an employee of the USPS at the time of injury or exposure, regardless of the length of time on the job or the type of position held (including casual and transitional).
3. **Fact of Injury:** The employee or decedent must have sustained an injury as defined by FECA. The following issues must be addressed:
 - Whether the alleged incident or exposure actually happened.
 - Whether a medical condition has been diagnosed in connection with the event or exposure.
4. **Performance of Duty:** The injury, illness, or death must have resulted from an incident or circumstance occurring while the employee was performing official duties. The injury, illness, or death must have resulted from one or more of the following situations:
 - The employee's performance of regular or special assigned duties, including activities considered reasonable incidents of employment (e.g., established coffee breaks).
 - A requirement imposed by the employment
 - An employee's fear and anxiety regarding his or her ability to carry out official duties.

Causal Relationship: The claimed condition or disability must be caused by conditions of employment. Causal relationships are medical issues and must be supported by medical documentation provided by a recognized physician. Four types of causal relationships are recognized:

- Direct Causation - when the injury or factors of employment, through a natural and unbroken sequence, result in the claimed condition.
- Aggravation - when a preexisting condition is worsened, either temporarily or permanently, by an injury arising in the course of employment. Compensation is payable for the duration of the aggravation as medically determined.
 - *Temporary Aggravation* - a limited period of medical treatment or disability until the employee returns to his or her pre-injury status. Compensation is payable only for the period of aggravation established by the weight of the medical evidence, and not for any disability caused solely by the underlying disease.
 - *Permanent Aggravation* - when a condition persists indefinitely because of the effects of the job-related injury or when a condition is materially worsened such that it will not revert to its pre-injury level of severity.
- Acceleration - When job-related injury or disease hastens the development of an underlying condition and the ordinary progression of the disease would not account for the speed with which a condition develops.
- Precipitation - when a latent condition manifests itself because of factors of employment.

CONDITIONS FOR CONTINUATION OF PAY

Providing COP

An injured employee's request for COP must be granted by the USPS except in the following six circumstances:

- The disability is caused by an occupational disease
- The injury occurs off USPS premises and the employee is not performing official "off premises" duties
- The injury is caused by one of the following:
 - The employee's willful misconduct
 - The employee's intent to kill or injure himself or herself or another person
 - The employee's intoxication by alcohol or illegal drugs
- The injury is not reported on CA-1 within 30 days following the injury.
- Work stoppage first occurred more than 90 days following the injury
- The employee initially reports the injury after his or her employment has terminated.

When casual employees or other employees with specific terms of employment are injured, provide COP only through the end of their appointments.

The USPS may controvert the employee's right to COP for reasons other than the six circumstances cited above. However, the final determination of COP entitlement lies with OWCP.

Withholding and Terminating COP

The ICCO is responsible for challenging a claimant's case if it is found that the five basic conditions have not been met and for controverting COP to which the claimant is not entitled. COP may also be withheld or terminated during the 45-day COP period only in those cases meeting the criteria specified in FECA's implementing regulations.

Do not withhold or terminate COP in the following situations:

- As part of disciplinary action, or as a result of a disciplinary action that terminates employment, unless written notice of termination for cause was issued to the employee before the date of injury.
- Pending OWCP's controversion decision
- In cases where either one of the following applies:
 - Facts of injury are questionable
 - Medical evidence does not establish causal relationship

Terminating COP

Terminate COP in the following instances:

- The employee does not submit prima facie medical evidence within 10 working days after claiming COP. In this case, ensure that the employee is aware of this requirement and of the fact that COP may be reinstated upon receipt of such evidence.
- The ICCO receives medical evidence that the employee's treating physician has found the employee to be no longer disabled, but capable of performing the duties of the position held at the time of injury. In this case, direct the employee back to work.
- The ICCO receives medical evidence that the employee's treating physician has found the employee to be partially disabled and the employee does not respond to a written limited duty assignment offer within 5 working days of such offer.
- The ICCO receives notification from OWCP that COP should be terminated.
- The employee's scheduled period of employment expires or employment is otherwise terminated, provided the date of termination of employment was established before the date of injury.

TIME KEEPING AND ACCOUNTING

COP Entitlement

Employees may receive COP for up to 45 calendar days for time lost from work because of disability resulting from a job-related injury provided that absence from work time is medically indicated. Medical documentation to support this absence must be furnished within 10 days from the beginning of disability.

The maximum number of COP hours most employees are entitled to receive per injury is 264. Rural carriers with an H route cannot exceed 312 COP hours; rural carriers with a J route cannot exceed 288 COP hours.

Holidays and scheduled leave are counted as workdays.

An employee's entitlement to COP must begin within 90 days of the DOI, or if there is no immediate time loss, within 90 days of the first time loss following the DOI. When continuing days of COP bridge the 90th day pay may be continued until entitlement is exhausted or the employee returns to work.

Regular Rural Routes

Types of Routes

H Route (Evaluated Hour Route)

The regular carrier's salary is based upon 12 days per pay period, 312 days per year, or 2,496 hours per year. Evaluated pay hours on an H type route may vary from 12 to 46 hours per week.

J Route (Evaluated Hour Route)

The regular carrier's salary is based upon 5 days during 1 week and 6 days the other week, for a total of 11 days per pay period, 286 days per year, or 2,288 hours per year. One relief day per pay period is authorized. Evaluated pay hours vary from 41 to 46 hours per week.

K Route (Evaluated Hour Route)

The regular carrier's salary is based upon 5 days each week, 260 days per year, or 2,080 hours per year. One relieve day is authorized each week. The relief day must be the same day each week, except for routes on rotating relief. Evaluated pay hours vary from 40 to 48 hours per week.

Regular Rural Carriers

Pay procedures for rural carriers do not allow for two employees to be certified on the same route on the same day. According to FECA Procedures, the route evaluation of a regular rural carrier is not to be considered as overtime, when the route is evaluated at over 40 hours per week. (Reference: FECA Procedure Manual, 2-900 and 2-901)

Effect of Route Adjustments on Compensation Payments:

Compensation payments are based on the amount of monthly pay the injured employee had at the date of injury, the date disability began, or the date of recurrence; whichever is greater. Compensation is paid at the rate of 66 2/3% for carriers with no dependents and 75% for those that are married or have dependent children. This amount is tax free.

The U.S. Department of Labor, OWCP has recently updated their Procedure Manual to include sections that relate directly to rural letter carriers and some of their specific situations. The areas covered are leave usage and compensation rates. The purpose of these additions is to familiarize claims examiners with procedures that are particular to rural carriers.

Section 2-901(b) has now been updated to include a statement that reads: "For rural letter carriers, medical appointments of any length result in charges to leave of eight hours each." Therefore, in leave buy back requests, OWCP claims examiners will not question the use of 8 hours leave for a doctor's appointment. If the carrier is using LWOP and working limited duty, the eight hour provision for a doctor's appointment does not apply.

The changes to Section 2-900 (12.f) are more detailed and specific. They have also been reinforced to each claims examiner with a policy bulletin that provides specific procedures for them to follow in determining pay rate information.

The section reads:

"Rural Carriers/Rural Carrier Leave Replacements. The salaries for these employees are based on the evaluation of their routes. The Postal Service uses a formula to determine the evaluated salary which may be based on an evaluation between 36 and 48 hours per week. Salaries derived from routes which are evaluated at more than 40 hours per week are not considered to be in an overtime status unless they actually work more than the number of hours stipulated in their contract for their route evaluation. The evaluated pay, therefore, is the pay rate for compensation purposes.

The salary for these employees may vary over the life of the claim due to reevaluations of the employee's route. These changes will only affect the pay rate for compensation purposes on the date disability begins, or if the employee is performing full duty at the time of a recurrence that qualifies for a recurrent pay rate. If the pay rate on the date disability begins or at the time of a qualifying recurrence is lower than the date of injury pay rate, then the date of injury pay rate is used to compute compensation.

If a change occurs during a period of disability, compensation continues to be based on the original pay rate. For rural carrier leave replacements, who are hired on a part-time basis to substitute for rural carriers and may work from 1-6 days in a given week, the pay rate should be established in accordance with section 8114 (d)(3)."

Many rural carriers, in the past, have had their compensation rates reduced, or their limited duty pay cut in response to route evaluation changes. As a result of the above changes to the Procedure Manual and conversations between the Union, the Postal Service and OWCP, the Postal Service has been working to make pay adjustments. Any carrier, who received a pay increase in these situations, will not be required to repay the Postal Service for the overpayment, but will have their pay adjusted back to the date of injury salary. Pay adjustments are tentatively scheduled to begin during Pay Period 25 (11/23-12/6). When we are made aware that the adjustments are actually beginning, we will notify you and all rural carriers, through the magazine, of the specific procedures for notifying Personnel of instant cases.

The U.S. Postal Service is in the process of correcting the pay of injured-on-duty rural carriers who have had their compensation and/or limited duty pay reduced as a result of a route evaluation changes. If he or she has received such a reduction, he or she should contact the Personnel office or Injury Compensation Specialist to notify them of the situation.

Personnel will be processing new PS Form 50s for all affected carriers after Pay Period 25 (November 23 through December 6, 1996), listing the salary at the date of injury, date disability began or date of recurrence, whichever is greater, as a saved rate on the Form 50. Once the PS Form 50 is processed, pay adjustments will be made for all carriers' who's routes have been reduced.

If the route evaluation has increased while the injured worker was on limited duty, or on the rolls of OWCP, he or she will also be locked into the above salary. The USPS will not be collecting any overpayments, however, all future limited duty pay or OWCP compensation will be based on the lower salary rate.

LIMITED DUTY / REHABILITATION PROGRAM MANAGEMENT

The USPS has legal responsibilities to employees with job-related disabilities under OPM regulations. Specifically, with respect to employees who partially recover from a compensable injury. The USPS must make every effort to assign the employee to limited duty consistent with the employee's medically defined work limitation tolerance. The USPS, in assigning employees to limited duty, must minimize any adverse or disruptive impact on the employee (ELM 546.141).

There is a difference between limited and light duty. Limited duty denotes accommodation for on-the-job injuries and light duty is accommodation for any disability that occurred off the job. Rural carriers are not eligible for light duty, but they are entitled to limited duty.

FECA requires that the USPS notify the employee immediately of the description of the job and its physical requirements and of the date the job will be available. To facilitate early return to work, the USPS may contact the employee by telephone, but must provide written confirmation of the job's availability as soon as possible thereafter. (Reference: 20 CFR 10.207(b) and (d) for the COP period, 20 CFR 10.123(a) and (c) for the period after COP, and ELM 546.62)

Limited Duty Assignment Guidelines

Basic Considerations

The USPS should minimize any adverse or disruptive impact on the employee in assigning limited duty. (ELM 546.141)

Consider the following when making limited duty assignments:

- Match the limited duty job as closely as possible to the regular job. Do not make the limited duty job more desirable than the employee's regular job.
- The limited duty work environment should be similar to that of the regular job. If the limited duty environment is more attractive, it may seem like a reward. If the environment is less attractive, it may seem like a punishment.
- The limited duty job should have similar pay. To put an injured employee in a job that pays more than the regular job creates a problem, especially if the employee performs well. To put an injured employee in a lower paying job (i.e., a job that requires less skill) makes poor use of resources.
- Little or no training should be required. Don't expect supervisors to train someone in a skilled assignment when they know he or she will only be there a short time.
- The assignment should result in a tangible product and should not be a "make work" job.
- The assignment should be a function where temporary additional help is useful. This will help ensure that injured employees make a useful contribution to the organization.

Priority for Assignment

Whenever possible assign qualified employees to limited duty in their regular craft, during regular tour of duty, and in their regular work facility.

Prioritize the limited duty assignment in the following manner:

- To the extent that there is adequate work available within the employee's work limitation tolerances, within the employee's craft, in the work facility to which the employee is regularly assigned, and during the hours when the employee regularly works, that work constitutes the limited duty to which the employee is assigned.
- If adequate duties are not available within the employee's work limitation tolerances in the craft and work facility to which the employee is regularly assigned within the employee's regular hours of duty, other work may be assigned within that facility.
- If adequate work is not available at the facility within the employee's regular hours of duty, work outside the employee's regular schedule may be assigned as limited duty. However, all reasonable efforts must be made to assign the employee to limited duty within the employee's craft and to keep the hours of limited duty as close as possible to the employee's regular schedule.
- An employee may be assigned limited duty outside of the work facility to which the employee is normally assigned only if there is not adequate work available within the employee's work limitation tolerances at the employee's facility. In such instances, every effort must be made to assign the employee to work within the employee's craft within the employee's regular schedule and as near as possible to the regular facility to which the employee is normally assigned.

If it is necessary to change any of the elements to meet the employee's physical limitations or to provide the employee with suitable work, the elements must be changed in this specific order:

<u>Priority of Choice</u>	<u>Regular Craft</u>	<u>Regular Tour</u>	<u>Regular Facility</u>
1 st	Within	Within	Within
2 nd	Outside	Within	Within
3 rd	Within	Outside	Within
4 th	Outside	Outside	Within
5 th	Within	Within	Outside
6 th	Outside	Within	Outside
7 th	Within	Outside	Outside
8 th	Outside	Outside	Outside

Reassigning and Employee Following Limited Duty

Limited duty is a temporary accommodation. If medical findings indicate that the employee has reached maximum medical improvement (MMI) and the employee remains totally or partially disabled beyond one year, he or she should either be returned to full duty or permanently reassigned to a modified position under the Rehabilitation Program.

Ensuring Reemployment or Reassignment of Employees Injured on Duty

Disability Fully Overcome Within 1 Year

When an employee fully overcomes the injury or disability within 1 year after the commencement of compensation payments from OWCP, or after compensable disability recurs, the USPS must give an employee the right to resume employment in the former or equivalent position.

Disability Fully Overcome After More Than 1 Year

When a current or former employee fully overcomes the injury or disability more than 1 year after the compensation begins, the USPS must give the current or former employee priority consideration for reemployment or reassignment into the former position or equivalent one.

Disability Partially Overcome

Current Employee: When an employee has partially overcome a compensable disability, the USPS must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerance. In assigning such limited duty, the USPS should minimize any adverse or disruptive impact on the employee.

Former Employee: When a former employee has partially recovered from a compensable injury or disability, the USPS must make every effort toward reemployment consistent with medically defined work limitation tolerances. Such an employee may be returned to any position for which he or she is qualified, including a lower grade position than that which the employee held when compensation began.

Even though the above information only provides protection for a period of one year, the Memorandum of Understanding in the 1995-1999 National Agreement concerning injured rural letter carriers and the posting of their routes provides additional protection that extends this period to 2 years.

The Memorandum of Understanding reads:

"It is agreed that when, as a result of a job-related illness or injury, a regular rural carrier is unable to perform all the duties of his or her assigned route for a period of two years, the employee must relinquish the route and such route will be posted for bid in accordance with Article 12, Section 3.

Prior to posting such route, however, management will request that the employee provide medical certification indicating whether the employee is, at that time, able to fully perform the duties of the assigned route. If the employee fails to provide such certification within 30 days of notification to do so, or if the medical certification reflects that the employee is unable to perform the full duties of the assignment, the route shall be posted, and the employee shall not be permitted to exercise his or her bid rights as to that posting.

When a regular rural carrier relinquishes his or her route as a result of the above circumstances, has not yet been placed in a modified job assignment, and is working a limited duty assignment, the employee will become an unassigned regular rural carrier. Rural routes numbers 960 through 979 may be created as needed, and the carrier will be assigned to one of these routes. The employee will continue to perform the current limited duty assignment until the appropriate action is taken to have the carrier reassigned to a modified job. Management will continue to make every effort to assign this employee to a modified job.

If the carrier becomes able to perform all the duties of the rural carrier position while unassigned, and a vacancy exists in the office, the carrier will be allowed to bid on the vacancy. Should the carrier fail to bid on the vacancy, and there is a residual vacancy resulting from the posting, the carrier will be assigned to the residual vacancy.

However, should a residual vacancy not occur as a result of the posting or a vacancy does not exist in the office, the carrier will be treated as the excessed junior regular rural carrier, and reassigned in accordance with Article 12.4.A.1. Until the employee's reassignment is completed, the employee will continue to receive the same rate of pay received on the date of injury.

When a regular rural carrier relinquishes his or her route as a result of the above circumstances, has not yet been placed in a modified job assignment, and is in an injured on duty/leave without pay (IOD/LWOP) status, rural routes 980 through 989 may be created and the carrier assigned accordingly. Only those employees who are in an IOD/LWOP status may be placed on rural routes 980 through 989 because salary payments will not generate from these routes.

When creating both the 960-979 and the 980-989 routes, the route data for the newly created route must reflect the route data of the route to which the employee was assigned on the date that the employee was injured.”

Totally Disabled:

If the injured worker is not working limited duty when the Postal Service requests medical documentation in order to place the route up for bid, the Postal Service must create a "dummy" route. This route would be numbered 980-999. This route would have all the characteristics of the date of injury route. The Postal Service has to complete Form 4003 to include: route number (starting with 980 for the first route in the office), route length, regular and/or centralized boxes, stops, base hours, high or low option if applicable, and vehicle data. Once the route is created, the Postal Service will process Form 50 (Notification of Personnel Action) to transfer the injured-on-duty carrier to this route.

Remember: a "dummy" route should only be assigned to injured rural carriers who are not working limited duty.

Partially Disabled (Maximum Medical Improvement - MMI):

If a rural carrier is working limited duty at the time that they have been off the route for two years, and have reached maximum medical improvement (MMI), the Postal Service must make a permanent modified assignment.

The Postal Service, in assigning an injured rural letter carrier to a permanent modified position, must comply with the provisions of the Employee and Labor Relations Manual (ELM). Section 546.2 Collective Bargaining Agreements addresses the procedures required and has recently been updated/amended to include references to the Snow Arbitration Decision.

Section 546.222 Reemployment or Reassignment states:

"A partially recovered current or former employee reassigned or reemployed to a different craft to provide appropriate work will not normally be assigned to a residual vacancy when it impairs the seniority rights of PTF employees. Such employees, however, may be reassigned or reemployed to incumbent-only positions established to accommodate the employee's job-related medical restrictions."

As you can see from this section, if the Postal Service creates a position that is purely created as a result of the approved on-the-job injury, and that job is not one that can be bid on once the injured worker retires or resigns from the Postal Service, it would not impair the seniority rights of PTF employees. The Snow Arbitration Decision would also not apply if he or she is being placed in a post office that does not have PTFs. If an injured worker is assigned a modified job that is classified as a PTF, please note that he or she is being converted at a saved rate that will guarantee a salary that equals that which he or she had at the date of injury. Many carriers are concerned about the issue of holiday pay. As a rural carrier, hourly salary is calculated by taking an annual salary and dividing by 2080 hours. As a PTF, annual salary will be divided by 2000. This 80 hour difference represents the 10 federal holidays. In essence, he or she is now going to be making more per hour to accommodate the missing holiday pay.

Partially Disabled (Not MMI):

The routes listed above that are numbered 960 through 979 are only a temporary alternative when relinquishing a route due to an on the job injury. The new employee category of “unassigned regular rural carrier” is only to be used when a permanent modified job assignment is not available. Some reasons that a modified job would not be available include: the carrier has not reached maximum medical improvement, the carrier is unable to work many hours per week but is likely to increase those hours in the near future, and/or current restrictions are likely to change in the future to allow for additional job responsibilities. Again, assignment to routes 960 through 979 are only temporary and the carrier would eventually have to be converted to a permanent modified position following the procedures listed above.

Vocational Rehabilitation

The Joint DOL-USPS Rehabilitation Program was developed to fulfill the USPS legal obligation to provide work for injured-on-duty (IOD) employees. Providing gainful employment within medically defined work restrictions has proven to be in the best interest of both the employee and the USPS. In many cases, returning to work has aided the employee in reaching maximum medical recovery. This program is also one of the most viable means of controlling workers’ compensation costs.

Over the years, an in-house rehabilitation program has evolved and has been incorporated into the Rehabilitation Program as a means of facilitating the proper placement and accommodation of current employees with permanent partial disabilities resulting from injuries on duty. This program is also appropriate for reassigning to permanent modified positions employees who have not received compensation but have been in temporary limited duty for an extended period of time.

To be eligible for participation in the Rehabilitation Program, the employee must meet the following criteria:

- He or she must have an approved FECA claim on file with OWCP
- He or she must have a job-related, permanent partial disability documented by medical evidence.
- He or she must be receiving or be eligible to receive compensation payments for the disability. (Note that an employee working in a limited duty assignment is eligible for disability compensation but is not receiving it because an appropriate limited duty assignment has been made available.)

Evaluation of OWCP Rehabilitation Referrals

The USPS medical provider will evaluate all medical records referred by OWCP. An injured employee may have some degree of concurrent disability not caused by or related to the original job injury or disability. The USPS medical provider will carefully evaluate all concurrent disabilities and include their potential impact in his or her recommendation. Concurrent disabilities must be accommodated in job offers under the Rehabilitation Program.

OWCP Due Process

The OWCP claims examiner is provided with a copy of the job offer and job description at the same time it is extended to the employee. If the employee refuses the offer, a series of actions must take place to ensure that the injured employee receives due process as a result of a USPS offer of employment. These actions include the following:

- The claims examiner reviews the offer package, along with the evidence of record, and determines if it is suitable to the employee's partially disabled condition.
- When the offered job is determined not to be suitable, the claims examiner advises the ICCO, OWCP rehabilitation specialist, and the employee, in writing, of the suitability of the offer.
- When the claims examiner determines that the offered job is suitable, the claims examiner notifies the employee in writing of the following points:
 - That OWCP considers the job offer suitable under the provisions of 5 USPS 8106 (c).
 - That if the employee refuses the job, he or she will not be entitled to monetary benefits (except medical benefits) unless he or she can show that such refusal was reasonable or justified. The employee has 30 days from the date of the notification by the claims examiner to accept the employment or to explain why the employment was refused.
 - That the offered job remains available for due process consideration
 - That the employee can still accept the job without penalty.
 - That further action will be taken without additional notice by OWCP for the employee's failure to cooperate.
- When the employee does not provide good cause for refusing the offered job, the claims examiner may terminate the employee's benefits at the end of the 30 day notification period in addition to 15 days for due process consideration.

Formal Loss of Wage Earning Capacity (LWEC)

FECA provides compensation for the reduction of compensation to reflect a worker's earning capacity. The law provides for payment of compensation based upon loss of wage-earning capacity (LWEC) for permanent effects of an injury, i.e., the injured employee has reached maximum medical improvement but still continues to have residuals from the job-related injury. 20 CFR 10.303 states that an injured employee who is unable to return to the position held at the time of injury, or to earn equivalent wages, but who is not totally disabled for all gainful employment is entitled to compensation computed on LWEC.

The OWCP claims examiner determines the employee's LWEC entitlement. This compensation is paid on the basis of the difference between the employee's capacity to earn wages and the current wages of the job held at time of injury. The "Shadrick" formula is used by OWCP to determine an injured employee's wage-earning capacity.

THIRD PARTY LIABILITY

Rural letter carriers sometime sustain injuries in the performance of their duties under circumstances which place a legal liability on a person or persons other than the United States Postal Service to pay damages. The person or persons responsible for the injury to the employee is generally referred to as a "third party". The term "person or persons other than the United States Postal Service" means someone other than the employing agency or the United States Government. Thus, a third party may be a private citizen or can even be another Federal employee, including (on rare occasions) a co-worker of the injured employee. These types of "third party" claims may include vehicle accidents, fights, falls on a customer's property, etc...

When an employee is injured as a result of a third party's action, the employee can file a claim or suit against the third party or the third party's insurance company. This claim will be for damages resulting from the injury. Damages can include medical expenses, lost wages, property damage, pain and suffering, etc...

Under the Federal Employees' Compensation Act (FECA), when an injured employee who is entitled to compensation for the injury recovers money or other property as a result of a suit or settlement against a third party, the injured employee has an obligation to refund to the United States Postal Service the compensation that has been paid (COP is excluded from the amount that must be refunded. This will be addressed further in this article).

If the injured employee recovers more than what has been paid in compensation and medical expenses, he or she is said to have a surplus. The employees entitlement to future compensation payable for the same injury will be a credit toward the surplus and no additional compensation will be paid until the surplus is absorbed.

The United States Postal Service has an interest in recovering compensation when one of its workers suffers a job-related injury that was caused by a third party.

Identifying Third Party Liability

The responsibility for identifying the potential for third party liability in a given case lies jointly with the OWCP claims examiner and the Postal Service's Injury Compensation Specialist.

If the potential third party liability is not recognized in a case, or not recognized soon enough, the matter may never be pursued. All states have statutes of limitations for personal injury, wrongful death, medical malpractice, and product liability. An injured employee who does not file a claim or suit against the third party within the applicable statutory time limitation cannot recover damages that result from the injury. Money which the United States may otherwise have recovered would be lost.

The word "potential" in the context of identifying third party liability is very significant. The claims examiner does not need to be positive that a third party has legal liability for an injury. Instead, they only need to recognize cases in which this kind of liability is a possibility.

In many cases the potential for a third party claim is fairly evident from the circumstances of the injury. The following situations clearly indicate potential third party liability:

- A letter carrier is attacked by an unleashed dog owned by the customer to whom the carrier is delivering the mail;
- A letter carrier trips and falls on a broken porch step at a home to which the carrier is delivering mail;
- A letter carrier in his/her vehicle is "rear-ended" by another automobile while delivering the route;

In other cases, such as malpractice and product liability, the potential is not so easy to recognize:

- A letter carrier sustains an arm injury when a piece of equipment malfunctions;
- A letter carrier suffers an injury to his/her hands while handling a solvent or cleaning supply sample.

- A letter carrier who sustained a job-related injury obtains treatment from a physician and that treatment (or lack of correct and proper treatment) worsens the injury or causes another injury.

In many cases, especially those involving medical malpractice and product liability, the information available at the time the injury is first reported may not permit a determination as to whether there is in fact third party liability. Many factual and legal issues will require resolution. This is why such cases as medical malpractice and product liability are handled by the Department of Labor's Office of the Solicitor.

Some third party claims may be further complicated by "contributory negligence". Sometimes a third party is responsible for a claimant's injury, but an element of responsibility might also be attributable to the claimant. For example, a 300 pound letter carrier falls and injures himself while delivering mail because the homeowner's steps collapsed. Although the homeowner is responsible for maintaining the steps in good condition, an argument could be made that holding a 300 pound person is not normal wear for the steps. In cases such as this, the third party is not absolved of responsibility for the injury, but the degree of responsibility can be acknowledged as less than complete by settling for a smaller sum.

The United States Postal Service may, in certain cases, administratively pursue the collection of damages from the third party responsible for the injury to a rural letter carrier. Such pursuit is limited to cases of traumatic injury, except those traumatic injury cases which fall within one or more of the following categories:

- Where the traumatic injury results in the death of the employee;
- Where the injury occurred outside of the US or Canada;
- Where the injury occurred when the employee was a passenger on a common carrier's conveyance (train, bus, airplane, etc...);
- Where injuries are sustained by more than one employee in the same incident (group injuries).

The USPS will prepare and release correspondence to the appropriate parties, and will pursue the collection of damages from the responsible third party by administrative means. This may include obtaining the employee's full assignment to the USPS of any right of action the employee may have to enforce the liability, provided that such assignment is voluntary on the part of the employee.

It is the responsibility of the OWCP claims examiner to identify all potential third party liability situations, including those cases which are to be administratively pursued by the USPS. If there is information in the case file that indicates the USPS has also identified the case as having third party potential the claims examiner will simply monitor progress of the case. However, if there is no indication that appropriate action is being taken by the employee or by the USPS the claims examiner will release a letter to the USPS bringing the case to their attention and asking what actions have been taken with regard to the third party aspect of the case.

The purpose of pursuing a third party claim is to recover 100% of actual and, in some serious cases, projected expenses and to secure a settlement that compensates for inconvenience, pain and suffering, etc... The USPS will always keep OWCP advised of all third party actions, particularly when settlement discussions commence. The injured worker's authorized representative should always call OWCP to get an update on the total disbursements before agreeing to any settlement.

If, in reviewing the CA-1 form, the Postal Service sees the potential for third party liability, this will be annotated on the back of the CA-1. The USPS will then send a letter to the employee informing him or her that:

1. In cases involving potential third party liability employees are encouraged to seek recovery from the responsible party;
2. If damages are recovered, the US Government must be reimbursed for any payments made on the employees' behalf;

3. The employee is guaranteed a minimum of 20% of the net recovery as well as any surplus remaining after the disbursements have been made;
4. Employees who refuse to pursue third party action may be denied compensation by OWCP.

The USPS will explain to the injured worker how he or she can collect damages. The choices are:

- To hire an outside attorney to sue the third party;
- To try to settle with the third party directly;
- To ask the agency to pursue in his/her stead;
- To refuse to pursue (in which case the employee will be informed that this may result in benefits being denied.)

Note: OWCP may sometimes agree that third party liability should not be pursued. For example, it might be bad publicity for an agency to sue an elderly person on a fixed income for failing to clear an icy sidewalk on which an employee fell. Also, where the injury is minor (total compensation do not, or are not expected to exceed \$1000) OWCP may close the case if the claimant does not respond to OWCP's request for information or if the claimant indicates he or she is not asserting third party liability or retaining an attorney. In these cases the potential returns do not justify the administrative costs to pursue the action.

Hiring your own Attorney

If an employee hires an outside attorney to pursue the third party suit, the USPS will probably suggest that the employee hire the attorney on a contingency fee basis. This means that the attorney takes a percentage of the amount recovered, rather than a fee paid "up front". Otherwise, if the attorney does not recover for the employee, the employee may be stuck with attorney's fees that he or she will have to pay out of pocket. Usual percentages range from 30% to 40%.

- After the claimant has chosen an attorney, the USPS will send OWCP the third party form that identifies the claimant's choice and includes the name of the attorney.
- OWCP will help to make sure the agency gives the attorney correspondence and documents establishing liability and current wage loss information and medical expenses making up the lien.
- When the attorney settles the case, the USPS will obtain the Statement of Recovery and settlement check from the attorney.

The employee is always guaranteed at least 1/5 (20%) of the gross recovery after the attorney's fee is paid and before offsets are taken for OWCP benefits paid.

Representing yourself

If the employee settles directly, he or she is, in effect, acting as his or her own attorney.

- The USPS will give the employee all documents normally given to an attorney.
- The employee will contact the third party and settle the claim.
- The employee makes the settlement and sends the disbursement check to OWCP. OWCP then credits the agency's account.
- Any surplus, after the lien is paid, goes to the employee. However, this amount must be used by the employee for expenses incurred for the same injury before the employee is eligible to collect additional compensation from OWCP.

USPS Pursues Claim

If the USPS pursues the third party claim for its employee, the employee assigns his or her case to the agency. In such cases the USPS, in effect, acts as the injured worker's attorney. The advantage to the employee is that he or she pays no attorney fees. In this situation:

- The claimant must reach maximum medical recovery before the agency attempts to settle the claim.
- The agency handles only routine cases (e.g., less than \$5000 and a week off work). If the case starts off simply but then becomes complicated, the employee may revoke assignment to the agency and hire an attorney.
- Once the employee assigns the agency to handle the claim, he or she may not negotiate the settlement figure that the agency arrives at. On the other hand, the agency may choose to discuss the projected settlement figure with the employee. Then, the employee has the opportunity to revoke the assignment and hire an attorney to pursue it himself or herself.

If the agency pursues the claim on behalf of the injured worker, the compensation specialist for the Postal Service will:

1. Contact the responsible third party explaining the accident and asking that the responsible party, the insurance carrier, or the third party's attorney contact the workers' compensation office to discuss the case.
2. Send OWCP a letter requesting an itemized statement of disbursements made on behalf of the claim. (The employee or doctor may have sent bills directly to OWCP; these would not be in the agency's files.)
3. Write to the employee's supervisor stating that the USPS anticipates negotiating a settlement of the claim regarding his or her employee. In that letter, the compensation specialist will list expenses incurred as a result of the injury. The supervisor will be instructed to ask the employee to identify any additional expenses that should be included in the settlement. (Sometimes the employee has baby-sitting charges or extra transportation costs for a light duty assignment following the injury.)
4. Figure the lien by adding up all costs for: Compensation payments, medical bills and related expenses, and any other employee out-of-pocket expenses.
5. Prepare a projected settlement figure.
6. Inform the employee of the dollar amount of the proposed settlement.
7. Make an offer in writing to the third party's claims adjuster.
8. Obtain the release form, signed by the employee.
9. Send the release form to the insurance company.
10. Collect and disburse the money.
11. Send a letter to the employee informing him or her of the settlement figure.
12. Complete the Statement of Recover and forward it to OWCP. OWCP must have this before it closes the case.

**UNITED STATES DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
OFFICE OF WORKERS' COMPENSATION PROGRAMS**

STATEMENT OF RECOVERY

Claimant: _____ File Number: _____

Date of Injury/Death: _____ Employing Agency: _____

(1)	Gross Recovery.....	\$ _____
(2)	Less Property Damage.....	\$ _____
(3)	Balance.....	\$ _____
(4)	Less Attorney's Fee (Fee is _____ % of line 3).....	\$ _____
(5)	Balance.....	\$ _____
(6)	Less Court Costs (must be itemized).....	\$ _____
(7)	Balance (adjusted gross recover).....	\$ _____
(8)	Less 1/5 (20% of line 7).....	\$ _____
(9)	Balance.....	\$ _____
(10)	Less Payment to Public Health Service.....	\$ _____
(11)	Balance.....	\$ _____
(12)	Less Medical Expenses Paid by Claimant.....	\$ _____
(13)	Balance.....	\$ _____
(14)	OWCP Disbursements (including compensation and medical but excluding COP) or line 13, whichever is less.....	\$ _____
(15)	Less Government Allowance for Attorney's Fee (retained by claimant).....	\$ _____
(16)	Refund.....	\$ _____
(17)	Surplus (line 13 less line 14).....	\$ _____

SCHEDULE AWARDS

The Federal Employees' Compensation Act (FECA) provides for the payment of a Schedule Award. Schedule Awards are defined as an award of compensation payable for a set number of weeks for the loss or loss of use of a part of the body, whether total or partial.

The degree of impairment is established by medical evidence and expressed as a percentage loss of the member involved. Permanent impairment may originate either within the affected member (i.e., loss of use of your arm in a Carpal Tunnel Syndrome claim) or another part of the body (i.e., a back injury may result in impairment to a leg) for which a Schedule Award would be payable.

A claimant may also receive an Award for more than one part of the body in connection with a single injury (i.e., a back injury may result in impairment to a leg and an arm).

The body members covered by the Schedule Award and the compensation schedule include:

Arm	312 weeks	Fourth Finger	15 weeks
Leg	288 weeks	Hearing (1 ear)	52 weeks
Hand	244 weeks	Hearing (both)	200 weeks
Foot	205 weeks	Breast	52 weeks
Eye	160 weeks	Kidney (1)	156 weeks
Thumb	75 weeks	Larynx	160 weeks
First Finger	46 weeks	Lung (1)	156 weeks
Great Toe	38 weeks	Penis/Female Sex Organs	205 weeks
Second Finger	30 weeks	Testicle/Ovary (1)	52 weeks
Third Finger	25 weeks	Tongue	160 weeks
Toe (other)	16 weeks		

Note: The above figures represent total loss of use.

An injured worker should only apply for a Schedule Award after having reached maximum medical improvement and are back to work full time (even in a limited duty capacity) or retiring. The Department of Labor will not pay compensation for wage loss (i.e., time in LWOP being paid by OWCP) and a Schedule Award at the same time; however, if the injury occurred on or after September 13, 1957, the Schedule Award may be paid concurrently with benefits under the U.S. Civil Service Retirement Act. In order to apply for a Schedule Award, you would need to submit a CA-7 and check the "Yes" box in question 5.

The treating physician should be advised to use the American Medical Association's Guides to the Evaluation of Permanent Impairment, fourth edition, and to report findings in accordance with those guidelines. Injuries sometimes leave objective or subjective impairment which cannot easily be measured by the AMA Guides. Some examples are: pain, atrophy, deformity, loss of sensation, loss of strength, marked sensitivity to heat or cold, and soft tissue damage such as scarring and discoloration. The effects of such factors should be explicitly considered along with the impairment measurable by the AMA Guides.

To support a Schedule Award, the file must contain competent medical evidence which:

1. Shows that the impairment has reached a permanent and fixed state and indicates the date on which this occurred (date of maximum medical improvement).
2. Describes the impairment in sufficient detail for the Claims Examiner to visualize the character and degree of disability; and
3. Gives a percentage evaluation of the impairment (in terms of the affected member or function, not the body as a whole, except for impairment to the lungs).

The treating physician should also provide a detailed description of the impairment which includes, where applicable, the loss in degree of active and passive motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbances of sensation, or other pertinent description of impairment.

Once all of the medical evidence has been submitted to OWCP, the Claims Examiner will review the file for completeness and forward the entire case file to the District Medical Advisor for verification. If there is no conflict in medical option, you will be notified of the details concerning your Schedule Award. If there is a conflict, the Claims Examiner will schedule a second opinion or contact the physician for clarification.

**Percentage Table for Schedule Awards
(Percentages given in Weeks of Compensation)**

Member	1%	2%	3%	4%	5%	10%	15%	20%	25%	30%	35%	40%
Arm	3.12	6.24	9.36	12.48	15.60	31.20	46.80	62.40	78.00	93.60	109.20	124.80
Leg	2.88	5.76	8.64	11.52	14.40	28.80	43.20	57.60	72.00	86.40	100.80	115.20
Hand	2.44	4.88	7.32	9.76	12.20	24.40	36.60	48.80	61.00	73.20	85.40	97.60
Foot/Penis	2.05	4.10	6.15	8.20	10.25	20.50	30.75	41.00	51.25	61.50	71.75	82.00
Larynx/Tongue	1.60	3.20	4.80	6.40	8.00	16.00	24.00	32.00	40.00	48.00	56.00	64.00
Eye	1.60	3.20	4.80	6.40	8.00	16.00	24.00	32.00	40.00	48.00	56.00	64.00
Kidney/Lung	1.56	3.12	4.68	6.24	7.80	15.60	23.40	31.20	39.00	46.80	54.60	62.40
Thumb	0.75	1.50	2.25	3.00	3.75	7.50	11.25	15.00	18.75	22.50	26.25	30.00
1st Finger	0.46	0.92	1.38	1.84	2.30	4.60	6.90	9.20	11.50	13.80	16.10	18.49
Great Toe	0.38	0.76	1.14	1.52	1.90	3.80	5.70	7.60	9.50	11.40	13.30	15.20
2nd Finger	0.30	0.60	0.90	1.20	1.50	3.00	4.50	6.00	7.50	9.00	10.50	12.00
3rd Finger	0.25	0.50	0.75	1.00	1.25	2.50	3.75	5.00	6.25	7.50	8.75	10.00
Other Toe	0.16	0.32	0.48	0.64	0.80	1.60	2.40	3.20	4.00	4.80	5.60	6.40
4th Finger	0.15	0.30	0.45	0.60	0.75	1.50	2.25	3.00	3.75	4.50	5.25	6.00
Hearing (1 ear)	0.52	1.04	1.56	2.08	2.60	5.20	7.80	10.40	13.00	15.60	18.20	20.80
Breast/Testicle	0.52	1.04	1.56	2.08	2.60	5.20	7.80	10.40	13.00	15.60	18.20	20.80
Hearing (both)	2.00	4.00	6.00	8.00	10.00	20.00	30.00	40.00	50.00	60.00	70.00	80.00

Member	45%	50%	55%	60%	65%	70%	75%	80%	85%	90%	95%	100%
Arm	140.40	156.00	171.60	167.20	202.80	218.40	234.00	249.60	265.20	280.80	296.40	312.00
Leg	129.60	144.00	158.40	172.80	187.20	201.60	216.00	230.40	244.80	259.20	273.60	288.00
Hand	109.80	122.00	134.20	146.40	158.60	170.80	183.00	195.20	207.40	219.60	231.80	244.00
Foot/Penis	92.25	102.50	112.75	123.00	133.25	143.50	153.75	164.00	174.25	184.50	194.75	205.00
Larynx/Tongue	72.00	80.00	88.00	96.00	104.00	112.00	120.00	128.00	136.00	144.00	152.00	160.00
Eye	72.00	80.00	88.00	96.00	104.00	112.00	120.00	160.00	160.00	160.00	160.00	160.00
Kidney/Lung	70.20	78.00	85.80	93.60	101.40	109.20	117.00	124.80	132.60	140.40	148.20	156.00
Thumb	33.75	37.50	41.25	45.00	48.75	52.50	56.25	60.00	63.75	67.50	71.25	75.00
1st Finger	20.70	23.00	25.30	27.60	29.90	32.20	34.50	36.80	39.10	41.40	43.70	46.00
Great Toe	17.10	19.00	20.90	22.80	24.70	26.60	28.50	30.40	32.30	34.20	36.10	38.00
2nd Finger	13.50	15.00	16.50	18.00	19.50	21.00	22.50	24.00	25.50	27.00	28.50	30.00
3rd Finger	11.25	12.50	13.75	15.00	16.25	17.50	18.75	20.00	21.25	22.50	23.75	25.00
Other Toe	7.20	8.00	8.80	9.60	10.40	11.20	12.00	12.80	13.60	14.40	15.20	16.00
4th Finger	6.75	7.50	8.25	9.00	9.75	10.50	11.25	12.00	12.75	13.50	14.25	15.00
Hearing (1 ear)	23.40	26.00	28.60	31.20	33.80	36.40	39.00	41.60	44.20	46.80	49.40	52.00
Breast/Testicle	23.40	26.00	28.60	31.20	33.80	36.40	39.00	41.60	44.20	46.80	49.40	52.00
Hearing (both)	90.00	100.00	110.00	120.00	130.00	140.00	150.00	160.00	170.00	180.00	190.00	200.00

LEAVE BUY BACK

The term Leave Buy-Back applies when a rural carrier sustained a job-related injury that has been approved by OWCP, used sick or annual leave, and now wants the used leave restored.

An employee who sustains a job-related disability (either traumatic or occupational) has the option of using sick or annual leave or both to avoid interruption of income. If the employee uses leave during a period of disability caused by an occupational disease (CA-2) or illness and the claim is approved, the employee may, with the approval of the Postal Service, "buy-back" the leave and have it recredited to their account. If the employee uses leave during a period of disability caused by a traumatic injury (CA-1) and the claim is approved by OWCP, the employee may "buy-back" leave taken after the 45 day continuation of pay (COP) period. The employee may not repurchase leave used during the 45 day COP period unless the employee was not entitled to receive COP.

If an employee elects sick or annual leave, entitlement to COP is not preserved. This means that the 45 calendar day period continues to run. Each full or partial day for which the employee is absent from work due to a disability will be counted as one day against entitlement to COP, regardless of whether sick or annual leave is used. Therefore, while an employee may use COP intermittently along with sick and annual leave, entitlement is not extended beyond 45 days of combined absences.

An election to use sick or annual leave during the 45-day COP period is not considered irrevocable. If an employee elects COP after a period of leave use, the Postal Service is required to make such a change on a prospective basis (from the date of the employee's request). The employee may also receive COP in lieu of previously used annual or sick leave, provided the request to buy-back leave is made within one year of the date the leave was used or the claim was approved, whichever is later. The claimant must provide medical evidence of disability. Where timely request is made, the employing agency is to convert the leave used to COP and restore the leave to the employee.

When the 45 day period expires, an employee may use sick or annual leave and then buy back the leave when OWCP approves the claim for compensation. This is true for Occupational Disease claims (CA-2) from the onset of disability.

Note: If less than 14 days of leave are used following the COP period, the first 3 days are charged to LWOP and no compensation is payable for these days. These are called waiting days. The employee must repurchase these 3 days, however, and must repay the agency for the leave received.

Effective August 1, 1996, the U.S. Department of Labor, Office of Workers' Compensation Programs (OWCP) implemented a new procedures with the goal of streamlining the process of leave buy back. Two new forms, a Time Analysis Form (CA-7a) and a Worksheet/Certification and Election Form (CA-7b) have been developed to be filed with Form CA-7 in leave buy back claims. The new form CA-7a is to be used when leave dates are intermittent or when more than one continuous period of leave is claimed. The CA-7b fully explains the process to the claimant and allows an estimate of the FECA entitlement (the amount of compensation payable by OWCP). It requires the Postal Service to advise the employee of the amount required to reinstate the leave in question and to agree to the process in advance of submission of the form. These two new forms allow the injured rural carrier to know exactly how much money is owed to the Postal Service for their portion of the leave buy back before having to wait for the CA-7 to be processed by OWCP. Based on past experience, many rural carriers decided against leave buy back when they received the EN1207 from OWCP showing how much they owed.

Unless there is a significant variance between the Postal Service estimate of FECA entitlement and the actual entitlement, the leave buy back claim can be paid immediately upon receipt of the completed claim, providing the medical evidence supports injury related time loss for each date claimed. This new procedure should reduce processing times considerably. In the past, leave buy back could take anywhere from 6 months to a year for completion.

If a claimant buys back sick or annual leave during the same tax year in which the leave was used, the amount repaid is excluded from the claimant's taxable income for the year. This would require the USPS to amend Form W-2 for that year.

If buy-back is made for leave used in a prior tax year, the claimant may not retroactively adjust the tax return for the year during which the leave was used. The claimant may only deduct as an employee expense (subject to 3% threshold) for the current tax year the amount repaid, provided deductions are itemized. In such instances, it is not necessary to reflect the repurchase through the payroll system, nor is it necessary to amend the Form W-2 for the year the leave was used. Further questions regarding this should be addressed to the Internal Revenue Service.

DUAL BENEFITS

An injured rural letter carrier may be entitled to benefits under the Federal Employees' Compensation Act (FECA - OWCP) and various other sources. Some of these other sources include: CSRS / FERS Disability Retirement and/or Spouse benefits, Veterans' Disability or Death benefits, and Social Security. Some of these benefits can be collected by a rural carrier at the same time that he/she is collecting OWCP benefits, while others are prohibited and considered to be a dual benefit.

The following benefits are considered "Dual Benefits" and require an election:

Civil Service Retirement System (CSRS) and Federal Employees' Retirement System (FERS):

CSRS/FERS annuity benefits provided by the Office of Personnel Management (OPM), either regular retirement or disability can not be collected by an injured rural carrier who is currently receiving OWCP benefits. The employee must make an election between OWCP benefits and OPM benefits. The election is not irrevocable, but if any payments have been made by OPM, OPM must be repaid in full either directly by the employee, or by OWCP from FECA benefits due, before the employee may begin receiving OWCP benefits. If OPM benefits are elected, the employee is still entitled to payment of medical expenses for treatment of the accepted condition(s). If OWCP benefits are elected, the employee may receive concurrently any benefits payable from the Thrift Savings Fund.

This means that you could apply for both benefits and elect to receive OPM disability benefits while you are waiting for OWCP to adjudicate and approve your claim. Once OWCP approves your claim for a work related injury, you will have to decide which benefit is more financially beneficial to you and notify both OWCP and OPM of your election.

There is no prohibition against receipt of an OPM disability annuity during the period that a Third Party credit is being absorbed by OWCP. The claimant is not actually receiving compensation from OWCP during this period, so the payment of an OPM annuity does not constitute a dual benefit. Once the Third Party credit is exhausted, the claimant should be given the opportunity to elect between OWCP benefits and continuation of the OPM annuity.

CSRS / FERS Survivor Benefits:

OWCP does not consider the election of OPM benefits to be irrevocable. However, OPM considers an informed election of death benefits provided by OWCP to be irrevocable. This means that once a survivor selects OWCP benefits, he/she can not change their mind and start receiving OPM survivor benefits at a later date. If OPM benefits have been paid, the lump sum payment provided as part of the death benefit must be repaid in full either directly by the beneficiary, or by OWCP from benefits due, before the beneficiary may begin receiving OWCP benefits. If OWCP benefits are elected, the beneficiary may receive concurrently any benefits payable from the Thrift Savings Fund.

Where a survivor is entitled to both an OPM annuity in his or her own right because of his or her own Federal service, and an entitlement to death benefits under OWCP for a spouse, no election is required between the two benefits.

Veterans' Disability or Death Benefits:

The election is irrevocable only in those cases where the disability or death of the employee has resulted from an injury sustained in civilian employment by the United States, and the Department of Veterans Affairs has held that the same disability or death was caused by military service. An injured worker may be entitled to both benefits; however, once an election is made, he or she can not switch back to the other.

The following benefits are not considered "Dual Benefits" and may be received in addition to OWCP benefits:

- A. Veterans' Pension (except as noted above)
- B. Fleet Reservist Pay

C. Military Retirement or Retainer Pay

D. Social Security Act Benefits

1. Injured rural carriers receiving a Social Security Disability benefit shall have their Social Security benefit reduced by the OWCP compensation that is payable.
2. If an injured rural carrier is receiving regular Social Security (at age 62) and is covered under the Federal Employees' Retirement System (FERS), the OWCP benefits will be reduced by the amount of Social Security attributable to federal service.
3. If a survivor of a FERS employee is receiving Social Security benefits as a widow/widower, OWCP benefits for the death of an employee will be reduced by the amount of the Social Security survivor benefits attributable to the employee's federal service.

E. CSRS or FERS Annuity, if the OWCP benefits are in the form of a Schedule Award for a specified number of weeks on the basis of a permanent loss or loss of use of a member or function of the body.

APPENDIX

RESOURCE MATERIALS

The Federal Employees' Compensation Act, as amended, 5 U.S.C. 8101, et seq.
Code of Federal Regulations, 20 CFR 10
Federal (FECA) Procedure Manual, Part 2, Claims
Federal (OWCP) Procedure Manual, Part 3, Rehabilitation
Pamphlet CA-550, Questions and Answers About the Federal Employees' Compensation Act
Decisions of the Employees' Compensation Appeals Board
Publication CA-810, Injury Compensation for Federal Employees, February 1994
Handbook EL-515, Joint Rehabilitation Guidelines, May 1992
Employee and Labor Relations Manual 540, Special Postal Bulletin, August 2, 1990
Administrative Support Manual 353, Privacy Act
Management Instruction EL-540-91-1, Job-Related First-Aid Injuries
Publication 540, A Guide to Managing Injuries, November 1994
Handbook F-21, Time and Attendance, October 7, 1988
Handbook F-22, PSDS Supervisor's Guide, May 1992
Handbook EL-505, Injury Compensation

OWCP/Retirement Specialist
National Rural Letter Carriers' Association
1630 Duke Street, 4th Floor
Alexandria, VA 22314-3465
Phone: 703-684-5545
Fax: 703-548-8735
E-Mail: Lindaowcp@aol.com

ABBREVIATIONS AND ACRONYMS

ASM	Administrative Support Manual
AWOL	Absent without leave
CE	Claims Examiner
CFR	Code of Federal Regulations
COLA	Cost of Living Allowance
COP	Continuation of Pay
CSA	Civil Service Account
CSRS	Civil Service Retirement System
DOI	Date of Injury
DOL	Department of Labor
ECAB	Employees' Compensation Appeals Board
EEO	Equal Employment Opportunity
ELM	Employee and Labor Relations Manual
FCE	Functional Capacity Evaluation
FECA	Federal Employees' Compensation Act
FEHB	Federal Employees' Health Benefit
FERS	Federal Employees' Retirement System
FFD	Fitness-for-duty examination
FLSA	Fair Labor Standards Act
FMLA	Family and Medical Leave Act
GSA	General Services Administration
HR	Human Resources
HRIS	Human Resources Information System
IC	Injury Compensation
ICCO	Injury Compensation Control Office
IME	Independent Medical Examination
IOD	Injured on Duty
LDC	Labor Distribution Code
LR	Labor Relations
LWEC	Loss of Wage Earning Capacity
LWOP	Leave without Pay
LWOP/IOD	Leave without Pay / Injured on Duty
MMI	Maximum Medical Improvement
MSPB	Merit Systems Protection Board
OMF	Official Medical Folder
OPF	Official Personnel Folder
OPM	Office of Personnel Management
OWCP	Office of Workers' Compensation Programs
RC	Rehabilitation Counselor
RS	Rehabilitation Specialist
RTD	Return to Duty
RTW	Return to Work

FORMS AND NOTICES:

CA-1 Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation

The employee, or someone acting on his or her behalf, should submit the CA-1 to the supervisor as soon as possible following injury, but no later than 30 days for COP entitlement. Statutory requirements will be met for FECA benefits if the CA-1 is filed within 3 years from the injury. The supervisor should submit this form to the Injury Compensation Control Office (ICCO) within 24 hours from receipt from the employee. The ICCO must submit this form to OWCP within 10 working days from the date received by the supervisor from the employee.

CA-2 Notice of Occupational Disease and Claim for Compensation

This form has the same time limitations for submission as the CA-1 listed above.

CA-2a Federal Employee's Notice of Recurrence of Disability and Claim of Pay/Compensation

This form has the same time limitations for submission as above.

CA-3, Report of Termination of Disability and/or Payment

The CA-3 notifies OWCP that the employee has returned to work and/or that continuation of pay has terminated. Immediately upon the employee's return to work, the ICCO submits the CA-3 to OWCP. The CA-3 is the preferred form recognized by both agencies even though the employee's return to work may be reported on the CA-7 or the CA-17.

CA-7, Claim for Compensation on Account of Traumatic Injury or Occupational Disease

The CA-7 is used to claim compensation. When the disability is expected to extend beyond the COP period in traumatic injury cases, the ICCO provides the employee with a CA-7 10 days before the end of the COP period. The employee is instructed to complete his or her portion, have the attending physician complete the CA-20. The ICCO submits the completed CA-7 to OWCP not less than 5 working days before termination of COP. In occupational disease claims, a CA-7 should be submitted along with the CA-2 if the disability is being claimed at that time. In other instances, the CA-7 is completed and submitted to OWCP not more than 5 days after the period claimed by the employee.

CA-8, Claim for Continuing Compensation on Account of Disability

The CA-8 claims compensation when disability continues beyond the time covered by the claim on the CA-7. CA-8s are filed on a recurring basis (usually every 2 weeks) until advised otherwise by OWCP. If disability is expected to continue, the ICCO provides the employee with the CA-8 at least 10 days before the end of the time indicated on either the CA-7 or the previous CA-8. The employee completes his or her portion, and has the attending physician complete the CA-20a. The ICCO submit the completed CA-8 to OWCP at least 5 days before the end of the period claimed on the CA-7 or the previous CA-8.

CA-10, What a Federal Employee Should Do When Injured at Work

The CA-10 provides employees with information regarding their rights, responsibilities, and benefits under FECA. The CA-10 is to be posted on employee bulletin boards.

CA-11, When Injured at Work

This pamphlet provides facts about medical benefits, disability, compensation for death, and other entitlements for civilian employees of the federal government. The CA-11 should be handed out during employee orientation.

CA-13, Work Injury Benefits for Federal Employees

The CA-13 is a card for federal employees to carry in their wallets as a reference. It provides instructions for employees and their families in the event of an employment-related injury or death. The CA-13 should be handed out during employee orientation.

CA-16, Authorization for Examination and/or Treatment

The CA-16 authorizes an injured employee to obtain examination and/or treatment for up to 60 days and provides OWCP with an initial medical report. The CA-16 forms are issued by the ICCO or trained control point personnel only. The CA-16 must be promptly issued within 4 hours in traumatic injuries requiring medical attention, except first-aid injuries where the employee has elected treatment by a contract medical provider. CA-16s are rarely used for occupational illness or disease claims and only with prior OWCP approval. If the employee chooses to select a contract medical provider beyond first-aid treatment, the CA-16 should be issued in accordance with FECA for the employee's selection of the contract medical provider as the employee's treating physician.

CA-17, Duty Status Report

The CA-17 provides management and OWCP with an interim medical report containing information as to the employee's ability to return to any type of work. Initially issued by the supervisor at the time of injury, subsequent issuances are performed by either the ICCO or control point personnel. The employee is responsible for having the attending physician complete the CA-17 at each visit when there is a change in medical condition and for its prompt return to the ICCO or control point. The ICCO submits the completed form to OWCP within 10 days from date of receipt.

CA-20, Attending Physician's Report

The CA-20 provides medical support for claims and is attached to the CA-7 which provides the ICCO and OWCP with medical information. The CA-20 is initially issued by the supervisor at the time of injury when the CA-16 is not used and when the injury is not a first-aid injury treated by a contract medical provider. Subsequent issuances are the same as for the CA-17. CA-20 must be submitted promptly to OWCP upon completion of most recent examination or treatment.

CA-20a, Attending Physician's Supplemental Report

The CA-20a provides OWCP with additional medical information in connection with a supplemental claim filed on an attached CA-8. A corresponding CA-20a is to be submitted with each CA-8 filed. The CA-20a must be submitted promptly to OWCP upon completion of most recent examination or treatment.

Evidence Required in Support of a Claim for:

- 35A, Occupational Disease**
- 35B, Work-Related Hearing Loss**
- 35C, Asbestos-Related Illness**
- 35D, Work-Related Coronary/Vascular Condition**
- 35E, Work-Related Skin Disease**
- 35F, Work-Related Pulmonary Illness (not asbestosis)**
- 35G, Work-Related Psychiatric Illness**
- 35H, Work-Related Carpal Tunnel Syndrome**

The 35A-through-H series of forms provides the employee and management with a checklist of information required from both parties in order for OWCP to adjudicate the respective occupational illness or disease claim. These forms should be submitted with the CA-2.

HCFA-1500, Health Insurance Claim Form

This form provides OWCP with a standard billing form to facilitate payment of medical bills. The HCFA-1500 is issued along with the CA-16, the CA-20, and the CA-17 when the employee is scheduled for medical examination and/or treatment.

Form 2556, Third Party Statement of Recovery

Form 2556 provides OWCP and the USPS with a breakdown of disbursements made from moneys recovered from a third party pursuit. This form is used when the employee is represented by an attorney or has assigned the action to the USPS. Upon the employee's recovery, the form must be completed promptly and forwarded to OWCP with a check for the government's lien by the ICCO.

Form 2573, Request - OWCP Claim Status

Form 2573 provides a standard format for requesting general claim status information from OWCP.

Publication 71, Notice for Employees Requesting Leave for Conditions Covered by the Family and Medical Leave Act

When an employee is absent from work because of an FMLA-covered injury or illness, a copy of Publication 71 is given to him or her along with the modified letter called Employee Rights, Responsibilities, and Choice of Physician.

ADDRESSES

OWCP District Offices

District 1 (Boston)

US Department of Labor, OWCP
JFK Federal Office Building, Rm. E-260
Boston, MA 02113
(617) 565-2137

District 2 (New York)

US Department of Labor, OWCP
201 Varick Street, Room 750
New York, NY 10014
(212) 337-2075

District 3 (Philadelphia)

US Department of Labor, OWCP
Gateway Building Room 15200
3535 Market Street
Philadelphia, PA 19104
(215) 596-1457

District 6 (Jacksonville)

US Department of Labor, OWCP
214 North Hogan Street, Suite 1006
Jacksonville, FL 32202
(904) 357-4777

District 9 (Cleveland)

US Department of Labor, OWCP
1240 East Ninth Street, Room 851
Cleveland, OH 44199
(216) 522-3800

District 16 (Dallas)

US Department of Labor, OWCP
525 S. Griffin Street, Room 100
800
Dallas, TX 75202
(214) 767-4707

District 10 (Chicago)

US Department of Labor, OWCP
230 S. Dearborn St., 8th Floor
Chicago, IL 60604
(312) 886-5656

District 11 (Kansas City)

US Department of Labor, OWCP
1100 Main Street, Suite 750
Kansas City, MO 64105
(816) 426-2195

District 12 (Denver)

US Department of Labor, OWCP
1801 California Street
Suite 915
Denver, CO 80202
(303) 844-1310

District 13 (San Francisco)

US Department of Labor, OWCP
71 Stevenson Street, 2nd Floor
San Francisco, CA 94105
(415) 975-4090

District 14 (Seattle)

US Department of Labor, OWCP
1111 Third Avenue, Suite 650
Seattle, WA 98101-3211
(206) 553-5508

District 25 (Washington, DC)

US Department of Labor, OWCP
800 N. Capitol St., NW Room
Washington, DC 20211
(202) 565-9770

DEFINITIONS

Assignment	A written agreement whereby the injured employee or beneficiary transfers his/her right to recover damages from a third party to the USPS and such offer is accepted by the USPS.
Beneficiary	An individual who is entitled to certain benefits under the ACT when the employee dies as a result of a job-related injury.
Benefits	Any of the following: <ol style="list-style-type: none">1. Continuation of pay (COP) paid by USPS (COP is not considered compensation by the OWCP)2. Money paid to claimants by the OWCP because of loss of wages or earning ability.3. Money paid in the form of schedule awards (e.g., loss of finger).4. Money paid as reimbursement for medical diagnostic and treatment services supplied under FECA5. Money paid to survivors of employees whose death is job-related.6. Certain payments to individuals who are participating in an approved vocational rehabilitation program.
Burden of Proof five	The claimant's responsibility to provide evidence to substantiate the following features of the claim: <ol style="list-style-type: none">1. The time2. The fact of USPS employment3. The fact of injury4. The fact of performance of duty5. The existence of causal relationship between job and injury
Challenge	The formal administrative procedure through which USPS management presents evidence to OWCP to dispute any element of an employee's claim for benefits that appears questionable.
Chargeback	The system of billing Postal Service Headquarters for payments related to OWCP approved claims and then having them charged to the local USPS installation having jurisdiction over the employee at the time of the injury or illness.
Claim	An assertion, in writing, of an individual's entitlement to benefits under FECA. This claim must be submitted on the required form. <ol style="list-style-type: none">1. A claim may be filed for a traumatic injury (Form CA-1), and occupational illness or disease (Form CA-2), or death (Form CA-5 or 5b).2. A claim for injury may include reimbursement for the replacement or repair of medical braces, artificial limbs, and other prosthetic devices, and for such time lost while such devices or appliances are being replaced or repaired. However, a claim is not appropriate for the replacement or repair of eyeglasses and hearing aids unless the damage or destruction is a direct result of a personal job-related injury requiring medical services.
Claimant	An individual whose claim for benefits and/or compensation has been filed in accordance with FECA
Claims Examiner	An OWCP employee possessing special training and experience in claims adjudication.
Compensation	Compensation refers to all listed items except COP.

COP	A benefit a traumatically injured employee may request, i.e., continuation of his/her regular pay with no charge to sick leave or annual leave for the first 45 calendar days of disability. COP is subject to taxes and all other usual payroll deductions. The 45-day calendar period begins at the start of the employee's first full tour following the day of injury, or the first day following the disability, whichever occurs sooner. COP can be received only if the disability begins within 90 days of the occurrence of the injury.
Contract Medical Provider	A duly licenses physician or medical facility under contract with the USPS and designated to perform specific medical duties.
Controversion	The formal administrative procedure through which USPS management presents evidence to OWCP to dispute an employee's claim for COP.
Daily Roll	A system used by OWCP for the payment of compensation payments when the term of disability is not likely to exceed 60 days, unless return to work is imminent. The employee must submit Forms CA-8 to support continued payment while on the daily roll system.
Damages	The measure of the injury for purposes of third-party liability. The USPS tries to recover compensatory damages (compensation for the injury). The two types of damages are: <ol style="list-style-type: none"> 1. Special damages (or specials), damages to which an exact dollar amount can be assigned, e.g., medical expenses. 2. General damages, those to which an exact dollar amount cannot be assigned, e.g., pain and suffering.
Fitness-for Duty	A physical examination conducted by a physician for the USPS (i.e., contract medical provider) to determine the employee's current medical status. The results of the FFD are documented on Form 2485, which becomes part of the OWCP case file. A copy is also maintained in the employee's official medical folder. The purposes of a FFD are to evaluate medical status, to confirm or verify limited duty capabilities, and/or to assist in the rehabilitation effort.
First-Aid Injury	A work-related minor injury that requires no more than two medical visits, the second of which is to confirm full recovery, and no lost time.
Injury	Traumatic or occupational injury. Includes damages to or destruction of medical braces, artificial limbs, and other prosthetic devices. The term does not include damage or destruction of eyeglasses and hearing aids, unless the damage is a direct result of a personal job-related injury requiring medical services.
Labor Distribution Code (LDC)	A payroll code number that identifies the major work assignment of the employee. The LDC's pertaining to injury compensation are: <ol style="list-style-type: none"> 1. LDC 68: LIMITED DUTY workhours of injured employee who is temporarily working in a modified assignment, either part- or full-time. LDC 68 should not be used when injured employee is performing: <ol style="list-style-type: none"> a. Core duties of regular assignment with minor modification or accommodation. b. Full duties of existing position other than his/her regular assignment. c. Same duties as those of regular positions at another location. 2. LDC 69: REHABILITATION PROGRAM workhours of injured employee who is permanently working in a modified assignment, either part- or full-time. LDC 69 should not be used when injured employee is permanently assigned to: <ol style="list-style-type: none"> a. Core duties of regular assignment with minor modification or accommodation. b. Another existing position for which he/she can perform core duties.

c. Residual vacancy for which he/she can perform the core duties.

Lien	A claim on the recovery of damages in order to satisfy a debt.
Light Duty	An assignment (temporary or permanent) of an employee partially disabled from a non-job-related injury or illness. Light duty assignments are subject to the “Light Duty” provisions of the applicable collective bargaining agreement and must be initiated by the employee in writing.
Limited Duty	A temporary assignment to accommodate a temporary partial disability as a result of a job-related injury (employee is expected to return to full duty or prognosis not yet determined; employee has not been declared permanently partially disabled).
Medical Emergency	An injury or sudden and unexpected onset of a condition requiring immediate medical care. Some problems are emergencies because if not treated promptly they might become more serious (e.g., animal bites, eye injuries, deep cuts, broken bones). Others are emergencies because they are potentially life-threatening (e.g., heart attacks, strokes, weapon wounds, sudden inability to breathe).
Modified Assignment	A temporary or permanent assignment designed to accommodate the specific medical restrictions of an injured employee. Normally, individual tasks are identified and combined to develop a modified assignment. These tasks are usually subfunctions and may be from multiple positions. Assigned tasks must be fully consistent with the physical limitations specified by the appropriate medical authority.
Monthly Pay	The greatest of the following: <ol style="list-style-type: none">1. Monthly pay at the time of injury2. Monthly pay at the time disability begins3. Monthly pay at time compensable disability recurs if the recurrence begins more than 6 months after the injured employee resumes regular full-time employment with the USPS or other government agency.
Occupational Illness	An illness or disease produced by one of the following: <ol style="list-style-type: none">1. Systemic infections2. Continued or repeated stress and strain3. Exposure to toxins, poisons, fumes, etc.4. Other continued and repeated exposure to conditions of the work environment over a longer period of time than a single day or work shift.
OWCP	The Office of the Department of Labor (DOL) that has overall responsibility for the administration of the Federal Employees’ Compensation Act.
Periodic Roll	A system utilized by OWCP whereby the US Treasury pays prolonged disability cases each 28 days and death cases each month automatically until advised otherwise by OWCP.
Physician	Any surgeon, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, or osteopathic practitioner used within the scope of his or her practice as defined by state law. <ol style="list-style-type: none">1. Chiropractors, if their reimbursable services are other than treatment consisting of manual manipulation of the spine to correct subluxation as demonstrated to exist by X ray.2. Naturopaths, faith healers, and other practitioners of the healing art, as they are not recognized as physicians within the meaning of FECA.
Prima Facie	Evidence that “on it’s face” supports the employee’s contention.

Recurrence	The reappearance of the original symptoms or pains of a previously reported and accepted injury. The recurrence must not have been caused by a specific act or series of acts.
Subrogation	The acquisition by one person of the rights of another person to bring a claim. This can occur only if the person making payment is legally obligated to do so. Technically, the USPS is not subrogated to an injured employee's rights against the third party. Rather, it has a lien against any recovery that is made.
Third Party Liability	Those instances in which an injury or illness suffered by an employee is caused by a person or organization not in the employ of the USPS or any branch of the federal government.
Tort	A wrongful act committed intentionally or negligently that causes injury. Third-party tort claims involve such acts resulting in injury to an employee.
Traumatic Injury	A wound or other condition of the body caused by external force, including stress or strain. The injury: <ol style="list-style-type: none"> 1. Must be identifiable as to time and place of occurrence and member or function of the body affected. 2. Must be caused by a specific event or incident or series of events or incidents within a single day or work shift. 3. May also include damage to or destruction of prosthetic devices or appliances.

QUESTIONS AND ANSWERS CONCERNING BENEFITS OF THE FEDERAL EMPLOYEES' COMPENSATION ACT (FECA)

GENERAL INFORMATION / DEFINITIONS

What is the Federal Employees' Compensation Act?

The Federal Employees' Compensation Act (FECA) is a law which provides compensation and medical benefits to civilian employees of the United States for disability due to personal injury (including occupational disease) sustained while in the performance of duty. Damage to or destruction of medical braces, artificial limbs, and other prosthetic devices incidental to a personal injury is also compensable. The FECA also provides for the payment of benefits to dependents if job-related injury or disease causes the employee's death.

Who administers the FECA?

The FECA is administered by the Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor, through district offices located throughout the United States. Each Postal Service Injury Compensation Specialist will have the address of the district office which serves a particular geographic area.

Are all work injuries covered under the FECA?

All injuries, including disease proximately caused, aggravated, accelerated, or precipitated by employment, sustained while in the performance of duty by employees of the U.S. Postal Service are covered.

The employee must provide medical and factual evidence to establish the essential elements of the claim, i.e., that the claim was filed within the statutory time requirements of the FECA, the injured or deceased person was an employee within the meaning of the FECA, the employee sustained an injury or disease, the employee was in the performance of duty when the injury occurred, and the condition found resulted from the injury. Benefits cannot be paid if injury or death is caused by willful misconduct of the injured employee, by intent to bring about the injury or death of oneself or another, or by intoxication of the injured employee.

Are only regular, full-time employees eligible for FECA benefits?

No. FECA coverage is extended to Federal employees regardless of the length of time on the job or the type of position held. There are some differences to how compensation rates are calculated, but that will be addressed in another question.

Is it necessary to report all injuries that occur at work, even minor injuries such as a scratched finger or bumped knee?

All injuries should be reported, since a seemingly minor injury may develop into a more serious condition. For protection, the employee should file a report of the injury with the immediate supervisor when it occurs. Benefits cannot be paid unless an injury is reported.

In the situation of a seemingly minor injury, a CA-1 should be filed with the supervisor. The claim will be treated as a "First Aid" case and retained at the District office in the employee's file with the Injury Compensation Specialist. The CA-1 is not forwarded to OWCP at this time. However, if a more serious condition arises as a result of this "First Aid" injury, the original CA-1 should be forwarded to OWCP for processing of entitlement to benefits.

How is a "Traumatic Injury" defined?

A traumatic injury is defined as a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable as to time and place of occurrence and member or function of the body affected. It must be caused by a specific event or incident or series of events or incidents within a single day or work

shift. Traumatic injuries include damage to or destruction of prosthetic devices or appliances, including eyeglasses and hearing aids if they were damaged incidental to a personal injury requiring medical services. (Reference: January 14, 1995 magazine article)

An employee may be exposed to toxic fumes, poisonous plants, or insects that cause injury. Are injuries from these hazards considered traumatic?

Yes, if the injury is the result of one day's exposure. If the exposure continues beyond one day or one shift it would be an occupational illness.

What is the definition of an "Occupational Disease or Illness"?

An occupational disease or illness is defined as a condition produced in the work environment over a period longer than one workday or shift. It may result from systemic infection, repeated stress or strain, exposure to toxins, poisons, fumes or other continuing conditions of the work environment. (Reference: January 28, 1995 magazine article)

Is a pre-existing condition that is aggravated by factors of employment covered by FECA?

Disease and illnesses aggravated, accelerated or precipitated by the employment are covered. The employee must submit medical and factual evidence that establishes that the employment aggravated, accelerated, or precipitated the condition. OWCP defines the following types of causal relationships:

1. Direct Causation - this type of relationship is shown when the injury or factors of employment, through a natural and unbroken sequence, results in the condition claimed (i.e., a fractured arm sustained in a fall would be considered a direct result of the fall).
2. Aggravation - This kind of relationship occurs if a pre-existing condition is worsened, either temporarily or permanently, by an injury arising in the course of employment (i.e., a back injury may aggravate a claimant's pre-existing degenerative disk disease, and compensation would be payable for the duration of the aggravation as medically determined).
3. Acceleration - An employment related injury or illness may hasten the development of an underlying condition (i.e., a claimant's diabetes may be accelerated by a work schedule which is so erratic that it prohibits the regular food intake required for this condition).
4. Precipitation - A latent condition which would not have manifested but for the employment (i.e., tuberculosis may be latent for a number of years, then become manifest due to renewed exposure in the work place).

Is a recurrence of an employment related disability covered by FECA?

Yes. If an injured employee is again disabled as a result of the original injury or occupational disease, there is coverage under FECA. The recurrence should be reported by completing Form CA-2a, "Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation." (Reference: May 20, 1995 magazine article). OWCP defines the following:

1. Recurrence of Medical Condition - this term is defined as the documented need for further medical treatment after release from treatment for the accepted condition when there is no work stoppage.
2. Recurrence of Disability - This term includes certain kinds of work stoppages which occur after an employee has returned to work after a period of disability. It includes a work stoppage caused by: a) a spontaneous material change demonstrated by objective findings, in the medical condition which resulted from a previous injury or occupational illness without intervening injury or new exposure to factors causing the original injury; b) a return or increase of disability due to an accepted consequential injury; or c) withdrawal of a limited duty assignment. This withdrawal must have occurred for reasons other than misconduct or non-performance of job duties.

Is there a specific form to be used for reporting an injury?

Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay / Compensation" is the form to use when reporting a traumatic injury.

Form CA-2, "Federal Employee's Notice of Occupational Disease and Claim for Compensation" is the form for reporting an occupational disease. In addition, the employee should be given two copies of the appropriate checklist, Form CA-35a - h, for the disease claimed (specific checklists have been devised for various conditions in order to facilitate submission of evidence).

CA-35A "Evidence Required in Support of a Claim for Occupational Disease"

CA-35B "Evidence Required in Support of a Claim for Work-Related Hearing Loss"

CA-35C "Evidence Required in Support of a Claim for Asbestos-Related Illness"

CA-35D "Evidence Required in Support of a Claim for Work-Related Coronary/Vascular Condition"

CA-35E "Evidence Required in Support of a Claim for Work-Related Skin Disease"

CA-35F "Evidence Required in Support of a Claim for Work-Related Pulmonary Illness (not asbestosis)"

CA-35G "Evidence Required in Support of a Claim for Carpal Tunnel Syndrome"

CA-35H "Evidence Required in Support of a Claim for Work-Related Psychiatric Illness"

Instructions attached to Forms CA-1 and CA-2 should be followed carefully. Form CA-1 should be filed as soon as possible, but no later than 30 days following the injury, and Form CA-2 should be filed within 30 days from the date the employee realized the disease or illness was caused or aggravated by the employment. (Exhibit 4: Forms Listing Chart)

Can someone besides the employee complete a notice of injury?

Yes. Forms CA-1 and CA-2 may be completed by another person, including the supervisor, acting on behalf of an injured employee who is incapacitated. The person making the report should complete and sign the Form CA-1 or CA-2, and should then submit it to the employee's supervisor.

Is an employee considered to be in performance of duty for compensation purposes 24 hours a day while in travel status?

An employee in travel status is covered 24 hours a day for all activities that are reasonably incident to the employment being performed in such status. This does not include travel for union business. It only covers travel required by the U.S. Postal Service.

Is an employee covered by compensation if injured while going to and from work?

Employees are not generally covered by the FECA for injuries sustained before they reach or after they have left Government premises. Exceptions to this rule include situations where the agency furnishes transportation to and from work, where the employee is required to travel during a curfew or an emergency, or where the employee is required to use his/her automobile during the work day. An employee who believes a particular injury is an exception to the general rule should file a claim with OWCP.

A rural letter carrier is considered to be in the performance of duty while driving his/her own vehicle between home and the Post Office and between the Post Office and home, provided the record shows that the Post Office required him/her to furnish the vehicle for handling the mail. As you will note, this coverage only involves the drive to and from the Post Office in a direct line of travel. If you are making stops on the way to the Post Office outside of the direct line of travel, you may jeopardize your coverage under FECA, unless this practice was known and authorized by the Post Office. You would not be compensated for an injury sustained prior to getting into the car to head to work. If you are delivering mail in an LLV, you would not be covered under FECA on the ride to and from work.

Are recreational injuries covered under the FECA?

An employee is covered while engaged in recreation which he or she is required to perform as a part of training or assigned duties or which occurs in pay status. Employees engaged in informal recreation, such as jogging, while on the employing agency's premises may also be covered, as may employees injured while engaged in activities approved in a documented individual plan developed under a formal agency-managed physical fitness program. Under other circumstances, the agency must explain what benefit it derived from the employee's participation, the extent to which the agency sponsored or directed the activity, and whether the employee's participation was mandatory or optional.

Is an employee entitled to compensation if injured while on coffee break?

Generally speaking, if an employee is on Government premises for the purpose of performing service and is injured, there is coverage under FECA. Otherwise, complete information regarding the absence from the premises will have to be obtained before a determination can be made.

Is an employee covered by FECA if injured while at lunch?

If the employee is on Government premises for the purpose of performing service and is injured while at lunch, coverage will be extended. Injuries which occur during lunch hour off the premises are not ordinarily covered unless the employee is in travel status or is performing regular duties off premises. As a rural carrier you would be considered to be performing regular duties off premises during a regularly scheduled lunch break. However, if you veer from a direct line of travel for lunch breaks, you would not automatically be covered for any injury sustained, unless this practice was known and authorized by the Post Office.

What must an employee do to receive benefits when injured at work?

An employee injured at work should do the following:

- a) Report the injury immediately to the supervisor and obtain first aid as necessary;
- b) If further medical treatment is needed, obtain authorization (Form CA-16) from the supervisor for treatment by a physician or hospital of the employee's choice.
- c) Complete a written report (Form CA-1 or CA-2) and submit it to the supervisor (someone else may complete the report on the employee's behalf) as soon as possible, but not later than 30 days of the date of injury or illness;
- d) Furnish the supervisor with medical evidence of a disabling traumatic injury within 10 workdays of claiming continuation of pay (COP).

Does an employee need an attorney or other representative in order to file a claim for compensation?

No. If desired, however, the employee may obtain the services of an attorney or other representative. If representation is obtained, the employee should not pay any fee for services in connection with the claim until OWCP has approved the amount of fee, unless the payment is made to an escrow account pending OWCP's fee approval. OWCP will not, however, pay the fee or be a party to its collection.

Is there a time limit for filing notice of injury and claim for compensation?

Yes. A claim for compensation must be filed within three years of the date of the injury. If a claim is not filed within three years, however, compensation may still be allowed if written notice of injury was given within 30 days or the employing agency had actual knowledge of the injury within 30 days after occurrence. 5 USC 8122 outlines timely filing requirements for occupational disease claims.

How long can I expect it to take for my claim to be adjudicated by OWCP?

OWCP District offices are required to maintain control of case adjudication, compensation and bill payments, and responses to priority inquiries. The standards and goals are as follows:

Processing of a Traumatic Injury:

85% within 45 days
95% within 120 days
99% within 180 days

Processing Occupational Illness:

70% within 180 days
90% within 300 days
98% within 365 days

Medical Payments:

75% within 28 days
95% within 60 days

Compensation Payments:

80% within 14 days
85% within 45 days

Does the employing agency have the authority to approve or disallow a claim?

No. Only OWCP has the authority to adjudicate a claim for compensation. While the employing agency has a role in paying or withholding COP, this action is reviewed in every case by OWCP.

What key items need to be addressed when filing a claim with OWCP?

There are five basic elements to a "prima facie" case. "Prima Facie" is defined by OWCP to represent a claim that is valid at first glance.

1. Time: written notice of injury or death must be filed within 30 days after the occurrence of the injury or death. Original claim for compensation for disability must be filed within 3 years after the occurrence of injury or death. (5 USC 8122 for occupational disease claims)
2. Civil Employee: generally this is not a concern. The completion of the supervisor's portion of the claim form is all the proof needed by OWCP.
3. Fact of Injury: must show that the accident claimed did in fact occur at the time and place and in the manner alleged and caused a documented medical condition. In Occupational Illness claims, where the claim is not based on a specific incident, the claimant must also submit sufficient evidence to identify fully the particular work conditions alleged to have caused the disease and show that he/she was exposed to the conditions claimed.
4. Performance of Duty: must show not only that an injury occurred, but that he/she was performing official duties (or activity appropriately related to employment) at the time of injury.
5. Causal Relationship: the question of causal relationship is a medical issue which usually requires reasoned medical opinion for resolution. Basically, your physician has to state a clear diagnosis of your condition, provide all diagnostic test results, and show how your employment caused or contributed to your condition.

If an employee qualifies for disability retirement under the Civil Service Retirement Act, does this automatically mean that the employee is qualified to receive compensation benefits?

No. To be eligible for compensation benefits, it must be established that an employee is disabled for regular work as the result of an employment related injury. The Office of Personnel Management will consider disability whether it is employment related or not.

How much does compensation coverage cost a Federal employee?

No salary deductions are made for compensation coverage under the FECA. Coverage is extended if the person qualifies as an employee of the Federal Government and if the injury falls within the purview of the Act.

If an employee sustains a job-related injury and also suffers damage to personal property, such as clothing, can the employee be paid for such loss?

Except for prosthetic devices or appliances, the FECA contains no provision for reimbursement for loss of personal property. The employee may claim reimbursement for personal property from his or her employing agency under the Military and Civilian Personal Property Act of 1964, 31 USC 240.

What is the penalty of filing a false a claim?

Federal law (18 USC 1920) provides: "Whoever makes, in an affidavit or report required by section 8106 of title 5 in a claim for compensation under subchapter I or chapter 81 of title 5, a statement, knowing it to be false, is guilty of perjury and shall be fined not more than \$10,000 or imprisoned not more than five years, or both" (or \$10,000 and 10 years for conspiracy to commit fraud).

What recourse does an employee have if his or her supervisor refuses to accept a notice of injury or claim for compensation?

OWCP should be notified of such refusal. Federal law also provides in 18 USC 1922 that: "Whoever, being an officer or employee of the United States charged with the responsibility for making the reports of the immediate superior specified by section 8120 of title 5, willfully fails, neglects, or refuses to make any of the reports, or knowingly files a false report, or induces, compels, or directs an injured employee to forego filing of any claim for compensation or other benefits provided under subchapter I of chapter 81 of title 5 or any extension or application thereof, or regulations prescribed thereunder, shall be fined not more than \$500 or imprisoned not more than one year, or both."

CONTINUATION OF PAY

What is Continuation of Pay (COP)?

COP is continuation of an employee's regular salary for up to 45 calendar days of wage loss due to disability and/or medical treatment following a traumatic injury. The intent of this provision is to eliminate interruption of the employee's income while OWCP is processing the claim. COP is not considered compensation and is therefore subject to deductions for income tax, retirement, etc... Where there is no immediate time loss, the first day time is lost following the date of injury which is due to the injury becomes the first day of COP. Federal regulations state the first day of COP must be taken within 90 days of the date of injury.

How is COP calculated for regular carriers and leave replacements?

COP for regular carriers is simply regular pay for lost work days. For leave replacements, who are considered "when actually employed" (WAE) employees, OWCP uses the annual salary earned one year prior to the date of injury, divided by the number of weeks worked. The annual earnings used for this computation must not, however, be less than 150 times the average daily wage earned within 1 year before the date of injury. (The daily wage is the hourly wage multiplied by eight.) (Reference August 26, 1995 magazine.)

What form should be used to claim Continuation of Pay (COP)?

The injury should be reported on Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation" within 30 days of the injury. If notice is not given within 30 days, entitlement to COP is forfeited.

What is the definition of "controvert" as it pertains to COP?

The term "controvert" means to dispute, challenge, or deny the validity of a claim for COP. The term "controvert" is also used to apply to the validity of the claim. Even if the Postal Service controverts the claim, COP must be paid until a final ruling by OWCP is made.

Is an employing agency required to continue pay in all cases of job related, disabling traumatic injuries?

Unless the employing agency controverts the claim for one of the reasons listed below, the employee is entitled to continuation of pay (COP) for up to 45 calendar days of disability. The employing agency must continue the employee's pay unless the controversion is based on one of the following reasons:

- a) The disability is a result of an occupational disease or illness;
- b) The employee comes within the exclusions of 5 USC 8101 (1)(B) or (E), which refer to persons serving without pay or nominal pay, and to persons appointed to the staff of a former President, or is an individual selected pursuant to Chapter 121 of Title 28 and serving as a petit or grand juror and who is not otherwise an employee of the United States;
- c) The employee is neither a citizen nor a resident of the United States or Canada (i.e., a foreign national employed outside the areas indicated);
- d) The injury occurred off the employing agency's premises and the employee was not engaged in authorized "off premises duties";
- e) The injury was caused by the employee's willful misconduct; the employee intended to bring about the injury or death of himself/herself or another person; or the employee's intoxication by alcohol or illegal drugs was the proximate cause of the injury;
- f) The injury was not reported on a form approved by OWCP (usually Form CA-1) within 30 days following the injury;
- g) Work stoppage first occurred 90 days or more following the injury (for injuries on or after June 1, 1987);
- h) The employee initially reported the injury after employment was terminated;
- i) The employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, Youth Conservation Corps, work study program, or other group covered by special legislation.

Can the employing agency terminate COP for any other reason?

Yes. the employing agency can terminate COP if:

- a) The employee does not provide the agency with medical evidence of a disabling traumatic injury within 10 work days of claiming COP. The requirement can be waived if the supervisor is satisfied that the employee sustained a disabling traumatic injury. Retroactive reinstatement of COP is provided where evidence is received after the 10days and supports disability; or
- b) The injured employee's physician has found the employee to be partially disabled and the employee refuses suitable work or fails to respond to the job offer within five work days; or
- c) The injured employee's scheduled period of employment expires or employment is otherwise terminated, provided the date of termination or period of employment is established prior to the date of injury.

Will I be eligible for COP if I have filed a CA-2 for an Occupational Disease?

There is no provision for COP in occupational disease claims. The injured employee must elect Leave without pay (LWOP) or Sick/Annual leave for the period prior to adjudication by OWCP.

Does the employing agency have the right to interrupt COP if a disciplinary action has been taken against an employee?

No. The employing agency cannot interrupt COP as a result of disciplinary action. COP can be terminated if employment is terminated as a result of disciplinary action, provided final written notice of termination is issued prior to date of injury.

What happens if the injured employee's disability goes beyond the 45 day period?

If it appears that the disability will continue beyond 45 days, the employee and the employing agency should complete Form CA-7 "Claim for Compensation on Account of Traumatic Injury or Occupational Disease", and submit it on the 40th day of COP to the appropriate OWCP district office.

Can the employing agency require the employee to use annual or sick leave during the 45 day period pending OWCP's adjudication of a traumatic injury?

No. The employee cannot be required to use leave when he or she suffers a traumatic injury. If COP is controverted and terminated the employee has the option of using leave or taking leave without pay and applying for compensation.

If an employee elects to use sick and/or annual leave instead of COP during the first 45 days of disability in a traumatic injury case, will COP start after the leave expires?

No. The employee may use leave or receive COP following the injury; however, the 45 day period commences on the first day or first shift after the date of injury on which disability occurs.

Can an employee request that his or her leave record be changed to reflect COP if leave has been elected?

An employee may request that his or her leave record be changed within one year after the date leave was used or the date the claim was accepted, whichever is later. If otherwise entitled, the employing agency must change the pay period of leave to COP and restore leave.

COMPENSATION FOR WAGE LOSS

What form should be used to claim compensation for loss of pay if the employee is disabled by an occupational disease or illness?

Form CA-7, "Claim for Compensation on Account of Traumatic Injury or Occupational Disease", is the form used to claim compensation for lost pay resulting from an on-the-job injury. In the case of an occupational disease claim, a CA-7 should be submitted the first pay period where there is wage loss. For a traumatic injury, the CA-7 should be submitted on the 40th day of COP, if wage loss is expected to continue beyond the 45 day COP period.

When and how often should I submit a claim for lost wages?

A CA-7 should be submitted for the first period that wages are lost. After the initial period covered on the CA-7, all future periods of lost wages should be claimed on a CA-8. A CA-8 should be submitted every 2 weeks until OWCP states otherwise.

How long will it take OWCP to process my CA-7 or CA-8?

Each claims examiner generally has a standard of 14 calendar days, from the date the claim is received into the office, to review and take action on a payment. The action could be for processing a payment or further developing the claim.

Is there a maximum period of time during which an employee can receive compensation payments for wage loss?

No. An employee can receive compensation payments for as long as the medical evidence shows that total or partial disability is related to the accepted injury or condition. OWCP requires most individuals receiving compensation for total disability to undergo medical examinations at least once a year. The evaluation is usually obtained from the employee's attending physician. OWCP may, however, require the employee to be examined by another physician.

Can an employee receive compensation payments while on sick or annual leave?

No. An employee must be in a leave-without-pay status before compensation for wage loss is payable.

Does an employee have to use any or all accumulated sick or annual leave before compensation may be paid?

No. An injured employee has a choice of using sick or annual leave or going on LWOP and claiming compensation. The injured employee makes this decision. The repurchase of leave can be costly to the employee.

When do compensation payments begin?

Compensation payments can be made after wage loss begins and medical evidence shows that the employee is unable to perform the duties of his/her regular job. In a traumatic injury, compensation for loss of wages is payable after a three-day waiting period following expiration of the 45 days of COP. If disability exceeds 14 days beyond the expiration of COP, no waiting days are charged. In traumatic injuries where there is no COP entitlement and in non-traumatic injuries, compensation for loss of wages is payable after the initial three-day waiting period. No waiting period is required when the disability causing wage loss exceeds 14 days.

Can an employee use sick leave or annual leave to satisfy the three-day waiting period?

No, the employee must be in a LWOP status. Any day or fraction of a day in which pay loss occurs can be counted as a waiting day. Saturdays, Sundays, and holidays not falling within a period of leave may also be counted as waiting days.

How are disability compensation payments computed?

Compensation is paid at two-thirds of the employee's pay rate if he or she has no dependents, or augmented to three-fourths of the pay rate if he or she is married or has one or more dependents. Compensation payments are tax free. OWCP calculates compensation rates for regular rural carriers as the evaluated salary at the date of injury, date disability began or date of recurrence. Evaluations in excess of 40 hours per week are not considered overtime for compensation purposes. In the case of leave replacements, OWCP uses the salary from the year prior to the date of injury divided by 52 in order to calculate weekly compensation rates.(Reference: August 26, 1995 magazine)

How does OWCP determine the salary used in calculating my compensation rate?

The pay rate OWCP uses to determine the claimant's weekly salary is the greater of:

- a) date of injury - pay rate the date of the injury
- b) date of recurrence - pay rate the day of the recurrence only if the recurrence occurs more than 6 months after employee's first return to regular full-time duty following the injury
- c) date disability began - pay rate on the first day the employee loses time from work due to accepted condition

Who may qualify as a dependent to entitle an employee to compensation at the three-fourths rate?

The following are considered dependents for compensation purposes:

- a) A wife or husband residing with the employee or receiving regular support payments from him/her, either court ordered or otherwise;

- b) An unmarried child who lives with the employee or who receives regular contributions of support from him/her, and who is under the age of 18, or over the age of 18 and incapable of self-support due to physical or mental disability;
- c) A student between 18 and 23 years of age who has not completed four years of post-high school education and who is regularly pursuing a full-time course of study;
- d) A parent who is wholly dependent upon and supported by the employee.

Is the three-fourths compensation rate applicable to an employee who is divorced and pays child support?

Yes, provided the employee is making regular contributions to the support of the child.

Is the three-fourths compensation rate applicable to an employee who is making alimony payments?

No. The definition of dependent does not include ex-wife or ex-husband. If an employee is making alimony payments, and has no other dependents, the three-fourths compensation rate does not apply.

Are there any deductions made from "continuation of pay" or from compensation?

Continuation of Pay is not compensation and is subject to the usual deductions. The only regular deduction from compensation are for the employee's share of health benefit premiums, for optional life insurance, and post retirement basic life withholdings if the employee is enrolled in these plans.

Are compensation payments subject to Federal income tax?

Not at the present time. FECA beneficiaries should refer annually to instructions provided by the Internal Revenue Service.

Is there any limit on the total amount of compensation payable?

No, but the maximum pay rate can not exceed three-fourths of the highest rate of basic pay provided for Grade GS-15.

Are night differential, hazard, premium, holiday, Sunday pay and overtime included in the pay rate used for compensation purposes?

All are included in determining the pay rate on which compensation is based except overtime pay, which is excluded by law. The evaluated pay system of rural carriers is not considered overtime.

If an employee's salary increases while he or she is receiving compensation (due to an in-grade increase or promotion), will the compensation reflect the increase?

Salary increases taking effect during a period in which compensation is being paid will not increase the amount of compensation.

Is the amount of compensation increased as the cost of living rises?

Yes. In general, if a claimant has been entitled to compensation for more than a year, the law provides for increases based upon the rise in the cost of living. These increases are made automatically in all eligible cases once each year on March 1.

Under what circumstances can compensation be terminated or suspended?

- a) Compensation will be terminated if medical evidence is submitted which indicates that the employee no longer has residual limitations from the accepted condition and can return to the former job without limitations.
- b) Compensation will be terminated if the previous employer makes a suitable job offer which is refused by the employee, and the cause for refusal is not considered reasonable. OWCP will determine the suitability of the job offer and refusal.
- c) Compensation will be terminated when the employee returns to work (Limited Duty) with no loss in pay.
- d) Compensation can be suspended if the employee does not cooperate with a specific directive from OWCP (such as a request to report for medical examination).
- e) Compensation can be suspended for failure of the employee to respond within 30 days to a request for information on employment/earnings, dependents, or dual benefits.²
- f) Compensation can be suspended for failure of a beneficiary in a death case to respond to a request for information on continuing entitlement, including student status.

Are compensation payments subject to claims by creditors?

The FECA specifically provides that assignment of a claim for compensation is void and all compensation payments are exempt from the claims of creditors.

Disability compensation payments are, however, subject to garnishment for alimony, child support payments if the legal process is served in accordance with State law and workers' compensation payments are garnishable for those purposes under the law of the State where the process is issued.

² Where response is subsequently received, reinstatement of benefits is retroactive to date of suspension, if appropriate.

LEAVE BUY BACK

If an employee uses sick or annual leave due to an on-the-job injury, is there any method by which the leave can be restored and compensation paid instead?

Such leave may be repurchased, subject to agency concurrence, if the claim is approved and the medical evidence shows the employee was unable to work because of the injury during the period claimed. An employee who chooses to use sick or annual leave may request "leave buy back" by submitting Form CA-7a and CA-7b to OWCP through the employing agency. Any compensation payments is to be used to partially reimburse the agency for the leave pay. The employee must also arrange to pay the agency the difference between the leave pay based on 100 percent of the employee's usual wage rate and the compensation payment which is paid at 2/3 or 3/4 of the wage rate. The agency will then restore the leave to the employee's leave record. (Reference: June 17, 1995 magazine)

Will OWCP require an employing agency to grant an employee's leave buy back request?

No, this is solely an agency decision. Generally the USPS limits leave buy back to one year from the date that leave was used.

APPEAL RIGHTS

If an employee or the survivors disagree with a final determination of OWCP, what recourse is available?

OWCP includes a description of the available appeal rights with each formal decision. This formal decision will also outline the deficiencies in your claim and provide you with information as to what is needed to have the claim approved. According to the appeal rights provided, the employee may:

- a) Request an oral hearing before an OWCP representative. Such a request must be made in writing, within 30 days of the date of the decision, as determined by the postmark of his or her letter. The employee will be given the opportunity to present oral testimony and written evidence in further support of his/her claim. The hearing will be held at a location in the employee's area, and the employee may be represented at the hearing by any person authorized by him or her in writing. This process can take anywhere from 6 months to 1 year before an oral hearing is actually scheduled. Once a hearing has been held, a decision is generally rendered in 90 days.
- b) Request review of the written record by a hearing representative appointed by the Director of OWCP. This examination must be requested within 30 days of the date of the decision. The employee will not be asked to attend or give oral testimony, but may submit additional written evidence. This process generally takes 90 days for a decision. Requests for oral hearing or review of the written record should be addressed to Branch of Hearings and Review, Office of Workers' Compensation Programs, P.O. Box 37117, Washington, DC 20013-7117. A request for a hearing (written or oral) must be made before any request for reconsideration by the district office. The employee will have the right to request reconsideration or appeal if he or she disagrees with the hearing representative's decision.
- c) Request in writing that OWCP reconsider its decision. Such a request must be made within one year of the date of the decision, clearly state the grounds upon which reconsideration is being requested, and be accompanied by additional evidence not previously submitted, such as medical reports, or a legal argument not previously made. The request for reconsideration should be sent to the appropriate district office. Once received at the District Office and assigned to a senior claims examiner, a decision is generally made within 90 days. A request for reconsideration will not be considered if it is filed more than one year after the date of the decision which is being disputed.
- d) If the employee believes that all available evidence has been submitted, he or she has the right to appeal to the Employees' Compensation Appeals Board (ECAB) for review of the decision. Review by the ECAB is limited to the evidence of record; no new evidence may be submitted. The request should be made within 90 days of

the date of the decision and should be addressed to Employees' Compensation Appeals Board, 300 Reporters' Building, 7th and D Streets, S.W., Washington, DC 20210. The ECAB may waive the time for filing up to one year if good cause is shown for the delay and the application is made within one year from the date of the OWCP decision. Generally this is the most time consuming of appeal rights. It generally takes 1 year for the Board to meet to discuss your claim. If the ECAB fails to overturn the original denial, there is no further appeal right recourse. The ECAB is a separate entity in the U.S. Department of Labor which is authorized to consider and make final determinations on appeals from decisions made by OWCP.

If a claimant disagrees with the decision of OWCP or the ECAB, can review be obtained through a State of Federal court system?

No. An employee's exclusive remedy lies within the appeal structure of OWCP. Once a final ruling has been made by ECAB, there are no further outlets to have the decision overturned.

May an attorney represent a claimant before the ECAB and in the case of an oral hearing?

Yes. A claimant may be represented by an attorney or by any other person authorized by the claimant. However, in the instance of an oral hearing, the presence of an attorney is not necessary. These oral hearings are informal in nature. If you select an attorney or other representation, the ECAB must approve any fee for such representation. The National Rural Letter Carriers' Association is not contractually required to offer assistance with appeals through the Department of Labor.

Who approves the amount of the fee charged for representing a claimant before OWCP?

The OWCP will approve a fee based on an itemized statement submitted by the representative showing the work done. OWCP does not honor contingency fee agreements, and a claimant should not pay any fee prior to approval by OWCP (except when paid into an escrow account pending OWCP's fee approval).

Will the OWCP pay the cost of legal services in the event the claimant obtains representation?

No. The OWCP can neither direct the payment of nor assist in the collection of legal fees. These matters must be resolved by the claimant and the representative.

HEALTH/LIFE INSURANCE

Are deductions made from compensation for health benefits coverage?

The Postal Service has indicated to the Department of Labor that health insurance premium withholdings will be made by the Postal Service for their employees while they are working limited duty or are using Sick/Annual leave.

Once an injured rural letter carrier is returned to limited duty, health insurance premiums will be deducted from the limited duty salary paid directly by the Postal Service.

If you are totally disabled for a short period of time (i.e., less than 6 months in an LWOP status), your premiums will be deferred until you return to either full duty or limited duty, at which time your premiums will be withheld.

Enrollment in a Federal Employees' Health Benefit (FEHB) Plan will continue for a rural carrier who is on the rolls of OWCP for total disability, if he/she has been enrolled in a FEHB plan for the five years of service immediately preceding the start of OWCP compensation, or during all service since his/her first opportunity to enroll.

Once it appears that an injured employee will be disabled for 6 months or more, the Postal Service will transfer FEHB coverage to the Department of Labor. The first year that you are receiving compensation from OWCP on total disability, the employee portion of the premiums will remain the same amount that was being withheld from your check by the Postal Service. The second and all future years on compensation will show an increase in the employee portion based on general federal premium amounts. This increased premium that is being withheld from your

OWCP compensation check will be refunded by the Postal Service as long as you are still on agency rolls. (Reference: October 7, 1995 magazine)

May an employee change health benefit plans at any time?

An employee may reduce his/her coverage at any time within the same plan, or may change options within the same plan at any time if marital or family status changes. However, changing from one plan to another is possible only during Open Season, which is held once a year, usually in November. Individuals receiving compensation payments receive notification of Open Season and instructions for reporting changes directly from OWCP.

What happens if an injured employee cancels health benefits while receiving compensation? Is it possible to re-enroll?

If the injured employee cancels his/her health benefits while receiving compensation, there is no entitlement to re-enroll until the employee returns to work or is reemployed with another Federal agency. However, if after re-enrollment the injured employee sustains a recurrence of the injury or sustains a new injury, the eligibility requirements above would have to be met.

Are deductions made from compensation for basic Government life insurance?

No. Employees continue to be protected by basic Government life insurance coverage, without cost, as long as FECA benefits are paid and the employee is unable to resume usual employment due to the employment related injury. However, if a compensation recipient elects Post-Retirement Basic Life Withholdings, OWCP is responsible for deducting premiums when advised to do so by the Office of Personnel Management.

Are deductions made for optional life insurance coverage?

Yes, if one of the following requirements is met:

- a) The employee was enrolled in optional life insurance at first opportunity; or
- b) The employee was enrolled in optional life insurance for five consecutive years prior to the date leave without pay began.

Who should be contacted concerning specific questions regarding payment of benefits for regular or optional life insurance?

Employees should contact the Office of Personnel Management at 1900 E Street, N.W., Washington, DC 20415

SURVIVORS

Is a spouse entitled to any benefits if an employee dies as a result of an employment related injury or disease?

Yes. If no children are eligible, an employee's spouse will receive monthly compensation at the rate of 50% of the deceased employee's salary.

Will both a spouse and children be entitled to compensation benefits if an employee dies as a result of an employment related injury or disease?

Yes. If children are entitled, a spouse will receive monthly compensation at the rate of 45% of the decedent's salary. An additional 15% is payable for each child up to a total of 75% of the salary. Total monthly compensation for all dependents cannot exceed 75% of the monthly salary.

If there is no widow or widower, what is the compensation rate for children?

Compensation for the first child is 40% and each additional child is entitled to 15% of the employee's salary, up to a maximum of 75%, payable on a share and share alike basis.

Are eligible surviving family members entitled to coverage under a deceased employee's health benefits plan while receiving OWCP death benefits?

Yes, if the following requirements are met:

- a) Decedent was enrolled in plan for self and family at the time of death;
- b) At least one of the covered family members is entitled to receive compensation as a surviving beneficiary under the FECA; and
- c) Decedent was either enrolled in a health benefits plan at first opportunity; or
- d) Decedent was enrolled in a health plan for five consecutive years

Are there any burial expenses payable if an employee dies as the result of a work injury?

Burial expenses up to \$800 are payable. If the Veterans Administration also pays a burial allowance, the VA allowance must be deducted. If the employee dies away from his/her area of residence, the cost of transporting the body to the place of burial will be paid in full. In addition, a \$200 allowance will be paid in consideration of the expense of terminating the deceased's status as a Federal employee.

Is a surviving spouse's compensation terminated upon remarriage?

If the remarriage occurs at age 60 or later, compensation will continue. If the remarriage occurs prior to age 60, compensation terminates, but the surviving spouse will be paid a lump sum equal to 24 times the monthly compensation.

For how long are children entitled to FECA benefits?

Compensation for a child ceases when the child marries or reaches age 18. It can be continued, however, after age 18 provided the child is a full-time student, unmarried, under age 23, and has not completed four years of education beyond high school; or is incapable of self-support because of physical or mental disability.

In addition to a surviving spouse and children, are other dependents entitled to death benefits?

Yes. Compensation can be paid on behalf of dependent parents, grandparents, brothers, sisters, and grandchildren at various percentages specified by the FECA according to the degree of dependence.