

# Injury Compensation for Federal Employees

## Publication CA-810

U.S. Department of Labor  
Alexis M. Herman, Secretary

Employment Standards Administration  
Bernard E. Anderson, Assistant Secretary for Employment Standards

CA-810  
Revised January 1999

This material was prepared by the Office of Workers' Compensation Programs (OWCP), Employment Standards Administration, U.S. Department of Labor. It is meant to serve as a handbook for Federal agency personnel specialists, compensation specialists, and supervisors (the term "supervisor" is used generically to refer to individuals in all of these roles).

For information concerning any aspect of the program which is not addressed in this manual, contact the OWCP district office which serves your agency (a list of these offices appears in Chapter 1-4 and Appendix D).

Material contained in this publication is in the public domain and may be reproduced, fully or partially, without permission of the Federal Government. Source credit is requested but not required. Permission is required only to reproduce any copyright material contained herein.

This material will be made available to sensory impaired individuals upon request.

Voice phone: 202-219-8743  
TDD\* phone: 1-800-326-2577

\*Telecommunications Device for the Deaf

## Table of Contents

### Chapter 1. Overview

- 1-1 Purpose
- 1-2 Exclusiveness of Remedy
- 1-3 OWCP Structure
- 1-4 Jurisdiction
- 1-5 Information and Records
- 1-6 Penalties
- 1-7 Forms
- 1-8 References
- 1-9 Training

### Chapter 2. Initiating Claims

- 2-1 Exposure to Infectious Agents
- 2-2 Traumatic Injury
- 2-3 Occupational Disease
- 2-4 Recurrences
- 2-5 Death

### Chapter 3. Conditions of Coverage

- 3-1 Time
- 3-2 Civil Employee
- 3-3 Fact of Injury
- 3-4 Performance of Duty
- 3-5 Causal Relationship
- 3-6 Statutory Exclusions

#### **Chapter 4. Processing Claims**

- 4-1 Administrative Matters
- 4-2 Burden of Proof
- 4-3 Questionable Cases
- 4-4 Decisions and Notification

#### **Chapter 5. Continuation of Pay (COP)**

- 5-1 Definition and Entitlement
- 5-2 Use of Leave Instead of COP
- 5-3 Controversion
- 5-4 Pay Rate for COP Purposes
- 5-5 Computation
- 5-6 Light- or Limited-Duty Assignments
- 5-7 Recurrences
- 5-8 Terminating COP
- 5-9 Reporting COP--Form CA-3

#### **Chapter 6. Medical Benefits and Care**

- 6-1 Entitlement
- 6-2 Definition of Physician
- 6-3 Choice of Physician
- 6-4 Medical Treatment and Evaluation
- 6-5 Exclusion of Providers
- 6-6 Payment of Bills

#### **Chapter 7. Compensation Benefits**

- 7-1 Disability Benefits
- 7-2 Death Benefits
- 7-3 Dual Benefits
- 7-4 Computing Compensation

#### **Chapter 8. Managing Disability Claims**

- 8-1 Initial Actions by OWCP
- 8-2 Retention Rights
- 8-3 Nurse Services
- 8-4 Reemployment with the Agency
- 8-5 Vocational Rehabilitation Services
- 8-6 Assisted Reemployment
- 8-7 Payment of Relocation Expenses
- 8-8 Employees in Light- or Limited-Duty Status
- 8-9 Separation from Employment

#### **Chapter 9. Agency Management of Compensation Claims**

- 9-1 Obtaining Information

9-2 Inspection and Protection of Records

9-3 Managing Compensation Programs

9-4 Record-Keeping

9-5 Chargeback

## Appendix A. Basic Forms

## Appendix B. Injury/Illness Type and Source Codes

## Appendix C. Occupational Disease Checklists

## Appendix D. Address List

# Chapter 1. Overview

This chapter provides basic information about the administration of the Federal Employees' Compensation Act (FECA).

- 1-1 Purpose
- 1-2 Exclusiveness of Remedy
- 1-3 OWCP Structure
- 1-4 Jurisdiction
- 1-5 Information and Records
- 1-6 Penalties
- 1-7 Forms
- 1-8 References
- 1-9 Training

## 1-1. Purpose

The FECA provides compensation benefits to civilian employees of the United States for disability due to personal injury or disease sustained while in the performance of duty. The FECA also provides for payment of benefits to dependents if a work-related injury or disease causes an employee's death. The FECA is intended to be remedial in nature, and proceedings under it are non-adversarial.

## 1-2. Exclusiveness of remedy

Benefits provided under the FECA constitute the sole remedy against the United States for work-related injury or death. A Federal employee or surviving dependent is not entitled to sue the United States or recover damages for such injury or death under any other law.

## 1-3. OWCP Structure

The Division of Federal Employees' Compensation (DFEC) administers the FECA. The Director for DFEC and the various OWCP Regional Directors have authority over the operations of the 12 district offices. Each of these offices is headed by a District Director, who is responsible for office functions.

In each district office are two or more Supervisory Claims Examiners, or Claims Managers, who are responsible for the operation of individual claims units. A number of Senior Claims Examiners and Claims Examiners have primary responsibility for handling claims. Individuals at each level have specific responsibilities for issuing decisions on claims.

## **1-4. Jurisdiction**

The jurisdictions of the 12 district offices are as follows (see Appendix D for addresses and map):

District 1--Boston, MA: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

District 2--New York, NY: New Jersey, New York, Puerto Rico, and the Virgin Islands.

District 3--Philadelphia, PA: Delaware, Pennsylvania, and West Virginia.

District 6--Jacksonville, FL: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

District 9--Cleveland, OH: Indiana, Michigan, and Ohio.

District 10--Chicago, IL: Illinois, Minnesota, and Wisconsin.

District 11--Kansas City, MO: Iowa, Kansas, Missouri, and Nebraska; Department of Labor employees.

District 12--Denver, CO: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

District 13--San Francisco, CA: Arizona, California, Hawaii, and Nevada; Pacific territories and possessions.

District 14--Seattle, WA: Alaska, Idaho, Oregon, and Washington.

District 16--Dallas, TX: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

District 25--Washington, DC: Maryland, Virginia, the District of Columbia; employees injured overseas; employees claiming injury due to radiation or Agent Orange; Peace Corps and VISTA volunteers; Members of Congress and their staffs; White House officials and employees; Reserve Officer Training Corps (ROTC) Cadets; members of the Coast Guard Auxiliary and temporary members of the Coast Guard Reserve; employees whose cases involve security considerations; and certain non-Federal claims.

## **1-5. Information and Records**

Individual case files are protected under the Privacy Act, and only the employee, his or her representative (if any), and agency personnel may routinely have access to a given file. Any of these parties may inspect the file at the district office which has custody of it; an appointment should be requested ahead of time. If it is not possible to travel to the district office, the case may be reviewed in another Department of Labor office.

Employees and their representatives may have access to records (including medical reports) which OWCP has released to the agency. The records must be safeguarded in the same manner as other personnel material, and the agency must determine whether such information may properly be released in accordance with the regulations contained in 29 CFR parts 70 and 71.

As stated in OWCP's regulations, while an employer may establish procedures for an injured employee or beneficiary to obtain documents, any decision issued in response to such a request must comply with OWCP's regulations, and no employer may correct or amend records pertaining to OWCP claims.

## 1-6. Penalties

A. The regulations at 20 CFR ° 10.15 address waiver of compensation rights as follows:

No employer or other person may require an employee or other claimant to enter into any agreement, either before or after an injury or death, to waive his or her right to claim compensation under the FECA. No waiver of compensation rights shall be valid.

B. The regulations at 20 CFR ° 10.16 address criminal penalties in connection with a claim under the FECA as follows:

(a) A number of statutory provisions make it a crime to file a false or fraudulent claim or statement with the government in connection with a claim under the FECA, or to wrongfully impede a FECA claim. Included among these provisions are sections 287, 1001, 1920, and 1922 of title 18, United States Code. Enforcement of these and other criminal provisions that may apply to claims under the FECA are within the jurisdiction of the Department of Justice.

(b) In addition, administrative proceedings may be initiated under the Program Fraud Civil Remedies Act of 1986 (PFCRA), 31 U.S.C. 3801-12, to impose civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted or presented, false, fictitious or fraudulent claims or written statements to OWCP in connection with a claim under the FECA. The Department of Labor's regulations implementing the PFCRA are found at 29 CFR Part 22.

C. The regulations at 20 CFR ° 10.17 address the effects to a beneficiary who defrauds the government in connection with a claim for benefits as follows:

When a beneficiary either pleads guilty to or is found guilty on either Federal or state criminal charges of defrauding the Federal government in connection with a claim for benefits, the beneficiary's entitlement to any further compensation benefits will terminate effective the date either the guilty plea is accepted or a verdict of guilty is returned after trial, for any injury occurring on or before the date of such guilty plea or verdict. Termination of entitlement under this section is not affected by any subsequent change in or recurrence of the beneficiary's medical condition.

## 1-7. Forms

Agencies should maintain an adequate supply of the basic forms needed to process claims, as follows:

<b>Form</b>	<b>Title</b>
CA-1	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation
CA-2	Notice of Occupational Disease and Claim for Compensation
CA-2a	Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation
CA-5	Claim for Compensation by Widow, Widower and/or Children

CA-5b	Claim for Compensation by Parents, Brothers, Sisters, Grandparents or Grandchildren
CA-6	Official Superior's Report of Employee's Death
CA-7	Claim for Compensation on Account of Traumatic Injury or Occupational Disease
CA-7a	Time Analysis Form
CA-7b	Leave Buy-Back (LBB) Worksheet/Certification and Election
CA-16	Authorization for Examination and/or Treatment
CA-17	Duty Status Report
CA-20	Attending Physician's Report (attached to Form CA-7; also available separately)
CA-35, a-h	Occupational Disease Checklists
OWCP-1500a	Health Insurance Claim Form

A chart showing the use of each form is found in Appendix A. Forms may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The purchase order must include the agency appropriation symbol and the requestor's signature. Forms may also be ordered by telephone at 202-512-1800.

## 1-8. References

Several resources describing the provisions of the law and how they are applied are available in printed form and on OWCP's Home Page on the Internet. The address of the Home Page is:

<http://www.dol.gov./dol/esa/owcp.htm>

A. *The Federal Employees' Compensation Act* as amended, 5 U.S.C. 8101 et seq., is the source of entitlement to compensation benefits for Federal workers. Most of the provisions of the FECA have been interpreted and more fully described through OWCP directives and decisions of the Employees' Compensation Appeals Board (ECAB). For this reason, the program's Procedure Manual and ECAB decisions will usually prove more helpful than the FECA itself. Copies of the FECA may be obtained from OWCP's Home Page or from the district offices (there is no charge).

B. *The Code of Federal Regulations*, 20 CFR Part 10, more fully describes the provisions of the law, and it contains additional information about administration of the program. Letters and decisions from OWCP may contain references to the regulations. Copies may be obtained from OWCP's Home Page or from the district offices (there is no charge).

C. *The Federal (FECA) Procedure Manual* describes in detail the procedures which OWCP staff use to process claims. It is divided into several parts by subject area; the section most likely to be useful to agency personnel is Part 2, Claims. One copy of this volume may be provided at no charge to each agency's national headquarters.

Other interested parties may obtain it for \$35 per copy. It may be ordered from:

Division of Federal Employees' Compensation  
Office of Workers' Compensation Programs  
200 Constitution Avenue N. W., Room S-3229  
Washington, D. C. 20210

D. *Questions and Answers About the Federal Employees' Compensation Act* (Pamphlet CA-550) describes the basic provisions of the law in non-technical language. It addresses the most common issues about entitlement and claims processing. It is intended for use primarily by employees, who may obtain single copies from OWCP's Home Page or from the district offices (there is no charge). Agencies may order copies from GPO at the address shown in Chapter 1-7.

E. *Decisions of the Employees' Compensation Appeals Board* may be found in most law libraries. Recent decisions are available from OWCP's Home Page, and all decisions are available on a CD-ROM which may be purchased from Howe Data Inc. or in bound volumes which may be purchased from GPO.

## 1-9. Training

OWCP provides the following courses in response to requests from agency personnel:

A. *The FECA Seminar* gives an overview of the law for first- line supervisors as well as middle- and senior-level managers. The seminar includes lectures and visual aids. It may range from one to six hours, and it is usually held at the requesting agency's facility. The seminar may be given to small or large groups which are composed of one or more agencies. Also, Federal labor unions may avail themselves of this seminar.

B. *The Basic Compensation Specialist Workshop* is a formal three-day session in a classroom setting. It is intended for agency staff who are primarily responsible for processing OWCP claims and for those who spend at least 50% of their time handling OWCP claims. The training stresses skills needed to counsel injured employees, review claim forms for accuracy, document continuation of pay, and develop record-keeping systems.

C. *The Advanced Compensation Specialist Training* is a self-instructional unit requiring about 12 hours to complete. It is primarily intended for compensation specialists who have attended the basic course and who have nine to twelve months of experience handling compensation claims. The course stresses management of agency compensation case files with regard to third-party matters, review of chargeback reports and billings, light- and limited-duty assignments, and reemployment of long-term disabled employees.

D. *The FECA Supervisors Workshop* is tailored to the needs of the agency requesting training. The training generally covers supervisory responsibilities to employees who are injured at work. It includes reviewing initial reporting forms; counseling employees about continuation of pay; deciding whether to controvert a claim; and offering light- or limited-duty assignments to injured employees. The length of this course varies according to the kind and amount of material presented.

Arrangements for these courses may be made with the Technical Assistant of the district office serving your agency.

## Chapter 2. Initiating Claims

This chapter begins by describing the difference between exposure to an infectious agent, which is not compensable, and actual injury. It then outlines the forms and procedures which employees and agency personnel use to initiate claims for traumatic injury, occupational disease, recurrence of disability, and death. Agency personnel are cautioned never to prevent employees from filing claims under any circumstances.

- 2-1 Exposure to Infectious Agents
- 2-2 Traumatic Injury
- 2-3 Occupational Disease
- 2-4 Recurrences
- 2-5 Death

## 2-1. Exposure to Infectious Agents

The FECA does not provide for payment of expenses associated with simple exposure to an infectious disease without the occurrence of a work-related injury. Infectious diseases include tuberculosis, hepatitis, and HIV (human immunodeficiency virus).

The Occupational Safety and Health Administration has published regulations addressing the health risks posed by bloodborne pathogens in the work place. Under these regulations, an "exposure incident" is defined as a "specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties" (29 CFR ° 1910.1030).

Both a work-related injury and exposure to a known carrier must occur before OWCP can pay for diagnostic testing. For instance, a puncture wound from a needle used to draw blood from a patient not known to be infected with HIV would entitle the worker to benefits only for the effects of the puncture wound, and the supervisor would not issue Form CA-16 to authorize precautionary testing since no indication exists that a communicable disease has been contracted on duty. However, a puncture wound from a needle used to draw blood from a patient known to be infected with HIV would entitle the worker to benefits for the effects of the puncture wound and to payment for diagnostic studies to rule out the presence of a more serious condition, because exposure to a known carrier would be involved.

Similarly, fear of exposure to an infectious agent does not entitle the worker to benefits under the FECA, since no definable injury has occurred. For instance, the act of searching an individual known to have hepatitis, or an individual who is believed to belong to a high-risk group for tuberculosis, would not entitle an employee to benefits. In these situations, the supervisor should not issue Form CA-16 as no injury or exposure has occurred.

However, employees who have encountered persons with serious communicable infections may suffer anxiety for their health, and employing agencies should take these concerns seriously when actual exposure (as opposed to fear of exposure) has occurred. In such cases, the supervisor may use the authority provided by 5 U.S.C. 7901 to authorize testing or counseling. This section of the law allows agencies to provide screening and associated health services to their own employees, and the services offered may be geared to the particular occupational hazards to which an agency's employees are commonly exposed.

It may also be useful to arrange for surveillance testing, which monitors a population at risk for a certain condition (as opposed to diagnostic testing, which is performed to assess the specific nature of an individual's illness when a medical condition is known to exist). To arrange for HIV testing or employee counseling, a supervisor may wish to contact the appropriate regional office of the Public Health Service.

## 2-2. Traumatic Injury

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 by time and place of occurrence and member 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 also include damage to or destruction of prosthetic devices or appliances, including eyeglasses, contact lenses, and hearing aids, if they were damaged incidental to a personal injury requiring medical services. (Personal property claims can be made only under the Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. 240.)

*A. Notice of Injury--Form CA-1.* When an employee sustains a traumatic injury in the performance of duty, he or she should file a written report on Form CA-1. The form should be given to the supervisor as soon as possible, but not later than 30 days from the date of injury. If the employee is incapacitated, this action may be taken by someone acting on his or her behalf, including a family member, union official, or representative. (The supervisor may provide such notice as well.) The form must contain the original signature of the person giving notice. The supervisor should:

- (1) Review the front of the form for completeness and accuracy, and assist the employee in correcting any deficiencies found;
- (2) Complete and sign the reverse of Form CA-1, including a telephone number in case OWCP staff have questions about the injury. Also, insert the appropriate codes on both the front and back of the form. Codes should be included for occupation, type and source of injury, agency identification, and location of duty station by zip code. ([Appendix B](#) of this publication describes the type and source of injury codes and their use.)
- (3) Sign and return to the employee the receipt attached to Form CA-1 and give a copy of the entire form to the employee;
- (4) Authorize medical care if needed in accordance with paragraph (C) below;
- (5) Inform the employee of the right to elect continuation of regular pay (COP), (discussed in detail in Chapter 5), or annual or sick leave if time loss will occur;
- (6) Advise the employee whether COP will be controverted, and if so, whether pay will be terminated. The basis for the action must be explained to the employee. (Controversion is discussed in Chapter 5-3; the reason for controverting a claim must always be shown on Form CA-1.)
- (7) Advise the employee of his or her responsibility to submit prima facie medical evidence of disability within 10 working days or risk termination of COP (see Chapter 5-8).

*B. Disposition of Form CA-1.*

If the employee incurs medical expense or loses time from work beyond the date of injury, the supervisor should send Form CA-1 to the district office with supporting information as soon as possible but no later than 10 working days after receipt of Form CA-1 from the employee.

If the employee is examined or treated at the agency's medical facilities or by medical providers under contract to the agency, and this **examination or treatment occurs during working hours beyond the date of injury, the supervisor should add the words "first aid" to the upper right corner of the agency's portion of Form CA-1 and submit it to OWCP. "First aid" injuries also include those requiring two or more visits to a medical facility for examination or treatment during non-duty hours beyond the date of injury, as long as no leave or continuation of pay is charged and no medical expense is incurred.**

If the employee obtains no medical care, or obtains only agency-sponsored care on the date of injury, and no time loss is charged to either leave or continuation of pay, the supervisor should place Form CA-1 in the worker's Employee Medical Folder (EMF) instead of sending it to OWCP.

*C. Medical Treatment--Form CA-16.* If an employee requires medical treatment for the injury, the supervisor should complete the front of Form CA-16 within four hours of the request whenever possible. If the supervisor

doubts whether the employee's condition is related to the employment, he or she should so indicate on the form. Where there is no time to complete a Form CA-16, the supervisor may authorize medical treatment by telephone and send the completed form to the medical facility within 48 hours. Retroactive issuance of Form CA-16 is usually not permitted under other circumstances.

(1) **Delayed Report of Injury.** If an employee reported an injury several days after the fact, or did not request medical treatment within 24 hours of the injury, the supervisor may still authorize medical care using Form CA-16. Agency personnel are encouraged to use discretion in issuing authorizations for medical care under such circumstances, but employees should not be penalized for short delays in reporting injuries. The supervisor may, however, refuse to issue a CA-16 if more than a week has passed since the injury on the basis that the need for immediate treatment would become apparent in that period of time. An employee may not use Form CA-16 to authorize his or her own treatment.

(2) **Choice of Physician.** The employee is entitled to select the physician who is to provide treatment. The provider must meet the definition of "physician" under the FECA and must not have been excluded from payment under the program (refer to Chapter 6 for guidance in authorizing providers). Physicians employed by or under contract to the agency may examine the employee at the agency's facility in accordance with OPM regulations. However, the employee's choice of physician must be honored, and treatment by the employee's physician must not be delayed for the purpose of obtaining an agency-directed medical examination.

(3) **Obtaining Treatment.** Along with Form CA-16, the supervisor should give the employee Form OWCP-1500, which is used for billing (this form is discussed in Chapter 6). The physician should complete the reverse of Form CA-16 and the OWCP-1500 and forward them to OWCP; the supervisor may ask the physician for a copy of the report as well. The employee may be furnished transportation and/or reimbursed for travel and incidental expenses. OWCP generally considers 25 miles from the agency or the employee's home a reasonable distance to travel for medical care unless appropriate care is not available within that radius.

(4) **Further Referral.** The original treating physician may wish to refer the employee for additional testing or specialized treatment. He or she may do so on the basis of the Form CA-16 already issued; it is not necessary to issue additional authorizations for treatment. Both the original physician and any physician to whom the employee is referred is guaranteed payment for 60 days from the date of issue of Form CA-16 unless OWCP terminates this authority at an earlier date. Treatment may continue at OWCP expense if the claim is approved.

Should the employee wish to change physicians after the initial choice, he or she must contact OWCP in writing for approval and include the reasons for requesting the change.

**D. Medical Reports--Forms CA-20 and CA-17.** In cases sent to OWCP, a medical report from the attending physician is required. This report may be made on Form CA-16 or on Form CA-20, which is attached to Form CA-7. It may also be made in narrative form on the physician's letterhead stationery, or in the form of a hospital or health plan summary. The report should bear the physician's signature or signature stamp. The supervisor should supply Forms CA-20 to the employee as often as needed. The original reports should be sent to OWCP.

Agency personnel should use Form CA-17, Duty Status Report, to obtain interim medical reports about the employee's fitness for duty; it may be issued initially with Form CA-16. The supervisor should complete the agency's portion of the form by describing the physical requirements of the employee's job and noting the availability of any light or limited duty. The physician should send the original Form CA-17 to the agency and a copy to the district office. The supervisor may send Form CA-17 to the physician at reasonable intervals (but not more often than once a week) to monitor the employee's medical status and ability to return to light or full duty. (Agency offers of light or limited duty during the COP period are discussed in Chapter 5.)

**E. Wage Loss/Permanent Impairment--Form CA-7.** If disability is anticipated at the time of injury, the employee may elect to use leave or COP (which is discussed in Chapter 5) on Form CA-1. An employee who cannot return

to work when COP ends, or who is not entitled to receive COP, may claim compensation for wage loss on Form CA-7. In controverted cases where pay is terminated, Form CA-7 should be submitted with Form CA-1.

(1) When to File. If it is not clear whether the employee will remain disabled after the 45 days of COP are used, he or she should initiate a claim for compensation. Supervisors should carry employees who have filed claims in LWOP status. If an employee returns to work after Form CA-7 has been filed, the supervisor should notify OWCP by telephone (so as to prevent overpayments), and later provide written confirmation of return to duty.

(2) Completion of Form. If compensation is to be claimed, the supervisor should give Form CA-7 to the employee on the 30th day of COP with instructions to complete the front and return the form to the agency within one week. (If the employee has not returned it by the 40th day of COP, the supervisor should contact him or her by telephone and ask for its submittal as soon as possible). The supervisor should also show the address of the district office in the box on the reverse of the Form CA-20 which is attached to the claim form.

When the form is returned, the supervisor should complete the reverse of the form, including the name and the telephone number of an agency official with direct knowledge of the claim.

The employee should arrange to provide medical evidence to support the period of disability claimed; this evidence may be submitted with the Form CA-7 or sent to OWCP separately.

(3) Submittal of Form. After completing the form, the supervisor should send it to OWCP along with any new medical evidence in the agency's possession. OWCP will use the pay data supplied by agency personnel to determine the rate at which compensation is to be paid. (Submittal should not be delayed for computation of shift differential, Sunday or holiday pay, or other incremental pay. These elements, which are discussed in Chapter 8, may be computed and submitted separately.) The dates of compensation claimed should represent the period of disability supported by the medical evidence or the interval until the employee's next medical appointment.

(4) Leave Repurchase. An employee who uses sick or annual leave to avoid interruption of income may repurchase that leave, subject to agency concurrence, if the claim is approved. Form CA-7 (along with Forms CA-7a and CA-7b) are used for this purpose. The employee and supervisor should supply the factual and medical evidence described above, and the supervisor should also provide a detailed breakdown of leave used, showing the number of hours charged for each day claimed and whether sick or annual leave was used. (The relationship between COP use and leave use is discussed in Chapter 5-2.)

(5) Lost Wages for Medical Treatment. An employee who has returned to work but still requires medical treatment during work hours may claim compensation for lost wages while undergoing or traveling to and from the treatment. For a routine medical appointment, a maximum of four hours of compensation is usually allowed. Such a claim may be made on Form CA-7, and it should be accompanied by a statement from the supervisor showing the exact period of time and the total amount of wages lost due to the treatment, the rate of pay and the number of hours or days the employee would have worked if available.

Form CA-7 is also used to claim continuing compensation for wage loss. **During the period of disability, a new Form CA-7 should be submitted every two weeks absent other instructions from OWCP.**

Finally, Form CA-7 is used to claim schedule awards for permanent impairment. (Entitlement to such awards is discussed in Chapter 7-1.)

## 2-3. Occupational Disease

An occupational disease 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, or fumes, or other continuing conditions of the work environment.

A. *Notice of Occupational Disease--Form CA-2.* The injured employee, or someone acting on his or her behalf, should give notice of occupational disease on Form CA-2. (Such notice may be provided by the supervisor as well.) The supervisor should issue to the employee two copies of the appropriate checklist, Form CA-35a-h, for the disease claimed. (To facilitate submittal of evidence, specific checklists have been devised for various conditions--see [Appendix C](#).) The supervisor should also explain the need for detailed information to the employee and advise him or her to furnish supporting medical and factual information requested on the checklist. If possible, this information should be submitted with the form. Upon receiving Form CA-2, the supervisor should:

- (1) Review the front of the form for completeness and accuracy, and help the employee to correct any errors or omissions;
- (2) Complete and sign the reverse of Form CA-2, and include a telephone number in case OWCP staff have questions about the claim. Also, show the codes for occupation, type and source of injury, agency identification, and location of duty station by zip code. ([Appendix B](#) describes the type and source of injury codes and their use.)
- (3) Sign and return to the employee the receipt attached to Form CA-2 and give a copy of the entire form to the employee;
- (4) Review the employee's portion of the form and provide comments on the employee's statement;
- (5) Prepare a supporting statement to include exposure data, test results, copies of reports of previous medical examinations, and/or witness statements, depending on the nature of the case. The checklist may be used to coordinate compilation of material by agency personnel, including compensation specialists and safety and health officers;
- (6) Advise the employee of the right to elect sick or annual leave or leave without pay, pending adjudication of the claim. The supervisor should submit completed Form CA-2 to the district office within 10 working days of receipt from the employee. It should not be held for receipt of supporting documentation.

B. *Medical Treatment--Form CA-16.* Only rarely may employers authorize medical care in occupational disease claims. The supervisor must contact OWCP before issuing a Form CA-16.

C. *Wage Loss/Permanent Impairment--Form CA-7.* Form CA-7 is used to file a claim for compensation because of pay loss. The claim should be filed within 10 days after pay stops or when the employee returns to work, whichever occurs first.

- (1) *Leave Repurchase.* The employee may use sick or annual leave pending adjudication of the claim. If this is done, the employee may initiate repurchase of this leave, subject to agency concurrence, using Form CA-7 (along with Forms CA-7a and CA-7b). The supervisor should certify the amount and kind of leave used for each day claimed, and the employee should arrange to submit medical evidence supporting the period of repurchase requested.
- (2) *Lost Wages for Medical Treatment.* An employee who has returned to work but still needs medical treatment during work hours may claim compensation for lost wages while undergoing or traveling to and from the treatment. For a routine medical appointment, a maximum of four hours of compensation is usually allowed. Such a claim may be made on Form CA-7, and it should be accompanied by a statement from the supervisor showing the exact period of time and the total amount of wages lost due to the treatment, as well as the rate of pay.

Form CA-7 is also used to claim continuing compensation and to initiate a claim for schedule award for permanent impairment resulting from occupational disease. Chapter 7-1 addresses entitlement to schedule

awards.

## 2-4. Recurrences

A recurrence of disability is defined as a spontaneous return or increase of disability due to a previous injury or occupational disease without intervening cause, or a return or increase of disability due to a consequential injury (defined in Chapter 3-5). A recurrence of disability differs from a new injury in that with a recurrence, no event other than the previous injury accounts for the disability.

A recurrence of medical condition is defined as a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a "need for further medical treatment after release from treatment," nor is an examination without treatment.

*A. Claim for Recurrence of Disability--Form CA-2a.* If a recurrence of disability develops, the employee and supervisor should complete Form CA-2a and submit it to OWCP. If the employee was entitled to use COP and the 45 calendar days of COP have not been exhausted, he or she may elect to use the remaining days if 45 days have not elapsed since first return to duty (see Chapter 5-7 for detailed information). Otherwise, the employee may elect to use sick or annual leave pending adjudication of the claim for recurrence. The employee should arrange for submittal of the factual and medical evidence described in the instructions attached to the form, paying particular attention to the need for "bridging" information which describes his or her condition and job duties between the original injury and the recurrence.

*B. Medical Treatment.* Ordinarily, no medical treatment is authorized at OWCP expense until a claim for recurrence is accepted. At its discretion the district office may, however, authorize an emergency medical examination without Form CA-2a.

*C. Continuing Claim for Wage Loss--Form CA-7.* Form CA-7 is used to file a claim for continuing compensation due to a recurrence. During the period of disability, a new Form CA-7 should be submitted every two weeks absent other instructions from OWCP.

## 2-5. Death

When an employee dies because of an injury incurred in the performance of duty, the supervisor should immediately notify the district office by telephone or facsimile message. The supervisor should also contact any survivors, provide them with claim forms, and help them prepare the claim. The forms should be submitted to OWCP even if a disability claim was previously filed and benefits were paid. Continuation of benefits is not automatic, as it must be shown that the death resulted from the same condition for which the disability claim was accepted.

*A. Claims for Death Benefits--Forms CA-5 and CA-5b.* The survivors of a deceased employee should use Form CA-5 or CA-5b to submit claims for death benefits. (Such notice may be provided by the supervisor as well.) The survivor should complete the front of the appropriate form, while the attending physician should complete the medical report on the reverse and forward it to OWCP. The submittal should include a copy of the death certificate. It should also include a copy of the marriage certificate if a spouse is making claim, and a copy of any divorce or annulment decree if the decedent or spouse was formerly married. The submittal should include copies of birth certificates of any children for whom claim is made.

*B. Agency Notice--Form CA-6.* The supervisor uses this form to report the work-related death of an employee.

## Chapter 3. Conditions of Coverage

Each claim for compensation must meet certain requirements before it can be accepted. This is true whether the claim is for traumatic injury, occupational disease, or death. While the requirements are addressed somewhat differently according to the type of claim, they are always considered in the same order. This chapter will describe these requirements as well as the three statutory prohibitions to payment of compensation. It will also describe the kind of information which the supervisor and employee should submit with respect to each issue.

- 3-1 Time
- 3-2 Civil Employee
- 3-3 Fact of Injury
- 3-4 Performance of Duty
- 3-5 Causal Relationship
- 3-6 Statutory Exclusions

### 3-1. Time

All cases must first satisfy the statutory time requirements of the FECA.

*A. Provisions of the Law.* For injuries and deaths on or after September 7, 1974, the law provides that a claim for compensation must be filed within three years of the injury or death. Even if 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 immediate superior had actual knowledge of the injury or death within 30 days after occurrence. This knowledge may consist of written records or verbal notification; an entry into an employee's medical record may also satisfy this requirement if it is sufficient to place the agency on notice of a possible work-related injury or illness.

The law also provides that filing a disability claim because of injury will satisfy the time requirements for a death claim based on the same injury. OWCP may excuse failure to comply with the three-year time requirement because of exceptional circumstances (for example, being held prisoner of war).

For injuries and deaths occurring before September 7, 1974, different provisions apply with respect to timeliness. Contact the district office concerning any such situation.

*B. When Time Begins to Run.* For traumatic injury, the statutory time limitation begins to run from the date of injury. For a latent condition, it begins to run when an injured employee who has a compensable disability becomes aware, or reasonably should have been aware, of a possible relationship between the medical condition and the employment. Where the exposure to the identified factors of employment continues after this knowledge, the time for filing begins to run on the date of the employee's last exposure to those factors.

Where death is due to traumatic injury, time begins to run from the date of death. Where death is due to disease, time begins to run when the beneficiary is aware, or reasonably should have been aware, of causal relationship between the death and the factors of employment. For a minor, the time limitations do not begin to run until the person reaches the age of 21 or has a legal representative. For a person who is mentally incompetent, the time limitations do not begin to run until the person has a legal representative.

*C. Written Notice.* Form CA-1 or CA-2 constitutes notice of injury. A claim for compensation (Form CA-7 in disability cases, CA-5 or CA-5b in death cases) may also constitute notice of injury. OWCP will also accept as a notice of injury or death any written statement which is signed by the person claiming benefits, or someone acting on his or her behalf, and which states the name of the employee; the name and address of the person claiming benefits; the time and location of the injury or death; and the cause and nature of the injury or death.

D. *Actual Knowledge*. An agency official may acquire actual knowledge through firsthand observation of the incident, from another employee, or from medical personnel at the agency's medical facility. This knowledge must place the employing agency reasonably on notice of an on-the-job injury or death. An entry into the employee's medical records may be considered actual knowledge, as may the results of tests conducted by agency personnel in connection with known occupational hazards. The date on which the agency or OWCP receives written notice will be considered the date of filing. OWCP will request information addressing the issue of actual knowledge only where the agency did not receive written notice within three years.

## 3-2. Civil Employee

If the claim is timely filed, it must be determined whether the injured or deceased individual was an "employee" within the meaning of the law. This is always the second requirement considered.

A. *Provisions of the Law*. The FECA covers all civilian Federal employees except for non-appropriated fund employees. In addition, special legislation provides coverage to Peace Corps and VISTA volunteers; Federal petit or grand jurors; volunteer members of the Civil Air Patrol; Reserve Officer Training Corps Cadets; Job Corps and Youth Conservation Corps enrollees; and non-Federal law enforcement officers under certain circumstances involving crimes against the United States.

B. *Other Considerations*. Temporary employees are covered on the same basis as permanent employees. Contract employees, volunteers, and loaned employees are covered under some circumstances; such determinations must be made on a case-by-case basis once a claim is filed. Federal employees who are not citizens or residents of the United States or Canada are covered subject to certain special provisions governing their pay rates and computation of compensation payments.

## 3-3. Fact of Injury

If the issues of "time" and "civil employee" have been resolved affirmatively, it must be established whether the employee in fact sustained an injury or disease. Two factors are involved in this determination:

A. *Occurrence of Event*. Whether the employee actually experienced the accident, event, or employment factor which is alleged to have occurred. This is resolved on the basis of factual evidence, including statements from the employee, the supervisor, and any witnesses. An injury need not be witnessed to be compensable. A supervisor who believes, however, that the employee's testimony is contrary to the facts should supply pertinent information to support this belief.

B. *Existence of Medical Condition*. Whether the accident or employment factor resulted in an injury or disease. This is determined on the basis of the attending physician's statement that a medical condition is present that could be related to the incident, though the medical report need not relate the condition to the incident. Simple exposure, for instance to a contagious condition or dusty environment, does not constitute an injury.

## 3-4. Performance of Duty

If the first three criteria have been accepted, it must be determined whether the employee was in the performance of duty when the injury occurred.

A. *Agency Premises*. An employee who is injured on agency premises during working hours has the protection of the FECA unless engaged in an activity which removes him or her from the scope of employment. Coverage includes injuries which occur while the employee was performing assigned duties or engaging in an activity

which was reasonably associated with the employment. Such activities include use of facilities for the employee's comfort, health, and convenience as well as eating meals and snacks provided on the premises. The premises include areas immediately outside the building, such as steps or sidewalks, if they are Federally owned or maintained. The supervisor should document an injury occurring in such an area by submitting a diagram showing where it happened.

(1) **Outside Working Hours.** Coverage is extended to employees who are on the premises for a reasonable time (usually considered 30 minutes) before or after working hours. It is not extended, however, to employees who are visiting the premises for non-work-related reasons. The supervisor should verify the time of the injury and provide any information it has about the employee's purpose in being on the premises at the time of injury.

(2) **Representational Functions.** Injuries to employees performing representational functions entitling them to official time are covered. Injuries to employees engaged in the internal business of a labor organization, such as soliciting new members or collecting dues, are not covered. The supervisor should advise whether the employee was entitled to official time when injured.

(3) **Parking Facilities.** The agency's premises include the parking facilities which it owns, controls, or manages. An employee will usually be covered if injured on such parking facilities. Information submitted by the supervisor should include a statement indicating whether it owns or leases the parking lot, and if the latter, the name and address of the owner (this information may be needed for purposes of developing the third-party aspect of the claim, which is described in Chapter 4-1). If the parking lot is not immediately adjacent to the building, the supervisor should also supply a diagram showing where the injury took place in relation to the parking lot and building.

(4) **Agency Housing.** An employee is covered if injured during the reasonable use of premises which he or she is required or expected to occupy, and which are furnished or made available by the agency. (Employees using such housing include firefighters and Job Corps enrollees.) Any claim for injury occurring in this way should be accompanied by a full description of the living arrangements and the requirements and expectations surrounding them.

**B. Off-Premises Injuries.** Coverage is extended to workers such as letter carriers, chauffeurs, and messengers who perform service away from the agency's premises. It is also extended to workers who are sent on errands or special missions and workers who perform services at home.

(1) **To and From Work.** Employees do not have the protection of the FECA when injured en route between work and home, except where the agency furnishes transportation to and from work, the employee is required to travel during a curfew or an emergency, or the employee is required to use his or her vehicle during the workday. Such claims should be accompanied by a description of the circumstances.

(2) **Lunch Hour.** 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.

(3) **Travel Status.** Employees in travel status are covered 24 hours a day for all reasonable incidents of their temporary duty. Thus, an employee injured on a sightseeing trip in the city to which he or she was assigned would not be covered, while an employee injured while taking a shower in the hotel would be covered. All claims for injuries occurring in travel status should be accompanied by a copy of the travel authorization.

(4) **Vehicular Accidents.** Any claim involving a traffic accident should be accompanied by a copy of the police report, if any, and a diagram or map showing the location of the accident in relation to the places where official duty was last performed and next scheduled.

**C. Other Factors.** Some injuries occur under circumstances which are not governed, or not completely governed, by the premises rules. Injuries involving any of the circumstances indicated below must be determined on a

case-by-case basis.

(1) Recreation. An employee is covered while engaged in formal recreation for which he or she is paid or is required to perform as a part of training or assigned duties. Also covered are employees engaged in informal recreation, such as jogging, while on the agency premises. 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.

(2) Horseplay. An employee who is injured during horseplay is covered if the activity was one which could reasonably be expected where a group of workers are closely associated for extended periods of time. In this kind of case, it must be determined whether the specific activity was a reasonable incident of the employment or whether it was an isolated event which could not reasonably have been expected to result from close association.

(3) Assault. An injury or death caused by the assault of another person may be covered if it is established that the assault was accidental and arose out of an activity directly related to the work or work environment. Coverage may also be extended if the injury arose out of a personal matter having no connection with the employment if it was materially and substantially aggravated by the work association. The supervisor should submit copies of reports of any internal or external investigation as well as witness statements from parties with knowledge of the incident.

(4) Emergencies. Coverage is extended to employees who momentarily step outside the sphere of employment to assist in an emergency, such as to extinguish a fire or help a person hit by a car.

## 3-5. Causal Relationship

After the four factors described above have been considered, causal relationship between the condition claimed and the injury or disease sustained is examined. Unlike fact of injury, which is discussed in paragraph 3-3 above and which involves the determination that a medical condition is present, causal relationship involves establishment of a connection between the injury and the condition found. This factor is based entirely on medical evidence provided by physicians who have examined and treated the employee. Opinions of the employee, supervisor or witness are not considered, nor is general medical information contained in published articles.

A. *Kinds of Causal Relationship.* An injury or disease may be related to employment factors in any one of four ways:

(1) Direct Causation. This term refers to situations where the injury or factors of employment result in the condition claimed through a natural and unbroken sequence.

(2) Aggravation. If a pre-existing condition is worsened, either temporarily or permanently, by a work-related injury, that condition is said to be aggravated.

(a) Temporary aggravation involves a limited period of medical treatment and/or disability, after which the employee returns to his or her previous medical status. Compensation is payable only for the period of aggravation established by the medical evidence, and not for any disability caused by the underlying disease. This is true even if the employee cannot return to the job held at time of injury because the pre-existing condition may be aggravated again. For example, if exposure to dust at work temporarily aggravates an employee's pre-existing allergy, compensation will be payable for the period of work-related disability but not for any subsequent period, even though further exposure in the work place may cause another aggravation.

(b) Permanent aggravation occurs when a condition will persist indefinitely due to the effects of the work-related injury or when a condition is materially worsened by a factor of employment such that it will not return to the

pre-injury state.

(3) Acceleration. A work-related injury or disease may hasten the development of an underlying condition, and acceleration is said to occur when the ordinary course of the disease does not account for the speed with which a condition develops.

(4) Precipitation. This term refers to a latent condition which would not have manifested itself on this occasion but for the employment. For example, an employee's latent tuberculosis may be precipitated by work-related exposure.

B. *Medical Evidence*. The issue of causal relationship almost always requires reasoned medical opinion for resolution. This opinion must come from a physician who has examined or treated the employee for the condition claimed. Where a pre-existing condition involving the same part of the body is present, the physician must provide rationalized medical opinion which differentiates the effects of the employment-related injury or disease from the pre-existing condition. Such evidence will permit the proper kind of acceptance (temporary vs. permanent aggravation, for instance).

To establish causal relationship, additional medical opinion may be requested of OWCP's District Medical Director/Adviser or from a specialist in the medical field pertinent to the injury or disease. In a claim for a psychiatric condition, a report from a psychiatrist or clinical psychologist will be required. In claims for hearing loss and pulmonary disease, OWCP will refer the employee for examination by an appropriate specialist after exposure to the hazardous condition or substance has been established. Chapter 6 contains further information about medical examinations.

C. *Consequential and Intervening Injuries*. Sometimes an injury occurring outside the performance of duty affects the compensability of a work-related injury.

(1) A consequential injury is a new injury which occurs as the result of a work-related injury (for example, 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 are compensable.

(2) An intervening injury is one which occurs outside the performance of duty to the same part of the body originally injured. The resulting condition will be considered related to the original injury unless the second injury and any other factors unrelated to the original injury are established as its cause.

For instance, an employee with an accepted claim for back strain later begins to have pain which suggests disc involvement. Later, while at home, he suffers pain in his back when he leans over the tub to clean it. Unless the incident at home is medically competent to cause the resulting condition, and it breaks the chain of causation of an earlier injury, OWCP will consider the resulting condition to be causally related to the original injury.

## 3-6. Statutory Exclusions

Sometimes the circumstances of a case raise the issues of willful misconduct, intention to bring about the injury or death of oneself or another, or intoxication. If any of these factors is the cause of the injury or death, benefits are denied. Agency or OWCP staff must assert and prove these factors.

A. *Willful Misconduct*. The question of deliberate willful misconduct may arise when the employee violated a safety rule, disobeyed orders of the employer, or violated a law. Because safety rules have been established for the protection of the worker rather than the employer, simple negligent disregard of such rules is not sufficient to deprive an employee or beneficiary of entitlement to compensation. Disobedience of such orders may destroy the right to compensation only if the disobedience is deliberate and intentional as distinguished from careless and heedless.

B. *Intoxication*. In any case involving intoxication (whether by alcohol or illegal drugs), the record must establish both the extent to which the employee was intoxicated at the time of the injury and the particular manner in which the intoxication caused the injury. It is not sufficient just to show that the employee was intoxicated; it must be shown that the intoxication proximately caused the injury. This requirement does not, however, provide agency personnel with any additional authority to test employees for drug use beyond that which may exist under other statutes or regulations.

C. *Intent to Bring About Injury or Death to Oneself or Another*. Where it appears that the employee brought about his or her own injury or death, or that of another, intent must be established. If the factual and medical evidence show that the employee was not in full possession of his or her faculties, the injury may be compensable. Thus, suicide may be compensable if the injury and its consequences directly caused a mental disturbance or physical condition which produced a compulsion to commit suicide and prevented the employee from exercising sound discretion or judgment so as to control that compulsion.

## Chapter 4. Processing Claims

This chapter describes procedures and responsibilities for case handling once the proper forms and information have reached OWCP. It also describes the steps which agency personnel should take if they believe a claim to be questionable.

- 4-1 Administrative Matters
- 4-2 Burden of Proof
- 4-3 Questionable Cases
- 4-4 Decisions and Notification

### 4-1. Administrative Matters

A. *Initial Handling*. The notice of traumatic injury, occupational disease or death should be filed with the district office with jurisdiction over the location of the employing agency. (After adjudication, the claim may be transferred to the district office with jurisdiction over the location of the employee's residence, if different.) When possible, the notice should be accompanied by supporting documents such as medical reports and statements from the employee, the supervisor, and witnesses. However, submittal of claim forms should not be delayed pending receipt of the supporting documents. When the notice is received, OWCP will send the employee and the supervisor a postcard (Form CA-801) advising the claim number assigned to the case.

OWCP will administratively close uncontroverted claims with medical bills totalling less than \$1500, no claim for compensation benefits, and no potential third-party liability after payment of any outstanding medical bills. Claims not meeting these criteria will be assigned to a Claims Examiner for formal adjudication, as will those which pass the \$1500 threshold for medical bill payment.

The Claims Examiner will determine if information in addition to the initial submittal is required to adjudicate the claim. If so, the information will be requested of the employee and/or the supervisor with a copy to all parties to the claim. While the requirements for accepting a claim are considered in the order shown in the previous chapter, OWCP will attempt to request information on all unresolved aspects of the claim at the same time in the interests of efficient case handling.

B. *Obtaining Information*. Most routine requests for information are conveyed by mail. Under the Privacy Act, the employee or representative is entitled to receive one copy of the case file from OWCP free of charge; additional copies will be sent at a cost of \$.10 per page. It is not necessary to request the records under the Freedom of Information Act.

Ordinarily, a complete copy of the record is sent directly to the requestor; occasionally, if sensitive medical information is involved, OWCP will forward the medical reports to a physician of the employee's choice so that the contents may be properly interpreted to the employee. Sensitive medical information may be sent to the employee's representative, with the proviso that it not be disclosed to the employee without the attending physician's permission.

*C. Conferencing.* Telephone conferences conducted by a Senior Claims Examiner are often held in cases involving complicated adjudicatory and case management issues. Conferences may be used to address the agency's controversion; the occurrence of an injury as claimed; the occurrence of an injury in performance of duty; occupational disease cases involving voluminous factual evidence or complex determinations; overpayments; and return-to-work efforts. Conferences may also be held where the employee is not able to express himself or herself well in writing.

A representative of the employing agency may be asked to participate in such a conference, either with the Senior Claims Examiner alone or together with other parties to the claim. After the conference, the Senior Claims Examiner completes a Memorandum of Conference which describes what each party said, then asks the participant(s) to provide any comments on this document within 15 days (except that comments are not requested if the decision is found in favor of the party conferenced). The Senior Claims Examiner then makes findings on the issue for resolution and issues a decision.

*D. Representation.* The FECA provides that an employee may be represented if he or she so desires, but it is not required. A representative need not be an attorney; a union representative, family member or friend, for example, may act in this capacity. A Federal employee may act as a representative only for an immediate family member or in the capacity of a union representative. The employee must designate any representative in writing before OWCP will recognize him or her, and there can be only one representative at a time.

OWCP does not honor contingency fee agreements, and the law contains no provision for OWCP to pay representatives' fees. It does require, however, that OWCP approve such fees before payment. Where the representative and the employee agree on the fee charged, the fee is deemed approved. Where a disagreement exists, OWCP will evaluate the request. In this instance, the employee should not pay any fee prior to approval by OWCP, unless the fee is paid into a true escrow account.

*E. Third Party.* When a party other than the injured employee or another employee of the agency appears to be responsible for an injury or death, OWCP may ask the employee to seek damages from that party, which may be an individual, a company, or a product manufacturer. OWCP encourages supervisors to investigate the third-party aspect of any claim and submit all information gathered. OWCP will contact the employee with specific instructions about this aspect of the claim; he or she should not attempt to settle such a claim without first obtaining advice and approval from the Solicitor of Labor through OWCP.

While a claim is pending against the third party, OWCP will pay medical and compensation benefits to which the beneficiary is entitled. If a recovery is made, the beneficiary must first pay outstanding legal fees and costs. He or she is then entitled to retain 20 percent of the remaining amount, plus an amount equivalent to a reasonable attorney's fee in proportion to the sum which will be owed to OWCP. The latter amount generally includes the total medical and compensation payments made by OWCP up to the time of settlement. The beneficiary retains any money remaining, which is credited against future claims for benefits. OWCP will resume payment of compensation benefits and medical bills only after the beneficiary has submitted claims which equal the amount of money remaining.

## 4-2. Burden of Proof

The employee is responsible for establishing the essential elements of the claim as described in Chapter 3. OWCP will help the employee to meet this responsibility, which is termed burden of proof, by requesting evidence needed to establish these elements if such information is not included with the original submittal.

OWCP will try to obtain any pertinent medical evidence in the possession of another Federal facility, including the employing agency, but this assistance does not relieve the employee of his or her burden of proof. Agencies are required by law to provide medical and factual evidence requested by OWCP to adjudicate a claim. Agencies and employees are always entitled to present information not specifically requested by OWCP.

When information is not submitted in a timely manner, delays in adjudicating cases and paying claims often result. To minimize such delays, OWCP will ask the employee and supervisor to submit the required evidence within a specific period, usually 30 days from the date of the request. A copy of any request to the supervisor for information will be sent to the employee, and vice versa.

### *A. Traumatic Injury Cases (Including Recurrence and Death).*

(1) The factual evidence required from an employer in a traumatic case often concerns the circumstances of the injury. By anticipating the information that OWCP will need, as described in the preceding chapter, supervisors contribute to the efficient handling of the claim. Each submittal of forms should contain a clear description of how the injury occurred, including the time and place, whether it happened during working hours, the presence of witnesses, etc.

If this information is not included in the original submittal, OWCP will request it. If it is not received, OWCP will process the case on the basis of the evidence submitted by the employee, as follows:

(a) If the employee's statement is sufficiently detailed and/or credible, OWCP will accept the statement and adjudicate the case accordingly.

(b) If the employee's statement is not sufficient and/or credible, the case will be denied for the reason that one or more of the five basic elements required to approve a claim has not been established.

(2) Medical evidence in possession of the agency may also be requested.

(a) In an unadjudicated case, the supervisor should submit copies of medical records pertaining to the injury and any relevant pre-existing condition at the time of initial submittal to OWCP. OWCP will request this evidence of the agency if it is not sent with the original submittal.

(b) In an accepted case, if the employee receives continuing care from an agency physician (or its contract provider), the supervisor should include supporting medical evidence for disability with claims submitted. Otherwise, OWCP will request this evidence.

If the file contains prima facie medical evidence of disability for the period claimed but additional support is needed, OWCP will authorize payment for a reasonable period and request the evidence from the employer. If another claim is received and the previously requested evidence has not been submitted, OWCP will again authorize payment of compensation for a reasonable period and refer the employee to a medical specialist for examination.

(3) Information needed to make payment will usually include the employee's salary and the days of LWOP claimed. Agencies can speed payment by advising OWCP if the pay rate includes elements of pay such as night and Sunday differential. If so, OWCP will need to know whether the employee has received the increments regularly (in which case the biweekly amount should be stated) or sporadically (in which case the employee's

entire earnings in the relevant pay category for the year preceding the injury should be stated).

Where the pay rate is in question, OWCP will begin paying compensation using the lower salary and request clarification from the supervisor. If a second request is necessary, OWCP will advise the employee that documentation is needed to support the higher pay rate and ask for any documentation in his or her possession. If the agency fails to reply and the employee submits adequate documentation (e.g., pay stubs), OWCP will adjust compensation. Until sufficient documentation is received from the supervisor or the employee, compensation will be paid at the lower rate.

Where the days and hours of LWOP are in question, OWCP will request clarification from the supervisor. Any follow-up request will also advise the employee of the need for documentation and invite him or her to submit a detailed account for the period in question. If the employee provides such an account, OWCP will send a copy to the supervisor for review and advise that unless OWCP is notified of any inaccuracies in a timely manner, the employee's accounting will be used to compute the payment.

#### *B. Occupational Disease Claims (Including Recurrence and Death).*

(1) OWCP's requirements for factual information vary according to the type and severity of the medical condition involved. Simple occupational disease claims, for example a claim for poison ivy where the job duties involved exposure to the plant, and the medical evidence confirmed the diagnosis, require less evidence to adjudicate.

The information specified in the instructions on Form CA-2 and on the evidence checklist appropriate to the disease in question should be sent with the initial submittal. If sufficiently detailed descriptions of how the condition developed are not received, OWCP will request the information needed for adjudication.

If the information is not received, OWCP will process the case on the basis of the evidence submitted by the employee. As with traumatic injury cases, if that evidence is sufficient and/or credible, OWCP will accept the employee's statements and adjudicate the case accordingly. If the evidence is not sufficient and/or credible, OWCP will deny the case because one or more of the five basic elements required to approve a case has not been established.

(2) An agency medical facility sometimes provides medical examination and treatment. If additional evidence about such treatment is needed from the agency, OWCP will advise the employee that OWCP is attempting to obtain it, but that the burden of proof still rests upon the employee and that he or she should also try to obtain that evidence.

(3) As with traumatic injury cases, payment information needed from the agency will likely include the employee's pay rate and the days of LWOP claimed, and OWCP will use the procedures described above for obtaining such information in traumatic injury cases. The medical evidence developed for initial adjudication should provide sufficient information about the nature and extent of disability to permit adjudication of the claim for wage loss. If not, OWCP will follow the procedures for developing medical evidence for wage-loss claims in traumatic injury cases.

Once OWCP accepts a claim, the burden of proof shifts from the employee to OWCP. To rescind the acceptance of a condition or to make a retroactive determination that an employee was not disabled for a period during which compensation was paid, OWCP must demonstrate not only that an error was made but that the weight of the evidence supports a different conclusion about the merits of the claim. In practice, this means that new evidence is virtually always required to rescind an acceptance.

## 4-3. Questionable Cases

If the supervisor questions the validity of a claim, he or she should investigate the circumstances and report the results to OWCP. All such allegations must be supported by specific factual evidence. Situations which may prompt the supervisor to conduct such an investigation, and actions which the agency may take, are as follows:

- A. *Differing Versions.* If the employee has given differing versions of the incident to different people, or several witnesses give differing accounts of the facts surrounding the injury, the supervisor should request a written statement from each person which details his or her knowledge of the situation.
- B. *Previous Injury.* If the employee reported to work on the date of the claimed injury with the appearance of a pre-existing condition or injury, the agency should obtain statements from witnesses which detail the relevant observations.
- C. *Time Lags.* If an injury is reported long after its alleged occurrence, and the employee appears to be able to perform normal duties, a written statement detailing the situation should be composed.
- D. *Other Employment.* If an employee who has claimed injury is reported to be working at another job, the supervisor should first ask him or her about the requirements of the other employment. Depending on the reply, the supervisor may wish to ask the employee for permission to contact the other employer for information about duties and periods of work.

OWCP will consider all information submitted and correspond with the parties if necessary. Also, OWCP may investigate the claim, whether or not the agency has conducted an investigation. The authority to determine any aspect of a claim rests with OWCP, and while the agency is entitled to an explanation of the basis of OWCP's action, it must accept the determination rendered.

## 4-4. Decisions and Notification

If disability is expected to occur or continue, OWCP will notify the employee by letter that his or her case is accepted. The letter will state the medical condition for which the claim is accepted and advise how to claim compensation benefits and obtain payment or reimbursement of medical bills.

In cases involving potential long-term disability, OWCP will notify the employee of his or her obligation to seek work when he or she is no longer totally disabled. The supervisor will receive a copy of this notification and will also be asked to submit a copy of the employee's job description and job application (SF-171 or equivalent) to prepare for eventual reemployment. (This process is described in Chapter 8.)

During the life of a claim, decisions may be rendered on various issues. OWCP usually advises employees by letter about such matters as approval or denial of surgical procedures and other forms of medical care, and payment of medical bills. Appeal rights are not usually included in such notifications, but OWCP will issue formal decisions on such matters if requested.

Any determination that sets forth OWCP's findings in the case and includes a description of the employee's appeal rights is known as a formal decision. OWCP issues a formal decision whenever it reaches an adverse decision about entitlement, such as denial of an initial claim or denial of continuing benefits. Three avenues of appeal are provided for employees (the agency is not entitled to appeal). The employee may request only one form of appeal at a time.

- A. *Hearing.* The employee is entitled to either an oral hearing before an OWCP representative or a review of the written record (but not both), as long as written request is made within 30 days of the formal decision and a

reconsideration has not already been requested. The employee may request a change of format under certain circumstances.

The request should be sent to the Branch of Hearings and Review at the address stated in the appeal rights; no special form is needed. If an oral hearing is requested, it will be held within 100 miles of the employee's home, and the employee may present written evidence or oral testimony in support of the case. If a review of the written record is chosen, the employee may not present oral testimony, but he or she may submit written evidence or argument.

If an oral hearing is requested, OWCP will advise the agency of the date and time. The agency may send one representative (or more, where appropriate) to the hearing and/or request a copy of the transcript. The agency representative may not participate in the proceedings, however, unless specifically invited to do so by the employee or the OWCP representative.

For either an oral hearing or a review of the written record, OWCP will allow the agency representative 20 days to submit comments and/or additional documents, which will be subject to review and comment by the employee within a further 20 day period.

After the oral hearing is held or the review of the written record is completed, OWCP will issue a formal decision, including a description of the employee's further appeal rights.

**B. Reconsideration.** The employee may ask OWCP to reconsider a formal decision made by the district office. The request should be addressed to the district office; no special form is required, but the request should clearly state the grounds on which it is based. It must be accompanied by relevant evidence not previously submitted or arguments for error in fact or law in reaching the contested decision. A reconsideration must be requested within one year of the date the contested formal decision was issued.

For any request which meets these criteria, OWCP will provide the agency representative with a copy of the employee's request, and allow 20 days for submittal of comments and/or documents, which will in turn be subject to the employee's review and comment within 20 days. Following reconsideration, OWCP will issue a new formal decision, which includes a description of the employee's further appeal rights.

**C. Review by Employees' Compensation Appeals Board (ECAB).** An employee may request review by the ECAB, which is the highest authority in Federal workers' compensation claims. The employee should file for such review directly with the ECAB at the address shown in the formal decision. The ECAB's review is based solely upon the case record at the time of the formal decision; new evidence is not considered.

Employees residing within the continental United States or Canada should file application for review within 90 days of the date of the decision. Employees residing elsewhere should file within 180 days of the date of the decision. For good cause shown, the ECAB may excuse failure to timely file an application for review if it is filed within one year of the date of the decision.

## Chapter 5. Continuation of Pay

This chapter describes the employee's entitlement to continuation of his or her regular pay (COP) for periods of disability or medical care which occur soon after a traumatic injury.

- 5-1 Definition and Entitlement
- 5-2 Use of Leave Instead of COP
- 5-3 Controversion
- 5-4 Pay Rate for COP Purposes
- 5-5 Computation

- 5-6 Light- or Limited-Duty Assignments
- 5-7 Recurrences
- 5-8 Terminating COP
- 5-9 Reporting COP--Form CA-3

## 5-1. Definition and Entitlement

The FECA provides that an employee's regular pay may continue for up to 45 calendar days of wage loss due to disability and/or medical treatment after a traumatic injury. The intent of this provision is to avoid interruption of the employee's income while the case is being adjudicated. COP is not considered compensation and is therefore subject to the usual deductions from pay, such as income tax and retirement allotments. After entitlement to COP ends, the employee may apply for compensation or use leave.

An employee is entitled to receive COP when he or she is absent from work due to disability or medical treatment, or when he or she is reassigned by formal personnel action to a position with a lower rate of pay due to partial disability. Because informal assignment to light or limited duties without a personnel action does not result in pay loss, time worked in such a position may not be charged to COP. However, an employee whose work schedule is changed, so that a loss of salary or premium pay (e.g., holiday pay or night differential, though not Sunday pay) results, is entitled to COP for such wage loss whether or not the schedule was changed by a formal personnel action.

Temporary employees are entitled to COP on the same basis as permanent employees. If a termination date has been set for an employee prior to the injury, however, COP need not be continued past the date of termination as long as Form SF-52 showing the date of termination has been completed. In this instance, OWCP will pay compensation to a disabled worker after employment has ceased. Like any other employee, a temporary worker who first reports a traumatic injury after employment ends is not entitled to COP.

## 5-2. Use of Leave Instead of COP

An employee may use annual or sick leave to cover all or part of an absence due to injury. If an employee elects to use leave, each full or partial day for which leave is taken will be counted against the 45 days of entitlement to COP. Therefore, while an employee may use COP intermittently along with sick or annual leave, entitlement is not extended beyond 45 days of combined absences.

An election of sick or annual leave during the 45-day period is not irrevocable. If an employee who has elected leave later wishes to elect COP, the supervisor must make such a change on a prospective basis from the date of the employee's request. Where the employee wishes to have leave restored retroactively, the supervisor must honor the request, provided he or she receives prima facie medical evidence of injury-related disability for the period in question.

## 5-3. Controversion

An agency's objection to paying COP for one of the reasons provided by regulation is called controversion. The supervisor may controvert a claim by completing the indicated portion of Form CA-1 and submitting detailed supporting information to OWCP. Even though a claim is controverted, the agency must continue the employee's regular pay unless at least one of the following conditions applies:

A. The disability is a result of an occupational disease or illness;

- B. The employee comes within the exclusions of 5 U.S.C. 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);
- C. The employee is neither a citizen nor a resident of the United States, Canada, or the territory under the administration of the Panama Canal Commission (i.e., a foreign national employed outside these areas);
- D. The injury occurred off the employing agency's premises and the employee was not engaged in official "off-premises" duties;
- E. The employee caused the injury by his or her willful misconduct, or the employee intended to bring about his or her injury or death or that of another person, or the employee's intoxication 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 of the injury;
- G. Work stoppage first occurred more than 45 days after the injury;
- H. The employee first 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.

The agency may not continue pay under any of the above circumstances.

The agency may dispute an employee's right to receive COP (and/or the validity of the claim as a whole) on other grounds, for instance on the basis that the employee was not performing assigned duties when the injury occurred, or that the condition claimed is not the result of a work-related injury. Any such objection should be supported by factual evidence such as witness statements, pictures, accident investigation reports, or time sheets. If the validity of a claim is disputed for reasons other than the nine listed above, the agency must continue regular pay for up to 45 calendar days. COP may not be interrupted during the 45-day period unless one of the conditions in sections 5-6 or 5-8 is met.

## 5-4. Pay Rate for COP

An employee's regular pay is his or her average weekly earnings, including night or shift differential and various kinds of premium pay (but not Sunday pay). It also includes other extra pay, such as pay authorized by the Fair Labor Standards Act for employees who receive annual premium pay for standby duty and who also earn and use leave on the basis of their entire tour of duty, including periods of standby duty. Overtime pay is not included except for administratively uncontrollable work covered under 5 U.S.C. 5545(c)(2).

A. *Standard Tour of Duty*. For a full-time or part-time worker, either permanent or temporary, who works the same number of hours per week, the weekly pay rate equals the number of hours regularly worked each week times the hourly pay rate on the date of injury, excluding overtime.

B. *Non-standard Tour of Duty*. For a part-time worker, either permanent or temporary, who does not work the same number of hours per week, the weekly pay rate equals the average weekly earnings for the year prior to the date of injury, excluding overtime.

C. *Intermittent Work*. For an intermittent or part-time worker, either permanent or temporary, who does not work each week of the year (or the period of appointment), the weekly pay rate equals the average of the employee's weekly earnings during the year before the injury. The pay rate is computed on the basis of the total earnings divided by the number of weeks worked (partial weeks worked are counted as whole weeks). The annual earnings used for this computation must not be less than 150 times the average daily wage earned within one year before

the date of injury (the daily wage is the hourly rate times eight).

D. *Increments of Pay.* Night or shift differential as well as holiday or other extra premium pay (except for Sunday pay) should be included, but overtime pay may not be considered.

E. *Changes in Pay.* Changes in pay due to within-grade increases or promotions, demotions, terminations of temporary details, etc. which would have occurred but for the injury are included in COP since COP represents salary and not compensation. Moreover, an employee who moves into a higher-paying job during the COP period is entitled to receive COP at the higher rate of pay. Where the weekly COP rate is based on the employee's average weekly earnings during the year prior to the date of injury, the COP rate should be changed by the same percentage as the change in hourly pay or salary.

F. *Lost Elements of Pay.* An element is sometimes lost due to the effects of the injury. For instance, a night shift worker may be reassigned to the day shift to perform light duty, and thus lose night differential. In such instances COP should be granted for the lost element of pay. Each day for which COP is granted to cover a lost element of pay will count as one full day of COP.

## 5-5. Computation

Unless the injury occurs before the beginning of the workday, time loss on the date of injury should be charged to administrative leave. The period to be charged to COP begins with the first day or shift of disability or medical treatment after the date of injury, provided that the absence began within 45 days after the injury. COP should be charged for weekends and holidays if the medical evidence shows the employee was disabled on the days in question. For example, if the physician states that disability will continue only through Saturday for an employee who has Saturday and Sunday off, COP will be charged only through Saturday.

If work stoppage occurs for only a portion of a day or shift, a full day of COP will be counted toward the 45-day entitlement, even though the employee is not entitled to COP for the entire day or shift. For example, if an employee who has returned to work must lose three hours to obtain physical therapy for the effects of the injury, he or she is entitled to only three hours of COP even though one full day will be counted. If the employee is absent for all or part of the remaining workday, the time loss should be covered by leave, LWOP, AWOL, etc., as appropriate, since absence beyond the time needed to obtain the physical therapy cannot be charged to COP.

If a partially disabled employee continues to work several hours a day, each day or partial day of absence from work is chargeable against the 45-day period.

## 5-6. Light- or Limited-Duty Assignments

When the physician's report shows that the employee is no longer totally disabled, he or she is required to accept any reasonable offer of suitable light or limited duty. Such an offer may be made by telephone but must be confirmed in writing within 48 hours to be valid. The offer should include a description of the duties and requirements of the offered position. If a personnel action is involved, the employee must be furnished with a copy of it prior to the effective date.

COP should be paid if the employee has been assigned light or limited duty by formal personnel action and pay loss results (e.g., the employee is placed in a light duty position at lower pay). The dollar amount of COP will be the difference between the pay rates of the job held on date of injury and the light- or limited-duty position. One full day of COP should be charged for each day of light duty, even though the employee is working a full shift. COP should also be paid if the light or limited duty consists of work at regular duties for fewer than the usually scheduled number of hours. COP should also be paid if the light or limited duty consists of work at regular duties

for fewer than the usually scheduled number of hours.

If the employee refuses to accept the work offered, COP should be terminated as of the date of the employee's refusal or after five workdays from the date of the offer, whichever is earlier. OWCP will then determine entitlement based on the medical reports and the duties of the offered position and issue a formal decision concerning payment of COP. A discussion of the criteria used in making such determinations is found in Chapter 8-4.

## 5-7. Recurrences

In many cases, an employee will return to work without using all 45 days of entitlement of COP. Should such an employee suffer a recurrence of disability, he or she may use COP if no more than 45 days have elapsed since the date of first return to work, including part-time work and light or limited duty. If the recurrence begins later than 45 days after the first return to work, the agency should not pay COP even though some days of entitlement remain unused. A period which begins before the 45-day deadline and continues beyond it may be charged to COP as long as the period of time is uninterrupted.

If a third-party credit has been established, the supervisor should contact OWCP before paying COP.

## 5-8. Terminating COP

COP should not be stopped unless:

*A. Medical Evidence is Not Submitted Within 10 Workdays.* This period should be counted from the date the employee claims COP or the disability begins (or recurs), whichever is later. If the agency has not received prima facie medical evidence of injury-related disability within that period, it may stop COP.

However, the agency need not wait 10 days to request such evidence, which is defined as medical evidence showing that the employee is disabled for the job held at the time of injury because of an employment injury. Pay may be continued without such evidence if the supervisor is satisfied that the employee sustained a disabling traumatic injury.

For the purposes of this provision:

(1) The 10-workday period begins with the workday after the employee claims COP or the disability begins (or recurs).

(2) A "workday" means the business day of the office or facility where the employee works or reports, such that the employee could submit the medical evidence to an authorized agency official.

*B. The Employee is No Longer Disabled.* The agency should terminate COP if: it receives medical information from the attending physician stating that the employee is no longer disabled for regular work; a partially disabled employee returns to full-time light or limited duty with no pay loss; or the employee refuses a suitable offer of light- or limited- duty work.

*C. OWCP Notifies the Agency That Pay Should be Terminated.*

*D. The 45-Day Period Expires.*

An employee who is scheduled to be separated and who reports a traumatic injury on or before the date of separation is entitled to COP up to the date of separation and to compensation thereafter.

## 5-9. Reporting COP--Form CA-3

A. *Time Cards.* Time loss for an employee who is receiving COP should be recorded as "COP" on the Time and Attendance Report. A diminishing record of the 45-day limitation is to be maintained in the "Remarks" block.

B. *Completion of Form CA-3.* Sometimes, return to duty information is shown on Form CA-1 when the injury is first reported. If not, the agency may (but is not required to) complete Form CA-3 and submit it to OWCP when entitlement to COP ends, the employee returns to work, or the disability ceases.

Any Form CA-3 filed should state the specific days and hours charged to COP and/or leave, and attachments may be used if necessary. The amount of money shown should reflect only the amount paid for COP; it should not include wages paid for light or limited duty or for parts of days actually worked. In cases of intermittent or delayed disability, time charged to COP may be reported by narrative letter rather than Form CA-3.

If the disability ends before the 45-day period expires, the agency should terminate COP. An employee who is no longer disabled must return to work upon notification by the attending physician that he or she is able to perform full regular duty or suitable and available light or limited duty. If the employee does not return to duty, an overpayment which is subject to collection by the agency may result.

C. *Formal Decision.* In all cases OWCP has the final authority to determine whether the agency's action in paying or terminating COP is correct. If entitlement is denied, OWCP will issue a formal decision (usually conveyed by Form CA-1050). Payment made may then be charged, at the employee's option, to sick or annual leave or be deemed an overpayment subject to collection by the agency.

## Chapter 6. Medical Benefits and Care

This chapter addresses medical benefits under the FECA.

- 6-1 Entitlement
- 6-2 Definition of Physician
- 6-3 Choice of Physician
- 6-4 Medical Treatment and Evaluation
- 6-5 Exclusion of Providers
- 6-6 Payment of Bills

### 6-1. Entitlement

The FECA at 5 U.S.C. 8103 authorizes medical services for treatment of any condition which is causally related to factors of Federal employment. No limit is imposed on the amount of medical expenses or the length of time for which they are paid, as long as the charges represent the reasonable and customary fees for the services involved and the need for the treatment can be shown.

Federal employees are entitled to all services, appliances, and supplies prescribed or recommended by qualified physicians which, in the opinion of OWCP, are likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation. Medical care includes examination, treatment, and related services such as medications and hospitalization, as well as transportation needed to secure these services. Preventive care may not be authorized, however.

## 6-2. Definition of Physician

The term "physician" includes surgeons, osteopathic practitioners, podiatrists, dentists, clinical psychologists, optometrists, and chiropractors within the scope of their practice as defined by State law. Naturopaths, faith healers, and other practitioners of the healing arts are not recognized as physicians within the meaning of the law.

A. *Chiropractors*. Under the FECA, the services of chiropractors may be reimbursed only for treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist. The term "subluxation" is defined as an incomplete dislocation, off-centering, misalignment, fixation or abnormal spacing of the vertebrae anatomically which must be demonstrable on any X-ray film to individuals trained in the reading of X-rays. Chiropractors may interpret their own X-rays, and if a subluxation is diagnosed, OWCP will accept the chiropractor's assessment of any disability caused by it.

If a Form CA-16 is issued to a chiropractor for emergency care and the condition diagnosed is other than a subluxation, OWCP will honor the charges incurred and terminate the authority of Form CA-16. In this situation the employee is entitled to select another attending physician, who will need to submit a report substantiating the condition found in order for the claim to be accepted.

B. *Excluded Physicians*. The term "qualified physician" does not include those whose licenses to practice medicine have been suspended or revoked by a state licensing or regulatory authority or who have been excluded from payment under the FECA (see paragraph 6-5 below).

## 6-3. Choice of Physician

A. *Initial Choice*. An employee is entitled to initial choice of physician for treatment of an injury. He or she may choose any licensed physician in private practice who is not excluded, or he or she may choose to be treated at a government medical facility if one is available. Such facilities include hospitals of the Army, Navy, Air Force, and Department of Veterans Affairs and their medical officers.

Agency personnel may not interfere with the employee's right to choose a physician, nor may they require an employee to go to a physician who is employed by or under contract to the agency before going to the physician of the employee's choice. Agency personnel may contact the attending physician only to obtain additional information about or clarify the employee's duty status or medical progress, and only in writing.

B. *Referral by Attending Physician*. The attending physician may engage the services of facilities which provide X-ray or laboratory services, or the services of specialists who can provide consultation. Charges for such services will usually be paid on the basis that the attending physician requested them.

C. *Change of Physician*. Except for a referral made by the attending physician, any change in treating physician must be authorized by OWCP. Otherwise, OWCP will not pay for the treatment. The employee should request any such change in writing and explain the reasons for the request. If a physician chosen by an employee is later excluded from participation under the regulations, the employee should choose another physician. Otherwise, and upon notification by OWCP, he or she will be liable for payment of the bills from the excluded provider.

D. *Transfer of Medical Care*. The agency does not have authority to transfer medical care from one physician to another. If adequate medical care is not available locally or it appears that transfer of medical care is advisable for other reasons, the agency must contact OWCP for instructions.

## 6-4. Medical Treatment and Evaluation

A. *Employee Requests.* To guarantee payment, some forms of medical treatment should be approved by OWCP in advance. Such forms of treatment include:

- (1) Non-emergency surgery; a second opinion examination may be needed before such surgery can be approved. (OWCP will not require an employee to undergo surgery or any other invasive procedure, such as a myelogram);
- (2) Private hospital room accommodations. (Only semi-private rooms will be authorized unless the employee's condition requires private accommodations);
- (3) Hospital beds, traction apparatus, wheelchairs, and similar equipment;
- (4) Orthopedic appliances and shoes;
- (5) Nursing home care;
- (6) Courses of physical therapy;
- (7) Hearing aids and lip-reading services;
- (8) The services of hearing and seeing-eye dogs;
- (9) Memberships in health clubs.

The attending physician is responsible for requesting such services, and his or her reasons for believing that the services are needed should be included in the request. Prior authorization need not be obtained to purchase minor appliances such as a sacroiliac belt or an ankle strap, or for such items as crutches and canes if prescribed by the attending physician.

B. *OWCP Requests.* OWCP may ask other physicians besides the attending physician to evaluate an employee and/or file. OWCP may request such evaluations in connection with original or continuing entitlement to benefits, the percentage of the employee's permanent impairment or ability to return to full or light duty, or other issues. Physicians who may be asked to examine the employee and/or file are as follows:

- (1) District Medical Director/Advisor (DMD/DMA). Each district office has one or more physicians on staff or under contract who respond to questions raised by OWCP staff. These physicians interpret medical issues posed by treating physicians and provide their own opinions on medical questions. DMDs and DMAs also consider requests for surgery and other kinds of treatment requiring OWCP approval. They do not, however, examine employees except where a claim for disfigurement of the face, head or neck is involved.
- (2) Medical Specialist (Second Opinion Referral). Medical issues sometimes arise which cannot be resolved on the basis of opinions given by the attending physician and the DMD/DMA. Opinion will then be requested from a physician who specializes in the field of medicine pertinent to the issue. OWCP will arrange the appointment and advise the employee of the arrangements. OWCP pays for the examination, as well as for reasonable travel expenses and wage loss incurred in connection with it. The employee may bring a physician paid by him or her to the examination if desired. The compensation of an employee who fails to attend an OWCP-scheduled examination without good cause will be suspended until the employee reports for examination.
- (3) Referee Medical Specialist. A conflict of medical opinion may occur when the file contains differing medical opinions of approximately equal weight. Medical opinion from a referee specialist will then be arranged to resolve the conflict of opinion, which may concern the relationship of a condition to factors of employment, or the extent of disability, for example.

OWCP selects the referee physician on the basis of rotation among the available specialists within a given geographical area who practice in the pertinent field of medicine. OWCP will arrange the appointment and advise the employee of the arrangements. As with second opinion referrals, OWCP will pay the cost of the examination, reasonable travel expenses, and the amount of lost wages. Here again, the compensation of an employee who fails to attend the examination without good reason will be suspended until the employee reports for examination.

*C. Agency Requests.* The FECA does not address the issue of medical examinations desired by the agency. Parts 339 and 353 of OPM's regulations grant authority to agencies to arrange for examination of any employee who files a compensation claim by a physician of the agency's choice, at the agency's expense. However, the purpose of such an examination is solely to determine if the employee can work in some capacity, thereby facilitating return to work.

Medical examinations may not be used to intimidate employees. While agencies must send the results of such examinations to OWCP and notify OWCP if the employee refuses to be examined, the results of such examinations *per se* do not affect entitlement to compensation.

## 6-5. Exclusion of Providers

Certain providers may be excluded from participation in the Federal employees' compensation program. OWCP may not pay for the services of such providers during the period of exclusion.

*A. Fraud.* Providers who have been convicted under a criminal statute for fraudulent activities in connection with a Federal or state program which makes payments to providers for medical services are automatically excluded from participation in the FECA program. This means that OWCP will not honor their bills for services. Providers who are excluded or suspended from similar Federal or state programs, including Medicare, are also automatically excluded from participation in the FECA program.

*B. Other Grounds.* OWCP will begin exclusion procedures upon receipt of information that a provider has knowingly: made a false statement or misrepresented a fact in connection with a claim for reimbursement or request for payment; charged more than the provider's customary fee for similar services without good cause; failed to reimburse an employee who has paid a bill for treatment which was also paid by OWCP; repeatedly failed to submit full and accurate medical reports or failed to respond to requests for medical information; or furnished treatment substantially beyond the employee's needs, or which fails to meet professionally recognized standards.

*C. Due Process.* The regulations appearing at 20 CFR <sup>oo</sup> 10.815-10.826 include due process at every step to protect the rights of providers. These rights include administrative review of decisions and consideration of reinstatement after a period of exclusion if reasonable assurances exist that the action which led to the exclusion will not be repeated. OWCP automatically reinstates providers who have been restored to participation in Medicare by the Health Care Financing Administration.

*D. Notification.* OWCP periodically distributes to agencies the names and addresses of excluded medical providers and reinstated medical providers. Before authorizing medical services on Form CA-16, the supervisor should ensure that the medical provider chosen by the employee is not excluded. An excluded physician may be reimbursed only for services rendered in a medical emergency. Designated agency officials should report to the OWCP district office any instances of fraud or abuse coming to their attention

*E. Medical Charges.* On receipt of a bill from an excluded provider, OWCP will determine whether either the agency or OWCP notified the employee that the provider was excluded from the program. If not, OWCP will honor the bill and advise both the provider and the employee that, in accordance with the regulations, OWCP will not pay for further treatment. An employee whose attending physician is excluded will be allowed to choose a

new physician.

## 6-6. Payment of Bills

OWCP will pay for or reimburse only those services rendered for work-related injuries. Documentation usually takes the form of a report or clinical notes from the physician, or a copy of the discharge summary from a hospital.

A. *Forms.* Most providers must submit their bills on the American Medical Association (AMA) Standard Health Insurance Claim Form (HCFA-1500). A version of the form which includes instructions for submitting bills to OWCP carries the form number OWCP-1500. In some states the local version of the form may not be designated "HCFA-1500" or may differ from the standard AMA form in other ways. Such local variations are acceptable if they are otherwise complete.

The following providers are *required* to use Form HCFA-1500 to submit bills: physicians; nursing services; laboratories and X-ray facilities; chiropractors; therapists; and suppliers of medical equipment and goods. Dentists are *encouraged* to use the HCFA-1500; they may use the standard ADA form instead.

Pharmacies must use the Universal Claim Form. Hospitals must use Form UB-92, and nursing homes are encouraged to use these forms as well. Bills rendered by ambulance services may be submitted on billhead, as may bills from foreign providers. Veterans Administration facilities may submit bills using Form VA-10-9014.

B. *Requirements.* To be accepted for payment, the bill must include the following information at a minimum:

- (1) Employee's name;
- (2) Provider's name and address;
- (3) Diagnosis;
- (4) Itemized list of services, with charges; and
- (5) Tax identification number (the provider's Employer Identification Number or Social Security Number).

C. *Itemization.* All bills must be sufficiently itemized to allow for evaluation of the charges. The Current Procedural Terminology (CPT) code for each medical, surgical, X-ray or laboratory service should be shown on the HCFA-1500, and bills should state the dates on which the services or supplies were furnished. Individual dates are not necessary if the bill is for repetitive charges over a period of time. In such cases the billing should show the beginning and ending dates of service, and the number of units of service.

D. *Time Limitation on the Payment of Bills.* No bill will be paid unless it is submitted to OWCP on or before December 31st of the year following the calendar year in which the expense was incurred or the claim (or specific condition, as appropriate) was first accepted as compensable by OWCP, whichever is later.

E. *Disallowance of Charges.* Unless the amount involved is minor, OWCP will advise the payee fully of any adjustments to the bill by letter which explains the amount of the deletion or reduction, the particular charge affected, the reasons for the action, and the amount for which the bill is being approved. If a bill is reduced because the charges exceed the amount allowed by the OWCP fee schedule, a separate notice will be issued.

F. *Reimbursement.* An employee may request reimbursement by submitting either receipted bills from the provider or a completed HCFA-1500 signed by the provider. Hospital bills must be stamped "paid" or otherwise certified to show that payment was made. Cash sales receipts that bear imprints of mechanical cash registers may be accepted if the nature of the sale is identified. Photocopies of cancelled checks may be accepted in lieu of

receipts but must be accompanied by itemized bills or other evidence of the charge for which payment was made. Prescription receipts must include the name of the drug and the date the prescription was filled. Reimbursement for prescription expenses should be requested on Form CA-915, which is used in addition to the Universal Claim Form. As with direct payments, the amount claimed may be reduced according to the OWCP fee schedule.

**G. Insurance Companies.** Sometimes bills for a work-related injury are submitted to an employee's health insurance carrier. The carrier may request reimbursement for such charges by submitting a completed HCFA-1500 or similar OWCP-approved form. The form should list procedures and charges for each provider, and copies of paid bills and cancelled checks should be attached. The form should also note the carrier's Tax Identification Number.

**H. Transportation Expenses.** Unless transportation is furnished by the government, the employee may be reimbursed for travel expenses to obtain medical care. Travel should be undertaken by the shortest route and by public conveyance, such as bus or subway, unless the medical condition requires the use of a taxicab or specially equipped vehicle. An employee who uses his or her automobile will be reimbursed at the standard mileage rate for government travel.

Standard Form 1012 should be used to claim reimbursement for travel expenses. All items will be reimbursed on the basis of actual expense; a per diem allowance is not payable. Wages and travel expenses of an attendant to accompany the employee may be approved if his or her condition is such that travel cannot be accomplished otherwise. Authorization for this expense should be obtained in advance of the travel if possible.

**I. Incorrect Payments.** An employee who receives a reimbursement which he or she knows to be incorrect, either partially or totally, should return the check to OWCP immediately. If an overpayment occurs, OWCP will determine whether the beneficiary is with fault in creation of the overpayment. Only if a beneficiary is determined to be without fault may a waiver of the overpayment be considered.

## Chapter 7. Compensation Benefits

This chapter describes the various forms of compensation benefits which are available to injured employees and to survivors in death claims. It also includes a section on computing compensation payments.

- 7-1 Disability Benefits
- 7-2 Death Benefits
- 7-3 Dual Benefits
- 7-4 Computing Compensation

### 7-1. Disability Benefits

An employee who suffers work-related disability may be entitled to receive one or more types of wage-loss compensation, according to the nature and extent of disability incurred.

**A. Temporary Total Disability.** Compensation based on loss of wages is payable after continuation of pay ends (see Chapter 5) or from the beginning of pay loss. Without dependents, an employee is entitled to compensation at the rate of 66 2/3% of his or her salary. With dependents, he or she is entitled to compensation at the rate of 75% of the salary.

(1) Dependents. The following are considered dependents for compensation purposes:

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

(b) An unmarried child who lives with the employee or who receives regular contributions of support from him or 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.

(2) **Waiting Days.** A three-day waiting period, for which no compensation is payable, applies except where disability lasts more than 14 days or permanent disability results from the injury. In these cases compensation is paid for the three days. Where COP is paid, the three-day waiting period begins after the 45th day of COP.

OWCP will notify an employee who receives long-term disability payments of the amount of compensation to be paid, including the pay rate and compensation rate. Compensation payments for total disability may continue as long as the medical evidence supports total disability. Only rarely is an employee declared permanently and totally disabled; benefits provided for permanent total disability are the same as those provided for temporary total disability.

**B. Schedule Awards.** Compensation is provided for specified periods of time for the permanent loss, or loss of use, of certain members and functions of the body. Partial loss or loss of use of these members and functions is compensated on a proportional basis.

(1) **Compensation Schedule.** The following table shows the number of weeks payable for each schedule member if the loss or loss of use is total:

<b>Member</b>	<b>Weeks</b>
Arm	312
Leg	288
Hand	244
Foot	205
Eye	160
Thumb	75
First finger	46
Great toe	38
Second finger	30
Third finger	25
Toe other than great toe	16
Fourth finger	15
Loss of hearing--monaural	52
Loss of hearing--binaural	200
Breast	52
Kidney	156
Larynx	160
Lung	156
Penis	205
Testicle	52
Tongue	160

Ovary (including Fallopian tube)	52
Uterus/cervix	205
Vulva/vagina	205

Compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is the same as for loss of the eye. The degree of loss of vision or hearing is determined without regard to correction; that is, improvements obtainable with use of eyeglasses, contact lenses and hearing aids are not considered in establishing the percentage of impairment. The law does not allow for payment of a schedule award for impairment to the back, heart or brain.

(2) **Medical Evidence Required.** Before OWCP can consider payment of a schedule award, the condition of the affected part of the body must reach maximum medical improvement. This determination involves a medical judgment that the condition has permanently stabilized. In most cases the percentage of impairment is determined in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment, and the evaluation on which the award is based must conform to the rules set forth there.

(3) **Claim and Payment.** Form CA-7 may be used to file a claim for schedule award, or consideration may be requested by narrative letter. Compensation for schedule awards is computed by multiplying the indicated number of weeks times 66 2/3 percent (without dependents) or 75 percent (with dependents) of the pay rate. (See paragraph a(1) above for more information concerning dependents.)

(4) **Decision.** In issuing a schedule award, OWCP will notify the employee and agency of its length (in number of weeks or days), its starting date (the date of maximum medical improvement), the pay rate on which benefits are computed, and the compensation rate. The decision will include a description of the employee's appeal rights.

Schedule awards can be paid even if the employee returns to work. Employees may not, however, receive wage-loss compensation and schedule award benefits concurrently for the same injury. If an employee sustains a period of total disability during the course of the award, it may be interrupted to pay the period of disability; the schedule award will resume afterwards. If an employee dies during the course of a schedule award from causes unrelated to the injury, his or her dependents are entitled to the balance of the award at the rate of 66 2/3 percent.

*C. Loss of Wage-Earning Capacity.* When the medical evidence shows that the employee is no longer totally disabled, OWCP will work toward his or her reemployment, either with the original agency or with another employer. (This process is described in Chapter 8.) If the employee is reemployed at a lower-paying job, or if OWCP determines that he or she can perform the duties of a lower-paying job that is deemed suitable, medically and otherwise, compensation will be paid on the basis of the loss of wage-earning capacity.

(1) **Payment.** The FECA provides that employees who are partially disabled by a work-related injury or illness shall be compensated at a rate equal to 66 2/3% (without dependents) or 75% (with dependents) of the wage loss incurred as a result of the disability. (Paragraph a(1) above discusses dependents.) Benefits are paid for the duration of the wage loss due to work-related disability.

(2) **Decision.** When OWCP determines that the employee can perform a particular job and that the job fairly and reasonably represents the employee's wage-earning capacity, or is otherwise suitable and available, OWCP issues a formal decision. This decision describes the basis for this determination and the formula used to compute the new level of benefits, and it also contains a description of the employee's appeal rights.

*D. Disfigurement.* Where the employee suffers injury to the face, head, or neck, and disfigurement results, the FECA provides for an award of compensation not to exceed \$3500 if the disfigurement will likely be a handicap in securing or maintaining employment. As with schedule awards, payment of an award for disfigurement cannot be considered until maximum medical improvement has occurred. Such awards can be considered only for seriously disfiguring scars and deformities.

E. *Attendant's Allowance*. If an injury is so severe that the employee is unable to care for his or her physical needs, such as feeding, bathing, or dressing, an attendant's allowance of up to \$1500 per month may be paid. The assistance required must be personal in nature; an attendant's allowance cannot be paid for housekeeping services. An employee who believes he or she is entitled to such an allowance should contact the district office by letter for instructions on how to apply for this benefit.

Effective January 4, 1999, all attendant's allowances are paid as medical expenses. A home health aide, licensed practical nurse, or similarly trained individual is to provide the necessary services, including assistance in feeding, bathing, and using the toilet. Like other medical providers, the attendant is to bill OWCP periodically using Form HCFA-1500.

F. *House and Vehicle Modifications*. An employee whose injury severely restricts mobility and independence in the normal functions of living, either permanently or for a prolonged period, may be entitled to house or vehicle modifications. Examples of such conditions include blindness, profound bilateral deafness, and total loss of use of limbs such that a prosthesis, wheelchair, or leg brace is required. An employee may apply for such modifications by narrative letter. They must be recommended by the attending physician and the modified house or vehicle must be consistent with the employee's pre-injury standard of living.

## 7-2. Death Benefits

The survivors of a Federal employee whose death is work-related are entitled to benefits in the form of compensation payments, funeral expenses, transportation expenses for the remains, if necessary, and payment for termination of the deceased's status as a Federal employee.

A. *Entitlement*. The following individuals are entitled to compensation:

- (1) A widow or widower;
- (2) An unmarried child under the age of 18, or over the age of 18 who is incapable of self-support due to mental or physical disability;
- (3) A child between 18 and 23 years of age who has not completed four years of post-high school education and is regularly pursuing a full-time course of study;
- (4) A parent, brother, sister, grandparent, or grandchild who was wholly or partially dependent on the deceased.

B. *Compensation Payments*. Compensation is paid at the following rates:

- (1) A surviving spouse with no eligible children is entitled to compensation at the rate of 50% of the deceased employee's salary. Benefits are paid to the spouse until death or remarriage if he or she is under age 55. If a spouse under age 55 remarries, OWCP makes a lump-sum payment equal to 24 times the monthly compensation at the time of remarriage. Remarriage after the age of 55 does not affect benefits.
- (2) A surviving spouse who has eligible children is entitled to compensation at the rate of 45 percent of the deceased employee's salary. An additional 15 percent is payable for each child, to a maximum of 75 percent of the salary. The children's portion is paid on a share-and-share-alike basis.
- (3) If the deceased employee leaves no spouse, the first child is entitled to 40 percent and each additional child is entitled to 15 percent of the deceased employee's salary, to a maximum of 75 percent, payable on a share-and-share-alike basis.
- (4) Other surviving dependents may be entitled to benefits at various percentages specified by the FECA according to the degree of dependence. Contact the district office for information about claims in this category.

C. *Funeral and Burial Expenses*. Up to \$800 will be paid for funeral and burial expenses. If the employee dies away from his or her area of residence, the cost of transporting the body to the place of burial or cremation will be paid in full. Itemized funeral bills should be sent to OWCP. In addition, a \$200 allowance will be paid in consideration of the expense of terminating the deceased's status as a Federal employee.

D. *Death Gratuity*. Survivors of employees who died in the line of duty on or after August 2, 1990 are entitled to a death gratuity not to exceed \$10,000, less burial and administrative expenses paid by OWCP. Death gratuity payments, which are made by employing agencies, do not constitute dual benefits, and no election between them and OWCP benefits is required.

## 7-3. Dual Benefits

The FECA prohibits payment of compensation and certain other Federal benefits at the same time. This prohibition does not, however, prevent an individual from filing for benefits from more than one government program at a time. For instance, a claimant for disability benefits may file for a retirement annuity (regular or disability) while his or her claim with OWCP is pending. Similarly, a claimant for death benefits may file for a death annuity while his or her claim with OWCP is pending. Only if both benefits are approved will the rules governing dual benefits be invoked.

A. *Office of Personnel Management (OPM)*. Except for schedule awards, a person may not receive disability benefits from OWCP concurrently with a regular or disability annuity (CSC or FERS). Also, a person may not receive death benefits from OWCP concurrently with a survivor's annuity (CSC or FERS).

Therefore, a beneficiary entitled to both benefits must elect between them. (An individual may, however, receive disability benefits from OWCP or an annuity from OPM on his or her own behalf along with death benefits from the other agency which are payable on account of a spouse's death.)

Either OWCP or OPM may offer the election, depending on which agency determined entitlement first. The beneficiary may change his or her election for different periods of time based on the more advantageous benefits.

B. *Department of Veterans Affairs (VA)*. Individuals entitled to receive both compensation from OWCP and veterans' benefits may need to elect between the two. Such an election is required when the disability or death resulted from an injury sustained in civilian Federal employment and the VA has held that it was caused by military service, or when the VA increases a service-connected disability award due to an injury sustained in Federal civilian employment. (In the latter case the election involves only the increase in VA benefits due to disability incurred during civilian employment.) No election is required between OWCP benefits and VA benefits for strictly service-related disability. In death claims, OWCP may not duplicate any payment made by the VA for funeral or burial expenses, and the total payable by both agencies may not exceed \$800.

C. *Social Security Administration*. An employee may receive Social Security payments and OWCP benefits at the same time, subject to income limitations imposed by the Social Security Administration. OWCP will offset any Social Security old age or death benefits which are attributable to the employee's Federal service and paid to an employee or his or her survivors.

D. *Other Federal Income*. An employee may receive compensation concurrently with military retired pay, retirement pay, retainer pay or equivalent pay for service in the armed forces or other uniformed services subject to reduction of such pay in accordance with 5 U.S.C. 5532 (b).

An employee may receive severance pay concurrently with compensation for a schedule award or for loss of wage-earning capacity, but not with compensation for temporary total disability. Separation pay may constitute a dual benefit, and an agency which is offering such payments should contact OWCP for further guidance.

Finally, an employee may receive unemployment compensation benefits concurrently with OWCP benefits.

## 7-4. Computing Compensation

While compensation is usually claimed in two-week increments to conform to standard Federal pay periods, compensation checks are issued on a weekly or four-weekly basis. Payments of compensation for brief periods of temporary total disability or schedule impairment are issued on a weekly basis, while longer-term payments for disability, schedule award and death are made every four weeks. Checks may be sent to the beneficiary or to a financial institution which he or she designates, but they may not be sent in care of the employee's representative unless guardianship or conservatorship is established.

Compensation payments are based on a percentage of the employee's salary (or a statutory pay rate). Payments are computed by multiplying the applicable percentage by the wage rate and increasing the result by any cost-of-living increases to which the beneficiary is entitled.

A. *Pay Rate.* For both disability and death claims, the pay rate used to compute payments is the one in effect on the date of injury, date of recurrence, or date disability began, whichever is higher. Thus, the pay rate for compensation purposes may change over the life of a claim. The salary used to compute compensation is not affected, however, by general increases in the rate paid for the employee's grade and step. Moreover, the pay rate is not affected by any promotion or raise the employee might have received in the future.

B. *Additional Elements of Pay.* Included in the salary are: night shift; Sunday differential; holiday pay; hazard pay; dirty work pay; quarters allowance and post differential for overseas employees; and extra pay authorized by the Fair Labor Standards Act (FLSA) for employees who receive annual premium pay for standby duty and who also earn and use leave on the basis of their entire tour of duty, including periods of standby duty. Overtime pay is not included, except for administratively uncontrollable work covered under 5 U.S.C. 5545(c)(2).

The supervisor should report these elements of pay by indicating the weekly or biweekly amount, if the employee has a regular schedule. Otherwise, the supervisor should compute and submit to OWCP the dollar amount paid in each category for the calendar year preceding the effective date of the pay rate.

C. *Compensation Rate.* The compensation rate is the percentage applied to the salary to determine the monetary amount of the compensation payment. These rates are described in Chapters 7-1 for disability cases and 7-2 for death cases.

D. *Cost-of-Living Increases.* Each March 1, the increase in the cost of living for the preceding calendar year is determined. If the beneficiary has been entitled to compensation for at least one year before March 1, a cost-of-living increase is applied to the benefits.

E. *Minimum and Maximum Rates.* The law provides for minimum and maximum payments of compensation.

(1) *Disability.* Compensation for temporary total disability or schedule awards may not exceed 75 percent of the basic monthly salary of an employee at the highest step of the GS-15 level. For temporary total disability, it may not be less than 75 percent of the basic monthly salary of an employee at the first step of the GS-2 level or actual pay, whichever is less.

(2) *Death.* Compensation for death may not exceed 75 percent of the highest step of the basic GS-15 level, and it may not be less than the minimum pay of the first step of the basic GS-2 salary. In no case may it exceed the employee's salary except when the excess is created by cost-of-living increases.

F. *Buy-back of Leave.* Compensation entitlement for leave repurchase is computed in the same way as compensation for temporary total disability. Because leave is paid at 100% of the usual wage rate and

compensation is paid as a percentage, the employee will likely owe the agency money for repurchased leave.

Form CA-7a is used when dates of leave are intermittent or when more than one continuous period of leave is claimed. Form CA-7b explains how leave is repurchased and asks the agency to estimate the amount of compensation payable. The agency should advise the employee of the amount it requires to reinstate the leave and agree to the transaction before submitting the form.

*G. Lump-Sum Payments.* The FECA was designed to provide periodic payments of compensation benefits so that beneficiaries would have a continuing source of income. With few exceptions, such benefits are free from speculation, fluctuation, and attachment by creditors, and they are also generally free from taxes. OWCP will consider making a lump-sum payment of compensation only to pay a schedule award or as a survivor's benefit to a widow or widower who remarries before age 55.

*H. Incorrect Payments.* An employee who receives a compensation payment which is incorrect should return the check to OWCP immediately. If an overpayment occurs, OWCP will decide whether the beneficiary is with fault in creating the overpayment. Only if OWCP determines that the beneficiary is without fault may waiver of the overpayment be considered.

*I. Health Benefits.* OWCP makes deductions for health benefits coverage in cases where beneficiaries are entitled to continue their enrollment. Compensation must be paid for at least 28 days for deductions to be made, and deductions cannot be made for periods less than 14 days.

(1) *Criteria.* The following requirements must be met to continue enrollment:

(a) *Disability.* If an employee was enrolled in a health plan under the Federal Employees' Health Benefit Plan at the time of injury, the enrollment will continue while compensation is being paid.

(b) *Death.* Enrollment may continue for the surviving family members if the deceased employee was enrolled for Self and Family at time of death and at least one covered family member receives compensation as a surviving beneficiary under the FECA.

(2) *Transfer.* If the employee will likely be on OWCP rolls for more than six months, OWCP will ask the employer to transfer the enrollment. If the employee returns to duty, OWCP will transfer the enrollment back to the agency, even if the employee is receiving compensation for loss of wage-earning capacity. If compensation benefits are terminated, or if the employee elects an annuity from OPM, OWCP will transfer enrollment to OPM. OWCP will also transfer to OPM the enrollment of a retired employee who is receiving a schedule award.

Beneficiaries may change health benefits plans during open season in the same manner as current Federal employees.

*J. Optional Life Insurance (OLI).* For claimants injured before January 1, 1990, basic life insurance continues at no cost to the employee while he or she is receiving compensation, unless the employee has elected Post-Retirement Basic Life Withholdings at 100% or 50% of the original value. Claimants injured on or after January 1, 1990 must pay for basic life insurance.

The agency determines eligibility for OLI. Therefore, when question "c" of section 10 on Form CA-7 is checked "yes", OWCP considers the claimant eligible for continued coverage, as long as the claimant is considered unable to return to duty.

Questions about basic life insurance coverage should be referred to OPM, while questions about OLI may be directed to OWCP.

## Chapter 8. Managing Disability Claims

This chapter describes how OWCP manages disability claims. It also addresses the process of reemploying partially disabled workers and the sanctions applied to employees who do not cooperate with reemployment efforts.

- 8-1 Initial Actions by OWCP
- 8-2 Retention Rights
- 8-3 Nurse Services
- 8-4 Reemployment with the Agency
- 8-5 Vocational Rehabilitation Services
- 8-6 Assisted Reemployment
- 8-7 Payment of Relocation Expenses
- 8-8 Employees in Light- or Limited-Duty Status
- 8-9 Separation from Employment

## 8-1. Initial Actions by OWCP

If it appears that disability will continue for at least 60 days, OWCP places the employee on the periodic roll, advises him or her that payment is being made, and asks when he or she plans to return to work, if this has not already occurred.

OWCP also advises the employee that compensation will continue only through the date specified by OWCP's medical matrix or other procedural guidance, or by the attending physician's report; that he or she is expected to return to duty as soon as possible; and that he or she is expected to contact the agency to see if light or limited duty is available.

At the same time, OWCP asks the agency to send a copy of the employee's job description, **including physical requirements**, and a copy of his or her SF-171 or other employment application form. OWCP will request information about the employee's earnings and dependents periodically during the course of disability.

When the medical evidence shows that total disability has ended, OWCP will advise the employee that he or she is expected to seek work. In accordance with 5 U.S.C. 8106, which provides for payment of compensation to partially disabled employees, OWCP will make every reasonable effort to arrange for employment of such employees. These efforts will concentrate initially on the agency, and only if reemployment with the agency is not possible will OWCP attempt to place the employee with a new employer.

## 8-2. Retention Rights

Under 5 U.S.C. 8151, an employee who recovers within one year of starting compensation has mandatory rights to his or her old position or its equivalent, regardless of whether he or she is still on the agency rolls. If full recovery occurs after one year, or the employee is considered partially recovered, he or she is entitled to priority consideration, as long as application is made within 30 days of the date compensation ceases.

Such employees incur no loss of benefits which they would have received but for the injury or disease. The regulations on retention rights are contained in 5 CFR <sup>oo</sup> 353, 302, and 330. These sections of the regulations, as well as 5 U.S.C. 8151, are administered by OPM, not OWCP.

Any period of time during which an employee receives compensation from OWCP is credited to the employee for the purposes of determining rights and benefits based upon length of service, including eligibility for retirement.

An employee who has applied for and been approved for Federal retirement benefits is no longer considered an employee, and any reemployment is covered by OPM rules and regulations for reemployed annuitants. This is true even if the employee never actually received a Federal retirement annuity.

OWCP's case management procedures emphasize return to work before the expiration of the employee's one-year entitlement to the same or an equivalent job.

## 8-3. Nurse Services

Registered Nurses (RNs) under contract to OWCP meet with employees, physicians, and agency representatives to ensure that proper medical care is being provided and to assist employees in returning to work.

OWCP refers for such services all employees with approved traumatic injury claims who have continuing disability, and, on a selective basis, employees with approved occupational illness claims who have continuing disability.

*A. Contacting the Interested Parties.* The RN contacts the employee, attending physician, and supervisor as needed to address the employee's questions about medical care; obtain treatment plans, return-to-work dates, and descriptions of work limitations; and explore availability of light- or limited-duty jobs. These contacts, which may be by telephone or in person, generally occur after the 45-day COP period has ended.

*B. Return to Work.* Conference calls may be held to arrange for return to work. Such a call should always include the agency official who has the authority to offer a light- or limited-duty job. When an employee returns to work, the RN may accompany him or her on a walk-through of the job to ensure that the duties are within the employee's medical limitations and that both the employee and the supervisor understand the limitations.

*C. Agency Nurses.* The RN may occasionally coordinate care with an agency nurse. As a rule, however, agencies should not assign their own nurses to work with employees simultaneously with OWCP RNs.

*D. Penalties.* Should an employee refuse to cooperate with an OWCP nurse or refuse to make a good faith effort to obtain reemployment, OWCP may reduce or terminate compensation depending on the circumstances of the refusal.

## 8-4. Reemployment with the Agency

When the medical evidence shows that total disability has ended, the agency is encouraged to consider reemployment. The following procedures apply to all employees still on the agency's rolls, regardless of how long they have received compensation.

*A. Medical Evidence.* To make a job offer, the agency will need medical evidence describing the employee's medical limitations (in some cases OWCP can provide this information). Medical reports which address current limitations will usually suffice for this purpose. If the employee refuses to provide sufficient medical information for the agency to evaluate whether a job offer is proper, the agency should so indicate to OWCP.

*B. Degree of Recovery.* If the employee is expected to return eventually to the job held at the time of injury, the agency may offer light, limited or modified duty pending full recovery. Any such offer should be made in the manner outlined in paragraph d below. If the residuals of the injury will prohibit the employee from returning to the position held at the time of injury, and the employee has received compensation for more than one year, the agency should consider reemployment in the following order of preference:

(1) Return to the position held at the time of injury with modifications to accommodate the employee's

limitations;

(2) Employment in another position at the same salary as the position held at the time of injury; or

(3) Employment in another position at a lower salary than the position held at the time of injury.

*C. Guidelines for Reemployment.* The position should be compatible with the employee's medical condition, including any non-work-related medical condition which either pre-existed the injury at work or developed since it occurred. A temporary position may be offered only to a worker who held a temporary position when injured, and if such a job is offered, it must be at least 90 days in duration. Similarly, a seasonal position may be offered only to a worker who held a seasonal position when injured.

Generally, an employee who is capable of working four or more hours a day should be offered a position providing at least that much work, since employment of less than four hours a day is considered sheltered work and is reserved for the severely disabled. (On the other hand, an offer of less than four hours of work a day is suitable for an employee who cannot work longer hours.)

As far as possible, the tour of duty and the location of the identified job should correspond to those of the job held on the date of injury. The agency must ensure that any position offered will be available for the entire period allowed for response to the offer.

*D. Elements of Job Offer.* The agency may contact the employee by telephone to advise that the job is available, but the offer must be confirmed in writing within two business days. A copy of the offer must be sent to OWCP at the same time. The offer should include:

(1) A description of the duties to be performed;

(2) The specific physical requirements of the position and any special demands of the workload or unusual working conditions;

(3) The organizational and geographical location of the job;

(4) The date on which the job will be available;

(5) The date by which a response to the job offer is required.

The agency should not, however, request election of OPM benefits if the employee declines the job offer. OWCP is solely responsible for obtaining such an election.

*E. Advising the Employee.* If the employee does not accept the job, but OWCP finds the job suitable, OWCP will so notify the employee in writing and advise that he or she is expected to accept the job or to show reasonable cause for refusal. OWCP will advise the employee that the failure to accept the job or to respond within 30 days will result in termination of compensation payments. Thirty days will be allowed for response.

*F. Employee's Response.* The agency should provide a copy of the employee's response to OWCP when it is received.

(1) Acceptance. If the employee accepts the job, the agency should notify OWCP as soon as possible of the date of return to duty so as to avoid overpayments of compensation. Compensation will be terminated if no loss of pay has resulted, or reduced if the new job pays less than the old, effective the date of return to duty.

(2) No Response. If no answer is received, OWCP will terminate benefits and issue a formal decision on the basis that the employee has refused suitable work.

(3) Refusal with No Explanation. If the employee refuses the offer without explanation, OWCP will terminate benefits and issue a formal decision.

(4) Refusal with Explanation. If the employee refuses the offer but provides reasons in support of the refusal, OWCP will evaluate them and determine whether reasonable cause has been shown. If so, OWCP will advise the employing agency and compensation will continue at a level reflecting the degree of disability while further attempts at placement are made. If not, OWCP will so advise the employee and allow him or her an additional 15 days to return to work. If the employee still does not return to work, OWCP will terminate benefits and issue a formal decision.

Returning employees to gainful employment requires close cooperation between agencies and OWCP. Early notification of job offers and complete information about the offers will aid OWCP in making its decisions. For its part, OWCP recognizes its responsibility to evaluate job offers promptly and advise employees of their rights and responsibilities in a timely manner so as to avoid undue delays.

## 8-5. Vocational Rehabilitation Services

The FECA at 5 U.S.C. 8104 provides for vocational rehabilitation services to assist disabled employees in returning to gainful employment consistent with their physical, emotional, and educational abilities. An employee with extended disability may be considered for rehabilitation services if requested by the attending physician, the employee, or agency personnel. In addition, OWCP will routinely consider a case for rehabilitation services if the agency cannot reemploy the employee.

A. *Services Provided.* An OWCP Rehabilitation Specialist will contact the employee for an initial interview. The employee will then be referred to a state or private Rehabilitation Counselor for development of a rehabilitation plan. A plan may include one or more of the following: selective placement with the previous employer, placement with a new employer, counseling, guidance, testing, work evaluations, training, and job follow-up. Each employee is provided the services most suitable for him or her, and not every service will be included in a given plan.

B. *Advice to Employee.* When suitable jobs are identified, OWCP will advise the employee that it appears that he or she has a wage-earning capacity of a specific dollar amount which will likely determine future compensation entitlement; that he or she is expected to return to work in a job similar to the one identified; that partial compensation based on the wage-earning capacity of the indicated job will probably be paid at the end of this effort; and that when he or she has completed any necessary training or other preparation, OWCP will provide 90 days of placement services.

C. *Benefits Payable.* An employee in an approved vocational rehabilitation program may be paid an allowance in connection with this program not to exceed \$200 per month. The employee is also entitled to compensation at the rate for total disability during the rehabilitation program (payment of a schedule award meets this requirement).

When the employee returns to work, OWCP will reduce compensation to reflect the wage-earning capacity if the new job pays less than the old. If reemployment is at the same or higher pay rate than the job held at time of injury, OWCP will terminate compensation benefits. Even if the employee does not return to work, compensation will in all likelihood be reduced.

D. *Penalties.* Should an employee refuse to participate in an OWCP rehabilitation program or refuse to make a good faith effort to obtain reemployment, OWCP may reduce or terminate compensation depending on the circumstances of the refusal.

E. *Constructed Positions.* In some situations, reemployment does not occur despite the best efforts of the employee and OWCP. When this happens, OWCP may determine the employee's wage-earning capacity on the basis of a position which the medical evidence indicates the employee can perform and which is available in his

or her commuting area. OWCP will determine the suitability of the position in accordance with the following factors:

- (1) The nature of the injury;
- (2) The degree of physical impairment;
- (3) The usual employment;
- (4) The employee's age;
- (5) Qualifications for other employment, including education, previous employment, and training.

OWCP will issue a formal decision, including appeal rights, in any case where the benefit level is affected.

F. *Continued Disability Payments.* Only after careful medical and vocational development will OWCP determine that an employee has no current wage-earning capacity, and should therefore be carried on the long-term compensation rolls at the rate for total disability.

## 8-6. Assisted Reemployment

OWCP may reimburse an employer who was not the employer at the time of injury for part of the salary of a reemployed worker. This wage subsidy is intended to assist in reemploying workers who have been difficult to place with their former employers. It is available to other Federal employers as well as to State and local governments and the private sector.

A. *Eligibility.* To be eligible, the agency cannot have been the worker's employer at the time of the injury, as identified by OWCP chargeback billings, appropriations account number and agency hiring authority.

Intra-departmental salary reimbursements are limited to agencies with a separate appropriation number from that of the original employing agency. It is not proper to use assisted reemployment where an employee is transferred within the agency, or where an agency uses more than one appropriation number but hiring is controlled at a higher organizational level.

B. *Conditions of Participation.* The rate of reimbursement may not exceed 75 percent of the employee's gross wage. The actual rate of reimbursement available is decided on a case-by-case basis by OWCP and the agency.

Salary reimbursement may extend for up to 36 continuous months, but it will not continue if the period of reimbursement is interrupted by a recurrence of disability due to the accepted condition. The subsidy may not be transferred from one employer to another.

An agency interested in participating in Assisted Reemployment should contact the District Director or a Rehabilitation Specialist at the OWCP district office. Where a potentially suitable job has been identified, the Rehabilitation Counselor assigned to the worker will meet with agency personnel to explain details of the program.

For OWCP to consider reimbursement of salary expenses, the job offered must be found suitable, medically and otherwise (see paragraph 8-5 above). To make such a finding, OWCP needs a copy of the position description which includes a statement of the physical requirements of the job.

C. *Elements of Agreement.* When the worker accepts a suitable job offer, the new employing agency and OWCP will enter into an Assisted Reemployment Cooperative Agreement. Each Agreement includes the following elements:

- (1) Employee's name and OWCP claim number;

- (2) Employer's name and address;
- (3) A description of the procedures for claiming reimbursement and the payment schedule, including the method and maximum amount of wage reimbursement payments from OWCP to the employer for each employee hired;
- (4) A job description and statement of starting wage rate.

*D. Transfer of Funds.* Once OWCP and the agency agree to financial and administrative arrangements, OWCP will contact the agency to determine the best methods of payment and transfer of funds. OWCP prefers to use the U.S. Treasury's GOALS/OPAC (On-Line Payment and Collection) system for reimbursement. For agencies which do not process payments through the U.S. Treasury, OWCP will make the reimbursement by check.

OWCP will then advise the agency in writing of the specific accounting procedures for transferring funds. Payment is made after the agency certifies in writing that the employee was actually employed and received wages during the quarter for which reimbursement is requested. Regardless of the method of reimbursement, OWCP will require quarterly submittal of records of the wages paid to these reemployed workers and the periods covered by those payments.

## **8-7. Payment of Relocation Expenses**

OWCP's regulations provide at 20 CFR ° 10.508 that an injured employee who relocates to accept a suitable job offer after termination from the agency rolls may receive payment or reimbursement of moving expenses from the compensation fund. This regulation further states that Federal travel regulations (Joint Travel Regulations for employees of the Department of Defense) pertaining to permanent change of station (PCS) moves are to be used as a guideline in determining whether expenses claimed are reasonable and necessary.

*A. Locations of Old and New Jobs.* Relocation expenses may be paid for a former employee who is partially recovered from compensable injury and who is offered a job in either the same or a different commuting area from the former job. OPM regulations governing the restoration rights of injured workers require consideration of partially recovered employees only in the former commuting area. Thus, the extent to which an agency considers partially recovered employees for jobs outside the commuting area is a matter for agency personnel to decide.

Former employees who move voluntarily to other locations and are offered reemployment at their former installations are generally not entitled to payment of relocation expenses. (See Federal Travel Regulations or Joint Travel Regulations, as appropriate, and pertinent Comptroller General decisions which address relocation in the Government's interest.) The extent to which relocation expenses are payable when a fully or partially recovered employee is still on the agency's rolls is determined by government travel regulations pertaining to PCS moves.

However, OWCP's regulations state specifically that "the agency may offer suitable employment at the employee's former duty station or other location" and that relocation expenses will be payable in either case. Therefore, employing agencies should not discourage applications for payment of relocation expenses to the previous duty station. Given the savings in compensation costs which accrue to employing agencies which return their injured workers to the employment rolls, payment of relocation expenses to the original duty station are considered to be in the interest of the Government.

*B. Eligibility.* The distance between the two locations must be at least 50 miles, and the job must be medically and vocationally suitable. OWCP will authorize payment of expenses incurred to accept a temporary position as long as it is expected to lead to a permanent assignment. The employee need not show financial need for relocation expenses to be paid, and payment/reimbursement of relocation expenses may be considered after the fact as long as the move took place after June 1, 1987, the effective date of the provision governing such moves.

OWCP staff will determine whether relocation expenses can be approved and will notify the employee and agency personnel. While payment by the agency, with reimbursement by OWCP through the U.S. Treasury's GOALS/OPAC (On-Line Payment and Collection) system, is preferred, direct withdrawal from the compensation fund may be authorized where necessary.

*C. Arranging the Move.* Because employing agencies have expertise in arranging PCS moves, OWCP asks agencies to calculate the costs and coordinate the activities involved in such moves as far as possible. OWCP will be responsible for resolving any disputes between the employee and the agency as to allowable costs in accordance with government travel regulations.

*D. RITA Payments.* The IRS considers at least a portion of PCS payments to be reportable as income even though such payments are intended to reflect actual expenses, and employing agencies usually include a Relocation Income Tax Allowance (RITA) to offset the additional income tax liability incurred because of PCS reimbursements. Because compensation benefits are not taxable, the RITA should not be included in paying relocation expenses under the FECA.

## 8-8. Employees in Light- or Limited-Duty Status

Many agencies place both newly injured and long-term disabled employees in light- or limited-duty jobs. Such placements usually benefit both employers and employees. However, when employees continue to hold such assignments after they are able to return to full duty, fewer light- or limited-duty jobs are available for more recently injured employees.

Therefore, it is the policy of OWCP to monitor injured employees who hold light- or limited-duty jobs until they have returned to full duty, or until the medical evidence clearly establishes that they will never be able to return to full duty. Employing agencies can aid in this effort by identifying employees who have been in light- or limited-duty status for over three months.

## 8-9. Separation from Employment

*A. Reductions in Force.* When a formal loss of wage-earning capacity decision has been issued, the employee has the burden to establish further entitlement to compensation. Therefore, the status of an employee with an established wage-earning capacity who is removed due to an across-the-board reduction in force (RIF) or the closing of an installation (as opposed to the elimination of only light- or limited-duty jobs) does not change with regard to receipt of FECA benefits, unless a formal claim for recurrence is filed. When no formal finding with regard to wage-earning capacity has been made, and the employee has worked in the position for at least 60 days, OWCP may consider a retroactive loss of wage-earning capacity determination.

*B. Removal for Cause.* An employee who is separated for misconduct and whose removal is wholly unconnected to the work-related injury is not entitled to further compensation benefits.

# Chapter 9. Agency Management of Compensation Claims

This chapter describes how agency personnel can learn more about the claims of their current and former employees, and how they can manage their compensation programs.

- [9-1 Obtaining Information](#)
- [9-2 Inspection and Protection of Records](#)

- 9-3 Managing Compensation Programs
- 9-4 Record-Keeping
- 9-5 Chargeback

## 9-1. Obtaining Information

Agencies have several options for contacting OWCP:

A. *Agency Query System (AQS)*. This system allows employers to access data for their employees through an Internet server, which contains data on current case status, compensation payments, and medical bill payments for all active compensation cases.

B. *Interactive Voice Response (IVR)*. This system allows callers to access several kinds of information using their telephone keypads. The IVR provides callers with information about submitting medical bills for reimbursement and filing claims. It also allows callers to query the program's data base for the status of medical bills, the date of the last compensation payment, and other case-specific information.

C. *Telephone*. Most district offices have Contact Representatives who can provide information on the status of a claim and answer general questions. When more detailed information is needed, the Claims Examiner responsible for the case file can often satisfy the inquiry.

A supervisor with questions about common themes identified in a number of claims should contact the Assistant District Director or District Director for clarification. Only inquiries which cannot be resolved in this way should be referred to OWCP's National Office, and any such matter should be referred through the agency's headquarters. Policy questions may also be referred to OWCP's National Office.

## 9-2. Inspection and Protection of Records

Claims staff are instructed to provide agency personnel with copies of all significant correspondence to employees, even when the employees are no longer on the agency's rolls. Under the routine use provisions of the regulations governing release of information under the Privacy Act, agencies are entitled to obtain copies of other materials in their employees' compensation files as well.

The use of these copies must, however, be consistent with the reason the information was collected. In practice, this means that the use must be connected in some way with the compensation claim. Agencies may not use copies of information from claim files in connection with EEO complaints, disciplinary actions, or other administrative actions without the employee's consent. Any questions concerning use or release of records should be directed to the district office.

To safeguard the privacy of information in compensation files, much of which is inherently sensitive, agencies should observe the following procedures:

A. *Making Specific Requests*. Requests from the agency for materials in a case file should include the specific reason for requesting the information (e.g., to verify that the employee actually worked for the agency, or to attempt reemployment of the worker). OWCP will release the requested information either by telephone or in writing once satisfactory identification is presented. (This requirement needs to be met only once if an agency designates a particular individual as a liaison or principal contact with the district office.) Representatives of an investigative body within an agency may also obtain information upon presentation of proper credentials as long as the purpose for the request is stated.

B. *Inspecting Files*. An agency representative may ask to inspect files at the district office. OWCP will

accommodate all such requests subject to logistical and physical limitations, including reasonable advance notice of the visit and a list of cases to be reviewed. Here again, the purpose should be stated specifically and the reviewer should be identified before the visit. A picture ID must be presented at the time of the visit unless the reviewer is known to the office.

*C. Penalties Under the Privacy Act.* It is not appropriate for agency personnel to inspect records without a specific and valid purpose for doing so (that is, curiosity is not an acceptable reason for review). Agency personnel who review files should be conversant with the restrictions of the Privacy Act and the penalties stipulated for violations. These penalties include fines and imprisonment. OWCP will deny further access to any individual who improperly uses information from OWCP files.

*D. Contractors.* If the agency wishes to designate a private contractor to inspect the records, the agency should contact the OWCP National Office in writing to obtain approval for the arrangement. The agency should ensure that the contractor observes the regulations governing the Privacy Act as they review the files and report their findings to the agency.

## **9-3. Managing Compensation Programs**

In the interests of providing good service to employees while containing costs, OWCP encourages active management of workers' compensation programs by agency personnel. It is important that agencies devote the time and effort necessary to ensure that claims are processed in a timely fashion. In particular, this means prompt submission of notices of injury and claims for compensation to OWCP.

*A. Training.* Ensure that sufficient training in technical and managerial skills is given to staff who routinely handle compensation claims and that resource materials are available to those who handle them infrequently. A list of courses and resources is shown in Chapter 1.

*B. Administration.* Establish a record-keeping system which will enable the agency to maintain copies of claim forms, medical reports, correspondence with OWCP, and other materials related to each compensation claim in an orderly fashion. Designate a representative within each organizational unit to act as a liaison with OWCP concerning unusually difficult claims.

*C. Documentation.* Ensure that the facts surrounding each injury are adequately investigated at the time of injury. Such investigation will help both the agency and OWCP to determine the validity of the claim.

*D. Medical Information.* Obtain medical information from OWCP or the injured employees as often as necessary (within OWCP and OPM regulations) to assess potential return to regular, light or limited duty. Advise physicians of any light-duty assignments available and their specific requirements. The agency can use the information thus gathered to monitor the claimant's medical care and notify OWCP if it appears that the care is inadequate.

*E. Reemployment.* Stay in touch with injured employees while they are receiving compensation, identify jobs suitable for them, and take steps to reemploy recovered or recovering employees as soon as the medical evidence shows that this is possible.

*F. Financial Records.* Monitor chargeback billings and arrange to charge costs to the lowest organizational level practicable to make managers more aware of costs. The chargeback system is discussed in detail in paragraph 9-4.

## 9-4. Record-Keeping

Employing agencies often retain documents in connection with workers' compensation claims. Rules governing release, retention, and disposal of such records differ according to the nature and source of the document involved.

A. *Documents in Employee Medical Folder (EMF)*. A notice of injury not filed with OWCP is to be placed in the employee's EMF and retained in accordance with OPM regulations governing disposal of the EMF.

B. *Documents in OWCP Case File*. These documents include medical reports, copies of letters and decisions, and any other material which is part of the case file, regardless of its source. These documents should be maintained in folders apart from the EMF or Official Personnel Folder, but such folders are not considered a "system of records" separate from the case file. Rather, they are considered an alternate location for the records, which remain under the jurisdiction of OWCP. Their retention and disposal is covered by the OWCP Records Retirement Schedule, which requires that case file material be maintained for two years after case closure.

## 9-5. Chargeback

The FECA program is financed by the Employees' Compensation Fund, which consists of monies appropriated by Congress or contributed by certain agencies from operating revenues. The chargeback system is the mechanism by which the costs of compensation for work-related injuries and deaths are assigned to employing agencies annually at the end of the fiscal accounting period, which runs from July to June for this purpose. Each year OWCP furnishes each agency with a statement of payments made from the Fund on account of injuries to its employees. The agencies include these amounts in their budget requests to Congress. The sums appropriated or obtained from operating revenues are deposited in the Fund.

A. *Identification*. A compensation claim is identified as belonging to a particular agency based on the agency code entered into OWCP's data processing system when the case is created. The agency should code all initial notices of injury, disease and death to reduce chargeback errors. OWCP sends the agency a postcard (Form CA-801) each time a case is created for one of its employees. OWCP also provides each agency with quarterly listings of the cases and charges that will appear on its yearly chargeback bill.

B. *Errors*. To prevent incorrect entries from appearing on the quarterly chargeback report and yearly bill, agencies should review Forms CA-801 and report errors to district offices as soon as possible. If no objection is raised upon receipt of the form, OWCP assumes that the chargeback code is correct and charges costs associated with the case to that agency's account.

If an agency receives a Form CA-801 which it believes to be incorrect, it should notify OWCP in writing within 60 days. The district office will then review the disputed case to determine whether a keying or coding error occurred and correct the agency code if necessary.

C. *Quarterly Chargeback Report*. Each agency receives a quarterly report which lists all cases and costs for which charges will appear on the yearly chargeback bill. This report can be used to identify and correct errors before the agency is billed for them. When an agency believes that a case appearing on its chargeback report does not belong on its account, it should check current personnel and payroll records as well as search the service record file and/or send an inquiry to the Federal Records Center. Agency personnel may also review case files at the district office to resolve such discrepancies.

D. *Requesting Changes*. Requests for changes based on review of the quarterly chargeback report should be addressed to the District Director. The request should be made within 90 days of receipt of the report, and it must be accompanied by appropriate documentation, such as a copy of an SF-50, service record card (SF-7), or

response from the Federal Records Center. OWCP will review the case file and supporting evidence to determine whether an incorrect agency code was assigned. If the evidence does not support the agency's request, OWCP will send the agency a copy of the Form CA-1, CA-2, or CA-6 from the case file and explain the basis for its finding.

If the evidence shows that the disputed case belongs on another agency's account, OWCP will notify the new agency and forward a copy of Form CA-1, CA-2 or CA-6 from the case file. Before changing the agency code, OWCP will provide the new agency 60 days to advance any arguments for disputing ownership of the case. Due to the time needed to verify information and correct errors, problems brought to OWCP's attention during the fourth quarter of a fiscal year may not be corrected in time for that year's bill. If incorrect charges appear on the bill, adjustment will be handled as described below.

If the assigned chargeback code represents the wrong organization or command within the agency, the request for change of code must be made by an agency official with the authority to speak for the entire department, rather than for a single command or organizational unit.

*E. Adjustments to the Chargeback Bill.* When an adjustment to the yearly chargeback bill is desired, the agency must send the request directly to the OWCP National Office. It must be accompanied either by documentation which shows that the disputed charge did not involve an employee of that agency, or by a complete explanation of the basis for the agency's objection. OWCP will make a decision and correct verified errors by crediting the next year's billing statement.

If another agency should have been charged, OWCP will so advise that agency and a debit will appear on its next bill. Credits or debits will be made only for charges appearing on the agency's most recent bill. An adjustment will be made only if it will affect the total for the particular billing entity. OWCP will not transfer charges from one organization to another on the same bill.

## Appendix A. Basic Forms

Form No.	Form Title	Purpose	Prepared By	When Submitted
CA-1	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation	Notifies supervisor of a traumatic injury and serves as the report to OWCP when (1) the employee has sustained a traumatic injury which is likely to result in a medical charge against the compensation fund; (2) the employee loses time from work on any day after the time is charged to leave or to continuation of pay; (3) disability for work may subsequently occur; (4) permanent impairment appears likely; or (5) serious	Employee or someone acting in employee's behalf; witness (if any); supervisor	By employee within 30 days (but will meet statutory time requirements if filed no later than three years after the injury); by supervisor within 10 workdays following receipt fo the form from the employee.

		disfigurement of the face, head, or neck is likely to result.		
CA-2	Notice of Occupational Disease and Claim for Compensation	Notifies supervisor of an occupational disease and serves as the report to OWCP when (1) the disease is likely to result in a medical charge against the compensation fund; (2) the employee loses time from work because of the disease, whether the time is charged to leave or leave without pay; (3) disability for work may subsequently occur; (4) permanent impairment appears likely; or (5) serious disfigurement of the face, head, or neck is likely to result	Employee or someone acting on employee's behalf; witness (if any); supervisor	By employee within 30 days (but will meet statutory time requirements if filed no later than three years after the injury); by supervisor within 10 workdays after receipt of the form from the employee
CA-2a	Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation	Notifies OWCP that an employee, after returning to work, is again disabled due to a prior injury or occupational disease, or has suffered a recurrence of the accepted medical condition. It also serves as a claim for continuation of pay of for compensation based on the recurrence of a previously reported disability	Employee	Immediately upon receiving notice that the employee has suffered a recurrence. An employee who stops work as a result of recurring disability shall advise the supervisor whether he or she wishes to continue receiving regular pay (if eligible) or charge the absence to sick or annual leave
CA-3	Report of Termination of Disability and/or Payment	Notifies OWCP that disability from injury has terminated and /or that continuation of pay has terminated and/or that employee has returned to work	Supervisor	Immediately after disability or continuation of pay terminates, or the employee returns to work

CA-5	Claim for Compensation by Widow, Widower and/or Children	Claims compensation on behalf of these dependents when injury results in death	Person claiming compensation (for self or on behalf of children) an attending physician	Within 30 days, if possible, but no later than three years after death. If the death resulted from an injury for which a disability claim was timely filed, the time requirements for filing the death claim have been met
CA-5b	Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren	Claims compensation for these dependents when injury results in death	Person claiming compensation (or guardian on behalf of children) and attending physician	Within 30 days, if possible, but not later than three years after death. If the death resulted from an injury for which a disability claim was timely filed, the time requirements for filing the death claim have been met
CA-6	Official Superior's Report of Employee's Death	Notifies OWCP of the work- related death of an employee	Supervisor	Within 10 workdays after knowledge by supervisor of an employee's work-related death
CA-7	Claim for Compensation on Account of Traumatic Injury or Occupational Disease	Claims compensation if (1) medical evidence shows disability is expected (and is not covered by COP in traumatic cases); (2) the injury has resulted in permanent impairment involving the total or partial loss, or loss of use, or certain parts of the body or serious disfigurement of the face, head or neck; (3) loss of wage-earning capacity has resulted	Employee or someone acting on employee's behalf; supervisor, and attending physician (on attached Form CA-20)	In traumatic injury cases, the form must be completed and filed with OWCP not more than five workdays before the termination of the 45 days of COP, or within 10 days following termination of pay. In occupational disease cases, the form should be submitted as soon as pay stops

CA-16	Authorization for Examination and/or Treatment	Authorizes an injured employee to obtain immediate examination and/ or treatment from a physician for an on-the-job injury and provides OWCP with initial medical report. Treatment may be obtained from a local hospital or physician	Part A-- Supervisor  Part B-- Attending Physician	Part A--By supervisor within four hours of a traumatic injury. May be issued up to one week after injury  Part B--By attending physician or medical facility as promptly as possible after initial examination.
CA-17	Duty Status Report	Provides supervisor and OWCP with interim medical report containing information as to employee's ability to return to any type of work	Supervisor and attending physician	Promptly upon completion of examination or most recent treatment
CA-20	Attending Physician's Report	Provides medical support for claim and is attached to Form CA-7 (can also be obtained separately); provides OWCP with medical information	Attending physician	Promptly upon completion of examination or treatment; physician may submit in usual billing cycle
CA-1500	Federal Employee's Compensation Program Medical Provider's Claim Form	Provides OWCP with standard billing form to facilitate payment of medical bills. The form should accompany the CA-16 when employee is referred to a physician	Attending physician; employee must sign in item 12	Promptly upon completion of examination of treatment; physician may submit in usual billing cycle

## Appendix B. Injury/Illness Type and Source Codes; Occupation Codes

- Injury/Illness Type Codes
- Injury/Illness Source Codes
- Occupation Codes

### INJURY / ILLNESS TYPE CODES

100

**STRUCK**

110 Struck by

111 Struck by falling object

120 Struck against

**200 FELL, SLIPPED, TRIPPED**

210 Fell on same level

220 Fell on different level

230 Slipped, tripped (no fall)

**300 CAUGHT**

310 Caught on

320 Caught in

330 Caught between

**400 PUNCTURED,  
LACERATED**

Punctured by

Cut by

Stung by

Bitten by

**500 CONTACT**

510 Contact with (motion of person)

520 Contact by (motion of object)

**600 EXERTION**

610 Lifted, strained by (single action)

620 Stressed by (repeated action)

**700 EXPOSURE**

710 Inhalation

720 Ingestion

730 Absorption

**800 TRAVELING IN**

**900 UNCLASSIFIED OR  
INSUFFICIENT DATA**

**INJURY / ILLNESS SOURCE CODES**

**0100 BUILDING OR WORKING  
AREA**

0110 Walking/working surfaces  
(floor street, curbes, porches)

0120 Stairs, steps

0130 Ladder

0140 Furniture, furnishings, office  
equipment

0150 Boiler, pressure vessel

0160 Equipment layout  
(ergonomic)

0170 Windows, doors

0180 Electric, electricity

**0200**

**ENVIRONMENTAL  
CONDITION**

0210 Temperature extreme (indoor)

0220 Weather (ice, rain, heat, etc.)

0230 Fire, flame, smoke (not  
tobacco)

0240 Noise

0250 Radiation

0260 Light

0270 Ventilation

- 0271 Tobacco smoke

0280 Stress (emotionl)

0290 Confined space

**0300**

**MACHINE OR TOOL**

0310 Hand tool (powered: saw,  
grinder, etc.)

0320 Hand tool (non-powered)

0330 Mechanical power  
transmission apparatus

0340 Guard, shield (fixed,  
moveable, deadman)

0350 Video Display Terminal

0360 Pump, compressor, air  
pressure tool

0370 Heating equipment

0380 Welding equipment

**0400**

**VEHICLE**

0401 Privately-owned vehicle  
(includes rental)

- 0411 As driver

- 0412 As passenger

0420 Government-owned vehicle

- 0421 As driver

- 0422 As passenger

0430 Common carrier (airline,  
bus, etc.)

0440 Aircraft (not commercially scheduled)

0450 Boat, ship, barge

**MATERIAL HANDLING EQUIPMENT**

0501 Earthmover (tractor, backhoe, etc.)

0520 Conveyor (for material and equipment)

0530 Elevator, escalator, personnel hoist

0540 Hoist, sling chain, jack (for material and equipment)

0550 Forklift, crane

0560 Handtrucks, dollies

**DUST, MIST, VAPOR, ETC.**

0610 Dust (silica, coal, grain, cotton)

0620 Fibers

-0621 Asbestos

0630 Gases

- 0631 Carbon monoxide

0640 Mist, steam, vapor, fume

0650 Particles (unidentified)

**CHEMICAL, PLASTICS, ETC.**

0710 Chemical dry

- 0711 Corrosive

- 0712 Toxic

- 0713 Explosive

- 0714 Flammable

0720 Chemical liquid

- 0721 Corrosive

- 0722 Toxic

- 0723 Explosive

- 0724 Flammable

0730 Plastic

0740 Water

0750 Medicine

**INANIMATE OBJECT**

0810 Box, barrel, container, etc.

0820 Paper

0830 Metal item, mineral

**0500**

**0600**

**0700**

**800**

- 0831 Needle
- 0840 Glass
- 0850 Scrap, trash
- 0860 Wood
- 0870 Food
- 0880 Personal clothing, appaarel,  
shoes

**0900**

**ANIMATE OBJECT**

- 0910 Animal
- 0911 Bite (dog)
- 0912 Bite (other)
- 0920 Plant
- 0930 Insect
- 0940 Human (violence)
- 0950 Human (communicable  
disease)
- 0960 Bacteria, virus (not human  
contact)

**1000**

**PERSONAL PROTECTIVE  
EQUIPMENT**

- 1010 Protective clothing, shoes,  
glasses/goggles
- 1020 Respirator, mask
- 1021 Diving equipment
- 1030 Safety belt, harness
- 1040 Parachute

**9999**

**UNCLASSIFIED OR  
INSUFFICIENT DATA**

**Note:** Select most specific type and source for event which initiated injury/illness.

Use heading as "other" for that category.

Use TYPE as "verb" and SOURCE as "noun" to describe incident.

EXAMPLE: Employee slipped on ice, cut hand on rock.

TYPE: 210, fell on same level

SOURCE: 0220, weather

## **OCCUPATION CODES**

For Postal Service employees, the occupation code consists of the characters "PS" plus the first four numbers of the appropriate occupation code. For all other Federal employees, the code begins with the two letters of the employee's pay plan (i.e., "GS", "GM", "WG", etc.) followed by the four numbers of the occupation series. For workers who perform services for the Federal government but who do not have job titles which fall under the usual job classification systems, a list of "non-standard" occupation codes and titles follows. Each code begins

with the characters "???" instead of the usual pay plan letters.

Alpha/

Numeric Title

Code

??013600 Peace Corps Volunteer  
??008300 Non-Federal Law Enforcement Officer  
??002100 VISTA Volunteer  
??024300 Job Corps Enrollee  
??030200 Mail Messenger  
??350100 Contract Job Cleaner  
??062100 Student Nurse  
??046200 Forest Service Volunteer  
??134100 Volunteer Weather Observer  
??009900 State Maritime Academy Cadet  
??009900 ROTC Cadet  
??093000 Federal Juror  
??218100 Civil Air Patrol Volunteer  
??068500 Volunteer Hospital Worker  
??024300 Youth Conservation Corps Volunteer  
??047500 County Agent, Dept. of Agriculture  
??350600 Student Aide  
??982500 Seaman  
??020400 Coast Guard Reserve Member  
??024000 Coast Guard Auxiliary Member  
??002300 National Park Service Collaborator  
??009900 College Work/Study Participant  
??006000 Chaplain  
??186300 State/Local Agriculture Inspector  
??003000 Sports Clinic Performer  
??018800 Entertainer/Armed Forces  
??024300 Vocational Trainee  
??046000 Forest Service Cooperator  
??131600 Gage Reader, Corps of Engineers  
??470100 Maintenance Worker, Dept. of Housing  
and Urban Development  
??002600 National Park Service Volunteer  
??020400 National Defense Executive Reserve  
??174000 National Teacher Corps Member  
??061000 Contract Nurse  
??060200 Contract Physician  
??063000 Nutritional Aide, USDA  
??174000 Reader for the Blind

??101600 Trust Employee, Smithsonian Institution  
 ??045700 Soil/Water Conservation District  
 Employee  
 ??024300 Youth/Adult Conservation Corps  
 Enrollee  
 ??009900 Military Academy Cadet  
 ??000600 Volunteer Trainee Probation Officer  
 ??000600 Urban Crime Prevention Program  
 Volunteer  
 ??034500 Congressional Staff Member

## Appendix C. Occupational Disease Checklists

The Federal Employees' Compensation program has developed eight checklists to help employees and agency personnel gather and submit material required for adjudication of occupational disease claims. The forms, which are shown on the following pages, are:

Form No.	Condition Addressed	Revision Date
CA-35a	Occupational Disease in General	August 1988
CA-35b	Hearing Loss	August 1988
CA-35c	Asbestos-Related Illness	October 1987
CA-35d	Coronary/Vascular Condition	August 1988
CA-35e	Skin Disease	August 1988
CA-35f	Pulmonary Illness (not Asbestosis)	August 1988
CA-35g	Psychiatric Illness	August 1988
CA-35h	Carpal Tunnel Syndrome	October 1987

## Appendix D. Address List

District Office 1--Boston  
 U. S. Department of Labor, OWCP  
 JFK Federal Office Building, Room E-260  
 Boston, MA 02203  
 617-565-2137

District Office 2--New York  
U. S. Dept. of Labor, OWCP  
201 Varick Street, Room 750  
New York, NY 10014  
212-337-2075

District Office 3--Philadelphia  
U. S. Dept. of Labor, OWCP  
Gateway Bldg., Room 15200  
3535 Market Street  
Philadelphia, PA 19104  
215-596-1457

District Office 6--Jacksonville  
U. S. Dept. of Labor, OWCP  
214 North Hogan St., Suite 1006  
Jacksonville, FL 32202  
904-357-4777

District Office 9--Cleveland  
U. S. Dept. of Labor, OWCP  
1240 East Ninth Street, Room 851  
Cleveland, OH 44199  
216-522-3800

District Office 10--Chicago  
U. S. Dept. of Labor, OWCP  
230 South Dearborn Street, Eighth Floor  
Chicago, IL 60604  
312-886-5656

District Office 11--Kansas City  
U. S. Dept. of Labor, OWCP  
City Center Square  
1100 Main Street, Suite 750  
Kansas City, MO 64105  
816-426-3397

District Office 12--Denver  
U. S. Dept. of Labor, OWCP  
1801 California Street, Suite 915  
Denver, CO 80202  
303-844-1310

District Office 13--San Francisco  
U. S. Dept. of Labor, OWCP  
71 Stevenson Street, Second Floor  
San Francisco, CA 94105  
415-744-6610

District Office 14--Seattle  
U. S. Dept. of Labor, OWCP

1111 Third Avenue, Suite 615  
Seattle, WA 98101  
206-553-5508

District Office 16--Dallas  
U. S. Dept. of Labor, OWCP  
525 Griffin Street, Room 100  
Dallas, TX 75202  
214-767-4707

District Office 25--Washington, D. C.  
U. S. Dept. of Labor, OWCP  
800 N. Capitol Street, N.W., Room 800  
Washington, D.C. 20211  
202-565-9770

Publication CA-810