OWCP

Office of Workers Compensation Guide

By Region 15 RAA

Bruce Didriksen

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A compilation of frequently asked questions and answers.

The Office of Workers Compensation Programs is a subsidiary of the United States Department of Labor, charged with the administration of the Federal Employees' Compensation Act (FECA).

The FECA is found in Title 5, United States Code, Chapter 81.

The United States Department of Labor promulgated regulations to comply with the law. These regulations are found in Title 20, Code of Federal Regulations, Chapter 10.

There are 22 OWCP districts in the United States. The District #1 office in Boston, Massachusetts, is responsible for claims that originate in Connecticut. The District #2 office in New York, New York, is responsible for claims that originate in New Jersey, New York, and the Caribbean.

While claims are initially assigned to the District Office which covers the workplace where the injury/illness occurs, the claim will normally be transferred to the District Office which covers the location of the claimant's residence. Region 15 members who reside in Pennsylvania will normally have their claims transferred to the Philadelphia District Office (District #3).

How can I get information regarding the status of my OWCP claim

By Mail: **Office of Workers' Compensation Programs**
United States Department of Labor
P.O. Box 8300
London, KY 40742-8300

By Telephone: **New York District Office: 1-212-863-0800**
Boston District Office: 1-617-624-6600

Automated Case Status Retrieval System: 1-866-692-7487
(The OWCP case file number and last four digits of SSN needed for access)

By internet: **http://owcp.dol.acs-inc.com/portal/main.do**

Information available on this site:

- Accepted conditions.
- Bills received and current status.
- Medical authorization requests received and current status.
- Eligibility for medical services and supplies (must have procedure code for services or supplies for which inquiry is made)
- Claim Status (via CQS)
- Forms CA-7 received and current status (via CQS)
- Form CA-7 payments made and/or scheduled to be made (via CQS)

HOW DO I CLAIM INJURY/ILLNESS UNDER THE FECA?

OWCP Form CA-1:

> This form is used to claim ***traumatic injury.*** A traumatic injury is defined as a condition which is related to work factors that occur during the course of ***one*** work day.

OWCP Form CA-2:

> This form is used to claim ***occupational illness or injury.*** An occupational illness or injury is defined as a condition which is related to work factors that occur over a period ***greater than one work day.***

OWCP Form CA-2a

> This form is used to claim a ***recurrence.*** We will discuss recurrences in more detail later in the program.

There are four standards that OWCP uses to determine whether a condition is ***compensable*** under the FECA:

a) Direct causation: an event (or series of events) at work was the direct cause of a medical condition.

b) Aggravation: an event (or series of events) at work exacerbated a pre-existing medical condition. The pre-existing condition can be either *job-**related*** or ***non-job related.*** The aggravation can be either permanent or temporary.

c) Acceleration: an event (or series of events) at work caused the permanent deterioration of a pre-existing medical condition at an irreversible, accelerated rate.

d) Precipitation: an event (or series of events) at work caused a preexisting condition to develop into a new medical condition.

WHAT MEDICAL EVIDENCE IS REQUIRED TO BE SUBMITTED TO FACILITATE APPROVAL OF AN OWCP CLAIM?

The following medical information should be included in the initial medical evidence to avoid denial and prevent unnecessary delays in approval of the claim:

- Date(s) that the patient was seen by the physician.
- Some indication that the physician was advised by the injured worker about how the injury or illness occurred.
- A ***diagnosed condition.*** "Pain" is ***not*** a diagnosis, it is a symptom.
- Description of prescribed treatment.
- Projected period of disability and/or medical restrictions for limited work.
- ***Causal relationship.*** More claims are denied because causal relationship has not been established than any other reason. The physician ***must*** establish, through a narrative, the relationship between the work and the diagnosed condition. Statements that are limited to "in my medical opinion, the condition was caused by the patient's work" are not sufficient, because they are not ***rationalized.*** In order for a medical opinion to be considered rationalized, there must be an explanation by the physician of ***how*** he/she came to the conclusion that a ***causal relationship*** exists.

Medical reports signed by a nurse or a physician's assistant will only be accepted if countersigned by the physician himself/herself. Under the FECA, a chiropractor is only considered ***a physician*** if the condition being treated is ***subluxation of the spine.***

HOW DO I GET PAID FOR WAGE LOSS?

Continuation of Pay:

If the claim is for a ***traumatic injury*** on Form CA-1, the law requires the agency (USPS) to pay the initial 45 days as "continuation of pay". Due to a federal law passed in late 2006, the COP period is subject to a ***three day*** waiting period. The claimant may use LWOP, S/L or A/L during this three day period. If the incapacitation exceeds ***fourteen calendar days***, the leave used during the first three days will be converted to COP. If an injured employee returns to duty before the 45 days expires, any unused COP can be used if a ***recurrence*** occurs within 45 days of the return to duty.

If an injured worker has still not submitted any supporting medical evidence within ***ten days*** of the "date of injury", the agency (USPS) is authorized to terminate COP.

Form CA-7:

For ***traumatic injury*** claims, Form CA-7 is filed for any wage loss incurred after the expiration of the COP period.

For ***occupational illness or injury*** claims, Form CA-7 is filed for any wage loss incurred from the first date of incapacitation.

The injured worker has the option to use his/her own leave (sick or annual) rather than wait for the claim to be approved. In such cases, the claimant may "buy back" any leave used up to the date that the approval is granted. Once the claim is approved, "leave buy back" is not available to a claimant working in the USPS.

Upon approval of a claim, OWCP places the claimant on the ***Daily Roll.*** A claimant on the Daily Roll must filed Forms CA-7 in order to receive wage-loss benefits. If the incapacitation will be lengthy, OWCP may, at its option, place the claimant on the ***Periodic Roll.*** An injured worker on the Periodic Roll does not file Forms CA-7. Instead, he/she is automatically paid every 28 days.

Wage loss is paid at a rate of 2/3 of the salary rate for employees who have ***no*** dependents, and 3/4 of the salary rate for employees who ***do*** have dependents. OWCP wage loss benefits are not taxed.

While in receipt of OWCP wage loss benefits for total disability, an injured worker is carried in "LWOP" status by the USPS and therefore does ***not*** earn sick and annual leave. LWOP for OWCP ***does*** count as ***eligible service*** for retirement credit under CSRS or FERS. However, in order to be credited properly, the LWOP while on OWCP ***must*** be entered as ***Code 49*** in USPS payroll records and ***not*** as ***Code 60.***

WHAT IS THE NURSE INTERVENTION PROGRAM, AND CAN OWCP NURSES ACCOMPANY ME TO DOCTOR'S APPOINTMENTS?

The OWCP routinely assigns a nurse to assist with recovery and rehabilitation in cases where the medical condition is deemed serious and/or recovery is determined to be lengthy. Where the Nurse Intervention Program is initiated, the claimant is likely to deal with two separate nurses: one who will communicate strictly by telephone and another "field nurse" who will meet face-to-face with the claimant and who may accompany the claimant to examinations, physical therapy sessions, etc.

The stated purpose of the Nurse Intervention Program is to streamline the recovery period and return the injured employee to useful employment in the shortest possible time.

OWCP has granted almost unlimited authority to the nurses employed for this program, and it is not uncommon for these nurses to be involved in scheduling appointments, authorizing medical services and/or negotiating with agencies to return employees to limited duty work.

An injured worker who is reported by an OWCP nurse as "uncooperative", "unresponsive" or who repeatedly fails to respond to communications from the nurse, risks having their OWCP benefits suspended or terminated.

WHAT IS A RECURRENCE?

An employee who returns to duty and then experiences a new period of incapacitation has suffered a "recurrence" when one of the following is true:

- the symptoms from the original injury spontaneously return for no apparent reason.
- the medical condition(s) from the original injury worsen(s) for reasons that are not related to the limited or full duty work that has been performed since the return to duty.
- the limited duty job offer (LDJO) is withdrawn or the hours of the LDJO are reduced. This includes when an employee is sent home due to "no work available".
- the medical demands of the LDJO are increased so that the injured employee is no longer physically able to perform them.

An employee who has returned to duty in a full duty or limited duty capacity ***has not*** experienced a "recurrence" if one of the following are true:

- the injured body part is re-injured due to a traumatic event at work.
- the compensable condition worsens and the nature of the full, or limited duty work is a contributing factor to the deterioration.

In a majority of cases where an employee is told by the manager/supervisor that he/she has experienced a "medical recurrence", the employee is being misled. True medical recurrences in the USPS are rare. This is because the physical nature of a letter carrier's work is almost always a contributing factor to the new incapacitation. In such cases, the injured worker should claim a new injury. The claim should be filed on Form CA-1 if work factors that occurred on one workday caused the new incapacitation, or on Form CA-2 if the cumulative effect of work factors over a period of more than one workday caused the new incapacitation.

The Employer has a vested interest in convincing the injured employee to file a recurrence instead of a new traumatic injury, because there is no new 45 day COP period when a recurrence is claimed.

CAN OWCP REQUIRE ME TO SUBMIT TO AN INDEPENDENT MEDICAL EXAM?

The FECA gives OWCP the authority to schedule a Second Opinion (SECOP) examination when the Claim Examiner deems that it is necessary to resolve question(s) involving a claimant's condition and/or work capacity. For example:

- whether a diagnosed condition is related to the claimant's employment.
- whether the claimant's ability to work in a full or limited capacity has been appropriately established by his/her physician.
- whether a claimant has sufficiently recovered from a compensable condition to be returned to duty following an extended absence.
- whether a particular medical procedure (e.g., surgery) is medically necessary.

Failure to report for a SECOP examination can result in termination of benefits. If there is a justifiable reason why a claimant is not available on a particular date, he/she should immediately contact the Claim Examiner.

Any time an Independent Medical Examination is ordered by OWCP, the physician is sent a copy of the OWCP case file, and a "Statement of Accepted Facts" in advance of the exam. Upon request of the claimant, or the claimant's authorized representative, a copy of the "Statement of Accepted Facts" will be provided by OWCP to the claimant and/or representative.

IF THE SECOP PHYSICIAN DISAGREES WITH MY DOCTOR ON ANY IMPORTANT ELEMENT OF THE CLAIM, CAN I DEMAND A "REFEREE EXAMINATION"?

Injured employees with compensable OWCP claims frequently believe that the "referee examination" provisions of Article 13, Section 2.B.2 (National Agreement) apply to them. They do not. *("These procedures shall not apply to cases where an employee's medical condition arose out of an occupational illness or injury").*

The decision on whether or not a third medical opinion is necessary to resolve a dispute between the claimant's physician and the SECOP physician is made ***solely by the Claim Examiner.*** The CE has the authority to accept the SECOP exam as representing the ***weight of medical evidence.***

Criteria often cited by Claim Examiners in accepting the SECOP report include:

- the SECOP has more medical credentials than the attending physician.
- the SECOP report is more comprehensive than the attending physician report.
- the opinion of the SECOP is rationalized while the opinion of the attending physician is not.

Where OWCP accepts the SECOP report as authoritative, the only recourse available to the claimant is to file an appeal. If the CE accepted the SECOP report because of the superiority of the SECOP's credentials, the claimant should seek referral by his physician to a specialist whose credentials are ***at least equivalent to those of the SECOP.***

For comparative purposes, physicians are ranked as follows (lowest to highest in credentials):

- General Practitioner
- Specialist in the field of medicine applicable to the injury/illness.
- Board Certified Specialist in the field of medicine applicable to the injury/illness.
- Diplomate in the field of medicine applicable to the injury/illness.
- Professor in the field of medicine applicable to the injury/illness. A physician who teaches others in his specialty is considered to be the most qualified of any physician.

I WAS TENDERED A "LIMITED DUTY JOB OFFER" (LDJO) BY MY EMPLOYER. HOW SHOULD I DECIDE WHETHER OR NOT TO ACCEPT IT?

The injured employee should base his/her decision on acceptance or rejection of a LMJO on the medical suitability of the offer (i.e., whether the tasks of the assignment fall within the medical restrictions established by his/her physician). Only "reject" a LDJO on the advice of the physician.

A "rejected" LDJO is reported to OWCP. The suitability of the LDJO is evaluated by OWCP based ***only*** on whether or not the employee can fulfill the medical requirements of the position. OWCP may terminate benefits if the position is rejected for other than medical reasons.

A LDJO which is inappropriate for any other reason (e.g., change of schedule, non-scheduled days, work location, etc.) should be "accepted under protest". The challenge to the LDJO is thereafter made through the grievance/arbitration procedure and not through OWCP.

Section 546 of the Employee and Labor Relations Manual (ELM) requires that limited duty be kept as close to the schedule, location, and the nature of the work as medically feasible. In order to legally change any of these factors, the Employer would have to prove that work within the claimant's schedule, in his/her work location and/or within his/her normal job description was not otherwise available.

MY CLAIM WAS APPROVED AND MY MEDICAL BILLS WERE BEING PAID. I RECENTLY RECEIVED A LETTER FROM MY CLAIM EXAMINER ASKING FOR INFORMATION. NOW MY MEDICAL BILLS ARE BEING DENIED. WHY DID THIS HAPPEN?

When OWCP receives your Form CA-1, an initial evaluation is made. The following three issues are reviewed:

- Does the injury appear serious enough to require more than 45 days of wage loss benefits?
- Does the injury appear serious enough to require more than $1,500.00 in medical benefits?
- Has the Employing Agency controverted the claim?

If the answer to all three questions is "no", OWCP will administratively close the claim and authorize up to 45 days of COP and up to $1,500.00 in medical expenses. This procedure is called a "short form closure" by OWCP. A "short form closure" has not been reviewed by a Claim Examiner.

If OWCP receives a Form CA-7 from the claimant (for wage loss after the COP period has expired) or if medical expense claims go over $1,500.00, the "short form closure" criteria has been exceeded and the claim must go to a Claim Examiner for the first time. If there is insufficient information in the file for approval of the claim, the CE will suspend all payments until the claimant has provided sufficient information.

Any bills which are denied during this "development" period will not be automatically paid once the claim is approved. These bills must be resubmitted to OWCP after the claim is successfully adjudicated.

WHAT IS A SCHEDULE AWARD AND HOW CAN I APPLY FOR ONE?

When a federal employee suffers permanent damage to a body part as the result of an on-the-job injury or illness, he/she may seek a compensatory award as redress for the impairment.

Most extremities and organs are compensable if permanently impaired. The exceptions are the brain and the spine. However, if injury to either the brain or the spine results in the loss of function of some other bode part, a Schedule Award may be payable for the related impairment. The following applies to Schedule Award requests:

- the treating physician must certify that Maximum Medical Improvement (MMI) has been reached. The date that MMI was reached must be identified.
- a percentage of impairment must be calculated, using the procedures outlined in the ***6" Edition of the AMA Guide to the Evaluation of Permanent Impairment***
- the Schedule Award request can be made on Form CA-7, or in a letter. If the request is made by letter, it should indicate that the request is made in compliance with 20 CFR 10.103.
- the physician calculating the Award must identify which tables and/or charts were used in the calculations. The page numbers in the ***Guide*** should be identified.
- each body part is assigned a specific number of weeks of compensation payment for complete loss of the body part or the function of the body part. A percentage of impairment of less than 100% will, if approved, generate a Schedule Award payment equal to the same percentage of the schedule for that body part.

I HAVE BEEN ON THE OWCP ROLLS FOR OVER ONE YEAR. I RECENTLY RECEIVED NOTICE FROM THE USPS THAT MY FEDERAL EMPLOYEE HEALTH BENEFIT COVERAGE AND FEDERAL EMPLOYEE GROUP LIFE INSURANCE COVERAGE HAVE BEEN TERMINATED. HOW DID THIS HAPPEN AND WHAT CAN I DO ABOUT IT?

When an employee receives full day OWCP payments, he/she is in a LWOP status for USPS payroll purposes. Anytime an employee goes over one full year in LWOP status, the payroll system automatically generates a notice of termination of FEHBP and FEGLI coverage. No distinction is made in the generation of these notices between LWOP for OWCP and LWOP for other purposes.

USPS Handbook EL-505 *(Injury Compensation)* provides for the USPS to transfer withholding authority to OWCP for FEHBP and FEGLI premiums after 30 days in a LWOP status. The OWCP recipient can verify that benefit premium withholding has been activated on his OWCP wage loss payments by checking his benefit statement provided by the DOL.

Provided that the premiums have been paid from OWCP withholding, the termination notices from the USPS were issued in error. The employee should call HRSSC ("Shared Services") at 877-477-3273 and advise the HRSSC representative that FEHBP and FEGLI premiums have been paid from OWCP daily or periodic roll payments and that the termination notice should be purged. In the rare case(s) where withholding authority was never transferred to OWCP, the Branch should notify the regional office for assistance in restoring the coverage.

Also, please note:

- Upon return to duty from full incapacitation, the employee should verify that withholding authority for FEHBP and FEGLI has been transferred from OWCP back to the USPS. Failure to do so will result in non-payment of premiums and future indebtedness.

MY CLAIM HAS NOT BEEN APPROVED YET, AND I CAN NOT AFFORD TO WAIT ANY LONGER FOR SOME FORM OF INCOME. CAN I USE MY OWN SICK AND/OR ANNUAL LEAVE?

The option for an claimant to use his/her own leave is always available to the injured employee. However, the claimant should be aware of the following:

- the first 45 days of a ***traumatic injury*** claim is paid by the agency as continuation of pay (COP). The claimant should check COP on Form CA-1. There should be no reason for an injured employee to use his/her own leave where COP would otherwise be authorized.
- the DOL gives each federal agency the right to formulate its own "leave buy back" policy. The USPS has established its policy to permit "leave buy back" up to the date that the claim is "approved" , but not to permit any "leave buy back" after the date of approval. Therefore, any USPS employee who continues to use leave after his/her claim is approved will have no means of recovering this leave.
- "leave buy back" requires the injured employee to make "out of pocket" payment to recover his/her leave. An OWCP claimant with dependents can "buy back" leave by paying 25% of the leave's monetary value (OWCP pays the other 75%). An OWCP claimant with no dependents can "buy back" leave by paying 33 1/3% of the leave's monetary value (OWCP pays the other 66 2/3%).
- a dispute exists between NALC and USPS regarding whether "leave buy back" provisions apply to recurrence claims. The USPS has taken the position that leave can not be "bought back" for leave used awaiting approval of a recurrence. NALC has taken the position that it can. The dispute has been taken to the grievance/arbitration procedure with favorable results for NALC.

MY INJURY OCCURRED ON PRIVATE PROPERTY, OR WAS CAUSED BY A THIRD PARTY. CAN I BE FORCED TO FILE A LAWSUIT?

The FECA includes provisions for both the employing agency and OWCP to recover benefits paid to a claimant and/or medical providers where a third party is responsible for the injury. This is referred to as "subrogation".

Recently, OWCP has become very aggressive in pursuit of its recovery rights under the law. Wherever the appearance of third party liability appears in a case file, OWCP has been contacting the claimant involved and requiring that he/she indicate whether or not a lawsuit will voluntarily be filed.

Claimants receiving such correspondence should be advised of the following:

- where there is clear fault on the part of a third party, the filing of a lawsuit is necessary. Failure to file may result in termination of future benefits, or a demand from OWCP to the claimant for payment of an award that could have been recovered had the suit been filed.
- the claimant can request that the agency (USPS) pursue a lawsuit on his/her behalf. Such request is made on PS Form 2577. The agency can ***decline*** to accept such assignment.
- in cases where liability on the part of the third party is questionable, OWCP ***might*** accept a statement from an attorney indicating that the matter was investigated and no basis for a lawsuit was found.
- claimants receiving such correspondence from OWCP are cautioned ***not to ignore*** the requirements in the letter, because the consequences of doing so can be financially devastating.

WHERE A THIRD PARTY LAWSUIT IS SUCCESSFULLY PURSUED, THE DIVISION OF THE RECOVERY IS ESTABLISHED, BY LAW, AS FOLLOWS:

- attorney's fees, subject to OWCP approval, are paid first.
- 20% of the remaining amount is paid to the claimant; this percentage is guaranteed regardless of any other considerations.
- with the amount that remains, the employing agency and OWCP are entitled to full recovery of any payments made to the claimant or to medical providers. If there are insufficient funds remaining to cover all of such costs, the claimant is not charged for the balance. However, OWCP has begun to enforce its right(s) of approval of any out-of-court settlement where it would receive less than the full amount of its payout under the claim. Attorneys who reach out-of-court settlements without OWCP approval will receive a demand from OWCP for explanation of the reason(s) for acceptance of the reduced amount.
- if, after payment of all obligations listed above, a balance remains, that amount is paid to the claimant. However, where such an overage exists, OWCP will pay no further benefits under that claim number until the overage has been offset by the new charges.

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I HAVE BEEN ON THE OWCP ROLLS FOR OVER A YEAR. RECENTLY, THE AMOUNT I PAY FOR MY HEALTH BENEFITS PREMIUMS HAS ESCALATED WITHOUT EXPLANATION. WHY?

An employee who is receiving wage loss benefits from OWCP pays for his health benefit premiums from his OWCP payments at the postal employee rate negotiated by the parties (NALC and USPS) in the collective bargaining agreement which covers the occupational group to which the injured worker belongs.

After one year on the OWCP rolls, however, all federal employees are assessed health benefit premiums at the federal rate, which is a higher percentage than postal employees pay.

To compensate for the increase in premiums, the USPS is obligated to pay a health benefit refund to OWCP recipients on a quarterly basis. The refund is equal to the difference between FEHBP premiums at the federal rate and FEHBP premiums at the postal rate.

These refunds are supposed to be paid automatically, but any OWCP claimant who does not receive the refund(s) within the prescribed time frame should promptly notify his NALC representative(s).

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