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Office of Workers' Compensation Programs

20 CFR Parts 1, 10 and 25

Performance of Functions; Claims for Compensation Under the Federal Employees' Compensation Act; Compensation for Disability and Death of Noncitizen Federal Employees Outside the United States; Final Rule

DEPARTMENT OF LABOR**Office of Workers' Compensation Programs****20 CFR Parts 1, 10 and 25**

RIN 1240-AA03

Performance of Functions; Claims for Compensation Under the Federal Employees' Compensation Act; Compensation for Disability and Death of Noncitizen Federal Employees Outside the United States

AGENCY: Office of Workers' Compensation Programs, Department of Labor.

ACTION: Final Rule.

SUMMARY: On August 13, 2010, the Department of Labor (DOL) proposed revisions to the regulations governing the administration of the Federal Employees' Compensation Act (FECA). The FECA provides benefits to all civilian Federal employees and certain other groups of employees and individuals who are injured or killed while performing their jobs. At that time, DOL also proposed revisions to the regulations establishing the authority of the Office of Workers' Compensation Programs (OWCP) which administers the FECA.

The proposed changes were summarized in that publication. The existing rules have been amended to acknowledge a change in the organization of the OWCP and amendments to the FECA which have occurred since the last time the regulations were amended in 1999. These changes also update the regulations by taking into account changes in technology and other changes to improve administrative efficiency. As many FECA claimants are not represented, the regulations are revised to insert FECA statutory references as a frame of reference for clarity and ease of use. The regulations include adding the skin as an organ pursuant to 5 U.S.C. 8107(c)(22). The regulations also create a new special schedule covering injuries to non-citizen non-resident Federal employees outside the United States. Finally, the regulations covering the processing of medical bills have been updated to provide for greater use of technology in that process to reduce costs and to clarify requirements for such submissions.

DATES: *Effective Date:* This final rule is effective on August 29, 2011.

FOR FURTHER INFORMATION CONTACT: Douglas Fitzgerald, Director, Division of

Federal Employees' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Room S3229, 200 Constitution Avenue, NW., Washington, DC 20210, *Telephone:* 202-693-0040 (this is not a toll-free number). Individuals with hearing or speech impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: Proposed regulations were published in the **Federal Register** on August 13, 2010 (75 FR 49596). They allowed a 60-day period for comment, during which the DOL received timely comments from 251 parties: one comment was submitted by a Federal employing agency; two comments were received from labor organizations representing Federal employees; one comment was received from a medical professional association; 173 comments were received from private individuals; and 74 comments were received from attorneys. Also, 44 untimely comments were received from private individuals and attorneys; the points made by these commenters echoed those made in comments that were timely submitted. Almost all of the comments addressed the reinsertion of the FECA's explicit bar on receipt of contingency fees. Furthermore, a number of the comments addressed scheduling of hearings before the Branch of Hearings and Review and a proposed change in how a request for reconsideration is determined to be timely. A smaller number of comments addressed changes in language regarding suitable employment and loss of wage earning capacity determinations. Finally, individual comments were received addressing a small number of issues, including changes to procedures involving Peace Corps volunteers, questions regarding verbiage, and a number of issues not raised by the proposed changes to the FECA regulations. All of these comments are addressed below.

Two minor changes have been made to the notice of proposed rulemaking that did not result from any comments. The first change clarifies language in § 10.104 to promote ease of reading. The second change was to §§ 10.619, 10.818 and 10.819, which added "or equivalent service from a commercial carrier" in situations where OWCP is to use certified mail, return receipt requested when mailing notices or decisions. This change will provide greater flexibility in such mailings while providing for proof of receipt.

When publishing a final rule following a comment period, it is customary to publish only the changes that have been made to the rule; however, in order to be more user-friendly, OWCP is publishing the entire rule, including the parts that have not been changed. By doing so, only one document containing all of the regulations and commentary needs to be consulted rather than multiple documents.

I. Comments on the Notice of Proposed Rulemaking

The section numbers used in the headings of the following analysis are those that were used in the notice of proposed rulemaking. Unless otherwise stated, the section numbers in the text of the analysis refer to the numbering used for the final regulations. No comments were received with respect to parts 1 and 25.

Section 10.16

One attorney suggested that the addition of language to subsection (b) of this section which discussed actions under the False Claims Act indicated that OWCP was changing this section to allow other agencies to institute actions under the Program Fraud Civil Remedies Act. The addition of this language was only intended to notify employees that suits may be maintained under the False Claims Act. As such, the comment is well taken in that it indicates that placing this language in subsection (b) reduced the clarity of the regulation. Accordingly, the language has been moved to subsection (a).

Section 10.104

Two labor organizations recommended the abbreviation "i.e." be changed to "e.g." because surgery is only one of multiple reasons that could support payment of wage-loss compensation for a limited period of disability in the presence of a loss-of-wage-earning-capacity determination. While OWCP does not think that such modification is required, the language has been changed to "such as" in an attempt to address the concerns expressed by the commenters and to add clarity through the use of plain language.

Section 10.310

One medical provider noted that Round 1 of Medicare's Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding process covers only a limited number of metropolitan areas and closed on November 4, 2009. Registration for Round 2 has yet to open

with no date even tentatively scheduled. As a result, many providers currently supplying durable medical equipment services for OWCP would be precluded from participation.

This provision was added to afford OWCP with a measure of reliability in durable medical equipment suppliers while avoiding the use of scarce program resources to police all such providers. The comment is well taken as there are two processes relating to DMEPOS under Medicare. Relevant to this regulation is Medicare's DMEPOS Accreditation Process. This process was established as a result of the Medicare Modernization Act to implement quality standards for suppliers of, among other things, durable medical equipment. The accreditation process is currently open and providers are still being enrolled. This section has therefore been modified to require registration under Medicare's DMEPOS Accreditation Process rather than Medicare's Competitive Bidding Program. This should address the concerns of the commenter.

Section 10.321

One attorney suggested that the language should be changed to require OWCP to provide notice to the claimant of the right to object to the referee selection at the time the referee notice is sent and that OWCP bears the burden of showing that it complied with the strict rotational system. The only proposed change to the existing rule was to add the "impartial" nomenclature that the Employees' Compensation Appeals Board (ECAB) uses in its appeal decisions for the third tie-breaking (referee) physician. This section explains under what circumstances OWCP will appoint a third physician to make an examination. There is no requirement in the statute, ECAB case law or OWCP procedure for such notices or rotational requirements or for placing such strict obligations on OWCP by regulation. In addition, OWCP needs to retain some flexibility as to how it selects its impartial specialists, as some esoteric specialties may require more flexibility in scheduling. Consequently, the language in this section has not been modified.

Section 10.401

Two labor organizations commented that the proposed language does not clearly establish that USPS employees who use leave during the first three days of temporary disability should have their leave reinstated if the injury causes permanent disability or if the pay loss continues for more than 14 calendar days. This explanation is specifically

provided in § 10.200(c). For clarity, a reference to § 10.200(c) and to 5 U.S.C. 8117(b) has been added.

Section 10.421

One agency commented that this section omitted a discussion of U.S. Department of Veterans Affairs benefits. The proposed language contains nothing novel and no specific reference to VA benefits appeared in either the 1988 or 1999 final rules. Furthermore, the program's procedures have long contained instructions on determining when VA payments constitute a prohibited dual benefit under the statute, and OWCP is not aware of any problems which have arisen with respect to these instructions. Therefore, the program does not believe that it is necessary to address it by regulation.

Section 10.500

Eight attorneys noted that the additional sentence added to paragraph (a) of this section ignores and appears to undercut a very necessary procedure that has been set up to protect the employee's vested interest in continuation of wage-loss benefits absent being afforded due process rights prior to any reduction or elimination of benefits.

Two labor organizations argued that the change to "appropriate work" in paragraph (b) of this section recasts the discussion into the context of loss of wage earning capacity determinations and that the term "appropriate" lacks a meaningful statutory or regulatory history and questioned the cross reference in § 10.515.

OWCP first notes that § 10.500, as evidenced by the question proposed in the title, is meant to provide the very basic rules on receipt of benefits and rules regarding return to work and its effect on compensation. The changes made to this section were to clarify these situations and to provide information to claimants regarding their obligation to perform light duty when the evidence establishes that work is available within the employee's restrictions. These comments, however, indicate an apparent misunderstanding of the basic intent of § 10.500. Accordingly, the section has been clarified by splitting up paragraphs (a) and (b) in the proposed rule to paragraphs (a)–(d) in this section. While these sections do not provide any new information or communicate a change in interpretation of current law, OWCP believes that the purpose and intent of the rule will be demonstrated more clearly. Furthermore, in any situation where benefits are reduced or denied under this section, OWCP will issue a

decision that contains findings of fact and a statement of reasons. Where appropriate, such as in cases of ongoing continuous entitlement, OWCP will also provide the claimant notice of its proposed action as well as an opportunity to respond prior to issuing a decision based on this regulation. All such decisions will be accompanied by an explanation of the claimant's right to further administrative review including appeal to ECAB. These actions will address the due process concerns expressed by these organizations. Finally, the cross-reference that was questioned by the labor organizations was removed from § 10.515 as that was no longer needed.

Section 10.509

The proposed new § 10.509 was modified by splitting this section into two sections, § 10.509 and § 10.510. Section 10.509 now covers only situations involving the effect of downsizing of a light duty position on compensation. This section elicited comment from eight attorneys who disputed the additional phrase requiring the employing agency to state, in writing, that no other employment is available as being simply conclusory in nature. However, this clarifying phrase does not impact the section's basic premise that employees who have a wage-earning capacity determination in place do not sustain a compensable recurrence of disability when they lose their light duty positions pursuant to reductions-in-force and merely codifies existing procedures. As such, no change has been made to this section.

Another commenter took issue with the use of "other forms of downsizing", arguing that this allows the agency to evade responsibilities under any collective bargaining agreement and established RIF law. As this is a personnel matter outside the scope of these FECA regulations, no change is necessary to the regulations as a result of this comment.

Section 10.510

This section elicited comments from sixty-nine individuals, all of which were form letters, as well as comments from nine attorneys and two labor organizations. All comments expressed concern that the change in language would undercut the job suitability determination process. The purpose of the section, as noted in the preamble to the proposed rule, was to clarify when a light duty job may form the basis of a loss of wage-earning capacity determination, and does not involve determinations regarding job suitability under 5 U.S.C. 8106(c). One of the

fundamental bases for a loss of wage-earning capacity determination is that the position must fairly and reasonably represent an employee's ability to earn wages. As that basic factor was not explicitly expressed in this section, this language has been added.

Section 10.511

Two labor organizations recommended the abbreviation "*i.e.*" be changed to "*e.g.*" because surgery is only one of multiple reasons that could support payment of wage-loss compensation for a limited period of disability in the presence of a loss-of-wage-earning-capacity determination. While no modification is strictly required, using the term "such as" will address the concerns expressed by the commenters and add clarity through the use of plain language.

Section 10.519

Two labor organizations noted that, although the reference to OWCP nurses was removed from § 10.518, it was not removed from this section. The reference to registered nurses was deleted from § 10.518 as ECAB found that nurse services were not to be considered vocational rehabilitation for the purposes of imposing sanctions pursuant to 5 U.S.C. 8113 (b). While OWCP will not apply such sanctions to non-cooperation with OWCP registered nurses, the reference remains in § 10.519(a) to allow for flexibility in coordinating the services of both registered nurses and vocational rehabilitation counselors in OWCP's return to work efforts for injured workers.

Section 10.521

The proposed rule added this section to explain the ramifications of electing to receive retirement benefits instead of FECA benefits. While not averse to referencing existing procedure in the regulatory language, two labor organizations objected to the addition of the phrase "where OWCP is attempting to otherwise place that employee in a suitable job[.]" The commenters argued that such language was potentially so broad as to cover any effort, including those inconsistent with law, regulation or procedure, and such a regulation would be punitive toward injured workers electing retirement benefits in order to receive schedule award payments. OWCP does not believe a change in this section is warranted, as the requirements for determining a loss of wage earning capacity are well established. A loss of wage earning capacity determination does not constitute a sanction; this section will

have no impact on the concurrent receipt of OPM retirement benefits and a schedule award that is plainly permissible under the statute.

Section 10.607

Ninety commenters objected to the change to § 10.607, which modified the deadline for seeking reconsideration with OWCP on a denial of benefits from the requirement that the request "be sent within one year" to being "received" by OWCP within one year and requiring the request itself to be dated. Most of these comments were form letters. One commenter questioned whether the date would be the date received by OWCP or the date the letter is scanned into OWCP's electronic claim file system. Two commenters noted that this would create separate rules on deadlines for filing a request for reconsideration and a request for hearing with OWCP's Branch of Hearings and Review, in that the current rule in each instance bases the deadlines on the postmark on the envelope. The form letter comments suggested that this will increase the cost of filing reconsiderations by requiring claimants to send such requests by certified mail or facsimile in order to clearly know when the request has been received.

OWCP notes that the prior regulation, which allowed for the date a request for reconsideration was sent to be documented by postmark, predated the current electronic file system (iFECs). Due to the large volume of mail that is received and scanned into this file system, it is not feasible or efficient to keep envelopes for all mail scanned prior to determining whether such mail is a request for reconsideration, making it impossible to determine the date such a request was sent to OWCP. This anomaly led to situations where dated requests for reconsideration were received well past the one year deadline, but were required to be treated as timely under the prior regulations. Such a problem is not inherent in requests for oral hearings, as hearing requests are mailed directly to the Branch of Hearings and Review. Therefore no change was necessary to that procedure. OWCP believes that this difference in procedure will be clearly explained in the appeal rights notice to avoid confusion.

Furthermore, by 2012, OWCP will implement a free, Web-based system (E-COMP) that will allow claimants and representatives to directly upload documents to the electronic case file, minimizing both the cost and documentation questions noted by the commenters. Such electronic

submissions should come at no cost to either the claimant or a representative and will provide instant acknowledgment as to when a document was received by OWCP.

Finally, OWCP notes that the one year period for requesting reconsideration is extremely generous compared to other benefit appeals systems. As noted in the preamble to the notice of proposed rulemaking, rather than cutting back the time to file such a request (to either 180 days, as with the ECAB, or 65 days, as with the Social Security Administration), OWCP simply chose to provide a solution that would allow OWCP to more easily document when the request was timely. The regulation provides more than ample time to both claimants and representatives to gather new evidence and submit a request for reconsideration. Accordingly, no change has been made to this section as a result of these comments.

Sections 10.616, 10.617 & 10.622

The notice of proposed rule making drew six comments, all from attorneys, in regards to §§ 10.616, 10.617 and 10.622. Although these sections address different issues, the comments all involved requests for additional flexibility in the scheduling of an oral hearing. One commenter specifically requested that the regulation be changed to require a hearing representative to consult with a claimant or representative prior to scheduling any hearing to arrange a mutually convenient time and place to hold the hearing. The remaining commenters simply asked that there be some coordination with the representative to better accommodate hearing calendars.

Due to the volume of hearing requests and limited resources available to conduct those hearings, OWCP is not able to grant the large degree of consultation and latitude in the scheduling or postponements of hearings requested by the commenters. However, the increased use of teleconferences and other technology in hearings affords OWCP some flexibility in scheduling that did not exist previously. Accordingly, OWCP has redrafted § 10.622 to provide greater flexibility while still maintaining OWCP's discretion in how and when these hearings are conducted. Specifically, OWCP added language allowing rescheduling within a monthly docket where a claimant or the representative has a prior unavoidable scheduling conflict and extended the previously existing language in paragraph (d) to include representatives as well.

Section 10.626

One labor organization stated in reference to § 10.626 that OWCP should consider adding language that states that OWCP will follow decisions of the Employees' Compensation Appeals Board based on the unions reading of a FECA circular from 1990. OWCP notes however that this section deals solely with the jurisdiction over a claim while that claim is appealed to ECAB. OWCP notes that part 0 of the *Federal (FECA) Procedure Manual* clearly states that the Employees' Compensation Appeals Board is an independent body that has jurisdiction to determine appeals from denials of FECA benefits. *Federal (FECA) Procedure Manual*, part 0-0100-3.

Section 10.700

An attorney commented that this section should include a mandatory requirement that copies of all documents in the case file, including e-mails, be automatically mailed to the claimant as well as the claimant's representative. OWCP notes that such a requirement is unnecessary, as the Privacy Act allows a claimant to request one free copy of all such documents and to sign a waiver allowing any representative to view those documents or receive a copy upon request. Furthermore, while representatives are frequently copied on correspondence to claimants, certain correspondence (such as the CA-1032) remains the direct responsibility of the claimant to complete and submit. For this reason, and based on program experience, OWCP will not impose the regulatory requirement suggested by this commenter and the regulation remains unchanged.

Sections 10.702 & 10.703

Two hundred forty-three of the comments, most of which were form letters, disagreed with the specific prohibition on contingency fees noted in these sections. One commenter strongly supported the ban on contingency fees as she believed that current fee application requirements compelled accountability on the part of the representative. Language specifically banning contingency fees was omitted during the last regulatory update, as the requirements for the fee application were believed to make the additional language redundant. Notwithstanding the regulation's explicit reference to hourly rates, the removal of this language left some with the impression that contingency fees were permissible and that the ban on contingency arrangements had been removed. ECAB

precedent has stated that FECA does not allow for the payment of contingency fees, and the current regulations clearly contemplate the use of an hourly rate in determining representatives' fees. Furthermore, ECAB, in its recently published final rule, noted that no contract for a stipulated fee or on a contingent basis will be approved by ECAB. **Federal Register** cite. As 5 U.S.C. 8127 applies to representative fees before both ECAB and OWCP, OWCP will continue to conform its position on contingency fees with that of ECAB's. Consequently, no change has been made to this section as a result of these comments.

Section 10.730

This section was amended to restore the statutory language applicable to coverage of claims involving Peace Corps volunteers. The use of "deemed proximately caused" mirrors the language in 5 U.S.C. 8142(c)(3). One attorney noted that the language of this section reverses the statutory burden of proof for Peace Corps Volunteers by adding additional requirements of proof in paragraph (b) and (c) to those that are required in 5 U.S.C. 8142(c)(3). The language to which the attorney took exception was not the amended language, but the general statutory requirement that a volunteer must sustain either an occupational disease or illness or a traumatic injury in order for FECA coverage to apply. As such, no change has been made to this section as a result of these comments.

Section 10.812

One attorney commented that OWCP seldom sends a notice explaining appeal rights to the medical provider of reduced or denied fees and does not send notice to the claimant of a reduction or denial of a medical fee. This occasionally results in a claimant being sued years after the bill was denied or reduced.

The existing rule was unchanged in the notice of proposed rulemaking. Notification of payment, denial of payment or fee reduction of a service is supplied in writing to the provider requesting payment. A claimant may review the bills submitted in his/her case and information regarding the amount billed, paid and the reason for any denial is readily available on-line. Although § 10.813 of this part clearly states that claimants may not be billed for the difference when a fee is reduced, OWCP agrees that claimants may not realize that they are not responsible for medical charges exceeding the maximum allowed in the OWCP fee schedule. While no change has been

made to this section, language regarding this concern has been added to the Web site and included in the acceptance letter sent to a claimant.

II. Administrative Requirements for the Proposed Rulemaking

Executive Orders 12866 and 13563

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866.

This rule constitutes a "significant" rule within the meaning of Executive Order 12866 in that any executive agency could be required to participate in the development of claims for benefits under this regulatory action. OWCP believes, however, that as this rule merely updates existing regulations, this rule will not have a significant economic impact on the economy, or any person or organization subject to the proposed changes. OWCP has projected that the addition of the skin as an organ under the schedule award provision as well as the revision of the part 25 compensation for non-citizen non-resident employees will result in additional expenditures of \$10,893,434 over ten years.

This projection is based on a very limited amount of data and a single significant event could result in substantially higher than projected expenditures. This has been reviewed by the Office of Management and Budget for consistency with the President's priorities and the principles set forth in Executive Order 12866.

Regulatory Flexibility Act of 1980

This rule has been reviewed in accordance with the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601-612. OWCP has concluded that the rule does not involve regulatory and informational requirements regarding businesses, organizations, and governmental jurisdictions subject to regulation.

Paperwork Reduction Act (PRA)

This rule contains information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501, *et seq.* The

requirements set out in this rule were both submitted to and approved by the OMB under the OMB Control Numbers 1240-0001, 1240-0007, 1240-0008, 1240-0009, 1240-0012, 1240-0013, 1240-0015, 1240-0016, 1240-0017, 1240-0018, 1240-0019, 1240-0022, 1240-0044, 1240-0045, 1240-0046, 1240-0047, 1240-0049, 1240-0050 and 1240-0051.

The National Environmental Policy Act of 1969

OWCP certifies that this rule has been assessed in accordance with the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA). OWCP concludes that NEPA requirements do not apply to this rulemaking because this rule includes no provisions impacting the maintenance, preservation, or enhancement of a healthful environment.

Federal Regulations and Policies on Families

OWCP has reviewed this rule in accordance with the requirements of section 654 of the Treasury and General Government Appropriations Act of 1999, 5 U.S.C. 601 note. This rule was not found to have a potential negative effect on family well-being as it is defined thereunder.

Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

OWCP certifies that this rule has been assessed regarding environmental health risks and safety risks that may disproportionately affect children. This rule was not found to have a potential negative effect on the health or safety of children.

Unfunded Mandates Reform Act of 1995 and Executive Order 13132

OWCP has reviewed this rule in accordance with the requirements of Executive Order 13132, 64 FR 43225 (Aug. 10, 1999), and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, and has found no potential or substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein that could result in increased expenditures by State, local, or Tribal governments or by the private sector, OWCP has not prepared a budgetary impact statement.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

OWCP has reviewed this rule in accordance with Executive Order 13175, 65 FR 67249 (Nov. 9, 2000), and has determined that it does not have "Tribal implications." The rule does not "have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes."

Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

OWCP has reviewed this rule in accordance with Executive Order 12630, 53 FR 8859 (Mar. 15, 1988), and has determined that it does not contain any "policies that have takings implications" in regard to the "licensing, permitting, or other condition requirements or limitations on private property use, or that require dedications or exactions from owners of private property."

Executive Order 13211: Energy Supply, Distribution, or Use

OWCP has reviewed this rule and has determined that the provisions of Executive Order 13211, 66 FR 28355 (May 18, 2001), are not applicable as there are no direct or implied effects on energy supply, distribution, or use.

The Privacy Act of 1974, 5 U.S.C. 552a, as Amended

Claims filed under these regulations are subject to the current Privacy Act System of Records, DOL/GOVT-1, Office of Workers' Compensation Programs, Federal Employees' Compensation Act File, 67 FR 16826 (April 8, 2002).

Clarity of This Regulation

Executive Order 12866, 58 FR 51735 (September 30, 1993), and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. OWCP invited comments on how to make the proposed rule easier to understand, and has incorporated plain language into the rule.

List of Subjects in 20 CFR Parts 1, 10, and 25

Administrative practice and procedure, Claims, Government Employees, Labor, Workers' Compensation.

For reasons set forth in the preamble, the Office of Workers' Compensation

Programs, Department of Labor, amends 20 CFR chapter I as follows:

■ 1. Part 1 is revised to read as follows:

PART 1—PERFORMANCE OF FUNCTIONS

Sec.

- 1.1 Under what authority does the Office of Workers' Compensation Programs operate?
- 1.2 What functions are assigned to OWCP?
- 1.3 What rules are contained in this chapter?
- 1.4 Where are other rules concerning OWCP functions found?
- 1.5 When was the former Bureau of Employees' Compensation abolished?
- 1.6 How were many of OWCP's current functions administered in the past?

Authority: 5 U.S.C. 301, 8145 and 8149 (Reorganization Plan No. 6 of 1950, 15 FR 3174, 3 CFR, 1949-1953 Comp., p. 1004, 64 Stat. 1263); 42 U.S.C. 7384d and 7385s-10; E.O. 13179, 65 FR 77487, 3 CFR, 2000 Comp., p. 321; Secretary of Labor's Order No. 13-71, 36 FR 8155; Employment Standards Order No. 2-74, 39 FR 34722; Secretary of Labor's Order No. 10-2009, 74 FR 218.

§ 1.1 Under what authority does the Office of Workers' Compensation Programs operate?

(a) The Assistant Secretary of Labor for Employment Standards, by authority vested in him by the Secretary of Labor in Secretary's Order No. 13-71 (36 FR 8755), established in the Employment Standards Administration (ESA) an Office of Workers' Compensation Programs (OWCP) by Employment Standards Order No. 2-74 (39 FR 34722). The Assistant Secretary subsequently designated as the head thereof a Director who, under the general supervision of the Assistant Secretary, administered the programs assigned to OWCP by the Assistant Secretary.

(b) Effective November 8, 2009, ESA was dissolved into its four component parts, including OWCP. Secretary of Labor's Order 10-2009 (74 FR 58834) cancelled or modified all prior orders and directives referencing ESA, devolved certain authorities and responsibilities of ESA to OWCP, and delegated authority to the Director, OWCP, to administer the programs now assigned directly to OWCP.

§ 1.2 What functions are assigned to OWCP?

The Secretary of Labor has delegated authority and assigned responsibility to the Director of OWCP for the Department of Labor's programs under the following statutes:

(a) The Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101 *et seq.*), except

5 U.S.C. 8149 as it pertains to the Employees' Compensation Appeals Board.

(b) The War Hazards Compensation Act, as amended (42 U.S.C. 1701 *et seq.*).

(c) The War Claims Act of 1948, as amended (50 U.S.C. App. 2003 *et seq.*).

(d) The Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (42 U.S.C. 7384 *et seq.*), except 42 U.S.C. 7385s–15 as it pertains to the Office of the Ombudsman, and activities, pursuant to Executive Order 13179 (“Providing Compensation to America’s Nuclear Weapons Workers”) of December 7, 2000, assigned to the Secretary of Health and Human Services, the Secretary of Energy and the Attorney General.

(e) The Longshore and Harbor Workers' Compensation Act, as amended and extended (33 U.S.C. 901 *et seq.*), except: 33 U.S.C. 919(d) with respect to administrative law judges in the Office of Administrative Law Judges; 33 U.S.C. 921(b) as it pertains to the Benefits Review Board; and activities, pursuant to 33 U.S.C. 941, assigned to the Assistant Secretary of Labor for Occupational Safety and Health.

(f) The Black Lung Benefits Act, as amended (30 U.S.C. 901 *et seq.*), including 26 U.S.C. 9501, except: 33 U.S.C. 919(d) as incorporated by 30 U.S.C. 932(a), with respect to administrative law judges in the Office of Administrative Law Judges; and 33 U.S.C. 921(b) as incorporated by 30 U.S.C. 932(a), as it applies to the Benefits Review Board.

§ 1.3 What rules are contained in this chapter?

The rules in this chapter are those governing the OWCP functions under the Federal Employees' Compensation Act, the War Hazards Compensation Act, the War Claims Act and the Energy Employees Occupational Illness Compensation Program Act of 2000.

§ 1.4 Where are other rules concerning OWCP functions found?

(a) The rules of OWCP governing its functions under the Longshore and Harbor Workers' Compensation Act and its extensions are set forth in subchapter A of chapter VI of this title.

(b) The rules of OWCP governing its functions under the Black Lung Benefits Act program are set forth in subchapter B of chapter VI of this title.

(c) The rules and regulations of the Employees' Compensation Appeals Board are set forth in chapter IV of this title.

(d) The rules and regulations of the Benefits Review Board are set forth in Chapter VII of this title.

§ 1.5 When was the former Bureau of Employees' Compensation abolished?

By Secretary of Labor's Order issued September 23, 1974 (39 FR 34723), issued concurrently with Employment Standards Order 2–74 (39 FR 34722), the Secretary revoked the prior Secretary's Order No. 18–67 (32 FR 12979), which had delegated authority and assigned responsibility for the various workers' compensation programs enumerated in § 1.2, except the Black Lung Benefits Program and the Energy Employees Occupational Illness Compensation Program not then in existence, to the Director of the former Bureau of Employees' Compensation.

§ 1.6 How were many of OWCP's current functions administered in the past?

(a) Administration of the Federal Employees' Compensation Act and the Longshore and Harbor Workers' Compensation Act was initially vested in an independent establishment known as the U.S. Employees' Compensation Commission. By Reorganization Plan No. 2 of 1946 (3 CFR, 1943–1949 Comp., p. 1064; 60 Stat. 1095, effective July 16, 1946), the Commission was abolished and its functions were transferred to the Federal Security Agency to be performed by a newly created Bureau of Employees' Compensation within such Agency. By Reorganization Plan No. 19 of 1950 (15 FR 3178, 3 CFR, 1949–1954 Comp., page 1010, 64 Stat. 1271), said Bureau was transferred to the Department of Labor (DOL), and the authority formerly vested in the Administrator, Federal Security Agency, was vested in the Secretary of Labor. By Reorganization Plan No. 6 of 1950 (15 FR 3174, 3 CFR, 1949–1953 Comp., page 1004, 64 Stat. 1263), the Secretary of Labor was authorized to make from time to time such provisions as he shall deem appropriate, authorizing the performance of any of his functions by any other officer, agency, or employee of the DOL.

(b) In 1972, two separate organizational units were established within the Bureau: an Office of Workmen's Compensation Programs (37 FR 20533) and an Office of Federal Employees' Compensation (37 FR 22979). In 1974, these two units were abolished and one organizational unit, the Office of Workers' Compensation Programs, was established in lieu of the Bureau of Employees' Compensation (39 FR 34722).

■ 2. Part 10 is revised to read as follows:

PART 10—CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, AS AMENDED

Subpart A—General Provisions

Sec.

Introduction

- 10.0 What are the provisions of the FECA, in general?
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- 10.726 When does a juror's entitlement to disability compensation begin?
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- 10.819 What requirements must the provider's answer and OWCP's decision meet?
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- 10.914 What are the responsibilities of the employing agency in the death gratuity payment process?
- 10.915 What are the responsibilities of OWCP in the death gratuity payment process?
- 10.916 How is the amount of the death gratuity calculated?

Authority: 5 U.S.C. 301, 8102a, 8103, 8145 and 8149; 31 U.S.C. 3716 and 3717; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; Secretary of Labor's Order No. 10–2009, 74 FR 218.

Subpart A—General Provisions**Introduction****§ 10.0 What are the provisions of the FECA, in general?**

The Federal Employees' Compensation Act (FECA) as amended (5 U.S.C. 8101 *et seq.*) provides for the payment of workers' compensation benefits to civilian officers and employees of all branches of the Government of the United States. The regulations in this part describe the rules for filing, processing, and paying claims for benefits under the FECA. Proceedings under the FECA are non-adversarial in nature.

(a) The FECA has been amended and extended a number of times to provide workers' compensation benefits to volunteers in the Civil Air Patrol (5 U.S.C. 8141), members of the Reserve Officers' Training Corps (5 U.S.C. 8140), Peace Corps Volunteers (5 U.S.C. 8142), Job Corps enrollees and Volunteers in Service to America (5 U.S.C. 8143), members of the National Teachers Corps (5 U.S.C. 8143a), certain student employees (5 U.S.C. 5351 and 8144), certain law enforcement officers not employed by the United States (5 U.S.C. 8191–8193), and various other classes of persons who provide or have provided services to the Government of the United States.

(b) The FECA provides for payment of several types of benefits, including compensation for wage loss, schedule awards, medical and related benefits, and vocational rehabilitation services for conditions resulting from injuries sustained in performance of duty while in service to the United States.

(c) The FECA also provides for payment of monetary compensation to specified survivors of an employee whose death resulted from a work-related injury and for payment of certain burial expenses subject to the provisions of 5 U.S.C. 8134.

(d) All types of benefits and conditions of eligibility listed in this section are subject to the provisions of the FECA and of this part. This section shall not be construed to modify or

enlarge upon the provisions of the FECA.

§ 10.1 What rules govern the administration of the FECA and this chapter?

In accordance with 5 U.S.C. 8145 and Secretary's Order 5-96, the responsibility for administering the FECA, except for 5 U.S.C. 8149 as it pertains to the Employees' Compensation Appeals Board, has been delegated to the Director of the Office of Workers' Compensation Programs (OWCP). Except as otherwise provided by law, the Director, OWCP and his or her designees have the exclusive authority to administer, interpret and enforce the provisions of the Act.

§ 10.2 What do these regulations contain?

This part 10 sets forth the regulations governing administration of all claims filed under the FECA, except to the extent specified in certain particular provisions. Its provisions are intended to assist persons seeking compensation benefits under the FECA, as well as personnel in the various Federal agencies and the Department of Labor who process claims filed under the FECA or who perform administrative functions with respect to the FECA. This part 10 applies to part 25 of this chapter except as modified by part 25. The various subparts of this part contain the following:

(a) *Subpart A.* The general statutory and administrative framework for processing claims under the FECA. It contains a statement of purpose and scope, together with definitions of terms, descriptions of basic forms, information about the disclosure of OWCP records, and a description of rights and penalties under the FECA, including convictions for fraud.

(b) *Subpart B.* The rules for filing notices of injury and claims for benefits under the FECA. It also addresses evidence and burden of proof, as well as the process of making decisions concerning eligibility for benefits.

(c) *Subpart C.* The rules governing claims for and payment of continuation of pay.

(d) *Subpart D.* The rules governing emergency and routine medical care, second opinion and referee medical examinations directed by OWCP, and medical reports and records in general. It also addresses the kinds of treatment which may be authorized and how medical bills are paid.

(e) *Subpart E.* The rules relating to the payment of monetary compensation benefits for disability, impairment and death. It includes the provisions for

identifying and processing overpayments of compensation.

(f) *Subpart F.* The rules governing the payment of continuing compensation benefits. It includes provisions concerning the employee's and the employer's responsibilities in returning the employee to work. It also contains provisions governing reports of earnings and dependents, recurrences, and reduction and termination of compensation benefits.

(g) *Subpart G.* The rules governing the appeals of decisions under the FECA. It includes provisions relating to hearings, reconsiderations, and appeals before the Employees' Compensation Appeals Board.

(h) *Subpart H.* The rules concerning legal representation and for adjustment and recovery from a third party. It also contains provisions relevant to three groups of employees whose status requires special application of the provisions of the FECA: Federal grand and petit jurors, Peace Corps volunteers, and non-Federal law enforcement officers.

(i) *Subpart I.* Information for medical providers. It includes rules for medical reports, medical bills, and the OWCP medical fee schedule, as well as the provisions for exclusion of medical providers.

(j) *Subpart J.* Death Gratuity. The rules relating to the payment of the death gratuity benefit under 5 U.S.C. 8102a.

§ 10.3 Have the collection of information requirements of this part been approved by the Office of Management and Budget (OMB)?

The collection of information requirements in this part have been approved by OMB and assigned OMB control numbers 1240-0001, 1240-0007, 1240-0008, 1240-0009, 1240-0012, 1240-0013, 1240-0015, 1240-0016, 1240-0017, 1240-0018, 1240-0019, 1240-0022, 1240-0044, 1240-0045, 1240-0046, 1240-0047, 1240-0049, 1240-0050 and 1240-0051.

Definitions and Forms

§ 10.5 What definitions apply to the regulations in this subchapter?

Certain words and phrases found in this part are defined in this section or in the FECA. Some other words and phrases that are used only in limited situations are defined in the later subparts of the regulations in this subchapter.

(a) *Benefits* or *Compensation* in the regulations in this subchapter means Compensation as defined by the FECA at 5 U.S.C. 8101(12), which is the money OWCP pays to or on behalf of a beneficiary from the Employees'

Compensation Fund. The terms Benefits and Compensation include payments for lost wages, loss of wage-earning capacity, and permanent physical impairment. The terms Benefits and Compensation also include the money paid to beneficiaries for an employee's death, including both death benefits and any death gratuity benefit. These two terms also include any other amounts paid out of the Employees' Compensation Fund for such things as medical treatment, medical examinations conducted at the request of OWCP as part of the claims adjudication process, vocational rehabilitation services under 5 U.S.C. 8111, services of an attendant and funeral expenses under 5 U.S.C. 8134, but do not include continuation of pay as provided by 5 U.S.C. 8118.

(b) *Beneficiary* means an individual who is entitled to a benefit under the FECA and this part.

(c) *Claim* means a written assertion of an individual's entitlement to benefits under the FECA, submitted in a manner authorized by this part.

(d) *Claimant* means an individual whose claim has been filed.

(e) *Director* means the Director of OWCP or a person designated to carry out his or her functions.

(f) *Disability* means the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury. It may be partial or total.

(g) *Earnings from employment or self-employment* means:

(1) Gross earnings or wages before any deductions and includes the value of subsistence, quarters, reimbursed expenses and any other goods or services received in kind as remuneration; or

(2) A reasonable estimate of the cost to have someone else perform the duties of an individual who accepts no remuneration. Neither lack of profits, nor the characterization of the duties as a hobby, removes an unremunerated individual's responsibility to report the estimated cost to have someone else perform his or her duties.

(h) *Employee* means, but is not limited to, an individual who fits within one of the following listed groups:

(1) A civil officer or employee in any branch of the Government of the United States, including an officer or employee of an instrumentality wholly owned by the United States pursuant to 5 U.S.C. 8101(1)(A);

(2) An individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes

the acceptance or use of the service, or authorizes payment of travel or other expenses of the individual pursuant to 5 U.S.C. 8101(1)(B);

(3) An individual, other than an independent contractor or an individual employed by an independent contractor, employed on the Menominee Indian Reservation in Wisconsin in operations conducted under a statute relating to Tribal timber and logging operations on that reservation pursuant to 5 U.S.C. 8101(1)(C);

(4) An individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838) pursuant to 5 U.S.C. 8101(1)(E); or

(5) An individual selected and serving as a Federal petit or grand juror pursuant to 5 U.S.C. 8101(1)(F).

(i) *Employer or Agency* means any civil agency or instrumentality of the United States Government, or any other organization, group or institution employing an individual defined as an "employee" by this section. These terms also refer to officers and employees of an employer having responsibility for the supervision, direction or control of employees of that employer as an "immediate superior," and to other employees designated by the employer to carry out the functions vested in the employer under the FECA and this part, including officers or employees delegated responsibility by an employer for authorizing medical treatment for injured employees.

(j) *Entitlement* means entitlement to benefits as determined by OWCP under the FECA and the procedures described in this part.

(k) *FECA* means the Federal Employees' Compensation Act, as amended.

(l) *Hospital services* means services and supplies provided by hospitals within the scope of their practice as defined by State law.

(m) *Impairment* means any anatomic or functional abnormality or loss. A permanent impairment is any such abnormality or loss after maximum medical improvement has been achieved.

(n) *Knowingly* means with knowledge, consciously, willfully or intentionally.

(o) *Medical services* means services and supplies provided by or under the supervision of a physician. Reimbursable chiropractic services are limited to physical examinations (and related laboratory tests), x-rays performed to diagnose a subluxation of the spine and treatment consisting of manual manipulation of the spine to correct a subluxation.

(p) *Medical support services* means services, drugs, supplies and appliances provided by a person other than a physician or hospital.

(q) *Occupational disease or illness* means a condition produced by the work environment over a period longer than a single workday or shift.

(r) *OWCP* means the Office of Workers' Compensation Programs.

(s) *Pay rate for compensation purposes* means the employee's pay, as determined under 5 U.S.C. 8114, at the time of injury, the time disability begins or the time compensable disability recurs if the recurrence begins more than six months after the injured employee resumes regular full-time employment with the United States, whichever is greater, except as otherwise determined under 5 U.S.C. 8113 with respect to any period.

(t) *Physician* means an individual defined as such in 5 U.S.C. 8101(2), except during the period for which his or her license to practice medicine has been suspended or revoked by a State licensing or regulatory authority.

(u) *Qualified hospital* means any hospital licensed as such under State law which has not been excluded under the provisions of subpart I of this part. Except as otherwise provided by regulation, a qualified hospital shall be deemed to be designated or approved by OWCP.

(v) *Qualified physician* means any physician who has not been excluded under the provisions of subpart I of this part. Except as otherwise provided by regulation, a qualified physician shall be deemed to be designated or approved by OWCP.

(w) *Qualified provider of medical support services or supplies* means any person, other than a physician or a hospital, who provides services, drugs, supplies and appliances for which OWCP makes payment, who possesses any applicable licenses required under State law, and who has not been excluded under the provisions of subpart I of this part.

(x) *Recurrence of disability* means an inability to work after an employee has returned to work, 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 takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn or when the physical requirements of such an assignment are

altered so that they exceed his or her established physical limitations. A recurrence of disability does not apply when a light-duty assignment is withdrawn for reasons of misconduct, non-performance of job duties or other downsizing or where a loss of wage-earning capacity determination as provided by 5 U.S.C. 8115 is in place.

(y) *Recurrence of medical condition* means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a "need for further medical treatment after release from treatment," nor is an examination without treatment.

(z) *Representative* means an individual or law firm properly authorized by a claimant in writing to act for the claimant in connection with a claim or proceeding under the FECA or this part.

(aa) *Student* means an individual defined at 5 U.S.C. 8101(17). Two terms used in that particular definition are further defined as follows:

(1) *Additional type of educational or training institution* means a technical, trade, vocational, business or professional school accredited or licensed by the United States Government or a State Government or any political subdivision thereof providing courses of not less than three months duration, that prepares the individual for a livelihood in a trade, industry, vocation or profession.

(2) *Year beyond the high school level* means:

(i) The 12-month period beginning the month after the individual graduates from high school, provided he or she had indicated an intention to continue schooling within four months of high school graduation, and each successive 12-month period in which there is school attendance or the payment of compensation based on such attendance; or

(ii) If the individual has indicated that he or she will not continue schooling within four months of high school graduation, the 12-month period beginning with the month that the individual enters school to continue his or her education, and each successive 12-month period in which there is school attendance or the payment of compensation based on such attendance.

(bb) *Subluxation* means an incomplete dislocation, off-centering, misalignment, fixation or abnormal spacing of the vertebrae which must be demonstrable on any x-ray film to an

individual trained in the reading of x-rays.

(cc) *Surviving spouse* means the husband or wife living with or dependent for support upon a deceased employee at the time of his or her death, or living apart for reasonable cause or because of the deceased employee's desertion, unless otherwise defined under the FECA for the specific benefit such as the FECA death gratuity at 5 U.S.C. 8102a.

(dd) *Temporary aggravation of a pre-existing condition* means that factors of employment have directly caused that condition to be more severe for a limited period of time and have left no greater impairment than existed prior to the employment injury.

(ee) *Traumatic injury* means a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.

§ 10.6 What special statutory definitions apply to dependents and survivors?

(a) 5 U.S.C. 8133 provides that certain benefits are payable to certain enumerated survivors of employees who have died from an injury sustained in the performance of duty.

(b) 5 U.S.C. 8148 also provides that certain other benefits may be payable to certain family members of employees who have been incarcerated due to a felony conviction.

(c) 5 U.S.C. 8110(b) further provides that any employee who is found to be eligible for a basic benefit shall be entitled to have such basic benefit augmented at a specified rate for certain persons who live in the beneficiary's household or who are dependent upon the beneficiary for support.

(d) 5 U.S.C. 8101, 8110, 8133, and 8148, which define the nature of such survivorship or dependency necessary to qualify a beneficiary for a survivor's benefit or an augmented benefit, apply to the provisions of this part but not to the death gratuity provided under subpart J.

(e) 5 U.S.C. 8102a provides the definitions for survivorship or dependency necessary to qualify as a beneficiary for a death gratuity benefit as well as allowing half the death gratuity benefit to be paid to alternate beneficiary.

§ 10.7 What forms are needed to process claims under the FECA?

(a) Notice of injury, claims and certain specified reports shall be made on forms

prescribed by OWCP. Employers shall not modify these forms or use substitute forms. Employers are expected to maintain an adequate supply of the basic forms needed for the proper recording and reporting of injuries.

Form No.	Title
(1) CA-1	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation.
(2) CA-2	Notice of Occupational Disease and Claim for Compensation.
(3) CA-2a	Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation.
(4) CA-3	Report of Work Status.
(5) CA-5	Claim for Compensation by Widow, Widower and/or Children.
(6) CA-5b	Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren.
(7) CA-6	Official Superior's Report of Employee's Death.
(8) CA-7	Claim for Compensation Due to Traumatic Injury or Occupational Disease.
(9) CA-7a	Time Analysis Form.
(10) CA-7b	Leave Buy Back (LBB) Worksheet/Certification and Election.
(11) CA-16	Authorization of Examination and/or Treatment.
(12) CA-17	Duty Status Report.
(13) CA-20	Attending Physician's Report.
(14) CA-20a	Attending Physician's Supplemental Report.
(15) CA-40	Designation of a Recipient of the Federal Employees' Compensation Act Death Gratuity Payment under Section 1105 of Public Law 110-181 (Section 8102a).
(16) CA-41	Claim for Survivor Benefits Under the Federal Employees' Compensation Act Section 8102a Death Gratuity.
(17) CA-42	Official Notice of Employees' Death for Purposes of FECA Section 8102a Death Gratuity.
(18) CA-1108	Statement of Recovery Letter with Long Form.
(19) CA-1122	Statement of Recovery Letter with Short Form.

(b) Copies of the forms listed in this paragraph are available for public inspection at the Office of Workers' Compensation Programs, U.S. Department of Labor, Washington, DC 20210. They may also be obtained from district offices, employers (i.e., safety and health offices, supervisors), and the Internet, at <http://www.dol.gov>.

Information in Program Records

§ 10.10 Are all documents relating to claims filed under the FECA considered confidential?

All records relating to claims for benefits, including copies of such records maintained by an employer, are considered confidential and may not be released, inspected, copied or otherwise disclosed except as provided in the Freedom of Information Act and the Privacy Act of 1974 or under the routine uses provided by DOL/GOVT-1 if such release is consistent with the purpose for which the record was created.

§ 10.11 Who maintains custody and control of FECA records?

All records relating to claims for benefits filed under the FECA, including any copies of such records maintained by an employing agency, are covered by the government-wide Privacy Act system of records entitled DOL/GOVT-1 (Office of Workers' Compensation Programs, Federal Employees' Compensation Act File). This system of records is maintained by and under the control of OWCP, and, as such, all records covered by DOL/GOVT-1 are official records of OWCP. The protection, release, inspection and copying of records covered by DOL/GOVT-1 shall be accomplished in accordance with the rules, guidelines and provisions of this part, as well as those contained in 29 CFR parts 70 and 71, and with the notice of the system of records and routine uses published in the **Federal Register**. All questions relating to access/disclosure, and/or amendment of FECA records maintained by OWCP or the employing agency, are to be resolved in accordance with this section.

§ 10.12 How may a FECA claimant or beneficiary obtain copies of protected records?

(a) A claimant seeking copies of his or her official FECA file should address a request to the District Director of the OWCP office having custody of the file. A claimant seeking copies of FECA-related documents in the custody of the employer should follow the procedures established by that agency.

(b) (1) While an employing agency may establish procedures that an injured employee or beneficiary should follow in requesting access to documents it maintains, any decision issued in response to such a request must comply with the rules and regulations of the Department of Labor which govern all other aspects of safeguarding these records.

(2) No employing agency has the authority to issue determinations with

respect to requests for the correction or amendment of records contained in or covered by DOL/GOVT-1. That authority is within the exclusive control of OWCP. Thus, any request for correction or amendment received by an employing agency must be referred to OWCP for review and decision.

(3) Any administrative appeal taken from a denial issued by the employing agency or OWCP shall be filed with the Solicitor of Labor in accordance with 29 CFR 71.7 and 71.9.

§ 10.13 What process is used by a person who wants to correct FECA-related documents?

Any request to amend a record covered by DOL/GOVT-1 should be directed to the district office having custody of the official file. No employer has the authority to issue determinations with regard to requests for the correction of records contained in or covered by DOL/GOVT-1. Any request for correction received by an employer must be referred to OWCP for review and decision.

Rights and Penalties

§ 10.15 May compensation rights be waived?

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

§ 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.

§ 10.17 Is a beneficiary who defrauds the Government in connection with a claim for benefits still entitled to those benefits?

When a beneficiary either pleads guilty to or is found guilty on either Federal or State criminal charges of defrauding the Federal Government in connection with a claim for benefits, the beneficiary's entitlement to any further compensation benefits will terminate effective the date of conviction, which is the date of the verdict or, in the case of a plea bargain, the date the claimant made the plea in open court (not the date of sentencing or the date court papers were signed). The employing agency may, upon request, be required to provide the documentation needed for termination under this section. Termination of entitlement under this section is not affected by any subsequent change in or recurrence of the beneficiary's medical condition.

§ 10.18 Can a beneficiary who is incarcerated based on a felony conviction still receive benefits?

(a) Whenever a beneficiary is incarcerated in a State or Federal jail, prison, penal institution or other correctional facility due to a State or Federal felony conviction, he or she forfeits all rights to compensation benefits during the period of incarceration. A beneficiary's right to compensation benefits for the period of his or her incarceration is not restored after such incarceration ends, even though payment of compensation benefits may resume. A beneficiary has an affirmative duty to provide notice of any conviction and imprisonment. The employing agency shall provide OWCP any information or documentation they may have concerning such matters.

(b) If the beneficiary has eligible dependents, OWCP will pay compensation to such dependents at a reduced rate during the period of his or her incarceration, by applying the percentages of 5 U.S.C. 8133(a)(1) through (5) to the beneficiary's gross current entitlement rather than to the beneficiary's monthly pay.

(c) If OWCP's decision on entitlement is pending when the period of incarceration begins, and compensation is due for a period of time prior to such incarceration, payment for that period will only be made to the beneficiary following his or her release.

Subpart B—Filing Notices and Claims; Submitting Evidence

Notices and Claims for Injury, Disease, and Death—Employee or Survivor's Actions

§ 10.100 How and when is a notice of traumatic injury filed?

(a) To claim benefits under the FECA, an employee who sustains a work-related traumatic injury must give notice of the injury in writing on Form CA-1, which may be obtained from the employer or from the Internet at www.dol.gov under forms. The employee must forward this notice to the employer. Another person, including the employer, may give notice of injury on the employee's behalf. The person submitting a notice shall include the Social Security Number (SSN) of the injured employee. All such notices should be submitted electronically wherever feasible to facilitate processing of such claims. All employers that currently do not have such capability should create such a method by December 31, 2012.

(b) For injuries sustained on or after September 7, 1974, a notice of injury must be filed within three years of the injury. (The form contains the necessary words of claim.) The requirements for filing notice are further described in 5 U.S.C. 8119. Also see § 10.205 concerning time requirements for filing claims for continuation of pay.

(1) If the claim is not filed within three years, compensation may still be allowed if notice of injury was given within 30 days or the employer had actual knowledge of the injury or death within 30 days after occurrence. This knowledge may consist of written records or verbal notification. An entry into an employee's medical record may also satisfy this requirement if it is sufficient to place the employer on notice of a possible work-related injury or disease.

(2) OWCP may excuse failure to comply with the three-year time requirement because of truly exceptional circumstances (for example, being held prisoner of war).

(3) The claimant may withdraw his or her claim (but not the notice of injury) by so requesting in writing to OWCP at any time before OWCP determines eligibility for benefits. Any continuation of pay (COP) granted to an employee after a claim is withdrawn must be charged to sick or annual leave, or considered an overpayment of pay consistent with 5 U.S.C. 5584, at the employee's option.

(c) However, in cases of latent disability, the time for filing claim does

not begin to run until the employee has a compensable disability and is aware, or reasonably should have been aware, of the causal relationship between the disability and the employment (see 5 U.S.C. 8122(b)).

§ 10.101 How and when is a notice of occupational disease filed?

(a) To claim benefits under the FECA, an employee who has a disease which he or she believes to be work-related must give notice of the condition in writing on Form CA-2, which may be obtained from the employer or from the Internet at www.dol.gov under forms. The employee must forward this notice to the employer. Another person, including the employer, may do so on the employee's behalf. The person submitting a notice shall include the Social Security Number (SSN) of the injured employee. All such notices should be submitted electronically wherever feasible to facilitate processing of such claims. All employers that currently do not have such capability should create such a method by December 31, 2012. The claimant may withdraw his or her claim (but not the notice of occupational disease) by so requesting in writing to OWCP at any time before OWCP determines eligibility for benefits.

(b) For occupational diseases sustained as a result of exposure to injurious work factors that occurs on or after September 7, 1974, a notice of occupational disease must be filed within three years of the onset of the condition. (The form contains the necessary words of claim.) The requirements for timely filing are described in § 10.100(b)(1) through (3).

(c) However, in cases of latent disability, the time for filing claim does not begin to run until the employee has a compensable disability and is aware, or reasonably should have been aware, of the causal relationship between the disability and the employment (see 5 U.S.C. 8122(b)).

§ 10.102 How and when is a claim for wage loss compensation filed?

(a) Form CA-7 is used to claim compensation for periods of disability not covered by COP.

(1) An employee who is disabled with loss of pay for more than three calendar days due to an injury, or someone acting on his or her behalf, must file Form CA-7 before compensation can be paid.

(2) The employee shall complete the front of Form CA-7 and submit the form to the employer for completion and transmission to OWCP. The form should be completed as soon as possible, but no more than 14 calendar days after the

date pay stops due to the injury or disease. All such notices should be submitted electronically wherever feasible to facilitate processing of such claims. All employers that currently do not have such capability should create such a method by December 31, 2012.

(3) The requirements for filing claims are further described in 5 U.S.C. 8121.

(b) Form CA-7 is also used to claim compensation for additional periods of disability following the initial injury.

(1) It is the employee's responsibility to submit Form CA-7. Without receipt of such claim, OWCP has no knowledge of continuing wage loss. Therefore, while disability continues, the employee should submit a claim on Form CA-7 each two weeks until otherwise instructed by OWCP.

(2) The employee shall complete the front of Form CA-7 and submit the form to the employer for completion and transmission to OWCP.

(3) The employee is responsible for submitting, or arranging for the submittal of, medical evidence to OWCP which establishes both that disability continues and that the disability is due to the work-related injury. Form CA-20a is submitted with Form CA-7 for this purpose.

§ 10.103 How and when is a claim for permanent impairment filed?

Form CA-7 is used to claim compensation for impairment to a body part covered under the schedule established by 5 U.S.C. 8107. All such notices should be submitted electronically wherever feasible to facilitate processing of such claims. All employers that currently do not have such capability should create such a method by December 31, 2012. If Form CA-7 has already been filed to claim disability compensation, an employee may file a claim for such impairment by sending a letter to OWCP which specifies the nature of the benefit claimed. OWCP may create a form specifically for schedule award claims; if that form is created, only that form may be used to file a claim under 5 U.S.C. 8107.

§ 10.104 How and when is a claim for recurrence filed?

(a) A recurrence should be reported on Form CA-2a if that recurrence causes the employee to lose time from work and incur a wage loss, or if the employee experiences a renewed need for treatment after previously being released from care. However, a notice of recurrence should not be filed when a new injury, new occupational disease, or new event contributing to an already-existing occupational disease has

occurred. In these instances, the employee should file Form CA-1 or CA-2.

(b) The employee has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.

(1) The employee must include a detailed factual statement as described on Form CA-2a. The employer may submit comments concerning the employee's statement.

(2) The employee should arrange for the submittal of a detailed medical report from the attending physician as described on Form CA-2a. The employee should also submit, or arrange for the submittal of, similar medical reports for any examination and/or treatment received after returning to work following the original injury.

(c) A claim for recurrence of disability is not available where OWCP has issued a loss of wage-earning capacity determination. Under that circumstance, the only method for claiming additional wage loss compensation is through a request to modify that determination. However, OWCP is not precluded from adjudicating a limited period of disability following the issuance of a loss of wage-earning capacity decision, such as where an employee has a demonstrated need for surgery.

§ 10.105 How and when is a notice of death and claim for benefits filed?

(a) If an employee dies from a work-related traumatic injury or an occupational disease, any survivor may file a claim for death benefits using Form CA-5 or CA-5b, which may be obtained from the employer or from the Internet at www.dol.gov under forms. The survivor must provide this notice in writing and forward it to the employer. Another person, including the employer, may do so on the survivor's behalf. The survivor may also submit the completed Form CA-5 or CA-5b directly to OWCP. The survivor shall disclose the SSNs of all survivors on whose behalf claim for benefits is made in addition to the SSN of the deceased employee. All such notices should be submitted electronically wherever feasible to facilitate processing of such claims. All employers that currently do not have such capability should create such a method by December 31, 2012. The survivor may withdraw his or her claim (but not the notice of death) by so requesting in writing to OWCP at any time before OWCP determines eligibility for benefits.

(b) For deaths that occur on or after September 7, 1974, a notice of death must be filed within three years of the

death. The form contains the necessary words of claim. The requirements for timely filing are described in § 10.100(b)(1) through (3).

(c) However, in cases of death due to latent disability, the time for filing the claim does not begin to run until the survivor is aware, or reasonably should have been aware, of the causal relationship between the death and the employment (see 5 U.S.C. 8122(b)).

(d) The filing of a notice of injury or occupational disease will satisfy the time requirements for a death claim based on the same injury or occupational disease. If an injured employee or someone acting on the employee's behalf does not file a claim before the employee's death, the right to claim compensation for disability other than medical expenses ceases and does not survive.

(e) A survivor must be alive to receive any payment; there is no vested right to such payment. A report as described in § 10.414 of this part must be filed once each year to support continuing payments of compensation.

Notices and Claims for Injury, Disease, and Death—Employer's Actions

§ 10.110 What should the employer do when an employee files a notice of traumatic injury or occupational disease?

(a) The employer shall complete the agency portion of Form CA-1 (for traumatic injury) or CA-2 (for occupational disease) no more than 10 working days after receipt of notice from the employee. The employer shall also complete the Receipt of Notice and give it to the employee, along with copies of both sides of Form CA-1 or Form CA-2.

(b) The employer must complete and transmit the form to OWCP within 10 working days after receipt of notice from the employee if the injury or disease will likely result in:

- (1) A medical charge against OWCP;
- (2) Disability for work beyond the day or shift of injury;
- (3) The need for more than two appointments for medical examination and/or treatment on separate days, leading to time loss from work;
- (4) Future disability;
- (5) Permanent impairment; or
- (6) Continuation of pay pursuant to 5 U.S.C. 8118.

(c) The employer should not wait for submittal of supporting evidence before sending the form to OWCP.

(d) If none of the conditions in paragraph (b) of this section applies, the Form CA-1 or CA-2 shall be retained as a permanent record in the Employee Medical Folder in accordance with the

guidelines established by the Office of Personnel Management.

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

(a) Except for employees covered by paragraph (d) of this section, when an employee is disabled by a work-related injury and loses pay for more than three calendar days, or has a permanent impairment or serious disfigurement as described in 5 U.S.C. 8107, the employer shall furnish the employee with Form CA-7 for the purpose of claiming compensation.

(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.

(c) Upon receipt of Form CA-7 from the employee, or someone acting on his or her behalf, the employer shall complete the appropriate portions of the form. As soon as possible, but no more than five working days after receipt from the employee, the employer shall forward the completed Form CA-7 and any accompanying medical report to OWCP.

(d) Postal Service employees are not entitled to compensation or continuation of pay for the waiting period, the first three days of disability. Such employees may use annual leave, sick leave or leave without pay during that period; however, if the disability exceeds 14 days, the employee may have their sick leave or annual leave reinstated or receive pay for the time spent on leave without pay. This waiting period does not apply to the provision of medical care, and days of time loss for medical treatment only with no work-related disability do not count as part of the waiting period. A Postal Service employee seeking wage loss compensation for this period should utilize Form CA-7 to claim such benefits.

§ 10.112 What should the employer do when an employee files a claim for continuing compensation due to disability?

(a) If the employee continues in a leave-without-pay status due to a work-related injury after the period of compensation initially claimed on Form CA-7, the employer shall furnish the employee with another Form CA-7 for the purpose of claiming continuing compensation.

(b) Upon receipt of Form CA-7 from the employee, or someone acting on his or her behalf, the employer shall complete the appropriate portions of the form. As soon as possible, but no more than five working days after receipt from the employee, the employer shall forward the completed Form CA-7 and any accompanying medical report to OWCP.

§ 10.113 What should the employer do when an employee dies from a work-related injury or disease?

(a) The employer shall immediately report a death due to a work-related traumatic injury or occupational disease to OWCP by telephone, telegram, or facsimile (fax). No more than 10 working days after notification of the death, the employer shall complete and send Form CA-6 to OWCP.

(b) When possible, the employer shall furnish a Form CA-5 or CA-5b to all persons likely to be entitled to compensation for death of an employee. The employer should also supply information about completing and filing the form.

(c) The employer shall promptly transmit Form CA-5 or CA-5b to OWCP. The employer shall also promptly transmit to OWCP any other claim or paper submitted which appears to claim compensation on account of death.

Evidence and Burden of Proof

§ 10.115 What evidence is needed to establish a claim?

Forms CA-1, CA-2, CA-5 and CA-5b describe the basic evidence required. OWCP may send a request for additional evidence to the claimant and to his or her representative, if any; however the burden of proof still remains with the claimant. Evidence should be submitted in writing. The evidence submitted must be reliable, probative and substantial. Each claim for compensation must meet five requirements before OWCP can accept it. These requirements, which the employee must establish to meet his or her burden of proof, are as follows:

(a) The claim was filed within the time limits specified by the FECA;

(b) The injured person was, at the time of injury, an employee of the United States as defined in 5 U.S.C. 8101(1) and § 10.5(h) of this part;

(c) The fact that an injury, disease or death occurred;

(d) The injury, disease or death occurred while the employee was in the performance of duty; and

(e) The medical condition for which compensation or medical benefits is claimed is causally related to the

claimed injury, disease or death. Neither the fact that the condition manifests itself during a period of Federal employment, nor the belief of the claimant that factors of employment caused or aggravated the condition, is sufficient in itself to establish causal relationship.

(f) In all claims, the claimant is responsible for submitting, or arranging for submittal of, a medical report from the attending physician. For wage loss benefits, the claimant must also submit medical evidence showing that the condition claimed is disabling. The rules for submitting medical reports are found in §§ 10.330 through 10.333.

§ 10.116 What additional evidence is needed in cases based on occupational disease?

(a) The employee must submit the specific detailed information described on Form CA-2 and should submit any checklist (Form CA-35, A-H) provided by the employer. OWCP has developed these checklists to address particular occupational diseases. The medical report should also include the information specified on the checklist for the particular disease claimed.

(b) The employer should submit the specific detailed information described on Form CA-2 and on any checklist pertaining to the claimed disease.

§ 10.117 What happens if, in any claim, the employer contests any of the facts as stated by the claimant?

(a) An employer who has reason to disagree with any aspect of the claimant's report shall submit a statement to OWCP that specifically describes the factual allegation or argument with which it disagrees and provide evidence or argument to support its position. The employer may include supporting documents such as witness statements, medical reports or records, or any other relevant information.

(b) Any such statement shall be submitted to OWCP with the notice of traumatic injury or death, or within 30 calendar days from the date notice of occupational disease or death is received from the claimant. If the employer does not submit a written explanation to support the disagreement, OWCP may accept the claimant's report of injury as established. The employer may not use a disagreement with an aspect of the claimant's report to delay forwarding the claim to OWCP or to compel or induce the claimant to change or withdraw the claim.

§ 10.118 Does the employer participate in the claims process in any other way?

(a) The employer is responsible for submitting to OWCP all relevant and probative factual and medical evidence in its possession, or which it may acquire through investigation or other means. Such evidence may be submitted at any time.

(b) The employer may ascertain the events surrounding an injury and the extent of disability where it appears that an employee who alleges total disability may be performing other work, or may be engaging in activities which would indicate less than total disability. This authority is in addition to that given in § 10.118(a). However, the provisions of the Privacy Act apply to any endeavor by the employer to ascertain the facts of the case (see §§ 10.10 and 10.11).

(c) The employer does not have the right, except as provided in subpart C of this part, to actively participate in the claims adjudication process.

§ 10.119 What action will OWCP take with respect to information submitted by the employer?

OWCP will consider all evidence submitted appropriately, and OWCP will inform the employee, the employee's representative, if any, and the employer of any action taken. Where an employer contests a claim within 30 days of the initial submittal and the claim is later approved, OWCP will notify the employer of the rationale for approving the claim.

§ 10.120 May a claimant submit additional evidence?

A claimant or a person acting on his or her behalf may submit to OWCP at any time any other evidence relevant to the claim.

§ 10.121 What happens if OWCP needs more evidence from the claimant?

If the claimant submits factual evidence, medical evidence, or both, but OWCP determines that this evidence is not sufficient to meet the burden of proof, OWCP will inform the claimant of the additional evidence needed. The claimant will be allowed at least 30 days to submit the evidence required. OWCP is not required to notify the claimant a second time if the evidence submitted in response to its first request is not sufficient to meet the burden of proof.

Decisions on Entitlement to Benefits

§ 10.125 How does OWCP determine entitlement to benefits?

(a) In reaching any decision with respect to FECA coverage or entitlement, OWCP considers the claim presented by the claimant, the report by

the employer, and the results of such investigation as OWCP may deem necessary.

(b) OWCP claims staff apply the law, the regulations, and its procedures to the facts as reported or obtained upon investigation. They also apply decisions of the Employees' Compensation Appeals Board and administrative decisions of OWCP as set forth in FECA Program Memoranda.

§ 10.126 What does the decision contain?

The decision shall contain findings of fact and a statement of reasons. It is accompanied by information about the claimant's appeal rights, which may include the right to a hearing, a reconsideration, and/or a review by the Employees' Compensation Appeals Board. (See subpart G of this part.)

§ 10.127 To whom is the decision sent?

A copy of the decision shall be mailed to the employee's last known address. If the employee has a designated representative before OWCP, a copy of the decision will also be mailed to the representative. A copy of the decision will also be sent to the employer.

Subpart C—Continuation of Pay

§ 10.200 What is continuation of pay?

(a) For most employees who sustain a traumatic injury, the FECA provides that the employer must continue the employee's regular pay during any periods of resulting disability, up to a maximum of 45 calendar days. This is called continuation of pay, or COP. The employer, not OWCP, pays COP. Unlike wage loss benefits, COP is subject to taxes and all other payroll deductions that are made from regular income.

(b) The employer must continue the pay of an employee, except for Postal Service employees pursuant to 5 U.S.C. 8117 and as provided below in paragraph (c) of this section, who is eligible for COP, and may not require the employee to use his or her own sick or annual leave, unless the provisions of §§ 10.200(c), 10.220, or 10.222 apply. However, while continuing the employee's pay, the employer may controvert the employee's COP entitlement pending a final determination by OWCP. OWCP has the exclusive authority to determine questions of entitlement and all other issues relating to COP.

(c) Postal Service employees are not entitled to continuation of pay for the first 3 days of temporary disability and may use annual, sick or leave without pay during that period, except that if the disability exceeds 14 days or is followed by permanent disability, the Postal

Service employee may have that leave restored.

(d) The FECA excludes certain persons from eligibility for COP. COP cannot be authorized for members of these excluded groups, which include but are not limited to: persons rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay; volunteers (for instance, in the Civil Air Patrol and Peace Corps); Job Corps and Youth Conservation Corps enrollees; individuals in work- study programs, and grand or petit jurors (unless otherwise Federal employees).

Eligibility for COP

§ 10.205 What conditions must be met to receive COP?

(a) To be eligible for COP, a person must:

(1) Have a "traumatic injury" as defined at § 10.5(ee) which is job-related and the cause of the disability, and/or the cause of lost time due to the need for medical examination and treatment;

(2) File Form CA-1 within 30 days of the date of the injury (but if that form is not available, using another form would not alone preclude receipt); and

(3) Begin losing time from work due to the traumatic injury within 45 days of the injury.

(b) OWCP may find that the employee is not entitled to COP for other reasons consistent with the statute (see § 10.220).

§ 10.206 May an employee who uses leave after an injury later decide to use COP instead?

On Form CA-1, an employee may elect to use accumulated sick or annual leave, or leave advanced by the agency, instead of electing COP. The employee can change the election between leave and COP for prospective periods at any point while eligibility for COP remains. The employee may also change the election for past periods and request COP in lieu of leave already taken for the same period. In either situation, the following provisions apply:

(a) The request must be made to the employer within one year of the date the leave was used or the date of the written approval of the claim by OWCP (if written approval is issued), whichever is later.

(b) Where the employee is otherwise eligible, the agency shall restore leave taken in lieu of any of the 45 COP days. Where any of the 45 COP days remain unused, the agency shall continue pay prospectively.

(c) The use of leave may not be used to delay or extend the 45-day COP

period or to otherwise affect the time limitation as provided by 5 U.S.C. 8117. Therefore, any leave used during the period of eligibility counts towards the 45-day maximum entitlement to COP.

§ 10.207 May an employee who returns to work, then stops work again due to the effects of the injury, receive COP?

If the employee recovers from disability and returns to work, then becomes disabled again and stops work, the employer shall pay any of the 45 days of entitlement to COP not used during the initial period of disability where:

(a) The employee completes Form CA-2a and elects to receive regular pay;

(b) OWCP did not deny the original claim for disability;

(c) The disability recurs and the employee stops work within 45 days of the time the employee first returned to work following the initial period of disability; and

(d) Pay has not been continued for the entire 45 days.

Responsibilities

§ 10.210 What are the employee's responsibilities in COP cases?

An employee who sustains a traumatic injury which he or she considers disabling, or someone authorized to act on his or her behalf, must take the following actions to ensure continuing eligibility for COP. The employee must:

(a) Complete and submit Form CA-1 to the employing agency as soon as possible, but no later than 30 days from the date the traumatic injury occurred.

(b) Ensure that medical evidence supporting disability resulting from the claimed traumatic injury, including a statement as to when the employee can return to his or her date of injury job, is provided to the employer within 10 calendar days after filing the claim for COP.

(c) Ensure that relevant medical evidence is submitted to OWCP, and cooperate with OWCP in developing the claim.

(d) Ensure that the treating physician specifies work limitations and provides them to the employer and/or representatives of OWCP.

(e) Provide to the treating physician a description of any specific alternative positions offered the employee, and ensure that the treating physician responds promptly to the employer and/or OWCP, with an opinion as to whether and how soon the employee could perform that or any other specific position.

§ 10.211 What are the employer's responsibilities in COP cases?

Once the employer learns of a traumatic injury sustained by an employee, it shall:

(a) Provide a Form CA-1 and Form CA-16 to authorize medical care in accordance with § 10.300. Failure to do so may mean that OWCP will not uphold any termination of COP by the employer.

(b) Advise the employee of the right to receive COP, and the need to elect among COP, annual or sick leave or leave without pay, for any period of disability.

(c) Inform the employee of any decision to controvert COP and/or terminate pay, and the basis for doing so.

(d) Complete Form CA-1 and transmit it, along with all other available pertinent information, (including the basis for any controversion), to OWCP within 10 working days after receiving the completed form from the employee.

Calculation of COP

§ 10.215 How does OWCP compute the number of days of COP used?

COP is payable for a maximum of 45 calendar days, and every day used is counted toward this maximum. The following rules apply:

(a) Time lost on the day or shift of the injury does not count toward COP. (Instead, the agency must keep the employee in a pay status for that period);

(b) The first COP day is the first day disability begins following the date of injury (providing it is within the 45 days following the date of injury), except where the injury occurs before the beginning of the work day or shift, in which case the date of injury is charged to COP;

(c) Any part of a day or shift (except for the day of the injury) counts as a full day toward the 45 calendar day total;

(d) Regular days off are included if COP has been used on the regular work days immediately preceding or following the regular day(s) off, and medical evidence supports disability; and

(e) Leave used during a period when COP is otherwise payable is counted toward the 45-day COP maximum as if the employee had been in a COP status.

(f) For employees with part-time or intermittent schedules, all calendar days on which medical evidence indicates disability are counted as COP days, regardless of whether the employee was or would have been scheduled to work on those days. The rate at which COP is paid for these employees is calculated according to § 10.216(b).

§ 10.216 How is the pay rate for COP calculated?

The employer shall calculate COP using the period of time and the weekly pay rate.

(a) The pay rate for COP purposes is equal to the employee's regular "weekly" pay (the average of the weekly pay over the preceding 52 weeks).

(1) The pay rate excludes overtime pay, but includes other applicable extra pay except to the extent prohibited by law.

(2) Changes in pay or salary (for example, promotion, demotion, within-grade increases, termination of a temporary detail, *etc.*) which would have otherwise occurred during the 45-day period are to be reflected in the weekly pay determination.

(b) The weekly pay for COP purposes is determined according to the following formulas:

(1) For full or part-time workers (permanent or temporary) who work the same number of hours each week of the year (or of the appointment), the weekly pay rate is the hourly pay rate (A) in effect on the date of injury multiplied by (x) the number of hours worked each week (B): $A \times B = \text{Weekly Pay Rate}$.

(2) For part-time workers (permanent or temporary) who do not work the same number of hours each week, but who do work each week of the year (or period of appointment), the weekly pay rate is an average of the weekly earnings, established by dividing (+) the total earnings (excluding overtime) from the year immediately preceding the injury (A) by the number of weeks (or partial weeks) worked in that year (B): $A \div B = \text{Weekly Pay Rate}$.

(3) For intermittent and seasonal workers, whether permanent or temporary, who do not work either the same number of hours or every week of the year (or period of appointment), the weekly pay rate is the average weekly earnings established by dividing (+) the total earnings during the full 12-month period immediately preceding the date of injury (excluding overtime) (A), by the number of weeks (or partial weeks) worked during that year (B) (that is, $A \div B$); or 150 times the average daily wage earned in the employment during the days employed within the full year immediately preceding the date of injury divided by 52 weeks, whichever is greater.

§ 10.217 Is COP charged if the employee continues to work, but in a different job that pays less?

If the employee cannot perform the duties of his or her regular position, but instead works in another job with different duties with no loss in pay,

then COP is not chargeable. COP must be paid and the days counted against the 45 days authorized by law whenever an actual reduction of pay results from the injury, including a reduction of pay for the employee's normal administrative workweek that results from a change or diminution in his or her duties following an injury. However, this does not include a reduction of pay that is due solely to an employer being prohibited by law from paying extra pay to an employee for work he or she does not actually perform.

Controversion and Termination of COP**§ 10.220 When is an employer not required to pay COP?**

An employer shall continue the regular pay of an eligible employee without a break in time for up to 45 calendar days, except when, and only when:

(a) The disability was not caused by a traumatic injury;

(b) The employee is not a citizen of the United States or Canada;

(c) No written claim was filed within 30 days from the date of injury;

(d) The injury was not reported until after employment has been terminated;

(e) The injury occurred off the employing agency's premises and was otherwise not within the performance of official duties;

(f) The injury was caused by the employee's willful misconduct, intent to injure or kill himself or herself or another person, or was proximately caused by intoxication by alcohol or illegal drugs; or

(g) Work did not stop until more than 45 days following the injury.

§ 10.221 How is a claim for COP controverted?

When the employer stops an employee's pay for one of the reasons cited in § 10.220, the employer must controvert the claim for COP on Form CA-1, explaining in detail the basis for the refusal. The final determination on entitlement to COP always rests with OWCP.

§ 10.222 When may an employer terminate COP which has already begun?

(a) Where the employer has continued the pay of the employee, it may be stopped only when at least one of the following circumstances is present:

(1) Medical evidence which on its face supports disability due to a work-related injury is not received within 10 calendar days after the claim is submitted (unless the employer's own investigation shows disability to exist). Where the medical evidence is later provided, however, COP shall be

reinstated retroactive to the date of termination;

(2) The medical evidence from the treating physician shows that the employee is not disabled from his or her regular position;

(3) Medical evidence from the treating physician shows that the employee is not totally disabled, and the employee refuses a written offer of a suitable alternative position which is approved by the attending physician. If OWCP later determines that the position was not suitable, OWCP will direct the employer to grant the employee COP retroactive to the termination date.

(4) The employee returns to work with no loss of pay;

(5) The employee's period of employment expires or employment is otherwise terminated (as established prior to the date of injury);

(6) OWCP directs the employer to stop COP; and/or

(7) COP has been paid for 45 calendar days.

(b) An employer may not interrupt or stop COP to which the employee is otherwise entitled because of a disciplinary action, unless a preliminary notice was issued to the employee before the date of injury and the action becomes final or otherwise takes effect during the COP period.

(c) An employer cannot otherwise stop COP unless it does so for one of the reasons found in this section or § 10.220. Where an employer stops COP, it must file a controversion with OWCP, setting forth the basis on which it terminated COP, no later than the effective date of the termination.

§ 10.223 Are there other circumstances under which OWCP will not authorize payment of COP?

When OWCP finds that an employee or his or her representative refuses or obstructs a medical examination required by OWCP, the right to COP is suspended until the refusal or obstruction ceases. COP already paid or payable for the period of suspension is forfeited. If already paid, the COP may be charged to annual or sick leave or considered an overpayment of pay consistent with 5 U.S.C. 5584.

§ 10.224 What happens if OWCP finds that the employee is not entitled to COP after it has been paid?

Where OWCP finds that the employee is not entitled to COP after it has been paid, the employee may choose to have the time charged to annual or sick leave, or considered an overpayment of pay under 5 U.S.C. 5584. The employer must correct any deficiencies in COP as directed by OWCP.

Subpart D—Medical and Related Benefits

Emergency Medical Care

§ 10.300 What are the basic rules for authorizing emergency medical care?

(a) When an employee sustains a work-related traumatic injury that requires medical examination, medical treatment, or both, the employer shall authorize such examination and/or treatment by issuing a Form CA-16. This form may be used for occupational disease or illness only if the employer has obtained prior permission from OWCP.

(b) The employer shall issue Form CA-16 within four hours of the claimed injury. If the employer gives verbal authorization for such care, he or she should issue a Form CA-16 within 48 hours. The employer is not required to issue a Form CA-16 more than one week after the occurrence of the claimed injury. The employer may not authorize examination or medical or other treatment in any case that OWCP has disallowed.

(c) Form CA-16 must contain the full name and address of the qualified physician or qualified medical facility authorized to provide service. The authorizing official must sign and date the form and must state his or her title. Form CA-16 authorizes treatment for 60 days from the date of injury, unless OWCP terminates the authorization sooner.

(d) The employer should advise the employee of the right to his or her initial choice of physician. The employer shall allow the employee to select a qualified physician, after advising him or her of those physicians excluded under subpart I of this part. The physician may be in private practice, including a health maintenance organization (HMO), or employed by a Federal agency such as the Department of the Army, Navy, Air Force, or Veterans Affairs. Any qualified physician may provide initial treatment of a work-related injury in an emergency. See also § 10.825(b).

§ 10.301 May the physician designated on Form CA-16 refer the employee to another medical specialist or medical facility?

The physician designated on Form CA-16 may refer the employee for further examination, testing, or medical care. OWCP will pay this physician or facility's bill on the authority of Form CA-16. The employer should not issue a second Form CA-16.

§ 10.302 Should the employer authorize medical care if he or she doubts that the injury occurred, or that it is work-related?

If the employer doubts that the injury occurred, or that it is work-related, he or she should authorize medical care by completing Form CA-16 and checking block 6B of the form. If the medical and factual evidence sent to OWCP shows that the condition treated is not work-related, OWCP will notify the employee, the employer, and the physician or hospital that OWCP will not authorize payment for any further treatment.

§ 10.303 Should the employer use a Form CA-16 to authorize medical testing when an employee is exposed to a workplace hazard just once?

(a) Simple exposure to a workplace hazard, such as an infectious agent, does not constitute a work-related injury entitling an employee to medical treatment under the FECA. The employer therefore should not use a Form CA-16 to authorize medical testing for an employee who has merely been exposed to a workplace hazard, unless the employee has sustained an identifiable injury or medical condition as a result of that exposure. OWCP will authorize preventive treatment only under certain well-defined circumstances (see § 10.313).

(b) Employers may be required under other statutes or regulations to provide their employees with medical testing and/or other services in situations described in paragraph (a) of this section. For example, regulations issued by the Occupational Safety and Health Administration at 29 CFR chapter XVII require employers to provide their employees with medical consultations and/or examinations when they either exhibit symptoms consistent with exposure to a workplace hazard, or when an identifiable event such as a spill, leak or explosion occurs and results in the likelihood of exposure to a workplace hazard. In addition, 5 U.S.C. 7901 authorizes employers to establish health programs whose staff can perform tests for workplace hazards, counsel employees for exposure or feared exposure to such hazards, and provide health care screening and other associated services.

§ 10.304 Are there any exceptions to these procedures for obtaining medical care?

In cases involving emergencies or unusual circumstances, OWCP may authorize treatment in a manner other than as stated in this subpart.

Medical Treatment and Related Issues

§ 10.310 What are the basic rules for obtaining medical care?

(a) The employee is entitled to receive all medical services, appliances or supplies which a qualified physician prescribes or recommends and which OWCP considers necessary to treat the work-related injury. Billing for these services is described in subpart I of this part. The employee need not be disabled to receive such treatment. If there is any doubt as to whether a specific service, appliance or supply is necessary to treat the work-related injury, the employee should consult OWCP prior to obtaining it through the automated authorization process described in § 10.800. OWCP may also utilize the services of a field nurse to facilitate and coordinate medical care for the employee. OWCP may contract with a specific provider or providers to supply such services or appliances, including durable medical equipment and prescribed medications.

(b) Any qualified physician or qualified hospital may provide such services, appliances and supplies. Non-physician providers such as physicians' assistants, nurse practitioners and physical therapists may also provide authorized services for injured employees to the extent allowed by applicable Federal and State law.

(c) Where OWCP has not contracted for the provision of appliances or supplies, only a supplier of durable medical equipment that is registered in Medicare's Durable Medical Equipment, Prosthetics, Orthotics and Supplies Accreditation process may furnish such appliances and supplies. OWCP may apply a test of cost-effectiveness to appliances and supplies, may offset the cost of prior rental payments against a future purchase price, and may provide refurbished appliances where appropriate.

§ 10.311 What are the special rules for the services of chiropractors?

(a) The services of chiropractors that may be reimbursed are limited by the FECA to treatment to correct a spinal subluxation. The costs of physical and related laboratory tests performed by or required by a chiropractor to diagnose such a subluxation are also payable.

(b) In accordance with 5 U.S.C. 8101(3), a diagnosis of spinal "subluxation as demonstrated by X-ray to exist" must appear in the chiropractor's report before OWCP can consider payment of a chiropractor's bill.

(c) A chiropractor may interpret his or her x-rays to the same extent as any other physician. To be given any weight,

the medical report must state that x-rays support the finding of spinal subluxation. 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.

(d) A chiropractor may also provide services in the nature of physical therapy under the direction of, and as prescribed by, a qualified physician.

§ 10.312 What are the special rules for the services of clinical psychologists?

A clinical psychologist may serve as a physician only within the scope of his or her practice as defined by State law. Therefore, a clinical psychologist may not serve as a physician for conditions 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 qualified physician.

§ 10.313 Will OWCP pay for preventive treatment?

The FECA does not authorize payment for preventive measures such as vaccines and inoculations, and in general, preventive treatment may be a responsibility of the employing agency under the provisions of 5 U.S.C. 7901 (see § 10.303). However, OWCP can authorize treatment for the following conditions, even though such treatment is designed, in part, to prevent further injury:

(a) Complications of preventive measures which are provided or sponsored by the agency, such as an adverse reaction to prophylactic immunization.

(b) Actual or probable exposure to a known contaminant due to an injury, thereby requiring disease-specific measures against infection. Examples include the provision of tetanus antitoxin or booster toxoid injections for puncture wounds; administration of rabies vaccine for a bite from a rabid or potentially rabid animal; or appropriate measures where exposure to human immunodeficiency virus (HIV) has occurred.

(c) Conversion of tuberculin reaction from negative to positive following exposure to tuberculosis in the performance of duty. In this situation, the appropriate therapy may be authorized.

(d) Where injury to one eye has resulted in loss of vision, periodic examination of the uninjured eye to detect possible sympathetic involvement of the uninjured eye at an early stage.

§ 10.314 Will OWCP pay for the services of an attendant?

Yes, OWCP will pay for the services of an attendant where the need for such services has been medically documented. In the exercise of the discretion afforded by 5 U.S.C. 8111(a), the Director has determined that, except where attendant service payments were being made prior to January 4, 1999, direct payments to the claimant to cover such services will no longer be made. Rather, the cost of providing attendant services will be paid under section 8103 of the Act, and medical bills for these services will be considered under § 10.801, so long as the personal care services have been determined to be medically necessary and are provided by a home health aide, licensed practical nurse, or similarly trained individual, subject to requirements specified by OWCP. By paying for the services under section 8103, OWCP can better determine whether the services provided are necessary, and what type of provider is most qualified to provide adequate care to meet the needs of the injured employee. In addition, a system requiring the personal care provider to submit a bill to OWCP, where the amount billed will be subject to OWCP's fee schedule, will result in greater fiscal accountability.

§ 10.315 Will OWCP pay for transportation to obtain medical treatment?

(a) The employee is entitled to reimbursement of reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances or supplies. To determine what is a reasonable distance to travel, OWCP will consider the availability of services, the employee's condition, and the means of transportation. Generally, a roundtrip distance of up to 100 miles is considered a reasonable distance to travel. Travel should be undertaken by the shortest route, and if practical, by public conveyance. If the medical evidence shows that the employee is unable to use these means of transportation, OWCP may authorize travel by taxi or special conveyance.

(b) For non-emergency medical treatment, if roundtrip travel of more than 100 miles is contemplated, or air transportation or overnight accommodations will be needed, the employee must submit a written request to OWCP for prior authorization with information describing the circumstances and necessity for such travel expenses. OWCP will approve the request if it determines that the travel expenses are reasonable and necessary, and are incident to obtaining authorized

medical services, appliances or supplies. Requests for travel expenses that are often approved include those resulting from referrals to a specialist for further medical treatment, and those involving air transportation of an employee who lives in a remote geographical area with limited local medical services.

(c) If a claimant disagrees with the decision of OWCP that requested travel expenses are either not reasonable or necessary, or are not incident to obtaining authorized medical services or supplies, he or she may utilize the appeals process described in subpart G of this part.

(d) The standard form designated for medical travel refund requests is Form OWCP-957 and must be used to seek reimbursement under this section. This form can be obtained from OWCP.

§ 10.316 After selecting a treating physician, may an employee choose to be treated by another physician instead?

(a) When the physician originally selected to provide treatment for a work-related injury refers the employee to a specialist for further medical care, the employee need not consult OWCP for approval. In all other instances, however, the employee must submit a written request to OWCP with his or her reasons for desiring a change of physician.

(b) OWCP will approve the request if it determines that the reasons submitted are sufficient. Requests that are often approved include those for transfer of care from a general practitioner to a physician who specializes in treating conditions like the work-related one, or the need for a new physician when an employee has moved. The employer may not authorize a change of physicians.

Directed Medical Examinations

§ 10.320 Can OWCP require an employee to be examined by another physician?

OWCP sometimes needs a second opinion from a medical specialist. The employee must submit to examination by a qualified physician as often and at such times and places as OWCP considers reasonably necessary. The employee may have a qualified physician, paid by him or her, present at such examination. However, the employee is not entitled to have anyone else present at the examination unless there is rationalized medical evidence that establishes that someone else is needed in the room or OWCP decides that exceptional circumstances exist. Where an employee requires an accommodation, such as where a hearing-impaired employee needs an

interpreter, the presence of an interpreter will be allowed. Also, OWCP may send a case file for second opinion review where actual examination is not needed, or where the employee is deceased.

§ 10.321 What happens if the opinion of the physician selected by OWCP differs from the opinion of the physician selected by the employee?

(a) If one medical opinion holds more probative value, OWCP will base its determination of entitlement on that medical conclusion (see § 10.502). A difference in medical opinion sufficient to be considered a conflict occurs when two reports of virtually equal weight and rationale reach opposing conclusions (see *James P. Roberts*, 31 ECAB 1010 (1980)).

(b) If a conflict exists between the medical opinion of the employee's physician and the medical opinion of either a second opinion physician or an OWCP medical adviser or consultant, OWCP shall appoint a third physician to make an examination (see § 10.502). This is called a referee or impartial examination. OWCP will select a physician who is qualified in the appropriate specialty and who has had no prior connection with the case. The employee is not entitled to have anyone present at the examination unless OWCP decides that exceptional circumstances exist. For example, where a hearing-impaired employee needs an interpreter, the presence of an interpreter would be allowed. Also, a case file may be sent for referee or impartial medical review where there is no need for an actual examination, or where the employee is deceased.

§ 10.322 Who pays for second opinion and referee examinations?

OWCP will pay second opinion and referee medical specialists directly. OWCP will reimburse the employee all necessary and reasonable expenses incident to such an examination, including transportation costs and actual wages lost for the time needed to submit to an examination required by OWCP.

§ 10.323 What are the penalties for failing to report for or obstructing a second opinion or referee examination?

(a) If an employee refuses to submit to or in any way obstructs an examination required by OWCP, including testing such as functional capacity determinations conducted in connection with an OWCP-directed medical examination, his or her right to compensation under the FECA is suspended under 5 U.S.C. 8123(d) until such refusal or obstruction stops. The

action of the employee's representative is considered to be the action of the employee for purposes of this section. The employee will forfeit compensation otherwise paid or payable under the FECA for the period of the refusal or obstruction, and any compensation already paid for that period will be declared an overpayment and will be subject to recovery pursuant to 5 U.S.C. 8129.

(b) If the employee does not report for an OWCP-directed examination or in any way obstructs this examination, he or she may provide an explanation to OWCP within 14 days. If this explanation does not establish good cause for the employee's actions, entitlement to compensation will be suspended in accordance with 5 U.S.C. 8123(d). Should the employee subsequently agree to attend the examination or cease the obstruction (as expressed in writing or by telephone documented on Form CA-110), OWCP will restore any periodic benefits to which the employee is entitled when the employee actually reports for and cooperates with the examination. Payment is retroactive to the date the employee agreed to attend or cease obstruction of the examination.

§ 10.324 May an employer require an employee to undergo a physical examination in connection with a work-related injury?

The employer may have authority independent of the FECA to require the employee to undergo a medical examination to determine whether he or she meets the medical requirements of the position held or can perform the duties of that position. Nothing in the FECA or in this part affects such authority. However, no agency-required examination or related activity shall interfere with the employee's initial choice of physician or the provision of any authorized examination or treatment, including the issuance of Form CA-16.

Medical Reports

§ 10.330 What are the requirements for medical reports?

In all cases reported to OWCP, a medical report from the attending physician is required. This report should include:

- (a) Dates of examination and treatment;
- (b) History given by the employee;
- (c) Physical findings;
- (d) Results of diagnostic tests;
- (e) Diagnosis;
- (f) Course of treatment;

(g) A description of any other conditions found but not due to the claimed injury;

(h) The treatment given or recommended for the claimed injury;

(i) The physician's opinion, with medical reasons, as to causal relationship between the diagnosed condition(s) and the factors or conditions of the employment;

(j) The extent of disability affecting the employee's ability to work due to the injury;

(k) The prognosis for recovery; and

(l) All other material findings.

§ 10.331 How and when should the medical report be submitted?

(a) Form CA-16 may be used for the initial medical report; Form CA-20 may be used for the initial report and for subsequent reports; and Form CA-20a may be used where continued compensation is claimed. Use of medical report forms is not required, however. The report may also be made in narrative form on the physician's letterhead stationery. The report should bear the physician's signature or signature stamp. OWCP may require an original signature on the report.

(b) The report shall be submitted directly to OWCP as soon as possible after medical examination or treatment is received, either by the employee or the physician. (See also § 10.210.) The employer may request a copy of the report from OWCP. The employer should use Form CA-17 to obtain interim reports concerning the duty status of an employee with a disabling injury.

§ 10.332 What additional medical information will OWCP require to support continuing payment of benefits?

In all cases of serious injury or disease, especially those requiring hospital treatment or prolonged care, OWCP will request detailed narrative reports from the attending physician at periodic intervals. The physician will be asked to describe continuing medical treatment for the condition accepted by OWCP, a prognosis, a description of work limitations, if any, and the physician's opinion as to the continuing causal relationship between the employee's condition and factors of his or her Federal employment.

§ 10.333 What additional medical information will OWCP require to support a claim for a schedule award?

To support a claim for a schedule award, a medical report must contain accurate measurements of the function of the organ or member, in accordance with the American Medical Association's *Guides to the Evaluation*

of *Permanent Impairment* as described in § 10.404. These measurements may include: The actual degree of loss of active or passive motion or deformity; the amount of atrophy; the decrease, if any, in strength; the disturbance of sensation; pain due to nerve impairment; the diagnosis of the condition; and functional impairment ratings.

Medical Bills

§ 10.335 How are medical bills submitted?

Usually, medical providers submit bills directly to OWCP or to a bill processing agent designated by OWCP. The rules for submitting and paying bills are stated in subpart I of this part. An employee claiming reimbursement of medical expenses should submit an itemized bill as described in § 10.802.

§ 10.336 What are the time frames for submitting bills?

To be considered for payment, bills must be submitted by the end of the calendar year after the year when the expense was incurred, or by the end of the calendar year after the year when OWCP first accepted the claim as compensable, whichever is later.

§ 10.337 If an employee is only partially reimbursed for a medical expense, must the provider refund the balance of the amount paid to the employee?

(a) The OWCP fee schedule sets maximum limits on the amounts payable for many services (see § 10.805). The employee may be only partially reimbursed for medical expenses because the amount he or she paid to the medical provider for a service exceeds the maximum allowable charge set by the OWCP fee schedule.

(b) If this happens, OWCP shall advise the employee of the maximum allowable charge for the service in question and of his or her responsibility to ask the provider to refund to the employee, or credit to the employee's account, the amount he or she paid which exceeds the maximum allowable charge. The provider may request reconsideration of the fee determination as set forth in §§ 10.812 and 10.813.

(c) If the provider does not refund to the employee or credit to his or her account the amount of money paid in excess of the charge which OWCP allows, the employee should submit documentation of the attempt to obtain such refund or credit to OWCP. OWCP may make reasonable reimbursement to the employee after reviewing the facts and circumstances of the case.

Subpart E—Compensation and Related Benefits

Compensation for Disability and Impairment

§ 10.400 What is total disability?

(a) Permanent total disability is presumed to result from the loss of use of both hands, both arms, both feet, or both legs, or the loss of sight of both eyes. 5 U.S.C. 8105(b). However, the presumption of permanent total disability as a result of such loss may be rebutted by evidence to the contrary, such as evidence of continued ability to work and to earn wages despite the loss.

(b) Temporary total disability is defined as the inability to return to the position held at the time of injury or earn equivalent wages, or to perform other gainful employment, due to the work-related injury. Except as presumed under paragraph (a) of this section, an employee's disability status is always considered temporary pending return to work.

§ 10.401 When and how is compensation for total disability paid?

(a) Compensation is payable when an employee starts to lose pay if the injury causes permanent disability or if pay loss continues for more than 14 calendar days. Otherwise, compensation is payable on the fourth day after pay stops pursuant to 5 U.S.C. 8117(a). Compensation may not be paid while an injured employee is in a continuation of pay status or receives pay for leave or, for Postal Service employees, for the first three days of temporary disability as described in 5 U.S.C. 8117(b) and § 10.200(c), except for medical or vocational rehabilitation benefits.

(b) Compensation for total disability is payable at the rate of 66⅔ percent of the pay rate if the employee has no dependents, or 75 percent of the pay rate if the employee has at least one dependent. ("Dependents" are defined at 5 U.S.C. 8110(a).)

§ 10.402 What is partial disability?

An injured employee who cannot return to the position held at the time of injury (or earn equivalent wages) due to the work-related injury, but who is not totally disabled for all gainful employment, is considered to be partially disabled.

§ 10.403 When and how is compensation for partial disability paid?

(a) 5 U.S.C. 8115 outlines how compensation for partial disability is determined. If the employee has actual earnings which fairly and reasonably represent his or her wage-earning capacity, those earnings will form the

basis for payment of compensation for partial disability. (See §§ 10.500 through 10.521 concerning return to work.) If the employee's actual earnings do not fairly and reasonably represent his or her wage-earning capacity, or if the employee has no actual earnings, OWCP uses the factors stated in 5 U.S.C. 8115 to select a position which represents his or her wage-earning capacity, which include the nature of the injury, the degree of physical impairment, the usual employment, the age of the employee, the employee's qualifications for other employment and the availability of suitable employment. However, OWCP will not secure employment for the employee in the position selected for establishing a wage-earning capacity.

(b) Compensation for partial disability is payable as a percentage of the difference between the employee's pay rate for compensation purposes and the employee's wage-earning capacity. The percentage is 66⅔ percent of this difference if the employee has no dependents, or 75 percent of this difference if the employee has at least one dependent.

(c) The formula which OWCP uses to compute the compensation payable for partial disability employs the following terms: Pay rate for compensation purposes, which is defined in § 10.5(s) of this part; current pay rate, which means the salary or wages for the job held at the time of injury at the time of the determination; and earnings, which means the employee's actual earnings, or the salary or pay rate of the position selected by OWCP as representing the employee's wage-earning capacity.

(d) The employee's wage-earning capacity in terms of percentage is computed by dividing the employee's earnings by the current pay rate. The comparison of earnings and "current" pay rate for the job held at the time of injury need not be made as of the beginning of partial disability. OWCP may use any convenient date for making the comparison as long as both wage rates are in effect on the date used for comparison.

(e) The employee's wage-earning capacity in terms of dollars is computed by first multiplying the pay rate for compensation purposes by the percentage of wage-earning capacity. The resulting dollar amount is then subtracted from the pay rate for compensation purposes to obtain the employee's loss of wage-earning capacity.

§ 10.404 When and how is compensation for a schedule impairment paid?

Compensation is provided for specified periods of time for the permanent loss or loss of use of certain members, organs and functions of the body. Such loss or loss of use is known as permanent impairment. Compensation for proportionate periods of time is payable for partial loss or loss of use of each member, organ or function. 5 U.S.C. 8107(b)(19). OWCP evaluates the degree of impairment to schedule members, organs and functions as defined in 5 U.S.C. 8107 according to the standards set forth in the specified (by OWCP) edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*.

(a) 5 U.S.C. 8107(c) provides compensation for loss to the following list of schedule members:

Member	Weeks
Arm	312
Leg	288
Hand	244
Foot	205
Eye	160
Thumb	75
First Finger lost	46
Great toe	38
Second finger	30
Third finger	25
Toe other than great toe	16
Fourth finger	15
Hearing, one ear	52
Hearing, both ears	200

(b) Pursuant to the authority provided by 5 U.S.C. 8107(c)(22), the Secretary has added the following organs to the compensation schedule for injuries that were sustained on or after September 7, 1974, except that a schedule award for the skin may be paid for injuries on or after September 11, 2001:

Member	Weeks
Breast (one)	52
Kidney (one)	156
Larynx	160
Lung (one)	156
Penis	205
Testicle (one)	52
Tongue	160
Ovary (one)	52
Uterus/cervix and vulva/vagina	205
Skin	205

(c) Compensation for schedule awards is payable at 66⅔ percent of the employee's pay, or 75 percent of the pay when the employee has at least one dependent.

(d) The period of compensation payable under 5 U.S.C. 8107(c) shall be reduced by the period of compensation

paid or payable under the schedule for an earlier injury if:

(1) Compensation in both cases is for impairment of the same member or function or different parts of the same member or function, or for disfigurement; and

(2) OWCP finds that compensation payable for the later impairment in whole or in part would duplicate the compensation payable for the pre-existing impairment.

(e) Compensation not to exceed \$3,500 may be paid for serious disfigurement of the face, head or neck which is likely to handicap a person in securing or maintaining employment. Under 5 U.S.C. 8107(21), a disfigurement award may be paid concurrently with schedule awards.

§ 10.405 Who is considered a dependent in a claim based on disability or impairment?

(a) Dependents include a wife or husband; an unmarried child under 18 years of age; an unmarried child over 18 who is incapable of self-support; a student, until he or she reaches 23 years of age or completes four years of school beyond the high school level; or a wholly dependent parent.

(b) Augmented compensation payable for an unmarried child, which would otherwise terminate when the child reached the age of 18, may be continued while the child is a student as defined in 5 U.S.C. 8101(17).

§ 10.406 What are the maximum and minimum rates of compensation in disability cases?

(a) Compensation for total or partial disability may not exceed 75 percent of the basic monthly pay of the highest step of grade 15 of the General Schedule. (Basic monthly pay does not include locality adjustments.) However, this limit does not apply to disability sustained in the performance of duty which was due to an assault which occurred during an attempted assassination of a Federal official described under 18 U.S.C. 351(a) or 1751(a).

(b) Compensation for total disability may not be less than 75 percent of the basic monthly pay of the first step of grade 2 of the General Schedule or actual pay, whichever is less. (Basic monthly pay does not include locality adjustments.)

Compensation for Death

§ 10.410 Who is entitled to compensation in case of death, and what are the rates of compensation payable in death cases?

(a) Pursuant to 5 U.S.C. 8133, benefits may be paid to eligible dependents of an employee whose death results from an

injury sustained in the performance of duty. This benefit is separate and distinct from a death gratuity benefit under 5 U.S.C. 8102a and subpart J of this part.

(b) If there is no child entitled to compensation, the employee's surviving spouse will receive compensation equal to 50 percent of the employee's monthly pay until death or remarriage before reaching age 55. Upon remarriage, the surviving spouse will be paid a lump sum equal to 24 times the monthly compensation payment (excluding compensation payable on account of another individual) to which the surviving spouse was entitled immediately before the remarriage. If remarriage occurs at age 55 or older, the lump-sum payment will not be paid and compensation will continue until death.

(c) If there is a child entitled to compensation, the compensation for the surviving spouse will equal 45 percent of the employee's monthly pay plus 15 percent for each child, but the total percentage may not exceed 75 percent.

(d) If there is a child entitled to compensation and no surviving spouse, compensation for one child will equal 40 percent of the employee's monthly pay. Fifteen percent will be awarded for each additional child, not to exceed 75 percent, the total amount to be shared equally among all children.

(e) If there is no child or surviving spouse entitled to compensation, the parents will receive compensation equal to 25 percent of the employee's monthly pay if one parent was wholly dependent on the employee at the time of death and the other was not dependent to any extent, or 20 percent each if both were wholly dependent on the employee, or a proportionate amount in the discretion of the Director if one or both were partially dependent on the employee. If there is a child or surviving spouse entitled to compensation, the parents will receive so much of the compensation described in the preceding sentence as, when added to the total percentages payable to the surviving spouse and children, will not exceed a total of 75 percent of the employee's monthly pay.

(f) If there is no child, surviving spouse or dependent parent entitled to compensation, the brothers, sisters, grandparents and grandchildren will receive compensation equal to 20 percent of the employee's monthly pay to such dependent if one was wholly dependent on the employee at the time of death; or 30 percent if more than one was wholly dependent, divided among such dependents equally; or 10 percent if no one was wholly dependent but one or more was partly dependent, divided

among such dependents equally. If there is a child, surviving spouse or dependent parent entitled to compensation, the brothers, sisters, grandparents and grandchildren will receive so much of the compensation described in the preceding sentence as, when added to the total percentages payable to the children, surviving spouse and dependent parents, will not exceed a total of 75 percent of the employee's monthly pay.

(g) A child, brother, sister or grandchild may be entitled to receive death benefits until death, marriage, or reaching age 18. Regarding entitlement after reaching age 18, refer to § 10.417.

§ 10.411 What are the maximum and minimum rates of compensation in death cases?

(a) Compensation for death may not exceed the employee's pay or 75 percent of the basic monthly pay of the highest step of grade 15 of the General Schedule, except that compensation may exceed the employee's basic monthly pay if such excess is created by authorized cost-of-living increases. (Basic monthly pay does not include locality adjustments.) However, the maximum limit does not apply when the death occurred during an assassination of a Federal official described under 18 U.S.C. 351(a) or 18 U.S.C. 1751(a).

(b) Compensation for death is computed on a minimum pay rate equal to the basic monthly pay of an employee at the first step of grade 2 of the General Schedule. (Basic monthly pay does not include locality adjustments.)

§ 10.412 Will OWCP pay the costs of burial and transportation of the remains?

In a case accepted for death benefits, OWCP will pay up to \$800 for funeral and burial expenses. When an employee's home is within the United States and the employee dies outside the United States, or away from home or the official duty station, an additional amount may be paid for transporting the remains to the employee's home as set forth in 5 U.S.C. 8134. An additional amount of \$200 is paid to the personal representative of the decedent for reimbursement of the costs of terminating the decedent's status as an employee of the United States in accordance with 5 U.S.C. 8133.

§ 10.413 May a schedule award be paid after an employee's death?

For a schedule award to be paid following the death of an employee, the employee must have filed a valid claim specifically for a schedule award prior to death; in addition, the employee must have died from a cause other than the

injury before the end of the period specified in the schedule. The balance of the schedule award may be paid to an employee's survivors pursuant to the proportions and order of precedence described in 5 U.S.C. 8109.

§ 10.414 What reports of dependents are needed in death cases?

If a beneficiary is receiving compensation benefits on account of an employee's death, OWCP will ask him or her to complete a report once each year on Form CA-12. The report requires the beneficiary to note changes in marital status and dependents. If the beneficiary fails to submit the form (or an equivalent written statement) within 30 days of the date of request, OWCP shall suspend compensation until the requested form or equivalent written statement is received. The suspension will include compensation payable for or on behalf of another person (for example, compensation payable to a widow on behalf of a child). When the form or statement is received, compensation will be reinstated at the appropriate rate retroactive to the date of suspension, provided the beneficiary is entitled to such compensation.

§ 10.415 What must a beneficiary do if the number of beneficiaries decreases?

The circumstances under which compensation on account of death shall be terminated are described in 5 U.S.C. 8133(b). A beneficiary in a claim for death benefits should promptly notify OWCP of any event which would affect his or her entitlement to continued compensation. The terms "marriage" and "remarriage" include common-law marriage as recognized and defined by State law in the State where the beneficiary resides. If a beneficiary, or someone acting on his or her behalf, receives a check or electronic payment which includes payment of compensation for any period after the date when entitlement ended, he or she must promptly return such funds to OWCP.

§ 10.416 How does a change in the number of beneficiaries affect the amount of compensation paid to the other beneficiaries?

If compensation to a beneficiary is terminated, the amount of compensation payable to one or more of the remaining beneficiaries may be reapportioned. Similarly, the birth of a posthumous child may result in a reapportionment of the amount of compensation payable to other beneficiaries. The parent, or someone acting on the child's behalf, shall promptly notify OWCP of the birth and submit a copy of the birth certificate.

§ 10.417 What reports are needed when compensation payments continue for children over age 18?

(a) Compensation payable on behalf of a child, brother, sister, or grandchild, which would otherwise end when the person reaches 18 years of age, shall be continued if and for so long as he or she is not married and is either a student as defined in 5 U.S.C. 8101(17), or physically or mentally incapable of self-support.

(b) At least once each year, OWCP will ask a beneficiary receiving compensation based on the student status of a dependent to provide proof of continuing entitlement to such compensation, including certification of school enrollment. The beneficiary is required to report any changes to student status in the interim.

(c) Likewise, at least once each year unless otherwise provided in paragraph (d) of this section, OWCP will ask a beneficiary or legal guardian receiving compensation based on a dependent's physical or mental inability to support himself or herself to submit a medical report verifying that the dependent's medical condition persists and that it continues to preclude self-support. If there is a change in that condition, the beneficiary or legal guardian is required to immediately report that change to OWCP.

(d) In the case of a dependent incapable of self support due to that dependent's physical or mental disability where the status of that dependent is unlikely to change, a beneficiary or legal guardian may establish the permanency of that condition by submitting a well rationalized medical report which describes that condition and the ongoing prognosis of that condition. If the permanency of that condition is established by such a report, OWCP will not seek further information regarding that condition; however, if there is a change in that condition, the beneficiary or legal guardian is required to immediately report that change to OWCP.

Adjustments to Compensation

§ 10.420 How are cost-of-living adjustments applied?

(a) In cases of disability, a beneficiary is eligible for cost-of-living adjustments under 5 U.S.C. 8146a where injury-related disability began more than one year prior to the date the cost-of-living adjustment took effect. The employee's use of continuation of pay as provided by 5 U.S.C. 8118, or of sick or annual leave, during any part of the period of disability does not affect the computation of the one-year period.

(b) Where an injury does not result in disability but compensation is payable for permanent impairment of a covered member, organ or function of the body, a beneficiary is eligible for cost-of-living adjustments under 5 U.S.C. 8146a where the award for such impairment began more than one year prior to the date the cost-of-living adjustment took effect.

(c) In cases of recurrence of disability, where the pay rate for compensation purposes is the pay rate at the time disability recurs, a beneficiary is eligible for cost-of-living adjustments under 5 U.S.C. 8146a where the effective date of that pay rate began more than one year prior to the date the cost-of-living adjustment took effect.

(d) In cases of death, entitlement to cost-of-living adjustments under 5 U.S.C. 8146a begins with the first such adjustment occurring more than one year after the date of death. However, if the death was preceded by a period of injury-related disability, compensation payable to the survivors will be increased by the same percentages as the cost-of-living adjustments paid or payable to the deceased employee for the period of disability, as well as by subsequent cost-of-living adjustments to which the survivors would otherwise be entitled.

§ 10.421 May a beneficiary receive other kinds of payments from the Federal Government concurrently with compensation?

(a) 5 U.S.C. 8116(a) provides that a beneficiary may not receive wage-loss compensation concurrently with a Federal retirement or survivor annuity. The beneficiary must elect the benefit that he or she wishes to receive, and the election, once made, is revocable.

(b) 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.

(c) An employee may not receive compensation for total disability concurrently with severance pay or separation pay. However, an employee may concurrently receive compensation for partial disability or permanent impairment to a schedule member, organ or function with severance pay or separation pay.

(d) Pursuant to 5 U.S.C. 8116(d), a beneficiary may receive compensation under the FECA for either the death or disability of an employee concurrently with benefits under title II of the Social Security Act on account of the age or death of such employee. However, this provision of the FECA also requires OWCP to reduce the amount of any such

compensation by the amount of any Social Security Act benefits that are attributable to the Federal service of the employee.

(e) To determine the employee's entitlement to compensation, OWCP may require an employee to submit an affidavit or statement as to the receipt of any Federally funded or Federally assisted benefits. If an employee fails to submit such affidavit or statement within 30 days of the date of the request, his or her right to compensation shall be suspended until such time as the requested affidavit or statement is received. At that time compensation will be reinstated retroactive to the date of suspension provided the employee is entitled to such compensation.

§ 10.422 May compensation payments be issued in a lump sum?

(a) In exercise of the discretion afforded under 5 U.S.C. 8135(a), OWCP has determined that lump-sum payments will not be made to persons entitled to wage-loss benefits (that is, those payable under 5 U.S.C. 8105 and 8106). Therefore, when OWCP receives requests for lump-sum payments for wage-loss benefits, OWCP will not exercise further discretion in the matter. This determination is based on several factors, including:

(1) The purpose of the FECA, which is to replace lost wages;

(2) The prudence of providing wage-loss benefits on a regular, recurring basis; and

(3) The high cost of the long-term borrowing that is needed to pay out large lump sums.

(b) However, a lump-sum payment may be made to an employee entitled to a schedule award under 5 U.S.C. 8107 where OWCP determines that such a payment is in the employee's best interest. Lump-sum payments of schedule awards generally will be considered in the employee's best interest only where the employee does not rely upon compensation payments as a substitute for lost wages (that is, the employee is working or is receiving annuity payments). An employee possesses no absolute right to a lump-sum payment of benefits payable under 5 U.S.C. 8107.

(c) Lump-sum payments to surviving spouses are addressed in 5 U.S.C. 8135(b); payments to beneficiaries under 5 U.S.C. 8137 payable as a lump sum pursuant to 5 U.S.C. 8135 are addressed in part 25 of this title.

§ 10.423 May compensation payments be assigned to, or attached by, creditors?

(a) As a general rule, compensation and claims for compensation are exempt

from the claims of private creditors. Further, any attempt by a FECA beneficiary to assign his or her claim is null and void. However, pursuant to provisions of the Social Security Act, 42 U.S.C. 659, and regulations issued by the Office of Personnel Management (OPM) at 5 CFR part 581, FECA benefits, including survivor's benefits, may be garnished to collect overdue alimony and child support payments.

(b) Garnishment for child support and alimony may be requested by providing a copy of the State agency or court order to the district office handling the FECA claim.

§ 10.424 May someone other than the beneficiary be designated to receive compensation payments?

A beneficiary may be incapable of managing or directing the management of his or her benefits because of a mental or physical disability, or because of legal incompetence, or because he or she is under 18 years of age. In this situation, absent the appointment of a guardian or other party to manage the financial affairs of the claimant by a court or administrative body authorized to do so, OWCP in its sole discretion may approve a person to serve as the representative payee for funds due the beneficiary. Where a guardian or other party has been appointed by a court or administrative body authorized to do so to manage the financial affairs of the claimant, OWCP will recognize that individual as the representative payee.

§ 10.425 May compensation be claimed for periods of restorable leave?

The employee may claim compensation for periods of annual and sick leave which are restorable in accordance with the rules of the employing agency. Forms CA-7a and CA-7b are used for this purpose. Leave donated to an employee by an employing agency leave bank is not restorable leave.

Overpayments

§ 10.430 How does OWCP notify an individual of a payment made?

(a) In addition to providing narrative descriptions to recipients of benefits paid or payable, OWCP includes on each periodic check a clear indication of the period for which payment is being made. A form is sent to the recipient with each supplemental check which states the date and amount of the payment and the period for which payment is being made. For payments sent by electronic funds transfer (EFT), a notification of the date and amount of payment appears on the statement from the recipient's financial institution.

(b) By these means, OWCP puts the recipient on notice that a payment was made and the amount of the payment. If the amount received differs from the amount indicated on the written notice or bank statement, the recipient is responsible for notifying OWCP of the difference. Absent affirmative evidence to the contrary, the beneficiary will be presumed to have received the notice of payment, whether mailed or transmitted electronically. For EFT payments, OWCP is entitled to presume receipt and acceptance of that payment once a recipient has had an opportunity to receive a statement from their financial institution.

§ 10.431 What does OWCP do when an overpayment is identified?

Before seeking to recover an overpayment or adjust benefits, OWCP will advise the beneficiary in writing that:

- (a) The overpayment exists, and the amount of overpayment;
- (b) A preliminary finding shows either that the individual was or was not at fault in the creation of the overpayment;
- (c) He or she has the right to inspect and copy Government records relating to the overpayment; and
- (d) He or she has the right to present evidence which challenges the fact or amount of the overpayment, and/or challenges the preliminary finding that he or she was at fault in the creation of the overpayment. He or she may also request that recovery of the overpayment be waived.

§ 10.432 How can an individual present evidence to OWCP in response to a preliminary notice of an overpayment?

The individual may present this evidence to OWCP in writing or at a pre-recoupment hearing. The evidence must be presented or the hearing requested within 30 days of the date of the written notice of overpayment. Failure to request the hearing within this 30-day time period shall constitute a waiver of that right.

§ 10.433 Under what circumstances can OWCP waive recovery of an overpayment?

(a) OWCP may consider waiving an overpayment only if the individual to whom it was made was not at fault in accepting or creating the overpayment. Each recipient of compensation benefits is responsible for taking all reasonable measures to ensure that payments he or she receives from OWCP are proper. The recipient must show good faith and exercise a high degree of care in regard to receipt of their benefits. Such care includes reporting events which may affect entitlement to or the amount of

benefits, including reviewing their accounts and related statements (including electronic statements and records from their financial institutions involving EFT payments). A recipient who has done any of the following will be found to be at fault with respect to creating an overpayment:

- (1) Made an incorrect statement as to a material fact which he or she knew or should have known to be incorrect; or
 - (2) Failed to provide information which he or she knew or should have known to be material; or
 - (3) Accepted a payment which the recipient knew or should have known to be incorrect. (This provision applies only to the overpaid individual.)
- (b) Whether or not OWCP determines that an individual was at fault with respect to the creation of an overpayment depends on the circumstances surrounding the overpayment. The degree of care expected may vary with the complexity of those circumstances and the individual's capacity to realize that he or she is being overpaid.

§ 10.434 If OWCP finds that the recipient of an overpayment was not at fault, what criteria are used to decide whether to waive recovery of it?

If OWCP finds that the recipient of an overpayment was not at fault, repayment will still be required unless:

- (a) Adjustment or recovery of the overpayment would defeat the purpose of the FECA (see § 10.436), or
- (b) Adjustment or recovery of the overpayment would be against equity and good conscience (see § 10.437).

§ 10.435 Is an individual responsible for an overpayment that resulted from an error made by OWCP or another Government agency?

(a) The fact that OWCP may have erred in making the overpayment, or that the overpayment may have resulted from an error by another Government agency, does not by itself relieve the individual who received the overpayment from liability for repayment if the individual also was at fault in accepting the overpayment.

(b) However, OWCP may find that the individual was not at fault if failure to report an event affecting compensation benefits, or acceptance of an incorrect payment, occurred because:

- (1) The individual relied on misinformation given in writing by OWCP (or by another Government agency which he or she had reason to believe was connected with the administration of benefits) as to the interpretation of a pertinent provision of the FECA or its regulations; or

(2) OWCP erred in calculating cost-of-living increases, schedule award length and/or percentage of impairment, or loss of wage-earning capacity.

§ 10.436 Under what circumstances would recovery of an overpayment defeat the purpose of the FECA?

Recovery of an overpayment will defeat the purpose of the FECA if such recovery would cause hardship to a currently or formerly entitled beneficiary because:

- (a) The beneficiary from whom OWCP seeks recovery needs substantially all of his or her current income (including compensation benefits) to meet current ordinary and necessary living expenses; and
- (b) The beneficiary's assets do not exceed a specified amount as determined by OWCP from data furnished by the Bureau of Labor Statistics. A higher amount is specified for a beneficiary with one or more dependents.

§ 10.437 Under what circumstances would recovery of an overpayment be against equity and good conscience?

(a) Recovery of an overpayment is considered to be against equity and good conscience when any individual who received an overpayment would experience severe financial hardship in attempting to repay the debt.

(b) Recovery of an overpayment is also considered to be against equity and good conscience when any individual, in reliance on such payments or on notice that such payments would be made, gives up a valuable right or changes his or her position for the worse. In making such a decision, OWCP does not consider the individual's current ability to repay the overpayment.

(1) To establish that a valuable right has been relinquished, it must be shown that the right was in fact valuable, that it cannot be regained, and that the action was based chiefly or solely in reliance on the payments or on the notice of payment. Donations to charitable causes or gratuitous transfers of funds to other individuals are not considered relinquishments of valuable rights.

(2) To establish that an individual's position has changed for the worse, it must be shown that the decision made would not otherwise have been made but for the receipt of benefits, and that this decision resulted in a loss.

§ 10.438 Can OWCP require the individual who received the overpayment to submit additional financial information?

(a) The individual who received the overpayment is responsible for

providing information about income, expenses and assets as specified by OWCP. This information is needed to determine whether or not recovery of an overpayment would defeat the purpose of the FECA, or be against equity and good conscience. This information will also be used to determine the repayment schedule, if necessary.

(b) Failure to submit the requested information within 30 days of the request shall result in denial of waiver, and no further request for waiver shall be considered until the requested information is furnished.

§ 10.439 What is addressed at a pre-recoupment hearing?

At a pre-recoupment hearing, the OWCP representative will consider all issues in the claim on which a formal decision has been issued. Such a hearing will thus fulfill OWCP's obligation to provide pre-recoupment rights and a hearing under 5 U.S.C. 8124(b). Pre-recoupment hearings shall be conducted in exactly the same manner as provided in § 10.615 through § 10.622.

§ 10.440 How does OWCP communicate its final decision concerning recovery of an overpayment, and what appeal right accompanies it?

(a) OWCP will send a copy of the final decision to the individual from whom recovery is sought; his or her representative, if any; and the employing agency.

(b) The only review of a final decision concerning an overpayment is to the Employees' Compensation Appeals Board. The provisions of 5 U.S.C. 8124(b) (concerning hearings) and 5 U.S.C. 8128(a) (concerning reconsiderations) do not apply to such a decision. The pendency of an appeal with ECAB has no effect on the finality of the order being appealed; in the event ECAB reverses the final overpayment decision, any monies collected will be restored to the beneficiary.

§ 10.441 How are overpayments collected?

(a) When an overpayment has been made to an individual who is entitled to further payments, the individual shall refund to OWCP the amount of the overpayment as soon as the error is discovered or his or her attention is called to same. If no refund is made, OWCP shall decrease later payments of compensation, taking into account the probable extent of future payments, the rate of compensation, the financial circumstances of the individual, and any other relevant factors, so as to minimize any hardship. Should the individual die before collection has been completed, collection shall be

made by decreasing later payments, if any, payable under the FECA with respect to the individual's death. If no further benefits are payable with respect to the individual's death, OWCP may also file a claim with the estate of the individual or seek repayment of the overpayment through other means including referral of the debt to the Treasury Department.

(b) When an overpayment has been made to an individual who is not entitled to further payments, the individual shall refund to OWCP the amount of the overpayment as soon as the error is discovered or his or her attention is called to same. The overpayment is subject to the provisions of the Federal Claims Collection Act of 1966 (as amended) and may be reported to the Internal Revenue Service as income. If the individual fails to make such refund, OWCP may recover the same through any available means, including offset of salary, annuity benefits, or other Federal payments, including tax refunds as authorized by the Tax Refund Offset Program, or referral of the debt to a collection agency or to the Department of Justice.

Subpart F—Continuing Benefits

Rules and Evidence

§ 10.500 What are the basic rules governing continuing receipt of compensation benefits and return to work?

(a) Benefits are available only while the effects of a work-related condition continue. Compensation for wage loss due to disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury. For example, an employee is not entitled to compensation for any wage-loss claimed on a CA-7 to the extent that evidence contemporaneous with the period claimed on a CA-7 establishes that an employee had medical work restrictions in place; that light duty within those work restrictions was available; and that the employee was previously notified in writing that such duty was available. Similarly, an employee receiving continuing periodic payments for disability was not prevented from earning the wages earned before the work-related injury if the evidence establishes that the employing agency had offered, in accordance with OWCP procedures, a temporary light duty assignment within the employee's work restrictions. (The penalty provision of 5 U.S.C. 8106(c)(2) will not be imposed on such assignments under this paragraph.)

(b) Each disabled employee is obligated to perform such work as he or she can. OWCP's goal is to return each disabled employee to work as soon as he or she is medically able. In determining what work qualifies under 5 U.S.C. 8115 for determining the wage-earning capacity for a particular disabled employee, OWCP considers all relevant factors, including the employee's current physical limitations, whether the work is available within the employee's demonstrated commuting area and the employee's qualifications to perform such work.

(c) A disabled employee who refuses to seek or accept suitable employment within the meaning of 5 U.S.C. 8106(c)(2) is not entitled to compensation.

(d) Payment of medical benefits is available for all treatment necessary due to a work-related medical condition.

§ 10.501 What medical evidence is necessary to support continuing receipt of compensation benefits?

(a) The employee is responsible for providing sufficient medical evidence to justify payment of any compensation sought.

(1) To support payment of continuing compensation where an employee has been found entitled to periodic benefits, narrative medical evidence must be submitted whenever OWCP requests it but ordinarily not less than once a year and with any filing of a form CA-1032. It must contain a physician's rationalized opinion as to whether the specific period of alleged disability is causally related to the employee's accepted injury or illness.

(2) For those employees with more serious conditions not likely to improve and for employees over the age of 65, OWCP may require less frequent documentation, but ordinarily not less than once every three years.

(3) The physician's opinion must be based on the facts of the case and the complete medical background of the employee, must be one of reasonable medical certainty and must include objective findings in support of its conclusions. Subjective complaints of pain are not sufficient, in and of themselves, to support payment of continuing compensation. Likewise, medical limitations based solely on the fear of a possible future injury are also not sufficient to support payment of continuing compensation. See § 10.330 for a fuller discussion of medical evidence.

(b) OWCP may require any kind of non-invasive testing to determine the employee's functional capacity. Failure to undergo such testing will result in a

suspension of benefits. In addition, OWCP may direct the employee to undergo a second opinion or referee examination in any case it deems appropriate (see §§ 10.320 and 10.321).

§ 10.502 How does OWCP evaluate evidence in support of continuing receipt of compensation benefits?

In considering the medical and factual evidence, OWCP will weigh the probative value of the attending physician's report, any second opinion physician's report, any other medical reports, or any other evidence in the file. If OWCP determines that the medical evidence supporting one conclusion is more consistent, logical, and well-reasoned than evidence supporting a contrary conclusion, OWCP will use the conclusion that is supported by the weight of the medical evidence as the basis for awarding or denying further benefits. If medical reports that are equally well-reasoned support inconsistent determinations of an issue under consideration, OWCP will direct the employee to undergo a third, impartial referee examination to resolve the issue, which will be given special weight in determining the issue.

§ 10.503 Under what circumstances may OWCP reduce or terminate compensation benefits?

Once OWCP has advised the employee that it has accepted a claim and has either approved continuation of pay or paid medical benefits or compensation, benefits will not be terminated or reduced unless the weight of the evidence establishes that:

- (a) The disability for which compensation was paid has ceased;
- (b) The disabling condition is no longer causally related to the employment;
- (c) The employee is only partially disabled;
- (d) The employee has returned to work;
- (e) The beneficiary was convicted of fraud in connection with a claim under the FECA, or the beneficiary was incarcerated based on any felony conviction; or
- (f) OWCP's initial decision was in error.

Return to Work—Employer's Responsibilities

§ 10.505 What actions must the employer take?

Upon authorizing medical care, the employer should advise the employee in writing as soon as possible of his or her obligation to return to work under § 10.210 and as defined in this subpart. The term "return to work" as used in

this subpart is not limited to returning to work at the employee's normal worksite or usual position, but may include returning to work at other locations and in other positions. In general, the employer should make all reasonable efforts to place the employee in his or her former or an equivalent position, in accordance with 5 U.S.C. 8151(b)(2), if the employee has fully recovered after one year. The Office of Personnel Management (not OWCP) administers this provision.

(a) Where the employer has specific alternative positions available for partially disabled employees, the employer should advise the employee in writing of the specific duties and physical requirements of those positions.

(b) Where the employer has no specific alternative positions available for an employee who can perform restricted or limited duties, the employer should advise the employee of any accommodations the agency can make to accommodate the employee's limitations due to the injury.

§ 10.506 May the employer monitor the employee's medical care?

The employer may monitor the employee's medical progress and duty status by obtaining periodic medical reports. Form CA-17 is usually adequate for this purpose. To aid in returning an injured employee to suitable employment, the employer may also contact the employee's physician in writing concerning the work limitations imposed by the effects of the injury and possible job assignments. (However, the employer shall not contact the physician by telephone or through personal visit.) When such contact is made, the employer shall send a copy of any such correspondence to OWCP and the employee, as well as a copy of the physician's response when received. The employer may also contact the employee at reasonable intervals to request periodic medical reports addressing his or her ability to return to work.

§ 10.507 How should the employer make an offer of suitable work?

Where the attending physician or OWCP notifies the employer in writing that the employee is partially disabled (that is, the employee can perform some work but not return to the position held at date of injury), the employer should act as follows:

(a) If the employee can perform in a specific alternative position available in the agency, and the employer has advised the employee in writing of the specific duties and physical

requirements, the employer shall notify the employee in writing immediately of the date of availability.

(b) If the employee can perform restricted or limited duties, the employer should determine whether such duties are available or whether an existing job can be modified. If so, the employer shall advise the employee in writing of the duties, their physical requirements and availability.

(c) The employer must make any job offer in writing. However, the employer may make a job offer verbally as long as it provides the job offer to the employee in writing within two business days of the verbal job offer.

(d) The offer must include a description of the duties of the position, the physical requirements of those duties, and the date by which the employee is either to return to work or notify the employer of his or her decision to accept or refuse the job offer. The employer must send a complete copy of any job offer to OWCP when it is sent to the employee.

§ 10.508 May relocation expenses be paid for an employee who would need to move to accept an offer of reemployment?

If possible, the employer should offer suitable reemployment in the location where the employee currently resides. If this is not practical, the employer may offer suitable reemployment at the employee's former duty station or other location. Where the distance between the location of the offered job and the location where the employee currently resides is at least 50 miles, OWCP may pay such relocation expenses as are considered reasonable and necessary if the employee has been terminated from the agency's employment rolls and would incur relocation expenses by accepting the offered reemployment. OWCP may also pay such relocation expenses when the new employer is other than a Federal employer. OWCP will notify the employee that relocation expenses are payable if it makes a finding that the job is suitable. To determine whether a relocation expense is reasonable and necessary, OWCP shall use as a guide the Federal travel regulations for permanent changes of duty station.

§ 10.509 If an employee's light duty job is eliminated due to downsizing, what is the effect on compensation?

In general, an employee will not be considered to have experienced a compensable recurrence of disability as defined in § 10.5(x) merely because his or her employer has eliminated the employee's light-duty position in a reduction-in-force or some other form of

downsizing. When this occurs, OWCP will determine the employee's wage-earning capacity based on his or her actual earnings in such light-duty position if this determination is appropriate on the basis that such earnings fairly and reasonably represent the employee's wage-earning capacity and such a determination has not already been made and the employing agency has stated, in writing, that no other employment is available.

§ 10.510 When may a light duty job form the basis of a loss of wage-earning capacity determination?

A light-duty position that fairly and reasonably represents an employee's ability to earn wages may form the basis of a loss of wage-earning capacity determination if that light duty position is a classified position to which the injured employee has been formally reassigned. The position must conform to the established physical limitations of the injured employee; the employer must have a written position description outlining the duties and physical requirements; and the position must correlate to the type of appointment held by the injured employee at the time of injury. If these circumstances are present, a determination may be made that the position constitutes "regular" Federal employment. In the absence of a "light-duty position" as described in this paragraph, OWCP will assume that the employee was instead engaged in non-competitive, makeshift or odd lot employment which does not represent the employee's wage-earning capacity, *i.e.*, work of the type provided to injured employees who cannot otherwise be employed by the Federal Government or in any well-known branch of the general labor market.

§ 10.511 How may a loss of wage-earning capacity determination be modified?

If OWCP issues a formal loss of wage-earning capacity determination, including a finding of no loss of wage-earning capacity, that determination and rate of compensation, if applicable, remains in place until that determination is modified by OWCP. Modification of such a determination is only warranted where the party seeking the modification establishes either that there is a material change in the nature and extent of the injury-related condition, the employee has been retrained or otherwise vocationally rehabilitated, or the original determination was erroneous. However, OWCP is not precluded from adjudicating a limited period of disability following the issuance of a loss of wage-earning capacity decision,

such as where an employee has a demonstrated need for surgery.

Return to Work—Employee's Responsibilities

§ 10.515 What actions must the employee take with respect to returning to work?

(a) If an employee can resume regular Federal employment, he or she must do so. No further compensation for wage loss is payable once the employee has recovered from the work-related injury to the extent that he or she can perform the duties of the position held at the time of injury, or earn equivalent wages.

(b) If an employee cannot return to the job held at the time of injury due to partial disability from the effects of the work-related injury, but has recovered enough to perform some type of work, he or she must seek work. In the alternative, the employee must accept suitable work offered to him or her. This work may be with the original employer or through job placement efforts made by or on behalf of OWCP.

(c) If the employer has advised an employee in writing that specific alternative positions exist within the agency, the employee shall provide the description and physical requirements of such alternate positions to the attending physician and ask whether and when he or she will be able to perform such duties.

(d) If the employer has advised an employee that it is willing to accommodate his or her work limitations, the employee shall so advise the attending physician and ask him or her to specify the limitations imposed by the injury. The employee is responsible for advising the employer immediately of these limitations.

(e) From time to time, OWCP may require the employee to report his or her efforts to obtain suitable employment, whether with the Federal Government, State and local Governments, or in the private sector.

§ 10.516 How will an employee know if OWCP considers a job to be suitable?

OWCP shall advise the employee that it has found the offered work to be suitable and afford the employee 30 days to accept the job or present any reasons to counter OWCP's finding of suitability. If the employee presents such reasons, and OWCP determines that the reasons are unacceptable, it will notify the employee of that determination and that he or she has 15 days in which to accept the offered work without penalty. At that point in time, OWCP's notification need not state the reasons for finding that the employee's reasons are not acceptable.

§ 10.517 What are the penalties for refusing to accept a suitable job offer?

(a) 5 U.S.C. 8106(c) provides that a partially disabled employee who refuses to seek suitable work, or refuses to or neglects to work after suitable work is offered to or arranged for him or her, is not entitled to compensation. An employee who refuses or neglects to work after suitable work has been offered or secured for him or her has the burden to show that this refusal or failure to work was reasonable or justified.

(b) After providing the two notices described in § 10.516, OWCP will terminate the employee's entitlement to further compensation under 5 U.S.C. 8105, 8106, and 8107 on all claims where the injury occurred prior to the termination decision, as provided by 5 U.S.C. 8106(c)(2). However, the employee remains entitled to medical benefits as provided by 5 U.S.C. 8103.

§ 10.518 Does OWCP provide services to help employees return to work?

OWCP may, in its discretion, provide vocational rehabilitation services as authorized by 5 U.S.C. 8104. Vocational rehabilitation services may include vocational evaluation, testing, training, and placement services with either the original employer or a new employer, when the injured employee cannot return to the job held at the time of injury. These services also include functional capacity evaluations, which help to tailor individual rehabilitation programs to employees' physical reconditioning and behavioral modification needs, and help employees to meet the demands of current or potential jobs.

§ 10.519 What action will OWCP take if an employee refuses to undergo vocational rehabilitation?

Under 5 U.S.C. 8104(a), OWCP may direct a permanently disabled employee to undergo vocational rehabilitation. To ensure that vocational rehabilitation services are available to all who might be entitled to benefit from them, an injured employee who has a loss of wage-earning capacity shall be presumed to be "permanently disabled," for purposes of this section only, unless and until the employee proves that the disability is not permanent. If an employee without good cause fails or refuses to apply for, undergo, participate in, or continue to participate in a vocational rehabilitation effort when so directed, OWCP will act as follows:

(a) Where a suitable job has been identified, OWCP will reduce the employee's future monetary

compensation based on the amount which would likely have been his or her wage-earning capacity had he or she undergone vocational rehabilitation. OWCP will determine this amount in accordance with the job identified through the vocational rehabilitation planning process, which includes meetings with the OWCP nurse and the employer. The reduction will remain in effect until such time as the employee acts in good faith to comply with the direction of OWCP.

(b) Where a suitable job has not been identified, because the failure or refusal occurred in the early but necessary stages of a vocational rehabilitation effort (that is, interviews, testing, counseling, functional capacity evaluations, and work evaluations), OWCP cannot determine what would have been the employee's wage-earning capacity.

(c) Under the circumstances identified in paragraph (b) of this section, in the absence of evidence to the contrary, OWCP will assume that the vocational rehabilitation effort would have resulted in a return to work with no loss of wage-earning capacity, and OWCP will reduce the employee's monetary compensation accordingly (that is, to zero). This reduction will remain in effect until such time as the employee acts in good faith to comply with the direction of OWCP.

§ 10.520 How does OWCP determine compensation after an employee completes a vocational rehabilitation program?

After completion of a vocational rehabilitation program, OWCP may adjust compensation to reflect the injured worker's wage-earning capacity. Actual earnings will be used if they fairly and reasonably reflect the earning capacity. The position determined to be the goal of a training plan is assumed to represent the employee's earning capacity if it is suitable and performed in sufficient numbers so as to be reasonably available, whether or not the employee is placed in such a position.

§ 10.521 If an employee elects to receive retirement benefits instead of FECA benefits, what effect may such an election have on that employee's entitlement to FECA compensation?

Where an employee is undergoing vocational rehabilitation, or where OWCP is attempting to otherwise place that employee in a suitable job, and that employee elects to receive retirement benefits from the Office of Personnel Management instead of benefits under the FECA, the OWCP may proceed with a loss of wage-earning capacity determination which may reduce FECA entitlement as long as the determination

is based on the evidence of record at the time of such election.

Reports of Earnings From Employment and Self-Employment

§ 10.525 What information must the employee report?

(a) An employee who is receiving compensation for partial or total disability must advise OWCP immediately of any return to work, either part-time or full-time. An employee must report all outside employment, including any concurrent dissimilar employment held at the time of injury, even if the injury did not result in any lost time in that position. In addition, an employee who is receiving compensation for partial or total disability will periodically be required to submit a report of earnings from employment or self-employment, either part-time or full-time. (See § 10.5(g) for a definition of "earnings.")

(b) The employee must report even those earnings which do not seem likely to affect his or her level of benefits. Many kinds of income, though not all, will result in reduction of compensation benefits. While earning income will not necessarily result in a reduction of compensation, failure to report income may result in forfeiture of all benefits paid during the reporting period.

§ 10.526 Must the employee report volunteer activities?

An employee who is receiving compensation for partial or total disability is periodically required to report volunteer activity or any other kind of activity which shows that the employee is no longer totally disabled for work. The fact that the employee did not receive any salary for this work is not a basis for failing to report this activity; instead the employee must report the cost if any to have someone else do the work or activity.

§ 10.527 Does OWCP verify reports of earnings?

To make proper determinations of an employee's entitlement to benefits, OWCP may verify the earnings reported by the employee through a variety of means, including but not limited to computer matches with the Office of Personnel Management and inquiries to the Social Security Administration. Also, OWCP may perform computer matches with records of State agencies, including but not limited to workers' compensation administrations, to determine whether private employers are paying workers' compensation insurance premiums for recipients of benefits under the FECA.

§ 10.528 What action will OWCP take if the employee fails to file a report of activity indicating an ability to work?

OWCP periodically requires each employee who is receiving compensation benefits to complete an affidavit as to any work, or activity indicating an ability to work, which the employee has performed for the prior 15 months. If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss under 5 U.S.C. 8105 or 8106 is suspended until OWCP receives the requested report. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.

§ 10.529 What action will OWCP take if the employee files an incomplete report?

(a) If an employee knowingly omits or understates any earnings or work activity in making a report, he or she shall forfeit the right to compensation with respect to any period for which the report was required. A false or evasive statement, omission, concealment, or misrepresentation with respect to employment activity or earnings in a report may also subject an employee to criminal prosecution.

(b) Where the right to compensation is forfeited, OWCP shall recover any compensation already paid for the period of forfeiture pursuant to 5 U.S.C. 8129 and other relevant statutes.

Reports of Dependents

§ 10.535 How are dependents defined, and what information must the employee report?

(a) Dependents in disability cases are defined in § 10.405. While the employee has one or more dependents, the employee's basic compensation for wage loss or for permanent impairment shall be augmented as provided in 5 U.S.C. 8110. (The rules for death claims are found in § 10.414.)

(b) An employee who is receiving augmented compensation on account of dependents must advise OWCP immediately of any change in the number or status of dependents. The employee should also promptly refund to OWCP any amounts received on account of augmented compensation after the right to receive augmented compensation has ceased. Any difference between actual entitlement and the amount already paid beyond the date entitlement ended is an overpayment of compensation and may be recovered pursuant to 5 U.S.C. 8129 and other relevant statutes.

(c) An employee who is receiving augmented compensation shall be periodically required to submit a statement as to any dependents, or to submit supporting documents such as birth or marriage certificates or court orders, to determine if he or she is still entitled to augmented compensation.

§ 10.536 What is the penalty for failing to submit a report of dependents?

If an employee fails to submit a requested statement or supporting document within 30 days of the date of the request, OWCP will suspend his or her right to augmented compensation until OWCP receives the requested statement or supporting document. At that time, OWCP will reinstate augmented compensation retroactive to the date of suspension, provided that the employee is entitled to receive augmented compensation.

§ 10.537 What reports are needed when compensation payments continue for children over age 18?

(a) Compensation payable on behalf of a child that would otherwise end when the child reaches 18 years of age will continue if and for so long as he or she is not married and is either a student as defined in 5 U.S.C. 8101(17), or physically or mentally incapable of self-support.

(b) At least once each year, OWCP will ask an employee who receives compensation based on the student status of a child to provide proof of continuing entitlement to such compensation, including certification of school enrollment. The employee is required to report any changes to student status in the interim as soon as they occur.

(c) Likewise, at least once each year, OWCP will ask an employee who receives compensation based on a child's physical or mental inability to support himself or herself, and who is not covered by § 10.417(d) of this part, to submit a medical report verifying that the child's medical condition persists and that it continues to preclude self-support. The employee is required to report any changes to that status in the interim.

(d) If an employee fails to submit proof within 30 days of the date of the request, OWCP will suspend the employee's right to compensation until the requested information is received. At that time OWCP will reinstate compensation retroactive to the date of suspension, provided the employee is entitled to such compensation.

Reduction and Termination of Compensation

§ 10.540 When and how is compensation reduced or terminated?

(a) Except as provided in paragraphs (c), (d), and (e) of this section, where the evidence establishes that compensation should be either reduced or terminated, OWCP will provide the beneficiary with written notice of the proposed action and give him or her 30 days to submit relevant evidence or argument to support entitlement to continued payment of compensation.

(b) Notice provided under this section will include a description of the reasons for the proposed action and a copy of the specific evidence upon which OWCP is basing its determination. Payment of compensation will continue until any evidence or argument submitted has been reviewed and an appropriate decision has been issued, or until 30 days have elapsed if no additional evidence or argument is submitted.

(c) OWCP will not provide such written notice when the beneficiary has no reasonable basis to expect that payment of compensation will continue. For example, when a claim has been made for a specific period of time and that specific period expires, no written notice will be given.

(d) Written notice will also not be given when a beneficiary dies, when OWCP either reduces or terminates compensation upon an employee's return to work, when OWCP terminates only medical benefits after a physician indicates that further medical treatment is not necessary or has ended, or when OWCP denies payment for a particular medical expense.

(e) OWCP will also not provide such written notice when compensation is terminated, suspended or forfeited due to one of the following: A beneficiary's conviction for fraud in connection with a claim under the FECA; a beneficiary's incarceration based on any felony conviction; an employee's failure to report earnings from employment or self-employment; an employee's failure or refusal to either continue performing suitable work or to accept an offer of suitable work; or an employee's refusal to undergo or obstruction of a directed medical examination or treatment for substance abuse.

§ 10.541 What action will OWCP take after issuing written notice of its intention to reduce or terminate compensation?

(a) If the beneficiary submits evidence or argument prior to the issuance of the decision, OWCP will evaluate it in light of the proposed action and undertake

such further development as it may deem appropriate, if any. Evidence or argument which is repetitious, cumulative, or irrelevant will not require any further development. If the beneficiary does not respond within 30 days of the written notice, OWCP will issue a decision consistent with its prior notice. OWCP will not grant any request for an extension of this 30-day period.

(b) Evidence or argument which refutes the evidence upon which the proposed action was based will result in the continued payment of compensation. If the beneficiary submits evidence or argument which fails to refute the evidence upon which the proposed action was based but which requires further development, OWCP will not provide the beneficiary with another notice of its proposed action upon completion of such development. Once any further development of the evidence is completed, OWCP will either continue payment or issue a decision consistent with its prior notice.

Subpart G—Appeals Process

§ 10.600 How can final decisions of OWCP be reviewed?

There are three methods for reviewing a formal decision of the OWCP (§§ 10.125 through 10.127 discuss how decisions are made). These methods are: reconsideration by the district office; a hearing before an OWCP hearing representative; and appeal to the Employees' Compensation Appeals Board (ECAB). For each method there are time limitations and other restrictions which may apply, and not all options are available for all decisions, so the employee should consult the requirements set forth below. Further rules governing appeals to the ECAB are found at part 501 of this title.

Reconsiderations and Reviews by the Director

§ 10.605 What is reconsideration?

The FECA provides that the Director may review an award for or against compensation upon application by an employee (or his or her representative) who receives an adverse decision. The employee shall exercise this right through a request to the district office. The request, along with the supporting statements and evidence, is called the "application for reconsideration."

§ 10.606 How does a claimant request reconsideration?

(a) An employee (or representative) seeking reconsideration should send the application for reconsideration to the

address as instructed by OWCP in the final decision.

(b) The application for reconsideration, including all supporting documents, must:

- (1) Be submitted in writing;
- (2) Be signed and dated by the claimant or the authorized representative; and
- (3) Set forth arguments and contain evidence that either:
 - (i) Shows that OWCP erroneously applied or interpreted a specific point of law;
 - (ii) Advances a relevant legal argument not previously considered by OWCP; or
 - (iii) Constitutes relevant and pertinent new evidence not previously considered by OWCP.

§ 10.607 What is the time limit for requesting reconsideration?

(a) An application for reconsideration must be received by OWCP within one year of the date of the OWCP decision for which review is sought.

(b) OWCP will consider an untimely application for reconsideration only if the application demonstrates clear evidence of error on the part of OWCP in its most recent merit decision. The application must establish, on its face, that such decision was erroneous.

(c) The year in which a claimant has to timely request reconsideration shall not include any period subsequent to an OWCP decision for which the claimant can establish through probative medical evidence that he or she is unable to communicate in any way and that his or her testimony is necessary in order to obtain modification of the decision.

§ 10.608 How does OWCP decide whether to grant or deny the request for reconsideration?

(a) A timely request for reconsideration may be granted if OWCP determines that the employee has presented evidence and/or argument that meets at least one of the standards described in § 10.606(b)(3). If reconsideration is granted, the case is reopened and the case is reviewed on its merits (see § 10.609).

(b) Where the request is timely but fails to meet at least one of the standards described in § 10.606(b)(3), or where the request is untimely and fails to present any clear evidence of error, OWCP will deny the application for reconsideration without reopening the case for a review on the merits. A decision denying an application for reconsideration cannot be the subject of another application for reconsideration. The only review for this type of non-merit decision is an appeal to the ECAB (see § 10.625), and

OWCP will not entertain a request for reconsideration or a hearing on this decision denying reconsideration.

§ 10.609 How does OWCP decide whether new evidence requires modification of the prior decision?

When application for reconsideration is granted, OWCP will review the decision for which reconsideration is sought on the merits and determine whether the new evidence or argument requires modification of the prior decision.

(a) After OWCP decides to grant reconsideration, but before undertaking the review, OWCP will send a copy of the reconsideration application to the employer, which will have 20 days from the date sent to comment or submit relevant documents. OWCP will provide any such comments to the employee, who will have 20 days from the date the comments are sent to him or her within which to comment. If no comments are received from the employer, OWCP will proceed with the merit review of the case. Where a reconsideration request pertains only to a medical issue (such as disability or a schedule award) not requiring comment from the employing agency, the employing agency will be notified that a request for reconsideration has been received, but OWCP is not required to wait 20 days for comment before reaching a determination, except when that claimant is deployed in an area of armed conflict.

(b) A claims examiner who did not participate in making the contested decision will conduct the merit review of the claim. When all evidence has been reviewed, OWCP will issue a new merit decision, based on all the evidence in the record. A copy of the decision will be provided to the agency.

(c) An employee dissatisfied with this new merit decision may again request reconsideration under this subpart or appeal to the ECAB. An employee may not request a hearing on this decision.

§ 10.610 What is a review by the Director?

The FECA specifies that an award for or against payment of compensation may be reviewed at any time on the Director's own motion. Such review may be made without regard to whether there is new evidence or information. If the Director determines that a review of the award is warranted (including, but not limited to circumstances indicating a mistake of fact or law or changed conditions), the Director (at any time and on the basis of existing evidence) may modify, rescind, decrease or increase compensation previously awarded, or award compensation

previously denied. A review on the Director's own motion is not subject to a request or petition and none shall be entertained.

(a) The decision whether or not to review an award under this section is solely within the discretion of the Director. The Director's exercise of this discretion is not subject to review by the ECAB, nor can it be the subject of a reconsideration or hearing request.

(b) Where the Director reviews an award on his or her own motion, any resulting decision is subject as appropriate to reconsideration, a hearing and/or appeal to the ECAB. Jurisdiction on review or on appeal to ECAB is limited to a review of the merits of the resulting decision. The Director's determination to review the award is not reviewable.

Hearings

§ 10.615 What is a hearing?

A hearing is a review of an adverse decision by a hearing representative. Initially, the claimant can choose between two formats: An oral hearing or a review of the written record. At the discretion of the hearing representative, an oral hearing may be conducted by telephone, teleconference, videoconference or other electronic means. In addition to the evidence of record, the employee may submit new evidence to the hearing representative.

§ 10.616 How does a claimant obtain a hearing?

(a) A claimant, injured on or after July 4, 1966, who has received a final adverse decision by the district office may obtain a hearing by writing to the address specified in the decision. The hearing request must be sent within 30 days (as determined by postmark or other carrier's date marking) of the date of the decision for which a hearing is sought. The claimant must not have previously submitted a reconsideration request (whether or not it was granted) on the same decision.

(b) OWCP will schedule an oral hearing and determine whether the oral hearing will be conducted in person, including whether the in person hearing will be by teleconference, videoconference or other electronic means. The claimant can request a change in the format from a hearing to a review of the written record by making a written request to the Branch of Hearings and Review. OWCP will grant a request received by the Branch of Hearings and Review within 30 days of the date OWCP acknowledges the initial hearing request, or the date OWCP issues a notice setting a date for an oral hearing, in cases where the initial

request was for, or was treated as a request for, an oral hearing. A request received after those dates will be subject to OWCP's discretion. The decision to grant or deny a change of format from a hearing to a review of the written record is not reviewable.

§ 10.617 How is an oral hearing conducted?

(a) The hearing representative retains complete discretion to set the time, place and method of the hearing, including the amount of time allotted for the hearing, considering the issues to be resolved. Any requests for reasonable accommodation by individuals with disabilities should be made through the procedure described in the initial acknowledgement letter.

(b) Unless otherwise directed in writing by the claimant, the hearing representative will mail a notice of the time, place and method of the oral hearing to the claimant and any representative at least 30 days before the scheduled date. The employer will also be mailed a notice at least 30 days before the scheduled date.

(c) The hearing is an informal process, and the hearing representative is not bound by common law or statutory rules of evidence, by technical or formal rules of procedure or by section 5 of the Administrative Procedure Act, but the hearing representative may conduct the hearing in such manner as to best ascertain the rights of the claimant. During the hearing process, the claimant may state his or her arguments and present new written evidence in support of the claim. Hearings are limited to one hour; this limitation may be extended in the discretion of the hearing representative.

(d) Testimony at oral hearings, including those conducted by teleconference, videoconference or other electronic means, is recorded, then transcribed and placed in the record. Oral testimony shall be made under oath. The transcript of the hearing is the official record of the hearing.

(e) OWCP will furnish a transcript of the oral hearing to the claimant and the employer, who have 20 days from the date it is sent to comment. The employer shall send any comments to OWCP and the claimant, who will have 20 more days from the date of the agency's certificate of service to comment.

(f) The hearing remains open for the submittal of additional evidence until 30 days after the hearing is held, unless the hearing representative, in his or her sole discretion, grants an extension. Only one such extension may be granted. A copy of the decision will be

mailed to the claimant's last known address, to any representative, and to the employer.

(g) The hearing representative determines the conduct of the oral hearing and may terminate the hearing at any time he or she determines that all relevant evidence has been obtained, or because of misbehavior on the part of the claimant and/or representative.

(h) Pursuant to 5 U.S.C. 8126, if an individual disobeys or resists a lawful order or process in proceedings under this part, or misbehaves during a hearing or in a manner so as to obstruct the hearing, OWCP may certify the facts to the appropriate U.S. District Court, which may, if the evidence warrants, punish the individual in the same manner and to the same extent as for a contempt committed before the court, or commit the individual on the same conditions as if the forbidden act had occurred with reference to the process of or in the presence of the court.

§ 10.618 How is a review of the written record conducted?

(a) The hearing representative will review the official record and any additional evidence submitted by the claimant and by the agency. The hearing representative may also conduct whatever investigation is deemed necessary. New evidence and arguments are to be submitted at any time up to the time specified by OWCP, but they should be submitted as soon as possible to avoid delaying the hearing process.

(b) The claimant should submit, with his or her application for review, all evidence or argument that he or she wants to present to the hearing representative. If the claimant chooses to change the request from an oral hearing to a review of the written record, the claimant should submit all evidence or argument at that time. A copy of all pertinent material will be sent to the employer, which will have 20 days from the date it is sent to comment. (Medical evidence is not considered "pertinent" for review and comment by the agency, and it will therefore not be furnished to the agency. OWCP has sole responsibility for evaluating medical evidence.) The employer shall send any comments to OWCP and the claimant, who will have 20 more days from the date of the agency's certificate of service to comment.

§ 10.619 May subpoenas be issued for witnesses and documents?

A claimant may request a subpoena, but the decision to grant or deny such a request is within the discretion of the hearing representative. The hearing

representative may issue subpoenas for the attendance and testimony of witnesses, and for the production of books, records, correspondence, papers or other relevant documents. Subpoenas are issued for documents only if they are relevant and cannot be obtained by other means, and for witnesses only where oral testimony is the best way to ascertain the facts.

(a) A claimant may request a subpoena only as part of the hearings process, and no subpoena will be issued under any other part of the claims process. To request a subpoena, the requestor must:

(1) Submit the request in writing and send it to the hearing representative as early as possible but no later than 60 days (as evidenced by postmark, electronic marker or other objective date mark) after the date of the original hearing request.

(2) Explain in the original request for a subpoena why the testimony or evidence is directly relevant to the issues at hand, and a subpoena is the best method or opportunity to obtain such evidence because there are no other means by which the documents or testimony could have been obtained.

(b) No subpoena will be issued for attendance of employees of OWCP acting in their official capacities as decision-makers or policy administrators. For hearings taking the form of a review of the written record, no subpoena for the appearance of witnesses will be considered.

(c) The hearing representative issues the subpoena under his or her own name. It may be served in person or by certified mail, return receipt requested (or equivalent service from a commercial carrier), addressed to the person to be served at his or her last known principal place of business or residence. A decision to deny a subpoena can only be appealed as part of an appeal of any adverse decision which results from the hearing.

§ 10.620 Who pays the costs associated with subpoenas?

(a) Witnesses who are not employees or former employees of the Federal Government shall be paid the same fees and mileage as paid for like services in the District Court of the United States where the subpoena is returnable, except that expert witnesses shall be paid a fee not to exceed the local customary fee for such services.

(b) Where OWCP asked that the witness submit evidence into the case record or asked that the witness attend, OWCP shall pay the fees and mileage. Where the claimant requested the subpoena, and where the witness

submitted evidence into the record at the request of the claimant, the claimant shall pay the fees and mileage.

§ 10.621 What is the employer's role when an oral hearing has been requested?

(a) The employer may send one (or more, if deemed appropriate by the hearing representative) representative(s) to observe the proceeding, but the agency representative cannot give testimony or argument or otherwise participate in the hearing, except where the claimant or the hearing representative specifically asks the agency representative to testify.

(b) The hearing representative may deny a request by the claimant that the agency representative testify where the claimant cannot show that the testimony would be relevant or where the agency representative does not have the appropriate level of knowledge to provide such evidence at the hearing. The employer may also comment on the hearing transcript, as described in § 10.617(e).

§ 10.622 May a claimant or representative withdraw a request for or postpone a hearing?

(a) The claimant and/or representative may withdraw the hearing request at any time up to and including the day the hearing is held, or the decision issued. Withdrawing the hearing request means the record is returned to the jurisdiction of the district office and no further requests for a hearing on the underlying decision will be considered.

(b) OWCP will entertain any reasonable request for scheduling the oral hearing, including whether to participate by teleconference, videoconference or other electronic means, but such requests should be made at the time of the original application for hearing. Scheduling (including format) is at the sole discretion of the hearing representative, and is not reviewable.

(c) Once the oral hearing is scheduled and OWCP has mailed appropriate written notice to the claimant and representative, OWCP will, upon submission of proper written documentation of unavoidable serious scheduling conflicts (such as court-ordered appearances/trials, jury duty or previously scheduled outpatient procedures), entertain requests from a claimant or his representative for rescheduling as long as the hearing can be rescheduled on the same monthly docket, generally no more than 7 days after the originally scheduled time. When a request to postpone a scheduled hearing under this subsection cannot be accommodated on the docket, no further

opportunity for an oral hearing will be provided. Instead, the hearing will take the form of a review of the written record and a decision issued accordingly.

(d) Where the claimant or representative is hospitalized for a non-elective reason or where the death of the claimant's or representative's parent, spouse, child or other immediate family prevents attendance at the hearing, OWCP will, upon submission of proper documentation, grant a postponement beyond one monthly docket.

(e) Decisions regarding rescheduling under paragraphs (b) through (d) of this section are within the sole discretion of the hearing representative and are not reviewable.

(f) A claimant who fails to appear at a scheduled hearing may request in writing within 10 days after the date set for the hearing that another hearing be scheduled. Where good cause for failure to appear is shown, another hearing will be scheduled and conducted by teleconference. The failure of the claimant to request another hearing within 10 days, or the failure of the claimant to appear at the second scheduled hearing without good cause shown, shall constitute abandonment of the request for a hearing. Where good cause is shown for failure to appear at the second scheduled hearing, review of the matter will proceed as a review of the written record.

Review by the Employees' Compensation Appeals Board (ECAB)

§ 10.625 What kinds of decisions may be appealed?

Only final decisions of OWCP may be appealed to the ECAB. However, certain types of final decisions, described in this part as not subject to further review, cannot be appealed to the ECAB. Decisions that are not appealable to the ECAB include: Decisions concerning the amounts payable for medical services, decisions concerning exclusion and reinstatement of medical providers, decisions by the Director to review an award on his or her own motion, and denials of subpoenas independent of the appeal of the underlying decision. In appeals before the ECAB, attorneys from the Office of the Solicitor of Labor shall represent OWCP.

§ 10.626 Who has jurisdiction of cases on appeal to the ECAB?

While a case is on appeal to the ECAB, OWCP has no jurisdiction over the claim with respect to issues which directly relate to the issue or issues on appeal. The OWCP continues to administer the claim and retains jurisdiction over issues unrelated to the

issue or issues on appeal and issues which arise after the appeal as a result of ongoing administration of the case. Such issues would include, for example, the ability to terminate benefits where an individual returns to work while an appeal is pending at the ECAB. ECAB's rules of procedure are found at part 501 of this title.

Subpart H—Special Provisions

Representation

§ 10.700 May a claimant designate a representative?

(a) The claims process under the FECA is informal. Unlike many workers' compensation laws, the employer is not a party to the claim, and OWCP acts as an impartial evaluator of the evidence. Nevertheless, a claimant may appoint one individual to represent his or her interests, but the appointment must be in writing.

(b) There can be only one representative at any one time, so after one representative has been properly appointed, OWCP will not recognize another individual as representative until the claimant withdraws the authorization of the first individual. In addition, OWCP will recognize only certain types of individuals (see § 10.701); however if the representative is an attorney, OWCP may communicate with any member of that attorney's recognized law firm.

(c) A properly appointed representative who is recognized by OWCP may make a request or give direction to OWCP regarding the claims process, including a hearing. This authority includes presenting or eliciting evidence, making arguments on facts or the law, and obtaining information from the case file, to the same extent as the claimant.

§ 10.701 Who may serve as a representative?

A claimant may authorize any individual to represent him or her in regard to a claim under the FECA, unless that individual's service as a representative would violate any applicable provision of law (such as 18 U.S.C. 205 and 208). A Federal employee may act as a representative only:

(a) On behalf of immediate family members, defined as a spouse, children, parents, and siblings of the representative, provided no fee or gratuity is charged; or

(b) While acting as a union representative, defined as any officially sanctioned union official, and no fee or gratuity is charged.

§ 10.702 How are fees for services paid?

(a) A representative may charge the claimant a fee and other costs associated with the representation before OWCP. The claimant is solely responsible for paying the fee and other charges. The claimant will not be reimbursed by OWCP, nor is OWCP in any way liable for the amount of the fee. Contingency fees are not allowed in any form.

(b) Administrative costs (mailing, copying, messenger services, travel and the like, but not including secretarial services, paralegal and other activities) need not be approved before the representative collects them. Before any fee for services can be collected, however, the fee must be approved by the Secretary.

§ 10.703 How are fee applications approved?

(a) *Fee application.* The representative must submit the fee application to OWCP for services rendered before ECAB. (Representative services before ECAB must be approved by ECAB under 20 CFR part 501.) The application submitted to OWCP shall contain the following:

(1) An itemized statement showing the representative's hourly rate, the number of hours worked and specifically identifying the work performed and a total amount charged for the representation (excluding administrative costs).

(2) A statement of agreement or disagreement with the amount charged, signed by the claimant. The statement must also acknowledge that the claimant is aware that he or she must pay the fees and that OWCP is not responsible for paying the fee or other costs.

(b) *Approval where there is no dispute.* Where a fee application that describes the services rendered in accordance with paragraph (a)(1) of this section is accompanied by a signed statement indicating the claimant's agreement with the fee as described in paragraph (a)(2) of this section, the application is deemed approved except that no contingency fee arrangement may be considered deemed approved through this process.

(c) *Disputed requests.* (1) Where the claimant disagrees with the amount of the fee, as indicated in the statement accompanying the submittal, OWCP will evaluate the objection and decide whether or not to approve the request. OWCP will provide a copy of the request to the claimant and ask him or her to submit any further information in support of the objection within 15 days from the date the request is forwarded. After that period has passed, OWCP will

evaluate the information received to determine whether the amount of the fee is substantially in excess of the value of services received by looking at the following factors:

(i) Usefulness of the representative's services;

(ii) The nature and complexity of the claim;

(iii) The actual time spent on development and presentation of the claim; and

(iv) Customary local charges for services for a representative of similar background and experience.

(2) Where the claimant disputes the representative's request and files an objection with OWCP, an appealable decision will be issued.

§ 10.704 What penalties apply to representatives who collect a fee without approval?

Representatives who collect a fee without proper approval from OWCP may be charged with a misdemeanor under 18 U.S.C. 292.

Third Party Liability**§ 10.705 When must an employee or other FECA beneficiary take action against a third party?**

(a) If an injury or death for which benefits are payable under the FECA is caused, wholly or partially, by someone other than a Federal employee acting within the scope of his or her employment, the claimant can be required to take action against that third party.

(b) The Office of the Solicitor of Labor (SOL) is hereby delegated authority to administer the subrogation aspects of certain FECA claims for OWCP. Either OWCP or SOL can require a FECA beneficiary to assign his or her claim for damages to the United States or to prosecute the claim in his or her own name. All information regarding subrogation claims administered by SOL should be submitted to Chief, Subrogation Unit, U.S. Department of Labor, Office of the Solicitor, 200 Constitution Avenue, NW., Room S4325, Washington, DC 20210.

§ 10.706 How will a beneficiary know if OWCP or SOL has determined that action against a third party is required?

When OWCP determines that an employee or other FECA beneficiary must take action against a third party, it will notify the employee or beneficiary in writing. If the case is transferred to SOL, a second notification may be issued.

§ 10.707 What must a FECA beneficiary who is required to take action against a third party do to satisfy the requirement that the claim be "prosecuted"?

At a minimum, a FECA beneficiary must do the following:

(a) Seek damages for the injury or death from the third party, either through an attorney or on his or her own behalf;

(b) Either initiate a lawsuit within the appropriate statute of limitations period or obtain a written release of this obligation from OWCP or SOL unless recovery is possible through a negotiated settlement prior to filing suit;

(c) Refuse to settle or dismiss the case for any amount less than the amount necessary to repay OWCP's refundable disbursements, as defined in § 10.714, without receiving permission from OWCP or SOL;

(d) Provide periodic status updates and other relevant information in response to requests from OWCP or SOL;

(e) Submit detailed information about the amount recovered and the costs of the suit on a "Statement of Recovery" form approved by OMB;

(f) Submit information regarding the names of all plaintiffs to the suit or settlement and their relationship to the injured employee, if not the same as the FECA beneficiary;

(g) If any portion of the settlement or judgment was paid to more than one individual, advise whether it was indicated in the settlement or judgment the amount each individual is to receive, and if so, the percentage of the total award;

(h) Advise whether any portion of the settlement or judgment was paid in more than one capacity, such as a joint payment to a husband and wife for personal injury and loss of consortium or a payment to a spouse representing both loss of consortium and wrongful death; and

(i) Pay any required refund.

§ 10.708 Can a FECA beneficiary who refuses to comply with a request to assign a claim to the United States or to prosecute the claim in his or her own name be penalized?

When a FECA beneficiary refuses a request to either assign a claim or prosecute a claim in his or her own name, OWCP may determine that he or she has forfeited his or her right to all past or future compensation for the injury with respect to which the request is made. Alternatively, OWCP may also suspend the FECA beneficiary's compensation payments until he or she complies with the request.

§ 10.709 What happens if a beneficiary directed by OWCP or SOL to take action against a third party does not believe that a claim can be successfully prosecuted at a reasonable cost?

If a beneficiary consults an attorney and is informed that a suit for damages against a third party for the injury or death for which benefits are payable is unlikely to prevail or that the costs of such a suit are not justified by the potential recovery, he or she should request that OWCP or SOL release him or her from the obligation to proceed. This request should be in writing and provide evidence of the attorney's opinion. If OWCP or SOL agrees, the beneficiary will not be required to take further action against the third party.

§ 10.710 Under what circumstances must a recovery of money or other property in connection with an injury or death for which benefits are payable under the FECA be reported to OWCP or SOL?

Any person who has filed a FECA claim that has been accepted by OWCP (whether or not compensation has been paid), or who has received FECA benefits in connection with a claim filed by another, is required to notify OWCP or SOL of the receipt of money or other property as a result of a settlement or judgment in connection with the circumstances of that claim. This includes an injured employee, and in the case of a claim involving the death of an employee, a spouse, children or other dependents entitled to receive survivor's benefits. OWCP or SOL should be notified in writing within 30 days of the receipt of such money or other property or the acceptance of the FECA claim, whichever occurs later.

§ 10.711 How is the amount of the recovery of the FECA beneficiary determined?

(a) When a FECA beneficiary is entitled to receive money as a result of a judgment entered in a lawsuit or settlement of a lawsuit or any other settlement or recovery from a responsible third party, the entire amount of the award is reported as the gross recovery. To determine the amount of the recovery of the FECA beneficiary, deductions are made for the portion representing damage to real or personal property, the portion representing loss of consortium, the portion representing wrongful death and the portion representing a survival action. To make deductions for loss of consortium, wrongful death and survival action, it must be established that:

(1) These claims were asserted in the suit (or if there was no suit that these

claims were included in the settlement or recovery); and

(2) That such claims are permissible under the state law where the action was brought.

(b) OWCP or SOL will determine the appropriate percentage of the total judgment or settlement that will be allocated for loss of consortium, wrongful death action and survival action. FECA beneficiaries may accept OWCP's or SOL's determination or demonstrate good cause in writing for a different allocation. Whether to accept a specific allocation is at the discretion of OWCP or SOL, even where it has been incorporated into the settlement agreement. OWCP or SOL will not determine the appropriate percentage to be allocated for loss of consortium, wrongful death action and survival action if a judge or jury specifies the percentage to be awarded of a contested verdict attributable to each of several plaintiffs; in such case, OWCP or SOL will accept that percentage allocation.

(c) The amount of the recovery of the FECA beneficiary will be determined as followed:

(1) If a settlement or judgment is paid to or for one individual, the recovery is the gross recovery less the portion representing damage to real or personal property. The portion representing damage to real or personal property must be established in writing and approved by OWCP or SOL.

(2) In any case involving an injury to an employee where a judgment or settlement is paid to or on behalf of more than one individual, the recovery is the gross recovery less the portion representing damage to real or personal property and less the portion representing loss of consortium. OWCP or SOL will allocate up to 25% for a spouse and up to 5% for each child not to exceed 15% for all children for loss of consortium.

(3) In any case involving the death of an employee, where both wrongful death and survival actions have been asserted, separate statements of recovery are completed for the deceased employee and the surviving FECA beneficiaries. For the deceased employee, the recovery is the gross recovery less the portion representing damage to real or personal property, less the portion representing loss of consortium, less the portion representing the wrongful death action. For the surviving spouse and children, the recovery is the gross recovery less the portion representing damage to real or personal property, less the portion representing loss of consortium, less the portion representing the survival action.

OWCP or SOL will allocate the total judgment or settlement as follows:

(i) For loss of consortium, OWCP or SOL will allocate up to 15% for a spouse and up to 5% for each child not to exceed 10% for all children;

(ii) For the wrongful death action, OWCP or SOL will allocate 65% of the remainder after subtraction of the amounts attributed to loss of consortium;

(iii) For the survival action, OWCP or SOL will allocate 35% percent of the remainder after subtraction of the amounts attributed to loss of consortium.

(d) In any case involving an injury to an employee where a judgment or settlement is paid to or on behalf of more than one individual and in any case involving the death of an employee, court costs will be attributed using the same percentages as was used for loss of consortium, wrongful death action and survival action. Attorney fees will be determined using the same percentage that was used for the gross recovery. These calculations are used only for the purpose of determining the amount of the refund and if applicable the surplus.

§ 10.712 How much of any settlement or judgment must be paid to the United States?

The statute permits a FECA beneficiary to retain, as a minimum, one-fifth of the net amount of money or property remaining after a reasonable attorney's fee and the costs of litigation have been deducted from the third-party recovery. The United States shares in the attorney fees by allowing the beneficiary to retain, at the time of distribution, an amount equivalent to a reasonable attorney's fee proportionate to the refund due the United States. After the refund owed to the United States is calculated, the FECA beneficiary retains any surplus remaining, and this amount is credited, dollar for dollar, against future compensation including wage-loss compensation, schedule award benefits and medical benefits for the same injury, as defined in § 10.719. OWCP will resume the payment of compensation only after the FECA beneficiary has been awarded compensation which exceeds the amount of the surplus.

(a) The refund to the United States is calculated as follows, using the Statement of Recovery form approved by OMB:

(1) Determine the amount of the recovery of the FECA beneficiary as set forth in § 10.711 as follows:

(i) Set out the gross recovery which is the entire amount of the award;
 (ii) Subtract the amount of award representing damage to real or personal property approved by OWCP or SOL (Subtotal A);
 (iii) Multiply Subtotal A by the appropriate percentage in § 10.711(c), or if it is a contested verdict by the percentage allocated by the judge or jury, and subtract this amount from Subtotal A (Subtotal B);
 (iv) If both a wrongful death action and survival action have been asserted, multiply Subtotal B by 65% to determine the amount allocated to the wrongful death case and multiply Subtotal B by 35% to determine the amount allocated to the survival action, or if it is a contested verdict, by the percentage allocated by the judge or jury. Separate Statements of Recovery must be completed for each cause of action. For the wrongful death action use the result of Subtotal B times 65% for Subtotal C and for the survival action use the result of Subtotal B times 35% for Subtotal C. If both a wrongful death and survival have not been asserted the amount in Subtotal B is used for Subtotal C;
 (v) Subtotal C is the amount of recovery of the FECA beneficiary;
 (2) Subtract the amount of attorney's fees actually paid, but not more than the

maximum amount of attorney's fees considered by OWCP or SOL to be reasonable, from Subtotal C. This is calculated by first determining the attorney fee percentage which is determined by dividing the gross recovery into the amount of attorney's fees actually paid, but the attorney's fee amount must not be more than the maximum amount of attorney's fees considered to be reasonable by OWCP or SOL and must be approved by OWCP or SOL. Subtotal C is multiplied by the fee percentage and this amount is subtracted from Subtotal C (Subtotal D);
 (3) Subtract the costs of litigation, as allowed by OWCP or SOL from Subtotal D (Subtotal E). If loss of consortium and/or wrongful death and survival actions are claimed, the costs of litigation are reduced first by the percentage used for loss of consortium and then by the percentage used for wrongful death or survival action as set forth in § 10.711;
 (4) Multiply Subtotal E by 20% and subtract this amount from Subtotal E (Subtotal F);
 (5) Compare Subtotal F and the refundable disbursements as defined in § 10.714. Subtotal G is the lower of the two amounts;
 (6) Multiply Subtotal G by the percentage used for attorney's fees in paragraph (a)(2), to determine the

Government's allowance for attorney's fees, and subtract this amount from Subtotal G. This is the amount of the refund.

(b) The credit against future benefits (also referred to as the surplus) is calculated as follows:

(1) If Subtotal F, as calculated according to paragraph (a)(4) of this section, is less than the refundable disbursements, as defined in § 10.714, there is no credit to be applied against future benefits (but the remainder of the unused disbursements must be applied to any future recovery for the same injury);

(2) If Subtotal F is greater than the refundable disbursements, the credit against future benefits (or surplus) amount is determined by subtracting the refundable disbursements from Subtotal F.

(c) Examples of how these calculations are made follows:

(1) In this example, a Federal employee sues another party for causing injuries for which the employee has received \$22,000 in benefits under the FECA, subject to refund. The suit is settled and the injured employee receives \$100,000, all of which was for his injury. The injured worker paid attorney's fees of \$25,000 and costs for the litigation of \$3,000.

(i) Gross Recovery	\$100,000.00
(ii) Amount of Property Damage	\$0.00
(iii) Subtotal A (Line a minus Line b)	\$100,000.00
(iv) Amount Allocated for Loss of Consortium 0% of Line c	\$0.00
(v) Subtotal B (Line c minus Line d)	\$100,000.00
(vi) Amount Allocated for Wrongful Death 0% of Line e	\$0.00
(vii) Amount Allocated for Survival Action 0% of Line e	\$0.00
(viii) Subtotal C—If Wrongful Death use Line f, if survival action use Line g, otherwise use Subtotal B	\$100,000.00
(ix) Attorney's Fees 25% (Line h × .25)	\$25,000.00
(x) Subtotal D (Line h minus Line i)	\$75,000.00
(xi) Court costs	\$3,000.00
(xii) Subtotal E (Line j minus Line k)	\$72,000.00
(xiii) One-fifth of Subtotal E (Line l × .20)	\$14,400.00
(xiv) Subtotal F (Line l minus Line m)	\$57,600.00
(xv) Refundable Disbursements	\$22,000.00
(xvi) Subtotal G (lower of Subtotal F or refundable disbursements)	\$22,000.00
(xvii) Government's allowance for attorney's fees (attorney's fees percentage used to determine Subtotal D multiplied by Subtotal G)	\$5,500.00
(xviii) Refund to the United States (Line p minus Line q)	\$16,500.00
(xix) Credit against future benefits (If Subtotal F greater than refundable disbursements, Line n minus Line o)	\$35,600.00

(2) In this example, a Federal employee who is married sues another party for causing injuries as a result of car accident where she was driving her personally owned vehicle on approved travel and the employee received

\$75,000 in disbursements. The suit includes a claim for loss of consortium which is permitted under the state law and for damage to her vehicle (documented at \$50,000.00). A joint settlement is reached where the injured

employee and her spouse receive \$250,000 for all their claims. Attorney's fees were \$83,325 and there were \$25,000 in approved court costs.

(i) Gross Recovery	\$250,000.00
(ii) Amount of Property Damage	\$50,000.00
(iii) Subtotal A (Line a minus Line b)	\$200,000.00
(iv) Amount Allocated for Loss of Consortium (25% of Line c)	\$50,000.00
(v) Subtotal B (Line c minus Line d)	\$150,000.00
(vi) Amount Allocated for Wrongful Death 0% of Line e	\$0.00

(vii) Amount Allocated for Survival Action 0% of Line e	\$0.00
(viii) Subtotal C—If Wrongful Death Use Line f, if survival action use Line g, otherwise use Subtotal B	\$150,000.00
(ix) Attorney's Fees 33.33% (line h × .3333)	\$49,995.00
(x) Subtotal D (Line h minus Line i)	\$100,005.00
(xi) Court costs are reduced by the amount allocated for the loss of consortium (in this example, \$25,000 – (\$25,000 × .25))	\$18,750.00
(xii) Subtotal E (line j minus Line k)	\$81,255.00
(xiii) One-fifth of Subtotal E (Line l × .20)	\$16,251.00
(xiv) Subtotal F (Line l minus Line m)	\$65,004.00
(xv) Refundable Disbursements	\$75,000.00
(xvi) Subtotal G (lower of Subtotal F or refundable disbursements)	\$65,004.00
(xvii) Government's allowance for attorney's fees (attorney's fees percentage used to determine Subtotal D multiplied by subtotal G)	\$21,665.83
(xviii) Refund to the United States (Line p minus Line q)	\$43,338.17
(xix) Credit against future benefits (If Subtotal F is greater than refundable disbursements, Line n minus Line o)	\$0.00

(3) In this example, a Federal employee who is married with two minor children is killed in the performance of duty. A suit for wrongful death and survival is filed which includes claims for loss of consortium all of which is permitted under state

law. A joint settlement is reached for all claims and all parties in the amount of \$1,000,000. There were court costs of \$48,000 and attorney's fees of \$300,000. Two Statements of Recovery are completed: One for the wrongful death claim and the other for the survival

action. Disbursements in this case were \$30,000 for the deceased employee and \$100,000 for the surviving spouse and children.

(i) For the wrongful death claim the calculation is as follows:

(A) Gross Recovery	\$1,000,000.00
(B) Amount of Property Damage	\$0.00
(C) Subtotal A (Line a minus Line b)	\$1,000,000.00
(D) Amount Allocated for Loss of Consortium (25% (15% for spouse, 5% for each child) of Line c)	\$250,000.00
(E) Subtotal B (Line c minus Line d)	\$750,000.00
(F) Amount Allocated for Wrongful Death 65% of Line e	\$487,500.00
(G) Amount Allocated for Survival Action 35% of Line e	\$262,500.00
(H) Subtotal C—If Wrongful Death Use Line f, if survival action use Line g, otherwise use Subtotal B	\$487,500.00
(I) Attorney's Fees 30% (Line h × .30)	\$146,250.00
(J) Subtotal D (Line h minus Line i)	\$341,250.00
(K) Court costs are reduced by the amount allocated for the loss of consortium (in this example, .25 × \$48,000 = 12,000) and then by the amount allocated for survivor action, [(48,000 – 12,000) × .35 = 12,600], [48,000 – 12,000 – 12,600]	\$23,400.00
(L) Subtotal E (Line j minus Line k)	\$317,850.00
(M) One-fifth of Subtotal E (Line l × .20)	\$63,570.00
(N) Subtotal F (Line l minus Line m)	\$254,280.00
(O) Refundable Disbursements	\$100,000.00
(P) Subtotal G (lower of Subtotal F or refundable disbursements)	\$100,000.00
(Q) Government's allowance for attorney's fees (attorney's fees percentage used to determine Subtotal D multiplied by subtotal G)	\$30,000.00
(R) Refund to the United States (Line p minus Line q)	\$70,000.00
(S) Credit against future benefits (If Subtotal F is greater than refundable disbursements, Line n minus Line o)	\$154,280.00

(ii) For the survival claim the calculation is as follows:

(A) Gross Recovery	\$1,000,000.00
(B) Amount of Property Damage	\$0.00
(C) Subtotal A (Line a minus Line b)	\$1,000,000.00
(D) Amount Allocated for Loss of Consortium (25% (15% for spouse, 5% for each child) of Line c)	\$250,000.00
(E) Subtotal B (Line c minus Line d)	\$750,000.00
(F) Amount Allocated for Wrongful Death 65% of Line e	\$487,500.00
(G) Amount Allocated for Survival Action 35% of Line e	\$262,500.00
(H) Subtotal C—If Wrongful Death Use Line f, if survival action use Line g, otherwise use Subtotal B	\$262,500.00
(I) Attorney's Fees 30% (line h × .30)	\$78,750.00
(J) Subtotal D (Line h minus Line i)	\$183,750.00
(K) Court costs are reduced by the amount allocated for the loss of consortium (in this example, .25 × \$48,000 = 12,000) and then by the amount allocated for wrongful death, [(48,000 – 12,000) × .65 = 23,400], [48,000 – 12,000 – 23,400]	\$12,600.00
(L) Subtotal E (Line j minus Line k)	\$171,150.00
(M) One-fifth of Subtotal E (Line l × .20)	\$34,230.00
(N) Subtotal F (Line l minus Line m)	\$136,920.00
(O) Refundable Disbursements	\$30,000.00
(P) Subtotal G (lower of Subtotal F or refundable disbursements)	\$30,000.00
(Q) Government's allowance for attorney's fees (attorney's fees percentage used to determine Subtotal D multiplied by subtotal G)	\$9,000.00
(R) Refund to the United States (Line p minus Line q)	\$21,000.00
(S) Credit against future benefits (If Subtotal F is greater than refundable disbursements, Line n minus Line o)	\$106,920.00

§ 10.713 How is a structured settlement (that is, a settlement providing for receipt of funds over a specified period of time) treated for purposes of reporting the gross recovery?

In this situation, the gross recovery to be reported is the present value of the right to receive all of the payments included in the structured settlement, allocated in the case of multiple recipients in the same manner as single payment recoveries.

§ 10.714 What amounts are included in the refundable disbursements?

The refundable disbursements of a specific claim consist of the total money paid by OWCP from the Employees' Compensation Fund with respect to that claim to or on behalf of a FECA beneficiary including charges for field nurses, vocational rehabilitation, and second opinion and referee physicians, less charges for any medical file review (*i.e.*, the physician does not examine the employee) done at the request of OWCP. Charges for medical examinations also may be subtracted if the FECA beneficiary establishes that the examinations were required to be made available to the employee under a statute other than the FECA by the employing agency or at the employing agency's cost. Requests for disbursements can be made to SOL or OWCP.

§ 10.715 Is a beneficiary required to pay interest on the amount of the refund due to the United States?

If the refund due to the United States is not submitted within 30 days of receiving a request for payment from SOL or OWCP, interest shall accrue on the refund due to the United States from the date of the request. The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury as published in the **Federal Register** (as of the date the request for payment is sent). Waiver of the collection of interest shall be in accordance with the provisions of the Department of Labor regulations on Federal Claims Collection governing waiver of interest, 29 CFR 20.61.

§ 10.716 If the required refund is not paid within 30 days of the request for repayment, can it be collected from payments due under the FECA?

If the required refund is not paid within 30 days of the request for payment, OWCP can, in its discretion, collect the refund by withholding all or part of any payments currently payable to the beneficiary under the FECA with respect to any injury. The waiver provisions of §§ 10.432 through 10.440 do not apply to such determinations.

§ 10.717 Is a settlement or judgment received as a result of allegations of medical malpractice in treating an injury covered by the FECA a gross recovery that must be reported to OWCP or SOL?

Since an injury caused by medical malpractice in treating an injury covered by the FECA is also an injury covered under the FECA, any recovery in a suit alleging such an injury is treated as a gross recovery that must be reported to OWCP or SOL.

§ 10.718 Are payments to a beneficiary as a result of an insurance policy which the beneficiary has purchased a gross recovery that must be reported to OWCP or SOL?

Since payments received by a FECA beneficiary pursuant to an insurance policy purchased by someone other than a liable third party are not payments in satisfaction of liability for causing an injury covered by the FECA, they are not considered a gross recovery covered by section 8132 that requires filing a Statement of Recovery and paying any required refund.

§ 10.719 If a settlement or judgment is received for more than one wound or medical condition, can the refundable disbursements paid on a single FECA claim be attributed to different conditions for purposes of calculating the refund or credit owed to the United States?

(a) All wounds, diseases or other medical conditions accepted by OWCP in connection with a single claim are treated as the same injury for the purpose of computing any required refund and any credit against future benefits in connection with the receipt of a recovery from a third party, except that an injury caused by medical malpractice in treating an injury covered under the FECA will be treated as a separate injury for purposes of section 8132.

(b) If an injury covered under the FECA is caused under circumstances creating a legal liability in more than one person, other than the United States, to pay damages, OWCP or SOL will determine whether recoveries received from one or more third parties should be attributed to separate conditions for which compensation is payable in connection with a single FECA claim. If such an attribution is both practicable and equitable, as determined by OWCP or SOL, in its discretion, the conditions will be treated as separate injuries for purposes of calculating the refund and credit owed to the United States under section 8132.

Federal Grand and Petit Jurors

§ 10.725 When is a Federal grand or petit juror covered under the FECA?

(a) Federal grand and petit jurors are covered under the FECA when they are in performance of duty as a juror, which includes that time when a juror is:

- (1) In attendance at court pursuant to a summons;
- (2) In deliberation;
- (3) Sequestered by order of a judge; or
- (4) At a site, by order of the court, for the taking of a view.

(b) A juror is not considered to be in the performance of duty while traveling to or from home in connection with the activities enumerated in paragraphs (a) (1) through (4) of this section.

§ 10.726 When does a juror's entitlement to disability compensation begin?

Pursuant to 28 U.S.C. 1877, entitlement to disability compensation does not commence until the day after the date of termination of service as a juror.

§ 10.727 What is the pay rate of jurors for compensation purposes?

For the purpose of computing compensation payable for disability or death, a juror is deemed to receive pay at the minimum rate for Grade GS-2 of the General Schedule unless his or her actual pay as an "employee" of the United States while serving on court leave is higher, in which case the pay rate for compensation purposes is determined in accordance with 5 U.S.C. 8114.

Peace Corps Volunteers

§ 10.730 What are the conditions of coverage for Peace Corps volunteers and volunteer leaders injured while serving outside the United States?

(a) Any injury sustained by a volunteer or volunteer leader while he or she is located abroad is deemed proximately caused by Peace Corps employment and will be found by OWCP to have been sustained in the performance of duty, and any illness contracted while that volunteer is located abroad will be found by OWCP to be proximately caused by the employment unless the evidence establishes:

- (1) The injury or illness was caused by the claimant's willful misconduct, intent to bring about the injury or death of self or another, or was proximately caused by the intoxication by alcohol or illegal drugs of the injured claimant; or
- (2) The illness is shown to have pre-existed the period of service abroad; or
- (3) The injury or illness claimed is a manifestation of symptoms of, or

consequent to, a pre-existing congenital defect or abnormality.

(b) If the OWCP finds that the evidence indicates that the injury or illness may not have been sustained in the performance of duty due to the circumstances enumerated in paragraph (a)(2) and (3) of this section, the claimant may still prove his claim by the submittal of substantial and probative evidence that such injury or illness was sustained in the performance of duty with the Peace Corps.

(c) If an injury or illness, or episode thereof, comes within one of the exceptions described in paragraph (a)(2) or (3) of this section, the claimant may nonetheless be entitled to compensation. This will be so provided he or she meets the burden of proving by the submittal of substantial, probative and rationalized medical evidence that the illness or injury was proximately caused by factors or conditions of Peace Corps service, or that it was materially aggravated, accelerated or precipitated by factors of Peace Corps service; if the injury or illness was temporarily aggravated by factors of Peace Corps service, disability compensation is payable for the period of such aggravation.

§ 10.731 What is the pay rate of Peace Corps volunteers and volunteer leaders for compensation purposes?

The pay rate for these claimants is defined as the pay rate in effect on the date following separation, provided that the rate equals or exceeds the pay rate on the date of injury. It is defined in accordance with 5 U.S.C. 8142(a), not 8101(4).

Non-Federal Law Enforcement Officers

§ 10.735 When is a non-Federal law enforcement officer (LEO) covered under the FECA?

(a) A law enforcement officer (officer) includes an employee of a State or local Government, the Governments of U.S. possessions and territories, or an employee of the United States pensioned or pensionable under sections 521–535 of Title 4, D.C. Code, whose functions include the activities listed in 5 U.S.C. 8191.

(b) Benefits are available to officers who are not “employees” under 5 U.S.C. 8101, and who are determined in the discretion of OWCP to have been engaged in the activities listed in 5 U.S.C. 8191 with respect to the enforcement of crimes against the United States. Individuals who only perform administrative functions in support of officers are not considered officers.

(c) Except as provided by 5 U.S.C. 8191 and 8192 and elsewhere in this part, the provisions of the FECA and of subparts A, B, and D through I of this part apply to officers.

§ 10.736 What are the time limits for filing a LEO claim?

OWCP must receive a claim for benefits under 5 U.S.C. 8191 within five years after the injury or death. This five-year limitation is not subject to waiver. The tolling provisions of 5 U.S.C. 8122(d) do not apply to these claims.

§ 10.737 How is a LEO claim filed, and who can file a LEO claim?

A claim for injury or occupational disease should be filed on Form CA–721; a death claim should be filed on Form CA–722. All claims should be submitted to the officer’s employer for completion and forwarding to OWCP. A claim may be filed by the officer, the officer’s survivor, or any person or association authorized to act on behalf of an officer or an officer’s survivors.

§ 10.738 Under what circumstances are benefits payable in LEO claims?

(a) Benefits are payable when an officer is injured while apprehending, or attempting to apprehend, an individual for the commission of a Federal crime. However, either an actual Federal crime must be in progress or have been committed, or objective evidence (of which the officer is aware at the time of injury) must exist that a potential Federal crime was in progress or had already been committed. The actual or potential Federal crime must be an integral part of the criminal activity toward which the officer’s actions are directed. The fact that an injury to an officer is related in some way to the commission of a Federal crime does not necessarily bring the injury within the coverage of the FECA. The FECA is not intended to cover officers who are merely enforcing local laws.

(b) For benefits to be payable when an officer is injured preventing, or attempting to prevent, a Federal crime, there must be objective evidence that a Federal crime is about to be committed. An officer’s belief, unsupported by objective evidence, that he or she is acting to prevent the commission of a Federal crime will not result in coverage. Moreover, the officer’s subjective intent, as measured by all available evidence (including the officer’s own statements and testimony, if available), must have been directed toward the prevention of a Federal crime. In this context, an officer’s own statements and testimony are relevant to, but do not control, the determination of coverage.

§ 10.739 What kind of objective evidence of a potential Federal crime must exist for coverage to be extended?

Based on the facts available at the time of the event, the officer must have an awareness of sufficient information which would lead a reasonable officer, under the circumstances, to conclude that a Federal crime was in progress, or was about to occur. This awareness need not extend to the precise particulars of the crime (the section of Title 18, United States Code, for example), but there must be sufficient evidence that the officer was in fact engaged in actual or attempted apprehension of a Federal criminal or prevention of a Federal crime.

§ 10.740 In what situations will OWCP automatically presume that a law enforcement officer is covered by the FECA?

(a) Where an officer is detailed by a competent State or local authority to assist a Federal law enforcement authority in the protection of the President of the United States, or any other person actually provided or entitled to U.S. Secret Service protection, coverage will be extended.

(b) Coverage for officers of the U.S. Park Police and those officers of the Uniformed Division of the U.S. Secret Service who participate in the District of Columbia Retirement System is adjudicated under the principles set forth in paragraph (a) of this section, and does not extend to numerous tangential activities of law enforcement (for example, reporting to work, changing clothes). However, officers of the Non-Uniformed Division of the U.S. Secret Service who participate in the District of Columbia Retirement System are covered under the FECA during the performance of all official duties.

§ 10.741 How are benefits calculated in LEO claims?

(a) Except for continuation of pay, eligible officers and survivors are entitled to the same benefits as if the officer had been an employee under 5 U.S.C. 8101. However, such benefits may be reduced or adjusted as OWCP in its discretion may deem appropriate to reflect comparable benefits which the officer or survivor received or would have been entitled to receive by virtue of the officer’s employment.

(b) For the purpose of this section, a comparable benefit includes any benefit that the officer or survivor is entitled to receive because of the officer’s employment, including pension and disability funds, State workers’ compensation payments, Public Safety Officers’ Benefits Act payments, and State and local lump-sum payments.

Health benefits coverage and proceeds of life insurance policies purchased by the employer are not considered to be comparable benefits.

(c) The FECA provides that, where an officer receives comparable benefits, compensation benefits are to be reduced proportionally in a manner that reflects the relative percentage contribution of the officer and the officer's employer to the fund which is the source of the comparable benefit. Where the source of the comparable benefit is a retirement or other system which is not fully funded, the calculation of the amount of the reduction will be based on a per capita comparison between the contribution by the employer and the contribution by all covered officers during the year prior to the officer's injury or death.

(d) The non-receipt of compensation during a period where a dual benefit (such as a lump-sum payment on the death of an officer) is being offset against compensation entitlement does not result in an adjustment of the respective benefit percentages of remaining beneficiaries because of a cessation of compensation under 5 U.S.C. 8133(c).

Subpart I—Information for Medical Providers

Medical Records and Bills

§ 10.800 How do providers enroll with OWCP for authorizations and billing?

(a) All providers must enroll with OWCP or its designated bill processing agent (hereinafter OWCP in this subpart) to have access to the automated authorization system and to submit medical bills to OWCP. To enroll, the provider must complete and submit a Form OWCP-1168 to the appropriate location noted on that form. By completing and submitting this form, providers certify that they satisfy all applicable Federal and State licensure and regulatory requirements that apply to their specific provider or supplier type. The provider must maintain documentary evidence indicating that it satisfies those requirements. The provider is also required to notify OWCP immediately if any information provided to OWCP in the enrollment process changes. Agency medical officers, private physicians and hospitals are also required to keep records of all cases treated by them under the FECA so they can supply OWCP with a history of the injury, a description of the nature and extent of injury, the results of any diagnostic studies performed, the nature of the treatment rendered and the degree of any impairment and/or disability arising from the injury.

(b) Where a medical provider intends to bill for a procedure where prior authorization is required, that provider must request such authorization from OWCP.

(c) After enrollment, a provider must submit all medical bills to OWCP through its bill processing portal and include the Provider Number/ID obtained through enrollment or other identifying number required by OWCP.

§ 10.801 How are medical bills to be submitted?

(a) All charges for medical and surgical treatment, appliances or supplies furnished to injured employees, except for treatment and supplies provided by nursing homes, shall be supported by medical evidence as provided in § 10.800. OWCP may withhold payment for services until such report or evidence is provided. The physician or provider shall itemize the charges on Form OWCP-1500 or CMS-1500 (for professional services or medicinal drugs dispensed in the office), Form OWCP-04 or UB-04 (for hospitals), an electronic or paper-based bill that includes required data elements (for pharmacies) or other form as warranted and accepted by OWCP, and submit the form promptly to OWCP.

(b) The provider shall identify each service performed using the Physician's Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the National Drug Code (NDC), or the Revenue Center Code (RCC) with a brief narrative description; OWCP has discretion to determine which of these codes may be utilized in the billing process. The Director also has the authority to create and supply specific procedure codes that will be used by OWCP to better describe and allow specific payments for special services. These OWCP-created codes will be issued to providers by OWCP as appropriate and may only be used as authorized by OWCP. For example, a physician conducting a referee or second opinion examination under 5 U.S.C. 8123 will be furnished an OWCP-created code; a provider may not use such an OWCP-created code for other types of medical examinations or services. Where no appropriate code is submitted to identify the services performed, the bill will be returned to the provider and/or denied.

(c) For professional charges billed on Form OWCP-1500 or CMS-1500, the provider shall also state each diagnosed condition and furnish the corresponding diagnostic code using the "International Classification of Disease, 9th Edition, Clinical Modification" (ICD-9-CM), or

as revised. A separate bill shall be submitted when the employee is discharged from treatment or monthly, if treatment for the work-related condition is necessary for more than 30 days.

(1) (i) Hospitals shall submit charges for inpatient medical and surgical treatment or supplies promptly to OWCP on Form OWCP-04 or UB-04.

(ii) For outpatient billing, the provider shall identify each service performed, using Revenue Center Codes (RCCs) and HCPCS/CPT codes as warranted. The charge for each individual service, or the total charge for all identical services, should also appear on the form. OWCP may adopt an Outpatient Prospective Payment System (OWCP OPPS) (as developed and implemented by the Center for Medicare and Medicaid services (CMS) for Medicare, while modifying the allowable costs under Medicare to account for deductibles and other additional costs which are covered by FECA). Once adopted, hospital providers shall submit outpatient hospital bills on the current version of the Universal Billing Form (UB) and use HCPCS codes and other coding schemes in accordance with the OWCP OPPS.

(2) Pharmacies shall itemize charges for prescription medications, appliances, or supplies on electronic or paper-based bills and submit them promptly to OWCP. Bills for prescription medications must include the NDC assigned to the product, the generic or trade name of the drug provided, the prescription number, the quantity provided, and the date the prescription was filled.

(3) Nursing homes shall itemize charges for appliances, supplies or services on the provider's billhead stationery and submit them promptly to OWCP. Such charges shall be subject to any applicable OWCP fee schedule.

(d) By submitting a bill and/or accepting payment, the provider signifies that the service for which reimbursement is sought was performed as described, necessary, appropriate and properly billed in accordance with accepted industry standards. For example, accepted industry standards preclude upcoding billed services for extended medical appointments when the employee actually had a brief routine appointment, or charging for the services of a professional when a paraprofessional or aide performed the service; industry standards prohibit unbundling services to charge separately for services that should be billed as a single charge. In addition, the provider thereby agrees to comply with all regulations set forth in this subpart concerning the rendering of treatment

and/or the process for seeking reimbursement for medical services, including the limitation imposed on the amount to be paid for such services.

(e) In summary, bills submitted by providers must: Be itemized on the Health Insurance Claim Form (for physicians) or the OWCP-04 (for hospitals); contain the signature or signature stamp of the provider; and identify the procedures using HCPCS/CPT codes, RCCs, or NDCs. Otherwise, OWCP may deny the bill, and the provider must correct and resubmit the bill.

§ 10.802 How should an employee prepare and submit requests for reimbursement for medical expenses, transportation costs, loss of wages, and incidental expenses?

(a) If an employee has paid bills for medical, surgical or dental services, supplies or appliances due to an injury sustained in the performance of duty and seeks reimbursement for those expenses, he or she may submit a request for reimbursement on Form OWCP-915, together with an itemized bill on Form OWCP-1500, CMS-1500, OWCP-04 or UB-04 prepared by the provider and a medical report as provided in § 10.800, to OWCP.

(1) The provider of such service shall state each diagnosed condition and furnish the applicable ICD-9-CM code, or as revised, and identify each service performed using the applicable HCPCS/CPT code, with a brief narrative description of the service performed, or, where no code is applicable, a detailed description of that service. If no code or description is received, OWCP will deny the reimbursement request and correction and resubmission will be required.

(2) The reimbursement request must be accompanied by evidence that the provider received payment for the service from the employee and a statement of the amount paid. Acceptable evidence that payment was received includes, but is not limited to, a signed statement by the provider, a mechanical stamp or other device showing receipt of payment, a copy of the employee's canceled check (both front and back) or a copy of the employee's credit card receipt or a form indicating a balance of zero to the provider.

(b) If services were provided by a hospital, pharmacy or nursing home, the employee should submit the bill in accordance with the provisions of § 10.801(a). Any request for reimbursement must be accompanied by evidence, as described in paragraph (a) of this section, that the provider received payment for the service from

the employee and a statement of the amount paid.

(c) OWCP may waive the requirements of paragraphs (a) and (b) of this section if extensive delays in the filing or the adjudication of a claim make it unusually difficult for the employee to obtain the required information.

(d) OWCP will not accept copies of bills for reimbursement unless they bear the signature of the provider, with evidence of payment. Payment for medical and surgical treatment, appliances or supplies shall in general be no greater than the maximum allowable charge for such service determined by the Director, as set forth in § 10.805.

(e) An employee will be only partially reimbursed for a medical expense if the amount he or she paid to a provider for the service exceeds the maximum allowable charge set by the Director's schedule. If this happens, OWCP shall advise the employee of the maximum allowable charge for the service in question and of his or her responsibility to ask the provider to refund to the employee, or credit to the employee's account, the amount he or she paid which exceeds the maximum allowable charge. The provider may request reconsideration of the fee determination as set forth in § 10.812.

(f) If the provider fails to make appropriate refund to the employee, or to credit the employee's account, within 60 days after the employee requests a refund of any excess amount, or the date of a subsequent reconsideration decision which continues to disallow all or a portion of the appealed amount, the provider shall be subject to exclusion procedures as provided by § 10.815.

(g) If the provider does not refund to the employee or credit to his or her account the amount of money paid in excess of the charge which OWCP allows, the employee should submit documentation of the attempt to obtain such refund or credit to OWCP. OWCP may make reasonable reimbursement to the employee after reviewing the facts and circumstances of the case.

(h) If an employee seeks reimbursement for transportation costs, loss of wages or incidental expenses related to medical treatment under this part, that employee may submit such reimbursement request on the Medical Travel Refund Request OWCP-957 form to OWCP along with all proof of payment. Requests for reimbursement for lost wages under this subsection must include an official statement from the employing agency indicating the amount of wage loss.

§ 10.803 What are the time limitations on OWCP's payment of bills?

OWCP will pay providers and reimburse employees promptly for all bills received on an approved form and in a timely manner. However, no bill will be paid for expenses incurred if the bill is submitted more than one year beyond the end of the calendar year in which the expense was incurred or the service or supply was provided, or more than one year beyond the end of the calendar year in which the claim was first accepted as compensable by OWCP, whichever is later.

Medical Fee Schedule

§ 10.805 What services are covered by the OWCP fee schedule?

(a) Payment for medical and other health services, devices and supplies furnished by physicians, hospitals, and other providers for work-related injuries shall not exceed a maximum allowable charge for such service as determined by the Director, except as provided in this section.

(b) The schedule of maximum allowable charges does not apply to charges for services provided in nursing home for employees admitted to that nursing home prior to August 29, 2011, but does apply to all charges for services provided by a nursing home where the employee was admitted to that nursing home after that date. The schedule does apply to charges for treatment furnished in a nursing home by a physician or other medical professional at any time.

(c) The schedule of maximum allowable charges also does not apply to charges for appliances, supplies, services or treatment furnished by medical facilities of the U.S. Public Health Service or the Departments of the Army, Navy, Air Force and Veterans Affairs.

§ 10.806 How are the maximum fees defined?

For professional medical services, the Director shall maintain a schedule of maximum allowable fees for procedures performed in a given locality. The schedule shall consist of: An assignment of Relative Value Units (RVU) to procedures identified by Healthcare Common Procedure Coding System/Current Procedural Terminology (HCPCS/CPT) code which represents the relative skill, effort, risk and time required to perform the procedure, as compared to other procedures of the same general class; an assignment of Geographic Practice Cost Index (GPCI) values which represent the relative work, practice expenses and malpractice expenses relative to other localities throughout the country; and a monetary

value assignment (conversion factor) for one unit of value for each coded service.

§ 10.807 How are payments for particular services calculated?

Payment for a procedure, service or device identified by a HCPCS/CPT code shall not exceed the amount derived by multiplying the Relative Value Units (RVU) values for that procedure by the Geographic Practice Cost Index (GPCI) values for services in that area and by the conversion factor to arrive at a dollar amount assigned to one unit in that category of service.

(a) The "locality" which serves as a basis for the determination of cost is defined by the Office of Management and Budget Metropolitan Statistical Areas. The Director shall base the determination of the relative per capita cost of medical care in a locality using information about enrollment and medical cost per county, provided by the Centers for Medicare and Medicaid Services (CMS).

(b) The Director shall assign the RVUs published by CMS to all services for which CMS has made assignments, using the most recent revision. Where there are no RVUs assigned to a procedure, the Director may develop and assign any RVUs that he or she considers appropriate. The geographic adjustment factor shall be that designated by GPCI for Metropolitan Statistical Areas as devised for CMS and as updated or revised by CMS from time to time. The Director will devise conversion factors for each category of service as appropriate using OWCP's processing experience and internal data.

(c) For example, if the RVUs for a particular surgical procedure are 2.48 for physician's work (W), 3.63 for practice expense (PE), and 0.48 for malpractice insurance (MP), and the conversion factor assigned to one unit in that category of service (surgery) is \$61.20, then the maximum allowable charge for one performance of that procedure is the product of the three RVUs times the corresponding GPCI values for the locality times the conversion factor. If the GPCI values for the locality are 0.988(W), 0.948 (PE), and 1.174 (MP), then the maximum payment calculation is:

$$[(2.48)(0.988) + (3.63)(0.948) + (0.48)(1.174)] \times \$61.20$$

$$[2.45 + 3.44 + .56] \times \$61.20$$

$$6.45 \times \$61.20 = \$394.74$$

§ 10.808 Does the fee schedule apply to every kind of procedure?

Where the time, effort and skill required to perform a particular procedure vary widely from one occasion to the next, the Director may

choose not to assign a relative value to that procedure. In this case the allowable charge for the procedure will be set individually based on consideration of a detailed medical report and other evidence. At its discretion, OWCP may set fees without regard to schedule limits for specially authorized consultant examinations, for examinations performed under 5 U.S.C. 8123, and for other specially authorized services.

§ 10.809 How are payments for medicinal drugs determined?

Payment for medicinal drugs prescribed by physicians shall not exceed the amount derived by multiplying the average wholesale price, or as otherwise specified by OWCP, of the medication by the quantity or amount provided, plus a dispensing fee. OWCP may, in its discretion, contract for or require the use of specific providers for certain medications.

(a) All prescription medications identified by National Drug Code (NDC) will be assigned an average wholesale price representing the product's nationally recognized wholesale price as determined by surveys of manufacturers and wholesalers, or by other method designated by OWCP. The Director will establish the dispensing fee, which will not be affected by the location or type of provider dispensing the medication.

(b) The NDCs, the average wholesale prices, and the dispensing fee shall be reviewed from time to time and updated as necessary.

(c) With respect to prescribed medications, OWCP may require the use of generic equivalents where they are available.

§ 10.810 How are payments for inpatient medical services determined?

(a) OWCP will pay for inpatient medical services according to pre-determined, condition-specific rates based on the Inpatient Prospective Payment System (IPPS) devised by CMS (42 CFR parts 412, 413, 424, 485, and 489). Using this system, payment is derived by multiplying the diagnosis-related group (DRG) weight assigned to the hospital discharge by the provider-specific factors.

(1) All inpatient hospital discharges will be classified according to the DRGs prescribed by the CMS in the form of the DRG Grouper software program. Each DRG represents the average resources necessary to provide care in a case in that DRG relative to the national average of resources consumed per case.

(2) The provider-specific factors will be provided by CMS in the form of their PPS Pricer software program. The

software takes into consideration the type of facility, census division, actual geographic location (MSA) of the hospital, case mix cost per discharge, number of hospital beds, intern/beds ratio, operating cost to charge ratio, and other factors used by CMS to determine the specific rate for a hospital discharge under their PPS. The Director may devise price adjustment factors as appropriate using OWCP's processing experience and internal data.

(3) OWCP will base payments to facilities excluded from CMS' IPPS on consideration of detailed medical reports and other evidence.

(4) The Director shall review the pre-determined hospital rates at least once a year, and may adjust any or all components when he or she deems it necessary or appropriate.

(b) The Director shall review the schedule of fees at least once a year, and may adjust the schedule or any of its components when he or she deems it necessary or appropriate.

§ 10.811 When and how are fees reduced?

(a) OWCP accepts a provider's designation of the code used to identify a billed procedure or service if the code is consistent with the medical and other evidence, and will pay no more than the maximum allowable fee for that procedure. If the code is not consistent with the medical evidence or where no code is supplied, the bill will be returned to the provider for correction and resubmission.

(b) If the charge submitted for a service supplied to an injured employee exceeds the maximum amount determined to be reasonable according to the schedule, OWCP shall pay the amount allowed by the schedule for that service and shall notify the provider in writing that payment was reduced for that service in accordance with the schedule. OWCP shall also notify the provider of the method for requesting reconsideration of the balance of the charge.

§ 10.812 If OWCP reduces a fee, may a provider request reconsideration of the reduction?

(a) A physician or other provider whose charge for service is only partially paid because it exceeds a maximum allowable amount set by the Director may, within 30 days, request reconsideration of the fee determination.

(1) The provider should make such a request to the OWCP district office with jurisdiction over the employee's claim. The request must be accompanied by documentary evidence that the procedure performed was incorrectly

identified by the original code, that the presence of a severe or concomitant medical condition made treatment especially difficult, or that the provider possessed unusual qualifications. In itself, board-certification in a specialty is not sufficient evidence of unusual qualifications to justify an exception. These are the only three circumstances which will justify reevaluation of the paid amount.

(2) A list of OWCP district offices and their respective areas of jurisdiction is available upon request from the U.S. Department of Labor, Office of Workers' Compensation Programs, Washington, DC 20210, or from the Internet at <http://www.dol.gov/owcp>. Within 30 days of receiving the request for reconsideration, the OWCP district office shall respond in writing stating whether or not an additional amount will be allowed as reasonable, considering the evidence submitted.

(b) If the OWCP district office issues a decision which continues to disallow a contested amount, the provider may apply to the Regional Director of the region with jurisdiction over the OWCP district office. The application must be filed within 30 days of the date of such decision, and it may be accompanied by additional evidence. Within 60 days of receipt of such application, the Regional Director shall issue a decision in writing stating whether or not an additional amount will be allowed as reasonable, considering the evidence submitted. This decision shall be final, and shall not be subject to further review.

§ 10.813 If OWCP reduces a fee, may a provider bill the claimant for the balance?

A provider whose fee for service is partially paid by OWCP as a result of the application of its fee schedule or other tests for reasonableness in accordance with this part shall not request reimbursement from the employee for additional amounts.

(a) Where a provider's fee for a particular service or procedure is lower to the general public than as provided by the schedule of maximum allowable charges, the provider shall bill at the lower rate. A fee for a particular service or procedure which is higher than the provider's fee to the general public for that same service or procedure will be considered a charge "substantially in excess of such provider's customary charges" for the purposes of § 10.815(d).

(b) A provider whose fee for service is partially paid by OWCP as the result of the application of the schedule of maximum allowable charges and who collects or attempts to collect from the employee, either directly or through a collection agent, any amount in excess

of the charge allowed by OWCP, and who does not cease such action or make appropriate refund to the employee within 60 days of the date of the decision of OWCP, shall be subject to the exclusion procedures provided by § 10.815(h).

Exclusion of Providers

§ 10.815 What are the grounds for excluding a provider from payment under the FECA?

A physician, hospital, or provider of medical services, appliances or supplies shall be excluded from payment under the FECA if such physician, hospital or provider has:

(a) Been convicted under any criminal statute of fraudulent activities in connection with any Federal or State program for which payments are made to providers for similar medical, surgical or hospital services, appliances or supplies;

(b) Been excluded or suspended, or has resigned in lieu of exclusion or suspension, from participation in any Federal or State program referred to in paragraph (a) of this section;

(c) Knowingly made, or caused to be made, any false statement or misrepresentation of a material fact in connection with a determination of the right to reimbursement under the FECA, or in connection with a request for payment;

(d) Submitted, or caused to be submitted, three or more bills or requests for payment within a twelve-month period under this subpart containing charges which OWCP finds to be substantially in excess of such provider's customary charges, unless OWCP finds there is good cause for the bills or requests containing such charges;

(e) Knowingly failed to timely reimburse employees for treatment, services or supplies furnished under this subpart and paid for by OWCP;

(f) Failed, neglected or refused on three or more occasions during a 12-month period to submit full and accurate medical reports, or to respond to requests by OWCP for additional reports or information, as required by the FECA and § 10.800;

(g) Knowingly furnished treatment, services or supplies which are substantially in excess of the employee's needs, or of a quality which fails to meet professionally recognized standards; or

(h) Collected or attempted to collect from the employee, either directly or through a collection agent, an amount in excess of the charge allowed by OWCP for the procedure performed, and has failed or refused to make appropriate refund to the employee, or to cease such

collection attempts, within 60 days of the date of the decision of OWCP.

(i) Failed to inform OWCP of any change in their provider status as required in section 10.800 of this title.

(j) Engaged in conduct related to care of an employee's FECA covered injury that OWCP finds to be misleading, deceptive or unfair.

§ 10.816 What will cause OWCP to automatically exclude a physician or other provider of medical services and supplies?

(a) OWCP shall automatically exclude a physician, hospital, or provider of medical services or supplies who has been convicted of a crime described in § 10.815(a), or has been excluded or suspended, or has resigned in lieu of exclusion or suspension, from participation in any program as described in § 10.815(b).

(b) The exclusion applies to participating in the program and to seeking payment under the FECA for services performed after the date of the entry of the judgment of conviction or order of exclusion, suspension or resignation, as the case may be, by the court or agency concerned. Proof of the conviction, exclusion, suspension or resignation may consist of a copy thereof authenticated by the seal of the court or agency concerned.

(c) A provider may be excluded on a voluntary basis at any time.

§ 10.817 How are OWCP's exclusion procedures initiated?

(a) Upon receipt of information indicating that a physician, hospital or provider of medical services or supplies (hereinafter the provider) has or may have engaged in activities enumerated in § 10.815(c) through (j) OWCP will forward that information to the Department of Labor's Office of Inspector General (DOL OIG) for its consideration. If the information was provided directly to DOL OIG, DOL OIG will notify OWCP of its receipt and implement the appropriate action within its authority, unless such notification will or may compromise the identity of confidential sources, or compromise or prejudice an ongoing or potential criminal investigation.

(b) DOL OIG will conduct such action as it deems necessary, and, when appropriate, provide a written report as described in paragraph (c) of this section to OWCP. OWCP will then determine whether to initiate procedures to exclude the provider from participation in the FECA program. If DOL OIG determines not to take any further action, it will promptly notify OWCP.

(c) If DOL OIG discovers reasonable cause to believe that violations of

§ 10.815 have occurred, it shall, when appropriate, prepare a written report, *i.e.*, investigative memorandum, and forward that report along with supporting evidence to OWCP. The report shall be in the form of a single memorandum in narrative form with attachments.

(1) The report should contain all of the following elements:

(i) A brief description and explanation of the subject provider or providers;

(ii) A concise statement of the DOL OIG's findings upon which exclusion may be based;

(iii) A summary of the events that make up the DOL OIG's findings;

(iv) A discussion of the documentation supporting the DOL OIG's findings;

(v) A discussion of any other information that may have bearing upon the exclusion process; and

(vi) The supporting documentary evidence including any expert opinion rendered in the case.

(2) The attachments to the report should be provided in a manner that they may be easily referenced from the report.

§ 10.818 How is a provider notified of OWCP's intent to exclude him or her?

Following receipt of the investigative report, OWCP will determine if there exists a reasonable basis to exclude the provider or providers. If OWCP determines that such a basis exists, OWCP shall initiate the exclusion process by sending the provider a letter, by certified mail and with return receipt requested (or equivalent service from a commercial carrier), which shall contain the following:

(a) A concise statement of the grounds upon which exclusion shall be based;

(b) A summary of the information, with supporting documentation, upon which OWCP has relied in reaching an initial decision that exclusion proceedings should begin;

(c) An invitation to the provider to:

(1) Resign voluntarily from eligibility for providing services under this part without admitting or denying the allegations presented in the letter; or

(2) Request a decision on exclusion based upon the existing record and any additional documentary information the provider may wish to furnish;

(d) A notice of the provider's right, in the event of an adverse ruling by the deciding official, to request a formal hearing before an administrative law judge;

(e) A notice that should the provider fail to answer (as described in § 10.819) the letter of intent within 60 days of receipt, the deciding official may deem

the allegations made therein to be true and may order exclusion of the provider without conducting any further proceedings; and

(f) The address to where the answer from the provider should be sent.

§ 10.819 What requirements must the provider's answer and OWCP's decision meet?

(a) The provider's answer shall be in writing and shall include an answer to OWCP's invitation to resign voluntarily. If the provider does not offer to resign, he or she shall request that a determination be made upon the existing record and any additional information provided.

(b) Should the provider fail to answer the letter of intent within 60 days of receipt, the deciding official may deem the allegations made therein to be true and may order exclusion of the provider.

(c) The provider may inspect or request copies of information in the record at any time prior to the deciding official's decision by making such request to OWCP within 20 days of receipt of the letter of intent.

(d) Any response from the provider will be forwarded to DOL OIG, which shall have 30 days to answer the provider's response. That answer will be forwarded to the provider, who shall then have 15 days to reply.

(e) The deciding official shall be the Regional Director in the region in which the provider is located unless otherwise specified by the Director of the Division of Federal Employees' Compensation.

(f) The deciding official shall issue his or her decision in writing, and shall send a copy of the decision to the provider by certified mail, return receipt requested (or equivalent service from a commercial carrier). The decision shall advise the provider of his or her right to request, within 30 days of the date of an adverse decision, a formal hearing before an administrative law judge under the procedures set forth in §§ 10.820 through 10.823. The filing of a request for a hearing within the time specified shall stay the effectiveness of the decision to exclude.

§ 10.820 How can an excluded provider request a hearing?

A request for a hearing shall be sent to the deciding official and shall contain:

(a) A concise notice of the issues on which the provider desires to give evidence at the hearing;

(b) Any request for the presentation of oral argument or evidence; and

(c) Any request for a certification of questions concerning professional

medical standards, medical ethics or medical regulation for an advisory opinion from a competent recognized professional organization or Federal, State or local regulatory body.

§ 10.821 How are hearings assigned and scheduled?

(a) If the deciding official receives a timely request for hearing, the OWCP representative shall refer the matter to the Chief Administrative Law Judge of the Department of Labor, who shall assign it for an expedited hearing. The administrative law judge assigned to the matter shall consider the request for hearing, act on all requests therein, and issue a Notice of Hearing and Hearing Schedule for the conduct of the hearing. A copy of the hearing notice shall be served on the provider by certified mail, return receipt requested. The Notice of Hearing and Hearing Schedule shall include:

(1) A ruling on each item raised in the request for hearing;

(2) A schedule for the prompt disposition of all preliminary matters, including requests for the certification of questions to advisory bodies; and

(3) A scheduled hearing date not less than 30 days after the date the schedule is issued, and not less than 15 days after the scheduled conclusion of preliminary matters, provided that the specific time and place of the hearing may be set on 10 days' notice.

(b) The provider is entitled to be heard on any matter placed in issue by his or her response to the Notice of Intent to Exclude, and may designate "all issues" for purposes of hearing. However, a specific designation of issues is required if the provider wishes to interpose affirmative defenses, or request the issuance of subpoenas or the certification of questions for an advisory opinion.

§ 10.822 How are subpoenas or advisory opinions obtained?

(a) The provider may apply to the administrative law judge for the issuance of subpoenas upon a showing of good cause therefor.

(b) A certification of a request for an advisory opinion concerning professional medical standards, medical ethics or medical regulation to a competent recognized or professional organization or Federal, State or local regulatory agency may be made:

(1) As to an issue properly designated by the provider, in the sound discretion of the administrative law judge, provided that the request will not unduly delay the proceedings;

(2) By OWCP on its own motion either before or after the institution of

proceedings, and the results thereof shall be made available to the provider at the time that proceedings are instituted or, if after the proceedings are instituted, within a reasonable time after receipt. The opinion, if rendered by the organization or agency, is advisory only and not binding on the administrative law judge.

§ 10.823 How will the administrative law judge conduct the hearing and issue the recommended decision?

(a) To the extent appropriate, proceedings before the administrative law judge shall be governed by 29 CFR part 18.

(b) The administrative law judge shall receive such relevant evidence as may be adduced at the hearing. Parties to the hearing are the provider and OWCP. Evidence shall be presented under oath, orally or in the form of written statements. The administrative law judge shall consider the Notice and Response, including all pertinent documents accompanying them, and may also consider any evidence which refers to the provider or to any claim with respect to which the provider has provided medical services, hospital services, or medical services and supplies, and such other evidence as the administrative law judge may determine to be necessary or useful in evaluating the matter.

(c) All hearings shall be recorded and the original of the complete transcript shall become a permanent part of the official record of the proceedings.

(d) Pursuant to 5 U.S.C. 8126 and 29 CFR part 18, the administrative law judge may issue subpoenas, administer oaths, and examine witnesses with respect to the proceedings.

(e) At the conclusion of the hearing, the administrative law judge shall issue a recommended decision and cause it to be served on all parties to the proceeding, their representatives and the Director of OWCP.

§ 10.824 How does the recommended decision become final?

(a) Within 30 days from the date the recommended decision is issued, each party may state, in writing, whether the party objects to the recommended decision. This written statement should be filed with the Director of OWCP.

(b) For purposes of determining whether the written statement referred to in paragraph (a) of this section has been timely filed with the Director, the statement will be considered to be "filed" on the date that the provider mails it to the Director, as determined by postmark or the date that such written statement is actually received by the Director, whichever is earlier.

(c) Written statements objecting to the recommended decision may be filed upon one or more of the following grounds:

(1) A finding or conclusion of material fact is not supported by substantial evidence;

(2) A necessary legal conclusion is erroneous;

(3) The decision is contrary to law or to the duly promulgated rules or decisions of the Director;

(4) A substantial question of law, policy, or discretion is involved; or

(5) A prejudicial error of procedure was committed.

(d) Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignments of error are based on the record, and by statutes, regulations or principal authorities relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the administrative law judge had not been afforded an opportunity to pass.

(e) If a written statement of objection is filed within the allotted period of time, the Director will review the objection. The Director will forward the written objection to the DOL OIG, which will have 14 calendar days from that date to respond. Any response from DOL OIG will be forwarded to the provider, which will have 14 calendar days from that date to reply.

(f) The Director of OWCP will consider the recommended decision, the written record and any response or reply received and will then issue a written, final decision either upholding or reversing the exclusion.

(g) If no written statement of objection is filed within the allotted period of time, the Director of OWCP will issue a written, final decision accepting the recommendation of the administrative law judge.

(h) The decision of the Director of OWCP shall be final with respect to the provider's participation in the program, and shall not be subject to further review by any court or agency.

§ 10.825 What are the effects of exclusion?

(a) OWCP may give notice of the exclusion of a physician, hospital or provider of medical services or supplies:

(1) All OWCP district offices;

(2) All Federal employers;

(3) The CMS;

(4) The State or local authority responsible for licensing or certifying the excluded party.

(b) Notwithstanding any exclusion of a physician, hospital, or provider of

medical services or supplies under this subpart, OWCP shall not refuse an employee reimbursement for any otherwise reimbursable medical treatment, service or supply if:

(1) Such treatment, service or supply was rendered in an emergency by an excluded physician; or

(2) The employee could not reasonably have been expected to have known of such exclusion.

(c) An employee who is notified that his or her attending physician has been excluded shall have a new right to select a qualified physician.

§ 10.826 How can an excluded provider be reinstated?

(a) If a physician, hospital, or provider of medical services or supplies has been automatically excluded pursuant to § 10.816, the provider excluded will automatically be reinstated upon notice to OWCP that the conviction or exclusion which formed the basis of the automatic exclusion has been reversed or withdrawn. However, an automatic reinstatement shall not preclude OWCP from instituting exclusion proceedings based upon the underlying facts of the matter.

(b) A physician, hospital, or provider of medical services or supplies excluded from participation as a result of an order issued pursuant to this subpart may apply for reinstatement one year after the entry of the order of exclusion, unless the order expressly provides for a shorter period. An application for reinstatement shall be addressed to the Director for Federal Employees' Compensation, and shall contain a concise statement of the basis for the application. The application should be accompanied by supporting documents and affidavits.

(c) A request for reinstatement may be accompanied by a request for an oral presentation. Oral presentations will be allowed only in unusual circumstances where it will materially aid the decision process.

(d) The Director of OWCP shall order reinstatement only in instances where such reinstatement is clearly consistent with the goal of this subpart to protect the FECA program against fraud and abuse. To satisfy this requirement the provider must provide reasonable assurances that the basis for the exclusion will not be repeated.

Subpart J—Death Gratuity

§ 10.900 What is the death gratuity under this subpart?

(a) The death gratuity authorized by 5 U.S.C. 8102a and payable pursuant to the provisions of this subpart is a

payment to a claimant who is an eligible survivor (as defined in §§ 10.906 and 10.907) or a designated alternate beneficiary (as defined in §§ 10.908 and 10.909) of an employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation. This payment was authorized by section 1105 of Public Law 110-181 (2008). For the purposes of this subchapter, the term "Armed Force" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) This death gratuity payment is a FECA benefit, as defined by § 10.5(a) of this part. All the provisions and definitions in this part apply to claims for payment under this subpart unless otherwise specified.

§ 10.901 Which employees are covered under this subpart?

For purposes of this subpart, the term "employee" means all employees defined in 5 U.S.C. 8101 and § 10.5 of this part and all non-appropriated fund instrumentality employees as defined in 10 U.S.C. 1587(a)(1).

§ 10.902 Does every employee's death due to injuries incurred in connection with his or her service with an Armed Force in a contingency operation qualify for the death gratuity?

Yes. All such deaths that occur on or after January 28, 2008 (the date of enactment of Public Law 110-181 (2008)) qualify for the death gratuity administered by this subpart.

§ 10.903 Is the death gratuity payment applicable retroactively?

An employee's death qualifies for the death gratuity if the employee died on or after October 7, 2001, and before January 28, 2008, if the death was a result of injuries incurred in connection with the employee's service with an Armed Force in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom.

§ 10.904 Does a death as a result of occupational disease qualify for payment of the death gratuity?

Yes—throughout this subpart, the word "injury" is defined as it is in 5 U.S.C. 8101(5), which includes a disease proximately caused by employment. If an employee's death results from an occupational disease incurred in connection with the employee's service in a contingency operation, the death qualifies for payment of the death gratuity under this subpart.

§ 10.905 If an employee incurs a covered injury in connection with his or her service with an Armed Force in a contingency operation but does not die of the injury until years later, does the death qualify for payment of the death gratuity?

Yes—as long as the employee's death is a result of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation, the death qualifies for the death gratuity of this subpart regardless of how long after the injury the employee's death occurs.

§ 10.906 What special statutory definitions apply to survivors under this subpart?

For the purposes of paying the death gratuity to eligible survivors under this subpart, OWCP will use the following definitions:

(a) "Surviving spouse" means the person who was legally married to the deceased employee at the time of his or her death.

(b) "Children" means, without regard to age or marital status, the deceased employee's natural children and adopted children. It also includes any stepchildren who were a part of the decedent's household at the time of death.

(1) A stepchild will be considered part of the decedent's household if the decedent and the stepchild share the same principal place of abode in the year prior to the decedent's death. The decedent and stepchild will be considered as part of the same household notwithstanding temporary absences due to special circumstances such as illness, education, business travel, vacation travel, military service, or a written custody agreement under which the stepchild is absent from the employee's household for less than 180 days of the year.

(2) A natural child who is an illegitimate child of a male decedent is included in the definition of "children" under this subpart if:

(i) The child has been acknowledged in writing signed by the decedent;

(ii) The child has been judicially determined, before the decedent's death, to be his child;

(iii) The child has been otherwise proved, by evidence satisfactory to the employing agency, to be the decedent's child; or

(iv) The decedent had been judicially ordered to contribute to the child's support.

(c) "Parent" or "parents" mean the deceased employee's natural father and mother or father and mother through adoption. It also includes persons who stood in loco parentis to the decedent for a period of not less than one year at

any time before the decedent became an employee.

(1) A person stood in loco parentis when the person assumed the status of parent toward the deceased employee. (Any person who takes a child of another into his or her home and treats the child as a member of his or her family, providing parental supervision, support, and education as if the child were his or her own child, will be considered to stand in loco parentis.)

(2) Only one father and one mother, or their counterparts in loco parentis, may be recognized in any case.

(3) Preference will be given to those who exercised a parental relationship on the date, or most nearly before the date, on which the decedent became an employee.

(d) "Brother" and "sister" mean any person, without regard to age or marital status, who is a natural brother or sister of the decedent, a half-brother or half-sister, or a brother or sister through adoption. Step-brothers or step-sisters of the decedent are not considered a "brother" or a "sister."

§ 10.907 What order of precedence will OWCP use to determine which survivors are entitled to receive the death gratuity payment under this subpart?

If OWCP determines that an employee's death qualifies for the death gratuity, the FECA provides that the death gratuity payment will be disbursed to the living survivor(s) highest on the following list:

- (a) The employee's surviving spouse.
- (b) The employee's children, in equal shares.
- (c) The employee's parents, brothers, and sisters, or any combination of them, if designated by the employee pursuant to the designation procedures in § 10.909.
- (d) The employee's parents, in equal shares.
- (e) The employee's brothers and sisters, in equal shares.

§ 10.908 Can an employee designate alternate beneficiaries to receive a portion of the death gratuity payment?

An employee may designate another person or persons to receive not more than 50 percent of the death gratuity payment pursuant to the designation procedures in § 10.909. Only living persons, rather than trusts, corporations or other legal entities, may be designated under this subsection. The balance of the death gratuity will be paid according to the order of precedence described in § 10.907.

§ 10.909 How does an employee designate a variation in the order or percentage of gratuity payable to survivors and how does the employee designate alternate beneficiaries?

(a) Form CA-40 must be used to make a variation in the order or percentages of survivors under § 10.907 and/or to make an alternate beneficiary designation under § 10.908. A designation may be made at any time before the employee's death, regardless of the time of injury. The form will not be valid unless it is signed by the employee and received and signed prior to the death of the employee by the supervisor of the employee or by another official of the employing agency authorized to do so.

(b) Alternatively, any paper executed prior to the effective date of this regulation that specifies an alternate beneficiary of the death gratuity payment will serve as a valid designation if it is in writing, completed before the employee's death, signed by the employee, and signed prior to the death of the employee by the supervisor of the employee or by another official of the employing agency authorized to do so.

(c) If an employee makes a survivor designation under § 10.907(c), but does not designate the portions to be received by each designated survivor, the death gratuity will be disbursed to the survivors in equal shares.

(d) An alternate beneficiary designation made under § 10.908 must indicate the percentage of the death gratuity, in 10 percent increments up to the maximum of 50 percent, that the designated person(s) will receive. No more than five alternate beneficiaries may be designated. If the designation fails to indicate the percentage to be paid to an alternate beneficiary, the designation to that person will be invalid.

§ 10.910 What if a person entitled to a portion of the death gratuity payment dies after the death of the covered employee but before receiving his or her portion of the death gratuity?

(a) If a person entitled to all or a portion of the death gratuity due to the order of precedence for survivors in § 10.907 dies after the death of the covered employee but before the person receives the death gratuity, the portion will be paid to the living survivors otherwise eligible according to the order of precedence prescribed in that subsection.

(b) If a survivor designated under the survivor designation provision in § 10.907(c) dies after the death of the covered employee but before receiving his or her portion of the death gratuity,

the survivor's designated portion will be paid to the next living survivors according to the order of precedence.

(c) If a person designated as an alternate beneficiary under § 10.908 dies after the death of the covered employee but before the person receives his or her designated portion of the death gratuity, the designation to that person will have no effect. The portion designated to that person will be paid according to the order of precedence prescribed in § 10.907.

(d) If there are no living survivors or alternate beneficiaries, the death gratuity will not be paid.

§ 10.911 How is the death gratuity payment process initiated?

(a) Either the employing agency or a living claimant (survivor or alternate beneficiary) may initiate the death gratuity payment process. If the death gratuity payment process is initiated by the employing agency notifying OWCP of the employee's death, each claimant must file a claim with OWCP in order to receive payment of the death gratuity. The legal representative or guardian of any minor child may file on the child's behalf. Alternatively, if a claimant initiates the death gratuity payment process by filing a claim, the employing agency must complete a death notification form and submit it to OWCP. Other claimants must also file a claim for their portion of the death gratuity.

(b) The employing agency must notify OWCP immediately upon learning of an employee's death that may be eligible for benefits under this subpart, by submitting form CA-42 to OWCP. The agency must also submit to OWCP any designation forms completed by the employee, and the agency must provide as much information as possible about any living survivors or alternate beneficiaries of which the agency is aware.

(1) OWCP will then contact any living survivor(s) or alternate beneficiary(ies) it is able to identify.

(2) OWCP will furnish claim form CA-41 to any identified survivor(s) or alternate beneficiary(ies) and OWCP will provide information to them explaining how to file a claim for the death gratuity.

(c) Alternatively, any claimant may file a claim for death gratuity benefits with OWCP. Form CA-41 may be used for this purpose. The claimant will be required to provide any information that he or she has regarding any other beneficiaries who may be entitled to the death gratuity payment. The claimant must disclose, in addition to the Social Security number (SSN) of the deceased

employee, the SSNs (if known) and all known contact information of all other possible claimants who may be eligible to receive the death gratuity payment. The claimant must also identify, if known, the agency that employed the deceased employee when he or she incurred the injury that caused his or her death. OWCP will then contact the employing agency and notify the agency that it must complete and submit form CA-42 for the employee. OWCP will also contact any other living survivor(s) or alternate beneficiary(ies) it is able to identify, furnish to them claim form CA-41, and provide information explaining how to file a claim for the death gratuity.

(d) If a claimant submits a claim for the death gratuity to an employing agency, the agency must promptly transmit the claim to OWCP. This includes both claim forms CA-41 and any other claim or paper submitted which appears to claim compensation on account of the employee's death.

§ 10.912 What is required to establish a claim for the death gratuity payment?

Claim form CA-41 describes the basic requirements. Much of the required information will be provided by the employing agency when it completes notification form CA-42. However, the claimant bears the burden of proof to ensure that OWCP has the evidence needed to establish the claim. OWCP may send any request for additional evidence to the claimant and to his or her representative, if any. Evidence should be submitted in writing. The evidence submitted must be reliable, probative, and substantial. Each claim for the death gratuity must establish the following before OWCP can pay the gratuity:

(a) That the claim was filed within the time limits specified by the FECA, as prescribed in 5 U.S.C. 8122 and this part. Timeliness is based on the date that the claimant filed the claim for the death gratuity under § 10.911, not the date the employing agency submitted form CA-42. As procedures for accepting and paying retroactive claims were not available prior to the publication of the interim final rule, the applicable statute of limitations began to run for a retroactive payment under this subpart on August 18, 2009.

(b) That the injured person, at the time he or she incurred the injury or disease, was an employee of the United States as defined in 5 U.S.C. 8101(1) and § 10.5(h) of this part, or a non-appropriated fund instrumentality employee, as defined in 10 U.S.C. 1587(a)(1).

(c) That the injury or disease occurred and that the employee's death was causally related to that injury or disease. The death certificate of the employee must be provided. Often, the employing agency will provide the death certificate and any needed medical documentation. OWCP may request from the claimant any additional documentation that may be needed to establish the claim.

(d) That the employee incurred the injury or disease in connection with the employee's service with an Armed Force in a contingency operation. This will be determined from evidence provided by the employing agency or otherwise obtained by OWCP and from any evidence provided by the claimant.

(1) Section 8102a defines "contingency operation" to include humanitarian operations, peacekeeping operations, and similar operations. ("Similar operations" will be determined by OWCP.)

(i) A "contingency operation" is defined by 10 U.S.C. 101(a)(13) as a military operation that—

(A) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(B) Results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of Title 10, chapter 15 of Title 10, or any other provision of law during a war or during a national emergency declared by the President or Congress.

(ii) A "humanitarian or peacekeeping operation" is defined by 10 U.S.C. 2302(8) as a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing.

(iii) "Humanitarian assistance" is defined by 10 U.S.C. 401(e) to mean medical, surgical, dental, and veterinary care provided in areas of a country that are rural or are underserved by medical, surgical, dental, and veterinary professionals, respectively, including education, training, and technical assistance related to the care provided; construction of rudimentary surface transportation systems; well drilling and construction of basic sanitation facilities; rudimentary construction and repair of public facilities.

(2) A contingency operation may take place within the United States or abroad. However, operations of the National Guard are only considered "contingency operations" for purposes of this subpart when the President, Secretary of the Army, or Secretary of the Air Force calls the members of the National Guard into service. A "contingency operation" does not include operations of the National Guard when called into service by a Governor of a State.

(3) To show that the injury or disease was incurred "in connection with" the employee's service with an Armed Force in a contingency operation, the claim must show that the employee incurred the injury or disease while in the performance of duty as that phrase is defined for the purposes of otherwise awarding benefits under FECA.

(4)(i) When the contingency operation occurs outside of the United States, OWCP will find that an employee's injury or disease was incurred "in connection with" the employee's service with an Armed Force in a contingency operation if the employee incurred the injury or disease while performing assignments in the same region as the operation, unless there is conclusive evidence that the employee's service was not supporting the Armed Force's operation.

(ii) Economic or social development projects, including service on Provincial Reconstruction Teams, undertaken by covered employees in regions where an Armed Force is engaged in a contingency operation will be considered to be supporting the Armed Force's operation.

(5) To show that an employee's injury or disease was incurred "in connection with" the employee's service with an Armed Force in a contingency operation, the claimant will be required to establish that the employee's service was supporting the Armed Force's operation. The death gratuity does not cover Federal employees who are performing service within the United States that is not supporting activity being performed by an Armed Force.

(e) The claimant must establish his or her relationship to the deceased employee so that OWCP can determine whether the claimant is the survivor entitled to receive the death gratuity payment according to the order of precedence prescribed in § 10.907.

§ 10.913 In what situations will OWCP consider that an employee incurred injury in connection with his or her service with an Armed Force in a contingency operation?

(a) OWCP will consider that an employee incurred injury in connection with service with an Armed Force in a contingency operation if:

(1) The employee incurred injury while serving under the direction or supervision of an official of an Armed Force conducting a contingency operation; or

(2) The employee incurred injury while riding with members of an Armed Force in a vehicle or other conveyance deployed to further an Armed Force's objectives in a contingency operation.

(b) An employee may incur injury in connection with service with an Armed Force in a contingency operation in situations other than those listed above. Additional situations will be determined by OWCP on a case-by-case basis.

§ 10.914 What are the responsibilities of the employing agency in the death gratuity payment process?

Because some of the information needed to establish a claim under this subpart will not be readily available to the claimants, the employing agency of the deceased employee has significant responsibilities in the death gratuity claim process. These responsibilities are as follows:

(a) The agency must completely fill out form CA-42 immediately upon learning of an employee's death that may be eligible for benefits under this subpart. The agency must complete form CA-42 as promptly as possible if notified by OWCP that a survivor filed a claim based on the employee's death. The agency should provide as much information as possible regarding the circumstances of the employee's injury and his or her assigned duties at the time of the injury, so that OWCP can determine whether the injury was incurred in the performance of duty and whether the employee was performing service in connection with an Armed Force in a contingency operation at the time.

(b) The employing agency must promptly transmit any form CA-41s received from claimants to OWCP. The employer must also promptly transmit to OWCP any other claim or paper submitted that appears to claim compensation on account of the employee's death.

(c) The employing agency must maintain any designations completed by the employee and signed by a representative of the agency in the

employee's official personnel file or a related system of records. The agency must forward any such forms to OWCP if the agency submits form CA-42 notifying OWCP of the employee's death. The agency must also forward any other paper signed by the employee and employing agency that appears to make designations of the death gratuity.

(d) If requested by OWCP, the employing agency must determine whether a survivor, who is claiming the death gratuity based on his or her status as an illegitimate child of a deceased male employee, has offered satisfactory evidence to show that he or she is in fact the employee's child.

(e) The employing agency must notify OWCP of any other death gratuity payments under any other law of the United States for which the employee's death qualifies. The employing agency also must notify OWCP of any other death gratuity payments that have been paid based on the employee's death.

(f) Non-appropriated fund instrumentalities must fulfill the same requirements under this subpart as any other employing agency.

§ 10.915 What are the responsibilities of OWCP in the death gratuity payment process?

(a) If the death gratuity payment process is initiated by the employing agency's submission of form CA-42, OWCP will identify living potential claimants. OWCP will make a reasonable effort to provide claim form CA-41s to any known potential claimants and provide instructions on how to file a claim for the death gratuity payment.

(b) If the death gratuity payment process is initiated by a claimant's submission of a claim, OWCP will contact the employing agency and prompt it to submit form CA-42. OWCP will then review the information provided by both the claim and form CA-42, and OWCP will attempt to identify all living survivors or alternate beneficiaries who may be eligible for payment of the gratuity.

(c) If OWCP determines that the evidence is not sufficient to meet the claimant's burden of proof, OWCP will notify the claimant of the additional evidence needed. The claimant will be allowed at least 30 days to submit the additional evidence required. OWCP may also request additional information from the employing agency.

(d) OWCP will review the information provided by the claimant and information provided by the employing agency to determine whether the claim satisfies all the requirements listed in § 10.912.

(e) OWCP will calculate the amount of the death gratuity payment and pay the beneficiaries as soon as possible after accepting the claim.

§ 10.916 How is the amount of the death gratuity calculated?

The death gratuity payment under this subpart equals \$100,000 minus the amount of any death gratuity payments that have been paid under any other law of the United States based on the same death. A death gratuity payment is a payment in the nature of a gift, beyond reimbursement for death and funeral expenses, relocation costs, or other similar death benefits. Only other death gratuity payments will reduce the amount of the death gratuity provided in this subpart. For this reason, death benefits provided to the same employee's survivors such as those under 5 U.S.C. 8133 as well as benefits paid under 5 U.S.C. 8134 are not death gratuity payments, and therefore have no effect on the amount of the death gratuity provided under this subpart.

(a) A payment provided under section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973), is a death gratuity payment, and if a deceased employee's survivors received that payment for the employee's death, the amount of the death gratuity paid to the survivors under this subpart would be reduced by the amount of the Foreign Service Act death gratuity. Other death gratuities that would affect the calculation of the amount payable include but are not limited to: the gratuity provision in section 1603 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Pub. L. 109-234, June 15, 2006); the \$10,000 death gratuity to the personal representative of civilian employees, at Title VI, Section 651 of the Omnibus Consolidated Appropriations Act of 1996 (Pub. L. 104-208, September 30, 1996); the death gratuity for members of the Armed Forces or any employee of the Department of Defense dying outside the United States while assigned to intelligence duties, at 10 U.S.C. 1489; and the death gratuity for employees of the Central Intelligence Agency, at 50 U.S.C. 403k.

(b) The amount of the death gratuity under this section will be calculated before it is disbursed to the employee's survivors or alternate beneficiaries, by taking into account any death gratuities paid by the time of disbursement. Therefore, any designations made by the employee under § 10.909 are only applicable to the amount of the death gratuity as described in paragraph (a) of this section. The following examples are

intended to provide guidance in this administration of this subpart.

(1) *Example One.* An employee's survivors are entitled to the Foreign Service Act death gratuity; the employee's spouse received payment in the amount of \$80,000 under that Act. A death gratuity is also payable under FECA; the amount of the FECA death gratuity that is payable is a total of \$20,000. That employee, using Form CA-40 had designated 50% of the death gratuity under this subpart to be paid to his neighbor John Smith who is still living. So, 50% of the death gratuity will be paid to his spouse and the remaining 50% of the death gratuity paid under this subpart would be paid to John Smith. This means the surviving spouse will receive \$10,000 and John Smith will receive \$10,000.

(2) *Example Two.* Employee dies in circumstances that would qualify her for payment of the gratuity under this subpart; her agency has paid the \$10,000 death gratuity pursuant to Public Law 104-208. The employee had not completed any designation form. The FECA death gratuity is reduced by the \$10,000 death gratuity and employee's spouse receives \$90,000.

(3) *Example Three.* An employee of the Foreign Service whose annual salary is \$75,000 dies in circumstances that would qualify for payment of both the Foreign Service Act death gratuity and the death gratuity under this subpart. Before his death, the employee designated that 40% of the death gratuity under this subpart be paid to his cousin Jane Smith, pursuant to the alternate beneficiary designation provision at § 10.908 and that 10% be paid to his uncle John Doe who has since died. At the time of his death, the employee had no surviving spouse, children, parents, or siblings. Therefore, the Foreign Service Act death gratuity will not be paid, because no eligible survivors according to the Foreign Service Act provision exist. The death gratuity under this subpart would equal \$100,000, because no other death gratuity has been paid, and Jane would receive \$40,000 according to the employee's designation. As John Doe is deceased, no death gratuity may be paid pursuant to the designation of a share of the death gratuity to him.

■ 3. Part 25 is revised to read as follows:

PART 25—COMPENSATION FOR DISABILITY AND DEATH OF NONCITIZEN FEDERAL EMPLOYEES OUTSIDE THE UNITED STATES

Subpart A—General Provisions

Sec.

- 25.1 How are claims of Federal employees who are neither citizens nor residents adjudicated?
- 25.2 In general, what is the Director's policy regarding such claims?
- 25.3 What is the authority to settle and pay such claims?
- 25.4 What type of evidence is required to establish a claim under this part?
- 25.5 How does OWCP adjudicate claims of non-citizen residents of possessions or territories?

Subpart B—The Special Schedule of Compensation

- 25.100 What general provisions does OWCP apply to the Special Schedule?
- 25.101 How is compensation for disability paid?
- 25.102 How is compensation for death of a non-citizen non-resident employee paid?

Subpart C—Extensions of the Special Schedule of Compensation

- 25.200 How is the Special Schedule applied for employees in the Republic of the Philippines?
- 25.201 How is the Special Schedule applied for employees in Australia?
- 25.202 How is the Special Schedule applied for Japanese seamen?
- 25.203 How is the Special Schedule applied to non-resident aliens in the Territory of Guam?

Authority: 5 U.S.C. 301, 8137, 8145 and 8149; 1946 Reorganization Plan No. 2, sec. 3, 3 CFR 1943–1948 Comp., p. 1064; 60 Stat. 1095; Reorganization Plan No. 19 of 1950, sec. 1, 3 CFR 1943–1953 Comp., p. 1010; 64 Stat. 1271; Secretary of Labor's Order No. 10–2009, 74 FR 218.

Subpart A—General Provisions

§ 25.1 How are claims of Federal employees who are neither citizens nor residents adjudicated?

This part describes how OWCP pays compensation under the FECA to employees of the United States who are neither citizens nor residents of the United States, any territory or Canada, as well as to any dependents of such employees. It has been determined that the compensation provided under the FECA is substantially disproportionate to the compensation for disability or death which is payable in similar cases under local law, regulation, custom or otherwise, in areas outside the United States, any territory or Canada and therefore a special schedule should apply to such cases. This special schedule applies to any non-citizen non-resident Federal employee who is neither hired nor employed in the United States, Canada or in a possession or territory of the United States. Therefore, with respect to the claims of such employees whose injury (or injury resulting in death) has occurred subsequent to August 29, 2011, or may

occur, the regulations in this part shall apply.

§ 25.2 In general, what is the Director's policy regarding such claims?

(a) Pursuant to 5 U.S.C. 8137(a)(2), a special schedule is established by subpart B of this part that applies to any non-citizen non-resident Federal employee who is neither hired nor employed in the United States, Canada or in a possession or territory of the United States (hereinafter non-citizen non-resident employees). The special schedule in subpart B of this part is subject to the exceptions set forth in paragraph (b) of this section. The special schedule set forth in subpart B of this part applies to claims of such employees whose injury (or injury resulting in death) occurred on or after August 29, 2011.

(b) This special schedule of compensation established by subpart B of this part shall apply to non-citizen non-resident employees outside of the United States unless:

(1) The injured employee receives compensation pursuant to a specific separate agreement between the United States and another government (or similar compensation from another sovereign government);

(2) The employee receives compensation pursuant to the special schedule under subpart C for the particular locality, or for a class of employees in that particular locality; or

(3) The employee otherwise establishes entitlement to compensation under local law pursuant to § 25.100(e).

(c) Compensation in all cases of such employees paid and closed prior to August 29, 2011 shall be deemed compromised and paid under 5 U.S.C. 8137. In all other cases, compensation may be adjusted to conform with the regulations in this part, or the beneficiary may by compromise or agreement with the Director have compensation continued on the basis of a previous adjustment of the claim.

(d) Compensation received by beneficiaries pursuant to 5 U.S.C. 8137 and the special schedule set forth in paragraph (b) of this section is the exclusive measure of compensation in cases of injury (or death from injury) to non-citizen non-resident employees of the United States as specified in paragraph (a) of this section.

(e) Compensation for disability and death of non-citizen non-resident employees outside the United States under this part shall in no event exceed that generally payable under the FECA.

§ 25.3 What is the authority to settle and pay such claims?

In addition to the authority to receive, process and pay claims, when delegated such representative or agency receiving delegation of authority shall, in respect to cases adjudicated under this part, and when so authorized by the Director, have authority to make lump-sum awards (in the manner prescribed by 5 U.S.C. 8135) whenever such authorized representative shall deem such settlement to be for the best interest of the United States, and to compromise and pay claims for any benefits provided for under this part, including claims in which there is a dispute as to questions of fact or law. The Director shall, in instructions to the particular representative concerned, establish such procedures in respect to action under this section as he or she may deem necessary, and may specify the scope of any administrative review of such action.

§ 25.4 What type of evidence is required to establish a claim under this part?

Claims of non-citizen non-resident employees of the United States as specified in § 25.2(a), if otherwise compensable, shall be approved only upon evidence of the following nature without regard to the date of injury or death for which the claim is made:

- (a) Appropriate certification by the Federal employing establishment; or
- (b) An armed service's casualty or medical record; or
- (c) Verification of the employment and casualty by Department of Defense personnel; or
- (d) Recommendation of an armed service's "Claim Service" based on investigations conducted by it.

§ 25.5 How does OWCP adjudicate claims of non-citizen residents of possessions or territories?

An employee who is a bona fide permanent resident of any United States possession, territory, commonwealth, or trust territory will receive the full benefits of the FECA, as amended, except that the application of the minimum benefit provisions provided therein shall be governed by the restrictions set forth in 5 U.S.C. 8138.

Subpart B—The Special Schedule of Compensation

§ 25.100 What general provisions does OWCP apply to the Special Schedule?

- (a) The definitions of terms in the FECA, as amended, shall apply to terms used in this subpart.
- (b) The provisions of the FECA, unless modified by this subpart or otherwise inapplicable, shall be applied

whenever possible in the application of this subpart.

(c) The provisions of the regulations for the administration of the FECA, as amended or supplemented from time to time by instructions applicable to this subpart, shall apply in the administration of compensation under this subpart, whenever they can reasonably be applied.

§ 25.101 How is compensation for disability paid?

Compensation for disability shall be paid to the non-citizen non-resident employee as follows:

(a) *Temporary total disability.* Where the injured employee is disabled and unable to earn wages equivalent to those earned at the time of injury for a period of time less than two years, the employee shall receive 50 percent of the monthly pay during the period of such disability.

(b) *Temporary partial disability.* Where the injured employee is disabled and unable to earn equivalent wages to those earned at the time of injury, but who is not totally disabled for work, the injured employee shall receive during the period of disability, that proportion of compensation for temporary total disability, as determined under paragraph (a) of this section, which is equal in percentage to the degree or percentage of physical impairment caused by the disability.

(c) *Permanent total disability.* Where it is found that the injured employee is disabled and will be or has been unable to earn equivalent wages to those earned at the time of injury for greater than two years, the employee is deemed permanently disabled. Such employee shall receive a lump sum settlement based on compensation equaling 50 percent of the monthly pay or a percentage proportionate to the extent of disability. The lump sum award shall be made by the manner prescribed by 5 U.S.C. 8135.

(d) *Permanent partial disability.* Where there is permanent disability (impairment) involving the loss, or loss of use, of a member or function of the body, the injured employee is entitled to schedule compensation at 50 percent of the monthly pay to be paid in a lump sum according to 5 U.S.C. 8135, for the following losses and periods:

- (1) Arm lost: 312 weeks' compensation.
- (2) Leg lost: 288 weeks' compensation.
- (3) Hand lost: 244 weeks' compensation.
- (4) Foot lost: 205 weeks' compensation.
- (5) Eye lost: 160 weeks' compensation.

(6) Thumb lost: 75 weeks' compensation.

(7) First finger lost: 46 weeks' compensation.

(8) Great toe lost: 38 weeks' compensation.

(9) Second finger lost: 30 weeks' compensation.

(10) Third finger lost: 25 weeks' compensation.

(11) Toe, other than great toe, lost: 16 weeks' compensation.

(12) Fourth finger lost: 15 weeks' compensation.

(13) Loss of hearing: One ear, 52 weeks' compensation; both ears, 200 weeks' compensation.

(14) Breast (one) lost: 52 weeks' compensation.

(15) Kidney (one) lost: 156 weeks' compensation.

(16) Larynx lost: 160 weeks' compensation.

(17) Lung (one) lost: 156 weeks' compensation.

(18) Penis lost: 205 weeks' compensation.

(19) Testicle (one) lost: 52 weeks' compensation.

(20) Tongue lost: 160 weeks' compensation.

(21) Ovary (one) lost: 52 weeks' compensation.

(22) Uterus/cervix and vulva/vagina lost: 205 weeks' compensation.

(23) Skin: 205 weeks' compensation.

(24) Phalanges: Compensation for loss of more than one phalanx of a digit shall be the same as for the loss of the entire digit. Compensation for loss of the first phalanx shall be one-half of the compensation for the loss of the entire digit.

(25) Amputated arm or leg: Compensation for an arm or a leg, if amputated at or above the elbow or the knee, shall be the same as for the loss of the arm or leg; but, if amputated between the elbow and the wrist, or between the knee and the ankle, the compensation shall be the same as for the loss of the hand or the foot.

(26) Binocular vision or percent of vision: Compensation for loss of binocular vision, or for 80 percent or more of the vision of an eye shall be the same as for the loss of the eye.

(27) Two or more digits: Compensation for loss of two or more digits, one or more phalanges of two or more digits of a hand or foot may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the compensation for the loss of a hand or a foot.

(28) Total loss of use: Compensation for a permanent total loss of use of a member shall be the same as for loss of the member.

(29) Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss of use of the member.

(30) Consecutive awards: In any case in which there occurs a loss or loss of use of more than one member set forth in paragraph (d) of this section, but not amounting to permanent total disability, the award of compensation shall be for the loss or loss of use of each such member or part thereof, which awards shall run consecutively.

(31) Other cases: In all other cases within this class of disability the compensation during the continuance of disability shall be that proportion of compensation for permanent total disability, as determined under paragraph (c) of this section, which is equal in percentage to the degree or percentage of physical impairment caused by the disability.

(32) Compensation under paragraph (d) of this section for permanent partial disability shall be in addition to any compensation for temporary total or temporary partial disability under this section, and awards for temporary total, temporary partial, and permanent partial disability shall run consecutively.

(e) In the event a beneficiary covered under subpart B can demonstrate that the amount payable under the special schedule would result in a payment that would be demonstrably less than the amount payable under the law of his home country, the Director retains the discretion to pay that amount of compensation under 5 U.S.C.

8137(a)(2)(A), not to exceed the amount payable under FECA. To request benefits under this paragraph, the beneficiary must submit the following:

- (1) Translated copies of the applicable local statute as well as any regulations, policies and procedures the beneficiary avers are applicable; and
- (2) A translated copy of an opinion rendered by an attorney licensed in that jurisdiction or an advisory opinion from a court or administrative tribunal that explains the benefits payable to the beneficiary.

§ 25.102 How is compensation for death of a non-citizen non-resident employee paid?

If the disability causes death, the compensation shall be payable in the amount and to or for the benefit of the following persons:

- (a) To the undertaker or person entitled to reimbursement, reasonable funeral expenses not exceeding \$800.
- (b) To the surviving spouse, if there is no child, 30 percent of the monthly pay

until his or her death or remarriage subject to the lump sum provisions of 5 U.S.C. 8135.

(c) To the surviving spouse, if there is a child, the compensation payable under paragraph (b) of this section, and in addition thereto 10 percent of the monthly wage for each child, not to exceed a total of 50 percent of the monthly pay for such surviving spouse and children subject to the lump sum provisions of 5 U.S.C. 8135. If a child has a guardian other than the surviving spouse, the compensation payable on account of such child shall be paid to such guardian. The compensation entitlement of any child shall cease when he or she dies, marries or reaches the age of 18 years, or if over such age and incapable of self-support, becomes capable of self-support.

(d) To the children, if there is no surviving spouse, 25 percent of the monthly pay for one child and 10 percent thereof for each additional child, not to exceed a total of 50 percent of the monthly pay thereof, divided among such children share and share alike subject to the lump sum provisions of 5 U.S.C. 8135. The compensation entitlement of each child shall cease when he or she dies, marries or reaches the age of 18, or if over such age and incapable of self-support, becomes capable of self-support. The compensation of a child under legal age shall be paid to its guardian, if there is one, otherwise to the person having the custody or care of such child, for such child, as the Director in his or her discretion shall determine.

(e) To the parents, if one is wholly dependent for support upon the deceased employee at the time of his or her death and the other is not dependent to any extent, 20 percent of the monthly pay; if both are wholly dependent, 10 percent thereof to each; if one is or both are partly dependent, a proportionate amount in the discretion of the Director. The compensation to a parent or parents in the percentages specified shall be paid if there is no surviving spouse or child, but if there is a surviving spouse or child, there shall be paid so much of such percentages for a parent or parents as, when added to the total of the percentages of the surviving spouse and children, will not exceed a total of 50 percent of the monthly pay. These payments are subject to the lump sum provision of 5 U.S.C. 8135.

(f) To the brothers, sisters, grandparents and grandchildren, if one is wholly dependent upon the deceased employee for support at the time of his or her death, 20 percent of the monthly pay to such dependent; if more than one

are wholly dependent, 30 percent of such pay, divided among such dependents share and share alike; if there is no one of them wholly dependent, but one or more are partly dependent, 10 percent of such pay divided among such dependents share and share alike. The compensation to such beneficiaries shall be paid if there is no surviving spouse, child or dependent parent. If there is a surviving spouse, child or dependent parent, there shall be paid so much of the above percentages as, when added to the total of the percentages payable to the surviving spouse, children and dependent parents, will not exceed a total of 50 percent of such pay. These payments are subject to the lump sum provision of 5 U.S.C. 8135.

(g) The compensation entitlement of each beneficiary under paragraphs (e) and (f) of this section shall be paid until he or she, if a parent or grandparent, dies, marries or ceases to be dependent, or, if a brother, sister or grandchild, dies, marries or reaches the age of 18 years, or if over such age and incapable of self-support, becomes capable of self-support. The compensation of a brother, sister or grandchild under legal age shall be paid to his or her guardian, if there is one, otherwise to the person having the custody or care of such person, for such person, as the Director in his or her discretion shall determine.

(h) Upon the cessation of any person's compensation for death under this subpart, the compensation of any remaining person entitled to continuing compensation in the same case shall remain the same so that the continuing compensation shall be at the same rate each person previously received.

(i) In cases where there are two or more classes of persons entitled to compensation for death under this subpart, and the apportionment of such compensation as provided in this section would result in injustice, the Director may in his or her discretion modify the apportionments to meet the requirements of the case.

(j) Compensation for death shall be paid where practicable in a lump sum pursuant to section 8135.

(k) In the event a beneficiary eligible for death benefits covered under subpart B can demonstrate that the amount payable under the special schedule would result in a payment that would be demonstrably less than the amount payable under the law of his home country, the Director retains the discretion to pay that amount of compensation under 5 U.S.C. 8137(a)(2)(A), not to exceed the amount payable under FECA. To request

benefits under this paragraph, the beneficiary must submit the following:

(1) Translated copies of the applicable local statute as well as any regulations, policies and procedures the beneficiary asserts are applicable; and

(2) A translated copy of an opinion rendered by an attorney licensed in that jurisdiction or an advisory opinion from a court or administrative tribunal that explains the benefits payable to the beneficiary.

(l) A FECA death gratuity of \$65,000 may be payable for the death of a non-citizen non-resident employee should the death be a result of injury incurred in connection with service with an Armed Force in a contingency operation as set forth in subpart J of part 10.

Subpart C—Extensions of the Special Schedule of Compensation

§ 25.200 How is the Special Schedule applied for employees in the Republic of the Philippines?

(a) *Modified special schedule of compensation.* Except for injury or death of direct-hire employees of the U.S. Military Forces covered by the Philippine Medical Care Program and the Employees' Compensation Program pursuant to the agreement signed by the United States and the Republic of the Philippines on March 10, 1982 who are also members of the Philippine Social Security System, the special schedule of compensation established in subpart B of this part shall apply, with the modifications or additions specified in paragraphs (b) through (k) of this section, in the Republic of the Philippines, to injury or death occurring on or after July 1, 1968, with the following limitations:

(1) *Temporary disability.* Benefits for payments accruing on and after July 1, 1969, for injuries causing temporary disability and which occurred on and after July 1, 1968, shall be payable at the rates in the special schedule as modified in this section.

(2) *Permanent disability and death.* Benefits for injuries occurring on and after July 1, 1968, which cause permanent disability or death, shall be payable at the rates specified in the special schedule as modified in this section for all awards not paid in full before July 1, 1969, and any award paid in full prior to July 1, 1969: Provided, that application for adjustment is made, and the adjustment will result in additional benefits of at least \$10. In the case of injuries or death occurring on or after December 8, 1941 and prior to July 1, 1968, the special schedule as modified in this section may be applied to prospective awards for permanent

disability or death, provided that the monthly and aggregate maximum provisions in effect at the time of injury or death shall prevail. These maxima are \$50 and \$4,000, respectively.

(b) *Death benefits.* 400 weeks' compensation at two-thirds of the weekly wage rate, shared equally by the eligible survivors in the same class.

(c) *Death beneficiaries.* Benefits are payable to the survivors in the following order of priority (all beneficiaries in the highest applicable classes are entitled to share equally):

(1) Surviving spouse and unmarried children under 18, or over 18 and totally incapable of self-support.

(2) Dependent parents.

(3) Dependent grandparents.

(4) Dependent grandchildren, brothers and sisters who are unmarried and under 18, or over 18 and totally incapable of self-support.

(d) *Burial allowance.* 14 weeks' wages or \$400, whichever is less, payable to the eligible survivor(s), regardless of the actual expense. If there is no eligible survivor, actual burial expenses may be paid or reimbursed, in an amount not to exceed what would be paid to an eligible survivor.

(e) *Permanent total disability.* 400 weeks' compensation at two-thirds of the weekly wage rate.

(f) *Permanent partial disability.* Where applicable, the compensation provided in § 25.100(c)(1) through (19) subject to an aggregate limitation of 400 weeks' compensation. In all other cases, provided for permanent total disability that proportion of the compensation (paragraph (e) of this section) which is equivalent to the degree or percentage of physical impairment caused by the disability.

(g) *Temporary partial disability.* Two-thirds of the weekly loss of wage-earning capacity.

(h) *Compensation period for temporary disability.* Compensation for temporary disability is payable for a maximum period of 80 weeks.

(i) *Maximum compensation.* The total aggregate compensation payable in any case, for injury or death or both, shall not exceed \$8,000, exclusive of medical costs and burial allowance. The weekly rate of compensation for disability or death shall not exceed \$35.

(j) *Method of payment.* Only compensation for temporary disability shall be payable periodically. Compensation for permanent disability and death shall be payable in full at the time the extent of entitlement is established.

(k) *Exceptions.* The Director in his or her discretion may make exceptions to the regulations in this section by:

(1) Reapportioning death benefits, for the sake of equity.

(2) Excluding from consideration potential death beneficiaries who are not available to receive payment.

(3) Paying compensation for permanent disability or death on a periodic basis, where this method of payment is considered to be in the best interest of the beneficiary.

§ 25.201 How is the Special Schedule applied for employees in Australia?

(a) The special schedule of compensation established by subpart B of this part shall apply in Australia with the modifications or additions specified in paragraph (b) of this section, as of December 8, 1941, in all cases of injury (or death from injury) which occurred between December 8, 1941 and December 31, 1961, inclusive, and shall be applied retrospectively in all such cases of injury (or death from injury). Compensation in all such cases pending as of July 15, 1946, shall be readjusted accordingly, with credit taken in the amount of compensation paid prior to such date. Refund of compensation shall not be required if the amount of compensation paid in any such case, otherwise than through fraud, misrepresentation or mistake, and prior to July 15, 1946, exceeds the amount provided for under this paragraph, and such case shall be deemed compromised and paid under 5 U.S.C. 8137.

(b) The total aggregate compensation payable in any case under paragraph (a) of this section, for injury or death or both, shall not exceed the sum of \$4,000, exclusive of medical costs. The maximum monthly rate of compensation in any such case shall not exceed the sum of \$50.

(c) The benefit amounts payable under the provisions of the Commonwealth Employees' Compensation Act of 1930-1964, Australia, shall apply as of January 1, 1962, in Australia, as the exclusive measure of compensation in cases of injury (or death from injury) according on and after January 1, 1962, and shall be applied retrospectively in all such cases, occurring on and after such date: Provided, that the compensation payable under the provisions of this paragraph shall in no event exceed that payable under the FECA.

§ 25.202 How is the Special Schedule applied for Japanese seamen?

(a) *General.* The special schedule of compensation established by subpart B of this part shall apply as of November 1, 1971, with the modifications or additions specified in paragraphs (b) through (i) of this section, to injuries

sustained outside the continental United States or Canada by direct-hire Japanese seamen who are neither citizens nor residents of the United States or Canada and who are employed by the Military Sealift Command in Japan.

(b) *Temporary total disability.* Weekly compensation shall be paid at 75 percent of the weekly wage rate.

(c) *Temporary partial disability.* Weekly compensation shall be paid at 75 percent of the weekly loss of wage-earning capacity.

(d) *Permanent total disability.* Compensation shall be paid in a lump sum equivalent to 360 weeks' wages.

(e) *Permanent partial disability.* (1) The provisions of § 25.101 of this part shall apply to the types of permanent partial disability listed in paragraphs (d)(1) through (13) and (d)(24) through (29) of that section: Provided that weekly compensation shall be paid at 75 percent of the weekly wage rate and that the number of weeks allowed for specified losses shall be changed as follows:

(i) Arm lost: 312 weeks.

(ii) Leg lost: 288 weeks.

(iii) Hand lost: 244 weeks.

(iv) Foot lost: 205 weeks.

(v) Eye lost: 160 weeks.

(vi) Thumb lost: 75 weeks.

(vii) First finger lost: 46 weeks.

(viii) Second finger lost: 30 weeks.

(ix) Third finger lost: 25 weeks.

(x) Fourth finger lost: 15 weeks.

(xi) Great toe lost: 38 weeks.

(xii) Toe, other than great toe lost: 16 weeks.

(2) In all other cases, that proportion of the compensation provided for permanent total disability in paragraph (d) of this section which is equivalent to the degree or percentage of physical impairment caused by the injury.

(f) *Death.* If there are two or more eligible survivors, compensation equivalent to 360 weeks' wages shall be paid to the survivors, share and share alike. If there is only one eligible survivor, compensation equivalent to 300 weeks' wages shall be paid. The following survivors are eligible for death benefits:

(1) Spouse who lived with or was dependent upon the employee.

(2) Unmarried children under 21 who lived with or were dependent upon the employee.

(3) Adult children who were dependent upon the employee by reason of physical or mental disability.

(4) Dependent parents, grandparents and grandchildren.

(g) *Burial allowance.* \$1,000 payable to the eligible survivor(s), regardless of actual expenses. If there are no eligible

survivors, actual expenses may be paid or reimbursed, up to \$1,000.

(h) *Method of payment.* Only compensation for temporary disability shall be payable periodically, as entitlement accrues. Compensation for permanent disability and death shall be payable in a lump sum.

(i) *Maxima.* In all cases, the maximum weekly benefit shall be \$130. Also, except in cases of permanent total disability and death, the aggregate maximum compensation payable for any injury shall be \$51,000. This amount will be adjusted annually on March 1 in accordance with the

percentage amount determined by the cost of living adjustment under 5 U.S.C. 8146a.

(j) *Prior injury.* In cases where injury or death occurred prior to November 1, 1971, benefits will be paid in accordance with regulations promulgated, contained in 20 CFR parts 1-399, edition revised as of January 1, 1971.

§ 25.203 How is the Special Schedule applied to non-resident aliens in the Territory of Guam?

The special schedule of compensation established by subpart B of this part shall apply to an injury or death

occurring on or after August 29, 2011 in the Territory of Guam to non-resident alien employees recruited in foreign countries for employment by the military departments in the Territory of Guam. This schedule shall not apply to any employee who becomes a bona fide permanent resident as such claims will be decided in accordance with § 25.5.

Signed at Washington, DC this 8th of June, 2011.

Gary A. Steinberg,

Acting Director, Office of Workers' Compensation Programs.

[FR Doc. 2011-14915 Filed 6-27-11; 8:45 am]

BILLING CODE 4510-CH-P

WORKERS' COMPENSATION FORMS

Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation

U.S. Department of Labor
Office of Workers' Compensation Programs

Employee: Please complete all boxes 1 - 15 below. Do not complete shaded areas.
Witness: Complete bottom section 16.
Employing Agency (Supervisor or Compensation Specialist): Complete shaded boxes a, b, and c.

Employee Data			
1. Name of employee (Last, First, Middle)			2. Social Security Number
3. Date of birth Mo. Day Yr.	4. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	5. Home telephone	6. Grade as of date of injury Level <input type="checkbox"/> Step <input type="checkbox"/>
7. Employee's home mailing address (include street address, city, state, and ZIP code)			8. Dependents
City			<input type="checkbox"/> Wife, Husband
State			<input type="checkbox"/> Children under 18 years
ZIP Code			<input type="checkbox"/> Other

Description of Injury			
9. Place where injury occurred (e.g. 2nd floor, Main Post Office Bldg., 12th & Pine)			
10. Date injury occurred Mo. Day Yr.	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	11. Date of this notice Mo. Day Yr.	12. Employee's occupation
13. Cause of injury (Describe what happened and why)			

14. Nature of injury (Identify both the injury and the part of body, e.g., fracture of left leg)	a. Occupation code
	b. Type code c. Source code
	OWCP Use - NOI Code

Employee Signature	
15. I certify, under penalty of law, that the injury described above was sustained in performance of duty as an employee of the United States Government and that it was not caused by my willful misconduct, intent to injure myself or another person, nor by my intoxication. I hereby claim medical treatment, if needed, and the following, as checked below, while disabled for work:	
<input type="checkbox"/> a. Continuation of regular pay (COP) not to exceed 45 days and compensation for wage loss if disability for work continues beyond 45 days. If my claim is denied, I understand that the continuation of my regular pay shall be charged to sick or annual leave, or be deemed an overpayment within the meaning of 5 USC 5584.	
<input type="checkbox"/> b. Sick and/or Annual Leave	
I hereby authorize any physician or hospital (or any other person, institution, corporation, or government agency) to furnish any desired information to the U.S. Department of Labor, Office of Workers' Compensation Programs (or to its official representative). This authorization also permits any official representative of the Office to examine and to copy any records concerning me.	
Signature of employee or person acting on his/her behalf _____	Date _____
Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided by the FECA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.	
Have your supervisor complete the receipt attached to this form and return it to you for your records.	

Witness Statement			
16. Statement of witness (Describe what you saw, heard, or know about this injury)			
Name of witness	Signature of witness	Date signed	
Address	City	State	ZIP Code

Official Supervisor's Report: Please complete information requested below:

Supervisor's Report

17. Agency name and address of reporting office (include street address, city, state, and ZIP code)		OWCP Agency Code
		OSHA Site Code
City	State	ZIP Code

18. Employee's duty station (include street address, city, state, and ZIP code)	City	State	ZIP Code

19. Employee's retirement coverage CSRS FERS Other, (identify) _____

20. Regular work hours From: <input type="checkbox"/> a.m. <input type="checkbox"/> p.m. To: <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	21. Regular work schedule <input type="checkbox"/> Sun. <input type="checkbox"/> Mon. <input type="checkbox"/> Tues. <input type="checkbox"/> Wed. <input type="checkbox"/> Thurs. <input type="checkbox"/> Fri. <input type="checkbox"/> Sat.
--	--

22. Date of injury Mo. Day Yr. _____	23. Date notice received Mo. Day Yr. _____	24. Date stopped work Mo. Day Yr. _____ Time: <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
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25. Date pay stopped Mo. Day Yr. _____	26. Date 45 day period began Mo. Day Yr. _____	27. Date returned to work Mo. Day Yr. _____ Time: <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
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28. Was employee injured in performance of duty? Yes No (If "No," explain) _____

29. Was injury caused by employee's willful misconduct, intoxication, or intent to injure self or another? Yes (If "Yes," explain) No

30. Was injury caused by third party? <input type="checkbox"/> Yes <input type="checkbox"/> No (If "No," go to item 32.)	31. Name and address of third party (include street address, city, state, and ZIP code)
	City _____ State _____ ZIP Code _____

32. Name and address of physician first providing medical care (include street address, city, state, ZIP code)	33. First date medical care received Mo. Day Yr. _____
City _____ State _____ ZIP Code _____	34. Do medical reports show employee is disabled for work? <input type="checkbox"/> Yes <input type="checkbox"/> No

35. Does your knowledge of the facts about this injury agree with statements of the employee and/or witnesses? Yes No (If "No," explain) _____

36. If the employing agency controverts continuation of pay, state the reason in detail.	37. Pay rate when employee stopped work \$ _____ Per _____
--	--

Signature of Supervisor and Filing Instructions

38. A supervisor who knowingly certifies to any false statement, misrepresentation, concealment of fact, etc., in respect of this claim may also be subject to appropriate felony criminal prosecution.

I certify that the information given above and that furnished by the employee on the reverse of this form is true to the best of my knowledge with the following exception:

Name of supervisor (Type or print)	
Signature of supervisor	Date
Supervisor's Title	Office phone

39. Filing instructions No lost time and no medical expense: Place this form in employee's medical folder (SF-66-D)
 No lost time, medical expense incurred or expected: forward this form to OWCP
 Lost time covered by leave, LWOP, or COP: forward this form to OWCP
 First Aid Injury

Instructions for Completing Form CA-1

Complete all items on your section of the form. If additional space is required to explain or clarify any point, attach a supplemental statement to the form. Some of the items on the form which may require further clarification are explained below.

Employee (Or person acting on the employees' behalf)

13) Cause of injury

Describe in detail how and why the injury occurred. Give appropriate details (e.g.: if you fell, how far did you fall and in what position did you land?)

14) Nature of Injury

Give a complete description of the condition(s) resulting from your injury. Specify the right or left side if applicable (e.g., fractured left leg; cut on right index finger).

15) Election of COP/Leave

If you are disabled for work as a result of this injury and filed CA-1 within thirty days of the injury, you may be entitled to receive continuation of pay (COP) from your employing agency. COP is paid for up to 45 calendar days of disability, and is not charged against sick or annual leave. If you elect sick or annual leave you may not claim compensation to repurchase leave used during the 45 days of COP entitlement.

Supervisor

At the time the form is received, complete the receipt of notice of injury and give it to the employee. In addition to completing items 17 through 39, the supervisor is responsible for obtaining the witness statement in Item 16 and for filling in the proper codes in shaded boxes a, b, and c on the front of the form. If medical expense or lost time is incurred or expected, the completed form should be sent to OWCP within 10 working days after it is received.

The supervisor should also submit any other information or evidence pertinent to the merits of this claim.

If the employing agency controverts COP, the employee should be notified and the reason for controversion explained to him or her.

17) Agency name and address of reporting office

The name and address of the office to which correspondence from OWCP should be sent (if applicable, the address of the personnel or compensation office).

18) Duty station street address and zip code

The address and zip code of the establishment where the employee actually works.

19) Employers Retirement Coverage.

Indicate which retirement system the employee is covered under.

30) Was injury caused by third party?

A third party is an individual or organization (other than the injured employee or the Federal government) who is liable for the injury. For instance, the driver of a vehicle causing an accident in which an employee is injured, the owner of a building where unsafe conditions cause an employee to fall, and a manufacturer whose defective product causes an employee's injury, could all be considered third parties to the injury.

32) Name and address of physician first providing medical care

The name and address of the physician who first provided medical care for this injury. If initial care was given by a nurse or other health professional (not a physician) in the employing agency's health unit or clinic, indicate this on a separate sheet of paper.

33) First date medical care received

The date of the first visit to the physician listed in item 31.

36) If the employing agency controverts continuation of pay, state the reason in detail.

COP may be controverted (disputed) for any reason; however, the employing agency may refuse to pay COP only if the controversion is based upon one of the nine reasons given below:

- a) The disability was not caused by a traumatic injury.
- b) The employee is a volunteer working without pay or for nominal pay, or a member of the office staff of a former President;
- c) The employee is not a citizen or a resident of the United States or Canada;
- d) The injury occurred off the employing agency's premises and the employee was not involved in official "off premise" duties;
- e) The injury was proximately caused by the employee's willful misconduct, intent to bring about injury or death to self or another person, or intoxication;
- f) The injury was not reported on Form CA-1 within 30 days following the injury;
- g) Work stoppage first occurred 45 days or more following the injury;
- h) The employee initially reported the injury after his or her employment was terminated; or
- i) The employee is enrolled in the Civil Air Patrol, Peace Corps, Youth Conservation Corps, Work Study Programs, or other similar groups.

Employing Agency - Required Codes

Box a (Occupation Code), Box b (Type Code), Box c (Source Code), OSHA Site Code

The Occupational Safety and Health Administration (OSHA) requires all employing agencies to complete these items when reporting an injury. The proper codes may be found in OSHA Booklet 2014, "Recordkeeping and Reporting Guidelines."

OWCP Agency Code

This is a four-digit (or four digit plus two letter) code used by OWCP to identify the employing agency. The proper code may be obtained from your personnel or compensation office, or by contacting OWCP.

Benefits for Employees under the Federal Employees' Compensation act (FECA)

The FECA, which is administered by the Office of Workers' Compensation Programs (OWCP), provides the following benefits for job-related traumatic injuries:

- (1) Continuation of pay for disability resulting from traumatic, job-related injury, not to exceed 45 calendar days. (To be eligible for continuation of pay, the employee, or someone acting on his/her behalf, must file Form CA-1 within 30 days following the injury and provide medical evidence in support of disability within 10 days of submission of the CA-1. Where the employing agency continues the employee's pay, the pay must not be interrupted unless one of the provision's outlined in 20 CFR 10.222 apply.
- (2) Payment of compensation for wage loss after the expiration of COP, if disability extends beyond such point, or if COP is not payable. If disability continues after COP expires, Form CA-7, with supporting medical evidence, must be filed with OWCP. To avoid interruption of income, the form should be filed on the 40th day of the COP period.
- (3) Payment of compensation for permanent impairment of certain organs, members, or functions of the body (such as loss or loss of use of an arm or kidney, loss of vision, etc.), or for serious deffringement of the head, face, or neck.

- (4) Vocational rehabilitation and related services where directed by OWCP.
- (5) All necessary medical care from qualified medical providers. The injured employee may choose the physician who provides initial medical care. Generally, 25 miles from the place of injury, place of employment, or employee's home is a reasonable distance to travel for medical care.

An employee may use sick or annual leave rather than LWOP while disabled. The employee may repurchase leave used for approved periods. Form CA-7b, available from the personnel office, should be studied BEFORE a decision is made to use leave.

For additional information, review the regulations governing the administration of the FECA (Code of Federal Regulations, Chapter 20, Part 10) or pamphlet CA-810.

Privacy Act

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101, et seq.) (FECA) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has will be used to determine eligibility for and the amount of benefits payable under the FECA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agency which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider issues relating to retention, rehire, or other relevant matters. (4) Information may also be given to other Federal agencies, other government entities, and to private-sector agencies and/or employers as part of rehabilitative and other return-to-work programs and services. (5) Information may be disclosed to physicians and other health care providers for use in providing treatment or medical/vocational rehabilitation, making evaluations for the Office, and for other purposes related to the medical management of the claim. (6) Information may be given to Federal, state and local agencies for law enforcement purposes, to obtain information relevant to a decision under the FECA, to determine whether benefits are being paid properly, including whether prohibited dual payments are being made, and, where appropriate, to pursue salary/administrative offset and debt collection actions required or permitted by the FECA and/or the Debt Collection Act. (7) Disclosure of the claimant's social security number (SSN) or tax identifying number (TIN) on this form is mandatory. The SSN and/or TIN, and other information maintained by the Office, may be used for identification, to support debt collection efforts carried on by the Federal government, and for other purposes required or authorized by law. (8) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision or reduced level of benefits.

Note: This notice applies to all forms requesting information that you might receive from the Office in connection with the processing and adjudication of the claim you filed under the FECA.

Receipt of Notice of Injury

This acknowledges receipt of Notice of Injury sustained by
(Name of injured employee)

Which occurred on (Mo., Day, Yr.)

At (Location)

Signature of Official Superior

Title

Date (Mo., Day, Yr.)

Notice of Occupational Disease and Claim for Compensation

U. S. Department of Labor
Office of Workers' Compensation Programs



Employee: Please complete all boxes 1 - 18 below. Do not complete shaded areas.
Employing Agency (Supervisor or Compensation Specialist): Complete shaded boxes a, b, and c.

Employee Data					
1. Name of Employee (Last, First, Middle)				2. Social Security Number	
3. Date of birth	Mo.	Day	Yr.	4. Sex	5. Home telephone
7. Employee's home mailing address (include street address, city, state, and ZIP code)				6. Grade as of date of last exposure	
City				Level	Step
State				ZIP Code	
8. Dependents					
<input type="checkbox"/> Wife, Husband					
<input type="checkbox"/> Children under 18 years					
<input type="checkbox"/> Other					

Claim Information	
9. Employee's occupation	a. Occupation code
10. Location where you worked when disease or illness occurred (include street address, city, state, and ZIP code)	11. Date you first became aware of disease or illness
City	Mo. Day Yr.
State	
ZIP Code	
12. Date you first realized the disease or illness was caused or aggravated by your employment	13. Explain the relationship to your employment, and why you came to this realization
Mo. Day Yr.	

14. Nature of disease or illness	
OWCP Use - NOI Code	
b. Type code	c. Source code

15. If this notice and claim was not filed with the employing agency within 30 days after date shown above in item #12, explain the reason for the delay.

16. If the statement requested in item 1 of the attached instructions is not submitted with this form, explain reason for delay.

17. If the medical reports requested in item 2 of attached instructions are not submitted with this form, explain reason for delay.

Employee Signature

18. I certify, under penalty of law, that the disease or illness described above was the result of my employment with the United States Government, and that it was not caused by my willful misconduct, intent to injure myself or another person, nor by my intoxication. I hereby claim medical treatment, if needed, and other benefits provided by the Federal Employees' Compensation Act.

I hereby authorize any physician or hospital (or any other person, institution, corporation, or government, agency) to furnish any desired information to the U.S. Department of Labor, Office of Workers' Compensation Programs (or to its official representative). This authorization also permits any official representative of the Office to examine and to copy any records concerning me.

Signature of employee or person acting on his/her behalf _____ Date _____

Have your supervisor complete the receipt attached to this form and return it to you for your records.

Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided by the FECA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.

Official Supervisor's Report of Occupational Disease: Please complete information requested below

Supervisor's Report

19. Agency name and address of reporting office (include street address, city, state, and ZIP Code) _____ OWCP Agency Code _____
 _____ OSHA Site Code _____

City _____ State _____ ZIP Code _____

20. Employee's duty station (include street address, city, state, and ZIP code) _____ City _____ State _____ ZIP Code _____

21. Regular work hours From: _____ a.m. _____ p.m. To: _____ a.m. _____ p.m. 22. Regular work schedule Sun. Mon. Tues. Wed. Thurs. Fri. Sat.

23. Name and address of physician first providing medical care (include city, state, ZIP code) _____ 24. First date medical care received _____ Mo. Day Yr

25. Do medical reports show employee is disabled for work? Yes No
 City _____ State _____ ZIP Code _____

26. Date employee first reported condition to supervisor _____ Mo. Day Yr. 27. Date and hour employee stopped work _____ Mo. Day Yr. Time _____ a.m. _____ p.m.

28. Date and hour employee's pay stopped _____ Mo. Day Yr. Time _____ a.m. _____ p.m. 29. Date employee was last exposed to conditions alleged to have caused disease or illness _____ Mo. Day Yr.

30. Date returned to work _____ Mo. Day Yr. Time _____ a.m. _____ p.m.

31. If employee has returned to work and work assignment has changed, describe new duties

32. Employee's Retirement Coverage CSRS FERS Other, (Specify) _____

33. Was injury caused by third party? Yes No If "No," go to Item 34. 34. Name and address of third party (include street address, city, state, and ZIP code)

 City _____ State _____ ZIP Code _____

Signature of Supervisor

35. A supervisor who knowingly certifies to any false statement, misrepresentation, concealment of fact, etc., in respect to this claim may also be subject to appropriate felony criminal prosecution.

I certify that the information given above and that furnished by the employee on the reverse of this form is true to the best of my knowledge with the following exception:

Name of Supervisor (Type or print) _____

Signature of Supervisor _____ Date _____

Supervisor's Title _____ Office phone _____

Disability Benefits for Employees under the Federal Employees' Compensation Act (FECA)

The FECA, which is administered by the Office of Workers' Compensation Programs (OWCP), provides the following general benefits for employment-related occupational disease or illness:

- (1) Full medical care from either Federal medical officers and hospitals, or private hospitals or physicians of the employee's choice.
- (2) Payment of compensation for total or partial wage loss.
- (3) Payment of compensation for permanent impairment of certain organs, members, or functions of the body (such as loss or loss of use of an arm or kidney, loss of vision, etc.), or for serious disfigurement of the head, face, or neck.
- (4) Vocational rehabilitation and related services where necessary.

The first three days in a non-pay status are waiting days, and no compensation is paid for these days unless the period of disability exceeds 14 calendar days, or the employee has suffered a permanent disability. Compensation for total disability is generally paid at the rate of 2/3 of an employee's salary if there are no dependents, or 3/4 of salary if there are one or more dependents.

An employee may use sick or annual leave rather than LWOP while disabled. The employee may repurchase leave used for approved periods. Form CA-7b, available from the personnel office, should be studied BEFORE a decision is made to use leave.

If an employee is in doubt about compensation benefits, the OWCP District Office servicing the employing agency should be contacted. (Obtain the address from your employing agency.)

For additional information, review the regulations governing the administration of the FECA (Code of Federal Regulations, Title 20, Chapter 1) or Chapter 810 of the Office of Personnel Management's Federal Personnel Manual.

Privacy Act

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101, et seq.) (FECA) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has will be used to determine eligibility for and the amount of benefits payable under the FECA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agency which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider issues relating to retention, rehire, or other relevant matters. (4) Information may also be given to other Federal agencies, other government entities, and to private-sector agencies and/or employers as part of rehabilitative and other return-to-work programs and services. (5) Information may be disclosed to physicians and other health care providers for use in providing treatment or medical/vocational rehabilitation, making evaluations for the Office, and for other purposes related to the medical management of the claim. (6) Information may be given to Federal, state and local agencies for law enforcement purposes, to obtain information relevant to a decision under the FECA, to determine whether benefits are being paid properly, including whether prohibited dual Payments are being made, and, where appropriate, to pursue salary/administrative offset and debt collection actions required or permitted by the FECA and/or the Debt Collection Act. (7) Disclosure of the claimant's social security number (SSN) or tax identifying number (TIN) on this form is mandatory. The SSN and/or TIN, and other information maintained by the Office, may be used for identification, to support debt collection efforts carried on by the Federal government, and for other purposes required or authorized by law. (8) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision or reduced level of benefits.

Note: This notice applies to all forms requesting information that you might receive from the Office in connection with the processing and adjudication of the claim you filed under the FECA.

Receipt of Notice of Occupational Disease or Illness

This acknowledges receipt of notice of disease or illness sustained by:
(Name of injured employee)

I was first notified about this condition on (Mo., Day, Yr.) _____

At (Location) _____

Signature of Official Superior _____ Title _____ Date (Mo., Day, Yr.) _____

This receipt should be retained by the employee as a record that notice was filed.

INSTRUCTIONS FOR COMPLETING FORM CA-2

Complete all items on your section of the form. If additional space is required to explain or clarify any point, attach a supplemental statement to the form. In addition to the information requested on the form, both the employee and the supervisor are required to submit additional evidence as described below. If this evidence is not submitted along with the form, the responsible party should explain the reason for the delay and state when the additional evidence will be submitted.

Employee (or person acting on the Employee's behalf)

Complete items 1 through 18 and submit the form to the employee's supervisor along with the statement and medical reports described below. Be sure to obtain the Receipt of Notice of Disease or Illness completed by the supervisor at the time the form is submitted.

1) Employee's statement

In a separate narrative statement attached to the form, the employee must submit the following information:

- a) A detailed history of the disease or illness from the date it started.
- b) Complete details of the conditions of employment which are believed to be responsible for the disease or illness.
- c) A description of specific exposures to substances or stressful conditions causing the disease or illness, including locations where exposure or stress occurred, as well as the number of hours per day and days per week of such exposure or stress.
- d) Identification of the part of the body affected. (If disability is due to a heart condition, give complete details of all activities for one week prior to the attack with particular attention to the final 24 hours of such period.)
- e) A statement as to whether the employee ever suffered a similar condition. If so, provide full details of onset, history, and medical care received, along with names and addresses of physicians rendering treatment.

2) Medical report

- a) Dates of examination or treatment.
- b) History given to the physician by the employee.
- c) Detailed description of the physician's findings.
- d) Results of x-rays, laboratory tests, etc.
- e) Diagnosis.
- f) Clinical course of treatment.
- g) Physician's opinion as to whether the disease or illness was caused or aggravated by the employment, along with an explanation of the basis for this opinion. (Medical reports that do not explain the basis for the physician's opinion are given very little weight in adjudicating the claim.)

3) Wage loss

If you have lost wages or used leave for this illness, Form CA-7 should also be submitted.

Supervisor (Or appropriate official in the employing agency)

At the time the form is received, complete the Receipt of Notice of Disease or Illness and give it to the employee. In addition to completing items 19 through 34, the supervisor is responsible for filling in the proper codes in shaded boxes a, b, and c on the front of the form. If medical expense or lost time is incurred or expected, the completed form must be sent to OWCP within ten working days after it is received. In a separate narrative statement attached to the form, the supervisor must:

- a) Describe in detail the work performed by the employee. Identify fumes, chemicals, or other irritants or situations that the employee was exposed to which allegedly caused the condition. State the nature, extent, and duration of the exposure, including hours per days and days per week, requested above.
- b) Attach copies of all medical reports (including x-ray reports and laboratory data) on file for the employee.
- c) Attach a record of the employee's absence from work caused by any similar disease or illness. Have the employee state the reason for each absence.
- d) Attach statements from each co-worker who has first-hand knowledge about the employee's condition and its cause. (The co-workers should state how such knowledge was obtained.)
- e) Review and comment on the accuracy of the employee's statement requested above.

The supervisor should also submit any other information or evidence pertinent to the merits of this claim.

Item Explanation: Some of the items on the form which may require further clarification are explained below.

14. Nature of the disease or illness

Give a complete description of the disease or illness. Specify the left or right side if applicable (e.g., rash on left leg; carpal tunnel syndrome, right wrist).

19. Agency name and address of reporting office

The name and address of the office to which correspondence from OWCP should be sent (if applicable, the address of the personnel or compensation office).

23. Name and address of physician first providing medical care

The name and address of the physician who first provided medical care for this injury. If initial care was given by a nurse or other health professional (not a physician) in the employing agency's health unit or clinic, indicate this on a separate sheet of paper.

24. First date medical care received

The date of the first visit to the physician listed in item 23.

32. Employee's Retirement Coverage.

Indicate which retirement system the employee is covered under.

33. Was the injury caused by third party?

A third party is an individual or organization (other than the injured employee or the Federal government) who is liable for the disease. For instance, manufacturer of a chemical to which an employee was exposed might be considered a third party if improper instructions were given by the manufacturer for use of the chemical.

Employing Agency - Required Codes

Box a (Occupational Code), Box b. (Type Code), Box c (Source Code), OSHA Site Code

The Occupational Safety and Health Administration (OSHA) requires all employing agencies to complete these items when reporting an injury. The proper codes may be found in OSHA Booklet 2014, Record Keeping and Reporting Guidelines.

OWCP Agency Code

This is a four digit (or four digit two letter) code used by OWCP to identify the employing agency. The proper code may be obtained from your personnel or compensation office, or by contacting OWCP.

Notice of Recurrence

U.S. Department of Labor
Office of Workers' Compensation Programs



Employee: Complete Part A below.

Employing Agency (Supervisor or Compensation Specialist): Complete Part B.

Note: Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number.

OMB No. 1240-0009
Expires: 06-30-2014

Part A - Employee

1. Name of employee (Last, First, Middle)		2. Social Security Number		3. OWCP file number for original injury	
4. Date of birth Mo. Day Yr.		5. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		6. Home telephone	
7. Home mailing address (include street address, city, state, and ZIP code)				8. Dependents	
City State ZIP Code				<input type="checkbox"/> Wife, Husband <input type="checkbox"/> Children under 18 years <input type="checkbox"/> Other	
9. Name and Address of Employing Agency at time of original injury (number, street, city, state, ZIP code)			10. Name and Address of Employing Agency at time of recurrence, if other than shown in 9. If you are no longer employed with the Federal Government, complete Part C also.		
11. Date and Hour of original injury (mo., day, year)	12. Date and Hour of recurrence (mo., day, year)	13. Date and Hour stopped work after recurrence (mo., day, year)	14. Date and Hour pay stopped after recurrence (mo., day, year)	15. Date and Hour returned to work (mo., day, year)	
16. Recurrence due to <input type="checkbox"/> Medical Treatment Only <input type="checkbox"/> Time Loss From Work		17. Date of first medical treatment following recurrence (mo., day, year)	18. Name and address of treating physician		
19. After returning to work following the original injury, were you in any way limited in performing your usual duties? (If so, explain. Also state how long these limitations continued.)					<input type="checkbox"/> Yes <input type="checkbox"/> No
20. Describe your condition since you returned to work, including the nature and frequency of all medical treatment received.					
21. Describe how and when the recurrence happened. Explain why you believe your current condition is related to the original injury.					
22. Describe all injuries and illnesses which you suffered between the date you returned to work after the original injury, and the date of recurrence. Arrange for the submission of all relevant medical records.					
<p>Any person who knowingly makes any false statement, misrepresentation, concealment of fact, or any other act of fraud to obtain compensation as provided by the Federal Employees' Compensation Act (FECA), or who knowingly accepts compensation to which that person is not entitled, is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.</p> <p>I hereby claim medical treatment if needed, and up to 45 days Continuation of Pay if disabled for work.</p> <p>I hereby authorize any physician or hospital (or any other person, institution, corporation, or government agency) to furnish any desired information to the U.S. Department of Labor, Office of Workers' Compensation Programs (or to its official representative). This authorization also permits any official representative of the Office to examine and to copy any records concerning me.</p> <p>I certify, under penalty of law, that the information provided on this form is true and correct to the best of my knowledge.</p>					
23. Signature of employee				24. Date (mo., day, year)	

Part B - Federal Employing Agency

25. Name and address of reporting office (include street address, city, state, and ZIP Code)	OWCP Agency Code
<div style="display: flex; justify-content: space-between; margin-top: 10px;"> City State ZIP Code </div>	OSHA Site Code

26. Employee's duty station (include street address, city, state, and ZIP Code)	27. Date of first return to FULL- TIME REGULAR duty following original injury
<div style="display: flex; justify-content: space-between; margin-top: 10px;"> City State ZIP Code </div>	Mo. Day Yr.

28. Regular work hours From: <input type="checkbox"/> a.m. <input type="checkbox"/> p.m. To: <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	29. Regular work days <input type="checkbox"/> Sun. <input type="checkbox"/> Mon. <input type="checkbox"/> Tues. <input type="checkbox"/> Wed. <input type="checkbox"/> Thurs. <input type="checkbox"/> Fri. <input type="checkbox"/> Sat.
--	--

30. Date of injury Mo. Day Yr.	31. Date of recurrence Mo. Day Yr.	32. Date stopped work after recurrence Mo. Day Yr. Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
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33. Date pay stopped after recurrence Mo. Day Yr.	34. Dates COP paid for recurrence From To Mo. Day Yr.	35. Date returned to work after recurrence Mo. Day Yr. Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
---	---	---

36. Did the employee receive medical care at an agency facility due to the recurrence? If so, please attach all relevant medical records. <input type="checkbox"/> Yes <input type="checkbox"/> No	37. At the time of the recurrence did your agency authorize medical treatment on Form CA-16? <input type="checkbox"/> Yes <input type="checkbox"/> No
--	---

38. After the original injury, did you make any accommodations or adjustments in the employee's regular duties due to injury-related limitation? Yes No If so, provide full details.

39. After return to work, did the employee sustain any other injury or illness which affected performance of his or her duties? If so, provide full details.

40. Please review the statements made by the employee in Part A of this form and provide any relevant comments and additional information.

A supervisor or compensation specialist who knowingly certifies to any false statement, misrepresentation, concealment of fact, etc., in respect to this claim may also be subject to appropriate felony criminal prosecution.

41. Signature of Supervisor or Compensation Specialist (at time of recurrence)	42. Title	43. Work phone	44. Date (mo., day, year)
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Part C - Employee

(To be completed by the employee if not employed with the Federal Government at the time of the claimed recurrence)

1. For all jobs held since you left the job held when the initial injury occurred, list the full name and address of your employers, and the inclusive dates of employment. Include any self-employment.

2. For all jobs listed in item 1 above, provide your job title, nature of duties performed, number of hours worked per week and rate of pay.

3. Describe all educational and/or vocational training received since your original injury. Include any licenses or certificates earned.

4. What was your rate of pay if you stopped work due to this recurrence?

\$ _____ per _____

5. Do you claim compensation for lost wages? Yes No

If so, for what period? _____ through _____ .

6. Have you received any pay during the period claimed? Yes No

If so, how much and from what source? _____

7. Signature of Employee

8. Date (mo., day, year)

INSTRUCTIONS FOR COMPLETING FORM CA-2a NOTICE OF RECURRENCE

DEFINITION OF RECURRENCE

A Recurrence of the Medical Condition is the documented need for additional medical treatment after release from treatment for the work-related injury. Continuing treatment for the original condition is not considered a recurrence.

A Recurrence of Disability is a work stoppage caused by:

- A spontaneous return of the symptoms of a previous injury or occupational disease without intervening cause;
- A return or increase of disability due to a consequential injury (defined as one which occurs due to weakness or impairment caused by a work-related injury); or
- Withdrawal of a specific light duty assignment when the employee cannot perform the full duties of the regular position. This withdrawal must have occurred for reasons other than misconduct or non-performance of job duties.

IF A NEW INJURY OR EXPOSURE TO THE CAUSE OF AN OCCUPATIONAL ILLNESS OCCURS, AND DISABILITY OR THE NEED FOR MEDICAL CARE RESULTS, A NEW FORM CA-1 OR CA-2 SHOULD BE FILED. This is true even if the now incident involves the same part of the body as previously affected.

INSTRUCTIONS FOR EMPLOYEE

- Review the definition of "recurrence" given above. If you believe that you have sustained a recurrence, complete Part A of this form. Attach a separate sheet of paper if needed to provide full details.
- If you worked for the Federal Government at the time of the recurrence, submit Form CA-2a to your employing agency. If you no longer work for the Federal Government, complete Parts A and C of this form and submit all materials directly to the Office of Workers' Compensation Programs (OWCP).
- If you are claiming a recurrence of disability for an occupational illness, or if all 45 days of continuation of pay (COP) have been used, you may claim wage loss on Form CA-7. The OWCP will pay compensation if the claim is approved.
- Arrange for your attending physician to submit a detailed medical report. The report should include: dates of examination and treatment; history as given by you; findings; results of x-ray and laboratory tests; diagnosis; course of treatment; and the treatment plan. **The physician must also provide an opinion, with medical reasons, regarding causal relationship between your condition and the original injury.** Finally, the physician should describe your ability to perform your regular duties. If you are disabled for your regular work, the physician should identify the dates of disability and provide work tolerance limitations.
- If other physicians treated you after you returned to work following the original injury, obtain similar medical reports from each of them.

INSTRUCTIONS FOR EMPLOYING AGENCY

- After the employee has completed Part A, promptly complete Part B and submit the form to OWCP, unless: the claimant is still receiving continuation of pay (COP); the recurrence is for medical care only and the claim is still open; or the claimant is currently requesting neither wage-loss compensation nor payment of medical expenses. In these instances, file the form in the Employee Medical Folder.
- If COP is being paid, obtain medical evidence using Form CA-17, "Duty Status Report", as often as circumstances indicate.
- For a recurrence less than 90 days after the employee's return to work following the original injury, you may authorize required medical care using Form CA-16. For a recurrence more than 90 days after the employee's return to work, OWCP must authorize further medical care.
- For recurrences of disability which continue after the 45 days of COP have expired or which involve occupational illness, instruct the employee to file Form CA-7.

Privacy Act

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101, et seq.) (FECA) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has will be used to determine eligibility for and the amount of benefits payable under the FECA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agency which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider issues relating to retention, rehire, or other relevant matters. (4) Information may also be given to other Federal agencies, other government entities, and to private-sector agencies and/or employers as part of rehabilitative and other return-to-work programs and services. (5) Information may be disclosed to physicians and other health care providers for use in providing treatment or medical/vocational rehabilitation, making evaluations for the Office, and for other purposes related to the medical management of the claim. (6) Information may be given to Federal, state and local agencies for law enforcement purposes, to obtain information relevant to a decision under the FECA, to determine whether benefits are being paid properly, including whether prohibited dual payments are being made, and, where appropriate, to pursue salary/administrative offset and debt collection actions required or permitted by the FECA and/or the Debt Collection Act. (7) Disclosure of the claimant's social security number (SSN) or tax identifying number (TIN) on this form is mandatory. The SSN and/or TIN, and other information maintained by the Office, may be used for identification, to support debt collection efforts carried on by the Federal government, and for other purposes required or authorized by law. (8) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision or reduced level of benefits.

Note: This notice applies to all forms requesting information that you might receive from the Office in connection with the processing and adjudication of the claim you filed under the FECA.

Public Burden Statement

Completion of this collection of information is estimated to vary from 15 to 45 minutes per response with an average of 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding the burden estimate or any other aspect to this collection of information, including suggestions for reducing this burden, send them to the Office of Workers' Compensation Programs, U.S. Department of Labor, Room S-3229, 200 Constitution Avenue, N.W., Washington, DC 20210.

DO NOT SEND THE COMPLETED FORM TO THE OFFICE SHOWN ABOVE.

Claim for Compensation

U.S. Department of Labor
Office of Workers' Compensation Programs



SECTION 1 EMPLOYEE PORTION

a. Name of Employee	Last	First	Middle	OMB No. 1240-0046 Expires: 10-31-2014
b. Mailing Address (Including City State, ZIP Code)				c. OWCP File Number
E-Mail Address (Optional)			d. Date of Injury Month Day Year	e. Social Security Number
SECTION 2 Compensation is claimed for:				f. Telephone No./FAX No.

a. <input type="checkbox"/> Leave without pay	Inclusive Date Range From _____ To _____	Intermittent? <input type="checkbox"/> Yes <input type="checkbox"/> No	Go to Section 3
b. <input type="checkbox"/> Leave buy back	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	Go to Section 3, and Complete Form CA-7b
c. <input type="checkbox"/> Other wage loss; specify type, such as downgrade, loss of night differential, etc.	Type: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	Go to Section 3
d. <input type="checkbox"/> Schedule Award (Go to Section 4)	If intermittent, complete Form CA-7a, Time Analysis Sheet		

SECTION 3 You must report all earnings from employment (outside your federal job); include any employment for which you received a salary, wages, income, sales commissions, piecework, or payment of any kind during the period(s) claimed in Section 2. Include self-employment, involvement in business enterprises, as well as service with the military forces. Fraudulent concealment of employment or failure to report income may result in forfeiture of compensation benefits and/or criminal prosecution. **Have you worked outside your federal job for the period(s) claimed in Section 2 ?**

Yes
 No
Go to section 4

Name	Address	City	State	ZIP Code
Dates Worked:		Type of Work:		

SECTION 4 Is this the first CA-7 claim for compensation you have filed for this injury?
 Yes Complete Sections 5 through 7 and a Form SF-1199A, "Direct Deposit Sign-up"
Has there been any change in your dependents, or has your direct deposit information changed, or has there been a claim filed with U.S. Civil Service Retirement, another federal retirement or disability law, or with the Department of Veterans Affairs since your last CA-7 claim?
 Yes - Complete Sections 5 through 7 or a new SF-1199A to reflect change(s) No - Complete Section 7

SECTION 5 List your dependents (including spouse):

Name	Social Security #	Date of Birth	Relationship	Living with you?	
				Yes	No
_____	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

For dependents not living with you complete items a and b below.

a. Are you making support payments for a dependent shown above? Yes No If Yes, support payments are made to:

Name	Address	City	State	ZIP Code
------	---------	------	-------	----------

b. Were support payments ordered by a court? Yes No If Yes, attach copy of court order.

SECTION 6 a. Was/Will there be a claim made against a 3rd party? Yes No

b. Have you ever applied for or received disability benefits from the Department of Veterans Affairs?

<input type="checkbox"/> Yes	Claim Number	Full Address of VA Office Where Claim Filed	Nature of Disability and Monthly Payment
<input type="checkbox"/> No			

c. Have you applied for or received payment under any Federal Retirement or Disability law?

<input type="checkbox"/> Yes	Claim Number	Date Annuity Began	Amount of Monthly Payment	Retirement System (CSRS, FERS, SSA, Other)
<input type="checkbox"/> No				

SECTION 7 I hereby make claim for compensation because of the injury sustained by me while in the performance of my duty for the United States. I certify that the information provided above is true and accurate to the best of my knowledge and belief.

Any person who knowingly makes any false statement, misrepresentation, concealment of fact, or any other act of fraud, to obtain compensation as provided by the FECA, or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment, or both. In addition, a felony conviction will result in termination of all current and future FECA benefits.

Employee's Signature _____ Date (Mo., day, year) _____

Employing Agency Portion
For first CA-7 claim sent, complete sections 8 through 15.
For subsequent claims, complete sections 12 through 15 only.

SECTION 8	Show Pay Rate as of	Additional Pay	Additional Pay
Date of Injury:	Base Pay	Type _____	Type _____
Date: _____	\$ _____ per _____	\$ _____ per _____	\$ _____ per _____
Grade: _____ step: _____			
Date Employee Stopped Work:		Type _____	Type _____
Date: _____	\$ _____ per _____	\$ _____ per _____	\$ _____ per _____
Grade: _____ step: _____			

Additional pay types include, but are not limited to: Night Differential (ND), Sunday Premium (SP), Holiday Premium (HP), Subsistence (SUB), Quarter (QTR), etc. (List each separately)

SECTION 9

- a. Does employee work a fixed 40-hour per week schedule? Yes No
1. If Yes, circle scheduled days: S M T W TH F S
2. If No, show scheduled hours for the two week pay period in which work stopped. Circle the day that work stopped.

FOR EXAMPLE ONLY			
	S M T W TH F S		S M T W TH F S
WEEK 1 From <u>5/14</u> to <u>5/20</u>	8 4 6 6	From _____	To _____
WEEK From <u>5/21</u> to <u>5/27</u>	8 6 6 4	From _____	To _____

- b. Did employee work in position for 11 months prior to injury? Yes No
- If No, would position have afforded employment for 11 months but for the injury? Yes No

SECTION 10 On date pay stopped, was employee enrolled in:

- a. Health Benefits under the FEHBP? No Yes Code _____
- b. Basic Life Insurance? No Yes
- c. Optional Life Insurance? No Yes Class _____ (D-Z only)
- d. A Retirement System? No Yes Plan _____ (Specify CSRS, FERS, Other)

SECTION 11 Continuation of Pay (COP) Received (Show inclusive dates):

From _____ To _____ Intermittent? Yes - Complete Time Analysis Sheet, Form CA-7a No

SECTION 12 Show pay status and inclusive dates for period(s) claimed:

Sick Leave From _____ To _____	Intermittent? <input type="checkbox"/> Yes <input type="checkbox"/> No	If intermittent, complete Form CA-7a, Time Analysis Sheet.
Annual Leave From _____ To _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Leave without Pay From _____ To _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Work From _____ To _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	If leave buy back, also submit completed Form CA-7b.

SECTION 13 Did employee return to work? Yes No
 If Yes, date _____

If returned, did employee return to the pre-date-of-injury job, with the same number of hours and the same duties?
 Yes No If No, explain: _____

SECTION 14 Remarks: _____

SECTION 15 An employing agency official who knowingly certifies to any false statement, misrepresentation, or concealment of fact, with respect to this claim may also be subject to appropriate felony criminal prosecution.

I certify that the information given above and that furnished by the employee on this form is true to the best of my knowledge, with any exceptions noted in Section 14, Remarks, above.

Signature _____ Title _____ Date ____ / ____ / ____
 (Agency Official)

Name of Agency _____

Date Claim Form Received from Employee ____ / ____ / ____

If OWCP needs specific pay information, the person who should be contacted is:

Name _____ Title _____

Telephone No. _____ Fax No. _____ E-Mail Address _____

INSTRUCTIONS FOR COMPLETING FORM CA-7

If the employee does not qualify for continuation of pay (for 45 days), the form should be completed and filed with the OWCP as soon as pay stops. The form should also be submitted when the employee reaches maximum improvement and claims a schedule award. If the employee is receiving continuation of pay and will continue to be disabled after 45 days, the form should be filed with OWCP 5 working days prior to the end of the 45-day period.

The CA-7 also should be used to claim continuing compensation, when a previous CA-7 claim has been made.

Collection of this information is required to obtain a benefit and is authorized by 20 C.F.R. 10.102 and 20 C.F.R. 10.103.

If you have a substantially limiting physical or mental impairment, Federal disability nondiscrimination law gives you the right to receive help from DFEC in the form of communication assistance, accommodation and modification to aid you in the FECA claims process. For example, we will provide you with copies of documents in alternate formats, communication services such as sign language interpretation, or other kinds of adjustments or changes to account for the limitations of your disability. Please contact our office or your claims examiner to ask about this assistance.

EMPLOYEE (or person acting on the employee's behalf) - Complete sections 1 through 7 as directed and submit the form to the employee's supervisor.

SUPERVISOR (or appropriate official in the employing agency) - Complete sections 8 through 15 as directed and promptly forward the form OWCP.

EXPLANATIONS - Some of the items on the form which may require further clarification are explained below:

<u>Section Number</u>	<u>Explanation</u>
2d. Schedule Award	Schedule awards are paid for permanent impairment to a member or function of the body.
5. List your dependents	Your wife or husband is a dependent if he or she is living with you. A child is a dependent if he, or she either lives with you or receives support payments from you, and he or she: 1) is under 18, or 2) is between 18 and 23 and is a full-time student, or 3) is incapable of self-support due to physical or mental disability.
6a. Was/will there be a claim made against 3rd party?	A third party is an individual or organization (other than the injured employee or the Federal government) who is liable for the injury. For instance, the driver of a vehicle causing an accident in which an employee is injured, the owner of a building where unsafe conditions cause an employee to fall, and a manufacturer who gave improper instructions for the use of a chemical to which an employee is exposed, could all be considered third parties to the injury.
8. Additional Pay	"Additional Pay" includes night differential, Sunday premium, holiday premium, and any other type (such as hazardous duty or "dirty work" pay) regularly received by the employee, but does not include pay for overtime. If the amount of such pay varies from pay period to pay period (as in the case of holiday premium or a rotating shift), then the total amount of such pay earned during the year immediately prior to the date of injury or the date the employee stopped work (whichever is greater) should be reported.
11. Continuation of pay (COP) received	If the injury was not a traumatic injury reported on Form CA-1, this item does not apply.
14. Remarks	This space is used to provide relevant information which is not present else- where on the form.

The authority for requesting this information is 5 U.S.C. 8101 et seq. The information will be used to determine entitlement to benefits. Furnishing the requested information is required for the claimant to obtain or retain a benefit. Information collected will be handled and stored in compliance with the Freedom of Information Act, the Privacy Act of 1974, as amended (5 U.S.C. 552a). Failure to furnish the requested information may delay the process, or result in an unfavorable decision or a reduced benefit.

Public Burden Statement

Public reporting burden for this collection of information is estimated to average 13 minutes per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this estimate or any other aspect of this information collection, including suggestions for reducing this burden, please send them to the Department of Labor, Office of Workers' Compensation Programs, Room S-3229, 200 Constitution Avenue, N.W. Washington, D.C. 20210.

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number.

DO NOT SEND THE COMPLETED FORM TO THIS OFFICE

Privacy Act

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are here by notified that: (1) The Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101, et seq.) (FECA) is administered by the Office of Workers' Compensation Programs of the U. S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has will be used to determine eligibility for and the amount of benefits payable under the FECA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agency which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider issues relating to retention, rehire, or other relevant matters. (4) Information may also be given to other Federal agencies, other government entities, and to private-sector agencies and/or employers as part of rehabilitative and other return-to-work programs and services. (5) Information may be disclosed to physicians and other healthcare providers for use in providing treatment or medical/vocational rehabilitation, making evaluations for the Office, and for other purposes related to the medical management of the claim. (6) Information may be given to Federal, state and local agencies for law enforcement purposes, to obtain information relevant to a decision under the FECA, to determine whether benefits are being paid properly, including whether prohibited dual payments are being made, and, where appropriate, to pursue salary/administrative offset and debt collection actions required or permitted by the FECA and/or the Debt Collection Act. (7) Disclosure of the claimant's social security number (SSN) or tax identifying number (TIN) on this form is mandatory. The SSN and/or TIN, and other information maintained by the Office, may be used for identification, to support debt collection efforts carried on by the Federal government, and for other purposes required or authorized by law. (8) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision or reduced level of benefits.

Note: This notice applies to all forms requesting information that you might receive from the Office in connection with the processing and adjudication of the claim you filed under the FECA.

Time Analysis Form



Employee Statement - Please carefully read instructions on reverse *before* filling out this form.

1. Name of Employee: <i>(Last, First, Middle)</i>	2. SSN	3. OWCP File Number
4. Period Covered by This Form: From: _____ To: _____	5. Total Hours Claimed for LWOP: _____ for Leave BuyBack _____	

6. In "Type of Leave Used" column, use codes "S" = Sick, "A" = Annual, "O" = Other. If Compensation is claimed for date, indicate "Yes" in "Compensation Claimed" column.

Date(s)	Compensation Claimed?	Number of Hours				Type of Leave Used	Reason for Leave Use/Remarks (e.g., doctor visit, therapy, etc.)
		LWOP	Worked	Hol	Leave		
Totals							

Signature of Claimant _____
Date Signed

7. **Agency Statement/Certification:** I certify the above is accurate, except as follows:

Signature of Agency Official _____
Date Signed

Instructions for Completing Form CA-7A Time Analysis

General: This form is used when claiming FECA compensation, including repurchase of paid leave. It must be used when claiming compensation for more than one consecutive period of leave.

Instructions for Employee:

Blocks 1, 2, and 3: Self-explanatory.

Block 4: Indicate beginning and ending dates covered by this form. These must be the same as on Forms CA-7 and CA-7b.

Block 5: If claiming compensation for any dates detailed in block 4, state total number of hours claimed for leave without pay and total number of hours of leave. This should be at least 10 hours unless this is your final claim.

Block 6:

1st Column: Show full date.

2nd Column: For each date noted in column 1, state "Y" if you are claiming compensation for that date and "N" if you are not.

3rd, 4th, 5th and 6th Columns: Show the number of hours of LWOP, number of hours worked, paid holiday hours, and number of hours of paid leave.

7th Column: Using the legend provided, indicate the type of leave used.

8th Column: State the reason you were off work. For each date for which compensation is claimed, there must be medical evidence supporting entitlement.

Sign and Date Form and Submit to the Appropriate Agency Official.

Instructions for Employing Agency:

Block 7: Verify accuracy of hours and status for each date listed. If challenging entitlement for any date, attempt to resolve discrepancies prior to submitting claim to OWCP. If discrepancy cannot be resolved, indicate the specific basis for the challenge in the space provided.

Leave Buy Back (LBB) Worksheet/
Certification and Election

U.S. Department of Labor
Office of Workers' Compensation Programs



Employee Statement - Please carefully read instructions on pages 3 and 4 *before* filling out this form.

A. Name of Employee: (<i>Last, First, Middle</i>)	B. OWCP File Number:
C. Social Security Number:	
D. Period for Which Compensation is Claimed to Repurchase Leave	
From: ____ / ____ / ____ To: ____ / ____ / ____	

I. Agency Estimate of FECA Entitlement:

A. Weekly Base Payrate (excluding overtime)

- Date of Injury ____ / ____ / ____ \$ _____
- Date Stopped Work ____ / ____ / ____ \$ _____
- Date of Recurrence ____ / ____ / ____ \$ _____

Enter the greatest amount and the effective date of that amount on line 1.

1. _____
 ____ / ____ / ____
 (effective date)

B. Additions to Base Pay:

If employee works a regular schedule, state the amount earned weekly. If irregular schedule, state amount earned 1 year prior to date entered on line 1 ÷ by 52.

- Night Differential 2. _____
- Sunday Premium 3. _____
- Subsistence/Quarters 4. _____
- Other (*Specify*) 5. _____

C. Total Weekly Payrate (Add lines 1 through 5)

6. _____

D. Compensation Rate (Circle either 2/3 or 3/4)

7. 2/3 3/4

E. Total Hours Claimed on CA-7a

8. _____

F. Total Hours Worked per Week

9. _____

G. Formula (for FECA Entitlement)

$$\$ \frac{\text{Weekly Payrate}}{\text{See Line 6}} \times \frac{\text{Compensation Rate}}{\text{See Line 7}} \times \frac{\text{Hours}}{\text{See Line 8}} \div \frac{\text{Hours Wkd/Wk}}{\text{See Line 9}} = 10. \$ \underline{\hspace{2cm}}$$

II. Agency Certification:

H. Total Amount Due Agency to Repurchase Leave

11. \$ _____

I. Estimate of FECA Entitlement (See Line 10)

12. \$ _____

J. Balance Due Agency from Employee (Line H minus Line I)

13. \$ _____

I hereby certify that the above is consistent with agency payroll records.

The employing agency agrees to allow the employee to repurchase his/her leave. Leave records will be, or have been, changed from "Leave with Pay" to "Leave without Pay" for the period shown on the leave analysis.

I further certify that if this claim is signed by the employee, the employee has made arrangements to pay the agency the balance between the total amount the agency requires to recredit leave and the amount of the FECA entitlement.

(Signature of Agency Official)

(Title/Position)

Phone No _____

Date Signed: _____

Employing Agency Address for Check: _____

III. Employee Claim:

_____ **K.** I hereby elect **not** to repurchase the leave used at this time.

_____ **L.** I hereby elect FECA compensation to repurchase leave used for medical care or disability resulting from my Job-related injury or condition.

I understand that I am responsible for paying my agency the difference between the FECA entitlement and the amount my agency requires to restore my leave, and have done or made arrangements for this.

I understand that if my actual entitlement to FECA compensation is within 10% of the amount estimated above. OWCP will process the leave buy back. If the payrate used in the worksheet above is within 10% of the payrate determined by FECA, and less than the full period claimed is approved, OWCP will process payment for the approved period.

(Signature of Claimant)

(Date Signed)

Instructions Form CA-7B Leave Buy Back Worksheet

This form is intended to accompany Form CA-7, *Claim for Compensation*, when the employee is claiming leave buy back.

Things to Know About Leave Buy Back:

When an employee uses their sick or annual leave to cover an injury-related absence from work, they may elect to receive compensation instead. Compensation is paid at 2/3 of the employee's base pay if there are no eligible dependents, or at 3/4 with 1 or more dependents. The agency pays leave at 100% of salary. In order for leave to be reinstated, the employee must refund to the agency the difference between the compensation entitlement and the total amount of leave paid by the agency.

The employee's pay status must be changed to LWOP in order for compensation to be paid. Leave is not earned while in LWOP. Also, contributions to the Thrift Savings Plan (TSP) are not made during LWOP. Therefore, the repurchase of leave may result in a reduction in an employee's leave and/or TSP balance. Consult your personnel office to learn how the change to LWOP would effect you.

When a Leave Buy Back (LBB) payment is made during the same year that leave is used, the employee's earnings are reduced by the amount repaid, and tax is not paid for the compensation received. Where leave repurchase is not completed during the same year in which leave is used, the employee may not adjust their prior year tax form. They may only claim the amount of leave paid as an employee expense, if they itemize deductions. Further questions regarding tax implications of LBB should be addressed to the IRS.

A claimant may not repurchase leave used during a period they were eligible for COP.

When disability does not exceed 14 days beyond the COP period, 3 day LWOP must be charged before compensation can be paid. If leave was used for this period, compensation can not be paid for the 3 days, but the claimant will have to pay back leave paid during the 3 days to repurchase the leave.

Instructions to the Employee:

Please submit a claim for a minimum of 10 hours unless no further claim is anticipated. Medical documentation must be provided for all dates claimed.

1. Complete the Form CA-7 for the dates claimed. Where more than one continuous period of leave is claimed, complete Form CA-7a following the instructions for completing that form.
2. Submit the completed CA-7, CA-7a, if appropriate, and medical documentation for all dates claimed, to your agency official. If there are discrepancies, try to reconcile the difference with your agency official prior to submission of the claim.
3. The agency official will provide you with an estimate of worker's compensation benefits due, the total amount owed the agency in order for the leave to be restored, and the amount you must pay the agency. Using this information, determine whether you wish to repurchase your leave, and check the appropriate block. If you choose to repurchase the leave, you will be required to pay to the agency the difference between the compensation due and the amount owed to the agency.
 - a. If the total amount of FECA benefits estimated by the agency is not more than 10% above the amount determined by OWCP to be accurate, OWCP will process a payment for all hours supported by medical evidence. If medical evidence supports some, but not all of the hours claimed, payment will be made for the approved hours. You may submit a new claim with medical support for the additional hours.
 - b. If the total amount of FECA benefits estimated by the agency is more than 10% above the correct amount, OWCP will not process the payment. Instead, the Office will offer you a new election with the correct amount of FECA benefits payable,

Instructions to the Agency:

Items A through D (top of form) are self-explanatory.

Section I. Agency Estimate of FECA Entitlement:

Item A: Enter all three pay rate types and effective dates if applicable. Choose the greatest amount of the three and enter the amount and effective date in Line 1. A recurrent pay rate should only be used if: (1) the employee stops work more than 6 months following their first return to regular, full time duty and (2) the loss of time is due to disability rather than medical examinations or treatment.

For unusual situations, please refer to Payrate Desk Aid.

Item B: If the employee works a regular schedule, enter the differentials earned weekly. If an irregular schedule, give the total amount earned for the year prior to the date in Line 1 divided by the number of weeks worked in that year.

Please refer to Payrate Desk Aid for guidance on inclusions and exclusions. If in doubt, consult a Claims Examiner.

Item C: Add lines 1 through 5 and enter the total in Line 6.

Item D: Circle the appropriate rate: 2/3 for employees without dependents; 3/4 with dependents. Dependents include: spouse; children under 18 living with or supported by the employee; children under 23 in school full time; children over 18 incapable of self support; and parents wholly supported by the employee.

Item E: Enter the total hours *claimed*, from Form CA-7a.

Item F: Enter the total hours in the employee's normal work week.

Item G: Formula for FECA Entitlement. Use this formula to calculate estimate of FECA entitlement and enter the result in Line 10.

Example of computation: The weekly pay from line 6 is \$574.00. The employee is married, works 40 hours a week, and is claiming 82 hours of leave. FECA entitlement is calculated as follows:

$$\$574.00 \times 3/4 \times 82 \text{ hours} \div 40 \text{ hours} = \$882.52$$

Section II. Agency Certification:

Item H & I are self-explanatory. For Line J, subtract Line I from Line H.

Sign and date, and advise the employee of the amount they owe to the agency.

Section III. Employee Claim:

If the employee elects not to repurchase the leave, retain the form in the agency files. If the employee elects to repurchase the leave, submit all claim documents (CA-7, CA-7a & CA-7b) plus any medical documentation to OWCP for processing.

Authorization for Examination
And/Or Treatment

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs



The following request for information is authorized by law (5 USC 8101 et. seq.). Benefits and/or medical services expenses may not be paid or may be subject to suspension under this program unless this report is completed and filed as requested. Information collected will be handled and stored in compliance with the Freedom of Information Act, the Privacy Act of 1974 and OMB Cir. No. A-108.

OMB No.: 1215-0103
Expires: 10-31-99

PART A - AUTHORIZATION

1. Name and Address of the Medical Facility or Physician Authorized to Provide the Medical Service:

2. Employee's Name (last, first, middle)	3. Date of Injury (mo. day, yr.)	4. Occupation
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5. Description of Injury or Disease:

6. You are authorized to provide medical care for the employee for a period of up to sixty days from the date shown in item 11, subject to the condition stated in item A, and to the condition indicated either 1 or 2, in item B.

- A. Your signature in item 35 of Part B certifies your agreement that all fees for services shall not exceed the maximum allowable fee established by OWCP and that payment by OWCP will be accepted as payment in full for said services.
- B. 1. Furnish office and/or hospital treatment as medically necessary for the effects of this injury. Any surgery other than emergency must have prior OWCP approval.
- 2. There is doubt whether the employee's condition is caused by an injury sustained in the performance of duty, or is otherwise related to the employment. You are authorized to examine the employee using indicated non-surgical diagnostic studies, and promptly advise the undersigned whether you believe the condition is due to the alleged injury or to any circumstances of the employment. Pending further advice you may provide necessary conservative treatment if you believe the condition may be to the injury or to the employment.

7. If a Disease or Illness is Involved, OWCP Approval for Issuing Authorization was Obtained from: (Type Name and Title of OWCP Official)	8. Signature of Authorizing Official:
	9. Name and Title of Authorizing Official: (Type or print clearly)

10. Local Employing Agency Telephone Number:	11. Date (mo., day, year)
--	---------------------------

<p>12. Send one copy of your report: (Fill in remainder of address)</p> <p>U.S. DEPARTMENT OF LABOR Employment Standards Administration Office of Workers' Compensation Programs</p>	<p>13. Name and Address of Employee's Place of Employment:</p> <p>Department of Agency</p> <p>Bureau or Office</p> <p>Local Address (including ZIP Code)</p>
---	--

Public Burden Statement

We estimate that it will take an average of 30 minutes to complete this collection of information, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Office of IRM Policy, U.S. Department of Labor, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; and to the Office of Management and Budget Paperwork Reduction Project (1215-0103), Washington, D.C. 20503.

DO NOT SEND THE COMPLETED FORM TO EITHER OF THESE OFFICES

14. Employee's Name (last, first, middle) _____

15. What History of Injury or Disease Did Employee Give You? _____

16. Is there any History or Evidence of Concurrent or Pre-existing Injury, Disease, or Physical Impairment? (If yes, please describe) <input type="checkbox"/> Yes <input type="checkbox"/> No	16a. IDC-9 Code _____
--	--------------------------

17. What are Your Findings? (Include results of X-rays, laboratory tests, etc.)	18. What is Your Diagnosis?	18a. IDC-9 Code _____
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19. Do You Believe the Condition Found was Caused or Aggravated by the Employment Activity Described? (Please explain your answer if there is doubt)
 Yes No

20. Did Injury Require Hospitalization? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, date of admission (mo., day, year) Date of discharge (mo., day, year)	21. Is Additional Hospitalization Required? <input type="checkbox"/> Yes <input type="checkbox"/> No
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22. Surgery (If any, describe type)	23. Date Surgery Performed (mo., day, year)
-------------------------------------	---

24. What (Other) Type of Treatment Did You Provide?	25. What Permanent Effects, if Any, Do You Anticipate?
---	--

26. Date of First Examination (mo., day, year)	27. Date(s) of Treatment (mo., day, year)	28. Date of Discharge from Treatment (mo., day, year)
--	---	---

29. Period of Disability (mo., day, year) (If termination date unknown, so indicate) Total Disability: From _____ To _____ Partial Disability: From _____ To _____	30. Is Employee Able to Resume <input type="checkbox"/> Light Work Date: _____ <input type="checkbox"/> Regular Work Date: _____
--	--

31. If Employee is Able to Resume Work, Has He/She been Advised? Yes No If Yes, Furnish Date Advised

32. If Employee is Able to Resume Only Light Work, Indicate the Extent of Physical Limitations and the Type of Work that Could Reasonably be Performed with these Limitations.

33. General Remarks and Recommendations for Future Care, if Indicated. If you have made a Referral to Another Physician or to a Medical Facility, Provide Name and Address.

34. Do You Specialize? Yes No (If yes, state specialty)

35. SIGNATURE OF PHYSICIAN. I certify that all the statements in response to the questions asked in Part B of this form are true, complete and correct to the best of my knowledge. Further, I understand that any false or misleading statement or any misrepresentation or concealment of material fact which is knowingly made may subject me to felony criminal prosecution.	36. Address (No., Street, City, State, Zip Code)
37. Tax Identification Number	38. Date of Report

MEDICAL BILL: Charges for your services should be presented to the AMA standard "Health Insurance Claim Form" (AMA OP 407/408/409; OWCP-1500a, or HCFA 1500). Service must be itemized by Current Procedural Terminology Code (CPT 4) and the form must be signed.

INSTRUCTIONS FOR AUTHORIZING OFFICIAL FOR COMPLETION OF PART A

SELECTION OF PHYSICIAN

- A Federal employee injured by accident while in the performance of duty has the initial right to select a physician of his/her choice to provide necessary treatment. The supervisor shall immediately authorize examination and appropriate medical care by use of Form CA-16 issued to either a United States medical officer/hospital or any duly qualified physician/ hospital of the employee's choice.

If the employee elects to be treated by a private physician, a copy of the American Medical Association standards billing form (AMA OP 407/408/409; OWCP-1500a) should be supplied together with Form CA-16.

A physician who is debarred from the FECA program as provided at 20 CFR 10.450-457 may not be authorized to examine or treat an injured Federal employee.

Generally, 25 miles from the place of injury, employing agency, or the employee's home is a reasonable distance to travel for medical care; however, other pertinent factors must also be considered.

PERIOD OF AUTHORIZATION

- Form CA-16 is valid for up to sixty days from date of issuance, and may be terminated earlier upon written notice from OWCP to the provider. It should not be used to authorize a change of physicians after the initial choice is exercised by the employee.

FEDERAL MEDICAL FACILITIES

- U.S. medical facilities include Public Health Service, Military, or VA hospitals. Federal health service facilities (health units) established under 5 USC 7901 are not U.S. medical facilities as used herein (see 20 CFR 10.400).

DEFINITION OF INJURY

- The term "injury" includes damage to or destruction of medical braces, artificial limbs and other prosthetic devices. Eyeglasses and hearing aids are included only if the damages were incidental to a personal injury which required medical services. Treatment for illness or disease should not be authorized unless approval is first obtained from OWCP.

DEFINITION OF PHYSICIAN

- The term "physician" includes doctors of medicine (MD), surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. The reimbursable services of chiropractors under the FECA are limited by statute to physical examination, related laboratory tests and X-rays to diagnose a subluxation of the spine; and treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated by X-ray.

FORM COMPLETION

- Part A shall be completed in full by the authorizing official. The authorization is not valid unless the name and address of the physician or hospital is entered in Item 1 and the signature of the authorizing official appears in Item B. Check B1 or B2 or Item 6, whichever is appropriate. In case of illness or disease, only Box B2 may be checked.

Show the address of the proper OWCP Office in Item 12. Send original and one copy of Form CA-16 to the medical officer or physician. If issued for illness or disease, a copy must also be sent to OWCP.

ADDITIONAL INFORMATION

- See 20 CFR and/or Chapter 810, Federal Personnel Manual (FPM).

Information for Physicians - See Reverse Side

INFORMATICS FOR PHYSICIAN

YOUR AUTHORIZATION

- Please read Part A of Form CA-16. You are authorized to examine and provide treatment for the injury or disease described in Item 5, for a period of not more than 60 days from the date of issuance, subject to the conditions in Item 6. A physician who is debarred from the FECA program as provided at 20 CFR 10.450-457 may not be authorized to examine or treat an injured Federal employee. Authorization may be terminated earlier upon written notice from OWCP. For extension of the authorization to treat beyond the 60 day period, apply to the office shown in Part A, Item 12.

USE OF CONSULTANTS AND HOSPITALS

- You may utilize consultants, laboratories and local hospitals, if needed. Authorize semi-private accommodations unless a private room is medically necessary. Ancillary treatment may be provided to a hospitalized employee as necessary.

REPORTS

- After examination, complete items 14 through 38, of Part B, and send your report, together with any additional narrative or explanatory material, to the address listed in Part A, item 12. If the employee sustained a traumatic injury and is disabled for work, reports on Form CA 17, "Duty Status Report" may be required by the employing agency during the first 45 days of disability. If disability continues beyond 45 days, monthly reports should be submitted. Reports from all consultants are also required. Delay in submitting medical reports may delay payment of benefits.

RELEASE OF RECORDS

- Injury reports are the official records of OWCP. They shall not be released to anyone nor may any other use be made of them without the approval of OWCP.

BILLING FOR SERVICES

- OWCP requires that charges be itemized using the AMA standard "Health Insurance Claim Form" (AMA OP 407/408/409; OWCP-1500, or HCFA-1500). Each procedure must be identified, in Column 24 C of the form, by the applicable Current Procedural Terminology (4th edition) Code CPT 4). A copy of the form may be supplied by the employee at the time treatment is sought.
- Payment for chiropractic services is limited to charges for physical examinations, related laboratory tests, and X-rays to diagnose a subluxation of the spine; and treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated by X-ray.

TAX IDENTIFICATION NUMBER

- The provider's Tax Identification Number (TIN) is an important identifier in the OWCP system. To speed processing and to reduce inaccuracy of payment, the provider's TIN (Employer Identification Number or SSN) should be shown on all reports and billings submitted to OWCP. If possible, providers should decide on a single TIN - either corporate or personal - which is used consistently on OWCP claims.

ADDITIONAL INFORMATION

- Contact the OWCP shown in Item 12 of Part A.

Please Remove These Instructions Before Submitting Your Report.

Duty Status Report

U.S. Department of Labor Office of Workers' Compensation Programs



This form is provided for the purpose of obtaining a duty status report for the employee named below. This request does not constitute authorization for payment of medical expense by the Department of Labor, nor does it invalidate any previous authorization issued in this case. This request for information is authorized by law (5 USC 8101 et seq.) and is required to obtain or retain a benefit. Information collected will be handled and stored in compliance with the Freedom of Information Act, the Privacy Act of 1974 and the OMB Cir. A-108. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number.

OMB No. 1240-0046
Expires: 10-31-2014

OWCP File Number
(If known)

SIDE A - Supervisor: Complete this side and refer to physician				SIDE B - Physician: Complete this side																																																																																																																																															
1. Employee's Name (Last, first, middle)			8. Does the History of Injury Given to You by the Employee Correspond to that Shown in Item 5? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, describe)																																																																																																																																																
2. Date of Injury (Month, day, yr.)		3. Social Security No.																																																																																																																																																	
4. Occupation				9. Description of Clinical Findings																																																																																																																																															
5. Describe How the Injury Occurred and State Parts of the Body Affected																																																																																																																																																			
6. The Employee Works			10. Diagnosis Due to Injury					11. Other Disabling Conditions																																																																																																																																											
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7. Specify the Usual Work Requirements of the Employee. Check Whether Employee Performs These Tasks or is Exposed Continuously or Intermittently, and Give Number of Hours.				12. Employee Advised to Resume Work?				13. Employee Able to Perform Regular Work Described on Side A?																																																																																																																																											
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">Activity</th> <th style="width: 10%;">Continuous</th> <th style="width: 10%;">Intermittent</th> <th style="width: 10%;">Continuous</th> <th style="width: 10%;">Intermittent</th> <th style="width: 30%;"></th> </tr> <tr> <td></td> <td>#lbs.</td> <td>#lbs.</td> <td>#lbs.</td> <td>#lbs.</td> <td></td> </tr> </thead> <tbody> <tr><td>a. Lifting/Carrying: State Max Wt.</td><td></td><td></td><td></td><td></td><td>Hrs Per Day</td></tr> <tr><td>b. Sitting</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td></td><td><input type="checkbox"/></td><td>Hrs Per Day</td></tr> <tr><td>c. Standing</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td></td><td><input type="checkbox"/></td><td>Hrs Per Day</td></tr> <tr><td>d. 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Extremes</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td></td><td><input type="checkbox"/></td><td>range in degrees F</td></tr> <tr><td>p. High Humidity</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td></td><td><input type="checkbox"/></td><td>Hrs Per Day</td></tr> <tr><td>q. Chemicals, Solvents, etc. (Identify)</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td></td><td><input type="checkbox"/></td><td>Hrs Per Day</td></tr> <tr><td>r. Fumes/Dust (identify)</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td></td><td><input type="checkbox"/></td><td>Hrs Per Day</td></tr> <tr><td>s. Noise (Give dBA)</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td></td><td><input type="checkbox"/></td><td>dBA Hrs Per Day</td></tr> <tr><td>t. 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INSTRUCTIONS FOR COMPLETING DUTY STATUS REPORT (CA-17)

SUPERVISOR: Complete Side A and refer the form to the physician to complete Side B. Fill in the address of the Employing Agency and the appropriate OWCP District Office in the spaces below. Enter the OWCP file number in the top right corner.

PHYSICIAN: Complete Side B, sign and return to the employing agency within 2 days to prevent interruption of the employee's income. Fill in your name and address.

Send Original Report to:

Send a Copy of This Report to:

CERTIFICATION: BY SIGNING BLOCK 19 ON THE FRONT OF THIS FORM, THE PHYSICIAN CERTIFIES AS FOLLOWS:

I CERTIFY THAT ALL THE STATEMENTS IN RESPONSE TO THE QUESTIONS ASKED ON THIS FORM CA-17 ARE TRUE, COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE. FURTHER, I UNDERSTAND THAT ANY KNOWINGLY FALSE OR MISLEADING STATEMENT, OR MISREPRESENTATION OR CONCEALMENT OF MATERIAL FACT, MAY SUBJECT ME TO FELONY CRIMINAL PROSECUTION.

I FURTHER UNDERSTAND THAT THIS REQUEST DOES NOT CONSTITUTE AUTHORIZATION FOR PAYMENT OF MEDICAL EXPENSES BY THE DEPARTMENT OF LABOR, NOR DOES IT INVALIDATE ANY PREVIOUS AUTHORIZATION ISSUED IN THIS CASE.

IF YOU HAVE A SUBSTANTIALLY LIMITING PHYSICAL OR MENTAL IMPAIRMENT, FEDERAL DISABILITY NONDISCRIMINATION LAW GIVES YOU THE RIGHT TO RECEIVE HELP FROM DFEC IN THE FORM OF COMMUNICATION ASSISTANCE, ACCOMMODATION AND MODIFICATION TO AID YOU IN THE FECA CLAIMS PROCESS. FOR EXAMPLE, WE WILL PROVIDE YOU WITH COPIES OF DOCUMENTS IN ALTERNATE FORMATS, COMMUNICATION SERVICES SUCH AS SIGN LANGUAGE INTERPRETATION, OR OTHER KINDS OF ADJUSTMENTS OR CHANGES TO ACCOUNT FOR THE LIMITATIONS OF YOUR DISABILITY. PLEASE CONTACT OUR OFFICE OR YOUR CLAIMS EXAMINER TO ASK ABOUT THIS ASSISTANCE.

Privacy Act Statement

In accordance with the Privacy Act of 1974, as amended (5 U.S.C.552a), you are here by notified that: (1) The Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101, et seq.) (FECA) is administered by the Office of Workers' Compensation Programs of the U. S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has will be used to determine eligibility for and the amount of benefits payable under the FECA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agency which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider issues relating to retention, rehire, or other relevant matters. (4) Information may also be given to other Federal agencies, other government entities, and to private-sector agencies and/or employers as part of rehabilitative and other return-to-work programs and services. (5) Information may be disclosed to physicians and other healthcare providers for use in providing treatment or medical/vocational rehabilitation, making evaluations for the Office, and for other purposes related to the medical management of the claim. (6) Information may be given to Federal, state and local agencies for law enforcement purposes, to obtain information relevant to a decision under the FECA, to determine whether benefits are being paid properly, including whether prohibited dual payments are being made, and, where appropriate, to pursue salary/administrative offset and debt collection actions required or permitted by the FECA and/or the Debt Collection Act. (7) Disclosure of the claimant's social security number (SSN) or tax identifying number (TIN) on this form is mandatory. The SSN and/or TIN, and other information maintained by the Office, may be used for identification, to support debt collection efforts carried on by the Federal government, and for other purposes required or authorized by law. (8) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision or reduced level of benefits.

Public Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 5 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain a benefit under 5 U.S.C 8101, et seq. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of Workers' Compensation Programs, Room S-3229, 200 Constitution Avenue, NW, Washington, DC 20210, and reference the OMB Control Number 1240-0046. Note: Please do not send the completed form to this office.

Attending Physician's Report

U.S. Department of Labor

Office of Workers' Compensation Programs



Record of Examinaton

1. Patient's name	Last	First	Middle	2. Date of Injury mo. day yr.	3. OWCP File Number	OMB No. 1240-0046 Expires: 10-31-2014
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4. What history of injury (including disease) did patient give you?

5. Is there any history or evidence of concurrent or pre-existing injury or disease or physical impairment? (If yes, please describe) <input type="checkbox"/> Yes <input type="checkbox"/> No	ICD-9 Code _____
--	---------------------

6. What are your findings? (Include results of X-Rays, laboratory reports, etc.)

7. What is your diagnosis?	ICD-9 Code _____
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8. Do you believe the condition found was caused or aggravated by an employment activity? (Please explain answer)
 Yes No

9. Did injury require hospitalization? If no, go to item # 13 <input type="checkbox"/> Yes <input type="checkbox"/> No	10. Date of admission mo. day yr.	11. Date of discharge mo. day yr.	12. Additional Hospitalization required If Yes, describe in "Remarks" (Item 25) <input type="checkbox"/> Yes <input type="checkbox"/> No
--	--------------------------------------	--------------------------------------	--

13. What treatment did you provide?

14. Date of first examination mo. day yr.	15. Date(s) of treatment: mo. day yr. mo. day yr. mo. day yr.	16. Date of discharge from treatment mo. day yr.
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17. Period of total disability From mo. day yr. Thru mo. day yr.	18. Period of Partial Disability From mo. day yr. Thru mo. day yr.	19. Date employee able to resume light work mo. day yr.
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20. Date employee is able to resume regular work mo. day yr.	21. Has employee been advised that he/she can return to work? <input type="checkbox"/> Yes <input type="checkbox"/> No	22. If yes, on what date was he/she advised? mo. day yr.
---	---	---

23. If employee is able to resume only light work, indicate the extent of physical limitations and the type of work that could reasonably be performed with these limitations. (Continue in item #25 if necessary.)	24. Are any permanent effects expected as a result of this injury? If yes, describe in item #25. <input type="checkbox"/> Yes <input type="checkbox"/> No
---	---

25. Remarks

26. If you have referred the employee to another physician provide the following: Name Address City State ZIP	Specialty 27. What was the reason for this referral? <input type="checkbox"/> Consultation <input type="checkbox"/> Treatment
--	---

Signature

28. I certify that the statements in response to the questions asked above are true, complete and correct to the best of my knowledge. Further, I understand that any false or misleading statements or any misrepresentation or concealment of material fact which is knowingly made may subject me to felony criminal prosecution.

Signature of Physician _____ Date _____

29. Name of Physician	30. Tax ID Number
Address	31. Do you specialize? <input type="checkbox"/> Yes <input type="checkbox"/> No
City State ZIP	32. If yes, indicate specialty

INSTRUCTIONS TO PHYSICIAN FOR COMPLETING ATTENDING PHYSICIAN'S REPORT

1. COMPLETE THE ENTRIES 1-32 ON THE FORM; AND
2. IF DISABILITY HAS NOT TERMINATED, INDICATE IN ITEM 17; AND
3. SEND THE FORM AND YOUR BILL TO:

**OFFICE OF WORKERS' COMPENSATION PROGRAMS
DOL DFEC Central Mailroom
PO Box 8300
London, KY 40742-8300**

IMPORTANT: A MEDICAL REPORT IS REQUIRED BY THE OFFICE OF WORKERS' COMPENSATION PROGRAMS BEFORE PAYMENT OF COMPENSATION FOR LOSS OF WAGES OR PERMANENT DISABILITY CAN BE MADE TO THE EMPLOYEE. THIS INFORMATION IS REQUIRED TO OBTAIN OR RETAIN A BENEFIT (5 U.S.C. 8101, et seq.).

IF YOU HAVE SUBMITTED A NARRATIVE MEDICAL REPORT OR A FORM CA-16 TO OWCP WITHIN THE PAST 10 DAYS, YOU NEED NOT SUBMIT THIS FORM CA-20.

OWCP REQUIRES THAT MEDICAL BILLS, OTHER THAN HOSPITAL BILLS, BE SUBMITTED ON THE AMERICAN MEDICAL ASSOCIATION HEALTH INSURANCE CLAIM FORM, HCFA 1500/OWCP-1500.

INSTRUCTIONS FOR THE INJURED WORKER/ EMPLOYING AGENCY

Compensation for wage loss cannot be paid unless medical evidence has been submitted supporting disability for work during the period claimed. For claims based on traumatic injury and reported on Form CA-1, the employee should detach Form CA-20 and complete items 1-3 on the front. The form should be promptly referred to the attending physician for early completion. If the claim is for occupational disease, filed on Form CA-2, a medical report as described in the instructions accompanying that form is required in most cases. The employee should bring these requirements to the physician's attention. It may be necessary for the physician to provide a narrative medical report in place of or in addition to Form CA-20 to adequately explain and support the relationship of the disability to the employment.

For payment of a schedule award, the claimant must have a permanent loss or loss of function of one of the members of the body or organs enumerated in the regulations (20 C.F.R. 10.404). The attending physician must affirm that maximum medical improvement of the condition has been reached and should describe the functional loss and the resulting impairment in accordance with the American Medical Association Guides to the Evaluation of Permanent Impairment.

NOTICE

If you have a substantially limiting physical or mental impairment, Federal disability nondiscrimination law gives you the right to receive help from DFEC in the form of communication assistance, accommodation and modification to aid you in the FECA claims process. For example, we will provide you with copies of documents in alternate formats, communication services such as sign language interpretation, or other kinds of adjustments or changes to account for the limitations of your disability. Please contact our office or the claims examiner to ask about this assistance.

Privacy Act Statement

In accordance with the Privacy Act of 1974, as amended (5 U.S.C.552a), you are here by notified that: (1) The Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101, et seq.) (FECA) is administered by the Office of Workers' Compensation Programs of the U. S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has will be used to determine eligibility for and the amount of benefits payable under the FECA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agency which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider issues relating to retention, rehire, or other relevant matters. (4) Information may also be given to other Federal agencies, other government entities, and to private-sector agencies and/or employers as part of rehabilitative and other return-to-work programs and services. (5) Information may be disclosed to physicians and other healthcare providers for use in providing treatment or medical/vocational rehabilitation, making evaluations for the Office, and for other purposes related to the medical management of the claim. (6) Information may be given to Federal, state and local agencies for law enforcement purposes, to obtain information relevant to a decision under the FECA, to determine whether benefits are being paid properly, including whether prohibited dual payments are being made, and, where appropriate, to pursue salary/administrative offset and debt collection actions required or permitted by the FECA and/or the Debt Collection Act. (7) Disclosure of the claimant's social security number (SSN) or tax identifying number (TIN) on this form is mandatory. The SSN and/or TIN, and other information maintained by the Office, may be used for identification, to support debt collection efforts carried on by the Federal government, and for other purposes required or authorized by law. (8) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision or reduced level of benefits.

Public Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 5 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain a benefit under 5 U.S.C. 8101, et seq. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of Workers' Compensation Programs, Room S-3229, 200 Constitution Avenue, NW, Washington, DC 20210, and reference the OMB Control Number 1240-0046. Note: Please do not send the completed form to this office.

Evidence Required in Support of a Claim for Occupational Disease



All of the following information should be submitted with Form CA-2. Please return the checklist with your statements attached. Check off each item as it is completed or let us know when we can expect the information. All material submitted should be legible and specific.

FROM EMPLOYEE	✓	FROM EMPLOYING AGENCY	✓
1. Give a detailed description of factors of employment believed responsible for condition. Be specific as to the duration and nature of the factors: for instance weights carried, distances walked, chemicals used, or other relevant job actions.		5. Review and comment on employee's statement provided in response to Item no. 1.	
2. Give the history of the condition from first awareness of the problem. Include description of all home treatment and professional care as well as symptoms.		6. If employee's job differs from official description, describe exactly his/her duties.	
3. Describe any prior similar problem, with dates of onset, history, medical care received, and copies of the medical records of your treatment.		7. Give a day-by-day listing of leave and leave without pay used due to this condition.	
4. Attach or forward a medical report from your physician to include the following items: a. Dates of examination and treatment. b. History given by you. c. Detailed description of findings. d. Results of all diagnostic tests. e. Diagnosis. f. The clinical course of treatment followed. g. Doctor's opinion, with reasons for such opinion, as to the relationship between any condition you may now have and the factors of employment identified in Item no. 1 above.		8. Attach copies of the employee's: a. SF-171, Application for Employment. b. Position description with physical requirements. c. Pertinent dispensary records. d. Most recent SF-50, Notification of Personnel Action.	

NOTICE TO EMPLOYEES FILING CLAIM FOR OCCUPATIONAL DISEASE

Diseases and illnesses which occur during or after Federal employment are not automatically covered by the Federal Employees' Compensation Act. You must provide factual and medical evidence to establish that conditions of employment caused or aggravated the disease or illness.

The Office of Workers' Compensation Programs (OWCP) understands that gathering the necessary evidence requires substantial effort. The attached checklist is designed to help you. Form CA-2 ("Federal Employees' Notice of Occupational Disease and Claim for Compensation"), your statements in response to the checklist, and a report from your treating physician should all be given to your agency Compensation Specialist at the same time. Please return the checklist with your statements. Check off each item as it is completed or let us know when we can expect the information. Your supervisor and the Compensation Specialist will compile the additional information required and forward a complete and organized package to OWCP. If your Agency has no Compensation Specialist or other person designated to forward information to OWCP, give the information directly to your supervisor.

Upon receipt of your claim, OWCP will create a case and assign it to a claims examiner for processing. You will receive a post card advising you of the case number. Use this number on all future correspondence about your claim.

If you are eligible for Civil Service retirement, you may apply for both retirement benefits from the Office of Personnel Management (OPM) and workers' compensation benefits from OWCP. However, in most cases, you cannot receive both benefits for the same period of time.

HINTS: Are your statements legible? Would your statements make sense to someone who has never done your job? Do your statements answer the questions? Are your statements complete and accurate? A NARRATIVE REPORT FROM YOUR PHYSICIAN IS REQUIRED. Reports on medical forms, such as Form CA-20, are rarely adequate in occupational disease cases.

NOTICE TO COMPENSATION SPECIALISTS AND SUPERVISORS

OWCP needs your help to improve the timeliness of adjudication of occupational disease cases. We have developed checklists to help you and the employee submit a claim in an organized and complete manner. The checklists will help the claims examiner identify what information has been submitted and what is still outstanding.

Whenever an employee wants to file a claim for occupational disease or illness, please give him or her:

1. Form CA-2, Federal Employees' Notice of Occupational Disease and Claim for Compensation, and
2. Two copies of the checklist describing evidence required in support of the claim. One checklist is for the employee to mark and return with the completed package. The second checklist is for the employee to take to the physician.

In addition to describing the evidence required from the employee, the checklists describe the information to be submitted by the employing agency. When Form CA-2 and the employee's statements are returned, you are required by instructions on the CA-2 to forward them to OWCP within ten working days. Statements and documents required from the agency should be submitted with the CA-2 whenever possible. Please use the checklist to note what information from the employing agency is enclosed, unavailable or pending. If pending, please give the anticipated mailing date. Agency comments, statements and documentation are essential for the examiner to get a well rounded picture of the employment conditions.

We appreciate your cooperation in this effort.

Evidence Required in Support of a Claim for Work-Related Hearing Loss



IF YOU ARE FILING A CLAIM FOR HEARING LOSS, THIS CHECKLIST DESCRIBES THE INFORMATION NEEDED FROM YOU AND YOUR EMPLOYING AGENCY. All of the following information should be submitted with Form CA-2. Please return the checklist with your statements attached. Check off each item as it is completed or let us know when we can expect the information. All material submitted should be legible and specific.

FROM EMPLOYEE	✓	FROM EMPLOYING AGENCY	✓
1. List your employment history by employer, job title, and inclusive dates. Include non-Federal employment and military service.		9. Review and comment on the employee's statement in response to questions 1-5.	
2. For each job title, describe source of noise, number of hours of exposure per day, and use of any safety devices to protect against noise exposure. State when safety devices were provided.		10. Describe all work-related exposure to hazardous noise, including: a. Locations of job sites. b. Nature of exposure to noise (machinery, etc.). c. Decibel and frequency level (noise survey report) for each job site. d. Period of exposure, hours per day, days per week. e. Type of ear protection provided.	
3. Give history of any previous ear or hearing problems.			
4. Describe any hobbies which involve exposure to loud noise.			
5. If you are no longer exposed to hazardous noise at work, give the date you were last exposed.			
6. If you have been examined or treated by a doctor for an ear or hearing problem, provide a medical report and audiograms.			
7. State whether a claim for workers, compensation benefits for this or any other condition affecting ears or hearing was ever filed. If so, give date of claim, name and address where filed, and benefits received.		11. Attach copies of the employee's: a. SF-171, Application for Employment. b. Job sheet and employment record. c. All medical examinations pertaining to hearing or ear problems, including preemployment examination and all audiograms.	
8. Give the date you first noticed your hearing loss.			
Give date you first related hearing loss to employment, and reason why.		12. If the employee is no longer exposed to hazardous noise, give date of last exposure and the payrate in effect on that date.	

NOTICE TO EMPLOYEES FILING CLAIM FOR OCCUPATIONAL DISEASE

Diseases and illnesses which occur during or after Federal employment are not automatically covered by the Federal Employees' Compensation Act. You must provide factual and medical evidence to establish that conditions of employment caused or aggravated the disease or illness.

The Office of Workers' Compensation Programs (OWCP) understands that gathering the necessary evidence requires substantial effort. The attached checklist is designed to help you. Form CA-2 ("Federal Employees' Notice of Occupational Disease and Claim for Compensation"), your statements in response to the checklist, and a report from your treating physician should all be given to your agency Compensation Specialist at the same time. Please return the checklist with your statements. Check off each item as it is completed or let us know when we can expect the information. Your supervisor and the Compensation Specialist will compile the additional information required and forward a complete and organized package to OWCP. If your Agency has no Compensation Specialist or other person designated to forward information to OWCP, give the information directly to your supervisor.

Upon receipt of your claim, OWCP will create a case and assign it to a claims examiner for processing. You will receive a post card advising you of the case number. Use this number on all future correspondence about your claim.

If you are eligible for Civil Service retirement, you may apply for both retirement benefits from the Office of Personnel Management (OPM) and workers' compensation benefits from OWCP. However, in most cases, you cannot receive both benefits for the same period of time.

HINTS: Are your statements legible? Would your statements make sense to someone who has never done your job? Do your statements answer the questions? Are your statements complete and accurate? A NARRATIVE REPORT FROM YOUR PHYSICIAN IS REQUIRED. Reports on medical forms, such as Form CA-20, are rarely adequate in occupational disease cases.

NOTICE TO COMPENSATION SPECIALISTS AND SUPERVISORS

OWCP needs your help to improve the timeliness of adjudication of occupational disease cases. We have developed checklists to help you and the employee submit a claim in an organized and complete manner. The checklists will help the claims examiner identify what information has been submitted and what is still outstanding.

Whenever an employee wants to file a claim for occupational disease or illness, please give him or her:

1. Form CA-2, Federal Employees Notice of Occupational Disease and Claim for Compensation, and
2. Two copies of the checklist describing evidence required in support of the claim. One checklist is for the employee to mark and return with the completed package. The second checklist is for the employee to take to the physician.

In addition to describing the evidence from the employee, the checklists describe the information to be submitted by the employing agency. When Form CA-2 and the employee's statements are returned, you are required by instructions on the CA-2 to forward them to OWCP within ten working days. Statements and documents required from the agency should be submitted with the CA-2 whenever possible. Please use the checklist to note what information from the employing agency is enclosed, unavailable or pending. If pending, please give the anticipated mailing date. Agency comments, statements and documentation are essential for the examiner to get a well rounded picture of the employment conditions.

We appreciate your cooperation in this effort.

**Evidence Required in Support of A
Claim for Asbestos-Related Illness**



If you are filing a claim based on exposure to asbestos. Use this checklist to identify the information needed from you and your employing agency. All of the following information should be submitted with Form CA-2. Please return the checklist with your statements attached. Check off each item as it is completed or let us know when we can expect the information. All material submitted should be legible and specific.

FROM EMPLOYEE	✓	FROM EMPLOYING AGENCY	✓
1. List your employment history by employer, job title, and inclusive dates. Include non-Federal employment and military service (see attached questionnaire.)		9. Review and comment on the accuracy of the employee's description of work performed and exposure to asbestos and other substances.	
2. For each job title, describe the work you performed, the type of asbestos material used, locations where exposure occurred, period of exposure, number of hours per day and days per week exposed, and the types and frequency of safety precautions (mask, respirator, etc.) used (see attached questionnaire.)		10. Provide exposure data, including air sample surveys or statements of the type of asbestos exposure, frequency, degree and duration for each job held. Air sample results should be reported in units of fiber/cc time weighted average. Also report concentrations of other pollutants and chemicals (see attached questionnaire.)	
3. Describe any exposure you have had to other toxic substances. If none, state "None".		11. Give the date employee was last exposed to asbestos at work. If the employee was removed from exposure, give the circumstances.	
4. Describe any breathing or lung problems you have had in the past and treatment received (see attached questionnaire.)		12. Attach copies of the employee's: a. SF-1 71, Application for Employment. b. Position description with physical requirements for last job hold. c. Job sheet and employment record. d. Pertinent dispensary records. e. Most recent SF-50, Notification of Personnel Action. f. Laboratory test results and chest x-ray reports on file.	
5. Give your smoking history to include amount per day, and years (dates) you have smoked (see attached questionnaire.)			
6. Submit a report from your physician, including chest x-ray report, history, physical findings, diagnosis, opinion as to the relationship of the condition to employment, and course of treatment.			
7. Give the date you first consulted a physician regarding respiratory or asbestos-related disease.			
8. Submit reports of examination, treatment or hospitalization for any previous similar condition or pulmonary problem.		13. Describe safety regulations and protective devices in use by employee, with period and frequency of use.	

PART A TO BE COMPLETED BY CLAIMANT

In order to determine if you are eligible for benefits, please provide the following information using your best estimates. If you run out of space, use a separate piece of paper and attach it to this form. Submit the form to your current (or last) employing agency. If the facility is no longer active, submit the statement to OWCP.

I. Employment History: Please include all employers, both Federal and non-Federal, your job titles, the work you performed, and the period you held each job. (Include military service).

Employer (Agency)	Job Title	Work Performed	Period	Fed. Civil Service? (Yes/No)
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

II. Exposure History: Please describe all exposure to asbestos and other toxic materials in your employment. Include period of employment, type of exposure, number of hours exposed per workday and description of safety precautions used while working.

a. Asbestos: For "type of exposure" indicate whether exposure was heavy, medium or light:

Heavy - Visible airborne asbestos particles were evident.

Medium - Asbestos dust was visible on floors and work surfaces.

Light - No dust visible, but asbestos was in use.

Period	Type of Exposure (H, M, L)	Exposure Hrs/Day	Safety Precautions Used
1.			
2.			
3.			
4.			
5.			

b. Toxic Chemicals/Dust

Period	Material Exposed to:	Exposure Hrs/Day	Safety Precautions Used
1.			
2.			
3.			
4.			
5.			

Notice to Employees Filing Claim for Occupational Disease

Diseases and illnesses which occur during or after Federal employment are not automatically covered by the Federal Employees' Compensation Act. You must provide factual and medical evidence to establish that conditions of employment caused or aggravated the disease or illness.

The Office of Workers' Compensation Programs (OWCP) understands that gathering the necessary evidence requires substantial effort. The attached checklist is designed to help you. Form CA-2 ("Federal Employee's Notice of Occupational Disease and Claim for Compensation"), your statements in response to the checklist, and a report from your treating physician should all be given to your agency Compensation Specialist at the same time. Please return the checklist with your statements. Check off each item as it is completed or let us know when we can expect the information. Your supervisor and the Compensation Specialist will compile the additional information required and forward a complete and organized package to OWCP. If your agency has no Compensation Specialist or other person designated to forward information to OWCP, give the information directly to your supervisor.

Upon receipt of your claim, OWCP will create a case and assign it to a claims examiner for processing. You will receive a post card advising you of the case number. Use this number on all future correspondence about your claim.

If you are eligible for Civil Service retirement, you may apply for both retirement benefits from the Office of Personnel Management (OPM) and workers' compensation benefits from OWCP. However, in most cases, you cannot receive both benefits for the same period of time.

HINTS: Are your statements legible? Would your statements make sense to someone who has never done your job? Do your statements answer the questions? Are your statements complete and accurate? A NARRATIVE REPORT FROM YOUR PHYSICIAN IS REQUIRED. Reports on medical forms, such as Form CA-20, are rarely adequate in occupational disease cases.

Notice to Compensation Specialists and Supervisors

OWCP needs your help to improve the timeliness of adjudication of occupational disease cases. We have developed checklists to help you and the employee submit a claim in an organized and complete manner. The checklists will help the claims examiner identify what information has been submitted and what is still outstanding.

Whenever an employee wants to file a claim for occupational disease or illness, please give him or her:

1. Form CA-2, Federal Employees' Notice of Occupational Disease and Claim for Compensation, and
2. Two copies of the checklist describing evidence required-in support of the claim. One checklist is for the employee to mark and return with the complete package. The second checklist is for the employee to take to the physician.

In addition to describing the evidence required from the employee, the checklists describe the information to be submitted by the employing agency. When Form CA-2 and the employee's statements are returned, you are required by instructions on the CA-2 to forward them to OWCP within ten working days. Statements and documents required from the agency should be submitted with the CA-2 whenever possible. Please use the checklist to note what information from the employing agency is enclosed, unavailable or pending. If pending, please give the anticipated mailing date. Agency comments, statements and documentation are essential for the examiner to get a well rounded picture of the employment conditions.

We appreciate your cooperation in this effort.

III. Medical History: Describe your medical history and include any treatment for heart, lung and other major health problems.

Have you ever had:	Yes	No	If Yes, explain	Dates
1. Heart Problems?				
2. Lung Problems?				
3. Other Major Problems?				

IV. Smoking History: Describe your smoking history, including dates you smoked, amount of material smoked per day, and type of material smoked.

Have you ever smoked:	Yes	No	If Yes, amount	No. of years	Date stopped	Dates
1. Cigarettes?						
2. Pipe?						
3. Cigars?						

PART B TO BE COMPLETED BY EMPLOYING AGENCY

Using the categories shown below, please complete the chart at the bottom of the page with reference to each Federal job hold by this employee.

a. Nature of Exposure:

Primary - Normal duties required actual manipulation of asbestos and/or asbestos-related products and generated dust.

Secondary - Normal duties regularly involved work alongside others primarily exposed or in confined spaces.

Intermittent - Normal duties irregularly involved entry into locations where asbestos and/or asbestos products were manipulated.

Environmental - Normal duties were performed at a location where asbestos was used but the individual had no normal exposure in excess of ambient levels.

b. Degree of Exposure:

Heavy - Asbestos dust was usually visible in the air.

Medium - Asbestos dust was generally visible on work surfaces but did not cloud the air.

Light - Asbestos was used in work area but was generally not visible (although detectable).

Ambient - Asbestos levels did not exceed normal levels in the air outside of work spaces.

c. Frequency of Exposure: Hours per day.

Job Title	Period		Asbestos Exposure			Other Chemical or Dust Exposure				
	From	To	Nature	Degree	Frequency	Material	Nature	Degree	Frequency	Fiber/cc
1.										
2.										
3.										
4.										
5.										
6.										
7.										
8.										

**Evidence Required in Support of a Claim
for Work-Related Coronary/Vascular Condition**

U.S. Department of Labor
Office of Workers' Compensation Programs



IF YOU ARE FILING A CLAIM FOR CORONARY OR VASCULAR CONDITIONS (for example: heart attack, stroke, hypertension). THIS CHECKLIST DESCRIBES THE INFORMATION NEEDED FROM YOU AND YOUR EMPLOYING AGENCY. All of the following information should be submitted with Form CA-2. Please return the checklist with your statements attached. Check off each item as it is completed or let us know when we can expect the information. All material submitted should be legible and specific.

FROM EMPLOYEE	✓	FROM EMPLOYING AGENCY	✓
1. Give a detailed description of the factors of your employment you believe responsible for your condition. Identify dates, periods, events, people involved, etc.		6. Review and comment on the employee's statements in response to questions 1-5.	
2. If you are claiming compensation for a heart attack or stroke, provide a specific account of your activities on and off duty for one week prior to the attack, with emphasis on the twenty-four hours immediately preceding the attack.		7. Describe in detail the duties of the employee and the manner in which the duties were performed. If the work was different or more stressful than that performed by other employees, this should be explained.	
3. If you have a prior history of heart problems, provide a description of your condition and copies of medical records of treatment.		8. Document any personnel actions described in the employee's statement, such as changes in assignment, grievances filed by the employee, and other adverse personnel actions.	
4. Give your smoking history to include amounts and years (dates) you smoked.		9. Give the number of hours worked per day, days per week and the extent of overtime duty worked.	
5. Provide a medical report from your physician which includes: <ul style="list-style-type: none"> a. Dates of examination and treatment. b. History given by you. c. Family history and other risk factors. d. Detailed description of findings. e. Copies of all diagnostic test results. f. Diagnosis. g. The clinical course of treatment followed. h. Doctor's opinion, with reasons for such opinion, as to the relationship between any condition you may now have and the factors of employment identified in Item no. 1 above. 		10. Provide a day-by-day listing of leave and leave without pay used due to this condition.	
		11. Attach copies of the employee's: <ul style="list-style-type: none"> a. SF-171, Application for Employment. b. Position description with physical requirements. c. Preemployment medical examination. d. All other pertinent medical reports available. e. Most recent SF-50, Notification of Personnel Action. 	

NOTICE TO EMPLOYEES FILING CLAIM FOR OCCUPATIONAL DISEASE

Diseases and illnesses which occur during or after Federal employment are not automatically covered by the Federal Employees' Compensation Act. You must provide factual and medical evidence to establish that conditions of employment caused or aggravated the disease or illness.

The Office of Workers' Compensation Programs (OWCP) understands that gathering the necessary evidence requires substantial effort. The attached checklist is designed to help you. Form CA-2 ("Federal Employees' Notice of Occupational Disease and Claim for Compensation"), your statements in response to the checklist, and a report from your treating physician should all be given to your agency Compensation Specialist at the same time. Please return the checklist with your statements. Check off each item as it is completed to let us know when we can expect the information. Your supervisor and the Compensation Specialist will compile the additional information required and forward a complete and organized package to OWCP. If your Agency has no Compensation Specialist or other person designated to forward information to OWCP, give the information directly to your supervisor.

Upon receipt of your claim, OWCP will create a case and assign it to a claims examiner for processing. You will receive a post card advising you of the case number. Use this number on all future correspondence about your claim.

If you are eligible for Civil Service retirement, you may apply for both retirement benefits from the Office of Personnel Management (OPM) and workers' compensation benefits from OWCP. However, in most cases, you cannot receive both benefits for the same period of time.

HINTS: Are your statements legible? Would your statements make sense to someone who has never done your job? Do your statements answer the questions? Are your statements complete and accurate? **A NARRATIVE REPORT FROM YOUR PHYSICIAN IS REQUIRED.** Reports on medical forms, such as Form CA-20, are rarely adequate in occupational disease cases.

NOTICE TO COMPENSATION SPECIALISTS AND SUPERVISORS

OWCP needs your help to improve the timeliness of adjudication of occupational disease cases. We have developed checklists to help you and the employee submit a claim in an organized and complete manner. The checklists will help the claims examiner identify what information has been submitted and what is still outstanding.

Whenever an employee wants to file a claim for occupational disease or illness, please give him or her:

1. Form CA-2, Federal Employees' Notice of Occupational Disease and Claim for Compensation, and
2. Two copies of the checklist describing evidence required in support of the claim. One checklist is for the employee to mark and return with the completed package. The second checklist is for the employee to take to the physician.

In addition to describing the evidence required from the employee, the checklists describe the information to be submitted by the employing agency. When Form CA-2 and the employee's statements are returned, you are required by instructions on the CA-2 to forward them to OWCP within ten working days. Statements and documents required from the agency should be submitted with the CA-2 whenever possible. Please use the checklist to note what information from the employing agency is enclosed, unavailable or pending. If pending, please give the anticipated mailing date. Agency comments, statements, and documentation are essential for the examiner to get a well rounded picture of the employment conditions.

We appreciate your cooperation in this effort.

**Evidence Required in Support of a Claim
for Work-Related Skin Disease**

U.S. Department of Labor
Office of Workers' Compensation Programs



IF YOU ARE FILING A CLAIM FOR A SKIN CONDITION, THIS CHECKLIST DESCRIBES THE INFORMATION NEEDED FROM YOU AND YOUR EMPLOYING AGENCY. All of the following information should be submitted with Form CA-2. Please return the checklist with your statements attached. Check off each item as it is completed or let us know when we can expect the information. All material submitted should be legible and specific.

FROM EMPLOYEE	✓	FROM EMPLOYING AGENCY	✓
1. Give a detailed description of employment factors you believe responsible for your condition, to include: <ul style="list-style-type: none"> a. Specific type of exposure. b. Frequency and duration of exposure. c. Protective equipment used to guard against exposure. 		6. Review and comment on the employee's statements provided in response to questions 1-5. Comment on the exposure claimed, providing any available information about the trade name and/or chemical content of the suspected irritants.	
2. Describe any exposure to skin irritants outside the work environment, including the type, duration and frequency of exposure.		7. Provide a day-by-day listing of leave and leave without pay used due to this condition.	
3. Describe any previous skin conditions from the time they began through the present.		8. Attach copies of the employee's: <ul style="list-style-type: none"> a. SF-171, Application for Employment. b. Position description with physical requirements. c. Pertinent dispensary records. d. Copies of all physical examinations on file. e. Most recent SF-50, Notification of Personnel Action. 	
4. Provide treatment records from any physicians who have provided treatment for any skin conditions.			
5. Attach or forward a medical report from your current physician to include: <ul style="list-style-type: none"> a. History of exposure. b. Findings. c. Diagnosis. d. Details of treatment. e. Explanation of the relationship between the findings and exposure history listed in Item no. 1 above. f. Discussion of temporary vs. permanent effect from work exposure. g. Work restrictions caused by the condition. 			

**Evidence Required in Support of a Claim
for Work-Related Pulmonary Illness
(not asbestosis)**



IF YOU ARE FILING A CLAIM FOR PULMONARY CONDITION NOT RELATED TO EXPOSURE TO ASBESTOS, THIS CHECKLIST DESCRIBES THE INFORMATION NEEDED FROM YOU AND YOUR EMPLOYING AGENCY. All of the following information should be submitted with Form CA-2. Please return the checklist with your statements attached. Check off each item as it is completed or let us know when we can expect the information. All material submitted should be legible and specific.

FROM EMPLOYEE	✓	FROM EMPLOYING AGENCY	✓	
1. Describe the work conditions which caused or aggravated your pulmonary condition; include types of irritants, dates of exposure and hours per day. Describe any safety measures taken.		6. Review and comment on employee's statement provided in response to questions 1-5. Give periods, degree and nature of exposure. Explain safety precautions. Give full details of any tests which were made to determine the concentration of irritants. Have other employees been similarly affected?		
2. Explain the development of the present pulmonary condition and treatment from its beginning.			7. Provide a day-by-day listing of leave and leave without pay used due to this condition.	
3. Give your smoking history to include amounts and years (dates) you smoked.		8. Attach copies of the employee's: a. SF-171, Application for Employment. b. Position description with physical requirements. c. Preemployment medical examination and any other pertinent medical records. d. Most recent SF-50, Notification of Personnel Action.		
4. Give the history of previous pulmonary conditions: include dates and nature of illness, and treatment records from all physicians and hospitals where you were treated.			5. Attach or forward a medical report which includes the following items: a. Dates of examination and treatment. b. History given by you. c. Detailed description of findings. d. Results of all diagnostic tests. e. Diagnosis. f. The clinical course of treatment followed. g. Doctor's opinion, with reasons for such opinion, as to the relationship between any condition you may have and the factors of employment listed in Item no. 1.	

NOTICE TO EMPLOYEES FILING CLAIM FOR OCCUPATIONAL DISEASE

Diseases and illnesses which occur during or after Federal employment are not automatically covered by the Federal Employees' Compensation Act. You must provide factual and medical evidence to establish that conditions of employment caused or aggravated the disease or illness.

The Office of Workers' Compensation Programs (OWCP) understands that gathering the necessary evidence requires substantial effort. The attached checklist is designed to help you. Form CA-2 ("Federal Employees' Notice of Occupational Disease and Claim for Compensation"), your statements in response to the checklist, and a report from your treating physician should all be given to your agency Compensation Specialist at the same time. Please return the checklist with your statements. Check off each item as it is completed or let us know when we can expect the information. Your supervisor and the Compensation Specialist will compile the additional information required and forward a complete and organized package to OWCP. If your Agency has no Compensation Specialist or other person designated to forward information to OWCP, give the information directly to your supervisor.

Upon receipt of your claim, OWCP will create a case and assign it to a claims examiner for processing. You will receive a post card advising you of the case number. Use this number on all future correspondence about your claim.

If you are eligible for Civil Service retirement, you may apply for both retirement benefits from the Office of Personnel Management (OPM) and workers' compensation benefits from OWCP. However, in most cases, you cannot receive both benefits for the same period of time.

HINTS: Are your statements legible? Would your statements make sense to someone who has never done your job? Do your statements answer the questions? Are your statements complete and accurate? A NARRATIVE REPORT FROM YOUR PHYSICIAN IS REQUIRED. Reports on medical forms, such as Form CA-20, are rarely adequate in occupational disease cases.

NOTICE TO COMPENSATION SPECIALISTS AND SUPERVISORS

OWCP needs your help to improve the timeliness of adjudication of occupational disease cases. We have developed checklists to help you and the employee submit a claim in an organized and complete manner. The checklists will help the claims examiner identify what information has been submitted and what is still outstanding.

Whenever an employee wants to file a claim for occupational disease or illness, please give him or her:

1. Form CA-2, Federal Employees Notice of Occupational Disease and Claim for Compensation, and
2. Two copies of the checklist describing evidence required in support of the claim. One checklist is for the employee to mark and return with the completed package. The second checklist is for the employee to take to the physician.

In addition to describing the evidence from the employee, the checklists describe the information to be submitted to by the employing agency. When Form CA-2 and the employee's statements are returned, you are required by instructions on the CA-2 to forward them to OWCP within ten working days. Statements and documents required from the agency should be submitted with the CA-2 whenever possible. Please use the checklist to note what information from the employing agency is enclosed, unavailable or pending. If pending, please give the anticipated mailing date. Agency comments, statements and documentation are essential for the examiner to get a well rounded picture of the employment conditions.

We appreciate your cooperation in this effort.

**Evidence Required in Support of a Claim
for Work-Related Psychiatric Illness**

U.S. Department of Labor
Office of Workers' Compensation Programs



IF YOU ARE FILING A CLAIM FOR A PSYCHIATRIC CONDITION, THIS CHECKLIST DESCRIBES THE INFORMATION NEEDED FROM YOU AND YOUR EMPLOYING AGENCY. All of the following information should be submitted with Form CA-2. Please return the checklist with your statements attached. Check off each item as it is completed or let us know when we can expect the information. All material submitted should be legible and specific.

FROM EMPLOYEE	✓	FROM EMPLOYING AGENCY	✓
1. Give a detailed chronological description of particular employment factors which you believe caused your condition. Please identify dates, periods, events, people involved, etc.		7. Review and comment on the employee's statements provided in response to questions 1-5. Submit statements from witnesses, if appropriate.	
2. Describe the progress and development of the work-related condition from its beginning.		8. Provide a detailed statement describing the duties of the employee and the manner in which the duties were performed. If the work was different or more stressful than that performed by other employees, this should be explained.	
3. Have you previously suffered from this or a similar condition? If so, give details of symptoms, disability and treatment records from all physicians and hospitals where you were treated.		9. Document any personnel actions described in the employee's statement, such as changes in assignment, grievances filed by the employee, and other adverse personnel actions.	
4. Give a brief description of your personal activities, hobbies, and any other employment.		10. Give the number of hours worked per day, days per week and the extent of overtime duty worked.	
5. Describe changes or other sources of stress in your personal life occurring in the same time frame.		11. Provide a day-by-day listing of leave and leave without pay used due to this condition.	
6. Attach or forward a medical report as described on the reverse.		12. Attach copies of the employee's: a. SF-171, Application for Employment. b. Position description with physical requirements. c. Preemployment medical examination. d. All other pertinent medical reports available. e. Most recent SF-50, Notification of Personnel Action.	

MEDICAL REPORT FOR PSYCHIATRIC CLAIM

You should submit a medical report from your physician which includes:

- a. History of onset of illness.
- b. Social and family history.
- c. Detailed description of your work situation and identification of the specific work factors contributing to your emotional or psychiatric condition.
- d. Review of any non-industrial stress situations.
- e. Mental status examination, with pertinent findings.
- f. Results of psychological and personality testing.
- g. Diagnosis according to DSM III.
- h. Clinical course of treatment followed.
- i. Prognosis with estimate of when you will be able to return to work.
- j. Physician's opinion, with reasons for such opinion, as to whether, how and which factors of your employment caused, aggravated, precipitated, or accelerated your disability.
- k. An assessment of your current condition, with specific details on how you can or cannot function in daily activities, including a discussion of any limitations you may have in your ability to give or take supervision, cooperate with others, work under deadlines, or any other pertinent factors which may effect your work capacity.

NOTICE TO EMPLOYEES FILING CLAIM FOR OCCUPATIONAL DISEASE

Diseases and illnesses which occur during or after Federal employment are not automatically covered by the Federal Employees' Compensation Act. You must provide factual and medical evidence to establish that conditions of employment caused or aggravated the disease or illness.

The Office of Workers' Compensation Programs (OWCP) understands that gathering the necessary evidence requires substantial effort. The attached checklist is designed to help you. Form CA-2 ("Federal Employees' Notice of Occupational Disease and Claim for Compensation"), your statements in response to the checklist, and a report from your treating physician should all be given to your agency Compensation Specialist at the same time. Please return the checklist with your statements. Check off each item as it is completed or let us know when we can expect the information. Your supervisor and the Compensation Specialist will compile the additional information required and forward a complete and organized package to OWCP. If your Agency has no Compensation Specialist or other person designated to forward information to OWCP, give the information directly to your supervisor.

Upon receipt of your claim, OWCP will create a case and assign it to a claims examiner for processing. You will receive a post card advising you of the case number. Use this number on all future correspondence about your claim.

If you are eligible for Civil Service retirement, you may apply for both retirement benefits from the Office of Personnel Management (OPM) and workers' compensation benefits from OWCP. However, in most cases, you cannot receive both benefits for the same period of time.

HINTS: Are your statements legible? Would your statements make sense to someone who has never done your job? Do your statements answer the questions? Are your statements complete and accurate? A NARRATIVE REPORT FROM YOUR PHYSICIAN IS REQUIRED. Reports on medical forms, such as Form CA-20, are rarely adequate in occupational disease cases.

NOTICE TO COMPENSATION SPECIALISTS AND SUPERVISORS

OWCP needs your help to improve the timeliness of adjudication of occupational disease cases. We have developed checklists to help you and the employee submit a claim in an organized and complete manner. The checklists will help the claims examiner identify what information has been submitted and what is still outstanding.

Whenever an employee wants to file a claim for occupational disease or illness, please give him or her:

1. Form CA-2, Federal Employees' Notice of Occupational Disease and Claim for Compensation, and
2. Two copies of the checklist describing evidence required in support of the claim. One checklist is for the employee to mark and return with the completed package. The second checklist is for the employee to take to the physician.

In addition, to describing the evidence required from the employee, the checklists describe the information to be submitted by the employing agency. When Form CA-2 and the employee's statements are returned, you are required by instructions on the CA-2 to forward them to OWCP within ten working days. Statements and documents required from the agency should be submitted with the CA-2 whenever possible. Please use the checklist to note what information from the employing agency is enclosed, unavailable or pending. If pending, please give the anticipated mailing date. Agency comments, statements and documentation are essential for the examiner to get a well rounded picture of the employment conditions.

We appreciate your cooperation in this effort.

Evidence Required in Support of A Claim for Work-Related Carpal Tunnel Syndrome

U.S. Department of Labor
Office of Workers' Compensation Programs



If you are claiming that your carpal tunnel or wrist problems are due to your job, use this checklist to identify the specific information needed from you and your employing agency to make a decision on the claim. All of the following information should be submitted with Form CA-2. Please return the checklist with statements attached. Check off each item as it is completed or let us know when we can expect the information. All material submitted should be legible and specific.

FROM EMPLOYEE		FROM EMPLOYING AGENCY	
1. Prepare a statement giving the following information:	✓	1. Review the employee's statement, giving the following information:	✓
a. Provide an outline of your work history, including non-Federal employment and military service. For each job held, give your job title, agency/company name, and dates (period) of employment.		a. Comment on the accuracy of the employee's statement describing Federal job duties involving use of hand/wrist.	
b. For each job title, describe duties which required exertion with or repeated movement of the wrist or hand. Describe nature and frequency of motions required, and average number of hours a day/week you did such work.		b. Provide a day-to-day listing of leave and leave without pay used by the employee due to carpal tunnel/wrist problems.	
c. Describe hobbies, physical fitness or other activities outside of work which also involved exertion or repeated motions of wrist/hand. State the nature of each such activity, years involved in each, and how many hours a week you engaged in such.		c. Give date employee entered on duty in job requiring above duties. Also give the effective date(s) and description(s) of any changes in work assignments due to employee's condition and indicate whether duty changes resulted in changes in pay.	
d. If you have ever had an injury to the hand/arm/wrist, or been diagnosed as having gout, arthritis, hypothyroidism, diabetes, a tumor, or deformity of the hand/wrist, from/since birth, describe the injury or condition, and state when injury occurred or condition was found.		2. Send us copies of employee's:	
e. Give a brief chronological history of your hand/wrist problem. State which hand(s) are affected, when you first experienced problems, nature of the problems and changes over time to present, and dates and nature of medical care obtained.		a. SF-1 71, Application for Employment;	
2. Ask all doctors who treated you to send us a copy of reports or notes describing the condition, testing, and treatment given.		b. Position description with physical requirements for last job held;	
		c. All available medical records, including report of pre-employment examination;	
		d. SF-50s or equivalent documents for changes in assignment/pay due to condition.	

3. Ask the doctor currently treating your condition to provide a detailed current medical report to include the following specifics:

- | | |
|--|--|
| <ul style="list-style-type: none"> a. Dates of examinations; b. Complete medical history of condition; c. Medical diagnosis of condition; d. Findings and test results, specifically including: results of Phalen's and Tinel's Sign tests: physical findings concerning sensation over palmar aspect of first three and one-half digits, and dorsal aspect of end joints of same digits, and any atrophy of the Thenar Eminence; results of nerve conduction velocity, and electromyographic testing; | <ul style="list-style-type: none"> e. Treatment to date and prognosis; f. Reasoned opinion explaining any causal relationship between the condition and your Federal civilian job. <p>It is MOST IMPORTANT that the doctor provide opinion as to the likely nature of the physical effects attributable to specified duties of your Federal job, and explain the medical reasoning which supports the opinion as to cause.</p> |
|--|--|

NOTICE TO EMPLOYEES FILING CLAIM FOR OCCUPATIONAL DISEASE

Diseases and illnesses which occur during or after Federal employment are not automatically covered by the Federal Employees' Compensation Act. You must provide factual and medical evidence to establish that conditions of employment caused or aggravated the disease or illness.

The Office of Workers' Compensation Programs (OWCP) understands that gathering the necessary evidence requires substantial effort. The attached checklist is designed to help you. Form CA-2 ("Federal Employees' Notice of Occupational Disease and Claim for Compensation"), your statements in response to the checklist, and a report from your treating physician should all be given to your agency Compensation Specialist at the same time. Please return the checklist with your statements. Check off each item as it is completed or let us know when we can expect the information. Your supervisor and the Compensation Specialist will compile the additional information required and forward a complete and organized package to OWCP. If your Agency has no Compensation Specialist or other person designated to forward information to OWCP, give the information directly to your supervisor.

Upon receipt of your claim, OWCP will create a case and assign it to a claims examiner for processing. You will receive a post card advising you of the case number. Use this number on all future correspondence about your claim.

If you are eligible for Civil Service retirement, you may apply for both retirement benefits from the Office of Personnel Management (OPM) and workers' compensation benefits from OWCP. However, in most cases, you cannot receive both benefits for the same period of time.

HINTS: Are your statements legible? Would your statements make sense to someone who has never done your job? Do your statements answer the questions? Are your statements complete and accurate? A NARRATIVE REPORT FROM YOUR PHYSICIAN IS REQUIRED. Reports on medical forms, such as Form CA-20, are rarely adequate in occupational disease cases.

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In addition to describing the evidence required from the employee, the checklists describe the information to be submitted by the employing agency. When Form CA-2 and the employee's statements are returned, you are required by instructions on the CA-2 to forward them to OWCP within ten working days. Statements and documents required from the agency should be submitted with the CA-2 whenever possible. Please use the checklist to note what information from the employing agency is enclosed, unavailable or pending. If pending, please give the anticipated mailing date. Agency comments, statements and documentation are essential for the examiner to get a well rounded picture of the employment conditions.

We appreciate your cooperation in this effort.

Claim for Medical Reimbursement

U.S Department of Labor
Office of Workers' Compensation Programs



Provide all information requested below. **DO NOT FILL IN SHADED AREAS.** Read the attached information in order to ensure the submission of all required documentation. Maintain a copy of all documentation for your records.

OMB No. 1240-0007

Expires: 12/31/2012

PERSONAL INFORMATION

Name <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> Last First M.I.			OWCP File Number <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/>		
Address <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> Street/P.O. Box/Apt No. <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/> City State Zip Code			Telephone Number <hr style="border: none; border-top: 1px solid black; margin: 5px 0;"/>		
			FOR DOL USE ONLY		

PROVIDER INFORMATION

Name of Doctor's Office, Hospital, Pharmacy or Medical Supply Company where expense was incurred. (A separate OWCP-915 must be filed for each provider)

Description of Charge (Medical appointment, name of prescription drug, description of medical product/ supply)	Date of Service (MM/DD/YYYY)		Amount Paid by Claimant	Have you included Proof of Payment for each item?	
	From	To		YES	NO
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

Total Reimbursement

I certify that the information above is correct and that the reimbursement requested is for expenses paid by me for the treatment of my covered condition. I am aware that any person who knowingly makes any false statement or misrepresentation to obtain reimbursement from OWCP is subject to civil penalties and/or criminal prosecution.

I authorize any provider named above to release information to the US Department of Labor, OWCP if necessary for the proper adjudication of this claim.

Signature _____ Date _____

INSTRUCTIONS FOR USE OF FORM OWCP-915

- This form is to be used to seek reimbursement for out of pocket medical expenses pertaining to the treatment of an accepted condition. Form OWCP-915 can be used to seek reimbursement for expenses in regard to medical treatment, prescription medication and medical supplies.
- Please submit a separate reimbursement claim for each provider where an out of pocket expense was incurred.
- Please print clearly and legibly. Reference your OWCP file number on all documentation. Maintain a copy of the completed OWCP-915 and supporting documentation for your records.

DOCUMENTATION REQUIRED FOR MEDICAL REIMBURSEMENT

Prescription Medication

1. Completed OWCP-915
2. A paper pharmacy billing form, which must be attached to the OWCP-915 and must include the following information:
 - a. Name, address and telephone number of pharmacy
 - b. Pharmacy provider number
 - c. Prescription number
 - d. Name of claimant
 - e. Date of purchase
 - f. Eleven Digit National Drug Code (NDC#)
 - g. New prescription or refill number
 - h. Quantity of medication (e.g. # of pills or ml/cc)
 - i. Amount paid by employee per medication
3. Proof of payment (can include cash receipt, cancelled check or credit card slip)

Medical Expense other than prescription medication

1. Completed OWCP-915
2. Physicians and other health care providers (i.e. physical therapists) must complete Form OWCP-1500. Hospitals and other facilities, such as ambulatory surgical centers, skilled nursing facilities, etc. must submit their bills on Form OWCP-04. Every form must be completed in its entirety in the same manner as bills submitted by the provider directly to OWCP. The amount paid by the claimant must be indicated. The OWCP-1500 or OWCP-04 must be attached to this form. It is the responsibility of the person submitting a claim for reimbursement to obtain a completed OWCP-1500 or OWCP-04 from the provider rendering service. *Without a fully completed OWCP-1500 or OWCP-04, the OWCP is not able to process a reimbursement.*
3. Proof of payment (can include cash receipt, cancelled check or credit card slip)

Travel

Do not use Form OWCP-915 to submit a claim for travel reimbursement. Claims for travel reimbursement should be submitted on Form OWCP-957.

Public Burden Statement

Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding the burden estimate or any other aspect to this collection of information, including suggestions for reducing this burden, send them to the Office of Workers' Compensation Programs, U.S. Department of Labor, Room S3524, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Do not submit the completed claim form to this address. Persons are not required to respond to this information collection unless it displays a currently valid OMB number.

PRIVACY ACT STATEMENT

The Privacy Act of 1974, as amended (5 U.S.C. 552a) authorizes OWCP to ask you for information needed in the administration of the FECA, Black Lung and EEOICPA programs. Authority to collect information is in 5 USC 8101 et seq., 30 USC 901 et seq., 38 USC 613, 42 USC 7384d, E.O. 9397 and E.O. 13179. The information we obtain with this form is used to identify you and to determine your eligibility for reimbursement. It is also used to decide if the services and supplies you received are covered by these programs and to ensure that proper payment is made. There are no penalties for failure to supply information; however, failure to furnish information regarding the medical service(s) received or the amount charged will prevent payment of the claim. The information may also be given to other providers of services, carriers, intermediaries, medical review boards, health plans, and other organizations or Federal agencies, for the effective administration of Federal provisions that require other third party payers to pay primary to Federal programs, and as otherwise necessary to administer these programs. For example, it may be necessary to disclose information about the benefits you have used to a hospital or doctor. Additional disclosures are made through routine uses for information contained in systems of records. See Department of Labor systems DOL/GOVT-1, DOL/ESA-6 and DOL/ESA-49 published in the Federal Register, Vol. 67, page 16816, Mon. April 8, 2002, or as updated and republished.

Medical Travel Refund Request

U.S. Department of Labor
Office of Workers' Compensation Programs



NOTE: This report is authorized by the Federal Employees' Compensation Act (5 USC 8103(a)), the Black Lung Benefits Act (30 USC 901; 20 CFR 725.406 and 725.701) and the Energy Employees Occupational Illness Compensation Program Act of 2000, (42 USC 7384 and 20 CFR 30.701). While you are not required to respond, this information is required to obtain reimbursement for travel expenses. The method of collecting information complies with the Freedom of Information Act, the Privacy Act of 1974 and OMB Circ. 108. This form should be used for medically related travel covered by the Federal Employees' Compensation Act, the Black Lung Benefits Act and the Energy Employees Occupational Illness Compensation Program Act of 2000.

OMB No. 1240-0037
Expires: 10/31/2013

1. Claimant's Name (Last, First, Mi.):

2. Case/Claim Number:

3. Payee's Name if different from claimant's name (last, first, mi.): (See instruction no. 3 on the back of form)

4. Claimant's/Payee's Address (Street/RFD, City, State, Zip Code):

Special Instructions: 1. See reverse side of form for complete instructions and attachment of receipts.
2. Physician's signature or facsimile is **REQUIRED** by **BLACK LUNG** for verification of each service date and type.

5a. Date of Travel: b. <input type="checkbox"/> One-way <input type="checkbox"/> Round Trip c. Travel From: <input type="checkbox"/> Hospital <input type="checkbox"/> Office/clinic <input type="checkbox"/> Lab <input type="checkbox"/> Home d. Travel To: <input type="checkbox"/> Hospital <input type="checkbox"/> Office/clinic <input type="checkbox"/> Lab <input type="checkbox"/> Home		f. Total expense/cost <input type="checkbox"/> Taxi \$ _____ <input type="checkbox"/> Bus/Train _____ <input type="checkbox"/> Tolls/Pkg _____ <input type="checkbox"/> Lodging _____ <input type="checkbox"/> Meals _____ <input type="checkbox"/> Other _____ (Specify) _____	DOL USE ONLY TOS/Procedure Code _____ \$ _____ _____ _____ _____ _____ _____ _____ Total \$ _____	FOR BLACK LUNG USE ONLY h. To be completed by Physician: (Mark one box only) Care Rendered <input type="checkbox"/> Treatment for Black Lung <input type="checkbox"/> Not Black Lung Related <input type="checkbox"/> Determine, Test for Black Lung Diagnosis _____ _____ (Signature of Physician) _____ (Date Care Rendered)
6a. Date of Travel: b. <input type="checkbox"/> One-way <input type="checkbox"/> Round Trip c. Travel From: <input type="checkbox"/> Hospital <input type="checkbox"/> Office/clinic <input type="checkbox"/> Lab <input type="checkbox"/> Home d. Travel To: <input type="checkbox"/> Hospital <input type="checkbox"/> Office/clinic <input type="checkbox"/> Lab <input type="checkbox"/> Home e. Medical Facility Name and Address _____		f. Total expense/cost <input type="checkbox"/> Taxi \$ _____ <input type="checkbox"/> Bus/Train _____ <input type="checkbox"/> Tolls/Pkg _____ <input type="checkbox"/> Lodging _____ <input type="checkbox"/> Meals _____ <input type="checkbox"/> Other _____ (Specify) _____	DOL USE ONLY TOS/Procedure Code _____ \$ _____ _____ _____ _____ _____ _____ _____ Total \$ _____	FOR BLACK LUNG USE ONLY h. To be completed by Physician: (Mark one box only) Care Rendered <input type="checkbox"/> Treatment for Black Lung <input type="checkbox"/> Not Black Lung Related <input type="checkbox"/> Determine, Test for Black Lung Diagnosis _____ _____ (Signature of Physician) _____ (Date Care Rendered)
7a. Date of Travel: b. <input type="checkbox"/> One-way <input type="checkbox"/> Round Trip c. Travel From: <input type="checkbox"/> Hospital <input type="checkbox"/> Office/clinic <input type="checkbox"/> Lab <input type="checkbox"/> Home d. Travel To: <input type="checkbox"/> Hospital <input type="checkbox"/> Office/clinic <input type="checkbox"/> Lab <input type="checkbox"/> Home e. Medical Facility Name and Address _____		f. Total expense/cost <input type="checkbox"/> Taxi \$ _____ <input type="checkbox"/> Bus/Train _____ <input type="checkbox"/> Tolls/Pkg _____ <input type="checkbox"/> Lodging _____ <input type="checkbox"/> Meals _____ <input type="checkbox"/> Other _____ (Specify) _____	DOL USE ONLY TOS/Procedure Code _____ \$ _____ _____ _____ _____ _____ _____ _____ Total \$ _____	FOR BLACK LUNG USE ONLY h. To be completed by Physician: (Mark one box only) Care Rendered <input type="checkbox"/> Treatment for Black Lung <input type="checkbox"/> Not Black Lung Related <input type="checkbox"/> Determine, Test for Black Lung Diagnosis _____ _____ (Signature of Physician) _____ (Date Care Rendered)

8. **Payee's Certification:** I hereby certify that the information given by me on and in connection with this form is true and correct to the best of my knowledge and belief. I am aware that any person who knowingly makes any false statement or misrepresentation to obtain reimbursement from OWCP is subject to civil penalties and/or criminal prosecution.

Claimant's/Payee's Signature: _____

Date: _____

Instructions (Form OWCP-957)

1. Enter claimant's full name: last name, first name, middle initial.
2. Enter claimant's claim/case file number.
3. Enter payee's full name (if person other than the claimant is to be reimbursed): last name, first name, middle initial. A payee other than the claimant must have special authorization.

Please explain the following:

a. Relationship to the claimant _____

b. The reason you are requesting reimbursement

4. Enter the address of the person to be reimbursed. The address is to include:
Street/RFD, City, State, Zip Code

5, 6, and 7. Complete a separate block for each medical facility visited on the same day. For travel on different days, complete one block for each date.

a. Enter date of travel.

b. Mark one box only.

c. Mark one box only.

d. Mark one box only.

e. Enter the name and address of the medical facility.

f. Mark each box for which you are claiming reimbursement and list the amount of money spent for each item.

g. Enter the total number of miles traveled by private automobile.

h. The physician or designee is to complete this item (for Black Lung use only).

8. The person claiming reimbursement must sign here.

Attach all original receipts for expenses listed in 5f, 6f, and 7f. The claimant's full name and Social Security Number should appear on each receipt.

FOR BLACK LUNG USE ONLY

- Note:**
- Only travel expenses for the miner are reimbursable
 - Special approval from the district office is needed for lodging or for travel exceeding 75 miles one way or 150 miles roundtrip.
 - To obtain your district office telephone number, call toll free 1-800-638-7072.
 - Reimbursement for meals will be made only when authorized travel exceeds 24 hours or under special circumstances.
 - Travel to pick up medicine, equipment or supplies is not reimbursable.

FOR ENERGY EMPLOYEES ONLY

Note: Special approval from the district office is needed for overnight or air travel, or for travel exceeding 100 miles one way or 200 miles roundtrip. To obtain your district office telephone number, call toll free 1-866-272-2682.

Public Burden Statement

We estimate that it will take an average of 10 minutes to complete this collection of information, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the U.S. Department of Labor, Office of Workers' Compensation, Room S3524, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

DO NOT SEND THE COMPLETED FORM TO THIS OFFICE

NOTE: Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number.

1500

HEALTH INSURANCE CLAIM FORM

APPROVED BY NATIONAL UNIFORM CLAIM COMMITTEE 08/05

CARRIER

PICA							PICA				
1. MEDICARE (Medicare #)	MEDICAID (Medicaid #)	TRICARE CHAMPUS (Sponsor's SSN)	CHAMPVA (Medicaid #)	GROUP HEALTH PLAN (SSN or ID)	FECA BLK LUNG (SSN)	OTHER (ID)	1a. INSURED'S I.D. NUMBER (FOR PROGRAM IN ITEM 1)				
2. PATIENT'S NAME (Last Name, First Name, Middle Initial)				3. PATIENT'S BIRTH DATE MM DD YY		SEX M F	4. INSURED'S NAME (Last Name, First Name, Middle Initial)				
5. PATIENT'S ADDRESS (No., Street)				6. PATIENT RELATIONSHIP TO INSURED Self Spouse Child Other		7. INSURED'S ADDRESS (No., Street)					
CITY		STATE		8. PATIENT STATUS Single Married Other			CITY		STATE		
ZIP CODE		TELEPHONE (Include Area Code)		Employed	Full-Time Student	Part-Time Student	ZIP CODE		TELEPHONE (Include Area Code)		
9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)				10. IS PATIENT'S CONDITION RELATED TO:			11. INSURED'S POLICY GROUP OR FECA NUMBER				
a. OTHER INSURED'S POLICY OR GROUP NUMBER				a. EMPLOYMENT? (CURRENT OR PREVIOUS) YES NO			a. INSURED'S DATE OF BIRTH MM DD YY				
b. OTHER INSURED'S DATE OF BIRTH MM DD YY				b. AUTO ACCIDENT? YES NO			SEX M F				
c. EMPLOYER'S NAME OR SCHOOL NAME				c. OTHER ACCIDENT? YES NO			b. EMPLOYER'S NAME OR SCHOOL NAME				
d. INSURANCE PLAN NAME OR PROGRAM NAME				10d. RESERVED FOR LOCAL USE			c. INSURANCE PLAN NAME OR PROGRAM NAME				
READ BACK OF FORM BEFORE COMPLETING & SIGNING THIS FORM.							d. IS THERE ANOTHER HEALTH BENEFIT PLAN? YES NO If yes, return to and complete item 9 a-d.				
12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.							13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.				
SIGNED _____ DATE _____							SIGNED _____				
14. DATE OF CURRENT: ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY(LMP) MM DD YY			15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS. GIVE FIRST DATE MM DD YY			16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY					
17. NAME OF REFERRING PROVIDER OR OTHER SOURCE			17a. _____	17b. NPI _____	18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY						
19. RESERVED FOR LOCAL USE							20. OUTSIDE LAB? \$ CHARGES YES NO				
21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY. (RELATE ITEMS 1,2,3 OR 4 TO ITEM 24E BY LINE)							22. MEDICAID RESUBMISSION CODE ORIGINAL REF. NO.				
1. _____ 3. _____							23. PRIOR AUTHORIZATION NUMBER				
2. _____ 4. _____											
24. A. DATE(S) OF SERVICE From MM DD YY To MM DD YY		B. Place of Service	C. EMG	D. PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances) CPT/HCPCS MODIFIER		E. DIAGNOSIS POINTER	F. \$ CHARGES	G. DAYS OR UNITS	H. EPSDT Family Plan	I. ID QUAL.	J. RENDERING PROVIDER ID. #
1									NPI		
2									NPI		
3									NPI		
4									NPI		
5									NPI		
6									NPI		
25. FEDERAL TAX I.D. NUMBER SSN EIN			26. PATIENT'S ACCOUNT NO.		27. ACCEPT ASSIGNMENT? (For govt. claims see back) YES NO		28. TOTAL CHARGE \$	29. AMOUNT PAID \$	30. BALANCE DUE \$		
31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse apply to this bill and are made a part thereof.)				32. SERVICE FACILITY LOCATION INFORMATION				33. BILLING PROVIDER INFO & PH # ()			
SIGNED _____ DATE _____				a. _____ b. _____				a. _____ b. _____			

PATIENT AND INSURED INFORMATION

PHYSICIAN OR SUPPLIER INFORMATION

Instructions for Completing OWCP-1500 Health Insurance Claim Form For Medical Services Provided Under the FEDERAL EMPLOYEES' COMPENSATION ACT (FECA), the BLACK LUNG BENEFITS ACT (BLBA), and the ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT of 2000 (EEOICPA)

GENERAL INFORMATION-FECA AND EEOICPA CLAIMANTS: Claims filed under FECA (5 USC 8101 et seq.) are for employment-related illness or injury. Claims filed under EEOICPA (42 USC 7384 et seq.) are for compensable illnesses defined under that Act. All services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to give relief, reduce the degree or period of the disability or illness, or aid in lessening the amount of the monthly compensation, may be furnished. "Physician" includes all Doctors of Medicine (M.D.), podiatrists, dentists, clinical psychologists, optometrists, chiropractors, or osteopathic practitioners within the scope of their practice as defined by State law. However, the term "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist.

FEES: The Department of Labor's Office of Workers' Compensation Programs (OWCP) is responsible for payment of all reasonable charges stemming from covered medical services provided to claimants eligible under FECA and EEOICPA. OWCP uses a relative value scale fee schedule and other tests to determine reasonableness. Schedule limitations are applied through an automated billing system that is based on the identification of procedures as defined in the AMA's Current Procedural Terminology (CPT); correct CPT code and modifier(s) is required. Incorrect coding will result in inappropriate payment. For specific information about schedule limits, call the Dept. of Labor's Federal Employees' Compensation office or Energy Employees Occupational Illness Compensation office that services your area.

REPORTS: A medical report that indicates the dates of treatment, diagnosis(es), findings, and type of treatment offered is required for services provided by a physician (as defined above). For FECA claimants, the initial medical report should explain the relationship of the injury or illness to the employment. Test results and x-ray findings should accompany billings.

GENERAL INFORMATION-BLBA CLAIMANTS: The BLBA (30 USC 901 et seq.) provides medical services to eligible beneficiaries for diagnostic and therapeutic services for black lung disease as defined under the BLBA. For specific information about reimbursable services, call the Department of Labor's Black Lung office that services your facility or call the National Office in Washington, D.C.

SIGNATURE OF PHYSICIAN OR SUPPLIER: Your signature in Item 31 indicates your agreement to accept the charge determination of OWCP on covered services as payment in full, and indicates your agreement not to seek reimbursement from the patient of any amounts not paid by OWCP for covered services as the result of the application of its fee schedule or related tests for reasonableness (appeals are allowed). Your signature in Item 31 also indicates that the services shown on this form were medically indicated and necessary for the health of the patient and were personally furnished by you or were furnished incident to your professional services by your employee under your immediate personal supervision, except as otherwise expressly permitted by FECA, Black Lung or EEOICPA regulations. For services to be considered as "incident" to a physician's professional service, 1) they must be rendered under the physician's immediate personal supervision by his/her employee, 2) they must be an integral, although incidental, part of a covered physician's service, 3) they must be of kinds commonly furnished in physician's offices, and 4) the services of non-physicians must be included on the bills. Finally, your signature indicates that you understand that any false claims, statements or documents, or concealment of a material act, may be prosecuted under applicable Federal or State laws.

For Black Lung claims, by signing your name in Item 31, you further certify that the services performed were for a Black Lung-related disorder.

**NOTICE TO PATIENT ABOUT THE COLLECTION AND USE OF FECA, BLACK LUNG AND EEOICPA INFORMATION
(PRIVACY ACT STATEMENT)**

We are authorized by OWCP to ask you for information needed in the administration of the FECA, Black Lung and EEOICPA programs. Authority to collect information is in 5 USC 8101 et seq.; 30 USC 901 et seq.; 38 USC 613; E.O. 9397; and 42 USC 7384d, 20 CFR 30.11 and E.O. 13179. The information we obtain to complete claims under these programs is used to identify you and to determine your eligibility. It is also used to decide if the services and supplies you received are covered by these programs and to insure that proper payment is made. There are no penalties for failure to supply information; however, failure to furnish information regarding the medical service(s) received or the amount charged will prevent payment of the claim. Failure to supply the claim number or CPT codes will delay payment or may result in rejection of the claim because of incomplete information.

The information may also be given to other providers of services, carriers, intermediaries, medical review boards, health plans, and other organizations or Federal agencies, for the effective administration of Federal provisions that require other third party payers to pay primary to Federal programs, and as otherwise necessary to administer these programs. For example, it may be necessary to disclose information about the benefits you have used to a hospital or doctor. Additional disclosures are made through routine uses for information contained in systems of records. See Department of Labor systems DOL/GOVT-1, DOL/ESA-5, DOL/ESA-6, DOL/ESA-29, DOL/ESA-30, DOL/ESA-43, DOL/ESA-44, DOL/ESA-49 and DOL/ESA-50 published in the Federal Register, Vol. 67, page 16816, Mon. April 8, 2002, or as updated and republished.

You should be aware that P.L. 100-503, the "Computer Matching and Privacy Protection Act of 1988," permits the government to verify information by way of computer matches.

FORM SUBMISSION

FECA: Send all forms for FECA to the DFEC Central Mailroom, P.O. Box 8300, London, KY 40742-8300, unless otherwise instructed.

BLBA: Send all forms for BLBA to the Federal Black Lung Program, P.O. Box 8302, London, KY 40742-8302, unless otherwise instructed.

EEOICPA: Send all forms for EEOICPA to the Energy Employees Occupational Illness Compensation Program, P.O. Box 8304, London, KY 40742-8304, unless otherwise instructed.

INSTRUCTIONS FOR COMPLETING THE FORM: A brief description of each data element and its applicability to requirements under FECA, BLBA and EEOICPA are listed below. For further information contact OWCP.

- Item 1. Leave blank.
- Item 1a. Enter the patient's claim number.
- Item 2. Enter the patient's last name, first name, middle initial.
- Item 3. Enter the patient's date of birth (MM/DD/YY) and check appropriate box for patient's sex.
- Item 4. For FECA: leave blank. For BLBA and EEOICPA: complete only if patient is deceased and this medical cost was paid by a survivor or estate. Enter the name of the party to whom medical payment is due.
- Item 5. Enter the patient's address (street address, city, state, ZIP code; telephone number is optional).
- Item 6. Leave blank.
- Item 7. For FECA: leave blank. For BLBA and EEOICPA: complete if Item 4 was completed. Enter the address of the party to be paid.
- Item 8. Leave blank.
- Item 9. Leave blank.
- Item 10. Leave blank.
- Item 11. For FECA: enter patient's claim number. OMISSION WILL RESULT IN DELAYED BILL PROCESSING. For BLBA and EEOICPA: leave blank.

- Item 11a. Leave blank.
 Item 11b. Leave blank.
 Item 11c. Leave blank.
 Item 11d. Leave blank.
 Item 12. The signature of the patient or authorized representative authorizes release of the medical information necessary to process the claim, and requests payment. Signature is required; mark (X) must be co-signed by witness and relationship to patient indicated.
 Item 13. Signature indicates authorization for payment of benefits directly to the provider. Acceptance of this assignment is considered to be a contractual arrangement. The "authorizing person" may be the beneficiary (patient) eligible under the program billed, a person with a power of attorney, or a statement that the beneficiary's signature is on file with the billing provider.
 Item 14. Leave blank.
 Item 15. Leave blank.
 Item 16. Leave blank.
 Item 17. Leave blank.
 Item 18. Leave blank.
 Item 19. Leave blank.
 Item 20. Leave blank.
 Item 21. Enter the diagnosis(es) of the condition(s) being treated using current ICD codes. Enter codes in priority order (primary, secondary condition). Coding structure must follow the International Classification of Disease, 9th Edition, Clinical Modification or the latest revision published. A brief narrative may also be entered but not substituted for the ICD code.
 Item 22. Leave blank.
 Item 23. Leave blank.
 Item 24. Column A: enter month, day and year (MM/DD/YY) for each service/consultation provided. If the "from" and "to" dates represent a series of identical services, enter the number of services provided in Column G.
 Column B: enter the correct CMS/OWCP standard "place of service" (POS) code (see below).
 Column C: not required.
 Column D: enter the proper five-digit CPT (current edition) code and modifier(s), the HCPCS, or the OWCP generic procedure code.
 Column E: enter the diagnostic reference number (1, 2, 3 or 4 in Item 21) to relate the date of service and the procedure(s) performed to the appropriate ICD code, or enter the appropriate ICD code.
 Column F: enter the total charge(s) for each listed service(s).
 Column G: enter the number of services/units provided for period listed in Column A. Anesthesiologists enter time in total minutes, not units.
 Column H: leave blank.
 Column I: leave blank.
 Column J: leave blank.
 Item 25: Enter the Federal tax I.D.
 Item 26: Provider may enter a patient account number that will appear on the remittance voucher.
 Item 27: Leave blank.
 Item 28: Enter the total charge for the listed services in Column F.
 Item 29: If any payment has been made, enter that amount here.
 Item 30: Enter the balance now due.
 Item 31: For BLBA and EEOICPA: sign and date the form. For FECA: signature stamp or "signature on file" is acceptable.
 Item 32: Enter complete name of hospital, facility or physician's office where services were rendered.
 Item 32a. Enter NPI.
 Item 32b. Enter taxonomy number.
 Item 33: Enter (1) the name and address to which payment is to be made, and (2) your DOL provider number after "PIN #" if you are an individual provider, or after "GRP #" if you are a group provider. FAILURE TO ENTER THIS NUMBER WILL DELAY PAYMENT OR CAUSE A REJECTION OF THE BILL FOR INCOMPLETE/INACCURATE INFORMATION.
 Item 33a. Enter NPI.
 Item 33b. Enter taxonomy number.

Place of Service (POS) Codes for Item 24B

3	School	34	Hospice
4	Homeless Shelter	41	Ambulance - Land
5	Indian Health Service Free-Standing Facility	42	Ambulance - Air or Water
6	Indian Health Service Provider-Based Facility	50	Federally Qualified Health Center
7	Tribal 638 Free-Standing Facility	51	Inpatient Psychiatric Facility
8	Tribal 638 Provider-Based Facility	52	Psychiatric Facility Partial Hospitalization
11	Office	53	Community Mental Health Center (CMHC)
12	Patient Home	54	Intermediate Care Facility/Mentally Retarded
15	Mobile Unit	55	Residential Substance Abuse Treatment Facility
20	Urgent Care	56	Psychiatric Residential Treatment Center
21	Inpatient Hospital	60	Mass Immunization Center
22	Outpatient Hospital	61	Comprehensive Inpatient Rehabilitation Facility
23	Emergency Room - Hospital	62	Comprehensive Outpatient Rehabilitation Facility
24	Ambulatory Surgical Center	65	End Stage Renal Disease Treatment Facility
25	Birthing Center	71	State or Local Public Health Clinic
26	Military Treatment Facility	72	Rural Health Clinic
31	Skilled Nursing Facility	81	Independent Laboratory
32	Nursing Facility	99	Other Place of Service
33	Custodial Care Facility		

Public Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1240-0044. We estimate that it will take an average of seven minutes to complete this collection of information, including time for reviewing instructions, abstracting information from the patient's records and entering the data onto the form. This time is based on familiarity with standardized coding structures and prior use of this common form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Workers' Compensation Programs, Department of Labor, Room S3522, 200 Constitution Avenue NW, Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1240-0044), Washington, DC 20503. **DO NOT SEND THE COMPLETED FORM TO EITHER OF THESE OFFICES.**

APPENDICIES: RESOURCE INFORMATION

Appendix A: OWCP Incident Questionnaire

Appendix B: Online Resources

Appendix C: Communication Tips

Appendix D: Glossary of Key Terms

Appendix E: Sample OWCP Correspondence

Appendix F: Penalties for OWCP Claims Violations

Appendix G: OWCP Handout: Injury and Illness

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)	-Pulmonary Illness-not Asbestosis (CA-35f)
-Asbestos-Related Illness (CA-35c)	-Psychiatric Illness (CA-35g)
-Coronary/Vascular Condition (CA-35d)	-Carpal Tunnel Syndrome (CA-35h)
-Skin Disease (CA-35e)	

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

<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 (PD) 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.	Inform the doctor that he/she needs to include the following elements in his/her medical report: <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.

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)	The 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.
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 and support provided by or under the supervision of a physician.
Medical Support 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.

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.

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 Development Letter

Sample E-2 Letter of Denial

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,

Workers Compensation Assistant

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.

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,

Name
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

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 <u>within a single day or work shift.</u>	CA-1 Notice of Traumatic Injury and Claim for Continuation of Pay <i>(Employee/Supervisor/OWCP)</i> <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.
			CA-16 Request for Examination and/or Treatment. <i>(Supervisor/Physician)</i> <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.
			CA-7 Claim for Compensation <i>(Employee/Supervisor/OWCP)</i> <p>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.

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 <u>exposure or activities for longer than a single workday or shift.</u>	CA-2 Federal Employee's Notice of Occupational Disease and Claim for Compensation <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. Use form CA-35 (a-h) to document occupational disease.	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. <u>Upon approval of CA-2, Form OWCP-1500a</u> or a standard billing form such as HFCA 1500 is used to request reimbursement. Mileage reimbursement is requested on OWCP Form 957 .
			CA-7 Claim for Compensation (Employee/Supervisor/OWCP) To be approved, the CA-7 must also include the CA-20 Attending Physician Report .	An approved CA-7 will cover the employee's financial compensation for time lost from work or for a scheduled award.
Occurrence	Definition	Timeline	Claim Forms	Benefit
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.	Form CA-2a Notice of Recurrence Employee should file CA-2a within 30 calendar days of employee awareness of a possible connection between the recurring condition and the job.	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.
			CA-7 Claim for Compensation (Employee/Supervisor/OWCP) To be approved, the CA-7 must also include the CA-20 Attending Physician Report .	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

80 F Street, N.W.

Washington, DC 20001

www.afge.org