



Federal Workers' Compensation: Basic Representation

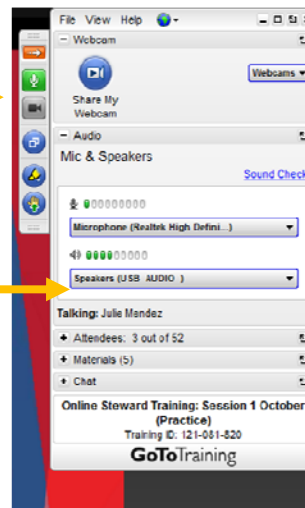
Field Services and Education Department
American Federation of Government
Employees



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL - CIO

Virtual Control Panel



- Side Menu Icons
 - Hide/Unhide
 - Microphone Mute
 - Drawing Pen/Highlighter
 - Raise Your Hand
- Main Menu Sections
 - Audio
 - Attendees
 - Materials
 - Chat



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Online Protocol

- Use a headset or earbuds to prevent echo through your speakers.
- Place the microphone/phone on Mute when you are not speaking. This will avoid outside sounds (i.e., traffic, pets). 
- Raise your hand and be recognized by the Moderator before speaking. 
- Participate in class activities and discussion.

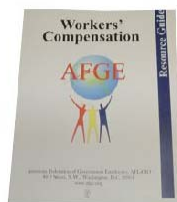


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Course Materials

- Workers' Compensation Resource Guide
- Workers' Compensation Manual
- Workers' Compensation Participant Workbook
- Bob Smith Case Study Packet



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Introduction: Workers' Compensation and You

- Briefly state your name, Local, and answer the following questions:
- Have you ever had a work-related injury or illness?
- Do you know of anyone in your workplace who has had a work-related injury or illness?
- Have you ever helped someone with a workers compensation claim?



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Objective

- At the end of this course, you should be able to:
- Assist members in filing a Workers' Compensation claim if they become injured or ill due to a work-related activity.



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Workers' Compensation Representative

- Serve as an advocate for the members.
- Educate members on their rights and responsibilities.
- Understand management's responsibilities in the claims process.
- Assist members in the completing forms and responding to agency and OWCP requests for information.
- Assist members in obtaining the appropriate medical reports from physicians.



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Representation and the Regulation

- What do the regulations say about workers' compensation claim representation?
- Identify where in the regulation it describes the requirements for representing an employee workers' compensation claim.
- Page:
- Section



FEDERAL REGISTER

Vol. 76 Tuesday,
No. 124 June 28, 2011

Part II

Department of Labor

Office of Workers' Compensation Programs
20 CFR Parts 1, 10 and 25
Performance of Functions; Claims for Compensation Under the Federal
Employee's Compensation Act; Compensation for Disability and Death of
Noncitizen Federal Employees Outside the United States; Final Rule



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Representation and the Regulation

- 10.700 May a claimant designate a representative?
- ... a claimant may appoint one individual to represent his or her interests, but the appointment must be in writing.
- 10.701 Who may serve as a representative?
- A Federal employee may act as a representative only:
- (b) While acting as a union representative, defined as any officially sanctioned union official, and no fee or gratuity is charged.

- Resource Guide
- Page 34
- Subpart H-Special Provisions



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Vol. 76 Tuesday
No. 124 June 28, 2011

Part 8

Department of Labor
Office of Worker Compensation Programs
20 CFR Part 810, 811 and 812
Regulations of the Department of Labor under the Federal
Employee Compensation Act (5 U.S.C. 8331-8334) and
Federal Employees' Compensation Act (5 U.S.C. 8335-8345)



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Workers' Compensation Overview

- Federal Workers' Compensation Law and Regulation
- Benefits
- Conditions of Coverage



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Federal Employees' Compensation Act (FECA)

- Federal Employees' Compensation Act (FECA) passed in 1916
- Administered through the U.S. Department of Labor (DOL)
- Office of Workers Compensation Programs (OWCP)
- Division of Federal Employees' Compensation (DFEC)
- Non-adversarial
- Exclusive Remedy



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What Was the Reaction of Labor Unions to Workers' Compensation Legislation?



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FECA Benefits and Conditions www.afge.org/healthsafety



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Schedule Award

Member	Weeks	Member	Weeks
Arm	312	Loss of Hearing (one)	52
Leg	288	Loss of Hearing (both)	200
Hand	244	Breast	42
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/Fallopian Tube	52
Toe	16	Uterus/Cervix	205
Fourth Finger	15	Vulva/Vagina	205



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Causal Relationship

- Link between work-related exposure and medical condition being claimed
- Four Types
 - Direct Causation
 - Aggravation
 - Acceleration
 - Precipitation



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How Would OWCP Handle A Service-Related Medical Condition?



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How Would OWCP Handle A Service-Related Medical Condition?

- A Marine Corps veteran with a 10% disability in his left shoulder is hired by the Department of Veterans Affairs. After three years on the job as a nurse, he reinjures his shoulder while working. His physician states that as result of the injury, he now has a 25% disability.
- What percentage of the disability will the Office of Workers' Compensation cover?

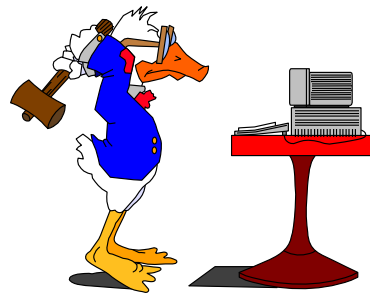


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Statutory Exclusions

- Willful Misconduct
- Drug or Alcohol Intoxication
- Intent to Injure Self or Others



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Covered or Not Covered?

- Scenario 1: A Veterans Administration nurse is moving a patient and injures her back. She immediately notifies her supervisor. She has no witnesses who saw the injury occur on working hours.



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Covered or Not Covered?

- Scenario 2: A Social Security retiree files a claim for workers compensation for an injury that he incurred five years before when working in a warehouse while on duty.



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Covered or Not Covered?

- Scenario 3: A Coast Guard employee complains of a sprained ankle received when he slipped on a section of ice on the sidewalk outside the office.



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Covered or Not Covered?

- Scenario 4: A retired DOD civilian employee is diagnosed with asbestosis. It appeared that he contracted the disease when working on asbestos insulation at a military base.



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Types of Claims and OWCP Forms



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Claims and Forms

- Traumatic Injury
- Occupational Disease
- Recurrence
- Compensation and Medical Forms



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Traumatic Injury

- Injury caused by specific event or series of events occurring during one work shift.
- Eligible for Continuation of Pay (COP)
- CA-1: Notice of Traumatic Injury
- CA-16: Authorization for Examination



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Break Room Activity

- | | |
|---|--|
| <ul style="list-style-type: none"> • Room 1: CA-1 • Identify the line on the form: • Where the description of the injury occurred should be written. • Where the description of the cause of the injury should be written. • Where they can choose to use COP. | <ul style="list-style-type: none"> • Room 2: CA-16 • Identify the line on the form: • Where is the description of the injury or disease written? • Where does the physician state that the condition was caused or aggravated by employment? • Where should the physician sign the document to verify all the statements on the form? |
|---|--|



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CA-1: Notice of Traumatic Injury

- Employees: Complete and send in ASAP.
- Two Parts
 - Employee (Front)
 - Supervisor or Human Resources (Back)
- Select COP or use leave.
- Agency must send to OWCP within 10 workdays from date they receive the form.



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COP: Basic Requirements

- Only for Traumatic Injury events
- Injury must be reported on CA-1 within 30 days.
- Prima facie medical evidence must be provided within 10 calendar days from the date of filing.
- Disability has to begin within 45 days after injury event (not including the day of injury).



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CA-16: Authorization for Examination/Treatment

- Issued to employee within four hours of injury. Verbal authorization can be given; issue within 48 hours.
- Not required after one week.
- Guarantees payment of non-invasive treatment or examination for 60 days.



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Questions to Consider

- A co-worker severely injures their leg while in the performance of duty. The doctor states that they will not be able to return to work until at least 60 days following surgery.
- What happens after COP expires?
- What steps would you recommend the worker take to make sure they receive wage-loss disability payments?
- Who will make the payments?



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Questions to Consider

- § 10.111 What should the employer do when an employee files an initial claim for compensation due to disability or permanent impairment?

(b) If the employee is receiving continuation of pay (COP), the employer should give Form CA-7 to the employee by the 30th day of the COP period and submit the form to OWCP by the 40th day of the COP period. If the employee has not returned the form to the employer by the 40th day of the COP period, the employer should ask him or her to submit it as soon as possible.



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Occupational Disease

- Condition produced over a period longer than one work day or work shift.
- Examples include repetitive motion disorder, asbestosis, silicosis, etc.
- Not eligible for COP.
- CA- 2: Notice of Occupational Disease
- CA-35 (a-h) Occupational Disease Checklist



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Breakout Room Activity

- Room 1: CA-2
 - Identify the line on the form:
 - Where the employee should describe the nature of the disease or illness.
 - Where the supervisor describes the date and hour the employee stopped working.
 - Where the supervisor can describe new duties, if the work assignment has changed.
- Room 2: 35a-h
 - Identify which form:
 - Serves as a checklist for information that should be provided with a CA-2.
 - Should be completed if an employee has wrist problems due to the job.



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CA- 2: Notice of Occupational Disease

- Two parts:
 - Employee completes the front
 - Supervisor or HR completes the back
- Must be transmitted to OWCP within 10 workdays.



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CA-35 (a-h)

- Occupational Disease Checklist
- Lists information required from both employee and supervisor
- Specific forms for seven different conditions and general occupational disease



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Question to Consider

- A TSA employee is diagnosed with arthritis and the doctor states that their job duties are aggravating the condition.
- What form(s) should the employee file for this situation?



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Recurrence

- **Recurrence of Medical Condition**
 - Documented need for additional medical treatment after release from treatment for the original condition.
 - No accompanying work stoppage.
 - Continuing treatment for the original condition is not considered a reoccurrence.
- **Recurrence of Disability**
 - Inability to work due to several conditions.



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Recurrence of Disability

- Spontaneous return of symptoms of the original injury, illness or disease without an intervening incident.
- Disability due to the consequence of the original injury, illness or disease.
 - Example: Fall caused by weak knees damaged by an earlier work-related injury.
- Inability to work when a light-duty assignment for work-related injury or illness is withdrawn or requirements exceed physical limitations.



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CA-2a: Notice of Recurrence

- Employee and employer required to complete various sections of the form.
- If employee is no longer working for the Federal Government they should submit the information directly to OWCP.



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Questions to Consider

- A DOD worker injured their arm on the job three years ago. Following treatment, they have been symptom free for two years. In the last six months, the arm has begun to hurt again and the doctor states that it will require ongoing medical care but the employee can continue to work.
- What type of claim is this- a recurrence of medical condition or a recurrence of disability?
- On Form CA-2a, what line(s) of the form would state which type of recurrence has occurred?



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Compensation and Medical Forms

- Common forms required for OWCP claims include:
- CA-7: Claim for Compensation
- CA-20: Attending Physician's Report
- CA-17: Duty Status Report



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Breakout Room Activity

- Room 1: CA-7
- Identify the section(s) of the form:
- Where the employee can ask for leave buy back.
- Room 2: CA-20
- Identify the line on the form:
- Where the physician indicates what the diagnosis is for the medical condition
- Where the physician states that the medical condition was caused or aggravated by an employment activity.



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CA-7: Claim for Compensation

- Note: Not used for compensation during the 45 day COP period under traumatic injury events.
- When to file:
 - Wage loss compensation: COP ends; LWOP starts and biweekly afterwards
 - Leave buy back: within one year of date leave used or claim accepted, whichever is later (CA 7a and CA 7 b)
 - Schedule award: maximum medical improvement (MMI)
- Agency must send to OWCP within five (5) workdays.



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CA-20: Attending Physicians Report

- Submitted to OWCP along with CA-7 for wage loss or leave buy back
- Requests information on:
 - Diagnosis
 - Prognosis
 - History of injury
 - Prima facie statement of causal relationship, etc.



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CA-17: Duty Status Report

- Provides OWCP and Agency with medical report about the employee's ability to work
- Agency can send to physician at anytime during life of claim



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Submitting Forms to OWCP

- U.S. Department of Labor, DFEC Central Mailroom, P.O. Box 8300, London, KY, 40742-8300.
- Employees' Compensation Operations and Management Portal
- www.ecomp.dol.gov/#



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Getting through the Process: Selecting and Completing OWCP Forms



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Case Studies – OWCP Forms

- See Participant Workbook – page 8-9 (OWCP Worksheet)
- Covered Under FECA?
- Injury or Illness?
- What forms apply?
- What specific timeline or deadlines may affect processing this claim?



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Initial Reports

- Bob McDonald – DOD Employee
- Fell down and hurt myself while walking. Had to leave a work meeting to go to the doctor.
- Sallie Atwood – USDA
- I have problems using my right hand due to numbness in my fingers. I am an inspector for the USDA.



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Bob McDonald – DOD

- I am a civilian employee for the Air Force stationed at the Pentagon in Washington, DC. I was walking in the corridor outside Room 303 on December 15, 2011 at 12:30 pm on the way to a meeting called by my supervisor on RIF procedures. I slipped on a wet area of a recently cleaned tile floor and fell hard on my back and shoulder. I twisted to try to break my fall and my back, right hip, right hand and shoulder hit the floor first. A maintenance worker, Tim Shields heard me fall and came out of Room 303 to help me when I was on the ground. I had intense pain in my back, right hip, right shoulder and hand. My neck was sore from twisting quickly as I hit the ground. Tim helped me to my feet and I made my way to the meeting, but my co-workers saw me and excused me from the meeting to get medical treatment. I called my supervisor to inform him of the situation while a co-worker, Sally Munger drove me to the clinic.
- Received medical treatment for minor sprain to right arm on December 15 and was able to return to work on December 17.
- FECA coverage:
- Type of Injury:
- Forms required:



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Sallie Atwood– USDA

- I am a USDA Food Inspector stationed in Omaha, Nebraska. I have worked for the last 15 years inspecting chickens at the All American Poultry plant in Omaha, Nebraska. On August 20, 2012 I saw my physician, Dr. Xi Oh, regarding problems with my right hand. I have significant numbness and weakness in my right hand at the thumb, index finger, and middle ring finger. At work, I repeatedly use the same hand movements to inspect the birds after they are rinsed in cold water and coolant. Dr. Oh diagnosed my condition as work-related carpal tunnel syndrome after I demonstrated my inspection process.
- Doctor Oh confirmed the diagnosis using positive determinations based on Phalen's test and Tinel's Sign test, for work-related carpal tunnel syndrome. Treatment consists of four weeks of rest, with oral corticosteroid treatment in the first two weeks. Ms. Atwood will need to use a splint following her return to duty on September 24. Treatment and therapy will require approximately two 4-hour medical visits every three months.
- FECA coverage:
- Type of Injury:
- Forms required:



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SPECIAL CONSIDERATIONS

Light Duty Offers and the OWCP Appeals
Process



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Light Duty Offers

- Can be made verbally but must be followed-up in writing
- Must include: job description, physical demands of position, organizational and geographical location, date available, date response required
- OWCP determines if appropriate
- CA-17 Duty Status Report describes work limitations/restrictions by physician.



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Appeal Process

- Hearing
 - Oral Hearing
 - Review of Written Record
- Reconsideration
- Employees' Compensation Appeal Board (ECAB)



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Hearing or Review of Written Record

- Can be an oral hearing or a review of the written record
 - Oral hearing is an informal process. Telephone or at a location within 100 miles of employees home.
 - Review of written record by hearing representative to go over official record and any additional information submitted.
- Request within 30 days
- Cannot request if already requested reconsideration.



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Reconsideration by the District office

- Written request within 1 year of the formal decision.
 - Show that OWCP made a mistake or applied the law wrong
 - Makes a new argument not considered by OWCP before
 - Presents new evidence not previously considered by OWCP.



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Employees' Compensation Appeals Board (ECAB)

- Must submit appeal to the Employees Compensation Appeals Board 180 days after formal decision.
- Review of the official record used for formal decision.
- Binding decision
- Precedent-setting



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Questions to Consider

- An employee's claim was denied because the physician did not include their medical opinion on the cause of the injury.
- Two weeks after the employee received the denial letter, the physician agreed to provide his medical opinion with evidence stating that the injury was work-related.
- What type of OWCP appeal, if any, would you file?
- What type of appeal would not be appropriate for this case?



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Researching OWCP Regulations



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Activity: Regulation Research

- Go to page 10 of the Participant Workbook.
- Research the assigned questions using 20 CFR Part 10 found in the first tab of the Workers Compensation Resource Guide.
- Write down the answer to your assigned question(s).
- Include the section citation and the page number of where the answer is located.
- Summarize the answer in bullet points, do not use the exact language of the regulation.



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1. What information must the physician's report include?

- Section:
- Page #:
- Key points:



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2. What criminal penalties are included in the FECA regulation?

- Section:
- Page #:
- Key points:



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3. What are the 3 types of appeals?

- Section:
- Page #:
- Key points:



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4. Under what circumstances can an Agency stop paying COP?

- Page #:
- Section:
- Key points:



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5. What happens when the OWCP doctor disagrees with your doctor?

- Section:
- Page #:
- Key points:



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6. How and when should medical report be submitted?

- Section:
- Page #:
- Key points:



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7. What should be included in a written job offer for a specific alternate position?

- Section:
- Page #:
- Key points:



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8. What forms should be used to get reimbursement for medical expenses?

- Section:
- Page #:
- Key points:



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9. Who pays for second opinion and referee examinations?

- Section:
- Page #:
- Key points:



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10. Can an employee request OWCP to restore lost annual or sick leave?

- Section:
- Page #:
- Key points:



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Navigating Claims and Appeals : The Bob Smith Story



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Introduction

- Bob Smith, a 10 year federal employee is a member of your bargaining unit at DEFCON AFB. He is a 37 year-old carpenter who works in the maintenance department. Bob has been experiencing pain in his shoulder since he worked on the Office Building 5 renovation project in July. The project involved working 10-hour days hanging 75 plus, 10 and 5/8th inch pieces of drywall overhead on the ceiling. Bob uses over-the-counter painkillers to get through the day and tries to avoid working overhead, Despite these actions, his shoulder pain continues to get worse. By December, the pain has become unbearable and he takes several days off as he is unable to work.



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December

- After Bob has called out for two days due to his shoulder, his supervisor, J.R. Boss, tells that he needs to do something about it. At Bob's request, his supervisor contacts HR to give him the necessary workers' compensation forms.
- HR sends Bob the OWCP Form, a CA-2. Bob submits the form and sends it back to HR.



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Bob Smith Case Study

- Review the case as it develops from January – March
- Use the Claims Checklist on Page 16 of the Participant Workbook as a guide to evaluating the claim.
- Identify what OWCP requirements have been met and what is missing.
- Determine what actions the Union would recommend as Bob Smith's representative.



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OWCP CLAIM REQUIREMENTS		YES	NO
Timely Filing (within 3 years, 30 days for COP)			
Civil Employment			
Performance of Duty			
Facts of Injury/Illness (see medical evidence checklist)			
• Details of Injury/Illness			
• Relevant medical facts on condition of employee			
• Connection between occurrence of injury/illness and the employee's performance of duties			
Causal Relationship (Direct causation, Aggravation, Acceleration or Precipitation)			
MEDICAL EVIDENCE		COMPLETE	INCOMPLETE
• Dates of examination and treatment			
• History given by the employee;			
• Physical findings;			
• Results of diagnostic tests;			
• Course of treatment;			
• Description of any other conditions found but not due to the claimed injury;			
• Diagnosis;			
• Treatment given or recommended for the claimed injury;			
• Physician's opinion, with medical reasons, as to causal relationship between the diagnosed condition(s) and the factors or conditions of employment;			
• Extent of disability affecting the employee's ability to work due to the injury;			
• Prognosis for recovery; and			
• All other material findings.			
RECOMMENDED OWCP ACTION		YES	NO
Request for additional information			

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January

- CA-2 submitted by Bob Smith.
- Letter to Bob Smith from Hannah Resource at USAF Human Resources.



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January

- OWCP development letter.



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February

- CA-20 sent in Dr. Mallory Timothy.
- CA-35a
- Medical Report on First Doctor Visit by Bob Smith.



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March

- OWCP letter stating that the claim is denied.



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March

- Bob Smith response to OWCP Development Letter
- MRI Results from OSI, Inc.
- Medical Report on Second Doctor Visit by Bob Smith.



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MEMBER HELPING MEMBER

How the Union can Help



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Member Helping Member: Case #1

- I want to file a workers' comp claim, but my supervisor is challenging the claim because they state that the agency does not control the location where the incident occurred.
- What can I do?
- Union:



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Member Helping Member: Case #2

- When I tried to file a workers' comp claim, HR told me I had 24 to file a claim after I got hurt but that was a couple of days ago. I'm still having problems.
- Union:
- Is there anything I can do?



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Member Helping Member: Case #3

- I have proof that the BOP was negligent in allowing me to work in an unsafe environment.
- Union:
- Can I sue BOP for my on-the-job injuries?



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Member Helping Member: Case #4

- I'm on medical restriction because of my on-the-job injury. TSA is putting me on second shift because they say that's the only time they can give me limited duty.
- Can they do that?
- Union:



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Member Helping Member: Case #5

- My physician has given me pain medication for an on-the-job injury and stated that I can return to work. When I returned to the job, my supervisor sends me home because I am still taking medication. The supervisor states that I should not return to work until he calls.
- What should I do?
- Union:



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Member Helping Member: Case #6

- I got hurt when a heavy bag fell on my foot. I wanted to file a claim, but HR told me that I don't have a "good claim." It's not fair that I have to miss work because of the injury and pay for doctors' visits myself.
- Union:
- What can I do?



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Review and Wrap Up



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