

**WORKERS'
COMPENSATION
GUIDANCE FOR
APWU MEMBERS
INJURED AT WORK**

MARK DIMONDSTEIN, PRESIDENT
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WORKERS' COMPENSATION GUIDANCE FOR APWU MEMBERS INJURED AT WORK

Dear APWU Members,

The APWU fights for the safest possible and injury-free workplace. But if and when a postal worker suffers an on-the-job injury it is important to know your rights on how to properly file an injury compensation claim and navigate the process to ensure your claim is approved.

Injury compensation is a hard-won workers' benefit. This updated educational brochure will assist any injured worker in knowing their rights and procedures under the Office of Workers' Compensation Programs (OWCP). In addition, it provides a basic resource to union representatives and shop stewards who may be assisting members with injury compensation questions and challenges.

In Union Solidarity,

A handwritten signature in black ink, appearing to read "Mark Dimondstein". The signature is fluid and cursive, with a small dot above the "i" in "Dimondstein".

*Mark Dimondstein,
President*

INTRODUCTION

While we fight for safe workplaces, the reality is that injuries do occur. The information in this booklet is being provided to inform and assist you through the process of reporting injuries, getting claims approved, and accessing the benefits that are provided by law.

We understand that maintaining financial obligations while injured is of the utmost importance. If you are injured at work, we want you to know your rights. Consider this booklet as a beginning. Our rights under the Federal Employees' Compensation Act (FECA) are sometimes complex and hard to apply. If you need further assistance, feel free to contact the Human Relations Department by calling (202) 842-4270.

*Daleo Freeman
Human Relations Director*

WHO DECIDES YOUR CLAIM

If the work that you are performing at the USPS causes injury or illness, you are covered under the Federal Employees' Compensation Act (FECA) which is administered by the Department of Labor, Office of Workers' Compensation Programs (OWCP).

HOW DO YOU FILE YOUR CLAIM

In order to initiate a claim for traumatic injury (CA-1) or claim for occupational disease (CA-2), you must first create an account in OWCP's Employees' Compensation and Management Portal (ECOMP). You can find ECOMP online at:

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

Once you access ECOMP, you will see a prompt to create a new account: "Need an account? Register."

For help registering for an ECOMP account, click the "HELP" option found at the top right hand corner of the ECOMP website. Then click on the "FECA Claimant" option and choose the "Account Registration" user guide.

To access information about your FECA claim(s), you must verify your identity in ECOMP after you register for an account. The “Identity Verification” user guide can be accessed from the FECA Claimant User Guide Landing page by clicking “More Topics.” After you have created an ECOMP account and signed in, you will see a prompt at the top of the page for “New Claim”. Click that prompt and follow the instructions for filing a claim form. It is very important that you provide all of the data requested by OWCP.

After you file a claim and OWCP creates your case, you can view your case and compensation claim status, the documents contained within your case file, pharmacy and medical billing updates (including reimbursements), and other information directly from your ECOMP homepage.

Multiple video tutorials are available to assist you in navigating and taking full advantage of the self-service information. Visit: <https://www.ecomp.dol.gov/#/help/userguide/claimant>

Note: If you do not have access to the ECOMP website, you can still initiate a claim by filing a paper CA-1 or CA-2 through the Post Office, who will then initiate your claim in ECOMP.

WHAT OWCP BENEFITS ARE AVAILABLE

As a general rule, three years is the outside time limit for initially filing a claim for OWCP benefits. However, it is to your advantage to file a claim as soon as possible after you have knowledge of a medical condition that was caused by work.

OWCP, and not the USPS, makes the decision as to whether you have a compensable injury and what benefits you are entitled to under the FECA. If your claim is approved by the OWCP, they will notify you in writing of their acceptance of a specific medical condition(s). When your medical condition is accepted, OWCP will then tell you how to claim the benefits to which you are entitled.

- ◆ **Medical Care** is provided, and you may initially select a local physician of your choice (generally within 25 miles). The term “physician” includes doctors of medicine, surgeons, osteopathic practitioners, podiatrists, dentists, clinical psychologists, optometrists and chiropractors within the

scope of their practice as defined by state law. Payment for chiropractic services is limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist.

- ◆ **Continuation of Pay (COP)** is generally payable for traumatic injuries for up to 45 calendar days of medically supported disability. It is paid by the USPS and is the same as your regular pay.

There is a 3-day waiting period when electing COP on a CA-1; the first 3 days of work disability when electing COP are charged to the employee's choice of Annual leave, Sick leave, or LWOP.

Off days and holidays count towards the 3-day waiting period requirement. If the work disability lasts for 14 days, including off days and holidays, the 3 days shall become COP. At that time, leave used will be restored or the employee will be paid if LWOP was elected for the initial 3 days of work disability with a pay adjustment.

The 14 days of work disability do not have to be consecutive.

- ◆ **Wage Loss Compensation (Not COP)** is paid by OWCP. The payment comes from OWCP, not the USPS. Total disability wage loss is paid when you have no capacity to earn wages because you are unable to perform any work due to your accepted workplace injury.

It is paid at a rate of 66 2/3% of your earnings or 75% if you have one or more eligible dependents. It is generally tax-free. Partial disability wage loss is paid at a reduced rate because you are able to perform some work and only have a partial loss of wage earning capacity.

- ◆ **Schedule Awards** are paid if after maximum medical improvement there is a permanent impairment of the injured part or function of the body such as: loss of an eye, arm, or removal of a lung. The law does not permit payment of schedule awards for back, neck or brain injuries unless such an injury physically impairs a covered member of the body. A claim for a schedule award can be

initiated by filing a CA-7 in ECOMP. You cannot receive a schedule award and wage loss compensation simultaneously.

- ◆ **Cost of Living Allowances** (COLA) are provided on a yearly basis to injured workers who have been receiving wage loss compensation for the preceding year.
- ◆ **Death Benefits** may be paid to eligible survivors if the death was the direct result of the work environment or previous work injury. Form CA-5 or 5b is the appropriate form to file.

WHAT TO DO IF YOU HAVE A TRAUMATIC INJURY

A traumatic injury is defined as a wound or other condition of the body that is caused by external force, including stress or strain, identifiable in time and place, and that is the result of an incident, or a series of incidents that occur during a single work day. You or someone on your behalf should:

- ◆ Promptly notify your supervisor of the injury.
- ◆ Initiate a **Form CA-1, “Notice of Traumatic Injury and Claim for COP”** in ECOMP.

This form should be submitted as soon as possible after the injury.

- ◆ Select Continuation of Pay (COP) unless there is some unusual reason to cause you to use your own leave. COP is defined as an employee’s regular pay. It is paid by the USPS, will be the same as your regular check, and it may be continued up to 45 calendar days. COP is paid only for traumatic injuries, not for occupational illnesses or injuries.

If you have chosen COP on the Form CA-1 and you have provided the required medical information within 10 days, the USPS cannot refuse to pay COP unless one of the reasons for termination of COP found in the Employee and Labor Relations Manual (ELM) applies.

To be eligible for COP, the Form CA-1 must be submitted within 30 days of your traumatic injury. If COP is denied because you did not file within 30 days, you may still

claim wage loss compensation from OWCP on **Form CA-7, Claim for Compensation**.

You are responsible for providing the USPS prima facie medical evidence that states that you have been totally disabled as a direct result of your workplace injury, within 10 working days of claiming COP. If this is not done, the USPS may stop your COP until they receive the medical evidence.

- ◆ Receive **Form CA-16, Authorization for Examination and Treatment**, and **Form CA-17, Duty Status Report** if appropriate.

An employee is entitled to the initial selection of a physician for treatment of an injury. USPS management may not interfere with your right to choose a treating physician. They may contact your physician in writing in order to obtain additional information about your duty status or medical progress.

- ◆ Insist that you be fully informed of your FECA rights if you receive any medical treatment, including first aid.

If you need emergency treatment, a supervisor may accompany you to the doctor's office or hospital in order to make certain that you receive prompt treatment.

If it is not a medical emergency, then the USPS may require you to be examined (not treated) by a USPS medical provider prior to your obtaining medical treatment from your physician of choice. However, such required examination must be performed promptly and must in no way interfere with your right to receive prompt attention from the physician you have chosen.

- ◆ Initiate **Form CA-7, Claim for Compensation** in ECOMP if your treating physician believes that your disability (either total or partial) is going to continue beyond the 45 calendar days of COP.

The CA-7 should be initiated in ECOMP at least 5 working days prior to the end of your 45 days of COP. OWCP will require medical evidence of ongoing, work-related disability in order to process wage loss compensation. A **FORM CA-20, Attending Physician Report** fully completed by your physician will generally suffice for this purpose.

COVID CLAIMS

The American Rescue Plan Act of 2021 (ARPA) makes it much easier for federal workers diagnosed with COVID-19 to establish coverage under the Federal Employees' Compensation Act (FECA). To establish a COVID-19 claim, you simply need to establish:

- ◆ You were diagnosed with COVID-19 via a positive test result (**excluding** home tests) or medical professional; **and**
- ◆ Within 21 days of your diagnosis of COVID-19, you carried out duties that required contact with members of the public, or co-workers.

COVID claims are to be filed on a Form CA-1, and if accepted, are eligible for the same benefits as any traumatic injury (medical benefits, COP and wage loss benefits).

For the most up-to-date information on work-related claims for COVID-19, including COP eligibility, coverage requirements, etc. access FECA's COVID-19 webpage at:

<https://www.dol.gov/agencies/owcp/FECA/InfoFECACoverageCoronavirus>

SHORT FORM CLOSURE CASES

OWCP considers some traumatic injury claims to be very simple/minor injuries that are not expected to involve large medical expenses. If the claim meets certain criteria programmed into the OWCP case create system, the claim may be administratively closed (often referred to as a "short form closure" case) without formal adjudication by claims staff. The criteria for short form closure mostly involve non-controverted traumatic injury cases received within six months of the injury date. If your claim is a short form closure it will be coded as AM/C1 in ECOMP, or AC/C4 if there was some COP entitlement. You will receive a letter advising you of your case number and provided information regarding how to submit medical documentation and medical reports. If you receive a letter requesting additional information or evidence to establish your claim, your claim was not a short form closure.

WHAT TO DO IF YOU HAVE AN OCCUPATIONAL DISEASE OR INJURY

An occupational disease or injury is defined as a medical condition produced by continued and repeated exposure to conditions at work, including stress or strain that occurs over a longer period of time than a **single work shift**. **You or someone acting on your behalf should:**

- ◆ Notify your supervisor by initiating a **Form CA-2, Notice of Occupational Disease** in ECOMP as soon as possible after the date that you were first aware of a possible connection between the illness or injury and your job at the USPS.

Follow all of the instructions on the Form CA-2 especially relating to your narrative statement and the physician's medical report.

COP is not available in occupational disease claims. CA-16's authorizing medical treatment are not provided in occupational disease claims. Medical treatment will only be authorized when the OWCP issues an acceptance of the claim.

WHAT TO DO IF YOU HAVE A RECURRENCE

Recurrences are claimed by initiating a **Form CA-2a Notice of Recurrence of Disability** in ECOMP. Recurrence of disability means an inability to continue working after returning to work because of a spontaneous change in the medical condition that was previously accepted as work related, and not by a change in the medical condition caused by new or additional workplace factors.

Recurrence can also mean an inability to work as a result of a limited duty assignment being withdrawn (except when such withdrawal occurs for reasons of misconduct, non-performance of job duties

or a reduction in force); or when the physical requirements of such an assignment are altered so that they exceed the claimant's established physical restrictions.

Recurrence of a medical condition means that a claimant has a documented need for further medical treatment after being released from treatment for the accepted conditions of injury, but the claimant is still able to continue working.

- ◆ If the return of symptoms is not spontaneous, but is caused by an event or series of events at work that occur on a single work shift, then it would be considered a new traumatic injury by OWCP and a new Form CA-1 would need to be filed. You would also be entitled to a new period of COP up to 45 days.
- ◆ If the return of symptoms is caused by a series of events that occur over more than one work shift, then it would be considered a new occupational injury and a new Form CA-2 would be filed.

WHAT TO DO IF YOUR CLAIM IS ACCEPTED

If your traumatic injury or occupational disease claim is accepted (not administratively closed) you will receive notice of the accepted condition(s) and basic instructions on how to pursue medical and wage loss benefits. If the accepted condition listed doesn't include all of your diagnoses that you and your doctor listed as due to the injury or work factors, you should question your claims examiner regarding the discrepancy.

You can communicate with the Department of Labor by uploading documents to your case file through your ECOMP account, by mailing documents to the central mailroom or by telephone.

The fastest way to submit evidence to FECA is by uploading it through ECOMP at <https://www.ecomp.dol.gov>.

You can also mail the information to their central mailroom, where paper documents are received and then imaged and routed to your case, but it will take longer to reach the claims examiner. Be sure to include your case number on every page submitted.

The central mail room is located at:

DFELHWC-FECA
PO Box 8311
London, KY 40742-8311

You can contact the Department of Labor by telephone at:
(202) 513-6860

You will be prompted to enter your case number to reach the designated claims examiner responsible for your claim.

Active APWU members can present general workers' compensation or case specific questions to the Human Relations Branch by e-mail at: **owcp@apwu.org**

Please be sure to include your OWCP case number on any e-mail inquiry.

WHAT TO DO IF YOUR CLAIM IS DENIED

If your claim is not accepted or administratively closed, you will receive a formal denial decision with appeal rights. You will have the right to either:

1. An oral hearing or review of the written record
2. A reconsideration
3. Appeal to the Employees' Compensation Appeals Board (ECAB)

You cannot simultaneously invoke more than one form of appeal.

When you appeal to the Branch of Hearings and Review for either an oral hearing or a review of the written record, your request must be made within 30 days of the denial decision.

Your claim will be assigned to the designated hearing representative who should conduct an initial review of the record to make certain that the claim is in posture for a hearing. If the hearing representative believes that the district office made a procedural error in the development of the claim or if additional evidence has been received after the denial that may support the claim, the hearing representative can issue a remand order prior to the

hearing wherein the district office is directed to either further develop or accept the claim.

If the hearing representative believes that your claim is in posture for a hearing, you (and your designated representative, if applicable) will receive at least 30 days' advance notice of the hearing date and time. Almost all hearings are conducted telephonically. At the hearing, you will have the opportunity to provide sworn testimony and written evidence in support of the claim. You can ask that the record be kept open after the hearing (generally for 30 days) to provide additional evidence. A decision will be issued by the hearing representative in about 75 days after the hearing. The hearing representative can accept your claim, remand your claim for additional development, or uphold the denial. If the hearing representative upholds the denial, you will have the right to request reconsideration or an appeal to the ECAB.

A review of the written record is also conducted at the Branch of Hearings and Review by a hearing representative. The only difference is that there will be no opportunity to provide oral testimony. You would want to make certain that the evidence you provide with your request is adequate to overcome the deficiency noted in the initial denial.

In most situations, we would recommend that a request for an oral hearing be the selected form of appeal. However, you should be aware that this process will generally take months from beginning to end.

A reconsideration is conducted in the district office by a claims examiner not previously having decided the claim. This form of appeal must be received by the Labor Department within 1 year of the last merit decision. You should attach all relevant evidence along with any written argument to your request for reconsideration. The reconsideration examiner can accept your claim, vacate the denial and commence additional development or affirm the denial. If the reconsideration examiner considers the merits of the new evidence or argument that you make, but affirms the denial, you have another year in which to request reconsideration or the right to appeal to ECAB. If a request for reconsideration is based on irrelevant or repetitious evidence that was previously considered, a non-merit review will be conducted, which will not extend the time frames for reconsideration beyond the year following the last merit decision.

A reconsideration decision generally takes about 90 days from the date of the appeal request. We would only recommend this if you are confident that the evidence you are providing will overcome the deficiency noted in the denial notice and/or if you have already had an unsuccessful hearing.

The Employees' Compensation Appeals Board (ECAB) will consider if the decision made was correct based on the evidence in file at the time of the decision. They will not consider any new evidence. It is a time-consuming process and we would only recommend this as the last resort. Appeals to ECAB must be made within 180 days of the decision date.

MEDICAL BILLS

Medical bills for OWCP accepted claims are processed by a contractor company. The medical condition accepted by the OWCP claims examiner (by assignment of an ICD-10 code in the system) has an associated acceptable group of treatments (identified by CPT codes in the medical industry).

If your treatment is routine for the accepted condition, the contractor can process payment. Any invasive procedure, surgery, physical therapy or treatment outside of the recognized routine will require pre-authorization by OWCP.

Your provider will need to be enrolled with the Department of Labor's contractor in order to have their billing processed.

The contractor maintains a list of enrolled medical providers that may be useful in the location and selection of a treating physician. (A report from a qualified physician is medical evidence for the purposes of establishing compensation entitlement regardless of their enrollment status with the contractor.)

OWCP's contracted medical bill and treatment authorization contractor at the time of this writing is CNSI. CNSI's web link on the OWCP web page is:

<https://owcpmed.dol.gov/>

MEDICAL EVIDENCE

For most traumatic injuries, the medical information requested on a CA-16 or CA-20 form will suffice to establish initial entitlement, if completed in full by a qualified physician. The form includes a history and date of injury, the date of treatment, a diagnosis and the doctor's indication that the condition was caused by the work event (a causal relation in the terminology of OWCP).

In most occupational disease claims, OWCP will request you to provide a detailed narrative medical report from a qualified physician that includes:

- ◆ A history of work exposure as related by you (i.e. how many pounds you lift, the frequency of injurious activity, the duration of the exposure, a description of the environment, etc.) The doctor should demonstrate detailed knowledge of what you believe caused you injury.
- ◆ Your medical history and any pre-existing conditions and the onset of the claimed condition.
- ◆ The dates and types of treatment provided.
- ◆ The diagnosis.
- ◆ The results of all diagnostic testing.
- ◆ And, based on demonstrated consideration of all of the above, the doctor's reasoned medical opinion as to whether the claimed condition is causally related to the work exposure.
- ◆ If the doctor believes that the claimed condition is causing you any disability from work, the doctor should discuss your physical limitations imposed by the claimed condition.

APWU

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DEPARTMENT OF HUMAN RELATIONS
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