

**QUESTIONS AND ANSWERS ABOUT
THE
FEDERAL EMPLOYEES'
COMPENSATION ACT (FECA)**

CA-550

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This booklet contains answers to questions often asked about the Federal Employees' Compensation Act (FECA). It describes the basic provisions of the FECA in simple language, and it discusses the issues most commonly raised about entitlement to benefits.

The statements in this booklet are subject to change, and they do not have the force of the law or the regulations. The law is found at 5 U.S.C. 8101 et seq., and the regulations are found at 20 CFR Part 10. The Program's procedures are contained in the Federal (FECA) Procedure Manual.

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Questions and Answers

General Information

A-1 What is the Federal Employees' Compensation Act (FECA)?

The FECA is a law, which provides benefits for civilian employees of the United States who have suffered work-related injuries or occupational diseases. These benefits include payment of medical expenses and compensation for wage loss. The FECA also provides for payment of benefits to dependents of employees who die from work-related injuries or diseases.

However, the FECA does not provide retirement benefits. Employees who fully or partially recover from their injuries are expected to return to work. The FECA provides vocational rehabilitation services to partially disabled employees for this purpose.

A-2 Who administers the FECA?

The FECA is administered by the Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor, through 12 district offices located across the geographic areas they serve are shown in the Appendix.

A-3 Who is covered under the FECA?

All civilian employees of the United States, except those paid from non-appropriated funds, are covered. 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, Neighborhood Youth Corps, and Your Conservation Corps enrollees; and non-Federal law enforcement officers under certain circumstances involving crimes against the United States.

A-4 Are only regular, full-time employees eligible for FECA benefits?

No. FECA coverage is extended to Federal employees regardless of the length of time on the job or the type of position held. Probationary, temporary, and term employees are covered on the same basis as permanent employees. Also, part-time, seasonal, and intermittent employees are covered.

A-5 Are all work-related injuries covered under the FECA?

All kinds of injuries, including diseases caused by employment are covered if they occur in the performance of duty (see questions C-5 to C-9). However, benefits cannot be paid if injury or death is caused by willful misconduct of the injured employee, by intent to bring about the injury or death of oneself or another, or by intoxication of the injured employee.

A-6 Does the FECA cover a pre-existing medical condition that is aggravated by factors of employment?

Yes. Diseases and illnesses aggravated, accelerated or precipitated by the employment are covered. The employee must submit medical and factual evidence showing that the employment aggravated, accelerated, or precipitated the medical condition.

A-7 Is it necessary to report all injuries that occur at work, even minor ones such as a cut finger or bumped knee?

All injuries should be reported when they occur; since a minor injury sometimes develops into a more serious condition. Benefits cannot be paid unless an injury is reported.

A-8 If an employee has a work-related injury and also suffers damage to personal property, such as clothing, can the employee be paid for such loss?

The FECA does not provide for reimbursement for loss of personal property. The employee may claim such reimbursement from his or her employer under the Military and Civilian Personal Property Act of 1964, 31 U.S.C. 240 (See question B-3 concerning personal appliances and prostheses.)

A-9 Does an employee need an attorney or other representative to file or pursue a claim for compensation?

No. However, the employee may obtain the services of an attorney or other representative if desired. A Federal employee may not serve as a representative unless he or she is an immediate family member of the injured worker or is acting in his or her official capacity as a union representative. An OWCP employee may not act as a representative under any circumstances. The employee must advise OWCP in writing of the name of the representative. No special form is needed, but the employee must sign the statement.

A-10 Who pays the representative's fee?

The employee, not OWCP, is responsible for paying the fee. OWCP will not direct the payment of a fee or help collect a fee. The employee and representative must resolve these matters.

The employee should not pay any fee until OWCP has approved the amount (unless the payment is made to an escrow account pending OWCP's approval of the fee). OWCP will approve a fee based on an itemized statement submitted by the representative showing the work done and a statement from the employee indicating his or her agreement, or lack of agreement with the requested fee.

A-11 Are compensation payments subject to claims by creditors?

No. The FECA provides that assignment of a claim for compensation is void and all compensation payments are exempt from the claims of creditors.

However, disability compensation payments may be garnished for alimony and child support payments if allowed by state law, and the legal process is served according to state law.

A-12 How much does compensation coverage cost a Federal employee?

Nothing. Federal civilian employees are covered by virtue of their employment status.

A-13 Are there penalties for filing a false claim?

Yes. Federal law (18 U.S.C. 1920) provides:

Whoever knowingly and willfully falsifies, conceals, or covers up a material fact, or makes a false, fictitious, or fraudulent statement or representation, or makes or uses false statements or report knowing the same to contain any false, fictitious, or fraudulent statement or entry in connection with the application for or receipt of compensation or other benefit or payment under subchapter I or III of chapter 81 of title 5, shall be guilty of perjury; and on conviction thereof shall be punished by a fine under this title, or by imprisonment for not more than 5 years, or both; but if the amount of the benefits falsely obtained does not exceed \$1000 such person shall be punished by a fine under this title, or by imprisonment for not more than 1 year; or both.

A-14 Who pays the costs of workers' compensation?

The costs are paid from the Employees' Compensation Fund, which OWCP administers. Each year, each employer reimburses the Fund for the amounts paid to its employees in workers' compensation benefits during the previous year.

A-15 Is the employer entitled to know what an employee's worker's compensation file contains?

Yes. While workers' compensation records are protected from release under the Privacy Act, the employer is considered a party to the claim. It may receive information in the employee's file under the "routine use" provision of the regulations under which the Privacy Act is administered. Such information includes medical reports. Employers are expected, however, to handle this information with care and to restrict access to those with a specific need to have it.

A-16 How does an employee notify OWCP of a change of address?

The employee must advise the OWCP district office of any change of address in writing. No special form is needed, but the statement must be signed.

Questions and Answers

Notices of Injury, Illness, and Death

B-1 What must an employee do when injured at work?

- (a) Report the injury to the supervisor right away and obtain first aid as necessary;
- (b) Complete the written report (Form CA-1 or CA-2) and give it to the supervisor;
- (c) If a traumatic injury is involved, and further medical treatment is needed, obtain authorization (Form CA-16) from the supervisor for treatment by a physician of the employee's choice. If that physician is not available; the employee still has the right to choose a treating physician and should therefore select another (see question E-3);
- (d) If a traumatic injury is involved, furnish the supervisor with medical evidence of any disability within 10 calendar days of claiming continuation of pay (see question D-5).

B-2 What forms are used to report injuries and diseases?

Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay / Compensation" is used to report a traumatic injury.

Form CA-2, "Notice of Occupational Disease and Claim for Compensation" is used to report an occupational disease.

The employee should carefully follow the instructions attached to Forms CA-1 and CA-2. Form CA-1 should be filed within 30 days of the injury and Form CA-2 should be filed within 30 days of the date the employee realized the disease or illness was caused or aggravated by the employment. The forms may be obtained from the employer or OWCP.

The employer is expected to submit the completed form to OWCP within 10 workdays.

B-3 What is the difference between a "Traumatic Injury" and an "Occupational Disease or Illness"?

A traumatic injury is a wound or other condition of the body caused by external force, including stress or strain. The injury must occur at a specific time and place, and it must affect a specific member or function of the body. The injury must be caused by a specific event or incident, or a series of events or incidents, within a single day or work shift.

Traumatic injuries include damage solely to or destruction of prostheses, such as dentures or artificial limbs. Traumatic injuries also include damage to or destruction of personal appliances, such as eyeglasses or hearing aids, when a personal injury requiring medical services occurred. (See question A-8 concerning personal property.)

An occupational disease or illness is a condition produced by the work environment over a period longer than one workday or shift. The condition may result from infection, repeated stress or strain, or repeated exposure to toxins, poisons, fumes or other continuing conditions of the work environment.

The length of exposure, not the cause of the injury or the medical condition, which results determines whether an injury is traumatic or occupational. For instance, if an employee is exposed to toxic fumes for one day, the incident is considered a traumatic injury. If the employee is exposed to toxic fumes for two or more days, the incident is considered an occupational disease.

B-4 Are additional forms used when filing notices of occupational illness?

The employer should provide the employee with two copies of a checklist listing the information needed for the specific disease claimed. OWCP uses these checklists so that employees and employers will know what evidence OWCP requires.

B-5 What forms are used to report a death?

Form CA-5, "Claim for Compensation by Widow, Widower and/or Children" should be used by or on behalf of those parties to report a death from either a traumatic injury or occupational illness. The form is also used to claim benefits.

Form CA-5b, "Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren" should be used by or on behalf of those parties to report a death from either a traumatic injury or occupational illness. The form is also used to claim benefits.

B-6 May someone other than the employee fill out a notice of injury, illness, or death?

Yes. Another person, including the supervisor may act on behalf of an injured employee or survivor and fill out the employee's portion of Form CA-1, CA-2, CA-5 or CA-5b. The person making the report should complete and sign the form and then submit it to the employee's supervisor.

B-7 What can an employee do if his or her supervisor refuses to accept a notice of injury, illness or death?

The employee should notify OWCP of the refusal. Federal law provides in 18 U.S.C. 1922 that:

Whoever, being an officer or employee of the United States charged with the responsibility for making the reports of the immediate superior specified by section 8120 of title 5, willfully fails, neglects, or refuses to make any of the reports, or knowingly files a false report, or induces, compels, or directs an injured employee to forego filing of any claim for compensation or other benefits provided under subchapter I of chapter 81 of title 5 or any extension or application thereof, or willfully retains any notice, report, claim, or paper which is required to be filed under that subchapter or any extension or application thereof, or regulations prescribed thereunder, shall be fined under this title or imprisoned not more than one year, or both.

B-8 What is a recurrence of disability, and how does it differ from a new injury?

A recurrence of disability is defined as an inability to work after an employee has returned to work, when the inability is caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.

This term also means an inability to work that occurs when a light-duty assignment made specifically to accommodate an employee's physical restriction due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, non-performance of job duties, or a reduction-in-force). Finally, it means an inability to work that occurs when the physical requirements of such a light-duty assignment are changed, so that they exceed an employee's established medical restrictions.

In contrast, a new incident with an identifiable cause is defined as a new injury.

B-9 What should an employee do if he or she has suffered a recurrence of work-related disability?

If an injured employee sustains additional disability as defined in question B-8, he or she should report the recurrence using Form CA-2a, "Notice of Recurrence". The form should be filed even if the recurrence occurs while the employer is paying COP. The employee must submit the factual and medical evidence noted in the instructions on the form. If the recurrent disability is related to the original injury, the employee is entitled to medical treatment and compensation.

Question and Answers

Entitlement to Benefits

C-1 What requirements must a claim meet?

The employee must provide medical and factual evidence to establish five basic elements:

- The claim was filed within the time limits set by the FECA;
- The injured or deceased person was an employee within the meaning of FECA;
- The employee actually developed a medical condition (or damaged a prosthesis) in a particular way;
- The employee was in the performance of duty when the event(s) leading to the claim occurred; and
- The medical condition found resulted from the event(s) leading to the claim.

These requirements are discussed in questions C-2 to C-10 below.

C-2 What is the time limit for filing notice of injury and claim for compensation?

A notice must be filed within three years of the date of injury. However, if a claim is not filed within three years, compensation may still be paid if written notice of injury was given within 30 days, or the employer had actual knowledge of the injury within 30 days after it occurred.

C-3 How is civil employee status determined?

The FECA covers all civilian Federal employees as described in question A-3. Contract employees, volunteers, and loaned employees are covered under some circumstances.

Federal employees who are neither citizens nor residents of the United States or Canada are covered subject to certain special provisions governing their pay rates and computation of compensation payments.

C-4 How is “fact of injury” established?

It must be shown that the employee actually sustained an injury or illness. Two factors are involved:

1. Did an incident occur at the time and place and in the manner claimed? This is determined 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.
2. Is a medical condition present, which may be related to the incident? This is determined on the basis of the attending physician’s statement.

C-5 How is “performance of duty” established?

Usually, the injury or illness must occur on the employer’s premises during working hours while the employee is performing assigned duties or engaging in an activity which is reasonably associated with the employment. Workers who perform assigned duties away from the employer’s premises are also covered.

C-6 Is an employee in performance of duty while on break or at lunch?

An employee is considered to be in performance of duty during break or at lunch on the employer’s premises. Unless the employee is in travel status or is performing regular duties off the premises, an injury, which occurs during lunch hour off the premises is not usually covered.

C-7 Is an injury, which occurs during work-related recreational activities considered to be in performance of duty?

Injuries which occur during recreation which the employee is required to perform as a part of training or assigned duties, or which occur while the employee is in pay status, are considered to be in performance of duty for compensation purposes.

Injuries which occur during informal recreation on the employer’s premises (for instance, jogging) may also be covered, as may injuries which occur while an employee is engaged in activities approved as part of an individual plan developed under a formal physical fitness program managed by the employer.

Injuries, which occur during informal recreation off the employer’s premises (such as playing on an employer-sponsored baseball team), may also be covered. The employer must explain what benefit it derived from the employee’s participation, the extent to which the employer sponsored or directed the activity, and whether the employee’s participation was required or not.

C-8 Is an employee considered to be in performance of duty while going to and from work?

No. Employees are not generally covered by the FECA for injuries, which occur before they reach the employer's premises or after they have left it. However, coverage may be extended when the employer provides transportation to and from work, when the employee is required to travel during a curfew or an emergency, or when the employee is required to use his or her automobile during the workday.

C-9 Is an employee considered to be in performance of duty 24 hours a day while in travel status?

An employee in travel status is covered 24 hours a day for all activities incidental to the work assignment. Such activities include obtaining meals, using the hotel room, and traveling between the hotel and the work site. They usually do not include recreational or sightseeing trips.

C-10 How is causal relationship established?

A medical connection between the injury and the condition found must be shown, based entirely on medical evidence provided by physicians who have examined and treated the employee.

Opinions of the employee, supervisors or witnesses are not considered, nor is general medical information in published articles. The fact that a condition appears during Federal employment does not establish causal relationship between the two. Likewise, the employee's belief that work factors caused or aggravated the condition does not establish causal relationship.

Where a pre-existing condition involving the same part of the body is present, the physician must provide a medical opinion, which states both the effects of the work-related condition and those of the pre-existing condition.

C-11 Does the employer have the authority to accept or deny a claim?

No. Only OWCP may make this decision. While the employer pays or withholds COP, this action is subject to review by OWCP in every case.

C-12 How does OWCP decide whether a case can be accepted?

Some very simple cases with medical expenses below a set threshold are accepted automatically. In most cases, however, OWCP claims staff considers the factual and medical evidence sent by the employee and the employer.

OWCP claims staff applies the law, the regulations, and the procedures to this factual and medical evidence. They also apply decisions of the Employees' Compensation Appeals Board and administrative decisions of OWCP as set forth in FECA Program Memoranda.

C-13 How is the employee advised when a case has been accepted?

In very simple cases, the employee receives a postcard advising that medical expenses up to a set amount will be paid without further information from the employee. In most other cases, the employee receives a letter stating the injury-related medical conditions and explaining how to claim further benefits.

C-14 If a case is accepted, does this automatically mean that OWCP will pay disability benefits?

No. A condition for which medical benefits are payable may not prevent an employee from working. Whether disability benefits are payable depends on what the medical evidence says.

C-15 If an employee qualifies for disability retirement under rules set forth by the Office of Personnel Management (OPM), does this automatically mean that the employee is entitled to receive compensation benefits?

No. To be eligible for compensation benefits, an employee must be disabled for regular work due to a work-related injury. OPM will consider disability whether it is work-related or not.

C-16 How long does an accepted case remain open?

An accepted case remains open for as long as medical care or disability continues. Cases in which there is no activity for a period of several months are closed and may be sent to the Federal Records Center. However, a closed case can be requested from the Federal Records Center and reopened at any time.

C-17 How is the employee advised when a case has been denied?

A formal decision is sent to the employee. The decision states the specific reason for denying the case and discusses the evidence, which led to the decision. Copies of the decision are sent to the employer and to the representative, if any.

C-18 If an individual disagrees with a formal decision of OWCP, what appeal rights are available?

OWCP encloses a description of appeal rights with each formal decision. These rights include:

1. An oral hearing before an OWCP representative. The individual claiming benefits can testify and present written evidence. The hearing is held at a location near the individual's home. He or she may have a representative at the hearing (see question A-9), but is not required to do so.
2. A review of the written record by an OWCP representative. The individual claiming benefits will not be asked to attend or testify, but he or she may submit written evidence.
3. Reconsideration by district office staff who were not involved in making the contested decision. The request must clearly state the grounds for requesting reconsideration, and it must include evidence not submitted before or a legal argument not made before.
4. Review by the Employees' Compensation Appeals Board (ECAB). The ECAB is part of the U.S. Department of Labor but separate from OWCP. Review by the ECAB is limited to the evidence of record, and no new evidence may be submitted. The individual claiming benefits may be represented by an attorney or by any other personal authorized by that individual. The ECAB must approve any fee for such representation.

C-19 If an individual disagrees with the decision reached on appeal, can he or she obtain review through a State or Federal court system?

No. The methods of appeal are limited to those described above.

Questions and Answers

Continuation of Pay

D-1 What is COP?

COP is continuation of an employee's regular pay for up to 45 calendar days of wage loss due to disability and/or medical treatment. It is paid by the employer only in connection with a traumatic injury. Employees with occupational disease claims are not eligible to receive COP.

D-2 What form should be used to claim COP?

Form CA-1 "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation" is the form to use. It must be filed within 30 days of the injury.

D-3 What does "controvert" mean with respect to COP?

The term "controvert" means to dispute, challenge, or deny the validity of a claim for COP on the basis of the reasons stated in question D-4.

D-4 Is an employer required to continue pay in all cases of work-related, disabling traumatic injuries?

Where COP is claimed, the employer must continue the employee's pay unless it controverts COP for one of the following reasons:

1. The disability is due to an occupational disease or illness;
2. The employee serves without pay or nominal pay, or is appointed to the staff of a former President, or is selected pursuant to Chapter 121 of Title 28 and serves as a petit or grand juror, and is not otherwise an employee of the United States;
3. The employee is neither a citizen nor a resident of the United States or Canada (i.e., a foreign national employed outside the United States or Canada);
4. The injury occurred off the employer's premises and the employee was not engaged in authorized "off premises duties";
5. The injury was caused by the employee's willful misconduct; or by the employee's intent to bring about the injury or death of himself/herself or another person; or by the employee's intoxication by alcohol or illegal drugs;

6. The injury was not reported on a form approved by OWCP (usually Form CA-1) within 30 days after the injury;
7. The employee first stopped work more than 45 days after the injury;
8. The employee first reported the injury after employment ended;
9. 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.

D-5 Once COP has begun, may the employer stop it for any reason?

Yes. The employer is entitled to stop COP if:

1. The employee does not provide the employer with medical evidence of a disabling traumatic injury within 10 calendar days of claiming COP. (However, the employer may continue to pay COP if the supervisor is satisfied that the employee has a disabling traumatic injury.) COP is reinstated where evidence received at a later date supports disability.
2. The employee's physician has found the employee to be partially disabled and the employee refuses suitable work, or fails to respond to the job offer.
3. The employee's scheduled period of employment ends, or employment otherwise ends, provided the period of employment or date of termination is set before the injury occurs.

D-6 Does the employer have the right to interrupt COP if a disciplinary action has been taken against an employee?

No, except that COP can be stopped if employment ends due to disciplinary action in situations where preliminary written notice of termination or other action was issued before the injury occurred and the termination or other action became final during the COP period.

D-7 What action is needed if disability lasts more than 45 days?

If it appears that the disability will last beyond 45 days, the employee and the employer should complete Form CA-7, "Claim for Compensation". The employer should send it on the 40th day of COP to the district office handling the claim.

D-8 Can the employer require the employee to use annual or sick leave during the 45-day period pending OWCP's decision on the claim?

No. The employee cannot be required to use leave when he or she suffers a traumatic injury. If COP is controverted and terminated (see questions D-3 and D-4) the employee may either use leave or take leave without pay and apply for compensation.

D-9 If the "Duty Status Report" Form CA-17, shows that an employee can perform some work before the 45-day period ends, must the employee return to duty?

Yes. If Form CA-17 or a medical report from the employee's physician shows that the employee can return to light or limited duty, the employee must do so. If the employee refuses to accept the work offered or fails to respond to the job offered, the employer may end COP effective the date that such light duty became available. OWCP will resolve any dispute regarding entitlement to COP.

D-10 Are night differential, hazard, premium, holiday, Sunday pay and overtime included in the pay rate used for COP purposes?

Yes, except for Sunday and overtime pay, which are excluded by law.

D-11 Are any deductions made from COP?

COP is paid as salary, not compensation. It is therefore subject to the usual payroll deductions, such as those made for income taxes and retirement.

Questions and Answers

Medical Benefits

E-1 How does an employee obtain medical care for a work related injury?

If the employee requires medical treatment because of a work-related traumatic injury, the supervisor should complete the front of Form CA-16, "Authorization for Examination and/or Treatment" within four hours of the request. In an emergency, where this is no time to complete the form, the employer may authorize medical treatment by telephone and then forward Form CA-16 to the medical facility within 48 hours. Retroactive issuance of Form CA-16 is not allowed under any other circumstances. An employer may refuse to issue a Ca-16 if more than a week has passed since the injury.

If the employee requires medical treatment because of a work-related occupational illness, he or she should obtain care directly from a physician, preferably from a specialist in the indicated field. If OWCP accepts the claim, it will pay for medical treatment required by the condition(s) accepted, including treatment received before acceptance. CA-16 may not be used to authorize treatment for occupational disease or illness except in very unusual situations. An employer may issue a CA-16 for an occupational disease or illness ONLY after obtaining approval from OWCP. The name and title of the individual granting such approval must be shown on Form CA-16.

E-2 What is the function of Form CA-16?

Form CA-16 guarantees payment to the original treating physician (or any physician to whom the original treating physician refers the employee) for 60 days from date of issuance, unless OWCP terminates this authority at an earlier date.

Form HCFA-1500, American Medical Association Standard Health Insurance Claim Form, or Form OWCP-1500, the version of the form which includes instructions for submitting bills to OWCP, should accompany Form CA-16.

Even if no Form CA-16 is issued, OWCP will pay the charges for initial medical treatment if the case is approved and the treatment was needed for the job-related injury. Preferably, the provider will bill OWCP directly for such charges. If not, however, the employee should claim reimbursement by submitting itemized bills from the provider and a completed HCFA-1500 or OWCP-1500 signed by the provider, explaining the need for emergency care, along with Form CA-915, Claimant Medical Reimbursement Form.

E-3 Can the injured worker choose the physician who will provide treatment?

Yes, an injured worker is entitled to a first choice of physician or facility for treatment of an injury. The provider must meet the definition of “physician” under the FECA (see question E-4). A physician working for or under contract to the employer may examine the employee 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.

E-4 What is the definition of “physician” under the FECA?

The term “physician” includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, osteopathic practitioners, and chiropractors within the scope of their practice as defined by State law.

However, 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, except that a chiropractor may also provide services in the nature of physical therapy under the direction of a physician.

By regulation, the term “qualified physician” does not include those individuals 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 FECA.

E-5 What information must a report from a chiropractor contain?

A diagnosis of “spinal subluxation as demonstrated by x-ray to exist” must appear in the chiropractor’s report. A chiropractor may interpret his or her x-rays to the same extent as any other physician. OWCP will not necessarily require submittal of the x-ray, or a report of the x-ray, but the report must be available for submittal on request. The costs of physical and related laboratory tests performed by or required by a chiropractor to diagnose a spinal subluxation are payable.

E-6 What services may a clinical psychologist provide?

A clinical psychologist may serve as the sole treating physician in cases where the accepted condition is wholly emotional in nature, but may not serve as the sole treating physician in cases that include a physical component unless the applicable State law allows clinical psychologists to treat physical conditions. A clinical psychologist may also perform testing, evaluation and other services under the direction of a medical doctor.

E-7 Will OWCP pay the entire amount of the medical bill, or is there a maximum limit?

OWCP uses a schedule of maximum allowable medical charges. This schedule applies to charges for medical services rendered on and after June 9, 1986, by physicians, surgeons, podiatrists, clinical psychologists, optometrists, chiropractors, osteopathic practitioners, physician's assistants, and therapists. The fee schedule includes those services rendered in a hospital or nursing home setting, to inpatient hospital services and pharmacy charges after January 4, 1999. However, nursing home charges are not subject to a fee schedule.

The employee does not have to pay the difference between the maximum charge set by the schedule and the charge made by the provider.

E-8 If an employee pays for authorized treatment or medication for a work-related injury, can he or she obtain reimbursement?

Yes. For medical, surgical, and dental services, the employee should use Form HCFA-1500, American Medical Association Standard Health Insurance Claim Form, or OWCP-1500, the version of the form which includes instructions for submitting bills to OWCP. The form must be signed by the provider. For pharmacy expenses, the employee should use the Universal Claim Form, to include the name of the drug, name of prescribing physician and the date the prescription was filled. The employee must also complete CA-915, Claimant Medical Reimbursement Form, and submit a copy with each Form HCFA-1500, OWCP-1500, or Universal Claim Form. Claims for hospital charges must be submitted on Form UB-92.

Along with the proper forms, the employee should submit proof of payment. OWCP will accept signed statements by providers, a mechanical stamp showing receipt of payment, photocopies of canceled checks (both front and back), or a copy of a credit card receipt.

Bills and requests for reimbursement must be sent to OWCP within a year after the end of the calendar year in which the expense was incurred or the service was provided, or within a year after the end of the calendar year in which the treated condition was first accepted as compensable by OWCP.

For example, if the employee was treated in 1998 and OWCP accepted the claim in 1998, OWCP will process bills for that treatment if they are submitted by December 31, 1999. However, if the employee was treated in 1998 and OWCP accepted the claim in 1999, the employee would have until December 31, 2000 to submit bills.

E-9 Will OWCP pay for transportation to obtain medical treatment for a work-related injury?

An employee can be reimbursed for reasonable transportation expenses needed to obtain medical treatment. A distance of up to 25 miles from the employee's home or work site is usually considered a reasonable distance to travel. For automobile travel, the employee is reimbursed at the standard mileage rate for government travel. Otherwise the employee should travel by the shortest route and use public transportation unless a taxicab or specially equipped vehicle is needed because of the medical condition. Standard Form 1012 or other official government travel form should be used to claim reimbursement for travel expenses.

E-10 Will an employee's health benefit plan pay medical expenses resulting from work-related injury or disease?

Health benefit plans exclude work-related injuries, and a plan will not pay medical expenses if it is aware that a workers' compensation injury is involved. If the plan pays for medical expenses, which are later determined to be work-related, OWCP will reimburse the plan upon submittal of copies of the medical bills.

E-11 Can an employee change physicians?

An employee who wishes to change physicians after the first choice must contact OWCP in writing for approval and include the reasons for requesting the change. Otherwise, the employee may have to bear the cost of unauthorized medical care.

E-12 Will OWCP require an injured worker to be examined by a physician other than the worker's treating physician?

OWCP sometimes needs a second opinion from a medical specialist, either because the attending physician is not a specialist in the field of medicine related to the employee's injury, or because the information supplied by the attending physician is not complete enough to adjudicate or manage the claim.

Sometimes a conflict exists between the medical opinion of the attending physician and the medical opinion of a second opinion specialist. When this happens, OWCP must select a referee medical specialist to resolve the conflict. Such referee specialists are chosen according to a strict rotation method among all board-certified specialists in the appropriate field of medicine who are located in the employee's vicinity.

E-13 Does an injured worker have to report for medical examinations when directed by OWCP?

Yes. The employee is required to submit to examination by a physician when so requested by OWCP. Failure to do so without good reason may result in suspension of compensation or later entitlement to compensation. However, when an employee whose compensation has been suspended complies with OWCP's direction to undergo the examination, compensation will be restored as of the date of compliance as soon as the examination has taken place.

E-14 Can other parties attend medical examinations directed by OWCP?

For a second opinion examination, the FECA provides that a physician paid by the employee may participate in the examination. For a referee examination, the FECA contains no provision for participation by another physician.

No other party has a right to be present at either a second opinion or referee examination. However, if unusual circumstances exist, OWCP may allow a third person to attend. For example, where a hearing-impaired employee needs an interpreter, the presence of an interpreter would be allowed.

E-15 Will OWCP pay for the services of other professionals, such as physical therapists or private nurses, which are needed due to a work-related injury?

Yes, OWCP will authorize medical services prescribed or recommended by qualified physicians. In some instances, as with physical therapy, an initial period of treatment may be authorized, but additional periods of treatment must be supported by further medical evidence. Advance approval should be obtained by OWCP to guarantee payment.

E-16 Does FECA provide for appliances, supplies, or prostheses needed because of a work-related injury?

Yes, any medical appliances, supplies, or prostheses recommended by the attending physician will be provided, if likely to cure, give relief or reduce the degree or period of disability. The request should include the physician's reasons for believing the items to be necessary.

E-17 How does an employee obtain authorization for surgery?

As far in advance as possible, the employee or the treating physician should write to the OWCP district office and state the nature of the planned surgery. A report from the treating physician, which outlines the proposed benefits of the surgery, should be submitted as well. OWCP will evaluate the request, and it may obtain additional medical opinion. OWCP will then advise the employee of its decision.

E-18 Will OWCP pay for the services of an attendant if the employee requires assistance in caring for personal needs, such as feeding, dressing, bathing, etc.?

Yes, if the disability is so severe that the employee cannot care for his or her physical needs, such as feeding, bathing, or dressing, the services of a home health aide or similarly qualified person may be authorized. The assistance required must be personal in nature; an attendant's allowance cannot be paid for housekeeping services. An employee who believes that he or she needs such services should write to the OWCP district office.

E-19 Will an employee continue to receive the services of an attendant while hospitalized?

No. The services of an attendant may not continue while an employee is hospitalized, since hospital staff attend to all personal needs.

E-20 Under what circumstances will OWCP pay for nursing home care?

OWCP may authorize care in a convalescent home, skilled nursing facility, or hospice when the employee does not need acute care but does need services which are difficult or impossible to arrange in the home setting. The recommendation of the attending physician is required. OWCP will pay the rates for standard accommodations as required by the medical condition. The employee should remain under the continuing medical supervision of a physician who may be asked to justify the need for continuing institutional care every three to six months, depending on the severity of the medical condition.

Questions and Answers

Compensation Benefits

F-1 What form should be used to claim compensation for loss of pay?

Form CA-7, "Claim for Compensation", is the form used to claim compensation for loss of pay. Each payment of compensation must be supported by a medical report from a physician, which shows that the employee is disabled for work during the period for which compensation is claimed. It is the employee's responsibility to arrange for submittal of such medical reports.

F-2 How often are compensation checks issued?

Short-term compensation payments are issued each week. The period covered may include compensation for several days to several weeks. Long-term compensation payments are issued each four weeks.

F-3 Is there a maximum limit on the period for which an employee can receive compensation payments for wage loss?

No. An employee may receive compensation payments for as long as the medical evidence shows that total or partial disability exists and is related to the accepted injury or condition.

OWCP requires most employees receiving compensation for disability to undergo medical examinations at least once a year. This evaluation is usually obtained from the employee's treating physician. OWCP may, however, require the employee to be examined by another physician.

F-4 When do compensation payments begin?

Compensation payments can be made after wage loss begins and the medical evidence shows that the employee cannot perform the duties of his or her regular job. For a traumatic injury, compensation is payable after the 45 days of COP have ended and three waiting days have elapsed. For traumatic injuries where there is no entitlement to COP, and for non-traumatic injuries, compensation is payable after three waiting days have elapsed. In either instance, no waiting period is required when permanent disability exists, or when the disability causing wage loss exceeds 14 days.

F-5 Does an employee have to use sick or annual leave before compensation may be paid?

While an injured employee may use sick or annual leave, this is not required, and doing so can cost the employee a significant amount of money to repurchase. It is often preferable to use leave without pay and claim compensation instead. The employee should make this decision only after reviewing the information stated on Form CA-7b. An employee must be in leave-without-pay status before compensation is payable.

F-6 Can an employee use sick or annual leave to satisfy the three-day waiting period?

No, the employee must be in a leave-without-pay status. Any day or fraction of a day in which pay loss occurs can be counted as a waiting day.

Non-work days and holidays not falling within a period of leave may also be counted as waiting days.

F-7 If an employee uses sick or annual leave due to an on-the-job injury, can the leave be restored and compensation paid instead?

Such leave may be repurchased, subject to the employer's agreement, if the claim is approved and medical evidence shows that the employee was unable to work because of the injury during the period claimed. An employee who chooses to use sick or annual leave may request "leave buy-back" by submitting Forms CA-7, CA-7a and CA-7b to OWCP through the employer. The employee will owe the employer the difference between the amount paid for leave, which is 100% of the employee's usual wage rate, and the amount paid for compensation, which is 2/3 or 3/4 of the wage rate. When this difference is paid, the employer will then restore the leave to the employee's account. The repurchase of leave can also affect the employee's income taxes.

F-8 Will OWCP require an employer to grant an employee's leave buy-back request?

No this is solely the employer's decision.

F-9 How are disability compensation payments computed?

Compensation is paid at 2/3 of the employee's pay rate if he or she has no dependents, or 3/4 of the pay rate if he or she is married or has one or more dependents.

F-10 Who may qualify as a dependent to entitle an employee to compensation at the 3/4 rate?

The following are considered dependents for compensation purposes:

1. A wife or husband residing with the employee or receiving regular support payments from him or her, whether court ordered or not;
2. An unmarried child who is under the age of 18 and who lives with the employee or who receives regular contributions of support from him or her. Also, an unmarried child who is over the age of 18 and incapable of self-support due to physical or mental disability;
3. An unmarried child between 18 and 23 years of age, who is a student and who has not completed four years of post-high school education, and who is regularly pursuing a full-time course of study;
4. A parent who is wholly dependent upon and supported by the employee.

F-11 Is the 3/4 compensation rate applicable to an employee who is divorced and pays child support?

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

F-12 Is the 3/4 compensation rate applicable to an employee who is making alimony payments?

No, the definition of dependent does not include an ex-wife or ex-husband. If an employee has no actual dependents, the 3/4 compensation rate does not apply.

F-13 What should an employee do if the number of dependents he or she is claiming for compensation purposes changes?

If the number of dependents decreases, the employee should write to the OWCP district office and advise the relationship of the former dependent (for example, spouse or child), the reason for the change (for example, divorce or termination of student status), and the date of the change.

If the number of dependents increases, the employee should write to the OWCP district office and advise the relationship of the new dependent (for example, a new baby or a new spouse) and provide documentation of the change (for example, a copy of the birth certificate or marriage certificate).

Sometimes the addition or subtraction of a dependent affects the benefit level, and sometimes it does not. OWCP will adjust benefits if necessary, based on the new information provided.

F-14 Are night differential, hazard, premium, holiday, Sunday pay and overtime included in the pay rate used for compensation purposes?

Yes, except for overtime pay, which is excluded by law.

F-15 If an employee's pay increases while he or she is receiving compensation (due to a within grade increase or promotion), will compensation increase too?

No, an employee's pay rate for compensation purposes is not affected by later changes in his or her salary. This is because the pay rate is based on the employee's pay on the date of injury, the date disability began or the date of recurrence.

F-16 Does the amount of compensation increase as the cost of living rises?

Yes, if a beneficiary has been entitled to compensation for over a year, the law provides for a yearly increase based on the Consumer Price Index. OWCP applies this increase to all eligible cases each March 1.

F-17 Is there any limit on the total amount of compensation payable?

No, but the maximum payment per month cannot exceed 3/4 of the highest rate of basic pay provided for Grade GS-15. Basic pay excludes locality pay.

F-18 Are burial expenses payable if an employee dies because of a work injury?

Burial expenses up to \$800 are payable. If the Department of Veterans Affairs (VA) also pays a burial allowance, that allowance must be deducted. If the employee dies away from home, the cost of transporting the body to the place of burial will be paid in full. In addition, a \$200 allowance will be paid for terminating the deceased's status as a Federal employee.

F-19 Will a spouse and children be entitled to compensation benefits if an employee dies from a work-related injury or disease?

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

If children are entitled, a spouse will receive monthly compensation at the rate of 45% of

the decedent's pay. An additional 15% is payable for each child up to a total of 75% of the pay rate. Total monthly compensation for all dependents cannot exceed 75% of the monthly pay rate.

If there is no widow or widower, compensation for the first child is 40% and each additional child is entitled to 15% of the employee's pay rate, up to a maximum of 75% payable on a share-and-share-alike basis.

F-20 Is a surviving spouse's compensation terminated upon remarriage?

If the remarriage occurs at age 55 or later, compensation will continue. If the remarriage occurs before age 55, compensation ends, but the surviving spouse will be paid a lump sum equal to 24 times the monthly compensation.

F-21 In addition to a surviving spouse and children, are other dependents entitled to death benefits?

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

F-22 How long are children entitled to FECA benefits?

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

F-23 What is a Schedule Award?

The FECA provides compensation for the permanent loss or loss of use of specified members, functions, and organs of the body. Payment is made for a specified number of days or weeks according to the severity of the impairment. This kind of payment is called a schedule award.

A list of scheduled members is shown below in question F-24. A schedule award is paid when the medical evidence shows that the scheduled part of the body has reached maximum medical improvement. Like compensation for wage loss, it is paid at 2/3 or 3/4 of the employee's pay rate.

F-24 For what extremities, organs, and body functions are schedule awards payable, and for what periods of time?

The following table shows the number of weeks payable for each schedule member if the loss or loss of use is total. Partial loss or loss of use of these parts and functions is compensated on a proportional basis.

Arm = 312 weeks of compensation	Complete loss of hearing (one ear) = 52 weeks
Leg = 288	Complete loss of hearing (both ears) = 200
Hand = 244	Breast = 52
Foot = 205	Kidney = 156
Eye = 160	Larynx = 160
Thumb = 75	Lung = 156
First Finger = 46	Penis = 205
Great Toe = 38	Testicle = 52
Second Finger = 30	Tongue = 160
Third Finger = 25	Ovary (including Fallopian tube) = 52
Toe (other than great toe) = 16	Uterus/Cervix = 205
Fourth Finger = 15	Vulva/Vagina = 205

Compensation for loss of binocular vision or for loss of 80% 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 and hearing aids are not considered in setting the percentage of impairment.

F-25 Can a schedule award be paid due to permanent impairment of the brain, heart, or back?

No. These parts of the body are specifically excluded from schedule award consideration under the FECA. However, compensation is paid for wage loss resulting from such impairment.

F-26 Can schedule award payments be made while an employee is working?

Yes. A schedule award is a payment for permanent impairment, and it may be paid after the employee returns to work. It may also be paid while an employee is receiving pay for sick or annual leave or a Civil Service annuity, or while he or she is working for private industry or is self-employed. However, it may not be paid while an employee is receiving compensation benefits for wage loss for the same injury.

Where injury-related loss of earning capacity persists after the schedule award ends, compensation may continue for loss of wage earning capacity.

F-27 Is an employee compensated for disfigurement due to a work-related injury?

Where an employee suffers injury to the face, neck, or head, and serious disfigurement results, the FECA provides for an award of compensation up to \$3500 if the disfigurement will likely be a handicap in finding and keeping a job.

F-28 Are compensation payments subject to Federal income tax?

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

Questions and Answers
Adjustments to Compensation

G-1 What deductions are made from compensation?

The only regular deductions from compensation are for the employee's share of health benefit premiums, for optional life insurance, and post-retirement basic life withholdings if the employee is enrolled in these plans.

G-2 When are deductions made from compensation for health benefits coverage?

If an employee is enrolled in a health plan under the Federal Employees' Health Benefit Program at time of injury, the enrollment will continue while compensation is being paid. An employee may enroll after the date of injury only if he or she first returns to work. Enrollment for health insurance coverage while in receipt of compensation is prohibited unless the compensation recipient was covered as a family member under a spouse's plan in the FEHBP at the time of injury.

G-3 When may an employee change health benefit plans?

An employee may reduce his or her coverage at any time within the same plan. He or she may also change options at any time within the same plan if marital status or family status changes (for example, due to the birth of a child). However, an employee may change from one plan to another only during Open Season, which is held once a year, usually in November. OWCP advises beneficiaries of the dates of Open Season and provides instructions for making changes.

G-4 What happens if an injured worker cancels health benefits while receiving compensation? Is it possible to re-enroll?

If the injured worker cancels his or her health benefits while receiving compensation, there is no entitlement to re-enroll until the employee returns to work with the Federal government. However, if after re-enrollment the injured worker sustains a recurrence of disability or sustains a new injury, coverage would continue during a new period of compensation.

G-5 Are eligible surviving family members entitled to coverage under a deceased employee's health benefit plan while receiving OWCP death benefits?

Yes, enrollment may continue for the surviving family members if the deceased employee was enrolled for Self and Family at the time of death and at least one covered family member receives compensation as a surviving beneficiary under the FECA.

G-6 Are deductions made from compensation for basic life insurance?

Yes, premiums for basic life insurance are withheld for all cases on the periodic roll where the date of injury is January 1, 1990 or later. The election of post-retirement basic life insurance at the time of retirement determines the rate at which the basic life insurance will decline after age 65. OWCP is responsible for deducting premiums for post-retirement basic life insurance when told to do so by the OPM.

G-7 Are deductions made for optional life insurance (OLI) coverage?

An employee may retain OLI while receiving compensation if he or she is eligible to continue regular insurance and has had OLI for no less than:

1. The five years of service immediately preceding the disability; or
2. The full period or periods of service during which OLI was available if less than five years.

Since OWCP does not enroll employees in OLI, any inquiries about enrollment should be referred to the employer or OPM.

G-8 Who should be contacted concerning specific questions about payment of benefits, or changes of beneficiaries, for regular or optional life insurance?

Employees should contact OPM at the following address: Retirement Operations Center, PO Box 45, Boyers, PA 16017.

G-9 If an employee is seriously injured at work and cannot work at all, should he or she file for workers' compensation benefits or apply for retirement benefits?

The employee should file for all benefits to which he or she may be entitled. If more than one type of benefit is granted, the employee will need to elect the one, which is

most advantageous. The employee may change an election any time it will benefit him or her to do so.

G-10 Does a beneficiary who is entitled to survivor's benefits resulting from a work-related death have the same choice?

Yes. If more than one benefit is approved, the beneficiary should elect between compensation and retirement benefits. Such an election, once made, may also be changed.

G-11 Should an employee who is receiving benefits from OWCP withdraw the money paid into his or her Civil Service Retirement System (CSRS) account of Federal Employees' Retirement System (FERS) account?

No. First, if the employee has a spouse, the spouse would be deprived of survivor's benefits from the OPM if the employee dies from causes other than the condition(s) resulting from the work-related injury. The FECA provides survivor benefits only when the employee's death is related to the work-related injury.

Second, the employee may want to elect benefits from OPM if he or she is no longer entitled to compensation benefits, or if he or she is no longer considered totally disabled because of the work-related medical condition has improved. In the latter case, OWCP will reduce compensation benefits to reflect the employee's wage earning capacity, an action, which may bring compensation payments to a level below OPM benefits.

G-12 Must an employee elect between retirement benefits and all monetary benefits payable under FECA?

A schedule award is the only monetary compensation that an employee may receive under the FECA while receiving retirement annuity for the same period from OPM. An employee must choose between the retirement annuity and monetary compensation in all other instances.

G-13 Are there special rules, which apply to employees entitled to benefits under FERS?

The portion of Social Security benefits earned during Federal employment represents a dual benefit, and the employee must make an election. However, any beneficiary may receive benefits concurrently from OWCP and the Thrift Savings Fund.

G-14 May an employee receive compensation payments for the same period as severance or separation pay is paid?

Payments of compensation for total disability during the same period of time for which severance or separation pay is paid are prohibited. However, an employee may receive compensation for loss of wage-earning capacity, and for schedule awards, for the same period as severance or separation pay.

G-15 Does the dual benefit prohibition apply to the lump-sum death benefit available to the survivor of an employee covered by FERS?

Yes. The lump-sum death benefit (equal to 50% of the employee's annual salary plus \$15,000) would have to be repaid by the survivor (or absorbed from FECA benefits) before any FECA benefits would be paid to the survivor.

G-16 Must an employee who elects retirement benefits from the OPM pay for medical treatment which may be required as a result of the work-related injury?

No, OWCP will continue to pay the cost of all medical treatment required for the effects of the injury even though the employee elects retirement benefits from OPM.

G-17 Is an award for a service-connected disability from the VA payable for the same period of time as FECA benefits?

Beneficiaries who receive compensation from the VA may also be required to elect between the benefits paid by the VA and those paid by OWCP. 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 those granted by the VA for strictly service-related disability or for a pension.

G-18 Can dependents receive a non-service connected award (pension) from the VA concurrently with compensation from OWCP if an employee dies from a work-related injury?

Yes. It is not necessary to elect between compensation from OWCP and a pension from the VA. An election is necessary between compensation and all other types of VA benefits, if benefits payable by both agencies are based on the same disability or death.

G-19 Can children receive benefits under FECA concurrently with VA benefits?

If children are entitled to both a VA educational award and FECA benefits because of the injury or death of an employee, an election must be made unless the VA educational award is designated as a pension.

G-20 Is retirement or retainer pay for military service payable concurrently with FECA compensation?

Yes, 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. The appropriate Military Finance Center should be contacted for advice as to whether retirement/retainer pay will be reduced because the employee is receiving compensation.

G-21 May FECA benefits be paid for the same periods of time as benefits paid by the Social Security Administration (SSA)?

An employee may receive OWCP benefits and SSA benefits based on private employment for the same periods of time, but SSA may reduce its payments. The employee should contact SSA to find out whether this will occur in his or her case.

The Social Security Amendments of 1983 provide full SSA benefits rather than CSRS benefits to Federal employees hired on and after January 1, 1984 (that is, to those covered by FERS). Therefore, employees who are covered by FERS would be required to elect between FECA benefits and that portion of their SSA benefits attributable to their Federal service.

G-22 Are the proceeds of a disability or death insurance policy payable concurrently with FECA compensation?

Yes, the FECA does not prohibit receipt of compensation benefits and private insurance benefits for disability or death for the same periods of time.

G-23 Is an employee entitled to compensation if a work-related injury is caused by a “third party”?

Yes, a work-related injury caused by a private party is compensable. However, when an injury occurs in this way the employee may be required to bring a claim against the private party (known as the “third party”) or to assign the cause of action to the United States. An employee (or the beneficiary, in the event of death) who refuses to do so loses the right to compensation.

G-24 Can an employee make a personal settlement of a third party claim?

Yes, the employee can hire an attorney or present a claim directly to the responsible party or insurance company. Since the Federal Government is entitled to reimbursement for compensation payments and medical expense, the employee should inform OWCP of all developments and recoveries in connection with a third party action. No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or a designee the proceeds of such settlement without first satisfying or assuring satisfaction of the interest of the United States?

G-25 How is money or property distributed after a third party recovery?

The FECA specifies how the third party recovery shall be distributed. First, the costs of the obtaining the recovery, including a reasonable attorney’s fee if a fee was paid, and any court costs, are deducted from the total sum recovered as damages. The employee retains 1/5 of the net amount.

Then, from the remaining 4/5, a refund must be made to OWCP for the cost of all compensation benefits paid on account of the injury, less an amount equivalent to a reasonable attorney’s fee proportionate to the refund made to the United States.

Finally, any surplus remaining is retained by the injured employee and credited against future compensation benefits. OWCP will resume payment of compensation benefits and medical bills only after the employee has submitted claims, which equal the amount of the retained surplus.

G-26 What happens if an overpayment of compensation occurs?

When an overpayment occurs, OWCP advises the employee in writing of the amount of the overpayment and why it occurred. The letter also notifies the employee of OWCP’s preliminary decision as to whether the beneficiary is with fault or without fault in creating the overpayment. A beneficiary who is not at fault in creating an overpayment may

apply for waiver of the overpayment.

A beneficiary may be at fault even if OWCP also made an error, which contributed to the overpayment. For instance, if OWCP made a payment in error for a period when an employee had returned to work and was no longer entitled to compensation, but the employee accepted the payment anyway, the employee would be considered at fault for accepting a payment, which he or she knew, or should have known, was incorrect.

At every stage in the process of identifying and collecting overpayments, OWCP advises the beneficiary of his or her rights with respect to the debt, as it is required to do so by law.

Questions and Answers

Return to Work

H-1 What is OWCP's general policy concerning return to work?

Employees who are disabled from their regular jobs are expected to return to suitable light or limited duty identified by their employers. If such work is not available, OWCP provides nurse and vocational rehabilitation services to help employees return to work, either with the original Federal employer, another Federal employer, or in the private sector.

OWCP considers return to work a benefit both to the injured employee, who once again becomes a productive member of society, and to the employer, who retains (or obtains) the services of a skilled and knowledgeable individual.

The FECA provides that an employee must actively seek suitable work as soon as he or she can do so. If the employee refuses to do so, or refuses or neglects to work after such work is offered or found, he or she is not entitled to compensation.

H-2 What services does the OWCP nurse provide?

Registered nurses under contract to OWCP are assigned to traumatic injury cases of employees who do not return to work within 45 days after the date of injury, and they are also assigned to some occupational disease cases. Usually the nurse meets the various parties in person, but sometimes she or he works by telephone.

The nurse contacts the employee and the physician to ensure that the employee is receiving proper medical care and that the employee understands the medical treatment being provided. The nurse also contacts the employer to identify light or limited duty jobs that the employee can perform. Finally, the nurse relays to OWCP any concerns of the employee about payment of bills and compensation, authorization of medical services, and similar issues.

H-3 Is the employee required to work with the nurse?

Yes, OWCP nurse services are defined by regulation as part of OWCP vocational rehabilitation services. Employees are required to cooperate with OWCP's efforts to prepare them for suitable work.

H-4 How are job offers made?

OWCP works with Federal agencies to bring their partially disabled employees back to work. When an employer wants to rehire an employee, it must present a written job offer to the employee which includes a description of the proposed job and the working conditions (i.e., job title, hours, pay, specific job duties, physical requirements of the work, etc.) OWCP also receives a copy of the job offer. If the description of the job is compatible with the employee's medical limitations, the job is considered suitable.

H-5 What is considered suitable employment?

To determine what is suitable employment for a particular disabled employee, OWCP considers the employee's current medical limitations, whether the work is available within the employee's commuting area, the employee's qualifications to perform such work, and other relevant factors. (See question H-7 with respect to the payment of relocation expenses.)

H-6 Must a partially disabled employee take a lower-paying job?

In some cases the pay rate of the offered job is lower than the employee will readily accept. The employee is still required to accept such a job, if it is suitable. If this happens, the employee is entitled to receive compensation for the resulting loss of wage earning capacity. The compensation rate is 2/3 (without dependents) of the difference in pay between the old job and the new job.

H-7 What if the offered job requires the employee to relocate?

While employers are expected to offer jobs within the employee's commuting area if possible, OWCP may pay moving expenses in connection with a suitable offer of employment made to an employee who is off the employer's rolls. The kinds of expenses and amounts payable are determined according to the Federal travel regulations for permanent changes of duty stations.

H-8 If an employee is partially disabled, how does OWCP decide what the employee's ability to earn wages is?

The employee's earning may be used if they truly represent his or her ability to earn wages. If not, or if the employee has no earnings, OWCP must determine the employee's ability to earn wages. To do so, OWCP considers the nature of the injury, the degree of impairment, the employee's age and the kinds of work he or she can do, whether suitable work is available, and any other factors which may affect the ability to earn wages.

H-9 If an employee must stop work to seek medical care after returning to work, may he or she receive compensation for any loss of wages?

Yes, and employee may receive compensation for wage loss which occurs while he or she obtains medical care for a work-related injury.

H-10 What vocational rehabilitation services does OWCP offer?

Vocational rehabilitation counselors under contract to OWCP provide services such as counseling and guidance, vocational testing, training programs, and placement help. These services are available to employees who are partially disabled and cannot return to their usual work. Each service is provided for a specified period of time. For instance, placement services may be provided for up to 90 days.

H-11 When does OWCP approve training programs?

OWCP approves training programs if placement efforts with the Federal employer have not been successful and training would substantially increase the employee's earning ability. OWCP provides training only to those employees who need it to return to suitable work.

A program may include classroom training, on-the-job training, or both. The costs may include tuition, books and supplies, and maintenance up to \$200 a month.

H-12 What is assisted reemployment?

OWCP may reimburse an employer who was not the employer at the time of injury for part of the salary of the reemployed worker. This wage subsidy helps workers whose employing agencies have not been able to reemploy them. It is available to other Federal employers as well as to state and local governments and the private sector.

H-13 What if an employee does not want to take part in a vocational rehabilitation program?

Employees are expected to cooperate with vocational rehabilitation efforts, and the FECA provides sanctions for those who do not cooperate. If an employee refuses to take part in the early stages of vocational rehabilitation (such as interviews, counseling, testing, and work evaluations), OWCP assumes that vocational rehabilitation would have resulted in return to work with no loss of wage earning capacity, unless there is evidence to the contrary. Thus, OWCP reduces compensation to zero.

If an employee refuses to take part in the later stages of vocational rehabilitation, after suitable work has been identified, OWCP assumes that the employee would have been able to earn the wages of the identified job upon completion of the rehabilitation program. In this instance, compensation is reduced to reflect the employee's probable earnings in the identified job.

H-14 Do compensation payments continue during vocational rehabilitation?

Yes. Compensation for total disability will continue during an OWCP-approved program leading to employment with the Federal employer or a new employer. It also will continue during an OWCP-approved course of training and for up to 90 days of placement assistance. However, it does not continue once the employee actually begins working.

H-15 Can an employee obtain vocational rehabilitation services under the FECA while receiving Civil Service retirement benefits?

No, an employee is entitled to vocational rehabilitation services under the FECA only if he or she sustained a permanent work-related disability, which has resulted in disability for the usual work and is receiving compensation from OWCP.

H-16 When does compensation end?

Compensation ends when:

1. The employee returns to full duty in the job held when injured, or is otherwise reemployed in a job which results in no loss of wages;
2. The employee refuses an offer of a suitable job, and the cause for refusal is not reasonable, OWCP will decide whether the job offer was suitable and whether the refusal was reasonable.
 - a. Acceptable reasons for refusal include, but are not limited to, withdrawal of the offered position by the employer, acceptance of other work by the employee which fairly and reasonably represents

- his or her earning capacity; and a worsening of the employee's medical condition, as documented by the medical evidence, to the point that the employee is disabled for the job in question.
- b. Unacceptable reasons for refusal include, but are not limited to, the employee's preference for the area in which he or she currently resides; personal dislike of the position offered or the work hours scheduled; lack of potential for promotion; lack of job security; retirement; and previously issued rating for loss of wage earning capacity based on a constructed position where the employee is already working at a job which fairly and reasonably represents his or her wage earning capacity.
 3. The employee abandons a suitable job. OWCP will decide whether the job was suitable and whether the reason for abandonment was reasonable and apply its finding retroactivity;
 4. OWCP receives medical evidence showing that the employee no longer has limitations from the work-related injury which affect the performance of his or her duties when the injury occurred, or that the employee's disability is not causally related to the work-related injury;
 5. A beneficiary is convicted of defrauding the Federal government with respect to a claim for benefits.

OWCP issues formal decisions when compensation is terminated for any of these reasons.

H-17 When is compensation reduced?

OWCP reduces compensation when:

1. The employee returns to work and has actual earnings from employment, either with the original employer, or with a new employer, or from self-employment, and those earnings do not equal the wages of the job held at the time of injury, as adjusted for inflation. OWCP issues a formal decision regarding the employee's earning capacity and continued compensation entitlement is all instances except where the job held is not classified according to established personnel practices. In such instances the job cannot be used as the basis for a formal loss of wage earning capacity determination.
2. The employee can earn wages in a particular job which is both medically and vocationally suitable, and which is reasonably available in the employee's commuting area. Compensation can be reduced even if the employee does not actually work in the job identified. When compensation is reduced on this basis, OWCP issues a formal decision describing the job, its physical requirements, and the vocational preparation needed for it.

H-18 When is compensation suspended?

OWCP suspends compensation when:

1. The employee does not comply with certain specific requests from OWCP (such as a request to report for medical examination). OWCP will resume payment of compensation when the employee complies with the request.
2. The employee fails to reply within 30 days to a request for information on employment, earnings, dependents, or dual benefits.
3. A beneficiary in a death case fails to reply within 30 days to a request for information on continuing entitlement, including student status.
4. A beneficiary is imprisoned due to convictions for a felony. Limited benefits may be paid to eligible dependents, however.

Where compensation is suspended due to failure to respond to a request for information, and OWCP later receives a response to the request, benefits are paid from the date of suspension, if payments remain proper according to the information received in the response.

H-19 If an employee covered by the CSRS goes back to work with the original employer or another federal employer, will he or she be returned to CSRS, or will he or she be placed in FERS?

Employees covered by CSRS when they stopped work, retained entitlement to CSRS on return to federal employment. They may transfer to FERS within six months after reemployment. Employees covered by FERS when they stopped work remain covered under FERS on return to federal employment.

H-20 Does an employee have Civil Service retention rights after recovering from an injury on the job?

Yes. The FECA provides that Federal employees who have fully or partially recovered from work-related injuries have job retention rights. Federal employees who are injured on the job, who have received or are receiving compensation, and who return to Federal employment are entitled to the benefits, which they would have received if they had not been injured.

To be more specific, an employee who recovers within one year after compensation begins must be restored to the former job or its equal, whether or not he or she is still on the employer's rolls. Employees whose disabilities extend beyond one year, and who apply to be rehired within 30 days after compensation ends are to be considered first in hiring. These provisions of the FECA are administered by OPM.

H-21 If an employee returns to work but later loses his or he job due to a reduction-in-force (RIF), is the employee entitled to receive compensation again?

No, an employee who has returned to work is subject to the same conditions of employment as his or her co-workers, and a true RIF affects both injured and uninjured employees alike. Only if an injured employee's light duty job is withdrawn, while the jobs of uninjured employees remain unaffected, will the injured employee be entitled to claim a recurrence of disability and thus become eligible to receive compensation once again.

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