

ARTICLE 12810

FEDERAL EMPLOYEES INJURY COMPENSATION PROGRAM

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## SUBARTICLE 1. GENERAL PROVISIONS

Authority. The authorities for this program are found in:

- a. Federal Employees' Compensation Act (FECA)
- b. Injury Compensation for Federal Employees Handbook CA-810
- c. 5 CFR 330
- d. 5 CFR 339
- e. 5 CFR 353
- f. OPNAVINST 12810.1

1-2. Purpose. To provide guidance and information concerning the Injury Compensation Program under the Federal Employees Compensation Act (FECA), as amended, and to assign responsibilities and establish procedures to insure compliance with the Act.

### 1-3. Background

a. The FECA, as amended, provides compensation and medical care benefits to civilian employees for disability due to personal injuries sustained in the performance of duty, and for illnesses and diseases caused by conditions of employment. Payment of funeral and burial expenses and compensation for dependents are also provided if the injuries or diseases cause the employee's death.

b. Benefits provided by the FECA constitute the exclusive remedy against the United States Government for work-related injuries or deaths.

c. The Director, Human Resources Office (HRO), Pensacola, is responsible for the overall administration of the FECA at activities serviced by HRO. The responsibility is further delegated to the Head, Employee Services Division, who is designated as the Injury Compensation Program Administrator (ICPA) for all serviced civilian employees in matters relating to injury compensation.

### 1-4. Penalties

a. Any person who makes any false statement, concealment of fact, misrepresentation, or any other act of fraud with respect to a claim under the FECA, or who knowingly accepts compensation to which there is no entitlement, is subject to criminal prosecution and may be punished by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

b. Any person charged with the responsibility of making reports in connection with an injury who willfully fails, neglects or refuses to do so; knowingly files a false report; induces, compels, or directs an injured employee to forego filing a claim; or willfully retains any notice, report, or paper required in connection with an injury, is subject to a fine of not more than \$500 or imprisonment for not more than 1 year, or both.

## 1-5. Basic Definitions

a. Office of Workers' Compensation Programs (OWCP). Responsibility for administration of FECA is delegated through the Assistant Secretary for Employment Standards in the Department of Labor to the Director of the Office of Workers' Compensation Programs with headquarters in Washington, DC. An OWCP district office has adjudication authority for compensation claims. Local implementation and administration of the compensation program has been delegated to the servicing HRO.

b. Traumatic Injury. A wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable by time and place of occurrence and member of the body affected; it must be caused by a specific event or incident or series of incidents within a single day or work shift. Traumatic injuries also include damage or destruction to prosthetic devices or appliances, including eyeglasses and hearing aids if they were damaged incidental to a personal injury requiring medical services.

c. Occupational Illness/Disease. A condition produced in the work environment over a period longer than one work day or shift. It may result from systemic infection, repeated stress or strain, exposure to toxins, poisons, or fumes, or other continuing conditions of the work environment over a longer period of time than a single day or work shift.

d. First Aid Injury. An injury which requires one or more visits to a medical facility for examination or treatment during working hours beyond the date of injury, as long as no leave or Continuation of Pay (COP) is charged to the employee and no medical expense is incurred. Also, an injury which requires two or more visits to a medical facility for examination or treatment during nonduty hours beyond the date of injury, as long as no leave or COP is charged to employee and no medical expense is incurred.

e. Recurrence. The reappearance of the symptoms/pains of a previously reported or accepted injury, either traumatic or occupational. The recurrence must not have been caused by a specific act or series of acts; it must have been caused only by the reappearance of the original symptoms for no identifiable cause. A recurrence must involve a new period of disability after returning to work from an earlier period of disability or an initial period of disability if the employee continued to work following the original injury or when medical care results in a monetary charge.

f. Controversion. Management is disputing/challenging an injury compensation claim for which credible evidence is available indicating that an element of the claim is not deserving of a specific benefit. Identification and controversion of every claim or element of a claim, which is not deserving of the benefits available through the injury compensation program, should be made. How are fraudulent claims identified? Supervisors involved in the acceptance of a claim must always be aware of what is being said and what is being written regarding the injury. There can be a significant difference between what the employee verbally states and what the employee writes on the claim form. Therefore, careful attention should be made to the spoken word and compared to the written word. If a fraudulent claim or a claim for which certain benefits should be denied is identified, the available evidence should be documented. If there are reasonable

suspicions but no real evidence, the Workers' Compensation Office should be contacted with that information for assistance in making a determination. In all controversion cases, it is important to discuss findings or suspicions with the Compensation Specialist as he/she may have information which could support/dispel suspicions.

g. Physicians. In accordance with the FECA, and for the purpose of identifying authorized physician from whom medical reports will be accepted as competent medical evidence, i.e., to certify a period of total disability, the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. 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, and subject to regulation by the Secretary of Labor. Once a duly qualified physician has been selected, change of physician is only possible if referred by the attending physician or if a written request is made to OWCP and granted.

h. Limited Duty. Limited Duty is work assignments provided to a partially disabled employee within the physical or mental limitations identified by a qualified, treating physician. Accommodation at a lower grade assigned to a position description may be charged to COP if the partially disabled employee is formally assigned to a position description with a SF-52.

#### 1-6. Basic Benefits

a. Medical Care. An employee suffering an injury, illness or disease which is job-related is entitled to first aid and medical care, including necessary hospital care. The medical care is to be provided by a qualified local private physician or hospital of the employee's choice or by an on-base medical facility.

b. Medical Examinations. An employee may be referred to an appropriate medical facility for emergency treatment and for monitoring of treatment by a private physician incident to an OWCP claim. Additionally, an employee receiving compensation or assigned to limited duties as a result of an on-the-job injury may be required to report for medical evaluation when the activity has identified an assignment or position which it believes the employee can perform that is within prescribed medical limitations.

c. Continuation of Pay (COP) - Traumatic Injury Only. An employee who is unable to work as a result of the disabling effects of the work-related traumatic injury is entitled to continuation of regular pay without charge to annual or sick leave for a period not to exceed 45 calendar days beginning the first full day of disability after the date of the injury. To receive COP, the claimant must be seen by a duly qualified physician and the physician must certify that the employee is totally disabled for work due to the effects of the injury. Each and every day of COP must be certified by the physician. Entitlement to any balance of the 45 calendar days remaining upon return to work is subject to a time limitation of 90 days after first return to work. If an employee is absent from work due to traumatic injury for only part of a day, that absence counts as one full day for the purpose of computing the 45 calendar days.

d. Compensation. Compensation is payable after the 45 days of COP are exhausted or the 90-day timeframe is exceeded in traumatic injury claims and from the beginning of pay loss in occupational illness/disease claims which have been accepted by OWCP. Compensation begins when the pay loss exceeds 14 days; otherwise, compensation begins on the fourth day after pay stops. Compensation may not be paid while an injured employee receives pay for leave. The employee has the right to elect whether to receive pay for leave or be placed in a leave without pay status and receive compensation from OWCP. The rate of compensation is  $66\frac{2}{3}$  regular pay for an employee without dependents and 75 percent when there are one or more dependents. The only deductions are for health benefits and optional life insurance.

(1) An employee may elect to take sick or annual leave rather than COP due to an on-the-job injury; however, it is still considered a lost time injury for reporting purposes.

(2) An employee who is eligible for compensation may instead elect to take sick leave or annual leave to avoid interruption of his pay. After adjudication of his claim, he may receive retroactive compensation to be applied toward buying his used leave back from the activity.

(3) An employee may be granted LWOP while in receipt of compensation. A recovered employee must be restored immediately and unconditionally to the position left, or an equivalent one, when the employee recovers within 1 year of the date of initial receipt of compensation. An employee who takes longer than 1 year to recover after beginning receipt of compensation is entitled to priority placement consideration to the position left or an equivalent one. Agencies must make every effort to restore a partially recovered employee who is able to resume limited duty within 1 year of the date of initial receipt of compensation.

f. Scheduled Award. An employee who has suffered the permanent loss, or loss of use of certain members or functions of the body is entitled to compensation for that loss regardless of whether or not he loses time from work, but he cannot receive compensation for loss of use of a member or function and for lost wages at the same time. He may receive compensation for loss of wages after the scheduled award expires.

g. Leave Buy Back. If the employee elects to take sick or annual leave to avoid possible interruption of income and the claim for compensation is subsequently approved, the employee may arrange with the employing agency to buy back the used leave and have it reinstated to the appropriate leave account. The compensation entitlement would pay a part of the "buy back" cost and the employee would have to pay the balance. The amount the employee will be required to pay will depend on several factors such as the length of the period of disability and the amount of Federal Income Tax which was withheld from leave pay.

h. Loss of Wage Earning Capacity (LWEC). An injured employee may receive compensation based on a loss of wage earning capacity when unable to return to usual employment because of partial disability as a result of the injury. The compensation will be paid as long as there is a loss of wage earnings. In cases of permanent total disability, an injured employee is entitled to compensation until death unless the employee is medically or vocationally rehabilitated.

i. Death Benefits

(1) A sum, not to exceed \$800, may be paid for funeral and burial expenses.

(2) When there are no children entitled to compensation, the employee's widow or widower may receive compensation equal to 50 percent of the employee's pay until death or remarriage before age 60. When there is a child entitled to compensation, the compensation for the widow or widower will equal 45 percent of the employee's pay. The maximum compensation per family is 75 percent of the employee's pay. A child is entitled to compensation until he or she dies, marries, reaches 18 years of age (unless incapable of self-support), or if a full-time student who has not completed 4 years of education beyond the high school level, reaches the age of 23.

1-7. Continuation of Pay Rules. The following rules apply when granting continuation of pay:

a. Only when medical evidence indicates that an employee is disabled for work as a result of work-related traumatic injury.

b. On the basis of information submitted by the employee or obtained by investigation and in coordination with the Workers' Compensation Office, COP can only be terminated when:

(1) The disability is a result of an occupational disease or illness.

(2) The injury occurred off the employing agency's premises and the employee was not involved in official off-premise duties.

(3) The injury was caused by the employee's willful misconduct.

(4) The employee intended to bring about the injury or death of himself or another employee.

(5) The employee's intoxication was the proximate cause of the injury.

(6) The injury was not reported on CA-1 within 30 days following the injury.

(7) Work stoppage first occurred 90 days or more following the injury.

(8) The employee initially reports the injury after employment has terminated.

(9) The employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, Youth Conservation Corps, Work Study Programs, or other similar groups.

(10) If the occurrence of an injury is doubtful or the employee has not seen a doctor and there is no medical evidence of injury as alleged.

(11) If an employee refuses a suitable job offer which is subsequently determined to be suitable by OWCP.

(12) Upon the expiration of 10 workdays after the employee claims COP, if the agency has not received prima facie medical evidence of injury-related disability.

(13) The agency receives medical information from the attending physician stating that the employee is no longer disabled for regular work.

(14) Notice to terminate is received from OWCP.

(15) Expiration of 45 calendar days.

c. If a claim for COP is denied by OWCP subsequent to receipt of regular pay, the payments shall, at the option of the employee, be charged to sick or annual leave, leave without pay or shall be deemed an overpayment within the meaning of 5 U.S.C. 5584.

1-8. Dual Benefits. As a general rule a person may not concurrently receive compensation from OWCP and a retirement or survivor annuity from the Office of Personnel Management. Such person may elect to receive the more advantageous benefits.

1-9. Permanent Record. All original CA-1 and CA-2 forms should be submitted to the Workers' Compensation Office unless the injury does not result in lost time, a charge for medical expenses, or meet the definition of First Aid Injury, then the original form should be forwarded for inclusion in the Employee's Medical Folder (EMF), and a copy submitted to the Workers' Compensation Office, HRO.

## SUBARTICLE 2. PROCEDURES

### 2-1. Responsibilities

a. HRO. The Workers' Compensation Office, HRO, is responsible for:

(1) Providing claim forms and other appropriate paperwork to employee.

(2) Initiating all CA-16s authorizing immediate appropriate medical care, as prescribed by CA-810.

(3) Determining entitlement to and maintaining an accurate account of COP used.

(4) Providing advice and counseling to all concerned and appropriate parties.

(5) Initiating appropriate action as Designated Official on prescribed forms.

(6) Requesting a status update from the attending physician of any employee off work due to an on-the-job injury or occupational illness.

(7) Coordinating placement when notified by treating physician that the employee may return to work within certain limitations.

(8) Coordinating required actions when employee has been in a LWOP status 80 hours or more.

(9) Ensuring the timely and proper compilation, preparation and submission of forms to OWCP.

b. Supervisors. The immediate supervisor of an injured employee is responsible for:

(1) Traumatic Injury. Upon receiving notice that an employee has sustained a job-related traumatic injury, the supervisor will:

(a) Send the employee directly to the base dispensary, if available, with a Dispensary Permit for treatment and/or administrative purposes. After going to the base dispensary, if the employee elects treatment by a private physician or hospital, send employee to the Workers' Compensation Office, HRO. (This is for nonemergency cases only. If an emergency, take directly to physician or hospital of choice.)

(b) Provide the employee with the form CA-1 and a Statement of Understanding. Upon receipt of the completed forms, return the "Receipt of Notice of Injury" to the employee.

(c) Advise the employee of the option to elect sick leave, annual leave, or COP if the traumatic injury is disabling and ensure that the form is appropriately marked and signed.

(d) If applicable, provide written justification to the Workers' Compensation Office in support of controversy.

(e) Ensure the original form CA-1 is sent immediately and directly to the Workers' Compensation Office. Send a copy of the CA-1 to the cognizant Safety Office.

(f) Provide the Workers' Compensation Office with a copy of the employee's OPM-Form 71 covering periods of leave taken due to the employee's disability. **(R)**

(g) Initiate SF-52 for those employees who elect to be placed in a LWOP status and choose to file for compensation benefits under the FECA and also when they return to work after a period of LWOP exceeding 80 hours.

(h) When an employee returns from a disabling injury, ensure that the employee receives clearance from the physician and the Workers' Compensation Office.

(2) Nontraumatic Injury (Occupational Illness/Disease). Upon receiving notice that an employee has sustained an occupational illness/disease, the supervisor will:

(a) Refer the employee to the Workers' Compensation Office to obtain appropriate counselling and paperwork (CA-2).

(b) Submit the report of any investigation made and any other statements or data which may properly relate the circumstances of the injury.

(c) Ensure proper routing of form CA-2 and all other reports through necessary departments to the Workers' Compensation Office.

c. Employee

(1) Traumatic Injury. When a traumatic injury is sustained in the performance of duty, the following information outlines the specific responsibilities of the employee:

(a) Report immediately to supervisor no matter how minor the injury may seem.

(b) Submit a written report on form CA-1 to immediate supervisor as soon as possible after the injury but within 30 days at the latest.

(c) Read and sign the Statement of Understanding when the CA-1 is completed.

(d) Elect on form CA-1 receipt of COP or sick/annual leave for the period of disability. Additionally, complete a leave slip, OPM-71, according to the guidelines (R) set forth in employee's command instruction.

(e) Report first to the base dispensary, if available, for administrative purposes and/or treatment. An injured employee has a choice of a qualified physician but should first report to the base dispensary.

(f) If treated/examined on two or more occasions at a medical facility during nonduty hours beyond the date of injury and no leave or COP is charged and no medical expenses are incurred, advise the supervisor. This is necessary in order to document a "First Aid Injury."

(g) Provide a telephone number where contact can be made by the Workers' Compensation Office and/or supervisor.

(h) Advise the treating physician that limited duty is available and inquire as to the earliest date of return to limited or full duty. Keep supervisor informed of status.

(i) Do not perform any activity that is contrary to the limitations provided by the treating physician, including recreational activities that might aggravate, prolong, or accelerate your injury.

(j) Ensure that medical evidence supporting a disabling traumatic injury is provided by the treating physician within 10 days after the injury.

(k) Report any employment to the Workers' Compensation Office, including "wages in kind" such as board and lodging as well as cash wages.

(l) Elect LWOP, sick, or annual leave when disability continues beyond 45 days.

1 Submit OPM Form 71 to supervisor with signed certification of physician **(R)** for the period expected disability.

2 Contact the HRO, Workers' Compensation Office, for completion and filing of CA-7 within 5 working days prior to the end of the 45 day COP period.

3 File CA-8s, and submit to the Workers' Compensation Office every two weeks until otherwise instructed by OWCP.

(m) When released by physician to return to work, the employee should:

1 Provide a release from the treating physician which specifies limitations, if applicable, and date of return to work.

2 Notify the Workers' Compensation Office to ensure overpayment will not occur.

(n) Submit bills for payment or reimbursement within the calendar year in which the expense was incurred or the case first accepted, whichever is later.

(o) Submit to required examinations ordered by OWCP or the employer in accordance with applicable regulations.

#### d. Safety Officers

(1) When required, investigate circumstances leading to employee injuries and provide information to HRO.

(2) In some locations, may be required to arrange for necessary surveys (sound, environmental, etc.) required for adjudication of employee's claim and provide results to HRO.

#### e. Comptroller Departments

(1) Maintain time/attendance records for funds expended for COP due to work-related traumatic disabling injuries, and provide information to HRO biweekly.

(2) Ensure chargeback costs are paid in a timely manner after receipt.