



The new three-day wait

On December 20, 2006, President Bush signed into law H.R. 6407, the Postal Accountability and Enhancement Act. Signing this bill into law had an immediate effect on employees who suffer on-the-job injuries.

An employee who has a traumatic injury remains on pay status for the remainder of the day or shift on which the injury occurs. Prior to the change in the law, if the employee first became disabled within 45 days after the date of injury, he or she would be eligible for continuation of pay (COP), paid by the Postal Service. According to the law as it existed, an employee who was disabled after the COP-eligibility period expired would not be eligible for wage loss compensation from OWCP for the first three days of that disability. The employee's only choice was to use LWOP, not annual or sick leave, during those three days.

In December 2006, the law was changed to say:

A Postal Service employee is not entitled to **compensation or continuation of pay** for the first three days of temporary disability...[and] may use annual leave, sick leave or leave without pay during that three-day period..." (emphasis added)

The change meant that the three-day wait was no longer solely applied prior to compensation, but now to COP as well. However, it also provided the employee with greater options for leave.

Based on communications between the Postal Service and OWCP, here's how the three-day wait will be handled: Following an injury, if an employee is eligible for and elects COP, he or she must be given an opportunity to choose between AL, SL and LWOP for the three-day waiting period.

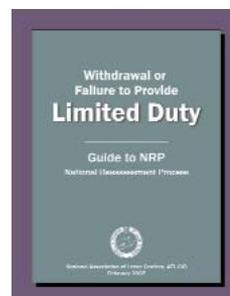
Days that count toward the three-day wait. Any day with a period of disability from work will count, regardless of whether the disability is for the full or just part of a work shift. The three days need not be consecutive and can include non-scheduled days and holidays that fall within a period of work disability.

Medical treatment or examination. An exception to the three-day wait requirement is made for time off work receiving medical care—COP is paid automatically in this circumstance. Note that such a day does not count toward the three-day wait *unless* the employee takes ad-

ditional time off in that same work shift due to disability. To illustrate: A day *will not count* toward the three-day wait if the employee is paid three hours COP for medical treatment and works the remaining 5 hours. A day *will count* toward the three-day wait if the employee is paid three hours COP for medical treatment and takes 5 hours sick leave due to disability.

Converting leave to COP. An employee's sick and annual leave will be re-credited (or the employee will be paid for LWOP) in the event that disability from work ends up exceeding 14 days. The Injury Compensation office will notify the employee's supervisor to process a pay adjustment converting the leave to COP. Do not confuse this with Leave Buy Back, which is the right to buy back leave with workers' compensation payments *after* the COP period expires.

Wage loss compensation. The change in the law does not require an employee to undergo a three-day wait for COP and a similar separate wait before OWCP compensation begins. Therefore, an employee who serves the three-day wait during the COP-eligibility period will be immediately eligible for wage loss compensation after the COP period expires. Likewise, an employee who uses his own sick leave for two days during the COP period will only have to serve one additional waiting day after the COP period expires before becoming eligible for wage loss compensation. As mentioned above, the new law gives employees greater options for leave. OWCP recently informed NALC that, to be eligible for compensation, an employee is no longer limited to using LWOP. An employee may use annual or sick leave, as well. ☒



Limited Duty: NALC has published a guide to help injured workers and their representatives challenge the Postal Service's withdrawal of or failure to provide Limited Duty. *The Guide to NRP* is available online at nalc.org.