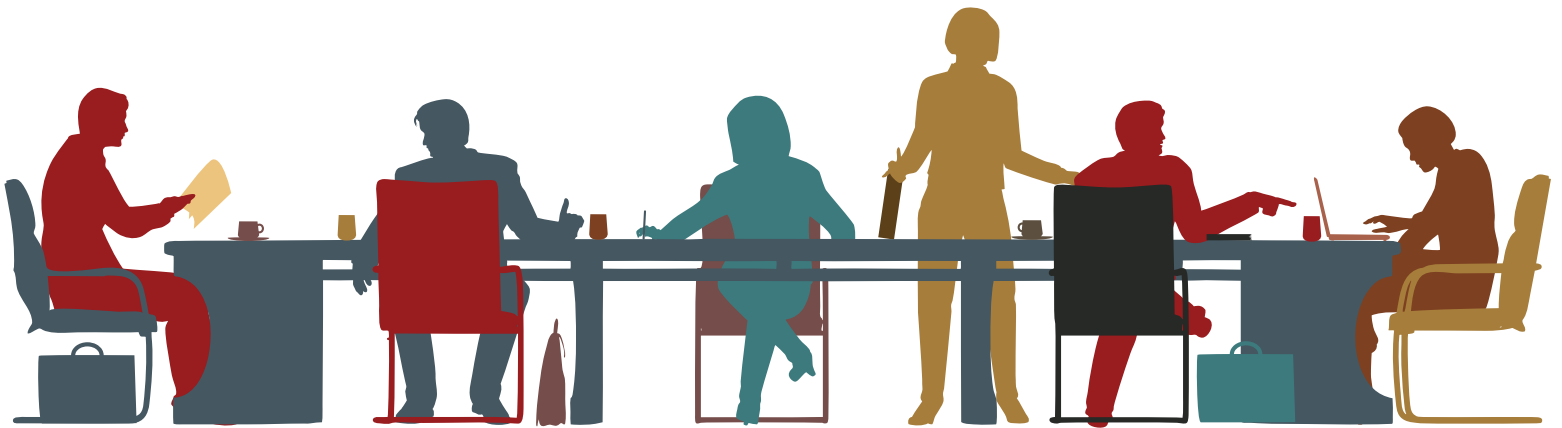


AFGE



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO



Federal Workers' Compensation: Basic Representation Participants' Workbook

Version 3.1 • April 2013

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COURSE OVERVIEW

Course Goal:

The goal of the course is to provide participants with the basic resources and information they need to assist members in the federal workers' compensation process.

Course Objective:

At the end of this course, you should be able to demonstrate how to:

- Assist members with filing a workers' compensation claim if they become injured or ill due to a work-related activity.

Course Materials:

- AFGE Federal Workers Compensation, Basic Representation: Participant Workbook
- AFGE Workers' Compensation Manual
- AFGE Workers' Compensation Resource Book

Workshop Components and Icon Key:

The following icons are used throughout the participant guide to indicate the different types of class activities.



Paired/Partner

Activity to complete with another participant.



Team Assignment

Small group activity.



Class Assignment

Activity for the class to complete.

WELCOME AND INTRODUCTION

Objectives: At the conclusion of this session, participants should be able to:

- Review the course agenda and learning objectives.
- Identify other people in their learning community.
- Agree upon session norms.



Partner Activity – Workers’ Compensation and You (Introduction):

Write down your answer to the following questions.

1 Have you had a workplace injury or illness?

2 Do you know of anyone in your work area that has had a workplace injury or illness?

3 Have you ever assisted someone in filing a workers’ compensation claim?

Turn to a neighbor and introduce yourself by sharing your name, local, and answers to the questions **(10 minutes)**. You and your partner will introduce each other to the class.

FEDERAL EMPLOYEES' COMPENSATION ACT

Objectives: At the conclusion of this session, participants should be able to:

- Describe the scope and purpose of the Federal Employees' Compensation Act.
- Identify the key elements that will determine if a member would or would not be covered under FECA.



Activity - Class Exercise

Determine if each of the following incidents would be covered by FECA and be prepared to explain your answer.

Workers' Compensation Cases: Covered or Not Covered?

Scenario 1: A nurse in a Department of Veterans Affairs hospital 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.

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.

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

Scenario 4: A Department of Defense employee is diagnosed by his physician with mesothelioma, an asbestos-related lung disease. It appears that he contracted the disease working for 25 years in the boiler room of a major military base that had asbestos insulation.

Key Points:

- All injuries should be reported, whether or not they require medical attention immediately.
- DOL is hard on cases that are not filed soon enough. DOL will send development letters to inquire about any delays asking why you did not file sooner. Some collective bargaining agreements indicate a specific time period in which the OWCP claim should be filed.

WORKPLACE INJURY AND ILLNESS

Objective: Participants will:

- Identify the appropriate OWCP forms to use with traumatic injury, recurrence, or occupational illness.



Activity – Team Exercise

- Your team has been asked to serve as the Workers' Compensation Representative Committee for your Local. In this position, you will help members determine which forms they need to complete and to explain the benefits under the FECA.
- Review the handout entitled OWCP Handout: Injury and Illness.
- Work with your team to complete an OWCP Activity Worksheet: Selecting OWCP Forms on the following page in their workbook for each of the cases.
- Assign one member of the team to report back to the class on each of their cases.

OWCP Activity Worksheet: Selecting OWCP Forms

Covered under FECA: Yes _____ No _____

Traumatic Injury: _____

Occupational Illness: _____

Recurrence: _____

Check off the OWCP Forms that may apply to this case:

CA-1	_____	CA- 35a	_____
CA-2	_____	CA – 35b	_____
CA-2a	_____	CA-35c	_____
CA-7	_____	CA-35d	_____
CA-16	_____	CA-35e	_____
CA-17	_____	CA- 35f	_____
CA-20	_____	CA-35g	_____
		CA-35h	_____

Explain the reason for selecting the forms for this case:

Describe specific timelines or deadlines that the employee should be aware of when submitting these forms:

Question

Citation

Page #

2 What criminal penalties are included in the FECA regulations? _____

3 What are the 3 types of appeals? Identify each type and briefly describe. _____

4 Under what circumstances can an agency stop paying COP? _____

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

6 How and when should medical reports be submitted? _____

Question

Citation

Page #

7 What should the employer include in a written job offer for a specific alternative position for a partially disabled employee? _____

8 What forms can an employee use to prepare and submit requests for reimbursement for medical expenses, transportation costs, loss of wages and incidental expenses? _____

9 Who pays for second opinion and referee examinations? _____

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

SPEAKING OWCP

Objective: Participants will:

- Define key terms used in federal workers' compensation using OWCP resources.



Activity – Class Exercise

- A co-worker who knows nothing about workers' compensation asks you what several OWCP terms mean.
- In your own words, describe the meaning of each of these OWCP terms and give an example of how the term is used in the workers' compensation process.

KEY TERM	DEFINITION / EXAMPLE
Aggravation	
Attending Physician	
Causal Relationship	
Controvert	
Leave Buyback	
Reconsideration	
Recurrence of Medical Condition	

NAVIGATING CLAIMS AND APPEALS

Objective: Participants will:

- Review and evaluate OWCP claims to determine if they meet the requirements of FECA using a case study based on a real-life workers' compensation claim.



Team Activity - Goals for Workers' Compensation Programs

- Review the information provided in the case according to the timeline provided by the instructor.
- Use the OWCP Claims Checklist on the following page to assess the information for compliance with the FECA requirements.

OWCP CLAIMS CHECKLIST

OWCP CLAIM REQUIREMENTS	YES	NO	COMMENTS
Time Filing (within 3 years, must be 30 days for COP)			
Civil Employment			
Performance of Duty			
Facts of Injury/Illness (also see medical evidence checklist below)			
• Details of Injury/Illness			
• Relevant medical facts concerning condition of employee			
• Connection between the occurrence of the injury/illness and the employee's performance of duties			
Causal relationship between employee's medical condition and the injury/illness (Direct Causation, Aggravation, Acceleration or Precipitation)			
Medical Evidence	COMPLETE	INCOMPLETE	COMMENTS
1. Dates of examination and treatment			
2. History given by the employee;			
3. Physical findings;			
4. Results of diagnostic tests;			
5. Course of treatment;			
6. Description of any other conditions found but not due to the claimed injury.			
7. Diagnosis;			
8. Treatment given or recommended for the claimed injury;			
9. Physician's opinion, with medical reasons, as to causal relationship between the diagnosed condition(s) and the factors or conditions of employment;			
10. Extent of disability affecting the employee's ability to work due to the injury;			
11. Prognosis for recovery; and			
12. All other material findings.			
RECOMMENDED OWCP ACTION	YES	NO	COMMENTS
Request for Additional Information			
Approve Claim			
APPEAL			
Hearing before OWCP hearing representative or review of the written record			
Reconsideration by the district office			
ECAB appeal			

UNION AND MANAGEMENT PERSPECTIVES

Objective: Participants will:

- Identify, compare and contrast management goals and union goals for workers' compensation in your workplace.



Team Activity - Goals for Workers' Compensation Programs

Take a few minutes to **individually** write down:

Five goals management has for its policies and programs regarding workplace injuries and illnesses. Think about why your management is involved in workers' compensation; what are their goals?

1. _____
2. _____
3. _____
4. _____
5. _____

Five goals the union has for its involvement in workers' compensation.

1. _____
2. _____
3. _____
4. _____
5. _____

Next, share your responses with those at your table. Together, come up with a list of the three (3) most important management goals and the three (3) most important union goals for involvement in workers' compensation.

A reporter in your group should write out each of the three management goals on a piece of paper. The reporter should write each of the three union goals on a separate piece of paper.

During the report-back session, your group will post these goals on the wall.

Be prepared for a large group discussion on these two questions: How does the union accomplish its goals? What is the union's role in workers' compensation?

Objective: Participants will:

- Demonstrate how to research and assist members with OWCP claims.



Team Assignment Discussion Questions

Develop a plan to assist members who have the following questions.

- 1** When I tried to file a workers' comp claim, HR told me that I had 24 hours to file a claim after I got hurt, but that was a couple of days ago. I'm still having problems. Is there anything I can do?
- 2** 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. What can I do?
- 3** I have proof that the BOP was negligent in allowing me to work in an unsafe environment. Can I sue BOP for causing my on-the-job injuries?
- 4** I want to file a workers' comp claim, but my supervisor won't give me the forms I need to file. What can I do?
- 5** 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?
- 6** Your physician has given you pain medication for an on-the-job injury and stated that you can return to work. When you return to the job, your supervisor sends you home because you are still taking medication. The supervisor states that you should not return to work until he calls you. What should you do?

REVIEW/WRAP UP



Objective: Participants will:

- Recall key points of federal workers' compensation
- Review the content from the course by playing a game of Jeopardy
- Complete evaluation forms

Write down 1-2 key points that you remember on the following Workers' Compensation topics:

- Scope and Benefits of FECA

- Selecting and completing the appropriate OWCP forms

- Medical report requirements

- Actions to take after a workplace injury or illness

APPENDICES

APPENDIX A: OWCP INCIDENT QUESTIONNAIRE

Injury/injuries

1. What federal agency do you work for?
2. Where did the injury/injuries take place?
3. What job-related activities were you performing when you were injured?
4. What time did the injury/injuries occur?
5. When did you begin to feel pain or other related symptoms from the incident or injury/injuries?
6. Where did you feel pain, numbness, tingling, or other symptoms of the injury/injuries?
7. What parts of your body were involved in the incident (include any part of your body that you may have used to prevent injury/injuries such as using your hands and arms to stop a fall)?
8. Did anyone witness your incident or injury/injuries? If so, what is/are their name(s), work position, and contact information? Have they or are they willing to write a statement?
9. Have you received medical attention for your injury/injuries? If you have received medical attention for your injury/injuries, who provided the medical care and when was it provided?
10. When did you notify your supervisor of the injury/injuries?
11. Did you leave work due to your injury/injuries?
12. Did you have to switch job duties due to your injury/injuries?

Workplace Illness or Disease

1. What federal agency do you work for?
2. When did you first experience symptoms of the disease/illness?
3. What job duties have you performed/do you perform that are related to the disease/illness?
4. How long have you performed these duties?
5. Did anyone witness you perform these duties? If so, what is/are their name(s), work position, and contact information? Have they or are they willing to write a statement?
6. Do you have documentation (job description, material safety data sheets, etc.) which confirms that your work has caused a disease/illness?
7. When did you notify your supervisor of the illness/disease?
8. Did you leave work due to your illness?
9. Did you have to switch job duties due to your illness?
10. Have you received medical attention for your illness/disease? Or if you have received medical attention for your illness, who provided the medical care and when was it provided?
11. Do you have any of the following:

-Hearing Loss (CA-35b)

-Asbestos-Related Illness (CA-35c)

-Coronary/Vascular Condition (CA-35d)

-Skin Disease (CA-35e)

-Pulmonary Illness-not Asbestosis (CA-35f)

-Psychiatric Illness (CA-35g)

-Carpal Tunnel Syndrome (CA-35h)

APPENDIX B: ONLINE RESOURCES

<http://www.dol.gov/owcp/dfec/>

Link to the website of the Department of Labor Division (DOL) of Department of Federal Employee Compensation (DFEC). DFEC administers the Federal Employees' Compensation Act (FECA) which provides workers' compensation coverage to three million federal and postal workers around the world for employment-related injuries and occupational diseases.

<https://www.ecomp.dol.gov/#>

Employees' Compensation Operations and Management Portal (eCOMP)

<http://www.dol.gov/owcp/dfec/regs/compliance/forms.htm>

DFEC link to common federal workers' compensation forms.

www.afge171.org/forms/wcomp/ca-16.pdf

Link to form CA-16 which is not available on the DOL website.

<http://owcp.dol.acs-inc.com/portal/main.do>

Link to ACS, the contractor that handles medical bills for OWCP.

<https://www.afge.org/Index.cfm?Page=HealthSafety>

Link to AFGE workers' compensation resources.

APPENDIX C: COMMUNICATION TIPS

Agency	Office of Workers' Compensation	Physician
Benefits cannot be paid unless an injury is reported.	Benefits cannot be paid unless an injury is reported.	Explain that you are a federal employee and that OWCP requirements are different than state/municipal Workers Comp.
File a safety report with supervisor when an incident occurs. Include this report with the CA-1.	Always send correspondence as certified mail. Ask for a full signature on the receipt.	Bring a copy of your current Position Description to the physician to reference when completing the medical report.
Fax forms, keep fax receipt for your records.	If pressed for time, send one regular mail and the second certified.	<p>Inform the doctor that he/she needs to include the following elements in his/her medical report:</p> <ol style="list-style-type: none"> 1. Dates of examination and treatment 2. Medical history as given by claimant 3. Physical findings 4. Results of diagnostic tests (X-rays and laboratory tests) 5. Diagnosis 6. Course of treatment 7. A description of other conditions found but not due to the claimed injury 8. Treatment given or recommended for the claimed injury 9. Physicians' opinion with medical reasons as to the causal relationship between the diagnosed condition and the factors or conditions of employment. 10. Extent of disability affecting the employee's ability to work due to injury 11. Prognosis for recovery 12. All other material findings.
Scan and email forms, copy yourself on all email correspondence.	For Form CA-7, fill out one form as the master with the facts, location, etc. complete. Keep the dates blank and update every two weeks with new dates.	Caution them to avoid using uncertain language such as "potentially", "possible" or "may" as this will lead to the rejection of the claim. Ask that the doctor state their opinion directly.

APPENDIX C: COMMUNICATION TIPS

Agency	Office of Workers' Compensation	Physician
Pre-fill factual information (job, date, location) on CA forms.	Do not use the term "post-traumatic stress disorder (PTSD)" as OWCP does not recognize this. Use the term "stress."	Have the physician use the correct American Medical Association edition as prescribed by OWCP.
Send to employer to sign and check-off the section which states that the employee was injured in the line of duty)	Ask OWCP to grant a "Periodic roll" for an ongoing medical condition that will go on for several months. This will negate the need for filing a CA-7 every two weeks, but instead payments will be every month.	Inform the doctor that once he/she sees you three (3x) times, he/she will be recognized as the attending physician.
Ask witnesses for email documentation.		Do not use the term "post-traumatic stress disorder (PTSD)" as OWCP does not recognize this. Use the term "stress."
While the agency may require you to see their doctor first, you, the employee, have the right to see a doctor that you chose.		
If the agency requests that you submit medical evidence to their representative and not directly to DOL, provide them with the medical documentation and a cover letter that includes the date you are submitting the information. Make a copy of the medical documentation and your communications and send it to OWCP directly as a back-up. This will ensure that OWCP is aware that you have submitted the medical documentation in a timely manner in case the agency delays or does not send on the information.		

APPENDIX D: GLOSSARY OF KEY TERMS

Term/Acronym	Definition
Acceleration	The speeding up of a medical reaction of existing condition due to workplace conditions and/or duties.
Aggravation	Incident at work makes an existing condition worse.
Attending Physician	The physician who is selected for the treatment of an injury. Under OWCP, an employee is entitled to the initial choice of the physician. The attending physician may engage the services of facilities that provide X-ray or laboratory services and/or specialists who can provide consultation. Any change in the treating physician must be authorized by OWCP.
Causal Relationship	The link between the incident or work-related exposure and the medical condition being claimed. There are four types of causal relationships under FECA: direct causation, aggravation, acceleration and precipitation.
Controvert	To dispute, challenge, or deny the validity of a claim for COP.
Continuation of Pay (COP)	Continuation of Pay. In the case of a traumatic injury, the employer must continue employee's regular pay during any period of resulting disability (including required absence for medical appointments or therapy), up to a maximum of 45 calendar days. A CA-1 claim must be filed within 30 days of the injury.
Claimant Query System (CQS)	Claimant Query System. View your case and compensation claim status, billing updates (including reimbursements), coverage limitations, and other information at http://owcp.dol.acs-inc.com .
Civil Service Retirement System (CSRS)	The Civil Service Retirement Act, which became effective on August 1, 1920, established a retirement system for certain federal employees. It was replaced by the Federal Employees' Retirement System (FERS) for federal employees who first entered covered service on and after January 1, 1987.
Date of Injury	Date which the employee was injured. This day is treated as an administrative leave day and is not included as Continuation of Pay (which can be up to 45 days).
Date of First Awareness	The date that the employee becomes aware that a medical condition was related to the job.

APPENDIX D: GLOSSARY OF KEY TERMS

Term/Acronym	Definition
Date of Last Exposure	Often used in occupational illness cases involving chemical or hazardous material exposure (such as asbestos), this date would be the last know work-related exposure to the hazardous substance.
Division of Federal Employees' Compensation (DFEC)	Division of Federal Employees' Compensation. This division carries out the mission of OWCP to provide FECA benefits to federal employees who sustain work related illness or injury.
Direct causation	A clear causal link between the incident and the medical condition.
Disability	Incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of the injury. It may be partial or total.
Employees' Compensation Appeals Board (ECAB)	was created to hear appeals taken from determinations and awards under the Federal Employees' Compensation Act with respect to claims of federal employees injured in the course of their employment. The board has final authority and will only make determinations on precedent-setting cases.
Employee	Under FECA, a civilian officer or employee in any branch of the Government of the United States. Non-appropriated fund (NAF) employees are covered separately under Longshore and Harbor Workers' Compensation Program through the Non-appropriated Fund Instrumentalities Act.
Fact of Injury	OWCP states five requirements for a claim of compensation; (1) claim was filed within the FECA specified time limits. (2) injured person was a federal employee at the time of injury, (3) how the injury or illness occurred, (4) injury occurred during the performance of duty, and (5) medical condition for which compensation or medical benefits is claimed is causally related to the claimed injury, illness or death.
Functional Capacity Exam (FCE)	Functional Capacity Exam. An FCE is a series of tests used to determine an individual's physical capabilities with regard to work.
Federal Employees' Compensation Act (FECA)	The Federal Employees' Compensation Act (FECA) provides federal employees injured in the performance of duty with workers' compensation benefits, which include wage-loss benefits for total or partial disability, monetary benefits for permanent loss of use of a covered body part or organ, medical benefits, and vocational rehabilitation. This act provides survivor benefits to eligible dependents if the injury causes the employee's death. The FECA is administered by the OWCP.

APPENDIX D: GLOSSARY OF KEY TERMS

Term/Acronym	Definition
Federal Employees' Retirement System (FERS)	Congress created the Federal Employees' Retirement System (FERS) in 1986, and it became effective on January 1, 1987. Since that time, new federal civilian employees who have retirement coverage are covered by FERS. FERS is a retirement plan that provides benefits from three different sources: a Basic Benefit Plan, Social Security, and the Thrift Savings Plan (TSP).
Family Medical Leave Act (FMLA)	The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons.
Impairment	Any anatomic or functional abnormality or loss. A permanent impairment is any such abnormality or loss after maximum medical improvement has been achieved.
Leave Buyback	Process by which sick and annual leave used for a work-related medical condition is restored to the employee. This process requires repaying the agency for the difference between personal leave, which is paid at 100 percent and OWCP leave, which is paid at either 75 percent or 66 2/3 percent.
Light Duty Offer	A temporary or permanent duty assignment offer to an employee who is partially disabled from a work-related injury or illness that has rendered the employee unable to perform their regular duties. The light duty assignment must be consistent with the physical limitations specified by the medical authority.
Leave Without Pay (LWOP)	Leave Without Pay is a temporary nonpay status and absence from duty that is often used when an employee has an extended time of disability and is receiving wage-loss replacement payments from OWCP.
Maximum Medical Improvement (MMI)	A medical determination that claimant's medical condition will not improve past a specific point. It may get worse, but it will not get better.
Medical Services	Services, drugs, supplies, and appliances provided by a person other than a physician or hospital.
Occupational disease or illness:	Medical condition produced by continued and repeated exposure to conditions at work, including stress or strain, which occurs over a period longer than a single work-shift.

APPENDIX D: GLOSSARY OF KEY TERMS

Term/Acronym	Definition
Office of Workers' Compensation Programs (OWCP)	The Office of Workers' Compensation Programs administers four major disability compensation programs which provide wage replacement benefits, medical treatment, vocational rehabilitation and other benefits to certain workers or their dependents who experience work-related injury or occupational disease.
Pay rate for compensation purposes	Employee's pay, as determined under 5 USC 8114, at the time of injury, the time disability begins or the time compensable disability recurs if the recurrence begins more than 6 months after the injured employee resumes regular full-time federal employment, whichever is greater, except as otherwise determined.
Physician	Includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, and osteopathic practitioners as defined by state law. Chiropractors can only be used to manipulate the spine to correct a subluxation (a deviation in the bones that can pressure nerves) if an x-ray demonstrates that this condition exists.
Precipitation	A condition or medical reaction that a work exposure or incident causes to occur or develop sooner than it would have without the work-related incident.
Prima Facie	Evidence which, in a preliminary review, supports the employee's claim.
Prognosis	The prediction of the course or medical outcome of an illness or injury.
Reconsideration	A process in which an employee can ask OWCP to reconsider a denial of claim based on the submission of new and detailed information and/or an argument that OWCP made a mistake or wrongly applied the law. A reconsideration can be filed within one year after any OWCP or Appeals Board decision.
Recurrence of disability	An inability to work after an employee has returned to work caused by a spontaneous change in medical condition which had resulted from a previous injury or illness (without an intervening injury or new exposure). The term also means the inability to work that takes place when a light duty assignment is withdrawn or when the physical requirements of the light-duty assignment are changed and they exceed the established physical limitations.

APPENDIX D: GLOSSARY OF KEY TERMS

Term/Acronym	Definition
Recurrence of medical condition	Documented need for further medical treatment after the original treatment ended. This recurrence is used when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a “need for further medical treatment after release from treatment”, nor is examination without treatment.
Representative	Individual properly authorized by a claimant in writing to act for the claimant in connection with a claim or proceeding under FECA. A federal employee can only serve as a representative if he/she is either acting as a union representative or an immediate family member.
Schedule Award	Compensation provided for the permanent loss or loss of use of specified body members, organs, or bodily functions. Payment is for a specified number of days or weeks, and is determined by the severity of the impairment.
Stress	Under OWCP stress can be caused by repeated action and/or an environmental condition, and can be the result of either a traumatic injury or occupational illness.
Traumatic injury:	Wound or other condition of the body caused by an 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.
Vocational Rehabilitation	Job counseling, placement assistance, and/or formal education which can be offered to an injured employee who is unable to return to his/her usual employment due to a work-related permanent disability.
Willful Misconduct	Deliberate and intentional disregard for an agency rule. Negligence or an employee’s failure to follow the agency’s recommended practices is not considered willful misconduct.
Work Hardening	A program that uses real or simulated work tasks and progressively graded conditioning exercises that are based on the individual’s measured tolerances with the goal of returning an injured employee to work.

APPENDIX E: SAMPLE OWCP CORRESPONDENCE

SAMPLE E-1: OWCP REQUEST FOR ADDITIONAL INFORMATION

File Number: 02222222
ORTHONOTCTS-0-I

U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 3 PHI
LONDON, KY 40742-8300
Phone: 215.861.5481

DATE

Date of Injury:
Employee:

CLAIMANT NAME
CLAIMANT ADDRESS

Dear CLAIMANT:

I am writing to you in reference to the claim for benefits under the Federal Employees Compensation Act which you filed for your bilateral shoulder condition. The materials which you submitted to date have been reviewed. We have received your Form CA-2 Notice of Occupational Disease, signed by you on December 15, 2009. In your statement, you indicated that your shoulders did not hurt prior to hanging 75 plus, 10 and 5/8th inch pieces of drywall overhead on the ceiling. Also received is a statement from your supervisor dated 1/4/10. No medical evidence has been received. You indicated that you have not received treatment for this condition.

This is not sufficient for this office to determine whether you are eligible for benefits under FECA because there is no medical evidence from a physician that provides a history of work exposure, diagnosis with clinical findings or medical opinion on the relationship of your condition to employment. Additional factual and medical evidence is necessary in order to evaluate your entitlement to benefits.

In further consideration of your claim, you are asked to respond to the question(s) on the attached page(s), sign, date, and return the attachment to this Office. Please provide the information requested below to OWCP (above address) within 30 days from the date of this letter. Please provide as much detail as possible.

If the information is not received within 30 days from the date of this letter, a decision will be made based on the evidence in the file.

Sincerely,

Claims Examiner

Agency Address

1. Describe in detail the employment-related activities which you believe contributed to your condition.

2. How often did you perform the activities described? For how long on each occasion?

Send a copy of this information concerning job activities you believe contributed to your condition to your employer for concurrence. Send original to OWCP. Send the additional information requested below to OWCP also.

3. Describe all activities outside your federal employment. For example, you should describe sports you engage in, hobbies, musical instruments you play, non-work-related computer usage, and any other employment, volunteer, or recreational activities you engage in. Please be precise as possible in quantifying the amount of time spent engaging in the activities reported.

4. Describe the development of the claimed condition. When did you first notice it? Has it come and gone or has it been present continuously? What symptoms have you experienced? What seems to make it worse? Better? What treatment has been effective in controlling or curing it?

5. Please describe all previous orthopedic injuries such as sprains, strains, fractures, dislocations, etc. Have you ever undergone surgery to the hand, wrist, elbow, or shoulder? If so, please describe in detail. Have you ever been diagnosed or treated for arthritis, bursitis, rotator cuff syndrome, or any other condition of your upper extremities?

6. Provide a comprehensive medical report from your treating physician which describes your symptoms; results of examinations and tests; diagnosis; the treatment provided; the effect of treatment; and the doctor's opinion with medical reasons on the cause of your condition. Specifically, if your physician feels that your condition was caused or aggravated by the claimed exposure, then he/she must provide a conclusive, well-rationalized explanation to that effect. It is imperative that your physician's opinion is based on a complete and accurate history of the events believed to be the cause for your condition. In addition, please be sure that your physician differentiates between any pre-existing conditions and conditions resulting from claimed exposure.

APPENDIX E: SAMPLE OWCP CORRESPONDENCE

SAMPLE E-2: OWCP LETTER OF DENIAL

File Number: 02222222
Nodfoi – I - T

U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 3 PHI
LONDON, KY 40742-8300
Phone: 215.861.5481

DATE

Date of Injury:
Employee: CLAIMANT NAME

CLAIMANT NAME
CLAIMANT ADDRESS

Dear CLAIMANT

NOTICE OF DECISION

Your claim for compensation is denied as the evidence is not sufficient to establish that you sustained an injury as defined by the Federal Employees' Compensation Act (FECA).

You filed a timely claim for compensation as a Federal employee for an injury as referenced above. In order for further consideration to be given under FECA, the evidence must demonstrate that 1) a specific event, incident or exposure occurred at the time and place, and in the manner alleged, and 2) a diagnosed medical condition is connected to the accepted trauma or exposure.

On Form CA-2 Notice of Occupational Disease, signed by you on 12/15/09, you indicated that your shoulders did not hurt prior to hanging 75 plus, 10 and 5/8th inch pieces of drywall overhead on the ceiling.

The evidence submitted supports that your position of Carpenter involves hanging drywall to form ceilings and walls. However, there is no medical evidence that provides a diagnosis which could be connected to the activities of your employment.

You were advised of the deficiencies in your claim in a letter dated 1/20/10, and provided the opportunity to provide the necessary evidence. This letter asked you to provide a comprehensive medical report from your treating physician which describes your symptoms; results of examinations and tests; diagnosis, the treatment provided, the effect of the treatment; and your doctor's opinion, with medical reasons, on the cause of your condition. You were also asked to answer several questions.

We did not receive any further evidence. Your case was held open 40 days to afford you an opportunity to submit the requested information. However, no response from you to the questions asked in the 1/20/10 has been received. No further necessary factual or medical evidence to determine your entitlement to benefits was received by this Office. No indication that any further evidence from you would be forthcoming has been received by this Office.

The Employees' Compensation Appeals Board has held that:

A claimant seeking benefits under the FECA has the burden of proof to establish the essential elements of his or her claim. When the claimant alleges an injury in the performance of duty, the claimant must submit sufficient evidence to establish that she experienced a specific employment incident or specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence based upon a complete factual and medical background showing causal relationship.

The mere fact that a condition manifests itself or is worsened during a period of employment does not raise an inference of causal relationship between the two. Such a relationship must be shown by rationalized medical evidence of causal relation based upon a specific and accurate history of employment incidents or conditions which are alleged to have caused or exacerbated a disability.

Based on these finding, your claim is denied because the requirements have not been met for establishing that you sustained an injury and/or medical condition causally related to the accepted work event(s). Medical treatment is not authorized and prior authorization, if any, is terminated.

Your employing agency will charge any previously paid Compensations of Pay to your sick and/or annual leave balance or declare it an overpayment.

If you disagree with this decision, you should carefully review the attached appeal rights, and pursue whichever avenue is appropriate to your situation.

Sincerely,

Claims Examiner

Enclosure Appeal Rights

Address of Agency

APPEALS REQUEST FORM

If you decide to appeal this decision, read these instructions carefully. You must specify which procedure you request by checking one of the options listed below. Place this form on top of any materials you submit. Be sure to mail this form, along with any additional materials, to the appropriate address. **YOU MAY ONLY REQUEST ONE TYPE OF APPEAL AT THIS TIME.**

_____ **ORAL HEARING**

Depending on your geographical location, the issue involved in your case, the number of hearing requests in your area, and at the discretion of the hearing representative, we may expedite your appeal by providing you a telephone hearing. Please check here if you would prefer a telephone hearing. _____

_____ **REVIEW OF THE WRITTEN RECORD**

For each of these options, you may also submit this form within 30 calendar days of the date of the decision. You may also submit additional written evidence with your request. You must mail your request to:

**Branch of Hearings and Review
Office of Workers' Compensation Programs
P.O. Box 37117
Washington, DC 20013-7117**

_____ **RECONSIDERATION**

Submit your request within 1 calendar year of the date of the decision. You must state the grounds upon which your reconsideration is requested. Your request must also include relevant new evidence or legal argument previously not made. Mail your request to:

DOL DFEC Central Mailroom
P.O. Box 8300
London, KY 40742

_____ **ECAB Appeal**

Submit this form within 90 calendar days of the date of the decision. No additional evidence after the date of this decision will be reviewed. To expedite the processing of your ECAB appeal, you may include a copy of the AB 1 form used by ECAB to docket appeals available on the Department of Labor website at www.dol.gov/ecab. Mail your request to:

**Employees' Compensation Appeals Board
200 Constitution Avenue NW, Room S-5220
Washington, DC 20210**

SIGNATURE: _____
PRINTED NAME _____
ADDRESS: _____
CITY: _____ STATE: _____

TODAY'S DATE: _____
DECISION DATE: _____
PHONE: _____
ZIP: _____

APPENDIX F: PENALTIES FOR OWCP CLAIM VIOLATIONS

What recourse does an employee have if his or her supervisor refuses to accept a notice of injury or claim for compensation?

OWCP should be notified of such refusal. Federal law also 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 of application thereof, or regulations prescribed thereunder, shall be fined not more than \$500 or imprisoned not more than one year, or both.”

20 CFR 10.16 What criminal and civil penalties may be imposed in connection with a claim under the FECA?

(a) A number of statutory provisions make it a crime to file a false or fraudulent claim or statement with the Government in connection with a claim under the FECA, or to wrongfully impede a FECA claim. Included among these provisions are 18 U.S.C. 287, 1001, 1920, and 1922. Furthermore, a civil action to recover benefits paid erroneously under the FECA may be maintained under the False Claims Act, 31 U.S.C. 3729–3733. Enforcement of such provisions that may apply to claims under the FECA is within the jurisdiction of the Department of Justice.

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

Sec. 287. False, fictitious or fraudulent claims.

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than five years and shall be subject to a fine in the amount provided in this title.

Sec. 1001. Statement or entries generally.

a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
- (2) makes any materially false, fictitious, or fraudulent statement or representation; or
- (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8

years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

Sec. 1920. False statement or fraud to obtain Federal employees' compensation

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 a false statement 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 \$1,000, such person shall be punished by a fine under this title, or by imprisonment for not more than 1 year, or both.

18 USC 1922 False or withheld report concerning Federal employees' compensation

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.

APPENDIX G: OWCP INJURY AND ILLNESS GUIDELINES

Occurrence	Definition	Timeline	Claim Forms	Benefit
Traumatic Injury	A wound or other condition of the body caused by external force, including stress or strain. It must be identifiable by time and place or occurrence and member of the body affected.	Must be caused by specific event or incident or series of events or incidents within a single day or work shift.	<p>CA-1 Notice of Traumatic Injury and Claim for Continuation of Pay (Employee/Supervisor/OWCP)</p> <ul style="list-style-type: none"> •HR sends to OWCP in 10 days. •Must file in 30 days for COP. 	An approved CA-1 starts the workers compensation claim process. The CA-1 can authorize up to 45 calendar days of regular pay for traumatic injuries only. This pay is referred to as COP (continuation of pay) and begins the day after the reported injury.
			<p>CA-16 Request for Examination and/or Treatment. (Supervisor/Physician)</p> <ul style="list-style-type: none"> • FECA states that employer shall issue CA-16 within 4 hours of claimed injury. • Typically issued w/in 48 hours after verbal notice. • If employee does not request treatment for more than 5 days after injury, supervisor may not issue CA-16. <p>The employee's doctor should complete a Form CA-17 Duty Status Report with information on employee's ability to work, how long the employee may be off work and if the employee can work with restrictions.</p>	Supervisor will promptly authorize medical care upon receiving notice that an employee has sustained a job-related traumatic injury. A CA-16 form authorizes the employer to pay for the cost of the medical examination and treatment.
			<p>CA-7 Claim for Compensation (Employee/Supervisor/OWCP) To be approved, the CA-7 must also include the CA-20 Attending Physician Report.</p>	An approved CA-7 will cover the employee's disability beyond the 45 day COP period. If disability will extend beyond COP, CA-7 and CA-20 should be provided on Day 30 and submitted to OWCP by Day 40 before COP ends.

APPENDIX G: OWCP INJURY AND ILLNESS GUIDELINES

Occurrence	Definition	Timeline	Claim Forms	Benefit
Occupational Disease	Systematic infections, continued or repeated stress or strain, exposure to toxins, poisonous fumes, noise, etc. in the work environment over a period longer than a single workday or shift.	In order to qualify as a disease, the injury must be caused by exposure or activities for longer than a single workday or shift.	<p>CA-2 Federal Employee’s Notice of Occupational Disease and Claim for Compensation</p> <ul style="list-style-type: none"> Employee should file CA-2 within 30 calendar days of employee awareness of a possible connection between the illness or disease and the job. <p>Use form CA-35 (a-h) to document occupational disease.</p>	Once a CA-2 claim is approved, medical expenses related to the accepted illness or disease will be reimbursed. The employee should keep all receipts and statements related to the claim to submit them for reimbursement. Upon approval of CA-2, Form OWCP-1500a or a standard billing form such as HFCA 1500 is used to request reimbursement. Mileage reimbursement is requested on OWCP Form 957.
			<p>CA-7 Claim for Compensation (Employee/Supervisor/OWCP) To be approved, the CA-7 must also include the CA-20 Attending Physician Report.</p>	An approved CA-7 will cover the employee’s financial compensation for time lost from work or for a scheduled award.
Recurring Traumatic Injury or Occupational Disease	Spontaneous return or increase of disability without intervening cause, or return or increase of disability due to consequential injury. A recurrence is distinguished from new injury by the fact that no event other than previous injury accounts for the disability.	Occurs after the employee has returned to work after being out due to a work-related medical condition.	<p>Form CA-2a Notice of Recurrence</p> <p>Employee should file CA-2a within 30 calendar days of employee awareness of a possible connection between the recurring condition and the job.</p>	Once the CA-2a form is approved, the employee is entitled to reimbursement of medical expenses related to the injury or illness. In the case of injury, if the 45 day balance of COP has not expired since the return to work, the employee can use the remainder of their initial COP authorization.
			<p>CA-7 Claim for Compensation (Employee / Supervisor/OWCP) To be approved, the CA-7 must also include the CA-20 Attending Physician Report.</p>	An approved CA-7 will cover the employee’s financial compensation for time lost from work or for a scheduled award.



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
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