1989

History of enforcement of the Federal Employees' Compensation Act: problems of equity in its application

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Act: Problems of equity in its application**

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San Jose State University, 1989

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Ann Arbor, MI 48106**

HISTORY OF ENFORCEMENT
OF THE FEDERAL EMPLOYEES' COMPENSATION ACT:
PROBLEMS OF EQUITY IN ITS APPLICATION

A Thesis
Presented to
the Faculty of the Department of Political Science
San Jose State University

In Partial Fulfillment
of the Requirements for the Degree
Master of Political Science

by
Linda L. Harper
August 1989

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ABSTRACT

HISTORY OF ENFORCEMENT OF THE FEDERAL EMPLOYEES' COMPENSATION ACT: PROBLEMS OF EQUITY IN ITS APPLICATION

by Linda Harper

This thesis addresses the topic of the Federal Employees' Compensation Act in the United States from 1906 to the present. It examines the history of the law, policies and procedures, purposes, problem areas and possible solutions.

Research on this subject clearly shows that there are a number of problems with the interpretation, enforcement and equity in the application of the law. Information on this topic was difficult to obtain because there is little in publications concerning the problem areas examined in the thesis. The data for this thesis were obtained through personal interviews of federal employees and telephone surveys were conducted of labor law firms and physicians. Documents were obtained from federal agencies and the Library of Congress. Although federal employees have been covered by this law for over 50 years, its application still remains problematic. The thesis argues that occupational disease injuries are not processed equitably as traumatic injury cases.

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CHAPTER I

INTRODUCTION

The United States federal government employs approximately 2.9 million individuals. Numerous laws affect each and every employee. Some laws are so obscure that most employees are unaware of their existence. The Federal Employees Compensation Act is such a law. Occupational disease claims appear to be the most difficult to process and remedy. This area shall be the main focus of this thesis.

Federal employees of the United States are, by statute, given the right to compensation for disability or death resulting from personal injuries sustained while in the performance of their duties and to medical services, appliances, and supplies necessary to the relief and treatment of such injuries. This enactment of the Federal Employees' Compensation Act has been upheld as a valid exercise of congressional power and administered by the Secretary of Labor.

The author has interviewed federal employees, doctors who treat their illnesses, lawyers who handled their legal problems, union officials who are dedicated to represent their grievances, elected officials who are elected to speak on their behalf at the national, state, and local level, and heads of federal agencies on whom they rely to tell them of their rights. These interviews revealed that there is a tremendous lack of knowledge and a sparsity of information

furnished to all of the groups mentioned. As a union representative, the author too was denied information needed to assist employees on how to file and follow-up on an injury claim under the Federal Employees' Compensation Act.

Lack of knowledge and written documentation certainly presents a problem to those who choose to write about the Federal Employees' Compensation Act. Written material is practically non-existent. A library line search revealed no published information on this sensitive subject. At the Library of Congress, both the Adams and Madison employees search revealed only limited publication. The scant information available did not get to the heart of the problem and the librarians (federal employees) were shocked that there was such limited information. Trips to the University of California, Berkeley, Stanford University, and the University of Missouri at Kansas City all showed a similar lack of information.

The following case studies are specific examples of how employees' medical situations have been neglected because proper information was not given to the injured parties by management officials or union officials. The author personally interviewed each of the following injured employees.

At the Marine Corps Finance Center, a female employee fell on a slippery floor and subsequently had to have back surgery. After six months, she attempted to fulfill her job

duties again. Sometimes she worked only two, three, or four hours a day, whatever the pain would allow. Realizing that she no longer could perform her previous duties, she asked for and received the right to have vocational rehabilitation. The first and only session was a disaster. She was placed on a treadmill and had a heart attack.

In the San Jose Equal Employment Opportunity Commission Office, the director hit a male employee. This literally drove the employee to excessive drinking, which eventually cost him the loss of his home and family. No assistance was given in this matter.

The same supervisor, the Director of the San Jose Equal Employment Opportunity Commission Office, had all female employees removed from his supervision in his previous position. It is a matter of record that he physically threatened one of the female employees. The employee fainted and was subsequently sent to the hospital as a result of the threats.

In another Equal Employment Opportunity Commission Office in San Antonio, Texas, a Director repeatedly threatened and eventually hit a male employee, leaving the employee emotionally and physically injured.

A female employee, the head of her household, in the Defense Intelligence Systems Office of San Francisco, was presented with termination papers for a minute error. The alleged error turned out to be false but caused her great

emotional stress. Efforts to terminate her are still in progress. She has worked for the government for 25 years.

A highly qualified federal employee of twenty years, a wife and mother of five, was transferred from Texas to San Jose where she was threatened because she was assertive, vocal, and denounced being treated differently from her peers. She refused to sleep with any higher level official or allow her superiors to demean her. She had an emotional breakdown and walked off the job.

A female federal employee at Mare Island cannot work near asbestos. She is a faithful employee of 27 years. The supervisor let her work in her car or in the library, but a lieutenant, contrary to medical orders, insisted that she work inside. A special mask has been ordered for her, but it will take three months to arrive.

A wife, mother of seven, and a federal employee, transferred from Kansas City to San Jose where she ended up under the supervision of the man who had been removed from supervising her in Kansas City. He threatened and pressured her and denied her a promotion, although he wrote outstanding evaluations on her performance reviews. When she developed ulcers, the agency transferred her fifty miles away from her home. This created a stressful and unhealthy situation. She became so ill that six doctors intervened and removed her from the job. She also suffered an emotional breakdown as a result of

the stress. Each of the individuals mentioned shared one common problem: none knew where to turn for help.

The majority of employees have a fear of the unknown in their employment, especially if it does not readily affect their positions in a positive manner. As a veteran federal employee, the author personally observed with great sadness the anxiety and apprehension that employees expressed when they asked what they should do if they received an injury on the job. From the local level to the national level, the subject of injury appeared to be one which seldom receives open discussion. Of course, this aroused the author's curiosity.

During the investigation and interaction with a group of highly intelligent and respected physicians, it became clear that most physicians are not knowledgeable about the Federal Employees' Compensation process. Ninety percent of the employees who have tried to use the system have found it to be very problematic for them. The author would like to see the system be more open and less secretive, and information about the process given to all federal employees, managers, and heads of agencies. This is an area that needs much disclosure to those it seeks to help.

According to a Report to the Congress, dated March 9, 1981, the Federal Employees' Compensation Act provides certain benefits that discriminate against certain classes of people,

such as minorities, females, and lower grade employees. The report states that, according to the Department of Labor's schedule of payments, the amount of tax free benefits exceeding preinjury net take-home pay decreases with each drop in General Schedule (GS) grade. The GS grade must drop to between GS-8 and 11, depending on the number of dependents, before workers' compensation benefits are less than preinjury take-home pay. The GS level at which benefits exceed preinjury net take-home pay is lowered whenever federal employees receive a pay increase and move into higher tax brackets.

This Report also included a table, entitled "Labor's Comparison of Biweekly Net Pay and Current 75-Percent Tax-free Compensation Benefits." It reads as follows:

<u>GS GRADE</u>	<u>Biweekly net pay (notes a and b)</u>	<u>Amount of benefit (note b)</u>	<u>Percent of net pay replaced</u>
GS-2/1	\$231	\$ 190	82
GS-3/1	258	217	84
GS-4/1	287	247	86
GS-5/1	319	279	87
GS-6/1	352	314	89
GS-7/1	388	352	91
GS-8/1	426	392	92
GS-9/1	465	482	94
GS-10/1	506	482	95
GS-11/1	550	532	97
GS-12/1	642	642	100
GS-13/1	738	768	104
GS-14/1	836	912	108
GS-15/1	939	1,077	115 ¹

According to the available statistics, females and minorities hold the majority of the lower grade jobs.

CHAPTER II

HISTORY

When the Constitution of the newly formed government of the United States of America was signed in 1789, no provisions were made for injured workers. This was also true of the Bill of Rights. It is evident that at that time, no one could perceive the future need for such coverage because the United States was not an industrialized nation and had a small number of employees. But it is less evident why a progressive nation, such as the United States, took 132 years to enact the first laws to compensate injured workers.

The Workers' Compensation Act (originally the Workmen's Compensation Act) was one of the first forms of social insurance. Its origin lies in the common law rules of liability, and in the social and economic structure brought about by the industrial revolution of the nineteenth century. Workers' Compensation was not "invented." Rather, it simply evolved to meet certain social needs.

The American system was and continues to be based on systems earlier adopted in Germany and Great Britain. A brief review of those specific social forces leading to the creation of these systems, and economic and political climate of America when our system was enacted, is therefore necessary. An understanding of these legal and social developments leads to a broader understanding of what

happened and why, and to a consideration of where the nation will go from here.

In 1890 Professor Wigmore of the Prussian Academy of Science noted that:

In the twelfth and thirteenth centuries... there can be no doubt on the evidence that there was a general Germanic notion of responsibility for servants.²

This mode of thinking can be seen in the Germanic law over 1,000 years ago, in an era when the master was liable for the workman, should he lose his life while serving the master, and was also liable to compensate work-related injuries with an adequate sum of money.

Arthur Larsen noted in his review of the history of work-related injuries that the period from 1000 to 1837 was a "complete blank" with respect to worker's rights.³ The legal scholar Michael Perlin, notes that "workmen's guilds for the 'relief of disability' were recognized in Austria by Emperor Ferdinand I as early as 1527..., and provisions for 'the relief of disabled miners, seamen and domestic workers' predated the eighteenth century in Germany."⁴

Prussia took the first step in 1838, in the German attempt to revolutionize law on the subject by requiring railroad companies to provide their employees compensation for industrial accidents. As other German states followed, Germany became the first nation to adopt a mandatory

workers' compensation insurance with payments of sickness insurance. It was commonly recognized that, prior to this law, injured German workers seldom could secure appropriate compensation for their losses. This was in spite of the fact that laws were passed in 1845, 1849, and 1854 to encourage formation of organizations to assist disabled members who received their injuries because of their jobs. Laws ultimately compelled workers of certain trades to belong to "some kind of mutual sick association," to join trade guilds, and required employers to contribute half the cost of their management.⁵

Due to lengthy legal battles and damages only rarely being awarded, the German Empire attempted to rectify the situation through the enactment of the 1871 liability law. This law shifted some of the weight of fault from the employee to the employer, in that it made the employer responsible when the worker was injured by an accident or through negligence of the employer's agents and/or representatives.

Perlin quotes Larsen's description of the players in the ensuing nine-year political battle as one between "the Marxian socialists and the practical socialists of the School of Lasalle." Of course, the Lasalle School drew upon Fichte, Hegel, and other philosophers by applying the philosophy that the function of the state is "to be filled with

Christian concern especially for the weaker member."⁶

During the political battle between Marxian socialists and practical socialists, Chancellor Otto von Bismarck sponsored a historic bill which would have forced all industrial employers, i.e. mines, factories, and other enterprises to insure their workmen and other employees against occupational accidents. The administration of the plan would have been handled by the Government Insurance Corporation, with financing by both employers and employees plus government subsidies. However, compensation in the revised bill was limited for accidents only from the fourteenth week of disability. The Chancellor's legislation was soundly defeated until Emperor William I, in his "Monument to the New Social Era," gave full support to the bill. William I obviously recognized that legislation was needed to protect the weak from the strong. The supporting data, consisting of official government reports with specific details of economic distress and of the public burden from industrial injuries, are viewed today as the foundation of all preventive workers' compensation legislation.

Then, as well as now, there existed a vigorous fight over the question of the finding of fault. This, coupled with the burden of proof, overloaded the judicial system. The alternative was a system of public accident insurance in which all employment-related injuries would be found

compensable. When this change was made, it reduced the legislative possibility of leaving benefits to a "matter of chance."⁷

While the bill only covered the mining and manufacturing industries, it insured those workmen against all accidents occurring in the course of their employment, when the injury resulted in death or more than 13 weeks of disability (except for intentional, self-inflicted injuries). This was rapidly followed by coverage for certain government employees and transportation workers in 1885; agricultural and forestry workers in 1886; building and trades workers in 1887; prisoners in 1900; and other public officials and soldiers in 1901. Finally, the Code of 1911 was issued, with a comprehensive, compulsory insurance coverage for most of the industrial population of the German Empire. No direct suits against employers were allowed, unless a particular employer was accused of intentionally causing an accident. This Code prevented injured workers and their families from enduring stark poverty as the result of an industrial injury. Without a doubt, America looked to the German laws for the creation of their own laws.

The British compensation laws were developed quite differently from those of Germany. Great Britain had, reluctantly, to make a shift from a total laissez-faire philosophy before the country could recognize the need

ultimately to provide a comprehensive compensation system. This struggle had to work through three phases. First came the "fellow servant" doctrine, under which servants serve the master. This yielded in time to belief in the assumption of risk, in which it was assumed that individuals worked at their own risk. Finally, there arose the doctrine of contributory negligence, the doctrine which served to defeat recovery in cases where the employee demonstrated any degree of negligence, thus making many actions by employees useless.

According to Perlin, these three doctrines are still referred to as the "three wicked sisters of common law." These laws left the employee without remedy in over 83 percent of all cases, their interpretation resulting in "exemptibility rather than responsibility."⁸

Public outcry and the impact of the industrial revolution led to the appointment of a House of Commons Committee in 1877 to investigate the "wicked sisters" and the need for preventive legislation. This resulted in the first English Employers' Liability Act which was passed in 1880. The Act modified the law by extending the American "vice principal" concept which had previously been rejected by Great Britain.⁹ The "vice principal" concept covered a worker who suffered an injury through the negligence of any person acting in the capacity of a supervisor or any other person

to whose orders the worker had to comply. The worker was to have the same right to a cause of action as an individual who was not working for that employer. If a fellow employee of the same rank caused the injury, the injured worker had no recourse against the employer. Two of the "wicked sisters" were not addressed; the assumption of risk and contributory negligence. The "vice principal" doctrine was, in fact, the fellow servant doctrine. Needless to say, the 1880 Act was a failure.

Subsequently, the Workmen's Compensation Act of 1897 was presented by Lord Salisbury and boldly provided for recovery, so long as the injury was the result of an accident arising out of and in the course of employment. While the injured worker was incapacitated, the worker was to receive approximately one-half of his regular wages. In the case of the worker's death, a lump sum was to be paid to the dependents. Only certain dangerous jobs were covered, i.e. factory labor, mine and quarry activities, and engineering.

The Workmen's Compensation Act of 1906, however, covered all forms of employment and clarified the laws. As in Germany, this law influenced many other parts of the British Empire and Commonwealth. An amendment to the law in 1948 makes it possible for an injured worker to file a personal injury damage action. If the worker is successful,

one-half of the value of any rights, which have accrued or may accrue to him therefrom [from] industrial injury benefits...for five years beginning with the time when the cause of action accrued.¹⁰

This gives the worker the best results from compensation and tort action, because the use of one does not impair the right to resort to the other. Adversaries predicted that with this change the court would be flooded, but there was only a 10 percent rate of tort cases.¹¹

The new legal options for the handling of industrial accidents spread slowly to the United States. Maryland passed a limited law in 1902. In 1910 New York became the first state to adopt a law which was compulsory for certain hazardous jobs and optional for others. A total of 24 jurisdictions had passed legislation by 1925, but workers' compensation was not provided in every state until Mississippi did so in 1948.¹²

It should also be noted that the first serious consideration of workers' compensation, with respect to an equitable system, came in the comprehensive study by the economist and lecturer John Graham Brooks. President Benjamin Harrison was given the report, indicating that its contents were of the utmost importance.¹³ The published report was then sent to the states, and it was asked that they take some type of action.

Unfortunately for federal employees in the United

States, workers' compensation evolved as a system sponsored by the individual states, with the federal government assuming the secondary role of filling some of the gaps. Federal employees were not, in fact, covered at all until a limited law was passed in 1908. Known as the Employee's Liability Act, it only applied to certain government employees. In 1916, all federal employees were covered by the passing of a comprehensive legislative statute called the Federal Employees' Compensation Act (FECA) hereafter referred to as the "Act." The Act was to provide compensation for disability and death, as well as full medical care for employees and officers of the United States Government who suffered from injuries and occupational diseases as a result of their employment. It has been substantially modified over the years, with major overhauls in 1949, 1960, 1966, 1974, and 1983. These changes were designed to provide more liberalized benefits and increased coverage. But, to the regret of many, a Federal employee who is injured at work or who sustains an occupational disease has no right of action against the United States for the effects of the injury other than those provided by the Act.

Social and economic theory play a large part in the assumptions that underlie workers' compensation. That is, it is generally assumed that the cost of industrial accidents would be borne by employees and passed on to the

consumers of goods and services provided. Because virtually all individuals in society are consumers in one form or another, workers' compensation becomes an economically-based social insurance system.

Workers' compensation laws are intended to assure prompt payment of equitable benefits to employees disabled as a result of their employment (or to dependents of those killed) regardless of fault and with a minimum of legal formality. Theoretically, the employer gives up the right of placing "fault," and contributory negligence on the part of the worker is also overlooked (e.g., denial of compensation on the basis that intoxication was a contributing factor in the injury or death). The rationale behind this is that the workers or survivors are guaranteed what are considered adequate benefits, which are to be promptly provided at the time of most urgent need, but workers or survivors in turn relinquish certain rights to take independent legal action. Therefore, the employer and society pay no more than is believed necessary and the legal system is not overloaded with claims and counter-claims.

Difficulties are present, however, in measuring the extent of job-related illness and injury. For example, according to the Bureau of Labor Statistics, there was a 14 percent increase in the number of illnesses reported from 1978 to 1979. One-third of this increase was attributed to

skin disease. According to the Occupational Safety and Health statistics of the federal government:

The recording and reporting of illnesses continues to present measurement problems. Unlike an injury which occurs at a specific time and can be readily detected, an occupation illness may develop over a period of time.¹⁴

These reports further conclude that on many occasions, the origin of such illnesses may not be recognized. This situation has undoubtedly resulted in understatements being made. While the work force remained steady during this period, injuries and illness increased. This may be the case also for other years as well.

CHAPTER III

LEGISLATIVE BACKGROUND

The first American Employer's Liability Law was approved by the Sixtieth Congress on May 30, 1908. The act granted "certain" employees of the United States the right to receive compensation for injuries sustained in their employment.¹⁵

It will be recalled that the United States was not the first country to enact a law of this type. As was described in the previous chapter, Germany and Great Britain had enacted their laws earlier, with Germany's dating from 1845.

The Artisan or laborer in any of its manufacturing establishments, arsenals or navy-yards, or in the construction of river and harbor, or fortification work, or in hazardous employment, or construction work in the reclamation of arid lands, or the management and control of the same, or in hazardous employment under the Isthmian Canal Commission..."¹⁶

The time limit for compensation, regardless of the severity of the injury, was one year. The law also contained the restriction that no compensation would be paid under the Act, if the injury was due to negligence or misconduct of the employee injured, or if the injury continued for more than 15 days. The final determination of this was to be made by the Secretary of Commerce and Labor.

An amendment to the Act in 1912 included provisions which extended coverage to other "employees engaged in

hazardous work under the Bureau of Mines or the Forestry Service of the United States..."¹⁷ On September 7, 1916, H. R. 15316 of the Sixty-Fourth Congress, was enacted

To provide compensation for employees of the United States, suffering injuries while in the performance of their duties, and for other purposes.¹⁸

This was the birth of the Federal Employees' Compensation Act. The Act did not

Include injuries or death caused by the willful misconduct of an employee or by the employees' intention to bring about the injury, or death of himself or of another, or if intoxication of the injured employee is the proximate cause of the injury or death...¹⁹

Under this Act of 1916, the United States Employees' Compensation Commission was created. The Commission included three commissioners appointed by the President, with the advice of the Senate, and with one commissioner designated as Chairman. Employees in the various government bureaus who were engaged in compensation duties were transferred to the new Commission.

The Act appropriated \$50,000 for the salaries and expenses of the Commission and \$50,000 for the Employee's Compensation fund. This was to be applied toward medical, surgical, and hospital services and supplies, and to transportation and burial expenses. No funds were to be awarded until the Commission finished its investigations.

Under the Act, the period of exclusion from

compensation was shortened to 3 days. Totally disabled employees were to receive 66-2/3 percent of their monthly wage, provided that an affidavit was submitted from time to time which included all expenses. If the affidavit was not submitted, compensation was stopped. If the employee refused suitable work or was partially disabled, compensation was also stopped. The maximum compensation for total disability was \$66.37 per month, with a minimum amount set at \$33.33.

Minors' and trainees' compensation was increased under the concept that, "but for the injury" their wage-earning capacity would have been at a given level.²⁰ On the other hand, compensation for older employees was decreased on the basis of "old age"; the assumption was that their "probable monthly wage earning capacity" decreased with age.²¹ Further, the injured worker who opted for a lump settlement was no longer entitled to compensation, excluding pensions from the Army or Navy of the United States.

Originally, the employee had to use any accumulated sick or annual leave that he or she had before disability compensation was paid. Medical assistance was to be offered immediately by either a United States medical officer and hospital, or a private physician and facility. If necessary, transportation for proper medical, surgical, and hospital treatment was furnished by the Government.

If an injury resulted in death within 6 years, a certain percentage of the deceased employees' salary, subject to modification, was to be paid. These payments were to go to the widow or widower, children, as well as dependent parents, dependent brothers, sisters, grandparents and grandchildren, if the latter were wholly dependent on the deceased employee. These payments were not to exceed the 66-2/3 percent maximum stipulated by the Act. In the case of the widow or widower, compensation was paid until death or remarriage. Acceptance of payment after remarriage was punishable by a fine of no more than \$2,000, or imprisonment for not more than one year, or both.

In the case of the death of the injured worker, \$100 was allowed for burial expense. If the disability had ceased a year before the death, no payment was to be made.

Congress has amended the Act several times since 1916. These amendments have increased maximum and minimum levels of benefits beyond the original compensation at 66-2/3 percent of an employee's salary or lost wage-earning capacity, subject to a monthly maximum of \$66.67 and a minimum monthly payment of \$33.33 (or actual salary, if less). No minimum was set for partial disability awards.

When setting the benefit level at 66-2/3 percent originally, the House Committee on the Judiciary report stated

that:

It is believed that any smaller percentage will not enable the injured employees to maintain his standard of living, and that a loss of 1/3 of the wages will be adequate inducement to the injured man to go back to work, thus avoiding the danger of malingering.²²

For 33 years, the Act's compensation benefits remained basically the same. They were altered once in 1927, to raise the monthly maximum and minimum levels of compensation to \$116.66 and \$58.33, respectively.

The 1949 Amendments increased the maximum monthly compensation benefit to \$525 and the minimum benefit to \$112.50, except for partial disability, which may be in a lesser amount. It also provided an additional payment of 8-1/3 percent of gross wages to disabled employees with one or more dependents. This additional benefit was to give recognition to the supposedly greater need of the disabled employee with a dependent. It was hoped that this would serve to prevent families from falling behind financially during the crisis created by the occupational injury. This change created the present two-tier federal compensation benefit structure of 66-2/3 (worker) and 75 (worker and dependents) percent of gross salary.

Again, in 1960, Congress increased the Act's minimum compensation benefit, except for partial disability, to \$180 per month. With further amendments in 1966, Congress

discarded the fixed dollar levels, tied maximum and minimum benefits to General Schedule (GS) pay rates, and authorized cost-of-living increases. The Act's compensation benefit levels have been based on the maximum and minimum salaries of GS-15 and GS-2 employees since that time.

Under the original Act, regardless of the injury suffered, the amount of the award could be reduced at age 70 if the wage-earning capacity of the employee could be expected to diminish. In 1974, Congress eliminated the requirement for reviewing and reducing Federal compensation awards when beneficiaries reached age 70.

In the last ten years, the Act has been significantly amended only twice. In 1974, FECA Amendments (P.L. 93-416) liberalized the rules for inflation indexing of benefits and instituted the concept of "continuation of pay" for traumatic injuries. Before these amendments, all claimants had to apply and wait for compensation determinations. Other changes were made liberalizing the system, such as allowing claimants to choose any physician. The 1980 Omnibus Reconciliation Act (P.L. 96-499) limited inflation indexing of the Act's benefits by providing that they be adjusted to changes in the Consumer Price Index only once each year (in March).

Indexing of benefits under the Act began in 1966 (P.L. 89-488). The Act's payments were changed only for those

affected by increases in maximum or minimum benefit levels, as is true under current state workers' compensation laws, and these maximums and minimums were adjusted, on an ad hoc basis, by legislative action. The amendments provided that the first (October, 1966) adjustment would reflect the 12.5 percent rate of inflation since 1958, and that subsequent adjustment would be made after the Consumer Price Index had risen at least 3 percent over its level at the time of the last adjustment, and had maintained this higher level for 3 consecutive months. Benefit increases would be effective two months after the Consumer Price Index had maintained a high enough level to trigger an increase, and maximum and minimum benefit levels would rise automatically with federal pay increases. Increases in compensation for all long-term enrollees could occur up to three times per year, or not at all, depending on inflation rates. This would be in addition to increases for recipients of the minimum or maximum benefit that come with Federal pay boosts.

The amendments of 1974 (P.L. 93-416) accelerated the system's response to rising prices by removing the two-month delay in the effective date of each indexing change. In the 1980 Omnibus Reconciliation Act (P.L. 96-499), Congress took its first step to "deliberalize" the Act's indexing rules. It directed that consumer price indexing should occur only once each year, in March, rather than up to three times a

year.

Effective July 2, 1984, the Department of Labor revised the regulation governing the administration of the Act. It clarified the procedures that injured Federal employees and the employing agencies should follow in seeking and obtaining authorized medical treatment for job-related injuries. This revision specifically defined physicians and hospitals which may be authorized to provide and obtain payment from the Federal Government for medical care and services to the injured employee. It also established a procedure for excluding physicians and hospitals, "debarment" from participating in the program and for denial of payments to such persons out of the Employees Compensation Fund.²³

The Act was also amended in June, 1986. These rules provided for the implementation of a schedule of maximum allowable charges, and authorized the Director of the Workers' Compensation Programs to maintain and revise applicable regulations. The new amendments also set forth procedures for providers to seek reconsideration of fee determination under the schedule, and established requirements that medical bills must meet.

In June, 1987, still further revisions were made. These newest rules extended coverage to categories of employees not addressed previously, such as members of the

Peace Corps, non-federal law enforcement officers, and federal grand and petit jurors. Other changes amended sections which had proved ineffective, made current terminology used in the Act and updated provisions which covered the release of information. (So as to conform to the Privacy Act and Freedom of Information Act).

The effect of the rules was that the claims process became clearer and more orderly. The reforms also standardized the Act's application to classes of employees not previously covered, and clarified the duties and responsibilities of the various parties in the claims process. The new provisions also included restrictions on the procedures for continuation of pay (COP) and defined the term "subluxation."²⁴ Procedures reduced monetary compensation for failure or refusal to participate in vocational rehabilitation plan development efforts, defined the procedure for declaring and waiving overpayments and established specific periods within which an injured worker may request reconsideration of a decision and submit medical bills for payment.

In view of the wide intervals between legislative action, it is evident that legislation may not have kept up with the increasing needs of the federal employees which it is intended to serve. While the intent of the law is quite honorable, more potentially negative aspects of the Act have

been developed by its implementors. The original sponsors of the Act could not have foreseen the future medical needs of the Civil Service employees, nor changes that new methods have brought about in rehabilitation potential. To this date, the laws, and the interpretation and implementation of the laws, have a discriminatory impact on the employee who suffers from an occupational disease. Occupational disease should be given equal treatment with traumatic injury cases, with emphasis placed on getting the employee back into the work force as rapidly as possible. Most claimants under the occupational disease category are not afforded the same benefits as are traumatic injury employees. This is due to the overwhelming number of backlog cases.

The rate and number of cases completed can produce rewards from Congress during its consideration of the annual budget. Because traumatic injury cases are easier and quicker to solve, they receive priority processing. The emphasis placed on traumatic injury cases by legislators and department heads creates a serious neglect of the occupational disease cases.²⁵

CHAPTER IV
POLICIES AND PROCEDURES

Office Structure

The Department of Labor/Employment Standards Administration/Office of Workers' Compensation programs (OWCP), hereinafter referred to as the "Office," is comprised of the Division of Longshore and Harbor Workers' Compensation, the Division of Coal Mine Workers' Compensation, and the Division of Federal Employees' Compensation. An Associate Director, in conjunction with the regional management, has authority over the operation in each district office. Each district office is headed by a District Director, who has overall responsibility for office functions, and a Chief of Claims, who is directly responsible for claims matters. The Chief of Claims has one or more Supervisory Claims Examiners, who are responsible for the operation of individual claims units, and a number of Claims Examiners, who have the primary responsibility for handling claims.

Jurisdiction

There are twelve district offices and the Branch of Special Claims responsible for the administration of Federal Employees Compensation claims. These are as follows:

District 1: Boston, MA: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

- District 2: New York, NY: New Jersey, New York, Puerto Rico, and the Virgin Islands.
- District 3: Philadelphia, PA: Delaware, Pennsylvania, and West Virginia.
- District 6: Jacksonville, FL: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
- District 9: Cleveland, OH: Indiana, Michigan, and Ohio.
- District 10: Chicago, IL: Illinois, Minnesota, and Wisconsin.
- District 11: Kansas City, MO: Iowa, Kansas, Missouri and Nebraska.
- District 12: Denver, CO: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
- District 13: San Francisco, CA: Arizona, California, Hawaii, Nevada: Pacific Territories and possessions.
- District 14: Seattle, WA: Alaska, Idaho, Oregon, and Washington.
- District 16: Dallas, TX: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
- District 25: Washington, DC: Maryland, Virginia, and the District of Columbia.
- District 50: (the Branch of Special Claims) - Washington, D.C.

The Branch of Special Claims, according to federal regulations:

Handles the claims of individuals injured overseas; individuals claiming exposure to radiation or Agent Orange; Department of Labor employees; Peace Corps and Vista Volunteers; Members of Congress and their staff; White House officials and employees; Reserve Officer Training Corps (ROTC) Cadets; members of the Coast Guard Auxiliary and temporary members of the Coast Guard

Reserve; individuals whose cases involve security considerations: and certain non-federal claims.²⁶

Designated Forms

Claims are not considered properly filed unless the proper forms have been submitted for processing. Most employees are unaware of the forms; familiarity with them and their purpose should help avoid delays. The available forms are classified as follows:

<u>FORM</u>	<u>TITLE</u>
CA-1:	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation
CA-2:	Federal Employee's Notice of Occupational Disease and Claim for Compensation
CA-2a:	Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation
CA-3:	Report of Termination of Disability and/or Payment
CA-5:	Claim for Compensation by Widow, Widower and/or Children
CA-5b:	Claim for Compensation by Parents, Brothers, Sisters, Grandparents or Grandchildren
CA-6:	Official Superior's Report of Employee's Death
CA-7:	Claim for Compensation on Account of Tramatic Injury
CA-8:	Claim for Continuing Compensation on Account of Disability
CA-16:	Authorization for Examination and/or Treatment
CA-17:	Duty Status Report
CA-20:	Attending Physician's Report (attached to form)
CA-20a:	Attending Physician's Supplemental Report (attached to Form CA-8)
CA-35 a-h:	Occupational Disease Checklist
OWCP-1500a:	Health Insurance Claim Form

(see Appendix D for clarification of forms)

Claim Processing

A polling of Federal employees outside the Library of Congress, in Washington, D. C., the Federal Court House in Des Moines, Iowa, and the Federal Building in Kansas City, Missouri, showed that an overwhelming number of employees did not know how to file a claim for Federal Workers' Compensation.²⁷ This was true regardless of whether the injury was traumatic or an occupational disease. Similarly, interviews with compensation recipients revealed that they did not know what benefits were available for their families in the event that their injury resulted in death. Therefore, it is important that a brief description of the administrative claim processing procedure be addressed.

A traumatic injury is defined as a wound or other condition of the body caused by an external force, including stress or strain. It must occur at a specific time and place, affect a specific part or function of the body, and be caused by a specific incident or series of incidents within a specific day or work shift.

Occupational diseases include contagious diseases (e.g., tuberculosis through contact with a co-worker) and other medical conditions characterized by continued and repeated exposure to conditions of the work environment over a period of time. These medical conditions are slow-developing or latent injuries which are related to the work

place, but not generally occurring at a specific time and place, or caused by a specific incident or series of events taking place within a single day or shift.

When an employee sustains a traumatic injury or contracts an occupational disease, notice must be filed with the district office with jurisdiction over the location of the employing agency. In order to expedite the procedure, the notice is to be accompanied by supporting documents, such as a medical report and statements from the employee, the agency, and witnesses. An employee should keep a backup copy of all documents submitted to the Office.

Upon receipt of the notice, the Office will send the agency and the claimant a postal card, containing the claim number assigned to the case. Because this postal card will contain the claimant's case number, it is important that it be kept in a secure place. This number is then used in all future communications. The author was unable to find a specified time when the next step would occur. But, the next step would be to assign the claim to a claims examiner, who would determine if there is additional information needed in order to process the claim. If so, the examiner will request that information by mail.

Under the Act, representation is allowable. However, according to the Federal Personnel Manual, "it is not required."²⁸ A representative may be a friend, a union

representative, or an attorney. Although the representative is chosen by the claimant, the Office must approve of that designation in writing before any commitment of representation is made. The law contains no provision for payment of representatives' fees by the Office, but the law does require that representatives' fees be approved prior to payment. If any attorneys' fees are paid prior to approval, the Office recommends that the fees be paid into a true escrow account. This rule has created difficulties for claimants who seek the services of an attorney (see Chapter V survey).

The employing agency and the claimant generally communicate with the Office by mail. According to the manual, most district offices have a contact person who can provide information on the status of the claim and answer questions. When the claimant calls for information about his or her claim, it is removed from sequential order and this often can result in further delay in processing. This procedure, in itself, deters many claimants from calling to find out the status of their case or to seek additional information. The employing agency, however, has an advantage over the claimant on this matter because it can easily contact the Chief of Claims or the District Director for clarification of any procedures or questions. If its questions cannot be resolved, they will be referred to the National Office. The

manual is not clear on whether employer contact results in further delays for the claim processing.

The claimant is entitled to receive one free copy of the case file. Sensitive medical information is generally forwarded to the claimant's physician for proper interpretation to the claimant and it may be released to the claimant's representative, providing the representative does not disclose the information to the claimant.

If the claimant's injury was caused by a third party, the claimant may be asked to seek damages from that party. If any legal action is taken against a third party, the injured employee is advised not to attempt to settle the claim without obtaining the legal advice of the Solicitor of Labor. The injured worker is entitled to receive compensation and medical benefits until the third party case is resolved. At that time, if recovery is made, the claimant must first pay all outstanding legal fees and costs. The claimant is then entitled to retain 20 percent of the remaining amount, plus an amount equivalent to a reasonable attorney's fee, in proportion to the sum which will be owed to the Office. Any money remaining is retained by the claimant and credited against future claims for benefits. The injured workers' regular compensation benefits will not be resumed until they have submitted claims which equal the amount of money remaining.²⁹

Upon filing a claim, the burden of proof rests totally with the injured employee. The Office will assist the employee by requesting additional needed information to establish essential elements of a claim. By law, the employing agency is required to provide any and all medical and factual evidence requested in order to expedite the adjudication of the claim. Any external delays in receipt of evidence create internal delays in adjudicating cases and paying claims.

Once the application has been accepted for processing, the burden of proof, allegedly, shifts to the Office.³⁰ The importance of submitting proper, timely, and detailed medical information cannot be overemphasized. The employee may submit the evidence to the agency or directly to the Office. Duplicate copies of all submitted documents should be retained.

Once a decision has been made by the Office, the claimant is advised by mail if the claim has been approved or disallowed. The letter should state the condition for which the claim is accepted and advise the employee on how to claim compensation benefits and payment or reimbursement of medical bills. If an employee does not receive this information, he/she or his/her representative should make every effort to obtain it.

A formal decision sets forth the findings with respect

to the case (affirmative or negative) and includes a description of the employee's appeal rights. When an employee is placed on the compensation rolls for a scheduled award, loss of wage-earning capacity, or death, he/she will receive a formal decision. A formal decision is issued at the time an adverse decision is reached, such as denial of an initial claim or denial of continuing benefits. The employing agency is not entitled to an appeal.

The employee may seek an appeal via hearing reconsideration or review by the Employees' Compensation Appeals Board. If a claimant requests a hearing, the request must be made within 30 days of the formal decision. The hearing may be before an office representative or may be a review of the written record, but not both. If an oral hearing is requested, every effort will be made for it to be held within 100 miles of the claimant's home and the claimant may present written evidence or oral testimony in support of the claim. If the request is made for review on the written record, only new written evidence may be submitted or argued.

A reconsideration may be requested within one year of the date the original formal decision was issued. While no special form is required, the request must clearly state the grounds on which the request is based. In either case, the employing agency is allowed to submit comments and/or

documents within 15 days. In turn, the information is subject to claimant review and comment within 15 days. After reconsideration, a new formal decision is issued.

The third and final option for appeal is a request for review by the Employees' Compensation Appeals Board. The Board is the highest authority in the Federal Employees' Compensation claims procedure. An employee should be forewarned that no new evidence can be submitted at this stage. It is important to note that benefits provided under the Act are the sole remedies in the United States for work-related injury or death. A federal employee or dependent is not entitled to sue the United States Government or to recover damages for such injury or death under any other statute.

In order for a claim to be accepted, whether it is for a traumatic injury, occupational disease, or death, it is important that the claim itself meet five conditions: time, fact of injury, determination if an employee is a Civil Service employee within the meaning of the law, whether the condition arose from circumstances that are within the guidelines during the performance of duty, and if the injury is causally related to the job.

The law requires that a claim for compensation must be filed within 3 years of the date of injury or death. Again

according to the Federal Personnel Manual, even if a claim is not filed within 3 years, compensation may still be allowed if written notice of injury

was given in 30 days or if the immediate superior had actual knowledge of the injury or death within 30 days after its occurrence.³¹

This knowledge may consist of written records or verbal notification. An entry into the employee's medical record may also satisfy this requirement if it is sufficient to place the agency on notice of a possible work-related injury or illness.

The law also provides that the filing of a disability claim because of injury will satisfy the time requirement for a death claim on the same injury. The failure of an individual to comply with the 3-year time requirement may be excused because of exceptional circumstances, such as being held as a prisoner of war.³² The statutory time limitations for a traumatic injury begin to run from the date of injury. Time begins to run for a latent condition when an injured employee becomes aware or reasonably should have been aware of a possible relationship between the condition and the employment. In situations where the exposure to possibly injurious employment-related conditions continues after this knowledge is acquired, the time for filing begins to run on the date of the employee's last exposure to the implicated conditions.

In death cases resulting from traumatic injury, time begins to run from the date of death. For death due to disease, time begins to run when the beneficiary is aware,

or reasonably should have been aware, of the causal relationship between the death and factors of employment.

Time limitations do not begin to run for a minor until the person reaches the age of 21 or has a legal representative. Time limitations do not begin to run for a person who is mentally incompetent until the person has a legal representative.

Temporary employees are covered on the same basis as permanent employees. Contract employees and loaned employees are covered under some circumstances, but determinations must be made on a case-by-case basis once a claim is filed. Employees who are not citizens or residents of the United States or Canada are covered subject to certain special provisions governing their pay rates and computation of compensation benefits.

If issues concerning an employee's eligibility are resolved affirmatively, it must then be established whether the employee did in fact sustain a work-related injury or disease. The employment factors which caused the accident must be resolved on the basis of factual and supporting evidence. Such evidence may include statements from the claimant, the agency involved, and any witnesses. All allegations must be resolved.

It is not necessary that the incident be witnessed. However, this would probably expedite the processing of the

claim. Verification must also be made of the medical condition of the individual who was injured and whether the decision that an injury occurred or a disease was contracted was made by an attending physician. It must, of course, also be resolved whether the employee was in the performance of his/her duty at the time. Further, a determination needs to be made as to whether the alleged accident, injury, or contracting of the disease actually took place on the agency's premises, whether it occurred outside of working hours, and whether the individual was performing legitimate job-related tasks at the time. For example, if a claim is filed on the basis of occurrences while an employee is undergoing training provided on a non-government facility through another organization, the agency must have been advised of the training by the employee, and have approved of that function.

The parking facility question is quite obscure, in that many times employees do not know whether a parking lot is actually owned by a federal agency or whether the agency leases it. Consequently, if someone is injured in a particular parking lot, whether the responsibility is that of the lessor or the lessee. A good example would be a current case involving a Civil Service employee who was raped in the parking lot where requests for better lighting had been made by the office in which she works. It has not been resolved

to date as to whether the lessee or the lessor is responsible for whatever damages the individual has suffered. Often, an employee is also covered if the injury occurs in agency housing in which he/she is required or expected to live. Such housing may be furnished or made available by the government.

Off-premises injuries are covered, if they occur during the performance of the individual's regular duties or special missions that the worker has been assigned by his/her office. An accident taking place on the way to or from work is not compensable. Exceptions occur where the agency furnishes transportation to and from work, where the employee is required to travel during a curfew or an emergency, or where the employee is required to use his/her vehicle during the workday. Lunch hours are not covered unless the accident happens on the premises of the agency. Employees who are injured while in travel status on government business are covered 24-hours a day, because they are perceived to be on 24-hour duty. Similarly, vehicular accidents are covered so long as they occurred during the performance of duty. (For a more comprehensive review, see Appendix E).

For a claimant to be successful, it is essential that he or she demonstrate a causal relationship between work-related occurrences and the injury or disease sustained.

Unlike the fact of injury, which involves the determination that a medical condition is present, causal relations involves establishment of a connection between the injury or incident and the employee's condition. This factor is based entirely upon medical evidence provided by the treating physicians. Opinions of the claimant, agency or witness are not considered, nor is any general medical information from published articles.

Causal relationship-type injuries are a result of: 1) direct causation, i.e., a condition claimed through a natural and unbroken sequence; 2) aggravation of a pre-existing condition; 3) acceleration, in which an injury or disease is hastened by another underlying condition; 4) and precipitation, in which a latent condition becomes active.

If there is evidence of willful misconduct, or the intention to bring about injury to oneself or another employee, or the injury is caused by intoxication (alcohol or controlled substances not prescribed), then the claim for compensation must be denied. However, this is not interpreted to mean that the employing agency has the authority to test employees for drugs beyond that which may exist under other statutes or regulations.

Benefits

The Act provides that an employee injured in the performance of duty, or who sustains an occupational disease,

shall receive all medical services, appliances, and supplies prescribed or recommended by a qualified physician, which the Office considers likely to cure, give relief and reduce the degree or the period of disability. While there is no limit placed on the monetary amount of medical care in an individual case, nor on the length of time in which medical care may be received, an employee should be advised that the Act provides certain restrictions with respect to attending physicians and their fees. Travel expenses for receiving medical treatment are also reimbursable. The restriction of medical fees is due to 1986 legislation. In the July, 1981 General Accounting audit of the Office of Workers' Compensation Programs report to Congress, great emphasis was place on a few cases of fraud and abuse.³³ However, no emphasis was placed on the thousands of cases handled by competent physicians who wanted to be of assistance and often became frustrated with the system. This often resulted in injured workers not receiving treatment unless they paid cash "up front" (see Chapter V, Survey).

Treatment for orthopedic and prosthetic appliances, dental work, hernia injection treatment, acupuncture, organ transplants, and third-party contracting employees' conditions, require prior approval from the office established under the Act. Individuals who contract a work-related disease from an employee while providing a service to that

employee are not covered. Does this mean that the injured worker can be sued? The law appears to be silent on this subject.

If a warmer climate is likely to cure, give relief, reduce the degree or period of disability, or aid in lessening the amount of the monthly compensation payment, moving expenses may be reimbursable. For this, supporting medical evidence and supporting documents must be submitted in advance.

Continuation of Pay

Prior to 1974, long delays occurred between the time an employee was injured and the time the necessary paperwork was completed and forwarded to the Office for processing. In an attempt to rectify the situation, the 93rd Congress enacted the controversial 1974 Amendment which provides for the much-needed Continuation of Pay benefits (see Appendix A).

The primary beneficiaries of the Act were, and subsequent to the amendment continued to be, individuals who suffer traumatic on-the-job injuries. The Continuation of Pay Amendment assured employees with traumatic injuries of their pay being furnished for 45 days with no charge to sick or annual leave.

Denial of this benefit can be unfairly discriminatory against individuals who suffer occupational disease

disability. Due to the definition of occupational disease, such cases are more complex. But the needs of employees experiencing occupational disease are generally no different, financially or medically, from those of individuals suffering from traumatic injuries. Occupational disease cases make up less than 5 percent of the 156.2 million dollar budget for disability cases.³⁴

Another controversial provision is that concerning the challenge or opposition by the employing agency of Continuation of Pay. More than 90 percent of all parties involved do not know that the employing agency is required to reimburse the Employees' Compensation Fund annually.³⁵

Congress appropriates funds annually to the Employees' Compensation Fund to cover medical, rehabilitation training, travel and other compensation benefits. Each agency is required, by law, to reimburse the fund by August 15th of each year, for its share of the expenses of providing benefits to injured workers. Delays of payment have presented some problems for the Department of Labor. Several proposals have been made by the General Accounting Office and others to eliminate the chargeback system. According to the General Accounting Office's reports, if the agencies process their own claims, a large savings would be achieved.³⁶ It does not appear that this recommendation has taken into consideration the time and the cost of transferring the

responsibilities of implementation of the Act, were this to happen.

One of the most under-utilized benefits of the Act is the vocational rehabilitation program. The program seeks to assist and prepare permanently disabled employees for a successful return to productive work in those cases where medical treatment alone has been unsuccessful.

Once such employees are identified, rehabilitation specialists at each district office play the main role in arranging for vocational rehabilitation assistance. The specialists are to contact the employing agency and investigate the possibility of job retention or reassignment. If this proves unsuccessful, they may rely upon State rehabilitation agencies and private rehabilitation services for those services which they believe the disabled employee needs. The specialist must approve of all job placement, training, or self-employment plans for disabled employees. It is wise for the employee who needs rehabilitation assistance to contact the Office rather than to wait for the specialists' contact.

Tuition, books, tools, etc., are paid for by the Office for any approved vocational rehabilitation program. When an employee must reside away from his or her home to participate in training, the additional transportation expenses will be paid by the Office. An employee may also receive a

maintenance allowance of up to \$200 per month for such expenses. This compensation does not stop until completion of the employees' rehabilitation program.

Survey

A telephone survey of 82 law firms in Des Moines, Iowa; Lincoln, Nebraska; Kansas City, Missouri; Overland Park, Kansas; Portsmouth, Virginia; Newport News, Virginia; San Jose and San Francisco, California, produced not one attorney who handled Federal Employee's Compensation cases, although they were listed as Workers' Compensation lawyers. These labor lawyers, however, readily accepted State Workers' Compensation cases.

Contact with professors in the School of Law at Stanford University, the University of California, Berkeley, and Santa Clara University confirmed that the schools were silent on teaching upcoming lawyers how to handle such cases. As a matter of fact, the contacted professor at the University of California, Berkeley asked, "Why should we teach anything about those laws? No one cares."³⁷ A part-time professor who teaches labor law at Santa Clara University replied, "No, we do not teach it. There is no money in it. The government does not care about its people. Good luck to you in trying to find any information."³⁸

Professor William Gould at Stanford stated that modern social law is taught, but that Federal Employees'

Compensation was not included in the course. No particular reason was specified for this omission. Further, Andrea Knapp, co-author of Individual Labor Law Rights, who was a visiting professor at Stanford, stated that she covered the Federal Employees' Compensation Act in her book and classes only in general terms because she found little, if any, information about it. Michael Perlin, of the New York University Law School, whose work is quoted extensively in this thesis, expressed the same sentiments as Knapp.

Treating physicians interviewed by telephone responded that they had little or no knowledge of what to do in terms of submitting forms to the Office. One San Francisco physician, after trying without success to reach the Office to find out where and to whom his report should be forwarded, gave up and mailed it to the claimant's attorney.

Survey letters were submitted to the national offices of the following agencies: the Department of Labor, the Equal Employment Opportunity Commission, the Small Business Administration, the Department of Education, the Department of Health and Human Services, the Environmental Protection Agency, the Veterans' Administration, and the Department of Energy (see Appendix G).

Usable responses were received from the Department of Commerce, Department of Education, United States Postal Service, the United States Small Business Administration, and

the Department of Labor. The United States Small Business Administration replied that the information requested was too extensive and required too much time to furnish.

The United States Postal Service showed an approximately 20 percent decline in injuries during the period from 1979 to 1988, from 84,324 to 60,362. Approximately 80 percent were traumatic and 20 percent were occupational disease. The 1988 budget for injured workers was \$230 million. Although 99 percent of their employees returned to their previous jobs, the record shows that the postal service has the highest number of injured workers (see Appendix G & F).

The United States Department of Education had a total of 443 claims in 1986, 1987, and 1988, of which 417 were for traumatic injuries and 26 were for occupational diseases. One injured worker is currently receiving rehabilitation. According to their data, they have an open system of informing their employees of their rights.

The representative from the Veteran's Administration, Central Office, said that their chargeback for 1988 was \$91,979,253, and for 1987 was \$84,549,437. No additional data are available.

The Associate Director for Federal Employees' Compensation responded to the survey letter sent to the Department of Labor. While the survey was intended for his

agency, he responded overall for all of the agencies. According to the Associate Director Thomas Markey, the Office "does not collect information breaking down injuries by race or grade of employment," and that "information requested and received on gender is not compiled" (see Appendix G).

At present, there is no specific tracking system to verify the number of employees who return to their original jobs. However, of the Department of Labor's 1,061 employees who filed injury claims during the period from July 1, 1987 to June 30, 1988, 34 were still disabled and were receiving benefits as of September 30, 1988.

A total of 12,471 non-traumatic claims were received during the period from October 1, 1987 to September 30, 1988. Of these, 97.47 percent were adjudicated within the range of 1 to 365 days. During the same period of time, 143,232 traumatic cases were received, with 99.92 percent having been adjudicated within the same range of days.³⁸ Again, the complexity of resolving the non-traumatic cases is exemplified.

According to the Department of Labor figures, there has been a decline in traumatic injuries: from 162,083 in 1982 to 145,294 in 1987. But there was an increase in occupational disease from 12,580 to 13,394 during the same period.

On behalf of the beneficiaries of the Act, over \$1,199,000,000 was paid for the period from June 1, 1987 through June 30, 1988. The operating budget was \$54 million.

Based on this information, friction and delays from agencies for payments of chargeback for the Compensation Fund should, if necessary, receive intervention from Congress for immediate resolution and the possible levying of penalties.

Because the Equal Employment Opportunity Commission is a small agency within the Government, it has no computer access which would enable it readily to gather information of this kind. However, a representative did reply to the inquiry and a telephone interview was conducted. The representative stated,

The annual budget for compensating injured employees continues to escalate, with occupational disease claims outnumbering that of traumatic injury claims. The largest number of employees claiming occupational disease are higher grade employees, beginning from GS-15 and above, Equal Opportunity Specialists, and Senior Executive Service, and rarely do they return to their previous employment.³⁹

After a claim of occupational disease has been resolved favorably, the claimant's option is a disability pension, rather than Civil Service retirement, because the claimant would receive more tax-free money. The opinion of the representative is that processing of claims should be handled

by the agencies since they are billed chargeback fees by the Office of Workers' Compensation.

CHAPTER V

CONCLUSION

In a letter dated July 19, 1978, from Secretary of Labor Ray Marshall to Comptroller General Elmer B. Stoats, the Secretary admitted that the Federal Employees' Compensation Act had "been beset by serious deficiencies in administration and management."⁴⁰ Under Secretary Marshall, a 4-day training course for all claims examiners was instituted and all new persons hired were required to take a mandatory 7-day course. Comprehensive review of the entire inventory was undertaken. Quality Control was strengthened by a set of performance standards for district offices, with special emphasis on processing time and quality adjudication rather than size of backlog. An internal management audit system was instituted for each district office. The Automated Data Processing system was, in theory, put in operation in all district offices. A panel of medical specialists was established to review the Act's medical standards and impairments to employment factors. The panel consisted of orthopedic, cardiac, pulmonary and psychiatric experts.

Secretary Marshall requested follow-up from the General Accounting Office. However, the records show that there was no immediate follow-up, probably due to a lack of continuity during the change in Administration.⁴¹

The General Accounting Office reports support the contention that lower grade employees are discriminated against in pay, even though the agencies surveyed did not choose to specify grade, gender and race of injured or deceased employees.

Difficulties encountered obtaining data from agencies proved how secretive and closed the system can be in practice. This is especially true in the area of services to the individuals for whom the law was established, and for those who choose to write about it.

For claimants, attorneys, and researchers alike, lack of access to information in the field has long been, and continues to be, a major problem. Too few people, even those with expertise in workers' compensation, may even be informed about actual and potential negative effects on Federal employees. This, understandably, can result in a feeling of hopelessness for a great number of workers. The Act is for the protection of federal employees and they do have a vested right and a need to know of its provisions. Not only is this important to the employee, but it is equally important to their spouses, dependents and survivors.

Clearly, it is vitally important for the employing agencies, the Office of Workers' Compensation, injured employees, and their representatives to work closely

together. The primary goal to be achieved in working together would be to build and expand upon a new-found trust. It is not justifiable that injured employees be looked upon as individuals whose goals are to abuse the system and defraud the Federal government. It would be naive to believe that this trust could be built immediately. However, it is evident that trust will never be built if there is no starting point. After careful analysis of some of the major problems, the following solutions are recommended:

Employees

The foundation for new trust should begin with the prompt dissemination of basic information defining the Act and its purpose to all Federal employees in the United States and abroad. The Department of Labor developed a document entitled Federal Injury Compensation, Questions and Answers About the Federal Employees' Compensation Act, in 1983. This document is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402 (see Appendix E). It is not reasonable for employees to have to buy this information concerning work-related injuries, while all other personnel data are furnished without charge at the time of hiring. Since few employees know about the document or have access to it, this problem could be eliminated by the development of a 3 x 7

brochure and its dissemination to current employees. When a new person is hired, the brochure would automatically be included within the new hire packet.

The brochure would include the following information: a brief explanation of the Act; the definition of traumatic and occupational disease injuries; who to contact in case of an injury; the immediate necessary form numbers; and a toll-free 800 number for obtaining further information. This would eliminate some of the delays in the processing procedures as they are currently handled.

Employing Agencies

The employing agencies should be required to place the problems of injured workers' on a level equal to that of grievances, disciplinary actions, production and other administrative tasks. Currently, they are not. Management should be held accountable. Explanation of the importance of the Act should be equally important to management and staff. For example: Management could be given regular training by experts who administer the Act. If that is not possible due to shortage of staff, then contracted consultants should be budgeted into every agency's fiscal budget to cover the fees necessary to accomplish this goal. Currently, managers are given a yearly bonus based on their performance evaluations. Promptness and efficiency of handling the injured workers' claims should be included in

the evaluation process along with the amount of the bonus.

Education Enterprises

The Federal Employees' Compensation Act should become a part of law school curricula and become a mandatory requirement, especially for students emphasizing the field of Administrative Law. Textbooks that include an in-depth study of the Act should be made available for purchase.

Lawyers

The American Bar Association and the National Bar Association should be encouraged to place the needs of injured federal workers on the same level of those of injured workers who are covered by state compensation programs. This would increase the number of studies and law review articles available to serve as resources and would draw needed attention to the federal program. The bar associations could also take conscientious steps to resolve current differences with the administrators of the Act. If some of the nation's leading law firms would change and move towards greater cooperation with them, perhaps others would follow.

Physicians

A study concerning the reluctance of physicians to treat federal injured workers is needed. Two of the major concerns of physicians appear to be over their receiving payment and their lack of knowledge of forms needed by the

agencies. If the physicians were paid by the Office for the medical fees that employees' insurance do not cover, this would lessen the tension between physicians, patients, and agency administrative staff.

The American Medical Association should be encouraged to publish articles concerning these and other immediate problems and to increase the awareness of these issues among physicians in their respective fields of specialization. The levels of difficulty between the treating of traumatic injuries and occupational diseases should be openly addressed with a view towards resolution.

The implementation of educating physicians on what is expected of them while treating injured workers would eliminate some of the hostility between physicians, employing agencies, injured workers, and the Office. Again, if some of the mentors in the medical field would start a movement for trust, others would follow.

Consultants

Previous studies have shown that the Department of Labor has consistently addressed the issue of shortage of staff and lack of time for processing claims as major problems. Since the Consultant Reform Act of 1980 allows for the contracting of consultants, perhaps they should be used to assist in relieving this stressful situation.

Task Force

Establishment of a Presidential Task Force in conjunction with the above recommendations could expedite resolutions. The task force should consist of physicians with different specialties, especially those who treat occupational disease and injuries; labor lawyers; union officials; management representatives; civil service employees, and consultants. Together they would do an in-depth study and analysis with recommendations for resolutions.

It is important that injured workers not be treated in an adversarial manner so that positive change can take place. Congress intended that the law service the federal employee. The individual who has the option of utilizing this system, especially with respect to rehabilitation programs, and is afforded the opportunity to increase his or her earning power, repays far more into the system than what is used for medical care and retraining. A disabled individual becomes a viable tax payer again.

Knowledge, sharing of information, and respect among all parties involved are the keys to what has been and continues to be a closed, problematic situation for many individuals who seek to make the Federal Employees' Compensation Act work. The author spoke with many injured federal employees whose spirits and bodies have been broken.

Some have lost their homes and families due to their illnesses or because of injuries which happened through no fault of their own. Yet they still remain loyal to their Government. The evidence shows that the positions in the lower grades of the Federal Civil Service are overwhelmingly filled with women and minorities; the system must provide fair and equitable services to all federal employees. This is not an unobtainable goal. The system can and should work for all.

NOTES

¹General Accounting Office, Report to Congress.
Federal Employees Compensation Act: Benefit Adjustments
Needed to Encourage Reemployment and Reduce Cost.
(Washington, D.C.: GPO, 1981) 62.

²Michael L. Perlin, "The German and British Roots of
American Workers Compensation: When is an 'Intentional Act'
'Intentional'?" 15 Seton Hall Law. (Fall 1985) 853.

³Ibid.

⁴Ibid., 854.

⁵Ibid., 856.

⁶Ibid., 859.

⁷Ibid., 860.

⁸Ibid., 861.

⁹Ibid., 863.

¹⁰Ibid., 867.

¹¹Ibid.

¹²Ibid., 869.

¹³Ibid.

¹⁴Department of Labor, "Worker's Compensation: Signif-
icant Enactments in 1983," Bureau of Labor Statistics by
Laverne C. Tinsley. Monthly Labor Review (Washington, D.C.:
GPO, 1984) 55.

¹⁵Congressional Record, 62nd Congress, 2nd Session,
1910, 556.

¹⁶Ibid., 557.

¹⁷Congressional Record, 62nd Congress, 2nd Session,
1912, 74.

¹⁸Congressional Record, 64th Congress, 1st Session, 1916. 742.

¹⁹Ibid., 744.

²⁰Ibid., 746.

²¹Ibid., 747.

²²Ibid., 750.

²³Federal Employees' Compensation Act, U.S. Code Volume 5, Section 6877 (1974).

²⁴Ibid., 6881.

²⁵General Accounting Office, Report to Congress: Improvements Still Needed in Administering the Department of Labor's Compensation Benefits for Injured Employees. (Washington, D.C.: GPO, 1978) 34 Task Force stated that the staff may need additional training regarding medical, etc., but that occupational disease cases should not be overlooked because of their complexity, even though the backlog would be increased and pressure was on from Congress. 57.

²⁶Department of Labor. Federal Personnel Manual. (Washington, D.C.: GPO, 1986) 810.

²⁷The author personally polled over 200 employees entering and leaving the federal buildings and asked specific questions as to whether they knew about the Act and how to process a claim. I was especially surprised that the staff, who provided Congressional research from the Library of Congress, were ill informed and uninformed. Further research revealed no published authority on the topic.

²⁸Federal Personnel Manual, 810, Section 4-3.

²⁹Ibid., 810, Section 4-4.

³⁰Ibid., 810, Section 3-1.

³¹Ibid., 810, Section 2-4.

³²Ibid., 810, Section 2-3.

³³General Accounting Office Report, 1981. 75.

³⁴Ibid., 63.

³⁵Ibid., 67.

³⁶Ibid., 71.

³⁷The author spoke with each Law Department head in an attempt to validate the position taken by attorneys of "hands off" on FECA cases, which basically leaves approximately 2.9 million employees without legal representation.

³⁸For all agencies that did not respond to the survey by mail, a telephone survey was conducted due to time constraints. Department of Labor did provide an extensive response. (See Survey)

³⁹The Equal Employment Opportunity Commissions representative had to respond by telephone because "no one gave him the survey until the day" he was called by the author, he had to track it down.

⁴⁰General Accounting Office Report, 1978. 58.

⁴¹Ibid.

BIBLIOGRAPHY

- American Bar Association. National Institute On Workers Compensation: A Review of Remedies, Emerging Developments. 9-10, 1986. American Bar Association, Chicago, Illinois. c1986.
- American Jurisprudence 2d. Federal Employers' Liability, Etc. The Lawyers Cooperative. Bancroft and Whitney. San Francisco, California. Vol. 32. 1982.
- Armbrister, Trevor. "Disabled...or Dishonest?" Reader's Digest (U.S. Edition). Readers Digest Association. Pleasantville, New York. 1983.
- Berkowitz, Monroe. Workers Compensation Compared With Other Disability Programs. (Conference paper). Monthly Labor Review. (2) Bureau of Labor Statistic. Washington, D.C.: GPO, April 1977.
- Brummer, Chauncey, Eugene. "Occupational Disease Litigation Under the Federal Employers' Liability Act." 19 Forum. American Bar Association. Washington, D.C., Winter, 1984.
- Cain, Carol. "United States Compensation Laws' Roots Lie in Austria, Germany." Business Insurance. Chicago, Illinois. 8 December 1986.
- Channel, Wade. "Federal Law - Workers Compensation." Journal of Air Law and Commerce. Dallas, Texas. Winter, 1984.
- Committee On Labor And Public Welfare. Federal Register. Vol. 40-No. 32. Part 3. Washington, D.C.: GPO, 14 February 1975.
- CONGRESSIONAL RECORD. 60th Congress, 1st Session, sec 235, 236. 7 February 1910.
- CONGRESSIONAL RECORD. 62nd Congress, 2nd Session, sec 57-60. 11 March 1912.
- CONGRESSIONAL RECORD. 64th Congress, 1st Session, sec 456. 7 September 1916.

CONGRESSIONAL RECORD. 76th Congress, 3rd Session, sec 78,
79. 11 April 1940.

CONGRESSIONAL RECORD. 81st Congress, 1st Session, sec 961.
14 October 1949.

CONGRESSIONAL RECORD. 90th Congress, 8 August 1958.
Public Law 85-608.

CONGRESSIONAL RECORD. 92nd Congress, 13 September 1960.
Public Law, 86-768.

CONGRESSIONAL RECORD. 98th Congress, 4 July 1966. Public
Law 89-488.

CONGRESSIONAL RECORD. 106th Congress, 2nd Session, 1974.
Vol. 40, No. 32.

CONGRESSIONAL RECORD. 109th Congress, 1st Session, 1977.
House Report No. 97-399.

CONGRESSIONAL RECORD. 117th Congress, Subcommittee House
Appropriations, 5 February 1987.

Croft, Chancy. "Federal Employees' Compensation for Work
Injuries." Alaska Law Review. June, 1986.

Ducatman, Alan M.. "Workers Compensation Cost-Shifting, A
Unique Concern of Providers and Purchasers of Prepaid
Health Care." Journal of Occupational Medicine.
November, 1986.

Edelman, Paul S.. "Workers' Compensation Costs. Two
Important Cases Before the Supreme Court: One Decided,
One to Go." New York Law Journal. New York. March
1980.

English, Carey W.. "Cutting Costs, Abuses in Disability"
Insurance. U.S. News and World Report. 28 May 1984.

Ivancevich, John M. "Who's Liable for Stress on the Job?"
Harvard Business Review. March 1985.

Lent, Laura. "VDT Operator Wins Workers Compensation." MS.
March 1984.

- Perham, John. "Rehabilitating Disabled Worker's." Dun's Business Month. June 1984.
- Perlin, Michael L. "The German and British Roots of American Workers Compensation: When is an 'Intentional Act' 'Intentional'?" 15 Seton Hall Law Review. Fall, 1985.
- Riordan, Teresa. "Adding Insult to Injury." The Washington Monthly. Washington, D.C.: GPO, March 1984.
- Stiglitz, Jan. "Government Subrogation Rights Under F.E.C.A. and M.C.R.A." 32 Federal Bar Association News and Journal. 1985.
- Tinsley, Laverne C. "Workers Compensation in 1982, Significant Legislation Enacted." Bureau of Labor Statistic. Monthly Labor Review. Washington, D.C.: GPO, January 1983.
- Tinsley, Laverne C. "Worker's Compensation: Significant Enactments in 1983." Bureau of Labor Statistics. Monthly Labor Review. Washington, D.C.: GPO, February 1984.
- U.S. Chamber of Commerce. 1988 Analysis of Workers Compensation Laws. U.S. Chamber of Commerce. Washington, D.C.: GPO, 1988.
- U.S. Congress, House, Committee on Education and Labor. Subcommittee on Labor Standards. Oversight Hearings on the Federal Employees' Compensation Act. Washington, D.C.: GPO, 1980.
- U.S. Congress, House, Committee on Education and Labor. Subcommittee on Labor Standards. Proposed Budget Cuts for Fiscal Year 1982. Hearing, 97th Congress, 1st Session, Washington, D.C.: GPO, March 1981.
- U.S. Department of Labor. Federal Employees' Compensation Act, and the Longshoremen's and Harbor Workers' Compensation Act and Extensions. Annual Statistical Report for all districts combined. Washington: GPO, 1976.
- U.S. Department of Labor. Federal Injury Compensation. Employee Standards Administration. Washington, D.C.: GPO, February 1983.

- U.S. Department of Labor. Federal Personnel Manual. Injury Compensation. Chapter 810. Washington, D.C.: GPO, October 1986.
- U.S. General Accounting Office. ADP Internal Controls: Actions to Correct System Weaknesses for Federal Employees' Compensation. Report to Subcommittee on Employment and Housing, Committee on Government operations. House of Representatives. Washington, D.C.: GPO, December 1987.
- U.S. General Accounting Office. Federal Personnel and Compensation Division, before the House Subcommittee on Human Resources. Human Resources, 7674, the Consultant Reform Act of 1980. Washington, D.C.: GPO, August 1980.
- U.S. General Accounting Office. The Civil Service Disability Retirement Program. Report before Subcommittee on Manpower and Housing of the House Committee on Government Operations. Washington, D.C.: GPO, September 1981.
- U.S. General Accounting Office. Federal Employees' Compensation Act: Benefit Adjustments Needed to Encourage Re-employment and Reduce Costs. Report to Congress by the Comptroller General and the United States. Washington, D.C.: GPO, March 1981.
- U.S. General Accounting Office. How to Improve Administration of the Federal Employees' Compensation Benefits Program. Report to Congress by the Comptroller General of the United States. Washington, D.C.: GPO, March 1975.
- U.S. General Accounting Office. Improvements Still Needed in Administering the Department of Labor's Compensation Benefits for Injured Federal Employees'. Report to Congress by the Comptroller General of the United States. Washington, D.C.: GPO, September 1978.
- U.S. General Accounting Office. Injury Compensation Process Delays Prompt Payment of Benefits to Federal Workers. Report to the Congress by the Comptroller General of the United States. Washington, D.C.: GPO, 1981.

- U.S. General Accounting Office. Material on Employees Compensation Act. Washington, D.C.: GPO, 1982.
- U.S. General Accounting Office. Multiple Problems With the 1974 Amendments to the Federal Employees' Compensation Act. Report to the Congress by the Comptroller General of the United States. Washington, D.C.: GPO, June 1979.
- U.S. General Accounting Office. Need for a Faster Way to Pay Compensation Claims to Disabled Federal Employees'. Report to Congress by the Comptroller General of the United States. Washington, D.C.: GPO, November 1973.
- Zupanec, Donald M. "18 Mental and Physical Disability Law." Reporter. Bancroft and Whitney. San Francisco, California. July-August, 1986.

APPENDIX A

[70]

93d Congress }
2d Session }

COMMITTEE PRINT

FEDERAL EMPLOYEES' COMPENSATION
ACT, AS AMENDED

INCLUDING CHANGES MADE BY PUBLIC LAW
93-416, APPROVED SEPTEMBER 7, 1974

PREPARED BY THE
SUBCOMMITTEE ON LABOR
OF THE
COMMITTEE ON LABOR AND
PUBLIC WELFARE
UNITED STATES SENATE

OCTOBER 1974

Printed for the use of the Committee on Labor and Public Welfare

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**FEDERAL EMPLOYEES' COMPENSATION ACT,
AS AMENDED**

TITLE 5, UNITED STATES CODE

Subpart G—Insurance and Annuities

CHAPTER 81—COMPENSATION FOR WORK INJURIES

SUBCHAPTER I.—GENERALLY

- Sec.*
- 8101. Definitions.
 - 8102. Compensation for disability or death of employee.
 - 8103. Medical services and initial medical and other benefits.
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 - 8105. Total disability.
 - 8106. Partial disability.
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 - 8115. Determination of wage-earning capacity.
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 - 8117. Time of accrual of right.
 - 8118. Election to use annual or sick leave.
 - 8119. Notice of injury or death.
 - 8120. Report of injury.
 - 8121. Claim.
 - 8122. Time for making claim.
 - 8123. Physical examinations.
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 - 8125. Misbehavior at proceedings.
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 - 8127. Representation; attorneys' fees.
 - 8128. Review of award.
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 - 8130. Assignment of claim.
 - 8131. Subrogation of the United States.
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 - 8133. Compensation in case of death.
 - 8134. Funeral expenses; transportation of body.
 - 8135. Lump-sum payment.
 - 8136. Initial payments outside the United States.
 - 8137. Compensation for noncitizens and nonresidents.
 - 8138. Minimum limit modification of noncitizens and aliens.
 - 8139. Employees of the District of Columbia.
 - 8140. Members of the Reserve Officers' Training Corps.
 - 8141. Civil Air Patrol volunteers.
 - 8142. Peace Corps volunteers.
 - 8143. Job Corps enrollees, volunteers in service to America.
 - 8143a. Members of the National Teacher Corps.

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Compensation within such Agency. By Reorganization Plan No. 19 of 1950 (15 FR 3178, 64 Stat. 1263) said Bureau was transferred to the Department of Labor, 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, 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 Department of Labor.

(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 (OWCP), was established in lieu of the Bureau of Employees' Compensation (39 FR 34722).

5. A new Part 10 is added to Subchapter B—Federal Employees' Compensation Act—and reads as follows:

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

Subpart A—General Provisions
INTRODUCTION

- Sec. 10.1 Statutory provisions.
- 10.2 Administration of the Act and this chapter.
- 10.3 Purpose and scope of this part.
- 10.4 Applicability of other parts within this chapter.
- 10.5 Definitions and use of terms.

INFORMATION IN PROGRAM RECORDS

- 10.10 Custody of records relating to Federal Employees Compensation Act matters.
- 10.11 Inspection and copying of records.

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- 10.20 Forms.
- 10.21 Waiver of compensation rights invalid.
- 10.22 Exclusiveness of remedy.
- 10.23 Penalties.

Subpart B—Notice of Injury and Claim for Compensation, Administrative Procedures

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- 10.101 Report of death.
- 10.102 When a notice of injury or report of death must be given.
- 10.103 Report of injury by official superior and physician.

CLAIMS FOR COMPENSATION

- 10.105 Time for perfecting a claim for compensation.
- 10.106 How to file a claim for disability compensation.
- 10.107 Application for augmented compensation for disability.
- 10.108 How to file an original claim for death benefits.
- 10.109 Claims for balance of schedule due at death from other causes.

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- 10.110 Affidavit or report by employee of employment and earnings.
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TERMINATION AND CONTINUATION OF ELIGIBILITY

- Sec. 10.120 Report of termination of disability or return to work.
- 10.121 Recurrence of disability for work.
- 10.122 Claims for continued compensation for disability.
- 10.123 Employee's obligation to return to work or to seek work when able.
- 10.124 Continuance of compensation on account of death.
- 10.125 Termination of right to compensation for death.
- 10.126 Change in status of beneficiaries affecting compensation for death.

DETERMINATIONS OF CLAIMS, HEARING AND REVIEW PROCEDURES

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- 10.132 Time and place of hearing; pre-hearing conference.
- 10.133 Conduct of hearing.
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- 10.135 Withdrawal of request for hearing; abandonment.
- 10.136 Review of decision.
- 10.137 Review by Employees' Compensation Appeals Board.
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- 10.139 Reserved.
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- 10.143 Qualification of representative.
- 10.144 Authority of representative.
- 10.145 Fees for services.
- 10.146 Reserved.
- 10.147 Reserved.
- 10.148 Reserved.
- 10.149 Reserved.
- 10.150 Statement relative to substantive rules.

Subpart C—Continuation of Pay
GENERAL

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- PROCEDURES**
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- 10.202 Controversy by employing agency.
- 10.203 Manner of controversy.
- 10.204 Termination of continuation of pay.
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- 10.206 Agency accounting and reporting of continuation of pay.

OFFICIAL SUPERIOR'S AND BENEFICIARIES' RESPONSIBILITIES

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- 10.208 Recurrence of disability.
- 10.209 Employee's responsibilities in continuation of pay cases.
- 10.210 Election of annual or sick leave.

Subpart D—Payment of Compensation
COMPENSATION RATES

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- 10.301 Temporary total disability rate.
- 10.302 Permanent total disability rate.
- 10.303 Partial disability rate.
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- 10.400 Medical treatment, hospital services, transportation, etc.
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- 10.402 Official authorization for treatment.
- 10.403 Emergency treatment.
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- 10.406 Authority for dental treatment.
- 10.407 Medical examination.
- 10.408 Medical referee examination.
- 10.409 Furnishing of orthopedic and prosthetic appliances, and dental work.
- 10.410 Recording and submission of medical reports.
- 10.411 Submission of bills for medical services, appliances and supplies.
- 10.412 Reimbursement for medical expenses, transportation costs, loss of wages, and incidental expenses.

Subpart F—[Reserved]

Subpart G—Cases Involving the Liability of a Third Party

- 10.500 Prosecution of third party action by beneficiary.
- 10.501 Assignment of third party.
- 10.502 Refusal to assign or prosecute claim when required; effect.
- 10.503 Distribution of damages recovered by beneficiary.
- 10.504 Distribution of damages where cause of action is assigned.
- 10.505 Office may require beneficiary to settle or compromise third party suit.

AUTHORITY: (5 U.S.C. 301); Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; (5 U.S.C. 8145, 8149); Secretary of Labor's Order No. 13-71, 36 FR 2156; Employment Standards Order No. 2-74, 39 FR 34722.

Subpart A—General Provisions

INTRODUCTION

§ 10.1 Statutory provisions.

(a) The Federal Employees' Compensation Act, as amended (5 U.S.C. § 8101 *et seq.*) provides for the payment of workers' compensation benefits to civil officers and employees of all branches of the Government of the United States. The Act has been amended and extended a number of times to provide workers' compensation benefits to volunteers in the Civil Air Patrol, members of the Reserve Officer Training Corps, Peace Corps Volunteers, Job Corps enrollees, Volunteers in Service to America, members of the National Teachers Corps, certain student employees (see 5 U.S.C. 5351, 8144), employees of the Panama Canal Zone Government and the Panama Canal Company, employees of the Alaska Railroad, certain law enforcement officers not employed by the United States (see 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 Act provides for the payment of dollar benefits to enumerated classes of persons who are injured or disabled while in the performance of their duties in service to the United States and to

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(iv) An individual employed by the government of the District of Columbia;

(v) 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);

(vi) An individual selected pursuant to Chapter 121 of Title 28, United States Code, and serving as a petit or grand juror and who is otherwise an employee for the purposes of this part as defined by subparagraphs (i), (ii), (iii), (iv), and (v) of this subsection;

(vii) Members of the Reserve Officers Training Corps;

(viii) Civil Air Patrol Volunteers;

(ix) Peace Corps Volunteers, volunteer leaders and volunteers with one or more minor children as defined in Section 2504 of Title 22, United States Code;

(x) Job Corps enrollees;

(xi) Youth Conservation Corps enrollees;

(xii) Volunteers In Service To America;

(xiii) Members of the National Teachers Corps;

(xiv) Members of the Neighborhood Youth Corps;

(xv) Student employees as defined in 5 U.S.C. 5351;

(xvi) Employees of the Canal Zone;

(xvii) Employees of the Alaska Railroad;

(xviii) Law enforcement officers not employees of the United States killed or injured under certain circumstances involving a crime against the United States; and,

(xix) Other persons performing service for the United States within the purview of the Act and all acts in amendments, substitution or extension thereof;

(xx) But does not include.

(A) A commissioned officer of the Regular Corps of the Public Health Service;

(B) A commissioned officer of the Reserve Corps of the Public Health Service on active duty;

(C) A commissioned officer of the Environmental Science Services Administration;

(D) A member of the Metropolitan Police or the Fire Department of the District of Columbia who is pensioned or pensionable under Sections 521-535 of Title 4, District of Columbia Code.

(12) "Official Superior" means officers and employees having responsibility for the supervision, direction or control of employees.

(13) "Employing Agency" or "agency" means any civil agency or instrumentality of the United States Government or any other organization, group or institution employing any individual defined as an "employee" by this section.

(14) "Injury" means injury induced by accident or trauma and includes a disease or latent disabling condition proximately caused by the employment for which benefits are provided under the Act. The term "injury" includes damage or destruction of medical braces,

artificial limbs, and other prosthetic devices which shall be replaced or repaired; except that eyeglasses and hearing aids would not be replaced, repaired, or otherwise compensated for, unless the damage or destruction is incident to a personal injury requiring medical services.

(15) "Traumatic Injury" means a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable as to time and place of occurrence and member or function of the body affected, and be caused by a specific event or incident or series of events or incidents within a single day or work shift. Traumatic injuries are distinguished from occupational diseases or illnesses in that the latter are produced by systemic infections; continued or repeated stress or strain; exposure to toxins, poisons, fumes, etc., or other continued and repeated exposure to conditions of the work environment over a longer period of time. Traumatic injuries also include damage or destruction to prosthetic devices or appliances, exclusive of eyeglasses and hearing aids unless the eyeglasses and hearing aids were damaged incidental to a personal injury requiring medical services.

(16) "Monthly pay" means the monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if the recurrence begins more than 6 months after the injured employee resumes regular full-time employment with the United States, whichever is greater, except when otherwise determined under section 8113 of the Act with respect to any period.

(17) "Price index" means the Consumer Price Index (all items United States city average) published monthly by the Bureau of Labor Statistics.

(18) "Base month" means the month of July 1966 and each later month which is used as a basis for calculating an increase under 5 U.S.C. 8146a.

(19) "Organ" means a part of the body that performs a special function, and for purposes of this part excludes the brain, heart and back.

(20) "United States Medical Officers and Hospitals" means medical officers and hospitals of the Army, Navy, Air Force, Veterans' Administration, and United States Public Health Service, and any other medical officers or hospital designated as a United States medical officer or hospital by the Secretary.

(b) *Statutory terms.* The definitions contained in this part shall not be considered to derogate from the terms of the Act as amended.

(c) *Dependents and survivors.* In addition to basic disability benefits for employees the Act provides in section 8133 that certain monthly benefits shall be payable to certain enumerated survivors of employees who have died from an injury sustained in the performance of duty. Section 8110 of the Act provides that any employee who is found eligible for a basic benefit shall be entitled to

have such basic benefit augmented at a specified rate for certain persons living in the beneficiary's household or who are dependent upon the beneficiary for support. The provisions of 5 U.S.C. 8101, 8110, and 8133 defining the nature of such survivorship or dependency necessary to qualify a beneficiary for a survivor's benefit or augmented benefit shall be applicable as appropriate to the provisions of this part.

(d) *Inclusive terms.* As used in this part, the singular case includes the plural.

INFORMATION IN PROGRAM RECORDS

§ 10.10 Custody of records relating to Federal Employees' Compensation Act matters.

All records, medical and other reports, statements of witnesses and other papers relating to the injury or death of a civil employee of the United States or other person entitled to compensation or benefits from the United States under the Act and all amendments or extensions thereof, are the official records of the Office and are not records of the agency, establishment or department making or having the care or use of such records. Such records and papers pertaining to any such injury or death are confidential and no official or employee of a Government establishment who has investigated or secured statements from witnesses and others pertaining to a claim for benefits, or any person having the care or use of such reports, shall disclose information from or pertaining to such records to any person, except upon the written approval of the Office.

§ 10.11 Inspection and copying of records.

(a) *Confidentiality of records.* Records of the Office pertaining to an injury or death are confidential, and are generally exempt from disclosure to the public under Section 552(b)(6) of Title 5 U.S.C., the terms of which are applied in this section. (See also Part 70 of Title 29, Code of Federal Regulations regarding Department of Labor documents exempt from disclosure.)

(b) *Release to the employee or to his/her beneficiary.* If an employee or, in the case of death, such employee's beneficiary or the authorized representative of an employee or beneficiary requests information from the Office's records, such individual shall at the discretion of the Office be permitted to examine the records of the case in which such employee is an interested party or representative of such party. In considering any request for such information the Office shall judge the reasonableness thereof, and may in its discretion permit inspection of such record or part thereof, which in its opinion, will not result in damage or harm to the employee or beneficiary. Where the Office determines the release of information to the employee or to the employee's beneficiary is not in the best interest of the employee or his beneficiary, the Office may release the information to the employee's or beneficiary's representative or personal physician

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sustained while in the performance of duty, such employee's official superior shall immediately report such death to the Office by telephone or telegraph. As soon thereafter as is practicable such official superior shall complete and send to the Office a form CA-6, Official Superior's Report of Employees' Death.

(b) *Occupational disease.* When an employee dies while in the performance of duty as a result of an occupational disease such employee's official superior shall immediately report such death in the manner prescribed in paragraph (a) of this section. If for any reason it is impracticable for such employee's official superior to report such employee's death due to an occupational disease or disability, such report may be made by any official superior of the employing agency or any other person acting on behalf of the deceased employee's survivors.

§ 10.102 When a notice of injury or report of death must be given.

(a) *Traumatic injury.* In the case of a traumatic injury or death due to a traumatic injury notice of such injury or death must be given pursuant to 5 U.S.C. 8119, within 30 days from the date on which the injury or death occurred. The failure to give notice within the period specified by this paragraph may result in a loss of compensation rights.

(b) *Occupational disease.* In the case of the onset of an occupational disease or disability notice of such onset or death shall be given within 30 days from the date on which the claimant has been informed by competent medical authority or by the exercise of reasonable diligence should have been made aware that he or she is suffering from an occupational disease or disability or in the case of death, within 30 days from the date of such death. In the case of a death due to an occupational disease or disability the 30 day period specified in this section does not apply until such time as the deceased employee's survivors or official superior should by the exercise of reasonable diligence be aware that the employees' death was due to an employment related occupational disease or disability. The failure to give notice within the time period specified by this paragraph may result in a loss of compensation rights.

§ 10.103 Report of injury by official superior and physician.

(a) The official superior is required to promptly submit to the Office a written report of every injury or occupational disease when it is likely to (1) result in a medical charge against the Office, (2) result in disability for work beyond the day or shift of injury, (3) require prolonged treatment, (4) result in future disability, (5) result in permanent disability or (6) result in a continuation of pay pursuant to 5 U.S.C. 8118. Portions of Forms CA-1 or CA-2 are provided for this purpose. The official superior shall also furnish the Office with a report of any investigation made and any other statements or data which may properly relate to the circumstances of the injury. If the injury need not be

reported to the Office, the Form CA-1 or CA-2 shall be retained as a permanent record in the employee's personnel folder.

(b) In all cases reported, the Office shall be furnished with an immediate medical report from the attending physician. This report may be made: (1) on Part B of Form CA-16; (2) on Form CA-20, Attending Physician's Report; or (3) by narrative report on the physician's letterhead stationery.

(c) Other reports shall be submitted by the official superior and attending physician as described elsewhere in this part or as may be required by the Office.

CLAIMS FOR COMPENSATION

§ 10.105 Time for perfecting a claim for compensation.

(a) *Claim for disability compensation.* An injured employee is required to file a written claim for compensation within 3 years after the injury before compensation may be paid. If, however, the official superior had actual knowledge of the injury within 30 days, or if written notice was given within 30 days, compensation is allowed regardless of whether a written claim was made within 3 years after the injury. Actual knowledge must be such as to put the official superior reasonably on notice of an on-the-job injury.

(b) *Claim for death compensation.* If the employee dies, a written claim for compensation by or on behalf of the survivors is required before compensation may be paid. This claim is to be filed within 3 years after the death, unless within 30 days of such death, the official superior had actual knowledge of the death, due to an employment related injury or disease or written notice of such death was given to the official superior within 30 days of such death. The timely filing of a disability claim because of an on-the-job injury will satisfy the time requirements for a death claim based on the same injury.

(c) *Claim predicated upon a latent disability.* In a case of latent disability, or death due to a latent disability, the time for filing a claim does not begin to run until the employee has a compensable disability or dies and is aware or his survivors are aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship of the compensable disability or death to the employment. In such a case, the time for giving notice of injury or death begins to run when the employee is aware or the survivors are aware, or by the exercise of reasonable diligence should have been aware that the employee's condition or death is causally related to his or her employment, whether or not there is a compensable disability or death.

(d) The time limitations described in this section do not begin to run against a minor until such minor reaches 21 years of age or has had a legal representative appointed; or run against an incompetent individual while such individual is incompetent and has no duly appointed legal representative; or run against any individual whose failure to comply is ex-

cused by the Secretary of Labor on the ground that notice could not be given because of exceptional circumstances.

§ 10.106 How to file a claim for disability compensation.

(a) A claim may be filed by delivering it to the Office, or to any person designated by the Office to receive claims. The employee's official superior is so designated to receive claims on behalf of the Office, and the injured employee may submit his claim to such official superior for transmission to the Office unless special circumstances require a different procedure. The official superior shall submit the injured employee's claim to the Office within 2 working days.

(b) Notwithstanding the filing of any document provided for by Paragraph (a) of this section, no disability compensation shall be payable unless the employee completes the front of a Form CA-4 and submits it to his or her official superior. The employee and the official superior shall complete the Form CA-4. The official superior also shall complete Items 1-4 on the front of the attached Form CA-20 and insert the appropriate Office address on the back thereof, and then detach the Form CA-20 and send it to the attending physician for completion and submission to the Office. The official superior shall forward the completed Form CA-4 to the Office within 2 working days.

(c) Except as provided in Subpart C of this part, whenever an employee, as a result of an injury in the performance of duty, is disabled with loss of pay for more than 3 days, the official superior shall furnish to the employee a Form CA-4 for the purpose of claiming compensation, and shall advise the employee of his or her rights under the Act.

(d) Claims for compensation for permanent disability which involve the loss, or loss of use, of a member or function of the body, or loss, or loss of use of any other important external or internal organ of the body excluding the heart, brain, and back, as listed in 5 U.S.C. 8107 (see § 10.304), shall be filed on Form CA-4 or CA-7 as appropriate which the official superior shall furnish.

(e) Claims for serious disfigurement of the face, head, or neck shall be made on Form CA-4 or CA-7 as appropriate (which shall be furnished by the official superior). If any compensation has been paid or is payable for any such prior disfigurement the date of such prior injury, the amount of compensation and the source thereof shall be stated in the said CA-4 or CA-7.

(f) Form CA-4 shall be filed with the Office upon termination of disability if the duration of disability should be less than 10 calendar days, or at the expiration of 10 calendar days from the date pay stops if disability continues beyond that date.

§ 10.107 Application for augmented compensation for disability.

(a) While the disabled employee has one or more dependents as defined in 5 U.S.C. 8110 such employee's basic compensation for disability shall be aug-

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ward the completed Form CA-8 to the Office within 2 working days.

§ 10.123 Employee's obligation to return to work or to seek work when able.

When total disability to perform work ceases and the employee is able to perform a part of his usual duties, or to perform work of a different nature, the employee must seek such suitable work as he or she is able to perform, either in Government or private employment, unless it has already been provided for such employee, and shall accept such work or offer of work secured for him or her. An employee who has not been regularly employed during the period covered by such employee's claim, and who is only partially disabled, shall state in his or her claim what efforts he or she has made to obtain suitable employment giving the names and addresses of persons or concerns to whom the employee has applied for work. If the employee has not been offered or has not been able to secure work which he or she is able to do, he or she shall so state. If a partially disabled employee refuses to seek suitable work or refuses or neglects to work after suitable work is offered to, procured by, or secured for the employee, he or she shall not be entitled to any compensation.

§ 10.124 Continuance of compensation on account of death.

(a) A beneficiary to whom an award of compensation has been made on account of an employee's death, pursuant to his or her original claim, shall submit to the Office additional claims for continuance of compensation to the Office once each year. Form CA-12 is provided by the Office for this purpose, and will be sent to the beneficiary when an additional claim is required. Failure to submit the form may result in suspension of compensation.

(b) A beneficiary to whom an award of compensation has been made for a child, brother or sister, or grandchild after he or she has reached the age of 18 because he or she continues to regularly pursue a full-time course of study or training shall furnish, when so required by the Office, proof of continuing entitlement to such compensation. Failure to submit the proof may result in suspension of compensation.

(c) Compensation payable on behalf of a child, brother or sister, or grandchild under 5 U.S.C. 8133, which would otherwise be terminated because such individual reached 18 years of age, shall be continued if he or she is a student at the time he or she reaches age 18 for so long a period as he or she continues as a student or marries. An individual shall be considered a student while regularly pursuing a full-time course of study or training at an institution which is—

(1) A school or college or university operated or directly supported by the United States, or by any State and local government or political subdivision thereof, or

(2) A school or college or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body, or

(3) A school or college or university not so accredited but whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or

(4) A technical, trade, vocational, business, or professional school accredited or licensed by the Federal, or a State government or any political subdivision thereof providing courses of not less than 3 months duration, that prepare the child for a livelihood in a trade, industry, vocation, or profession; but not after he or she reaches the age of 23 or has completed 4 years of education beyond the high school level, except that, where the child's 23rd birthday occurs during a semester or other enrollment period, he or she shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student (1) during any interim between school years if the interim does not exceed 4 months and the child shows to the satisfaction of the Office that he or she has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or (2) during periods of reasonable duration during which, in the judgment of the Office the child is prevented by factors beyond his or her control from pursuing his or her education.

§ 10.125 Termination of right to compensation for death.

When a beneficiary who is receiving compensation on account of death ceases to be entitled to such compensation, by reason of remarrying before age 60, marrying, reaching the age of 18, ceasing to be dependent, or ceasing to be a student, or becoming capable of self-support, the beneficiary or someone in his or her behalf shall immediately notify the Office of such fact. If such beneficiary receives a check which includes payment of compensation for any period after the date when he or she ceased to be entitled to it, for any of the above reasons, he shall promptly return it to the Office. On remarriage before reaching age 60, a widow or widower entitled to compensation under 5 U.S.C. 8133, shall be paid a lump sum equal to twenty-four times the monthly compensation payments (excluding compensation on account of another individual) to which he or she was entitled immediately before the remarriage.

§ 10.126 Change in status of beneficiaries affecting compensation for death.

When two or more beneficiaries are receiving compensation on account of the death of an employee and any event occurs which may require a reapportion-

ment of the amount of compensation payable to one or more of them, such beneficiary, or someone on his or her behalf, shall promptly notify the Office giving the date of the event and all essential facts. Such reapportionment may become necessary when any such beneficiary dies or marries, when a child, grandchild brother, or sister of the decedent becomes 18 years old or if over 18, becomes capable of self-support or ceases to be a student, or when a parent or grandparent of the decedent ceases to be dependent, or when a posthumous child of the decedent is born.

DETERMINATIONS OF CLAIMS, HEARING AND REVIEW PROCEDURES

§ 10.130 Processing of claims.

Claims for compensation for disability and death are processed by claims examiners of the Office, whose duty it is to apply the law to the facts as reported, received, or obtained upon investigation. The Federal Employees' Compensation Act, as amended, requires determination of a claim, with findings of fact and a decision for or against the payment of compensation, upon consideration of the claim presented by the claimant, the report by his or her immediate official superior, and the completion of such investigation as the Office may deem necessary. There is no required procedure for the production of evidence, and evidence in written form is accepted. The final authority in the Office in the determination of a claim is vested in the Director of the Office. The decision shall contain findings of fact and a statement of reasons. A copy of the decision, together with information as to the right to a hearing, to a review, and to an appeal to the Employees' Compensation Appeals Board, shall be mailed to the claimant at his or her last known address.

§ 10.131 Request for a hearing.

Any claimant not satisfied with a decision of the Office shall, upon written request made within 30 days after the date of issuance of such decision, be afforded an opportunity for a hearing before an Office representative designated by the Director. The request for hearing shall be made to the Director, Office of Workers' Compensation Programs, U.S. Department of Labor, Washington, D.C. 20211. At such hearing, the claimant shall be afforded an opportunity to present evidence in further support of his or her claim.

§ 10.132 Time and place of hearing; prehearing conference.

(a) The Office representative shall set the time and place of the hearing, and shall mail written notice thereof to the claimant at least 10 days prior to the hearing. The hearing will, when practicable, be set at a time and place convenient for the claimant. The Office representative may, and when so requested by the claimant shall, afford the claimant a prehearing conference to clarify the issues in his or her claim and, when necessary, shall postpone the hearing for this purpose. Request for such confer-

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(4) The amount of fees requested, charged or received for services rendered on behalf of the claimant before any State or Federal court or agency, in a similar or related matter.

(5) A statement explaining the basis for the amount of the fee requested.

(d) The Office will arrange for the claimant to review the request for a fee and to comment as to the services provided and as to the reasonableness of the fee.

(e) In considering any request for such a fee, the Office will not recognize such items as:

(1) Work performed before any other State or Federal agency or court including the Employees' Compensation Appeals Board, and any State or Federal Court.

(2) Any contract for the payment of an agreed sum or any contingent contract.

(3) Expenses incurred by the representative for services performed.

(f) The Office will not pay or assist in the collection of any representative fee. Neither will compensation payments be routinely forwarded to the representative with or without the claimant's approval.

(g) Any claimant aggrieved or adversely affected by an award of a fee, may request a hearing or reconsideration by the Office. Thereafter, the appeals procedure described in this subpart may be utilized by the claimant.

(h) A representative aggrieved or adversely affected by an award of a fee, may utilize the appeals procedure described in this subpart.

(i) Any person who receives a fee, other consideration or gratuity on account of services rendered with respect to a claim under this part, unless approved by the Office, or who solicits employment for himself or another in respect to a case or claim, under (or to be brought under) this Act shall be guilty of a misdemeanor and upon conviction of each offense, will be punished by a fine of not more than \$1,000 or imprisoned not to exceed 1 year or both such fine and imprisonment.

§ 10.146 [Reserved]

§ 10.147 [Reserved]

§ 10.148 [Reserved]

§ 10.149 [Reserved]

§ 10.150 Statement relative to substantive rules.

(a) The principal function of the Office and its subordinate parts is that of adjudicating claims for workers' compensation. This function is quasi-judicial in character and involves the application of statutes and principles of law to resolve factual situations. This field of activity is within the specialized branch of the law generally referred to as "workers' compensation," and has its own particularized principles which have general applicability to workers' compensation statutes (State and Federal), as such statutes have certain common or underlying similarity in respect to the meaning of terms and phrases, and in

respect to scope, jurisdiction, and general basic concepts of employer liability.

(b) In the administration of the Act, the Office has one general policy, which is to follow and to adhere to the principles of workers' compensation law as stated in the opinions of the Supreme Court, the Federal Circuit Courts of Appeal, and the District Courts of the United States, as they may appropriately be applied or have been determined by the Employees' Compensation Appeals Board (ECAB) to apply in like situations arising under the Act. In addition, decisions and opinions of the judicial tribunals of the several States furnish principles of law of general applicability in the specialized field of workers' compensation, which form parts of the foundation of general principles relied upon in the application and interpretation of the Act. The Office applies the provision of the Act applicable in respect to a particular case or situation, to the extent that such provision can readily be applied without extrinsic aid, but where such aid is necessary the source thereof is the body of principles embodied in authoritative decisions of the courts and the ECAB within such well-recognized branch of the law.

Subpart C—Continuation of Pay

GENERAL

§ 10.200 Statutory provisions.

(a) Pub. L. 93-416, approved September 7, 1974, significantly revised 5 U.S.C. 8118 to provide that an employee ["Employee" for the purposes of this subpart means only such employees as are enumerated in § 10.5(a)(11) (i), (ii), (iv), (vi)] who has filed a claim for a period of wage loss due to a traumatic injury shall be entitled under certain circumstances, to have his regular pay continued for a period not to exceed 45 days pending the OWCP's determination of such employee's claim for compensation under the Act.

(b) Pursuant to 5 U.S.C. 8118(e), pay continued under this subpart shall not be considered compensation and shall be subject to all applicable taxes and other payroll deductions.

PROCEDURES

§ 10.201 Right to continuation of pay.

(a) An employee who sustains a disabling, job-related traumatic injury is entitled to the continuation of his or her regular pay for a period not to exceed 45 days without a break in time unless such right is controverted by the employee's employing agency.

(b) The entitlement to compensation of any person excluded from the continuation of pay provisions of the Act shall begin from the date of pay loss, subject to other applicable sections of the Act.

§ 10.202 Controversion by employing agency.

(a) The employing agency may, on the basis of the information submitted by the employee, or secured on investiga-

tion, controvert a claim and terminate an employee's pay only if:

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

(2) The employee falls within the exclusions of 5 U.S.C. 8101(1) (B) or (E); or

(3) The employee is neither a citizen nor resident of the United States or Canada (i.e., a foreign national employed outside of the United States or Canada); or

(4) The injury occurred off the employing agency's premises and the employee was not engaged in official "off premise" duties; or

(5) The injury was caused by the employee's willful misconduct, the employee intended to bring about the injury or death on himself or herself or another person or the employee's intoxication was the proximate cause of the injury; or

(6) The injury was not reported on Form CA-1, within 30 days following the injury; or

(7) Work stoppage first occurred six months or more following the injury; or

(8) The employee initially reports the injury after his or her employment has terminated; or

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

(b) In all other cases, the employing agency may controvert an employee's right to continuation of pay, however, such employee's regular pay shall not be interrupted during the 45 day period unless the controversion is sustained by the Office and until the employing Agency is so notified.

§ 10.203 Manner of controversion.

An employing agency may controvert a claim for purposes of this subpart by completing the indicated portion on Form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation, and submitting detailed information in support of the controversion to the Office.

§ 10.204 Termination of continuation of pay.

(a) Where pay is continued after an employee stops work due to a disabling traumatic injury, such pay shall not be terminated until:

(1) The agency receives medical information from the attending physician to the effect that the employee is no longer disabled; or

(2) The agency receives notification from the Office that pay should be terminated; or

(3) The expiration of 45 days.

(b) The 45 days during which pay may be continued pursuant to this subpart are calendar days and if the employee has stopped work due to the disabling effects of the injury, the period starts at the beginning of the first full day or first full shift during which the disability begins provided such disability began within six months of the occurrence of the injury. The agency will keep the employee in a pay status for any fraction of a day or shift on which the disability

continued absence from work may result in an overpayment. The period of absence from the job which resulted in the overpayment will be determined by the Office in the course of adjudication of the claim. The official superior and the employee will be notified of the period of disability which is approved by the Office and the official superior may then require the employee to resolve any overpayment.

(d) If medical evidence shows disability is expected to continue beyond 45 days and compensation is desired after expiration of the period, Form CA-7, must be completed and filed with the appropriate OWCP district office not more than 5 working days after the termination of the 45 days.

(e) The provisions of Subpart D of this part relating to the buy-back of leave and to collection of overpayments are applicable as appropriate to the provisions of this subpart.

§ 10.210 Election of annual or sick leave.

(a) In any case, an employee may use annual or sick leave to his credit at the time such employee's disability begins, but such employee's compensation for disability does not begin, and the time periods specified by 5 U.S.C. 8117 do not begin to run, until the termination of continuation of pay (see § 10.204) or until the use of annual or sick leave ends.

(b) If a claim for the continuation of pay is denied by the Secretary subsequent to the making of such payments, such payments shall, at the option of the employee, be charged to sick or annual leave or shall be deemed overpayments of pay within the meaning of Section 5584 of Title 5, United States Code.

Subpart D—Payment of Compensation
COMPENSATION RATES

§ 10.300 Maximum and minimum compensation.

(a) **Disability.** Compensation for disability may not exceed 75 percent of the monthly pay of the highest step of grade 15 of the General Schedule. For total disability, it may not be less than 75 percent of the monthly pay of the first step of grade 2 of the General Schedule or actual pay, whichever is less.

(b) **Death.** Compensation for death is computed on a minimum pay equal to the first step of grade 2 of the General Schedule. The total compensation may not exceed the employee's pay or 75 percent of the monthly pay of the highest step of grade 15 of the General Schedule, except that compensation is allowed to exceed the employee's monthly pay if such excess is created by authorized cost of living increases.

§ 10.301 Temporary total disability rate.

(a) Compensation based on loss of wages is payable, subject to the provisions of 5 U.S.C. 8117, after the 45th day in traumatic injuries or from the beginning of pay loss in all other types of injuries.

(b) When an injured employee loses pay due to temporary total disability resulting from an injury, compensation

is payable at the rate of 66⅔ percent of the pay rate established for compensation purposes. The compensation rate is increased to 75 percent when there are one or more dependents. Dependents include a wife or husband; an unmarried child under 18 years of age or if over 18, incapable of self-support, or a student (until reaching 23 years of age or completing four years of school beyond the high school level); or a wholly dependent parent. Compensation begins when the employee starts to lose pay if the injury causes permanent disability or if there is pay loss for more than 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 or is otherwise in a continuation of pay status. The employee has the right to elect whether to receive pay for leave or to receive compensation.

§ 10.302 Permanent total disability rate.

When the injury causes permanent total disability, an injured employee is entitled to compensation until death unless the employee is medically or vocationally rehabilitated. Some, although not all, of the examples of permanent total disability are loss, or loss of use, of both arms; or both feet; or both legs; or both eyes or the sight thereof. Compensation for total disability equals 66⅔ percent of the employee's pay, and 75 percent when there is a dependent (see § 10.301(b)). The employee may receive additional compensation, not to exceed \$500 per month, when the services of a full time attendant are needed because of the disability.

§ 10.303 Partial disability rate.

(a) **Loss of wage-earning capacity.** An injured employee may receive compensation computed on 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 equal 66⅔ percent of the employee's loss. It will equal 75 percent of the loss when there is a dependent (see § 10.301(b)). The compensation will be paid so long as there is a loss of wage-earning capacity.

(b) **Scheduled awards.** Compensation is provided for specified periods of time for the permanent loss or loss of use, of each of certain members, organs, and functions of the body. Compensation for proportionate periods of time is payable for partial loss, or loss of use of each member, organ, or function. The compensation for scheduled awards will equal 66⅔ percent of the employee's pay, and 75 percent of the pay when there is a dependent. Proper and equitable compensation, not to exceed \$3,500 may be paid for serious disfigurement of the face, head, or neck, if of a character likely to handicap a person in securing or maintaining employment. Compensation for loss of wage-earning capacity may be paid after the schedule expires.

§ 10.304 Schedule compensation rate.

(a) Pursuant to 5 U.S.C. 8107, compensation is provided for the permanent partial or permanent total loss of use of

specified members of the body and internal and external organs as well as for serious disfigurement of the face, head, or neck. A new section, 5 U.S.C. 8107(c) (22) added by Pub. L. 93-416, 88 Stat. 1145, provides that in addition to the member and organs specifically enumerated in the compensation schedule the Secretary may provide for the payment and schedule compensation not to exceed 312 weeks of compensation for such internal and external organs as is deemed appropriate. Pursuant to authority contained in 5 U.S.C. 8107(c) (22) certain specified internal and external organs are added to the compensation schedule as follows:

	Weeks
Breast (one).....	52
Kidney (one).....	156
Larynx.....	160
Lung (one).....	156
Penis.....	206
Testicle (one).....	52
Tongue.....	160

(b) The organs added to the compensation schedule in paragraph (a) of this section have been so added subsequent to studies undertaken by the OWCP. Continuing study in this area may, in the future, result in the further extension of the compensation schedule. Such further extensions shall have retroactive application back to the effective date of this section if such retroactive application is deemed appropriate by the Director.

(c) Schedule compensation rates shall be determined as provided in § 10.302 and § 10.303 of this part. Such amounts as are determined appropriate pursuant to the Act and this part are:

(1) Payable regardless of whether the cause of the impairment originates in a part of the body other than the impaired member or organ;

(2) Payable regardless of whether the disability also involves another impairment of the body; and

(3) In addition to compensation for temporary total or temporary partial disability.

§ 10.305 Death benefit rates, conditions of eligibility.

(a) 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. Upon remarriage, a widow or widower will be paid a lump sum equal to 24 times the monthly compensation being paid on his or her own behalf, except that if such remarriage occurs on or after the age of 60, the lump sum payment shall not be made and compensation shall continue until the beneficiary's death.

(b) When there is a child entitled to compensation, the compensation for the widow or widower will equal 45 percent of the employee's pay plus 15 percent for each child, but shall not exceed 75 percent of the employee's pay. A child is entitled to compensation until he or she dies, marries, or reaches 18 years of age, or if over 18 and incapable of self-support, until he or she becomes capable of self-support. If an unmarried child is a

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(c) The medical facilities of the U.S. Public Health Service generally are available at any time for the furnishing of medical treatment. The medical facilities of the Army, Navy, Air Force and Veterans Administration may be used when previous arrangements have been made on a case-by-case basis with the director of the hospital or clinic.

(d) Federal health service units or other occupational health service facilities established under the provisions of the Act of August 8, 1946, as amended (5 U.S.C. 7901), are not U.S. medical officers and hospitals as used in this part. Under criteria established by the Bureau of the Budget (now Office of Management and Budget) in Circular No. A-72 of June 18, 1965, these health service units or occupational health service facilities shall only provide emergency diagnosis and first (initial) treatment of injury or illness such as is necessary during working hours and that are within the competence of the professional staff and facilities of the health service unit or facility (see paragraph 4.a of OMB Circular A-72). Any other treatment and medical care by these units or facilities in instances of injury or illness sustained in the performance of duty must be specifically authorized by a physician providing medical care under the specific authorization of the Office (see paragraph 4.d of OMB Circular A-72).

(e) The official superior shall give the injured employee an opportunity to select the appropriate physician to whom he or she wishes to be referred. In medical emergencies, any qualified physician in the area shall be authorized to provide medical care as appropriate.

(f) The attending physician shall arrange for necessary hospital care at semi-private rates (unless the nature of the case requires care in a private room) special nursing services, x-ray examination, and consultations by specialists. In cases of an emergency nature or cases involving unusual circumstances the Office may in the exercise of its discretion authorize treatment otherwise than as provided for in this part, or it may approve payment for medical expenses incurred otherwise than as authorized in this part.

§ 10.401 Physician and medical services, etc., defined.

(a) The term "physician" as used in this subpart 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.

(b) The term "medical, surgical, and hospital services and supplies" as used in this part, includes services and supplies by surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, osteopathic practitioners and hospitals within the scope of their practice as defined by State law. Reimbursable

chiropractic services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist. Also included for payment or reimbursement are physical examinations (and related laboratory tests) and x-rays performed by or required by a chiropractor to diagnose a subluxation of the spinal column. A chiropractor may interpret his or her x-rays as may any other physician as used in this subpart.

§ 10.402 Official authorization for treatment.

(a) When an employee sustains an injury by accident under circumstances entitling the employee to medical treatment, the employee's official superior shall promptly issue to the employee a request for examination and/or treatment on Form CA-16. The employee shall carry the Form CA-16, where practical, from the place of employment to the physician. Form CA-16 shall be used primarily for an injury sustained by accident, but may also be used to authorize examination and treatment for disease or illness, provided the official superior has contacted the Office for instructions on authorizing examination and treatment. In emergency situations, the Office shall be contacted by telephone.

(b) In determining the use of medical facilities, consideration must be given to availability, the employee's condition, and the method and means of transportation. Generally, 25 miles from the place of injury, the employing agency, or the employee's home is a reasonable distance to travel but other pertinent factors must also be taken into consideration.

§ 10.403 Emergency treatment.

In cases of injury by accident where emergency treatment is necessary, any qualified local physician may render initial treatment. If oral authorization for such treatment is given by the official superior, Form CA-16 shall be issued within 48 hours thereafter. Animal bites and eye injuries are considered medical emergencies and medical care by the nearest qualified physician is permissible. Further treatment, if necessary, shall be obtained as soon as practicable at the employee's option as provided in this part. It is the duty of the official superior to authorize initial medical treatment for acute injuries, exclusive of disease or illness, and to transfer the employee at the employee's option to the care of a local U.S. medical officer or hospital or, at the employee's option, to a private physician or hospital designated or approved by the Office for any subsequent treatment needed. If unable to comply promptly with this requirement, the official superior shall communicate with the Office for instructions.

§ 10.404 Medical treatment for recurrence of disability.

If an injured employee complains of a recurrence of disability (whether or not he or she is disabled for work), after having recently been discharged from medical treatment, on account of an injury by accident recognized as compen-

sable by the Office under circumstances from which it may reasonably be inferred that such disability is the result of such injury, and the place of employment is the same as at the time of such injury, the official superior in his discretion may issue a Form CA-16, provided that not more than 6 months shall have elapsed since the final action of the Office upon the case. In any case in which the employee complains of a recurrence of disability with respect to which there may be doubt that the disability is the result of the injury or in any case in which the final action of the Office shall have been taken more than 6 months prior to complaint the official superior shall communicate with the Office and request instructions, stating all of the pertinent facts in the communication. In all other cases the employee shall communicate with the Office and request such treatment.

§ 10.405 Medical treatment in doubtful cases.

Cases of a doubtful nature, so far as compensability is concerned, shall be referred by the official superior to a United States medical officer or hospital, or at the employee's option, to a private physician or hospital designated or approved by the Office, or as otherwise provided in this part, using a Form CA-16 for medical services as indicated in 6B of the form. This authorizes the necessary diagnostic studies and emergency treatment pending receipt of advice from the Office. A statement of all pertinent facts relating to the particular case shall also be forwarded immediately to the Office for consideration. If the medical examination or other information received subsequent to the issuance of authorization for treatment discloses that the condition for which treatment was rendered is not due to an injury, the person issuing the authorization shall immediately notify the physician or hospital that no further treatment shall be rendered at the expense of the Office. In cases of an emergency or cases involving unusual circumstances, the Office may, in the exercise of its discretion, authorize treatment otherwise than as provided for in this part, or it may approve payment for medical expenses incurred otherwise than as authorized in this section. No authority for examination or for medical or other treatment shall be given by the official superior in any case already disallowed by the Office.

§ 10.406 Authority for dental treatment.

All necessary dental treatment, including repairs to natural teeth, false teeth, and other prosthetic dental devices, needed to repair damage or loss caused by an employment related injury shall be obtained at the employee's option from a U.S. Medical Officer or hospital, or from a private dentist, physician or hospital, upon authorization obtained in advance from the Office.

§ 10.407 Medical examination.

(a) An injured employee shall be required to submit to examination by a U.S. Medical Officer or by a qualified pri-

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§ 10.502 Refusal to assign or prosecute claim when required; effect.

Refusal on the part of a beneficiary to assign his right of action to the United States or to prosecute an action in his own name when required to do so pursuant to § 10.500 or § 10.501, shall deprive the beneficiary of all rights to benefits under the Act.

§ 10.503 Distribution of damages recovered by beneficiary.

If an injury for which benefits are payable under the Act is caused under circumstances creating a legal liability upon some person other than the United States to pay damages therefor, and, as a result of suit brought by the beneficiary or by someone on his or her behalf, or as a result of settlement made by him or her or on his or her behalf in satisfaction of the liability of such other person, the beneficiary shall recover damages or receive any money or other property in satisfaction of the liability of such other person on account of such injury or death, the proceeds of such recovery shall be applied as follows:

(a) If an attorney is employed, a reasonable attorney's fee and cost of collection, if any, shall first be deducted from the gross amount of the settlement;

(b) The beneficiary is entitled to retain one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted, plus an amount equivalent to a reasonable attorney's fee proportionate to any refund to the United States;

(c) There shall then be remitted to the Office, the benefits which have been paid on account of the injury, which shall include payments made on account of medical or hospital treatment, funeral expense, and any other payments made under the Act on account of the injury or death;

(d) Any surplus then remaining may be retained by the injured employee or his dependents, and the net amount of damages received by the beneficiary shall be credited against future payment of benefits to which the beneficiary may be entitled under the Act on account of the same injury or death.

§ 10.504 Distribution of damages where cause of action is assigned.

If recovery is realized upon a cause of action assigned to the United States pursuant to 5 U.S.C. 8131, the money or other property so received shall be applied in the following manner: After deducting the amount of any payments made under the Act in respect of the injury or death on account of which the cause of action arose, and the expense of such realization or collection, which sum shall be placed to the credit of the proper fund of the Office, the surplus, if any, of such amount received shall be paid to the beneficiary and credited pro tanto upon any future payment of benefits payable to him on account of the same injury. However, the beneficiary is entitled to not less than one-fifth of the net amount of a settlement or recovery

remaining after the expenses of such realization or collection have been deducted.

§ 10.505 Office may require beneficiary to settle or compromise third party suit.

Where a beneficiary under the Act has commenced an action in his or her own name or has initiated such action through an administrator of a deceased person to recover damages against the third party liable for the injury or death, the Office shall, at all times, have authority to require the beneficiary or such administrator to settle or compromise such action whenever it shall determine that further prosecution of the cause of action is not warranted. Refusal on the part of such beneficiary or other person acting in the interest of the beneficiary to make such settlement or to effect such compromise when so directed shall be deemed to be sufficient cause for refusal on the part of the Office to pay or cause to be paid any benefits under the Act on account of the same injury or death, or the Office may suspend or cause to suspend the payment of benefits under the Act during the period of such refusal.

6. Part 25 of Subchapter B—Federal Employees' Compensation Act—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 General statement.
- 25.2 General adoption of local law.
- 25.3 General provisions relating to special schedule.
- 25.4 Authority to settle and pay claims.
- 25.5 Applicable criteria.
- 25.6 Third and fourth country nationals.
- 25.7 Non-citizen residents of possessions.

Subpart B—Special Schedule of Compensation

- 25.11 Compensation for disability.
- 25.12 Compensation for death.
- 25.13 General provisions.

Subpart C—Extensions of Special Schedule of Compensation

- 25.21 Republic of the Philippines.
- 25.22 Australia.
- 25.23 [Reserved]
- 25.24 [Revoked]
- 25.25 Republic of Korea.
- 25.26 Japanese seamen.
- 25.27 Territory of Guam (nonresident aliens).

AUTHORITY: (Sec. 32, 39 Stat. 749, as amended; (5 U.S.C. 8145, 8149); 1946 Reorg. Plan No. 2, sec. 3, 3 CFR 1943-1948 Comp., p. 1064; 60 Stat. 1095; 1930 Reorg. Plan No. 19, sec. 1, 3 CFR 1949-1953 Comp., p. 1010; 64 Stat. 1271, unless otherwise noted)

Subpart A—General Provisions**§ 25.1 General statement.**

The provisions of this part shall apply in respect to compensation, under the Federal Employees' Compensation Act, payable only to employees of the United States who are neither citizens nor residents of the United States, any territory, or Canada, or payable to any dependents of such employees. It has previously been determined, pursuant to 5 U.S.C. 8137, that the amount of com-

pensation, as provided under such Act, 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. Therefore, in respect to cases of such employees whose injury (or injury resulting in death) has occurred subsequent to December 7, 1941, or may occur, the following provisions shall be applicable.

§ 25.2 General adoption of local law.

(a) Pursuant to the provisions of 5 U.S.C. 8137, the benefit features of local workers' compensation laws, or provisions in the nature of workers' compensation, in effect in the areas referred to in § 25.1, shall, effective as of December 7, 1941, by adoption and adaptation, as recognized by the Director, Office of Workers' Compensation Programs, apply in the cases of the employees specified in § 25.1: *Provided, however*, That there is not established and promulgated under this part, for the particular locality, or for a class of employees in the particular locality, a special schedule of compensation for injury or death.

(b) The benefit provisions as thus adopted or adapted are those dealing with the money payments for injury and death (including provisions dealing with medical, surgical, hospital and similar treatment and care), as well as those dealing with services and purposes forming an integral part of the local plan, provided they are of a kind or character similar to services and purposes authorized by the Federal Employees' Compensation Act. Procedural provisions, designations of classes of beneficiaries in death cases, limitations (except those affecting amounts of benefit payments), and any other provisions not directly affecting the amounts of the benefit payments, in such local plans, shall not apply, but in lieu thereof the pertinent provisions of the Federal Employees' Compensation Act shall apply, unless modified by further specification in this section. However, the Director may at any time modify, limit or redesignate the class or classes of beneficiaries entitled to death benefits, including the designation of persons, representatives, or groups entitled to payment under local statute or custom whether or not included in the classes of beneficiaries otherwise specified by this subchapter.

(c) Compensation in all cases of such employees paid and closed prior to the effective date of the regulations in this part 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) Persons employed in a country or area having no well-defined workers' compensation benefits structure shall be accorded the benefits provided—either by local law or special schedule—in a nearby country as determined by the

pensation during the continuance of disability shall be that proportion of compensation for permanent 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.

(22) Compensation under paragraph (c)(1) to (21), inclusive, 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.

(d) *Temporary partial disability.* In case of disability, partial in character and temporary in quality, during the continuance of disability that proportion of compensation for temporary total disability, as determined under paragraph (b) of this section, which is equal in percentage to the degree or percentage of physical impairment caused by the disability.

§ 25.12 Compensation for death.

If the disability causes death the compensation shall be payable in the amount and to or for the benefit of the persons, determined as follows:

(a) To the undertaker or person entitled to reimbursement, reasonable funeral expenses not exceeding \$200.

(b) To the widow, if there is no child, 35 per centum of the monthly pay until her death or remarriage.

(c) To the widower, if there is no child and if wholly dependent for support upon the deceased employee at the time of her death, 35 per centum of the monthly pay until his death or remarriage.

(d) To the widow or widower, if there is a child, the compensation payable under paragraph (b) or (c) of this section, and in addition thereto 10 per centum of the monthly wage for each child, not to exceed a total of 66½ per centum for such widow or widower and children. If a child has a guardian other than the surviving widow or widower, the compensation payable on account of such child shall be paid to such guardian. The compensation 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.

(e) To the children, if there is no widow or widower, 25 per centum of such monthly pay for one child and 10 per centum thereof for each additional child, not to exceed a total of 66½ per centum thereof, divided among such children share and share alike. The compensation of each child shall be paid until 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.

(f) To the parents, if one is wholly dependent for support upon the deceased

employee at the time of his death and the other is not dependent to any extent, 25 per centum of such monthly pay; if both are wholly dependent, 20 per centum 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 widow, widower, or child, but if there is a widow, widower, 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 widow, widower, and children, will not exceed a total 66½ per centum of such pay.

(g) 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 per centum of such pay to such dependent if more than one are wholly dependent; 30 per centum 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 per centum of such pay divided among such dependents share and share alike. The compensation to such beneficiaries shall be paid if there is no widow, widower, child, or dependent parent. If there is a widow, widower, 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 widow, widower, children, and dependent parents, will not exceed a total of 66½ per centum of such pay.

(h) The compensation of each beneficiary under paragraphs (f) and (g) 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 grandparent 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 child, for such child, as the Director in his or her discretion shall determine.

(i) Upon the cessation of any person's compensation for death under this subpart, the compensation of any remaining person entitled to the continuation of compensation in the same case shall be adjusted, so that the continuing compensation shall be at the same rate such person would have received, had no award been made to the person whose compensation was terminated.

(j) In case there are two or more classes of persons entitled to compensation for death under this subpart, and the apportionment of such compensation as above provided would result in injustice, the Director may in his or her discretion modify the apportionments to meet the requirements of the case.

§ 25.13 General provisions.

(a) The definitions of terms in the Federal Employees' Compensation Act of

September 7, 1916, as amended shall apply to terms used in this subpart.

(b) The provisions of such Act unless modified by this subpart, or unless otherwise inapplicable, shall be applied whenever possible in the application of this subpart.

(c) The provisions of the regulations for the administration of the Federal Employees' Compensation Act, as amended, and as 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.

Subpart C—Extensions of Special Schedule of Compensation

§ 25.21 Republic of the Philippines.

(a) *Modified special schedule of compensation.* 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 (i) all awards not paid in full before July 1, 1969, and (ii) 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 cases are entitled to share equally):

(1) Widow, dependent widower, 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

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§ 25.26 Japanese seamen.

(a) The special schedule of compensation established by Subpart B of this part shall apply, with the modifications or additions specified in paragraphs (b) through (i) of this section, as of November 1, 1971, 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 in 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 § 25.11 shall apply to the types of permanent partial disability enumerated in paragraph (c), subparagraphs (1)-(19) of that section, *Provided*, That weekly compensation shall be paid at 75 percent of the weekly wage rate, and *Further provided*, 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 (paragraph (d) of the 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 (temporary disability, permanent disability, and death) 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 \$40,000.

(j) *Prior injury.* In cases where injury or death occurred prior to November 1, 1971, benefits will be paid in accord with regulations previously promulgated.

§ 25.27 Territory of Guam (nonresident aliens).

(a) The special schedule of compensation established by Subpart B of this part shall apply, with the modifications or additions specified in paragraphs (b) through (k) of this section, to injury or death occurring on or after July 1, 1971 in the Territory of Guam to nonresident alien employees recruited in foreign countries for employment by the military departments in the Territory of Guam. However, the Director may, in his or her discretion, adopt the benefit features and provisions of local workers' compensation law as provided in Subpart A of this part, or substitute the special schedule in Subpart B of this part or other modifications of the special schedule in this Subpart C, if such adoption or substitution would be to the advantage of the employee or his beneficiary. This schedule shall not apply to any employee who becomes a permanent resident in the Territory of Guam prior to the date of his or her injury or death.

(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.* Beneficiaries of death benefits shall be determined in accordance with the laws or customs of the country of recruitment.

(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 subparagraphs (1) through (19) of paragraph (c) of § 25.11, subject to an aggregate limitation of 400 weeks' compensation. In all other cases, that proportion of the compensation provided for permanent total disability (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 \$24,000, exclusive of medical costs and burial allowance. The weekly rate of compensation for disability or death shall not exceed \$70.

(j) *Method of payment.* Compensation for temporary disability shall be payable periodically. Compensation for permanent disability and death shall be payable in full at the time extent of entitlement is established.

(k) *Exceptions.* The Director may in his or her discretion make exception to the regulations in this section by:

(1) Reapportioning death benefits for the sake of equity.

(2) Excluding from consideration potential beneficiaries of a deceased employee 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 employee or his beneficiary(s).

(5 U.S.C. § 137, § 145, § 149)

Signed at Washington, D.C. this 7th day of February, 1975.

HERBERT A. DOYLE, Jr.,
Director, Office of Workers'
Compensation Programs.

[FR Doc. 75-4173 Filed 2-13-75; 8:45 am]

APPENDIX B

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs
Washington, D.C. 20210

FEDERAL REGULATIONS
20 CFR, PART 10
EMPLOYEES' BENEFITS
CLAIMS FOR COMPENSATION
UNDER THE
FEDERAL EMPLOYEES' COMPENSATION ACT (FECA), AS AMENDED
AS OF JUNE 1, 1987

This document contains 20 CFR, Part 10, published in the Federal Register on February 14, 1975 (40 FR 6876-6895) and amendments thereto (49 FR 18976-18982, May 3, 1984; 51 FR 8276-8282, March 10, 1986; and 52 FR 10486-10526, April 1, 1987).

It also includes 20 CFR, Part 25, Compensation for Disability and Death of Noncitizen Federal Employees Outside The United States.

NOTE: This document is not an official publication of the Office of the Federal Register. It is a collation of the basic regulation and changes thereto that were published in the Federal Register's referenced above, and may be used pending official publication in 20 CFR, Part 10.

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

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Subpart A—General Provisions

INTRODUCTION

§ 10.1 Statutory provisions.

(a) The Federal Employees' Compensation Act, 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 Act 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 Officer 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 (see 5 U.S.C. 5351, 8144), employees of the Panama Canal Commission and certain employees of the Alaska Railroad (see 5 U.S.C. 8146), certain law enforcement officers not employed by the United States (see 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 Act provides for the payment of compensation for wage loss and for permanent impairment of specified members and functions of the body incurred by employees as a result of an injury sustained while in the performance of their duties in service to the United States. In addition to monetary compensation, eligible employees are entitled to receive, at reasonable expense to the United States, medical and related services made necessary by the medical condition or conditions accepted as being employment related. In appropriate cases, vocational rehabilitation services shall be provided to eligible beneficiaries.

(c) The Act also provides for the payment of monetary compensation to specified survivors of an employee whose death is the result of an employment-related injury and for payment of certain burial expenses subject to the provisions of 5 U.S.C. 8134.

(d) Each of the types of benefits and conditions of eligibility enumerated in this section is subject to the applicable provisions of the Act and the provisions of this part. This section shall not be construed to modify or enlarge upon the provisions of the Act.

§ 10.2 Administration of the Act and this chapter.

(a) Pursuant to 5 U.S.C. 8145 and Secretary of Labor's Orders 13–71 (36 FR 8755) and 16–73 (38 FR 19130) the responsibility for administering the provisions of the Act were delegated to the Assistant Secretary of Labor for Employment Standards. Pursuant to Employment Standards Order 2–74 effective September 27, 1974 (39 FR 34722–34723)

the responsibility for the administration and implementation of the Federal Employees' Compensation Act, except for 5 U.S.C. 8149 thereof as it pertains to the Employees' Compensation Appeals Board, was delegated and assigned to the Director, Office of Workers' Compensation Programs. The Director, Office of Workers' Compensation Programs and his or her designees shall, therefore, except as is otherwise provided by law have the exclusive authority for the administration, implementation, and enforcement of the provisions of this chapter.

(b) In the case of employees of the Panama Canal Commission, the Federal Employees' Compensation Act is administered by the Panama Canal Commission and inquiries pertaining to such coverage should be directed to that Commission.

§ 10.3 Purpose and scope of this part.

(a) This Part 10 sets forth the rules applicable to the filing, processing, and payment of claims for workers' compensation benefits under the provisions of the Federal Employees' Compensation Act, as amended. This part is applicable to all claims filed on or after November 6, 1974. The provisions of this part are intended to afford guidance and assistance to any person seeking compensation benefits under the Act, as well as to personnel within the Department of Labor and other agencies of the United States who are required to perform some function with respect to the administration of any provision of the Act or the processing of any claim filed under the Act.

(b) This Subpart A describes generally the statutory and administrative framework governing the manner in which claims under the Act shall be processed, contains a statement of purpose and scope, together with provisions pertaining to definition and use of terms, the disclosure of program information, and other miscellaneous provisions relating to the administration of the Act.

(c) Subpart B of this part describes the procedure by which an individual claimant shall file a notice of injury and claim for benefits under the Act and further describes the administrative procedures applicable to the processing of each individual claim and the rules governing the termination and continuation of eligibility for benefits with respect to certain previously approved claims.

(d) Subpart C of this part describes special procedures applicable to the continuation of pay provisions contained in 5 U.S.C. 8118 as amended by Pub. L. 93–416, 88 Stat. 1146.

(e) Subpart D of this part contains provisions relating to the procedures governing the payment of dollar benefits for disability or death and further contains additions to the compensation schedule mandated by the new paragraph 22 of 5 U.S.C. 8107(c), Pub. L. 93–416, 88 Stat. 1145.

(f) Subpart E of this part contains the rules governing an employee's rights to obtain medical evidence in support of such employee's claim and further contains information describing the rights of a beneficiary to medical benefits under

the Act.

(g) Subpart F of this part is reserved.

(h) Subpart G of this part contains the rules governing the adjustment and recovery from a third person under 5 U.S.C. 8132.

(i) Subpart H of this part contains rules for particular groups of employees whose status requires special application of the provisions of the Act.

§ 10.4 Applicability of other parts within this chapter.

This revised Part 10 is applicable to Part 25 of this chapter except as modified by Part 25.

§ 10.5 Definitions and use of terms.

(a) *Definitions.* For purposes of this subchapter except where the content clearly indicates otherwise, the following definitions apply:

(1) "The Act" means the Federal Employees' Compensation Act, 5 U.S.C. 8101 *et seq.*, as amended by Pub. L. 93–416 and as it may be hereafter amended.

(2) "Secretary" means the Secretary of the United States Department of Labor or a person authorized to perform his functions under the Act.

(3) "Department" means the United States Department of Labor.

(4) "Office" or "OWCP" means the Office of Workers' Compensation Programs, Employment Standards Administration, of the Department.

(5) "Director" means the Director of OWCP or a person designated by him or her to carry out his or her functions under the Act.

(6) "Benefits" or "Compensation" means the money paid or payable under the Act to the employee on account of loss of wages or loss of wage-earning capacity and to enumerated survivors on account of the employee's death, and includes any other benefits paid for from the Employee's Compensation Fund such as scheduled compensation under 5 U.S.C. 8107, medical diagnostic and treatment services supplied pursuant to the Act and this part, vocational rehabilitation services, additional money for services of an attendant or for vocational rehabilitation under 5 U.S.C. 8111, and funeral expenses under 5 U.S.C. 8134, but does not include continuation of pay as provided by 5 U.S.C. 8118.

(7) "Claim" means an assertion in writing of an individual's entitlement to benefits under or pursuant to the Act, submitted in a form and manner authorized by the provisions of this part.

(8) "Claimant" means an individual whose claim for entitlement to benefits under the Act has been filed in accordance with the Act and the provisions of this part.

(9) "Beneficiary" means an individual who is entitled to a benefit under the Act and this part.

(10) "Entitlement" means entitlement to benefits as determined pursuant to the provisions of the Act and the procedures set forth in this part. A beneficiary is entitled to benefits as so determined when the determination is final.

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(11) "Employee" means:

(i) 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;

(ii) 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;

(iii) 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;

(iv) 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);

(v) An individual selected pursuant to Chapter 121 of Title 28, United States Code, and serving as a petit or grand juror;

(vi) Members of the Reserve Officers Training Corps;

(vii) Civil Air Patrol Volunteers;

(viii) Peace Corps Volunteers and volunteer leaders;

(ix) Job Corps enrollees;

(x) Youth Conservation Corps enrollees;

(xi) Volunteers in Service to America;

(xii) Members of the National Teachers Corps;

(xiii) Members of the Neighborhood Youth Corps;

(xiv) Student employees as defined in 5 U.S.C. 5351;

(xv) Employees of the Panama Canal Commission;

(xvi) Certain employees of the Alaska Railroad;

(xvii) Law enforcement officers not employees of the United States and Federal law enforcement officers who are pensioned or pensionable under sections 521-535 of Title 4, District of Columbia Code;

(xviii) An individual covered under the provisions of section 105(e)(1) of Pub. L. 93-638 (Indian Self-Determination and Education Assistance Act of 1975); and,

(xix) Other persons performing service for the United States within the purview of the Act and all acts in amendment, substitution or extension thereof;

(xx) But does not include:

(A) A commissioned officer of the Regular Corps of the Public Health Service;

(B) A commissioned officer of the Reserve Corps of the Public Health Service on active duty;

(C) A commissioned officer of the National Oceanic and Atmospheric

Administration.

(12) "Official Superior" means officers and employees having responsibility for the supervision, direction or control of employees, or other employees of the agency designated by the employing agency to carry out the responsibilities vested in the agency under the Act and this subpart.

(13) "Employing Agency" or "agency" means any civil agency or instrumentality of the United States Government or any other organization, group or institution employing any individual defined as an "employee" by this section.

(14) "Injury" means a wound or condition of the body induced by accident or trauma, and includes a disease or illness proximately caused by the employment for which benefits are provided under the Act. The term "injury" includes damage to or destruction of medical braces, artificial limbs, and other prosthetic devices which shall be replaced or repaired; except that eyeglasses and hearing aids shall not be replaced, repaired, or otherwise compensated for, unless the damage or destruction is incident to a personal injury requiring medical services.

(15) "Traumatic injury" means a wound or other condition of the body 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. The injury must be caused by a specific event or incident or series of events or incidents within a single work day or work shift.

(16) "Occupational disease or illness" means a condition produced in the work environment over a period longer than a single workday or shift by such factors as systemic infection; continued or repeated stress or strain; or exposure to hazardous elements such as, but not limited to, toxins, poisons, fumes, noise, particulates, or radiation, or other continued or repeated conditions or factors of the work environment.

(17) "Disability" means the incapacity, because of employment injury, to earn the wages the employee was receiving at the time of injury.

(18) "Temporary aggravation" means that factors of employment have directly caused an underlying or pre-existing condition, disease or illness to be more severe for a definite limited period of time and thereafter leaves no greater impairment than existed prior to the employment injury.

(19) "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.

(20) "Pay rate for compensation purposes" means the employee's pay, as determined under section 8114 of the Act, at the time of injury, or at the time

disability begins, or at the time compensable disability recurs if the recurrence begins more than 6 months after the injured employee resumes regular full-time employment with the United States, whichever is greater, except as otherwise determined under section 8113 of the Act with respect to any period.

(21) "Organ" means a part of the body that performs a special function, and for purposes of this part excludes the brain, heart and back.

(22) "United States Medical Officers and Hospitals" includes medical officers and hospitals of the Army, Navy, Air Force, Veterans Administration, and United States Public Health Service, and any other medical officers or hospitals designated as a United States medical officer or hospital by the Secretary.

(23) "Representative" means a person authorized by a claimant in writing to act for the claimant in connection with a claim or proceeding under the Act or this part. Where a claimant is physically or mentally incapable of making such a designation, it may be made by the claimant's legal guardian.

(24) "Surviving spouse" means the husband or wife living with or dependent for support on a deceased employee at the time of his or her death, or living apart for reasonable cause or because of his or her desertion.

(25) "Student" means an individual under 23 years of age who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is—

(i) A school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof; or

(ii) A school or college or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body; or

(iii) A school or college or university not so accredited but whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an accredited institution; or

(iv) A technical, trade, vocational, business, or professional school accredited or licensed by the Federal or a State government or any political subdivision thereof providing courses of not less than 3 months duration, that prepares the individual for a livelihood in a trade, industry, vocation, or profession.

An individual continues to be a student during any interim between school years if the interim does not exceed 4 months and the individual shows to the satisfaction of the Office that he or she

has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately after the interim, or during periods of reasonable duration during which, in the judgment of the Office, the individual is prevented by factors beyond his or her control from pursuing his or her education. A student whose 23rd birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period.

(28) "A 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 has indicated an intention to continue schooling within 4 months of high school graduation, and each successive 12-month period in which there is school attendance or the payment of compensation based on student attendance, or

(ii) If the individual has indicated that he or she will not continue schooling within 4 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 student status.

(b) *Dependents and survivors.* In addition to basic disability benefits for employees the Act provides in section 8133 that certain monthly benefits shall be payable to certain enumerated survivors of employees who have died from an injury sustained in the performance of duty. Section 8110 of the Act provides that any employee who is found eligible for a basic benefit shall be entitled to have such a basic benefit augmented at a specified rate for certain persons living in the beneficiary's household or who are dependent upon the beneficiary for support. The provisions of 5 U.S.C. 8101, 8110, and 8133 defining the nature of such survivorship or dependency necessary to qualify a beneficiary for a survivor's benefit or augmented benefit shall be applicable as appropriate to the provisions of this part.

INFORMATION IN PROGRAM RECORDS

§ 10.10 Custody of records relating to Federal Employees' Compensation Act matters.

All records, medical and other reports, statements of witnesses and other papers relating to the injury or death of a civil employee of the United States or other persons entitled to compensation or benefits from the United States under the Act and all amendments and extensions thereof, are the official

records of the Office and are not records of the agency, establishment or department making or having the care or use of such records.

§ 10.11 Confidentiality of records relating to Federal Employees' Compensation Act matters.

Records of the Office pertaining to an injury or death are confidential, and are exempt from disclosure to the public under section 552(b)(6) of Title 5, United States Code. No official or employee of an agency, establishment or department who has investigated or secured statements from witnesses and others pertaining to a claim for benefits, or any person having the care or use of such reports, shall disclose information from or pertaining to such records to any person, except in accordance with applicable regulations (see 29 CFR 70 and 70a).

§ 10.12 Protection, release, inspection and copying of records.

(a) The protection, release, inspection and copying of records of the Office pertaining to an injury or death shall be accomplished in accordance with the rules, guidelines and provisions contained in Part 70 and Part 70a of Title 29 of the Code of Federal Regulations and the annual notice of systems of records and routine uses as published in the Federal Register. However, since the records of the Office are contained within a government-wide system of records under the control of the Department of Labor, § 70a.1(b)(3) of Title 29 of the Code of Federal Regulations provides that the regulations of the agency in possession of such records shall govern the procedure for requesting access to, or amendment of the records, including initial determinations on such requests, while the Department of Labor regulations shall govern all other aspects of safeguarding these records established by the Privacy Act. Where requested to amend such records in possession of the agency is received, the agency shall so advise the Office and shall provide the Office with a copy of any amended record.

(b) Records of the Office pertaining to an employee or beneficiary which are in the possession of the employing agency may be released by the employing agency to that employee or beneficiary, or their representative, in accordance with the provisions contained in Part 70a of Title 29 of the Code of Federal Regulations. This includes copies retained by the employing agency of records previously submitted to and in the possession of the Office.

(c) When an employee or beneficiary is prosecuting an action for damages under 5 U.S.C. 8131, records may be released as provided for in Part 70a of Title 29 of the Code of Federal Regulations.

MISCELLANEOUS PROVISIONS

§ 10.20 Forms.

(a) Notice of injury, claims and certain specified reports required to be made with respect to any claim shall be made on approved forms as are prescribed by the Office. Supervisors are expected to maintain an adequate supply of the basic forms needed for the proper recording and reporting of injuries. Pamphlet CA-136, obtainable from OWCP, lists the forms to be stocked by the agencies; and also tells where the forms may be obtained.

(b) The basic forms cited in this chapter are:

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 Termination of Disability and/or Payment.
(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 of Occupational Disease.
(9) CA-8-----	Claim for Continuing Compensation on Account of Disability.
(10) CA-12-----	Claim for Continuance of Compensation.
(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.

(c) Copies of the forms enumerated in this paragraph are available for public inspection at the Office of the Federal Register.

§ 10.21 Waiver of compensation rights invalid.

No official superior or other person is authorized to 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 Act. No waiver of compensation rights shall be valid.

§ 10.22 Exclusiveness of remedy.

The benefits provided to employees and to survivors of employees by the Act constitute the exclusive remedy against the United States for employment related injuries or deaths. The injury or death of an employee gives rise to no right to recover damages from the United States exclusive of the Act.

§ 10.23 Penalties.

(a) Any employee, beneficiary, official superior, representative, or other person who knowingly makes, or knowingly certifies to, any false statement, misrepresentation, concealment of fact, or any other act of fraud with respect to a claim under the Act, or who knowingly accepts compensation to which that person is not entitled, is subject to

criminal prosecution and may, under appropriate U.S. Criminal Code provisions (e.g., 18 U.S.C. 287 and 1001), be punished by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

(b) Any employee, beneficiary, official superior, representative, or other person who, with respect to a claim under the Act, enters into any agreement, combination, or conspiracy to defraud the United States by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim is subject to criminal prosecution and may, under appropriate U.S. Criminal Code provisions (e.g., 18 U.S.C. 286), be punished by a fine of not more than \$10,000 or imprisonment for not more than ten years, or both.

(c) Any person charged with the responsibility of making reports in connection with an injury who willfully fails, neglects, or refuses to do so; 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 one year, or both.

Subpart B—Notice of Injury and Claim for Compensation, Administrative Procedures

NOTICE OF INJURY OR DEATH

§ 10.100 How to file a notice of injury or death.

(a) *Traumatic injury.* An employee who sustains a traumatic injury which the employee believes occurred while in the performance of duty shall give written notice of the injury on Form CA-1 to the official superior. If the employee is unable to give written notice, it may be given by any person acting on the employee's behalf.

(b) *Occupational disease or illness.* An employee who has a disease or illness which the employee believes to be employment-related shall give written notice of the condition on Form CA-2 to the official superior. If the employee is unable to give written notice, it may be given by any person acting on the employee's behalf. If it is impractical to give written notice to the employee's official superior, it may be given to any official of the employing agency, or directly to the Office. Form CA-2 must be accompanied by a statement from the employee to include:

- (1) A detailed history of the disease or illness with identification of part(s) of the body affected;
- (2) Complete details of types of substances or conditions of employment believed responsible for the disease or illness;
- (3) A description of specific exposures to substances or stressful conditions including locations, frequency and

duration, and

(4) Whether the employee ever suffered a similar condition and, if so, full details of onset, history and medical care received with names and addresses of physicians rendering treatment.

(c) *Death.* If an employee dies because of a traumatic injury believed to have been sustained in the performance of duty or because of a disease or illness believed to have been employment-related, the employee's survivor(s), or any person acting on behalf of the survivor(s), shall notify the official superior of the death. If it is impractical to give notice to the employee's official superior, it may be given to any official of the employing agency, or directly to the Office.

§ 10.101 When a notice of injury or death must be given.

(a) *Traumatic injury.* Written notice of a traumatic injury or death due to a traumatic injury shall be given as soon as possible but, pursuant to 5 U.S.C. 8119, no later than 30 days from the date on which the injury or death occurred. Given the provisions of 5 U.S.C. 8122 and § 10.105 of this part concerning the timely filing of a claim for compensation, the failure to give notice within 30 days may result in a loss of compensation rights.

(b) *Occupational disease or illness.* Written notice of disease or illness believed to be employment related shall be given as soon as possible but no later than 30 days from the date on which the employee was first aware, or by the exercise of reasonable diligence should have been aware, of a possible relationship between the disease or illness and the conditions or factors of employment. Given the provisions of 5 U.S.C. 8122 and § 10.105 of this part concerning the timely filing of a claim for compensation, the failure to give notice within 30 days may result in a loss of compensation rights.

(c) *Death.* In the case of death, notice shall be given as soon as possible but no later than 30 days from the date of death or the date the employee's survivor first became aware, or by the exercise of reasonable diligence should have been aware, of a possible relationship between the death and the conditions or factors of employment. Given the provisions of 5 U.S.C. 8122 and § 10.105 of this part concerning the timely filing of a claim for compensation, the failure to give notice within 30 days may result in a loss of compensation rights.

§ 10.102 Report of injury by the official superior.

(a) As soon as possible but no later than 10 working days after receipt of written notice of injury from the employee, the official superior shall submit to the Office a written report of every injury or occupational disease or illness which is likely to:

(1) Result in a medical charge against the Office;

(2) Result in disability for work beyond the day or shift of injury;

(3) Require prolonged treatment (i.e., more than two instances of medical examination and/or treatment);

(4) Result in future disability;

(5) Result in permanent impairment or;

(6) Result in a continuation of pay pursuant to 5 U.S.C. 8118.

Portions of Forms CA-1 or CA-2 are provided for this purpose. If the injury does not come under any of the categories enumerated in this paragraph, the Form CA-1 or CA-2 need not be submitted to the Office but shall be retained as a permanent record in the Employee Medical Folder in accordance with the guidelines established by the Office of Personnel Management. Regardless of whether the Form CA-1 or CA-2 is forwarded to the Office or retained by the employing agency, immediately upon receipt of the written notice of injury the official superior shall complete the "Receipt of Notice of Injury" and return it to the employee.

(b) If the official superior has reason to disagree with any particular of the injury as reported by the employee, the official superior or other agency official shall explore the circumstances of the injury and submit to the Office a full written explanation specifying the areas of disagreement and the findings upon which the disagreement is based. The report may be accompanied by supporting documentation such as witness statements, medical reports or records, or any other relevant information. Any written explanation of disagreement shall be submitted to the Office at the same time as Form CA-1 in cases of traumatic injury, and within 30 calendar days from the date Form CA-2 is received from the employee in occupational disease cases. If written explanation in support of the disagreement is not submitted, the Office may accept as factual the report of injury made by the employee. Disagreement with the particulars of the injury as reported by the employee may not be used by the employing agency to delay the forwarding of the claim to the Office or to compel or induce the employee to change the claim.

(c) In cases of disease or illness, Form CA-2 must be accompanied by the following from the official superior:

(1) A detailed description of the employee's duty assignments including the nature, extent and duration of exposure to fumes, chemicals, or other irritants or situations;

(2) Copies of all physical examination reports, including x-ray reports and laboratory data, on file for the employee;

(3) A record of the employee's absences from work showing the reason for the absence in each instance, if known;

(4) Statements from each co-worker currently employed by the agency who has firsthand knowledge about the employee's condition and its cause, and;

(5) The official superior's comments on the accuracy of the employee's statement required by § 10.100(b) of this part.

(d) Other reports shall be submitted by the official superior as described elsewhere in this part or as may be required by the Office.

(e) The official superior is authorized to furnish an employee or beneficiary, or the representative, with a copy of any notice of injury, claim form, or other document pertaining to that employee or beneficiary which has been completed and submitted to the Office by the employing agency. This includes any notice of injury, claim form, or other document previously submitted to the Office, a copy of which was retained by the employing agency. While furnishing a copy of such forms and documents is not required on a routine basis in every case, the official superior shall furnish a copy of such forms and documents upon receipt of a written request from the employee or beneficiary, or the representative.

§ 10.103 Report of death by the official superior.

If an employee dies because of a traumatic injury or a disease or illness sustained in the performance of duty, the official superior shall immediately report the death to the Office by telephone or telegram. As soon as possible but no later than 10 working days after receipt of knowledge of death, the official superior shall complete and send Form CA-6 to the Office.

§ 10.104 Report of the attending physician.

(a) In all cases reported, the employee must submit, or arrange for the submission of, a medical report to the Office from the attending physician. This report should include: dates of examination and treatment; history given by the employee; findings; results of x-rays and laboratory tests; diagnosis; course of treatment; and the physician's opinion, with medical reasons, regarding causal relationship between the diagnosed condition(s) and the factors or conditions of the employment. This report may be made:

(1) On Part B of Form CA-16;

(2) On Form CA-20 or CA-20a; or

(3) By narrative report on the physician's letterhead stationery. The report shall be submitted to the Office as soon as possible after medical examination or treatment is received. (See also § 10.204(a)(1).)

(b) Additional reports shall be submitted by the attending physician as described elsewhere in this part or as may be required by the Office.

(c) Medical reports from the attending physician are to be submitted directly to the Office. However, the employing agency may request copies of these reports from the Office.

CLAIMS FOR COMPENSATION

§ 10.105 Time for filing a claim for compensation.

(a) Claim for disability compensation. An injured employee is required to file a written claim for compensation within 3 years after the injury before compensation may be paid. If, however, the official superior had actual knowledge of the injury within 30 days, or if written notice was given within 30 days, compensation may be allowed regardless of whether a written claim was made within 3 years after the injury. Actual knowledge must be such as to put the official superior reasonably on notice of an on-the-job injury.

(b) Claim for death compensation. If the employee dies, a written claim for compensation by or on behalf of the survivors is required before compensation may be paid. This claim is to be filed within 3 years after the death, unless within 30 days of such death, the official superior had actual knowledge of the death, due to an employment related injury or disease or written notice of such death was given to the official superior within 30 days of such death. The timely filing of a disability claim because of an on-the-job injury will satisfy the time requirements for a death claim based on the same injury.

(c) Claim predicated upon a latent disability. In a case of latent disability, or death due to a latent disability, the time for filing a claim does not begin to run until the employee has a compensable disability or dies and is aware or his survivors are aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship of the compensable disability or death to the employment. In such a case, the time for giving notice of injury or death begins to run when the employee is aware or the survivors are aware, or by the exercise of reasonable diligence should have been aware that the employee's condition or death is causally related to his or her employment, whether or not there is a compensable disability or death.

(d) The time limitations described in this section do not begin to run against a minor until such minor reaches 21 years of age or has had a legal representative appointed; or run against an incompetent individual while such individual is incompetent and has no duly appointed legal representative; or run against any individual whose failure to comply is excused by the Secretary of Labor on the ground that notice could not be given because of exceptional circumstances.

(e) If no claim is filed by an injured employee or by someone acting on the employee's behalf prior to his or her

death, the right to claim compensation for disability other than medical expenses ceases and does not survive.

§ 10.106 How to file a claim for disability compensation.

(a) Whenever an employee, as a result of an injury in the performance of duty, is disabled with loss of pay for more than 3 calendar days or has a permanent impairment or serious disfigurement as described in 5 U.S.C. 8107, the official superior shall furnish the employee with Form CA-7 for the purpose of claiming compensation and shall advise the employee of his or her rights under the Act.

(b) The employee, upon termination of wage loss if the period of wage loss is less than 10 calendar days, or at the expiration of 10 calendar days from the date pay stops if the period of wage loss will be 10 calendar days or more, should file Form CA-7 with the Office or with any person designated by the Office to receive claims. The employee's official superior is so designated to receive claims on behalf of the Office. The employee, or someone acting on the employee's behalf, must complete the front of Form CA-7 and, unless special circumstances require otherwise, submit the form to the official superior for completion and transmission to the Office. The employee is responsible for submitting, or arranging for the submission of, medical evidence in support of the claim. Form CA-20 is attached to Form CA-7 for this purpose.

(c) Upon receipt of Form CA-7 from the employee (or from someone acting on the employee's behalf), the official superior shall complete the appropriate portions of the claim form. As soon as possible, but not later than 5 working days after its receipt from the employee, the official superior shall forward the completed Form CA-7 and any accompanying medical report to the Office.

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§ 10.107 Application for augmented compensation.

(a) While the employee has one or more dependents as defined in 5 U.S.C. 8110, the employee's basic compensation for wage loss as provided in section 8105 or 8106(a), or for permanent impairment as provided in section 8107(a), shall be augmented as provided in section 8110. Form CA-7 includes an application for such augmented compensation.

(b) Augmented compensation payable while an employee has an unmarried child as defined by 5 U.S.C. 8110, which would otherwise terminate because the child reaches the age of 18, may be continued while the child is a student as defined by the Act and in § 10.5(a)(25) of this part.

(c) The Office may require an employee to submit an affidavit or statement as to any dependents, or to submit necessary supporting documentation such as birth or marriage certificates or court orders, in the manner and at the times the Office specifies, in order to determine the employee's entitlement to augmented compensation. If an employee when required, fails within 30 days of the date of the request to submit such affidavit, statement, or supporting documentation the employee's right to augmented compensation otherwise payable shall be suspended until such time as the requested affidavit, statement, or supporting documentation is received, at which time augmented compensation will be reinstated retroactive to the date of suspension provided the employee is entitled to such augmented compensation.

(d) An employee entitled to or receiving augmented compensation shall promptly notify the Office of any event which would terminate the employee's continued entitlement to augmented compensation. Any checks or payments received after such event shall be returned to the Office as soon as possible. Where augmented compensation is paid by the Office beyond the date entitlement terminated, the Office shall make proper adjustment and any difference between actual entitlement and the amount already paid is an overpayment of compensation and may be recovered pursuant to 5 U.S.C. 8129 and other appropriate statutes.

§ 10.108 How to file an original claim for death benefits.

An original claim for death benefits may be filed by any survivor of a deceased employee (see section 8133 of the Act) or any other person acting on behalf of such survivor. Form CA-5 is provided by the Office for this purpose, and should be executed as provided therein. An original death claim may be filed by delivering a completed Form CA-5 to the Office, or to any person designated by the Office to receive such claim. The deceased employee's former official superior is so designated to receive such claims on behalf of the Office, and the person claiming benefits should submit the claim to such former official superior, unless special circumstances require a different procedure. The official superior shall, when it is practicable, furnish to all persons likely to be entitled to compensation for death of an employee, a Form CA-5 or CA-5b with information as to the use of the form for making claim for compensation and procedure in respect of filing such form. The furnishing of assistance in preparing such form or in obtaining evidence relating to the claim shall be without charge by the official superior. Any claim or paper purporting to claim compensation on account of death, submitted to the deceased employee's former official superior, shall be transmitted promptly to the Office.

§ 10.109 Claims for balance of schedule awards unpaid at death when death is due to other causes.

(a) If an employee who has sustained compensable impairment within the meaning of 5 U.S.C. 8107, and has filed a valid claim during his or her lifetime, dies from causes other than the injury which resulted in the compensable impairment before the entire amount due for the schedule was paid, a claim for the unpaid balance may be made on a form approved by the Office by the surviving spouse or child in accordance with 5 U.S.C. 8109(a)(3)(D). If there is no surviving spouse or child, then a claim for the unpaid balance may be made by any other survivors pursuant to 5 U.S.C. 8109(a)(3)(D) and benefits shall be paid in the proportions and under the conditions and in the order as follows:

- (1) To the parent or parents wholly dependent for support upon the decedent in equal shares with any wholly dependent brother, sister, grandparent or grandchild;
- (2) To the parent or parents partially dependent for support upon the decedent in equal shares when there are no wholly dependent brothers, sisters, grandparents or grandchildren (or other wholly dependent parent); and
- (3) To the parent or parents partially dependent upon the decedent, 25 percent of the amount payable, shared equally, and the remaining 75 percent to any wholly dependent brother, sister, grandparent or grandchild (or wholly dependent parent), share and share alike.

(b) Any survivor referred to in paragraph (a) of this section must be alive to receive any payment and any such survivor shall not have a vested right to any such payment. Claims for continuation of payments under 5 U.S.C. 8109 shall be made in the manner described by § 10.126 of this subpart.

(c) The entitlement of any survivor to payment under 5 U.S.C. 8109 shall cease upon the happening of any event which would terminate such right under 5 U.S.C. 8133. The termination of such right and any necessary reapportionment shall be governed by § 10.128 of this subpart.

(d) The disposition of any balance not paid under the foregoing paragraphs shall be made in accordance with 5 U.S.C. 8109(a)(D)(v).

EVIDENCE

§ 10.110 Burden of proof.

(a) A claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the claimed condition and the disability if any, was caused, aggravated, or adversely affected by the claimant's Federal employment. As a part of this burden, the claimant must specify the employment incident or the factors or conditions of employment to which the

injury, disease or disability is attributed and must submit rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing causal relationship between the claimed condition and the Federal employment. The fact that a condition or disease manifests itself during a period of Federal employment by itself does not raise an inference that there is causal relationship between the two. Neither the fact that the condition or disease became manifest during a period of Federal employment, nor the belief of the claimant that the condition or disease was caused or aggravated by employment conditions or factors, is sufficient in itself to establish causal relationship.

(b) If a claimant initially submits supportive factual and/or medical evidence which is not sufficient to carry the burden of proof, the Office will inform the claimant of the defects in proof and grant at least 30 calendar days for the claimant to submit the evidence required to meet the burden of proof. Subsequent submissions of evidence still not sufficient to carry the burden of proof will not require another notification of defects. The Office may, in its discretion, undertake to develop either factual or medical evidence for determination of the claim. For example, when the claim is based on exposure to hazardous material or noise at work, or when relevant evidence is in the possession of the Federal government and not accessible to the claimant (e.g., a deactivated employing agency facility), the Office will undertake to develop the necessary evidence.

(c) Once the Office has accepted a claim and paid compensation, it has the burden, before terminating or reducing compensation, of establishing by the weight of the evidence that the disability for which compensation was paid has ceased, or that the disabling condition is no longer causally related to the employment, or that the claimant is only partially disabled, or that its initial decision was in error.

§ 10.111 Submission of other evidence.

The responsibilities of the official superior and the claimant to submit evidence are specified elsewhere in this part. A claimant, a person acting on the claimant's behalf, or the employing agency may submit to the Office any other evidence which is deemed relevant and pertinent to the initial and ongoing determination of the claim.

TERMINATION AND CONTINUATION OF ELIGIBILITY

§ 10.120 Report of termination of disability or return to work.

In all cases reported to the Office the

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official superior shall notify the Office immediately upon the injured employee's return to work or termination of disability. Form CA-3 is provided for this purpose. It shall be used unless a report of termination of disability is made to the Office on Form CA-1 or CA-2, or CA-7 as appropriate, or in some other manner.

§ 10.121 Recurrence of disability.

(a) The official superior shall notify the Office if, after the employee returns to work, the original injury causes the employee to stop work again. Form CA-2a is provided for this purpose. If the original injury was not previously reported to the Office, notice of the original injury shall be made on Form CA-1 or CA-2, as appropriate, and attached when Form CA-2a is submitted. Medical reports concerning the original injury should also be attached if not previously submitted. 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.

(b) When the employee has received medical care as a result of the recurrence, he or she should arrange for a detailed medical report to be submitted by the attending physician. The report should include: dates of examination and treatment; history given by the employee; findings; results of x-ray and laboratory tests; diagnosis; course of treatment; the physician's opinion, with medical reasons, regarding causal relationship between the employee's condition and the original injury; work limitations or restrictions, and prognosis. The employee should also submit, or arrange for the submission of, similar medical reports for any examination and/or treatment received subsequent to returning to work following the original injury.

(c) The employee must also give the reasons for believing the recurrence of disability is related to the original injury. A statement from the employee must accompany Form CA-2a describing the employee's duties upon return to work after the original injury, stating whether there were any other injuries or illness, and giving a general description of the employee's physical condition during the intervening period. The official superior may submit comments concerning the employee's statement.

(d) If the injured employee does not return to duty prior to the date Form CA-2a is submitted to the Office, the return to duty or termination of disability shall be reported to the Office on Form CA-3 unless otherwise reported on Form CA-7 or Form CA-8.

(e) Claim for compensation as a result of the recurrence of disability should be made using Form CA-7, unless such

form was previously filed after the original injury. If Form CA-7 was previously filed, compensation must be claimed using Form CA-8. A completed claim form plus a medical report on Form CA-20 or CA-20a (or in narrative form) must be submitted before compensation may be paid.

§ 10.122 Claim for continuing compensation for disability.

Form CA-8 is provided to claim compensation for additional periods of time after Form CA-7 is submitted to the Office. It is the responsibility of the employee to submit Form CA-8. Without receipt of such claim, the Office has no knowledge of continuing wage loss. Therefore, while disability continues, a claim on Form CA-8 should be submitted every 2 weeks until the employee is otherwise instructed by the Office. The employee shall complete and sign the face of the form, and the official superior shall complete the reverse side. The employee is responsible for submitting, or arranging for the submission of, medical evidence in support of the claim. Form CA-20a is attached to Form CA-7 for this purpose. The official superior shall forward the completed Form CA-8 and any accompanying medical report to the Office within 5 working days of receipt from the employee.

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§ 10.123 Employing agency's responsibilities in returning the employee to work.

(a) Upon authorization of medical care, the official superior shall provide the employee with written notification of his or her obligation to return to work as soon as possible and, with respect to alternative work, shall

(1) Advise the employee in the same manner as provided by § 10.207(b); and

(2) Advise the employee of his or her responsibilities under § 10.124 of this subpart.

The term "return to work" as used in this section is not limited to return to work at the employee's normal worksite, but may include return to work at other alternate locations.

(b) The employing agency shall monitor the employee's medical progress and duty status by obtaining periodic medical reports. Form CA-17 is provided for this purpose. To facilitate an injured employee's return to suitable employment, the employing agency may correspond in writing with the employee's physician concerning the work limitations and restrictions imposed by the effects of the injury and possible job assignments. The employing agency shall concurrently send a copy of any such correspondence to the Office and the claimant, as well as a copy of the physician's response when received.

(c) Where the employing agency is notified in writing that the attending physician has found the employee to be partially disabled, and the employee is able to:

(1) Perform in a specific alternative position which is available within the agency and for which the agency has furnished the employee with a written description of the specific duties and physical requirements, the agency shall notify the employee immediately of the date of availability. To facilitate early return to work, the agency may inform the employee of the offer and its availability by telephone, but must provide written confirmation of the offer as soon as possible thereafter.

(2) Perform restricted or limited duties, the agency shall determine whether necessary accommodation can be made, and if so, advise the employee in writing of the duties, their physical requirements and availability. To facilitate early return to work, the agency may inform the employee of the offer by telephone, but must provide written confirmation of the offer as soon as possible thereafter.

(d) Where the nature and extent of injury prohibit the employee from returning to the duties of the position held at the time of injury, and the agency is unable to accommodate the restrictions and limitations imposed on the employee by the injury, and employment is consequently terminated, the agency may, in cooperation and coordination with the Office, subsequently determine the former employee's current physical condition and offer reemployment in a position suitable to the former employee's capabilities. Such reemployment offer must be in writing and include a description of the duties of the position being offered, the physical requirements of those duties, and the date the former employee is to return to work or, in the alternative, the date by which the former employee must notify the agency of his or her decision with respect to acceptance or refusal of the reemployment offer.

(e) A complete copy of any agency offer of employment or reemployment should be sent to the Office at the same time as it is sent to the employee.

(f) Where an injured employee relocates after having been terminated from the agency's employment rolls, the Office encourages employing agencies to offer suitable reemployment in the location where the former employee currently resides. If this is not practical, the agency may offer suitable employment at the employee's former duty station or other alternate location. Where acceptance of the offered reemployment would result in relocation expenses being incurred by the former employee, such expenses as are

considered reasonable and necessary may be paid by the Office from the Employees' Compensation Fund. In determining whether a relocation expense is reasonable and necessary, the Office shall use as a guide the Federal travel regulations pertaining to permanent change of duty station.

§ 10.124 Employee's obligation to return to work or to seek work when able.

(a) An employee whose disability has ceased and who is able to resume regular Federal employment has the obligation to do so. No further compensation for wage loss is payable once the employee has recovered from the employment injury to the extent that he or she could perform the duties of the position held at the time of injury, or earn equivalent wages.

(b) Where an employee has been advised by the employing agency in writing of the existence of specific alternative positions within the agency, the employee shall furnish the description and physical requirements of such alternative positions to the attending physician and inquire whether and when the employee will be able to perform such duties. Where an agency has advised the employee of its willingness to accommodate, where possible, the employee's work limitations and restrictions, the employee shall so advise the attending physician and request the physician to specify the limitations and restrictions imposed by the injury. The employee has the responsibility to advise the employing agency immediately of the limitations and restrictions imposed.

(c) Where an employee has been offered suitable employment (or reemployment) by the employing agency (i.e., employment or reemployment which the Office has found to be within the employee's educational and vocational capabilities, within any limitations and restrictions which pre-existed the injury, and within the limitations and restrictions which resulted from the injury), or where an employee has been offered suitable employment as a result of job placement efforts made by or on behalf of the Office, the employee is obligated to return to such employment. An employee who refuses or neglects to work after suitable work has been offered or secured for the employee has the burden of showing that such refusal or failure to work was reasonable or justified, and shall be provided with the opportunity to make such showing before a determination is made with respect to termination of entitlement to compensation as provided by 5 U.S.C. 8106(c)(2) and paragraph (e) of this section.

(d) When a permanently disabled employee who cannot return to the

position held at the time of injury due to the residuals of the employment injury has recovered sufficiently to be able to perform some type of work, the employee must seek suitable work either in the Government or in private employment. Such an employee must report the efforts made to obtain suitable employment at such times and in such manner as the Office may require including the names and addresses of the persons or establishments to whom the employee has applied for work.

(e) A partially disabled employee who, without showing sufficient reason or justification, refuses to seek suitable work or refuses or neglects to work after suitable work has been offered to, procured by, or secured for the employee, is not entitled to further compensation for total disability, partial disability, or permanent impairment as provided by sections 8105, 8106, and 8107 of the Act, but remains entitled to medical benefits as provided by section 8103 of the Act. An employee shall be provided with the opportunity to make such showing of sufficient reason or justification before a determination is made with respect to termination of entitlement to compensation as provided by 5 U.S.C. 8106(c).

(f) Pursuant to 5 U.S.C. 8104(a), the Office may direct a permanently disabled employee to undergo vocational rehabilitation. If an employee without good cause fails or refuses to apply for, undergo, participate in, or continue participation in a vocational rehabilitation effort when so directed, the Office will, in accordance with 5 U.S.C. 8113(b), reduce prospectively the employee's monetary compensation based on what would probably have been the employee's wage-earning capacity had there not been such failure or refusal. If an employee without good cause fails or refuses to apply for, undergo, participate in, or continue participation in the early but necessary stages of a vocational rehabilitation effort (i.e., interviews, testing, counseling, and work evaluations), the Office cannot determine what would have been the employee's wage-earning capacity had there not been such failure or refusal. It will be assumed, therefore, in the absence of evidence to the contrary, that the vocational rehabilitation effort would have resulted in a return to work with no loss of wage-earning capacity, and the Office will reduce the employee's monetary compensation accordingly. Any reduction in the employee's monetary compensation under the provisions of this paragraph shall continue until the employee in good faith complies with the direction of the Office.

§ 10.125 Affidavit or report by employee of employment and earnings.

(a) While in receipt of compensation for partial or total disability, and unless found by the Office to be unnecessary or inappropriate, an employee shall periodically be required to submit an affidavit or other report of earnings from employment or self-employment on either a part-time or full-time basis. If an employee when required, fails within 30 days of the date of the request to submit such an affidavit or report, the employee's right to compensation for wage loss under section 8105 or 8106 is suspended until such time as the requested affidavit or report is received by the Office, at which time compensation will be reinstated retroactive to the date of suspension. If, in making an affidavit or report, an employee knowingly omits or understates any earnings or remuneration, the employee shall forfeit the right to compensation with respect to any period for which the affidavit or report was required. A false or evasive statement, omission, concealment, or misrepresentation with respect to employment or earnings in a required affidavit or report may, in addition to forfeiture, subject the employee to criminal prosecution.

(b) Where the right to compensation is forfeited, any compensation already paid for the period of forfeiture shall be recovered by deducting the amount from compensation payable in the future. The amount deducted shall equal the total compensation payable until the full amount forfeited has been recovered. If further compensation is not payable, the compensation already paid may be recovered pursuant to 5 U.S.C. 8129 and the Federal Claims Collection Act (31 U.S.C. 952)(c).

(c) Earnings from employment referred to in this section or elsewhere in this part means gross earnings or wages before any deductions and includes the value of subsistence, quarters, reimbursed expenses, or any other advantages received in kind as part of the wages or remuneration. In general, earnings from self-employment means a reasonable estimate of the rate of pay it would cost the employee to have someone else perform the work or duties the employee is performing. Where self-employment is in the form of a corporation, partnership, or sole proprietorship, a lack of profits for such entity does not remove the employee's obligation to report the employment or the rate of pay.

(d) For the purpose of administering the Act, including the making of proper determinations as to an employee's entitlement to benefits, the Office may, with the written consent of the employee, obtain from the Social

Security Administration wage information concerning that employee to include the names and addresses of employers for whom the employee worked during a specified period of time, the periods employed, and the gross amount of wages earned.

§ 10.126 Claims for continuing compensation for death.

A beneficiary to whom an award of compensation has been made on account of an employee's death shall submit additional claims for continuing compensation to the Office once each year, or when required by the Office. Form CA-12 is provided by the Office for this purpose and will be sent to the beneficiary when an additional claim is required. If a beneficiary when required, fails within 30 days of the date of request to submit the form (or an equivalent written statement), the beneficiary's right to compensation, including compensation payable to that beneficiary for or on behalf of another (e.g., compensation payable to a widow on behalf of a child), shall be suspended until such time as the requested form or equivalent written statement is received, at which time compensation will be reinstated at the appropriate rate retroactive to the date of suspension.

§ 10.127 Continuation of death compensation for a child, brother, sister or grandchild who has reached the age of 18.

Compensation payable on behalf of a child, brother, sister, or grandchild under 5 U.S.C. 8133, which would otherwise be terminated because such individual has reached 18 years of age, shall be continued if and for so long as he or she is not married and is physically or mentally incapable of self-support, or if he or she is a student as defined in § 10.5(a)(25) for so long as he or she is not married and continues as a student. An individual in receipt of compensation under the provisions of 5 U.S.C. 8133 shall furnish, when so required by the Office, proof of continuing entitlement to such compensation, including certification of school enrollment. If a beneficiary when required, fails within 30 days of the date of the request to submit such proof, the beneficiary's right to compensation shall be suspended until the requested information is received, at which time compensation will be reinstated retroactive to the date of suspension, provided the beneficiary is entitled to such compensation.

§ 10.128 Termination of right to compensation for death; reapportionment of compensation.

(a) When a beneficiary who is receiving compensation on account of death ceases to be entitled to such compensation by reason of death, remarrying before age 60, marrying, reaching the age of 18, ceasing to be

dependent, ceasing to be student, or becoming capable of self-support, the beneficiary or someone acting on the beneficiary's behalf shall immediately notify the Office of such event. If the beneficiary, or someone acting on the beneficiary's behalf, receives a check which includes payment of compensation for any period after the date when entitlement ceased for any of the above reasons, the check shall be promptly returned to the Office. The terms marrying and remarrying include common law marriage as recognized and defined by state law in the state where the beneficiary resides.

(b) An event as described in paragraph (a) of this section which results in the termination of compensation to a beneficiary may also result in a reapportionment of the amount of compensation payable to one or more of the remaining beneficiaries. Similarly, the birth of a posthumous child of the deceased employee may also 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 the Office of the birth and submit a certified copy of the birth certificate.

DETERMINATIONS OF CLAIMS, HEARING AND REVIEW PROCEDURES

§ 10.130 Processing of claims.

Claims for compensation for disability and death are processed by claims examiners of the Office, whose duty it is to apply the law to the facts as reported, received, or obtained upon investigation. The Federal Employees' Compensation Act, as amended, requires that a decision with respect to entitlement contain findings of fact and be based on consideration of the claim presented by the claimant, the report by his or her immediate official superior, and the completion of such investigation as the Office may deem necessary. There is no required procedure for the production of evidence but the evidence should be in written form. The final authority in the Office in the determination of a claim is vested in the Director of the Office. The decision shall contain findings of fact and a statement of reasons. A copy of the decision, together with information as to the right to a hearing, to a reconsideration, and to an appeal to the Employees' Compensation Appeals Board, shall be mailed to the claimant's last known address. If the claimant is represented before the Office, a copy of the decision will also be mailed to such representative. At the time the decision is issued, a copy will also be sent to the claimant's employing agency.

§ 10.131 Request for a hearing.

(a) Any claimant not satisfied with a decision of the Office shall be afforded an opportunity for an oral hearing before an Office representative

designated by the Director. A hearing must be requested in writing within 30 days of the date of issuance of the decision and be made to the Office as set forth in the decision. A claimant is not entitled to an oral hearing if the request is not made within 30 days of the date of issuance of the decision as determined by the postmark of the request, or if a request for reconsideration of the decision is made pursuant to 5 U.S.C. 8128(a) and § 10.138(b) of this subpart prior to requesting a hearing, or if review of the written record as provided by paragraph (b) of this section has been obtained. At an oral hearing, the claimant shall be afforded the opportunity to present oral testimony and/or written evidence in further support of the claim. A claimant may change his or her selection of an oral hearing to a review of the written record as provided by paragraph (b) of this section; however, such written request for change must be made within 30 days after the date of the Office's acknowledgment of receipt of the initial request.

(b) In lieu of an oral hearing, a claimant shall be afforded an opportunity for a review of the written record by an Office representative designated by the Director. Such review will not involve oral testimony or attendance of the claimant; however, the claimant may submit any written evidence or argument which he or she believes relevant. A review of the written record must be requested in writing within 30 days of the date of issuance of the decision, specify the decision and/or issue which is the subject of the request, and be made to the Office as set forth in the decision. A claimant is not entitled to a review of the written record if the request is not made within 30 days of the date of issuance of the decision as determined by the postmark of the request, or if a request for reconsideration of the decision is made pursuant to 5 U.S.C. 8128(a) and § 10.138(b) of this subpart prior to requesting a review of the written record, or if an oral hearing has been obtained as provided by paragraph (a) of this section. A claimant may change his or her selection of a review of the written record to an oral hearing as provided by paragraph (a) of this section; however, such written request for change must be made within 30 days after the date of the Office's acknowledgment of receipt of the initial request. Where timely request for a review of the written record is received, the Office shall furnish the employing agency with a copy of the claimant's request and allow 15 days for the agency to submit any comments and/or documents which it believes relevant and material to the issue in question. Any comments or documents submitted by the agency are subject to review and

comment by the claimant within 15 days following the date the Office sends any such agency submission to the claimant. Following a review of the record and any evidence submitted, the Office representative shall decide the claim and inform the claimant, the claimant's representative and the employing agency of the decision.

§ 10.132 Time and place of hearing; prehearing conference.

The Office representative shall set the time and place of the hearing and shall mail written notice thereof to the claimant, the claimant's representative, and the employing agency at least 15 days prior to the hearing. When practicable, the hearing will be set at a time and place convenient for the claimant. At the request of the claimant, the Office representative may schedule a prehearing conference to further define or clarify the issues. Request for such a conference must be made to the Office representative in writing at least 5 days prior to the scheduled date of the hearing. The decision whether or not to schedule a prehearing conference shall be solely within the discretion of the Office representative.

§ 10.133 Conduct of hearing.

(a) In conducting the hearing, the Office representative shall not be 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 may conduct the hearing in such manner as to best ascertain the rights of the claimant. For this purpose, the representative shall receive such relevant evidence as may be adduced by the claimant and shall, in addition, receive such other evidence as the representative may determine to be necessary or useful in evaluating the claim. Evidence may be presented orally or in the form of written statements and exhibits. The hearing shall be recorded. The recording, either by magnetic tape or by transcription, shall be made a part of the case record.

(b) Pursuant to 5 U.S.C. 8126 the Office may whenever necessary: (1) Issue subpoenas for and compel the attendance of witnesses within a radius of 100 miles; (2) administer oaths; (3) examine witnesses; and (4) require the production of books, papers, documents, and other evidence, with respect to proceedings conducted for the purpose of determining the validity of any claim under this part.

§ 10.134 Subpoenas; witness fees.

(a) When reasonably necessary for full presentation of a case, an Office hearing representative may upon his or her own motion, or upon request of the claimant, issue subpoenas for the attendance and testimony of witnesses and for the production of books, records, correspondence, papers, or other

documents which are relevant and material to any matter in issue at the hearing. A claimant who desires the issuance of a subpoena shall, not less than 20 days prior to the date fixed for the hearing, file with the Office representative a written request therefor, designating the witness or documents to be produced, and describing the address and location thereof with sufficient particularity to permit such witness or documents to be found. The request for a subpoena shall state the pertinent facts which the claimant expects to establish by such witnesses or documents and whether such facts could be established by other evidence without the use of a subpoena. A subpoena issued under the provisions of this section shall be issued in the name of the Office hearing representative, and shall be served either in person by an authorized representative of the Office or by certified mail, return receipt requested, addressed to the person to be served at his or her last known principal place of business or residence. Where service is made in person by an authorized Office representative, such representative shall make an affidavit stating that he or she personally served a copy of the subpoena upon the person named therein. Where service is by certified mail, the signed returned post office receipt shall serve as proof of service.

(b) Non-government witnesses subpoenaed under this section who have submitted evidence into the case record at the request of the Office shall be paid the same fees and mileage as are paid for like services in the District Court of the United States where the subpoena was returnable. However, in the case of an expert witness, the witness fee shall not exceed the local customary fee for such service. Fees and mileage requested by such witnesses shall be paid by the Office.

(c) Non-government witnesses subpoenaed under this section who have submitted evidence into the case record at the request of the claimant or who have not submitted evidence into the case record but have testimony which is relevant and material to the issue in question and were subpoenaed at the request of the claimant, shall be paid the same fees and mileage as are paid for like services in the District Court of the United States where the subpoena was returnable. However, in the case of an expert witness, the witness fee shall not exceed the local customary fee for such service. Fees and mileage requested by such witnesses shall be paid by the claimant.

§ 10.135 Employing agency attendance at hearings and submission of evidence.

The employing agency does not have the right to request a hearing pursuant to 5 U.S.C. 8124. However, the employing

agency has an interest in the outcome of the hearing and frequently possesses information pertinent to issues raised at the hearing. Therefore, the employing agency shall be afforded the opportunity to have an agency representative in attendance at the hearing and/or to request that it receive a copy of the hearing transcript. Where the employing agency sends a representative, the representative will attend primarily in the role of an observer without the right to question the claimant or make any argument. However, since the claimant is entitled to present evidence in support of the claim, the agency representative may, upon the specific request of the claimant, be called upon by the Office representative to give oral testimony. Where the employing agency requests that it receive a copy of the hearing transcript, the agency will be allowed 15 days following release of the transcript to submit comments or additional material for inclusion in the record. Any comments or materials submitted by the agency are subject to review and comment by the claimant within 15 days following the date the Office sends any such agency submission to the claimant.

§ 10.136 Termination of hearing; release of decision.

The Office representative shall fix the time within which evidence will be received and shall terminate the hearing by mailing a copy of the decision, setting forth the basis therefor, to the claimant's last known address and to the claimant's representative, if any. A copy of the decision will also be mailed to the employing agency.

§ 10.137 Postponement; withdrawal or abandonment of request for hearing.

(a) A scheduled hearing may be postponed or cancelled at the option of the Office, or upon written request of the claimant if the request is received by the Office at least 3 days prior to the scheduled date of the hearing and good cause for the postponement is shown. The unexcused failure of a claimant to appear at a hearing or late notice may result in the assessment of costs against such claimant.

(b) A claimant may withdraw a request for a hearing at any time by written notice to the Office representative before the hearing is held, or on the record at the hearing.

(c) 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. 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, another hearing will be scheduled. Unless extraordinary circumstances such as hospitalization, a death in the family, or similar circumstances which prevent the claimant from appearing are demonstrated, failure of the claimant to appear at the third scheduled hearing shall constitute abandonment of the request for a hearing.

§ 10.138 Review of decision.

(a) Under the discretionary authority granted by 5 U.S.C. 8128(a), the Office may review an award for or against the payment of compensation at any time on its own motion and may, as a result of that review, affirm, reverse or modify the previous decision and inform the claimant, the claimant's representative and the employing agency of the decision.

(b)(1) Under the discretionary authority granted by 5 U.S.C. 8128(a), the Office may review an award for or against the payment of compensation on application of the claimant. No formal application for review is required, but the claimant must make a written request identifying the decision and the specific issue(s) within the decision which the claimant wishes the Office to reconsider, and give the reasons why the decision should be changed. Where the decision or issue cannot be reasonably determined from the claimant's application for review, the application will be returned to the claimant for clarification without further action by the Office with respect to the application. The claimant may obtain review of the merits of the claim by—

- (i) Showing that the Office erroneously applied or interpreted a point of law, or
- (ii) Advancing a point of law or a fact not previously considered by the Office, or
- (iii) Submitting relevant and pertinent evidence not previously considered by the Office.

(2) Any application for review of the merits of the claim which does not meet at least one of the requirements listed in paragraphs (b)(1)(i)–(iii) of this section will be denied by the Office without review of the merits of the claim. Such a denial of application is not subject to review under this section or to hearing under § 10.131. Further, the Office will not review under this subsection a decision denying or terminating a benefit unless the application is filed within one year of the date of that decision. Where proper application is submitted and the Office finds that merit review of the claim is warranted, the Office shall furnish the employing agency with a copy of the claimant's

application for reconsideration and allow 15 days for the agency to submit any comments and/or documents which it believes relevant and material to the issue in question. Any comments or materials submitted by the agency are subject to review and comment by the claimant within 15 days following the date the Office sends any such agency submission to the claimant. The Office shall then review the decision and any agency submission, decide the claim, and inform the claimant, the claimant's representative and the employing agency of the decision.

§ 10.139 Review by the Employee's Compensation Appeals Board.

Final decisions of the Office, except decisions concerning the amounts payable for medical services, and decisions concerning exclusion and reinstatement of medical providers, are subject to review by the Employees Compensation Appeals Board (ECAB), U.S. Department of Labor, under rules of procedure set forth in Part 501 of this title.

§ 10.140 Participation in claims process by employing agency.

Proceedings conducted with respect to claims filed under the Act are nonadversary in character. Accordingly, a claimant's employing agency shall not have the right, except as provided in Subpart C of this part, to actively participate in the claims adjudication process. However, the employing agency may, under circumstances other than that described in § 10.102(b), investigate the circumstances surrounding an injury to an employee and the extent of disability (e.g., an agency may investigate an employee's activities where it appears the employee alleging total disability may be performing other employment or may be engaging in activities which would indicate less than total disability). Further, the agency has the responsibility to submit to the Office at any time all relevant and probative factual and medical evidence in its possession or which it may acquire through investigation or other means. All evidence submitted will be considered and acted upon by the Office as appropriate, and the Office will inform the claimant, the claimant's representative and the employing agency of such action. In those instances where an employing agency contests a claim at time of initial submission and the claim is subsequently approved, the Office will notify the agency of the rationale for approving the claim.

§ 10.141 Representation of the Director.

The Director shall be represented in proceedings with respect to any claim conducted before the Employees'

Compensation Appeals Board (ECAB) by attorneys from the Office of the Solicitor of Labor.

§ 10.142 Representation of claimants.

Any claimant may appoint an individual to represent his or her interest in any proceeding for determination of a claim under this part. Such appointment shall be made in writing or on the record at the hearing. A written notice appointing a representative shall be signed by the claimant or his or her legal guardian and shall be sent to the Office. In any case such representative must be qualified under § 10.143.

§ 10.143 Qualification of representative.

(a) *Attorney.* Any attorney in good standing who is admitted to practice before a court of a State, territory, district, or insular possession or before the Supreme Court of the United States or other Federal court and is not, pursuant to any provision of law, prohibited from acting as a representative may be appointed as a representative.

(b) *Other person.* Any other person with the approval of the Office may be appointed as a representative so long as that person is not, pursuant to any provision of law, prohibited from acting as a representative.

§ 10.144 Authority of representative.

A representative, appointed and qualified as provided in this part, may make or give on behalf of the claimant any request or notice relative to any proceeding before the Office under the Act, including hearing and review. A representative shall be entitled to present or elicit evidence and to make allegations as to facts and law in any proceeding affecting the claimant and to obtain information with respect to the claim to the same extent as the claimant. Notice to any claimant of any administrative action, determination, or decision, or request to any party for the production of evidence shall be sent to the representative, and the notice or request shall have the same force and effect as if it has been sent to the claimant.

§ 10.145 Fees for services.

(a) No fee for representation services rendered in respect to a claim under this part shall be valid, unless prior approval of such fee has been obtained from the Office.

(b) The fee approved by the Office will be determined on the basis of the actual necessary work performed and will generally include but are not limited to the following factors:

- (1) Usefulness of the representative's services to the claimant.
- (2) The nature and complexity of the claim.
- (3) The actual time spent on development and presentation of the claim.
- (4) The amount of compensation accrued and potential future payments.
- (5) Customary local charges for similar services.

(6) Professional qualifications of the representative.

(c) In every case where a representative's fee is desired, an application for approval of the fee shall be made to the Office. The application should be made when the representative has submitted the final piece of information believed necessary for the adjudication of the claim. Each request for approval of a fee shall be accompanied by a complete itemized statement, in duplicate, describing the services rendered. Such itemization shall contain the following information:

- (1) The dates that services began and ended in addition to all dates on which conferences were held, documents or letters prepared, telephone calls made, etc.
- (2) A description of each service rendered with the amount of time spent on each type of service.
- (3) The amount of the fee which the representative desires for services performed.

(d) The representative shall arrange for the claimant to review the request for a fee and to comment as to the services provided and as to the reasonableness of the fee. The claimant's written comments should accompany the application for approval of a fee submitted to the Office.

(e) In considering any request for such a fee, the Office will not recognize such items as:

(1) Work performed before any other State or Federal agency or court including the Employees' Compensation Appeals Board, and any State or Federal Court.

(2) Any contract for the payment of an agreed sum or any contingent contract.

(3) Expenses incurred by the representative for services performed.

(f) The Office will not pay or assist in the collection of any representative fee. Neither will compensation payments be routinely forwarded to the representative with or without the claimant's approval.

(g) Any claimant aggrieved or adversely affected by an award of a fee may request a hearing or reconsideration by the Office, or may request review by the Employees' Compensation Appeals Board.

(h) A representative aggrieved or adversely affected by an award of a fee may request review by the Employees' Compensation Appeals Board.

(i) Any person who receives a fee, other consideration or gratuity on account of services rendered with respect to a claim under this part, unless approved by the Office, or who solicits employment for himself or another in respect to a case or claim under (or to be brought under) this Act shall be guilty of a misdemeanor under 18 U.S.C. 292 and upon conviction of each offense, will be punished by a fine of not more than \$1,000 or imprisoned not to exceed 1 year, or both. Utilization of an escrow

deposit of funds by a representative for the deposit of a client's funds, prior to approval by the Office of the representative's fee, is not considered receipt or collection of a fee by the representative; provided, the escrow deposit of funds is one made by the claimant/client into the hands of a third party to be held by that third party until receipt of the Office's approval of the representative's fee, and then delivered by the third party to the representative in accordance with the decision of the Office and the provisions of the escrow agreement.

(Approved by the Office of Management and Budget under control number 1215-0115)

§ 10.146 [Reserved]

§ 10.147 [Reserved]

§ 10.148 [Reserved]

§ 10.149 [Reserved]

§ 10.150 Statement relative to substantive rules.

(a) The principal function of the Office and its subordinate parts is that of adjudicating claims for workers' compensation. This function is quasijudicial in character and involves the application of statutes and principles of law to resolve factual situations. This field of activity is within the specialized branch of the law generally referred to as "workers' compensation," and has its own particularized principles which have general applicability to workers' compensation statutes (State and Federal), as such statutes have certain common or underlying similarity in respect to the meaning of terms and phrases, and in respect to scope, jurisdiction, and general basic concepts of employer liability.

(b) In the administration of the Act, the Office has one general policy, which is to follow and to adhere to the principles of workers' compensation law as stated in the opinions of the Supreme Court, the Federal Circuit Courts of Appeal, and the District Courts of the United States, as they may appropriately be applied or have been determined by the Employees' Compensation Appeals Board (ECAB) to apply in like situations arising under the Act. In addition, decisions and opinions of the judicial tribunals of the several States furnish principles of law of general applicability in the specialized field of workers' compensation, which form parts of the foundation of general principles relied upon in the application and interpretation of the Act. The Office applies the provision of the Act applicable in respect to a particular case or situation, to the extent that such provision can readily be applied without extrinsic aid, but where such aid is necessary the source thereof is the body of principles embodied in authoritative decisions of the courts and the ECAB within such well-recognized branch of the law.

Representative Payment

§ 10.160 Indications for designation of a representative payee.

When the Office determines that a beneficiary is incapable of managing or directing the management of benefits either because of a mental or physical disability, or because of legal incompetence, or because the individual is under 18 years of age, the Office in its sole discretion may approve an individual designated or appointed to serve as the representative payee for funds due the eligible beneficiary.

§ 10.161 Selection of a payee.

(a) In approving a payee, the Office shall approve the person, agency, organization or institution which, in its judgment, will best serve the interest of the beneficiary. In making its decision the Office shall consider:

(1) The relationship of the person to the beneficiary;

(2) The amount of interest that the person shows in the welfare of the beneficiary;

(3) Any legal authority the person, agency, organization or institution has to act on behalf of the beneficiary;

(4) Whether the potential payee has custody of the beneficiary;

(5) Whether the potential payee is in a position to know of and to look after the needs of the beneficiary.

(b) For beneficiaries 18 years old or older, the general order of preference subject to the provisions of paragraph (a) of this section, shall be

(1) A legal guardian, spouse or other relative who has custody of the beneficiary or who demonstrates strong concern for the personal welfare of the beneficiary;

(2) A friend who has custody of the beneficiary or demonstrates strong concern for the personal welfare of the beneficiary;

(3) A public or nonprofit agency or institution having custody of the beneficiary;

(4) A private institution operated for profit and licensed under State law which has custody of the beneficiary; and

(5) Persons other than above who are qualified to carry out the responsibilities of a payee and who are able and willing to serve as a payee for a beneficiary.

(c) For beneficiaries under age 18, the general order of preference subject to the provisions of paragraph (a) of this section shall be—

(1) A biological or adoptive parent who has custody of the beneficiary, or a legal guardian;

(2) A biological or adoptive parent who does not have custody of the beneficiary, but is contributing to the beneficiary's support and is demonstrating strong concern for the beneficiary's well-being;

(3) A biological or adoptive parent who does not have custody of the beneficiary and is not contributing toward his or her support, but is demonstrating strong concern for the beneficiary's well-being;

(4) A relative or stepparent who has custody of the beneficiary;

(5) A relative who does not have custody of the beneficiary but is contributing toward the beneficiary's support and is demonstrating concern for the beneficiary's well-being;

(6) A relative or close friend who does not have custody of the beneficiary but is demonstrating concern for the beneficiary's well-being; and

(7) An authorized social agency or custodial institution.

§ 10.162 Responsibilities of a representative payee.

A representative payee has a responsibility to—

(a) Spend or invest payments received only for the use and benefit of the beneficiary in a manner and for the purposes he or she determines to be in the best interests of the beneficiary, subject to the guidelines contained in § 10.163;

(b) Notify the Office of any event that would affect the amount of benefits the beneficiary receives or the right of the beneficiary to receive benefits;

(c) Submit to the Office, upon its request, a written report accounting for the benefits received; and

(d) Notify the Office of any change in the payee's circumstances that would affect performance of the payee's responsibilities.

§ 10.163 Use of benefit payments.

To assure that the general welfare of the beneficiary is properly served, benefit payments received by a representative payee shall be used in the following manner, and in the prescribed order:

(a) Current maintenance, including costs incurred in obtaining food, shelter, clothing, medical care, and personal comfort items.

(b) Institutional care, including the customary charges made by the institution, as well as expenditures for those items which will aid in the beneficiary's recovery or release from the institution or expenses for personal needs which will improve the beneficiary's conditions while in the institution.

(c) Support of the beneficiary's legal dependents after current maintenance needs or institutional care of the beneficiary are met; and

(d) Claims of creditors only if the current and reasonably foreseeable needs of the beneficiary are met.

§ 10.164 Conservation and investment of benefit payments.

If payments either in whole or in part are not needed for any of the purposes listed in § 10.163 of this part, they shall be conserved or invested on behalf of the beneficiary in non-speculative accounts. Conserved funds should be invested in accordance with rules followed by trustees. Any investment must show clearly that the payee holds the property in trust for the beneficiary. Preferred investments for excess funds are U.S. Savings Bonds and deposits in an interest or dividend paying account in a bank, trust company, credit union, or savings and loan association which is insured under either Federal or State law. The account must be in a form which shows clearly that the representative payee has only a fiduciary and not a personal interest in the funds. The account should provide for withdrawal upon demand without penalty. The interest and dividends, as well as all other profits, which result from an investment are the property of the beneficiary and may not be considered to be the property of the payee.

§ 10.165 Termination of representation.

The services of a representative payee may be terminated when:

(a) The payee has not used the funds in the interests of the beneficiary as stipulated in this subpart;

(b) The payee has not discharged other responsibilities described in this subpart, or has not done so in a timely manner;

(c) The payee dies, wishes to be discharged from responsibility, or is unable to carry out the responsibilities of payee;

(d) The Office, after receipt of competent evidence, determines that the beneficiary is capable of managing his or her own funds; or

(e) A minor beneficiary attains majority.

§ 10.166 Accounting for benefit payments.

A representative payee is accountable for the use of benefit payments. The Office may require periodic written reports from the representative payee, and in certain cases, verification of how the funds were used. The representative payee shall keep records of how the funds were used so as to be able to furnish the following information to the Office:

(a) The amount of benefit payments on hand at the beginning of the accounting period;

(b) A description of how the benefit payments were used;

(c) An accounting of the amounts of payments which were saved or invested;

(d) The place(s) of residence of the

beneficiary during the accounting period; and

(e) The amount of the beneficiary's income from other sources during the accounting period so as to assist the Office in evaluating the use of the benefit payments.

**Subpart C—Continuation of Pay
GENERAL**

§ 10.200 Statutory provisions.

(a) Pub. L. 93-416, approved September 7, 1974, significantly revised the Act to provide that specified employees who file a claim for a period of wage loss caused by a traumatic injury shall be entitled, under certain circumstances, to have their regular pay continued for a period not to exceed 45 days.

(b) Continuation of pay shall be considered regular income and not compensation and unlike compensation, shall be subject to all taxes and other payroll deductions applicable to regular income.

§ 10.201 Right to continuation of pay.

(a) An employee is not entitled to continuation of pay unless:

(1) The employee is one of the types of employees listed in § 10.5(a)(11)(i), (iii), or (v), except that an individual selected pursuant to Chapter 121 of Title 28 and serving as a petit or grand juror but who is not otherwise an employee of the United States is not entitled to continuation of pay;

(2) The employee sustains a traumatic job-related injury;

(3) The employee files claim for a period of wage loss, as required by 5 U.S.C. 8118(a), within 30 days of the injury on a form approved by the Secretary. (Form CA-1 may be used for this purpose.); and

(4) The employee's disability begins within 90 days of the date of injury.

(b) An employee entitled to continuation of pay shall have regular pay continued without a break in time for a period not to exceed 45 calendar days of disability, unless the right to continuation of pay is controverted and pay is terminated under § 10.203 or is terminated under § 10.204. Where the employee stops work due to the disabling effects of the injury, the 45-day period starts with the first day or shift following the date or shift of injury during which the claimant is disabled, provided the disability begins within 90 days of the occurrence of the injury. With regard to the date of injury, the employing agency will keep the employee in a pay status for any fraction of the day or shift of injury for which the employee was disabled with no "charge" to the 45-day period. If the employee stops work for a part of a day or shift other than the day or shift of injury, that day or shift will be

considered one calendar day for the purpose of counting 45 days. If a disabled employee returns to work with duties other than the duties performed at the time of injury, continuation of pay is chargeable only when there has been a formal assignment to an established job which is normally paid at a lower salary and would otherwise result in loss of income to the employee. Continuation of pay must be charged against the employee's 45-day entitlement when, due to the effects of the injury upon the employee, (1) a personnel action has been taken to assign or detail the employee to an identified position for which a position description exists which is classified at a lower salary level than that earned by the employee when injured; or (2) a personnel action has been taken to change the employee to a lower grade, or to a lower rate of basic pay. When, due to the effects of the injury, an employee is changed to a different schedule of work which results in loss of salary or premium pay (e.g., Sunday pay or night differential) authorized for the employee's normal administrative workweek, the employee is entitled to continuation of pay for such wage loss. If the employee's job-related disability continues after entitlement to continuation of pay ceases, the employee shall be entitled to receive compensation subject to the provisions of 5 U.S.C. 8117.

(c) Where an employee's pay is continued under this subpart, it shall not be interrupted as a part of a disciplinary action, nor shall it be terminated as a result of a disciplinary action which terminates employment unless final written notice of termination of employment for cause was issued to the employee prior to the date of injury.

(d) The administration and interpretation of the Act, including section 8118 of the Act, is the function of the Office. While the employing agency shall make certain preliminary decisions with respect to an employee's entitlement to pay continuation under this subpart, final determinations as to such entitlement are a function of the Office.

(e) If the Office finds that the employee is not entitled to continuation of pay after it has been paid, the payments, at the employee's option, shall be charged to annual or sick leave or considered overpayments of pay under 5 U.S.C. 5504.

(f) If the Office determines that pay has been continued at an incorrect rate, the Office shall notify the employing agency and the employee of the correct rate of pay, and the employing agency shall make the necessary adjustment.

§ 10.202 Election of annual or sick leave.

An employee may use accumulated annual or sick leave, or such leave as

may be advanced by the employing agency, instead of claiming continuation of pay; however, the time provisions of 5 U.S.C. 8117, governing the date upon which an employee's entitlement to compensation begins, do not begin to run until the use of annual or sick leave ends. The "buy back" provisions specified in § 10.310 may not be used to repurchase the leave taken while an employee was otherwise eligible for pay continuation as provided by this subpart. An election to use annual or sick leave is not irrevocable and an employee may subsequently request continuation of pay in lieu of previously requested annual or sick leave; however, such request must be made within one year of the date the leave was used or the date of the Office's approval of the claim, whichever is later. Where an employee is eligible, the employing agency shall, subject to the 45-day limitation, convert and restore the leave previously used and, if any of the 45 days of COP remains unused, shall continue pay prospectively. The use of leave may not be used to delay or extend the 45-day continuation of pay period or to otherwise affect the time limitations as provided by section 8117. Therefore, where leave is used during a period when COP is otherwise payable, and the employee does not request that such leave be converted and restored, the 45 days will be counted as though the employee had been in a continuation of pay status.

§ 10.203 Controversy by employing agency.

(a) With respect to continuation of pay under 5 U.S.C. 8118, the employing agency shall, on the basis of information submitted by the employee, or secured on investigation, controvert a claim and terminate an employee's pay only if:

(1) The disability is caused by an occupational disease or illness; or
(2) The employee is the type employee defined by § 10.5(a)(11) (ii) or (iv), or is an individual selected pursuant to Chapter 121 of Title 28 and serving as a petit or grand juror and who is not otherwise an employee of the United States;

(3) The employee is neither a citizen nor a resident of the United States or Canada; or

(4) The injury occurred off the employing agency's premises and the employee was not performing official duties; or

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

(6) A written claim for wage loss required by 5 U.S.C. 8118(a) was not filed within 30 days after the date of

injury; or

(7) The employee first stopped work as a result of the injury more than 90 days following the injury; or

(8) The employee reports the injury after employment has terminated; or

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

(b) If for reasons other than those listed in paragraph (a) of this section, the agency believes the employee is not entitled to continuation of pay, the agency may controvert an employee's right to continuation of pay; however, the employee's regular pay must be continued and may not be interrupted during the 45-day period unless the controversion is sustained by the Office and the agency is so notified, or unless entitlement ceases under the provisions of § 10.204 of this subpart.

(c) To controvert a claim for continuation of pay, the employing agency shall complete the appropriate section of Form CA-1 and submit detailed information in support of the controversion to the Office.

(d) If the Office determines that the employing agency has incorrectly controverted and terminated the employee's pay, the Office shall notify the agency and the employee's pay shall be continued for a period not to exceed 45 days or as otherwise directed by the Office, and the Office shall notify the agency to convert periods of sick or annual leave or leave without pay to COP.

§ 10.204 Termination and forfeiture of continuation of pay.

(a) Where pay is continued after an employee stops work due to a disabling traumatic injury, such pay shall be terminated if:

(1) Within 10 work days after the date the employee submits claim for continuation of pay, including such claim for a recurrence of disability, the employing agency has not received prima facie medical evidence that the employee sustained a disabling traumatic injury, except that pay shall be continued without interruption in the absence of such medical evidence if investigation shows to the official superior's satisfaction that the employee sustained a disabling traumatic injury. Where medical evidence is received by the agency more than 10 work days after claim is made for continuation of pay, the agency shall continue the employee's pay retroactive to date of termination provided the medical evidence supports injury-related disability beyond the 10 work-day period, and restore to the employee's account any annual or sick leave the employee may have used during that period. The provisions of this paragraph also apply to periods of recurrent disability as described in § 10.208; or

(2) The employing agency receives evidence that the attending physician has found the employee no longer disabled (i.e., the employee can perform the duties of the position held at the time of injury); or

(3) The employing agency receives evidence that the attending physician has found the employee to be partially disabled and the employee refuses suitable work which has been offered by the agency in accordance with § 10.207, or fails to respond to such offer within 5 work days of receipt of the offer; or

(4) The employee's scheduled period of employment expires or employment is otherwise terminated, provided the date of termination of employment is established prior to the date of injury. (See also § 10.201(c)); or

(5) The employing agency receives notification from the Office that pay should be terminated; or

(6) The 45-day continuation of pay period expires.

(b) When an employee refuses to submit to or obstructs an examination required by the Office under the provisions of 5 U.S.C. 8123(a), the right to continuation of pay under this subpart may be suspended until the refusal or obstruction stops. Pay otherwise paid or payable under this subpart for the period of the refusal or obstruction may be forfeited and, where already paid, is subject to the provisions of § 10.201(e).

(c) If the Office determines that the employing agency has incorrectly terminated the employee's pay or selected an incorrect date of termination, the Office shall instruct the agency to take appropriate corrective action.

§ 10.205 Pay defined for continuation of pay purposes.

(a) For a full or part-time worker, either permanent or temporary, who works the same number of hours each week of the year, or each week of the period of appointment if less than one year, the weekly pay rate shall be the hourly pay rate on the date of injury multiplied by the number of hours worked each week, excluding overtime.

(b) For a part-time worker, either permanent or temporary, who does not work the same number of hours each week but who does work each week of the year, or each week of the period of appointment if less than one year, the weekly pay rate shall be the average weekly earnings established by dividing the total earnings during the one year immediately preceding the date of injury, excluding overtime, by the number of weeks worked during the one year period. For the purposes of this computation, if the employee worked only a part of a workweek, such week is counted as one week.

(c) For all WAE (when actually employed), intermittent and part-time workers, either permanent or temporary, who do not work each week of the year, or each week of the period of appointment if less than one year, the weekly pay rate shall be the average weekly earnings established by dividing the total earnings during the one year immediately preceding the date of injury, excluding overtime, by the number of weeks worked during that one year period. For the purposes of this computation, if the employee worked only a part of a workweek, such week is counted as one week. However, the average weekly earnings may not be less than 150 times the average daily wage earned in the employment during the days employed within the one year period immediately preceding the date of injury divided by 52 weeks.

(d) Premium, Sunday and holiday pay, night and shift differential, or other extra pay shall be included when computing wages for continuation of pay, but overtime pay shall not be included.

(e) Changes in pay or salary which would have otherwise occurred during the 45-day period (e.g., promotion, within-grade increase, demotion, termination of a temporary detail, etc.) are to be reflected in the continuation of an employee's pay under this subpart, and are to take effect at the time the event would otherwise have occurred.

§ 10.206 Agency accounting and reporting of continuation of pay.

(a) Pending development of a system within the Office for directly capturing and tabulating data on continuing payments to employees under 5 U.S.C. 8118, each agency and instrumentality of the United States having an employee who is in a continuation of pay status during the calendar quarter shall submit a report to the Office within 30 days after the end of each quarter (address: Director, Office of Workers' Compensation Programs, U.S. Department of Labor, Washington, DC 20210).

(b) Quarterly reports are to include data on all continuation of pay cases paid in the quarter for only those employees who have returned to work or exceeded the 45-day period by the last pay date of the reporting agency or instrumentality during the quarter (employees who have not returned to work or exceeded the 45-day period by the last pay date of the quarter are to be reported in the following quarter).

(c) Reported summary data for employees returning to work during the quarter is to include:

(1) Total number of employees provided such continuation of pay.

(2) Total number of workdays or shifts (full workdays) for which these

employees were paid during the quarter (and the earlier quarter if return to work did not occur during such earlier quarter).

(3) Total amount paid to all employees during the quarter (and the earlier quarter if return to work did not occur during such earlier quarter).

OFFICIAL SUPERIOR'S AND BENEFICIARIES' RESPONSIBILITIES

§ 10.207 Official superior's responsibility in continuation of pay cases.

(a) Upon receiving notice that an employee has suffered an employment-related traumatic injury, an official superior shall:

(1) Promptly authorize medical care in accordance with Subpart E of this part;

(2) Provide the employee with Form CA-1 for reporting the injury and upon receipt of the completed form, return to the employee the "Receipt of Notice of Injury";

(3) Fully advise the employee of the right to elect continuation of regular pay or use annual or sick leave, if the injury is disabling;

(4) Advise the employee that prima facie medical evidence of a disabling traumatic injury must be submitted to the official superior within 10 work days of the date disability begins or pay may be terminated in accordance with § 10.204(a)(1);

(5) Inform the employees whether continuation of pay will be controverted, and, if so, whether pay will be terminated and the basis for the controversion and termination of pay;

(6) Submit Form CA-1, completed by the employee and official superior, and all other available pertinent information to the Office as soon as possible, but no later than 10 work days after the official superior has received Form CA-1. If the claim is controverted, the official superior will provide an explanation on Form CA-1 or in a separate narrative statement or both.

(b) Upon authorization of medical care, the official superior shall advise the employee of his or her obligation to return to work as soon as possible and:

(1) Where the agency has specific alternative positions available for partially disabled employees, the agency shall furnish the employee with a written description of the specific duties and physical requirements of those positions;

(2) Where, in addition to any specific alternative positions, the agency is willing to accommodate the limitations and restrictions imposed on the employee by the injury, shall so advise the employee; and

(3) Shall advise the employee of his or her responsibilities under § 10.209 of this subpart.

(c) The employing agency shall monitor the employee's medical

progress and duty status by obtaining periodic medical reports. Form CA-17 is provided for this purpose. Additional information or clarification may be obtained by the agency through telephone contact with the employee's attending physician provided such contact is by a physician or nurse who is an employee of the agency, or by an appropriate supervisory official.

(d) Where the employing agency is notified that the attending physician has found the employee to be partially disabled, and the employee is able to:

(1) Perform one of the specific alternative positions referred to in § 10.207(b)(1), the employing agency shall notify the employee immediately of the description of the job and its physical requirements and of the date the job will be available. To facilitate early return to work, the agency may contact the employee by telephone, but must provide written confirmation of availability as soon as possible thereafter. A complete copy of the offer, including the description of the duties of the job, the physical requirements and the date of availability, should be sent to the Office at the same time as it is sent to the employee.

(2) Perform restricted or limited duties referred to in § 10.207(b)(2), the employing agency shall determine whether duties suitable to the employee's limitations and restrictions are available, and if so, advise the employee in writing of the duties, their physical requirements and availability. To facilitate early return to work, the agency may contact the employee by telephone, but must provide written confirmation of the offer as soon as possible thereafter. A complete copy of any offer made to the employee should also be sent to the Office at the same time as it is sent to the employee.

(The information collection requirements contained in paragraph (c) were approved by the Office of Management and Budget under control number 1215-0103)

§ 10.208 Recurrence of disability.

(a) If an employee claims a recurrence of disability, the official superior shall promptly complete Form CA-2a. The employee shall request on Form CA-2a to continue to receive regular pay or to charge the absence to sick or annual leave.

(b) Where the employee requests continuation of pay, the official superior shall continue pay if:

(1) The original claim of disability has not been denied by the Office; and

(2) Pay has not been continued for the entire 45 days; and

(3) The disability recurs within 90 days of the date the employee first returned to work following the initial period of disability.

(c) If the employee's pay has been continued for 45 days, or disability recurs more than 90 days after the employee first returns to work, the employee is entitled to compensation only, provided the claim is approved by the Office, and the employing agency may not continue regular pay. An employee who is no longer entitled to continuation of pay should file a claim for compensation on Form CA-7 or CA-8.

§ 10.209 Employee's responsibilities in continuation of pay cases.

(a) An employee who sustains a traumatic job-related injury, or someone acting on the employee's behalf, shall complete and submit the employee's portion of Form CA-1 to the official superior as soon as possible but no later than 30 days after the date of injury. An employee shall elect on Form CA-1 either to receive continuation of pay or use sick or annual leave while disabled for work as a result of the injury. (See § 10.201 and § 10.202.)

(b) An employee has the responsibility of submitting, or arranging for the submission of, prima facie medical evidence of a traumatic disabling injury to the employing agency within 10 work days after claiming continuation of pay. Under the provisions of § 10.204(a)(1) of this subpart, the lack of receipt of such evidence by the employing agency within that time may serve as sufficient reason for termination of continuation of pay, subject to reinstatement upon receipt of such evidence.

(c) Where the agency has advised of the existence of specific alternative positions, the employee shall furnish the description of such alternative positions to the attending physician and inquire whether and when the employee will be able to perform such duties. The employee must furnish the employing agency with a copy of the physician's response.

(d) Where the agency has advised of its willingness to accommodate where possible the employee's work limitations and restrictions, the employee shall so advise the attending physician and request the attending physician to specify the limitations and restrictions imposed by the injury. The employee has the responsibility to advise the employing agency immediately of the limitations and restrictions imposed.

(e) Where an employee has been offered duties within the limitations and restrictions imposed by the physician, the employee is obligated to return to duty. Where an employee refuses such an offer of suitable work, entitlement to continuation of pay ceases as of the effective date of availability of such work.

(f) Where the Office determines that, due to the failure of the employee to

meet his or her obligations and responsibilities under this section, pay was continued beyond the date it would otherwise have terminated, the Office will advise the official superior and the employee of the period of disability which is approved, and the official superior may require the employee to resolve any overpayment in accordance with § 10.201(e) of this subpart.

(g) Where return to suitable work results in a loss of pay such as premium pay, Sunday pay, holiday pay, night or shift differential, etc., continuation of pay will be granted for the lost elements of pay (see § 10.205(d) of this subpart).

Subpart D—Payment of Compensation COMPENSATION RATES

§ 10.300 Maximum and minimum compensation.

(a) *Disability.* Compensation for disability may not exceed 75 percent of the monthly pay of the highest step of grade 15 of the General Schedule. For total disability, it may not be less than 75 percent of the monthly pay of the first step of grade 2 of the General Schedule or actual pay, whichever is less.

(b) *Death.* Compensation for death is computed on a minimum pay equal to the first step of grade 2 of the General Schedule. The total compensation may not exceed the employee's pay or 75 percent of the monthly pay of the highest step of grade 15 of the General Schedule, except that compensation is allowed to exceed the employee's monthly pay if such excess is created by authorized cost of living increases.

§ 10.301 Temporary total disability rate.

(a) Compensation based on loss of wages is payable, subject to the provisions of 5 U.S.C. 8117, after the expiration of continuation of pay as provided by Subpart C of this part or from the beginning of pay loss in all other cases.

(b) When an injured employee loses pay due to temporary total disability resulting from an injury, compensation is payable at the rate of 66⅔ percent of the pay rate established for compensation purposes. The compensation rate is increased to 75 percent when there are one or more dependents. Dependents include a wife or husband; an unmarried child under 18 years of age or if over 18, incapable of self-support, or a student (until reaching 23 years of age or completing four years of school beyond the high school level); or a wholly dependent parent. Compensation begins when the employee starts to lose pay if the injury causes permanent disability or if there is pay loss for more than 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 or is otherwise in a continuation of pay status. The employee has the right to elect whether to receive pay for leave or to receive compensation.

§ 10.302 Permanent total disability rate.

When the injury causes permanent total disability, an injured employee is entitled to total disability compensation until death unless the employee is medically or vocationally rehabilitated to either full or partial earning capacity. The loss of use of both hands, both arms, both feet, or both legs, or the loss of sight of both eyes is prima facie evidence of permanent total disability. However, the presumption of permanent total disability as a result of such loss is rebuttable by evidence to the contrary, such as evidence of sustained work and earnings despite the loss. Compensation for permanent total disability is payable at the rate of 66⅔ percent of the pay rate established for compensation purposes, or at 75 percent when there is a dependent (see § 10.301(b) of this section).

§ 10.303 Partial disability rate.

(a) An injured employee who is unable to return to the position held at the time of injury (or to earn equivalent wages) but who is not totally disabled for all gainful employment is entitled to compensation computed on loss of wage-earning capacity. Compensation for partial disability is payable at 66⅔ percent (or at 75 percent if the employee has a dependent), of the difference between the employee's pay rate for compensation purposes and the employee's wage-earning capacity. A narrative description of the formula used by the Office to compute the compensation payable is contained in paragraph (b) of this section. In determining the compensation payable for partial disability, an employee's wage-earning capacity is determined by the employee's actual earnings if those earnings fairly and reasonably represent the wage-earning capacity. If the actual earnings do not fairly and reasonably represent the employee's wage-earning capacity or if the employee has no actual earnings, the employee's wage-earning capacity shall be determined by the Office by selection of a job after having given due regard to the nature of the employee's injury, the degree of physical impairment, the employee's usual employment, the employee's age, the employee's qualification for other employment, the availability of suitable employment, and other factors or circumstances which may affect the employee's wage-earning capacity in his or her disabled condition. The salary of such a job shall be considered the employee's wage-earning capacity. The Office will not secure employment for the claimant in the position selected for establishing an earning capacity.

(b) For the purpose of describing the formula utilized by the Office for computing the compensation payable for

partial disability, the following terms are defined: pay rate for compensation purposes is as defined in § 10.5(a)(20) of this part; current pay rate means "current" salary or pay rate for the job held at the time of injury; and earnings means the claimant's actual earnings, or the salary or pay rate of the job selected by the Office as representative of the employee's wage-earning capacity. An employee's wage-earning capacity in terms of percentage is obtained 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. Any convenient date may be chosen by the Office for making the comparison as long as the two wage rates are in effect on the date used for comparison. The employee's wage-earning capacity in terms of dollars is computed by multiplying the pay rate for compensation purposes by the percentage of wage-earning capacity and the resulting dollar amount is subtracted from the pay rate for compensation purposes to obtain the employee's loss of wage-earning capacity. Compensation for partial disability is payable at the rate of 66⅔ percent (or at 75 percent if the employee has a dependent) of this loss of wage-earning capacity. The compensation payable shall be increased by applicable cost-of-living adjustments.

§ 10.304 Schedule compensation rate.

(a) Compensation is provided for specified periods of time for the permanent loss or loss of use (referred to as impairment) of each of certain members, organs and functions of the body. Compensation for proportionate periods of time is payable for partial loss or loss of use of each member, organ or function. The compensation for scheduled awards will equal 66⅔ percent of the employee's pay or 75 percent of the pay when there is a dependent. Compensation for loss of wage-earning capacity may be paid after the schedule expires. Proper and equitable compensation not to exceed \$3,500 may be paid for serious disfigurement of the face, head or neck if of a character likely to handicap a person in securing or maintaining employment.

(b) Authority is provided under 5 U.S.C. 8107(c)(22) to add other internal and external organs to the compensation schedule. Pursuant to this authority, the following is added:

	Weeks
Breast (one)	52
Kidney (one)	156
Larynx	160
Lung (one)	156
Penis	208
Testicle (one)	52
Tongue	160

(c) Compensation under this schedule is:

(1) Payable regardless of whether the cause of the impairment originates in part of the body other than the impaired member or organ;

(2) Payable regardless of whether the disability also involves another impairment of the body; and

(3) Payable in addition to but, with the exception of compensation for serious disfigurement of the face, head or neck, not concurrently with compensation for temporary total or temporary partial disability.

(d) The period of compensation payable under the schedule in 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 or the same member of function or for disfigurement; and

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

(e) Where compensation is reduced as provided by paragraph (d) of this section, compensation for continuing wage loss starts on expiration of the schedule period as reduced.

§ 10.305 Attendant allowance

An employee who has been awarded compensation may receive an additional sum of not more than \$500 a month, as the Office considers necessary to pay for the service of an attendant, when the Office finds that the service of an attendant is necessary constantly because the employee is totally blind or has lost the use of both hands or both feet, or is paralyzed and unable to walk, or because of any impairment resulting from the injury making the employee so helpless as to require constant attendance.

§ 10.306 Eligibility for death benefits and death benefit rates.

(a) If there is no child entitled to compensation, the employee's surviving spouse shall receive compensation equal to 50 percent of the employee's pay until death or remarriage before reaching 60 years of age. 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 60 or older, the lump sum payment will not be paid and compensation shall continue until death.

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

(c) If there is a child entitled to compensation and no surviving spouse, compensation for one child equals 40 percent of the employee's 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.

(d) Parents, brothers, sisters, grandparents and grandchildren dependent upon the deceased employee at the time of death may be entitled to compensation as provided by 5 U.S.C. 8133.

(e) A child, brother, sister or grandchild may be entitled to receive death benefits until death, marriage, or the attainment of age 18. Regarding entitlement after reaching age 18, refer to § 10.127 of this part.

§ 10.307 Burial and transportation benefits.

In the case of an employment related death of an employee a sum, not to exceed \$800, may be paid for funeral and burial expenses. When an employee's home is within the United States, an additional sum may be paid for transporting the remains to the home if the employee dies away from home, official duty station, or outside the United States. An additional sum of \$200 is paid to the personal representative of the decedent for reimbursement of the costs of termination of the decedent's status as an employee of the United States.

ADJUSTMENTS TO BENEFITS

§ 10.310 Buy back of annual or sick leave.

(a) An employee who sustains a job-related disability may use sick or annual leave or both to avoid interruption of income. If the employee uses leave during a period of disability caused by an occupational disease or illness, and a claim for compensation is approved, the employee may, with the approval of the employing agency, "buy back" the used leave and have it recredited to the employee's account. If the employee uses leave during a period of disability caused by a traumatic injury and a claim is approved by the Office, the employee may "buy back" leave taken after the 45-day continuation of pay period. The employee may not repurchase leave taken during the 45-day continuation of pay period unless the employee was not entitled to receive continuation of pay. The computation of the amount due the agency to effect the leave repurchase is the responsibility of the employing agency and is to be done in accordance with the accounting principles and practices of that agency.

(b) If the employing agency does not approve a repurchase of leave, then no compensation may be paid for the period leave was used. Where the agency agrees to the leave repurchase, the employee may elect to have the compensation payable for the period paid directly to the employing agency to be applied against the amount due the agency to effect the repurchase.

§ 10.311 Lump sum awards.

(a) The liability of the United States for compensation to a beneficiary in the case of death or of permanent total or permanent partial disability may be discharged by a lump-sum payment equal to the present value of all future payments of compensation computed at 4 percent true discount compounded annually if—

(1) The monthly payment to the beneficiary is less than \$50 a month; or

(2) The beneficiary is or is about to become a nonresident of the United States; or

(3) The Secretary of Labor determines that it is for the best interest of the beneficiary.

(b) The probability of the death of the beneficiary before the expiration of the period during which he or she is entitled to compensation shall be determined according to the most current United States Life Tables, as developed by the United States Department of Health and Human Services, which shall be updated from time to time, but the lump sum payment to a surviving spouse of the deceased employee may not exceed 60 months compensation. The probability of the happening of any other contingency affecting the amount or duration of compensation shall be disregarded.

(c) On remarriage before age 60, a surviving spouse entitled to compensation under 5 U.S.C. 8133, shall 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.

(d) No claimant possesses an absolute right to a lump sum award. Lump sum awards shall be made exclusively by the Director, acting within his or her discretion, and no lump sum award shall be made unless it is apparent to the Director that such an award is in the best interests of the claimant.

§ 10.312 Assignment of claim, claims of creditors.

An assignment of a claim for compensation is void. Compensation and claims for compensation are exempt from claims of creditors.

§ 10.313 Dual benefits.

(a) Except as otherwise provided by law, a person may not concurrently receive compensation pursuant to the Act and a retirement or survivor annuity

under the U.S. Civil Service Retirement Act, the Federal Employees' Retirement System Act, or a retirement or survivor annuity which stands in lieu of either of these Acts, such as Foreign Service or Central Intelligence Agency disability and retirement programs. Such beneficiary shall elect the benefit which he or she wishes to receive, and such election, once made, is revocable.

(b) *Military retirement/retainer pay and compensation.* 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, subject to the reduction of such pay in accordance with 5 U.S.C. 5532(b).

(c) The Office may require an employee to submit an affidavit or statement as to the receipt of any Federally funded or Federally assisted benefits, as identified and in the manner and at the times specified by the Office, in order to determine the employee's entitlement to compensation or to determine whether the employee is receiving benefits under other programs administered by the Office. If an employee when required, fails within 30 days of the date of the request to submit such affidavit or statement, the employee's right to compensation otherwise payable shall be suspended until such time as the requested affidavit or report is received, at which time compensation will be reinstated retroactive to the date of suspension provided the employee is entitled to such compensation.

§ 10.314 Cost-of-living adjustments.

(a) Cost-of-living adjustments shall be made from time to time in accordance with 5 U.S.C. 8146a.

(b) Compensation payable on account of disability or death which occurred more than one year before the effective date of the cost-of-living adjustment shall be increased as determined in accordance with 5 U.S.C. 8146a. In disability cases, a beneficiary is eligible for cost-of-living adjustments where injury-related disability began more than one year prior to the effective date of the adjustment without regard to the fact that for any part of that period of disability the beneficiary may have elected to receive continuation of pay as provided by 5 U.S.C. 8118, or to use sick or annual leave. Where an injury does not result in disability but compensation is payable pursuant to 5 U.S.C. 8107 for permanent impairment of a covered member or function of the body, entitlement to cost-of-living adjustments begins with the first such adjustment occurring more than one year after the effective date of the award for such impairment. In the case of a recurrence of disability where the pay rate for compensation purposes is the pay rate

at the time disability recurs, entitlement to cost-of-living adjustments begins with the first such adjustment occurring more than one year after the disability recurs. In death cases, entitlement to cost-of-living adjustments 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.

Overpayments

§ 10.320 Definitions.

(a) "Fault" as used in the term "without fault" in 5 U.S.C. 8129(b) and § 10.321(c) of this subpart applies only to the individual who has received a payment in his or her own name or on behalf of a beneficiary. Although the Office may have been at fault in making the overpayment, that fact does not relieve the overpaid individual or any other individual from whom the Office seeks to recover the overpayment from liability for repayment if such individual is not without fault.

(b) "With fault." In determining whether an individual is with fault, the Office will consider all pertinent circumstances, including age; intelligence, education, and physical and mental condition. An individual is with fault in the creation of an overpayment who:

(1) Made an incorrect statement as to a material fact which the individual knew or should have known to be incorrect; or

(2) Failed to furnish information which the individual knew or should have known to be material; or

(3) With respect to the overpaid individual only, accepted a payment which the individual knew or should have been expected to know was incorrect.

(c) "Without fault." Whether an individual is "without fault" depends on all the circumstances surrounding the overpayment in the particular case. The Office will consider the individual's understanding of any reporting requirements, the agreement to report events affecting payments, knowledge of the occurrence of events that should have been reported, efforts to comply with the reporting requirements, opportunities to comply with the reporting requirements, understanding of the obligation to return payments which were not due, and ability to comply with any reporting requirements

(e.g., age, comprehension, memory, physical and mental condition). Although "without fault" is not limited to the overpayment circumstances described below, an individual is "without fault," except as provided in paragraph (b) above, if it is established after consideration of all the factors stated above that failure to report an event that would affect compensation benefits or acceptance of an incorrect payment was due to one of the following:

(1) The individual relied on misinformation given to him or her (or his or her representative) by an official source within the Office (or other governmental agency which the individual had reason to believe was connected with the administration of benefits) as to the interpretation of a pertinent provision of the Act or the regulations pertaining thereto; or

(2) The Office erred in calculation of cost-of-living increases, schedule award length and/or percentage, and loss of wage earning capacity, unless the claimant had knowledge of the calculation errors.

(d) "Degree of care." An individual will be "with fault" if the Office has evidence which shows either a lack of good faith or failure to exercise a high degree of care in reporting changes in circumstances which may affect entitlement to or the amount of benefits. As indicated in paragraphs (b) and (c) of this section, the degree of care expected of an individual may vary with the complexity of the circumstances giving rise to the overpayment and the capacity of the particular payee to realize that he or she is being overpaid. Accordingly, variances in the personal circumstances and situations of individual payees are to be considered in determining whether the individual exercised the degree of care necessary to warrant a finding of "without fault."

§ 10.321 Recovery of overpayments.

(a) Except for an overpayment resulting from forfeiture of previously paid compensation, such as provided in § 10.125, whenever an overpayment has been made to an individual who is entitled to further payments, proper adjustment shall be made by decreasing subsequent payments of compensation, having due regard to 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 resulting hardship upon such individual. In the event such individual dies before such adjustment has been completed, a similar adjustment shall be made by decreasing subsequent payments, if any, payable under this Act with respect to such individual's death.

(b) Where there are no further payments due and an overpayment has been made to an individual by reason of an error of fact or law such individual, as soon as the mistake is discovered or his attention is called to same, shall refund to the Office any amount so paid or, upon failure to make such refund, the Office may proceed to recover the same.

(c) There shall be no adjustment or recovery under paragraphs (a) or (b) of this section by the United States in any case when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of the Act or would be against equity and good conscience.

(d) Before adjusting future payments or otherwise seeking to recover an overpayment, the Office shall provide the individual with written notice of:

(1) The fact and amount of overpayment;

(2) Its preliminary finding of whether the individual is at fault in the creation of the overpayment;

(3) The individual's right to inspect and copy Government records relating to the overpayment;

(4) The individual's right to request a pre-recoupment hearing within 30 days of the date of written notice of overpayment for the purpose of challenging the fact or amount of the overpayment, the preliminary finding of fault, or for the purpose of requesting waiver;

(5) The individual's right to submit additional written evidence within 30 days of the date of written notice of overpayment for the purpose of challenging the fact or amount of the overpayment, the preliminary fault finding, or for the purpose of requesting waiver.

(e) Additional evidence must be submitted, or a pre-recoupment hearing requested, within 30 days of the Office's written notice to the individual. Failure to exercise the right to a pre-recoupment hearing within 30 days of the date of notice of overpayment shall constitute a waiver of that right.

(f) Pre-recoupment hearings shall be conducted in all matters in exactly the same manner as provided in § 10.131 through § 10.137.

(g) When an overpayment exists because a claim was accepted in error, or because benefits were otherwise denied or terminated, the Office representative shall determine any and all issues raised at the pre-recoupment hearing, including those regarding the correctness of the decision to deny or terminate compensation. If an employee requests a pre-recoupment hearing as provided by this section with respect to an overpayment, and also requests a hearing as provided by 5 U.S.C. 8124(b)

with respect to the decision denying or terminating benefits and resulting in the overpayment, both requests for a hearing shall be combined and one hearing held on any and all issues.

(h) If additional written evidence is not submitted, or a hearing requested, within the 30-day period, the Office will issue a final decision based on the available evidence and will initiate appropriate collection action. The final decision concerning an overpayment, whether rendered subsequent to a pre-recoupment hearing or in the absence of the submission of additional written evidence, is not subject to the hearing provision of 5 U.S.C. 8124(b) nor the reconsideration provision of 5 U.S.C. 8128(a). An individual aggrieved or adversely affected by a decision concerning an overpayment may request review by the Employees' Compensation Appeals Board.

(i) A copy of the final decision concerning an overpayment will be sent to the individual from whom recovery is sought, the individual's representative, and the employing agency.

§ 10.322 Waiver of recovery—defeat the purpose of the subchapter.

(a) *General.* Recovery of an overpayment will defeat the purpose of the Act if recovery would cause hardship by depriving a presently or formerly entitled beneficiary of income and resources needed for ordinary and necessary living expenses under the criteria set out in this section. Recovery will defeat the purpose of this subchapter to the extent that:

(1) The individual from whom recovery is sought needs substantially all of his or her current income (including compensation benefits) to meet current ordinary and necessary living expenses; and

(2) The individual's assets do not exceed the resource base of \$3000 for an individual or \$5000 for an individual with a spouse or one dependent plus \$600 for each additional dependent. This base includes all of the claimant's assets not exempted from recoupment in paragraph (d) of this section. The first \$3000 or more depending on the number of the claimant's dependents is also exempted from recoupment.

(b) *Income.* The individual's total income includes any funds which may be reasonably considered available for his or her use, regardless of the source. Income to a spouse will not be considered available to the individual unless the spouse was living in the household both at the time the overpayment was incurred and at the time waiver is considered. Types of income include but are not limited to:

(1) Government benefits such as Black Lung, Social Security, and Unemployment Compensation benefits;

(2) Wages and self-employment income;

(3) Regular payments such as rent or pensions; and

(4) Investment income.

(c) Ordinary and necessary living expenses. An individual's ordinary and necessary living expenses include:

(1) Fixed living expenses, such as food and clothing, rent, mortgage payments, utilities, maintenance, transportation, insurance (e.g., life, accident, and health insurance);

(2) Medical, hospitalization, and other similar expenses;

(3) Expenses for the support of others for whom the individual is responsible.

(4) Church and charitable contributions made on regular basis. (This shall not include large one-time gifts made after receipt of the preliminary notice of overpayment); and

(5) Miscellaneous expenses (e.g., newspaper, haircuts) not to exceed \$25.00 per month.

(d) *Assets.* An individual's assets include:

(1) Liquid Assets—cash on hand, the value of stocks, bonds, savings accounts, mutual funds, and the like; and

(2) Non-Liquid Assets—the fair market value of property such as a camper, second home, extra automobile, jewelry, etc.

Assets for these purposes shall not include the value of household furnishings, wearing apparel, family automobile, burial plot or prepaid burial contract, a home which the person maintains as the principal family domicile, or income producing property if the income from such property has been included in comparing income and expenses.

§ 10.323 Waiver of recovery—against equity and good conscience.

(a) Recovery of an overpayment is considered to be "against equity and good conscience" when an individual presently or formerly entitled to benefits would experience severe financial hardship in attempting to repay the debt. The criteria to be applied in determining severe financial hardship are the same as in § 10.322.

(b) Recovery of an overpayment is considered to be inequitable and against good conscience when an individual, in reliance on such payments or on notice that such payments would be made, relinquished a valuable right or changed his position for the worse. In making such a decision, the individual's present ability to repay the overpayment is not considered. 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 on reliance on the payments or on the notice of payment. To establish that the 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. An example of such "detrimental reliance" would be a decision to enroll in college based on the award of benefits. The funds have been spent and cannot be recovered nor can the purchase be liquidated.

§ 10.324 Responsibility for providing financial information.

In requesting waiver of an overpayment, either in whole or in part, the overpaid individual has the responsibility for providing the financial information described in § 10.322, as well as such additional information as the Office may require to make a decision with respect to waiver. Failure to furnish the information within 30 days of request shall result in denial of waiver, and no further requests for waiver shall be entertained until such time as the requested information is furnished.

Subpart E—Furnishing Medical Treatment

§ 10.400 Physician and medical services, etc. defined.

(a) The term "physician" as used in subparts E and F of this part includes physicians (M.D. and D.O.), surgeons, podiatrists, dentists, clinical psychologists, optometrists, and chiropractors, 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. A physician whose license to practice medicine has been suspended or revoked by a State licensing or regulatory authority is not a physician within the meaning of this section during the period of such suspension or revocation.

(b) The term "duly qualified physician" as used in Subparts E and F of this part includes any physician, as defined by paragraph (a) of this section, who has not been excluded under the provisions of subpart F of this part. Except as otherwise provided by regulation, a duly qualified physician shall be deemed to be designated or approved by the Office.

(c) The term "duly qualified hospital" as used in subparts E and F of this part includes any hospital licensed as such under State law which has not been excluded under the provisions of subpart F of this part. Except as

otherwise provided by regulation, a duly qualified hospital shall be deemed to be designated or approved by the Office.

(d) The term "duly qualified provider of medical support services or supplies" as used in Subparts E and F of this part includes any person, other than a physician or a hospital, who provides services, drugs, supplies, and appliances for which the Office makes payment who possesses any applicable licenses required under State law and who has not been excluded under the provisions of subpart F of this part.

(e) The term "medical services" as used in subparts E and F of this part includes services and supplies provided by or under the supervision of physicians (M.D. and D.O.), surgeons, podiatrists, dentists, clinical psychologists, optometrists, and chiropractors, within the scope of their practices as defined by State law. Reimbursable chiropractic services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-rays to exist. Also included for payment or reimbursement are physical examinations (and related laboratory tests) and x-rays performed by or required by a chiropractor to diagnose a subluxation of the spinal column. The term "subluxation" means an incomplete dislocation, off-centering, misalignment, fixation or abnormal spacing of the vertebrae anatomically which must be demonstrable on any x-ray film to individuals trained in the reading of x-rays. A chiropractor may interpret his or her x-rays to the same extent as any other physician defined in this section.

(f) The term "hospital services" as used in subparts E and F of this part includes services and supplies provided by hospitals within the scope of their practice as defined by State law.

(g) The term "medical support services and supplies" as used in subparts E and F of this part includes services, drugs, supplies, and appliances provided by a person other than a physician or hospital.

(h) The term "job-related injury" as used in Subparts E and F of this part includes injuries sustained while in the performance of duty and diseases proximately caused by the conditions of employment.

(i) The term "designated agency official" means the individual delegated responsibility by an employing agency for authorizing medical treatment for the injured employee.

§ 10.401 Medical treatment, hospital services, transportation, etc.

(a) A claimant shall be entitled to receive all medical services, appliances or supplies which are prescribed or recommended by a duly qualified physician and which the Office considers necessary for the treatment of a job-related injury, whether or not the claimant is disabled. Such services, appliances and supplies may be furnished by, or on the order or recommendation of, either United States medical officers or hospitals, or, at the claimant's option as provided in paragraph (b) of this section, any other duly qualified physician or duly qualified hospital. Medical support services and supplies not furnished by a duly qualified physician or a duly qualified hospital shall be furnished by a duly qualified provider of medical support services or supplies. A claimant shall also be entitled to reimbursement of reasonable and necessary expenses, including transportation incident to obtaining authorized medical services, appliances or supplies.

(b) A claimant has an initial choice of physicians. The designated agency official shall give the claimant an opportunity to select a duly qualified physician, after advising the claimant of those physicians excluded under the provisions of this part. An employee who wishes to change physicians must submit a written request to the Office fully explaining the reasons for the request. The Office may approve the request in its discretion if sufficient justification is shown for the request. Any duly qualified physician shall be authorized to provide necessary treatment of a job-related injury in an emergency. See also § 10.436(c).

(c) The medical facilities of the U.S. Public Health Service, Army, Navy, Air Force, and Veterans Administration may be used when previous arrangements have been made on a case-by-case basis with the director of the facility.

(d) Federal health service units or other occupational health service facilities established under the provisions of the Act of August 8, 1946, as amended (U.S.C. 7901), are not United States medical hospitals as used in this part, nor are the staff of these facilities United States medical officers as used in this part.

Under criteria established by the Bureau of the Budget (now the Office of Management and Budget) in Circular No. A-72 of June 18, 1965, these health service units or occupational health service facilities shall only provide

emergency diagnosis and treatment of injury or illness such as are necessary during working hours and are within the competence of the professional staff of the health service unit or facility. Any medical treatments by these units or facilities other than emergency treatment must be specifically authorized by the Office and given under the supervision of a duly qualified physician.

(e) Nothing in the Act or in these regulations affects any authority which the employing agency may have to require the employee to undergo a medical examination to determine whether the employee meets the mandatory medical requirements of the position held, or is able to perform the duties of the position held. Any agency-required examination or related activity shall not interfere with issuance of Form CA-16, with the employee's initial free choice of physician or with any authorized examination or treatment.

(f) In emergency cases or those involving unusual considerations affecting the quality of medical care, the Office may authorize treatment or approve payment of medical expenses in a matter other than that provided in this subpart.

§ 10.402 Official authorization for treatment.

(a) When an employee sustains a job-related injury which may require medical treatment, the designated agency official shall promptly authorize such treatment by giving the employee a properly executed CA-16 within 4 hours. Form CA-16 shall be used primarily for traumatic injuries. It may also be used to authorize examination and treatment for disease or illness, but only if the designated agency official has obtained prior permission from the Office.

(b) To be valid, a Form CA-16 must give the full name and address of the duly qualified physician or duly qualified medical facility authorized to provide service, and must be signed and dated by the authorizing official, and must show his or her title. Except as provided in § 10.404, Form CA-16 may not be issued for past medical care. The period for which treatment is authorized by a correctly issued Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by the Office. Further, in view of the provisions of § 10.401(b), the employing agency may not use Form CA-16 to authorize a change of physicians.

(c) In determining the use of medical facilities, consideration must be given to their availability, the employee's condition, and the method and means of

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transportation. Generally, 25 miles from the place of injury, the employing agency, or the employee's home, is a reasonable distance to travel, but other pertinent factors must also be taken into consideration.

§ 10.403 Medical treatment in doubtful cases.

Cases of doubtful nature, so far as compensability is concerned, shall be referred by the designated agency official to a United States medical official or hospital, or at the employee's option, to a duly qualified private physician or a duly qualified hospital designated or approved by the Office, or as otherwise provided in this part, using a Form CA-16 for medical services as indicated in 6B of the form. This authorizes the necessary diagnostic studies and emergency treatment pending receipt of advice from the Office. A statement of all pertinent facts relating to the particular case shall also be forwarded immediately to the Office for consideration. If the medical examination or other information received subsequent to the issuance of authorization for treatment discloses that the condition for which treatment was rendered is not due to an injury, the person issuing the authorization shall immediately notify the employee and the physician or hospital that no further treatment shall be rendered at the expense of the Office. In cases of an emergency or cases involving unusual circumstances, the Office may, in the exercise of its discretion, authorize treatment otherwise than as provided for in this part, or it may approve payment for medical expenses incurred otherwise than as authorized in this section. No authority for examination or for medical or other treatment shall be given by the designated agency official in any case already disallowed by the Office.

§ 10.404 Emergency treatment.

In cases of traumatic injury where emergency treatment is necessary, any duly qualified physician may render initial treatment. If oral authorization for such treatment is given by the designated agency official, a Form CA-16 shall be issued within 48 hours thereafter. If further treatment is necessary, authorization therefor shall be requested as soon as practicable in accordance with § 10.402 of this part. It is the duty of the designated agency official to authorize initial medical treatment for acute injuries, exclusive of disease or illness, and to transfer the employee at the employee's option to the care of a local U.S. medical officer or hospital or to a duly qualified private

physician or a duly qualified hospital designated or approved by the Office for any subsequent treatment needed. If unable to comply promptly with this requirement, the designated agency official shall communicate with the Office for instructions.

§ 10.405 Medical treatment if symptoms or disability recur.

If, after having been discharged from medical treatment, an injured employee again has symptoms or disability under circumstances from which it may reasonably be inferred that such symptoms or disability are the result of an injury previously recognized as compensable by the Office, and the place of employment is the same as at the time of injury, Form CA-16 may be issued at the discretion of the designated agency official. Form CA-16 shall not be used by the designated agency official if more than six months have elapsed since the employee last returned to work. In any case in which there may be doubt that the symptoms or disability are the result of the injury, or in which it has been more than six months since the last return to work, the designated agency official shall communicate with the Office and request instructions, stating all the pertinent facts. In all other cases, the employee shall communicate with the Office and request such treatment.

§ 10.406 Authority for dental treatment.

All necessary dental treatment, including repairs to natural teeth, false teeth, and other prosthetic dental devices, needed to repair damage or loss caused by an employment related injury shall be obtained at the employee's option from a U.S. Medical Officer or hospital, or from a duly qualified private dentist, a duly qualified physician, or a duly qualified hospital, upon authorization obtained in advance from the Office.

§ 10.407 Medical examinations.

(a) An injured employee shall be required to submit to examination by a U.S. Medical Officer or by a qualified private physician approved by the Office as frequently and at such times and places as in the opinion of the Office may be reasonably necessary. The injured employee may have a duly qualified physician, paid by him or her, present at the time of such examination. For any examination required by the Office, an injured employee shall be paid all expenses incident to such examination which, in the opinion of the Office, are necessary and reasonable, including transportation and actual loss of wages incurred in order to submit to

the examination authorized by the Office.

(b) If the employee refuses to submit himself or herself for or in any way obstructs any examination required by the Office pursuant to paragraph (a) of this section, the employee's right to compensation under the Act shall be suspended until such refusal or obstruction ceases. Compensation otherwise paid or payable under the Act and this part for the period of the refusal or obstruction is forfeited and, where already paid, is subject to recovery pursuant to 5 U.S.C. 8129. When notifying an employee of an examination required under paragraph (a) of this section, the Office shall inform the employee of the penalty for refusing or obstructing the examination.

§ 10.408 Medical referee examination.

If there should be a disagreement between the physician making the examination on the part of the United States and the injured employee's physician, the Office shall appoint a third physician, qualified in the appropriate speciality, who shall make an examination. The physician appointed shall be one not previously connected with the case.

§ 10.409 Furnishing of orthopedic and prosthetic appliances, and dental work.

When a job-related injury results in the need for an orthopedic or prosthetic appliance, such as an artificial limb, eye, or denture, as recommended by the duly qualified attending physician, written application for authority to purchase such appliance may be made to the Office. The application must include a statement from the attending physician regarding the need for the appliance, a brief description thereof, and the approximate cost.

§ 10.410 Recording and submission of medical reports.

(a) Medical officers and private physicians and hospitals shall keep adequate records of all cases treated by them under the Act so as to be able to supply the Office with a history of the employee's accident, the exact description, nature, location, and extent of injury, the X-ray findings or other studies, if X-ray examination or other studies have been made, the nature of the treatment rendered, and the degree of impairment arising from the injury.

(b) Form CA-16 provides for the furnishing of the initial medical report. Form CA-20 may also be used for the initial report and for subsequent report. The medical report Form CA-20a attached to Form CA-8 is to be utilized in instances where continued compensation is claimed on such form. These reports shall be forwarded promptly to

the Office. In cases of disabling traumatic injuries Form CA-17 shall be used to obtain interim reports concerning the employee's duty status. These reports are necessary to support continuation of pay up to 45 days.

(c) Detailed supplementary reports in narrative form shall be made by the physician at approximately monthly intervals in all cases of serious injury or disease, especially injuries of the head and back, and including all cases requiring hospital treatment or prolonged care. The supplementary report shall show the date the employee was first examined or treated, the patient's complaint, the condition found on examination, the diagnosis and medical opinion as to any relationship between the impairment and the injury or employment factors alleged, report as to any other impairments found not due to injury, the treatment given or recommended for the injury alleged, the extent of impairment affecting the employment as a result of the injury, the actual degree of loss of active or passive motion of an injured member, the amount of atrophy or deformity in a member, the decrease, if any, in strength, the disturbance of sensation, the prognosis for recovery, and all other material findings. If the services of a specialist are required in the examination or treatment of the employee, a report of his findings upon examination, his diagnosis, his opinion as to the relationship between the impairment and the injury and/or conditions of employment, the medical rationale for his opinion, the treatment recommended by him, a statement of the extent of impairment as a result of the injury or employment and the prognosis shall be forwarded to the Office for consideration in conjunction with other reports. The requirement of this section or of any section in this part with respect to the form of medical, dental, hospital or other reports may be waived by the Office.

§ 10.411 Submission of bills for medical services, appliances and supplies furnished and payment for services.

(a)(1) All charges for medical and surgical treatment, appliances or supplies furnished to injured employees, except for treatment and supplies provided by hospitals, pharmacies and nursing homes, shall be supported by medical evidence as provided in § 10.410. Itemized by the physician or provider on the American Medical Association standard "Health Insurance Claim Form," OWCP 1500a "Instructions for Completing Health Insurance Claim Form," and shall be forwarded promptly to the Office for consideration. The provider of such service shall identify each service performed, using the Health Care Financing Administration Common Procedure Coding System (HCPCS as periodically revised), with brief narrative description or, where no code is applicable, a detailed description of services performed. 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). 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.

(2) Charges for appliances, supplies, services or treatment provided by hospitals shall be supported by medical evidence as provided in § 10.410. Such charges should be itemized by the provider on ~~the provider's billhead~~ in lieu thereof, on the provider's billhead stationery, and shall be forwarded promptly to the Office for consideration.

(3) Charges for appliances, supplies or services provided by pharmacies and nursing homes shall be itemized on the provider's billhead stationery or a standard form and forwarded promptly to the Office for consideration. Bills for prescription drugs must include the generic or trade name of the drug provided, the prescription number, and the date the prescription was filled.

(b) The physician or other provider (or official designee) shall sign the billing form signifying that services were performed as described and were necessary, and signifying agreement to accept the fee determined by the Office as payment in full for each itemized service.

(c) Bills submitted by providers, other than hospitals, pharmacies and nursing homes, which are not itemized on the American Medical Association "Health Insurance Claim Form," or are not signed by the provider and the claimant, or on which procedures are not identified by the provider using HCPCS/CPT codes, or on which diagnoses are not identified using ICD-9-CM codes, may be returned to the provider for correction and resubmission.

(d)(1) Payment for medical and other health services furnished by physicians and other persons for work-connected injuries shall, except as provided below, be no greater than a maximum allowable charge for each service as determined by OWCP. The schedule of maximum allowable charges is not applicable to charges for appliances, supplies, services or treatment provided and billed for by hospitals, pharmacies or nursing homes, but is applicable to charges for services or treatment furnished by a physician in a hospital or nursing home setting. The schedule of maximum allowable charges is also not applicable to charges for appliances, supplies, services or treatment furnished by medical facilities of the U.S. Public Health Service, the

Departments of the Army, Navy and Air Force, and the Veterans Administration. 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 a value to procedures identified by HCPCS/CPT which represents the relative skill, effort, risk, and time required to perform the procedure, as compared to other procedures of the same general class, a classification of the procedure into one of the following categories: medical, surgical, pathology, radiology; an index representing the average cost of medical care per capita in the locality where service is provided, in relation to other areas, as a measure of the reasonable cost of a single service in that area; and a monetary value assignment (conversion factor) for one unit of value in each of the four categories of service. Payment for performance of a procedure identified by a HCPCS/CPT code shall not be more than the amount derived by multiplying the relative value for that procedure by the geographic index for services in that area and by the dollar amount assigned to one unit in that category of service.

(2) The "locality" which serves as a bases for determination of average cost is defined by the Bureau of Census 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 Health Care Financing Administration (HCFA).

(3) The relative value assignments published by the State of Washington Department of Labor and Industries shall be adopted, using the most recent revision. The conversion factors for each of the four categories of service used in the State of Washington will be adopted as the base dollar multipliers for those categories and will be associated with the average cost of medical care derived from HCFA data for Washington State. The geographic index factor for a given MSA shall be based on statistical analyses of charges to OWCP, for groupings of MSA's that have similar HCFA per capita medical costs when compared to the per capita cost of medical care for the State of Washington. Index factors will be further adjusted to reflect statistical data concerning charges submitted for services to OWCP.

(4) Thus, if the unit value for a particular surgical procedure is 14.0, and the dollar value assigned to one unit in that category of service (surgery) is \$59.49, then the maximum allowable

charge for one performance of that procedure, in a locale whose index is 1.0, would be the product of 14, 1.0, and \$59.49, or \$832.86.

(e) Where there is wide variation in the time, effort and skill required to perform a particular procedure from one occasion to the next, the Director may choose not to assign a relative value to that procedure, but the allowable charge for the procedure may be set individually based on consideration of a detailed medical report and other evidence. The Office may, at its discretion, set fees without regard to schedule limits for specially authorized consultant examinations, for examinations performed under 5 U.S.C. 6123, and for other specially authorized services.

(f) The Director shall review the schedule of fees at least once a year, and may adjust the schedule or any of its components when deemed necessary or appropriate.

(g)(1) A provider's designation of the HCPCS/CPT code to identify a procedure being billed shall be accepted by the Office if it is consistent with medical reports and other evidence.

Where no code is supplied, the Office may determine the correct procedure code based on the narrative description of the procedure supplied on the billing form and in associated medical reports, and pay no more than the maximum allowable fee for that procedure. If the charge submitted by a provider for a treatment or service supplied to an injured employee exceeds the maximum amount determined to be reasonable according to the schedule, the Office 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. The provider shall also be notified of procedures for requesting reconsideration of the balance of the charge.

(2) 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. Such request should be made to the OWCP District Office having jurisdiction over the injured employee's case, and must be accompanied by documentary evidence that the actual procedure performed was incorrectly identified by HCPCS/CPT code; that the presence of a severe or concomitant medical condition made treatment especially difficult; or that the provider possessed unusual qualifications. Board-

certification in a specialty is not sufficient evidence in itself of unusual qualification to justify an exception. These are the only circumstances which will justify reevaluation of the paid amount. 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. 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.

(h) If an appealed amount continues to be disallowed by the decision of the OWCP District Office, the provider may apply, within thirty days of the date of that decision, to the Assistant Regional Administrator of the region having jurisdiction over the district office. The application may be accompanied by additional evidence. Within 60 days of receipt of the application, the Assistant Regional Administrator 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.

(i)(1) 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 these regulations shall not request reimbursement from the employee (patient) for additional amounts.

(2) 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 a lower rate. A charge to an injured Federal employee for a particular service or procedure which is higher than the provider's charge 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 § 10.450(d).

(3) A provider whose fee for service is partially paid by OWCP as the result of the application of its schedule of maximum allowable charges and who collects or attempts to collect from the injured employee, either directly or through a collection agent, any amount in excess of the charge allowed by the Office, and who does not cease such action or make appropriate refund to the injured employee within 60 days of the date of the decision of the Office, shall

be subject to the exclusion procedures as provided by § 10.450(h)

§ 10.412 Reimbursement for medical expenses, transportation costs, loss of wages and incidental expenses.

(a)(1) If bills for medical, surgical, or dental services, supplies, or appliances have been paid for by an injured employee on account of an injury incurred in the performance of duty, an itemized bill on the American Medical Association "Health Insurance Claim Form," OWCP 1500a "Instructions for Completing Health Insurance Claim Form," together with a medical report as provided in § 10.410, may be submitted to the Office for consideration. The provider of such service shall state each diagnosed condition and furnish the applicable ICD-9-CM diagnostic code and identify each service performed using the applicable HCPCS/CPT procedure code, with a brief narrative description of the service performed, or where no code is applicable, a detailed description of that service. The bill must be accompanied by evidence that payment for the service was received from the injured employee and the amount of that payment. Acceptable evidence that payment was received includes, but is not necessarily limited to, a signed statement by the provider, a mechanical stamp or other device showing receipt of payment, a copy of the claimant's cancelled check (both front and back), or a copy of the claimant's credit card receipt.

(2) If services were provided by a hospital, pharmacy or nursing home, the bill should be submitted in accordance with the provisions of § 10.411(a) (2) or (3), as appropriate. Any request for reimbursement must be accompanied by evidence, as described in paragraph (a)(1) of this section, that payment for the service was received from the employee and the amount of that payment.

(3) These requirements may be waived by the Office if extensive delays in the filing or the adjudication of a claim make it unusually difficult for the claimant to obtain the required information.

(b) Copies of bills shall not be paid unless they bear the original 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 § 10.411.

(c) If a claimant is only partially reimbursed for medical expenses because the amount paid by the claimant to the physician for a service exceeds the maximum allowable charge set by the Director's schedule, the Office shall advise the provider of the maximum allowable charge for the service in question and allow the provider the opportunity to refund to the claimant, or credit to the claimant's account, the amount paid by the claimant which exceeds the maximum allowable charge, or to request reconsideration of the fee determination as provided by § 10.411 (g) and (h). Failure of the provider to make appropriate refund to the claimant, or to credit the claimant's account, within 60 days after the date of this notification by the Office, or the date of a subsequent reconsideration decision which continues to disallow all or a portion of the appealed amount, shall result in initiation of exclusion procedures as provided by § 10.450(h).

(d) After notification as provided in paragraph (c) of this section, if the amount of money paid in excess of the charge allowed by the Office is not refunded by the provider or credited to the claimant's account, the Office may make reasonable reimbursement to the claimant based on a review of the facts and circumstances of the case.

§ 10.413 Time limitation on payment of bills.

The Office will reimburse claimants and providers 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 calendar year in which the expense was incurred or the service or supply was provided, or more than one year beyond the calendar year in which the claim was first accepted as compensable by the Office, whichever is later.

Subpart F—Exclusion of Physicians and Other Providers of Medical Services and Supplies

Authority: (5 U.S.C. 301); Reorganization Plan No. 8 of 1950, 15 FR 3174, 64 Stat. 1263; (5 U.S.C. 8143, 8149); Secretary of Labor's Order No. 16-73, 40 FR 55913; Employment Standards' Order No. 78-1, 43 FR 31460.

§ 10.450 Exclusion for fraud and abuse: Grounds.

A physician, hospital, or provider of medical support services or supplies shall be excluded from payment under the Act if such physician, hospital or provider has:

(a) Been convicted under any criminal statute for 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 Act, 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 chapter containing charges which the Secretary finds to be substantially in excess of such provider's customary charges, unless the Secretary finds there is good cause for the bills or requests containing such charges;

(e) Knowingly failed to timely reimburse claimants for treatment, services or supplies furnished under this chapter paid by the Government;

(f) Failed, neglected or refused on three or more occasions during a twelve month period, to submit full and accurate medical reports, or to respond to requests by the Office for additional reports or information, as required by the Act and § 10.410 of this part;

(g) Knowingly furnished treatment, services or supplies which are substantially in excess of the claimant's needs, or of a quality which fails to meet professionally recognized standards.

(h) Collected or attempted to collect from the claimant, either directly or through a collection agent, an amount in excess of the charge allowed by the Office for the procedure performed, and has failed or refused to make appropriate refund to the injured employee, or to cease such collection attempts, within 60 days of the date of the decision of the Office.

§ 10.451 Automatic exclusion.

A physician, hospital, or provider of medical support services or supplies has been convicted of a crime described in subparagraph (a) of § 10.450, or excluded or suspended, or has resigned in lieu of exclusion or suspension, from participation in any program as described in subparagraph (b) of § 10.450, shall be automatically excluded from participating in the program and from seeking payment under the Act 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 be by a copy thereof authenticated by the seal of the court or agency concerned. See § 10.457(a)

§ 10.452 Initiation of exclusion procedures.

(a) *General provision.* Upon receipt of information indicating that a physician, hospital or provider of medical support services or supplies (hereinafter the provider) has engaged in activities enumerated in paragraphs (c) through (h) of § 10.450, the Assistant Regional Administrator, after completion of inquiries he/she deems appropriate, may initiate procedures to exclude the provider from participation in the FECA program. For the purposes of this section, "Assistant Regional Administrator" may include any officer designated to act on his or her behalf.

(b) *Letter of intent.* The exclusion procedure shall be initiated by sending a letter, signed by the Assistant Regional Administrator, stating his or her intention to commence proceedings to exclude the provider. The letter shall be sent by certified mail, return receipt requested and shall contain the following:

(1) A concise statement of the grounds upon which exclusion shall be based;

(2) A summary of the information, with supporting documentation, upon which the Assistant Regional Administrator has relied in reaching an initial decision that exclusion proceedings should be commenced;

(3) An invitation to the provider to:

(i) Resign voluntarily from participation in the FECA program without admitting or denying the allegations presented in the letter; or

(ii) Request that the decision on exclusion be based upon the existing record and any additional documentary information the provider may wish to provide;

(4) A notice of the provider's right, in the event of an adverse ruling by the Assistant Regional Administrator, to request a formal hearing before an administrative law judge;

(5) A notice that should the provider fail to answer (as described below) the letter of intent within 30 calendar days of receipt, the Assistant Regional Administrator may deem the allegations made therein to be true and may order exclusion of the provider without conducting any further proceedings; and

(6) The name and address of the official representative of the Office who shall be responsible for receiving the answer from the respondent.

(c) *Answer to the letter of intent.* The provider's answer shall be in writing and shall include an answer to the Office'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.

(d) *Failure to answer.* Should the provider fail to answer the letter of intent within 30 calendar days of receipt, the Assistant Regional Administrator may deem the allegations made therein to be true and may order exclusion of the provider.

(e) *Inspection of the record.* By arrangement with the official representative, the provider may inspect or request copies of information in the record at any time prior to the Assistant Regional Administrator's decision.

(f) *Decision.* The Assistant Regional Administrator shall issue his or her decision in writing, and shall send a copy of the decision to the provider by certificated mail, return receipt requested. The decision shall advise the provider of his or her right to request, within 30 days of the date of the adverse decision, a formal hearing before an administrative law judge under the procedures set forth below. The filing of a request for a hearing within the time specified shall operate to stay the effectiveness of the decision to exclude.

§ 10.453 Requests for a hearing.

(a) A Request For Hearing shall be sent to the official representative (see § 10.452(b)(8)) and contain:

- (1) A concise notice of the issues on which the provider desires to give evidence at the hearing.
- (2) Any request for a more definite statement by the Office.
- (3) Any request for the presentation of oral argument or evidence.
- (4) 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.

(b) If a Request For Hearing is timely received by the designated official representative, the official 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 more definite statements and for the certification of questions to advisory bodies.
- (3) A scheduled hearing date not less than thirty days after the date the schedule is issued, and not less than fifteen days after the scheduled conclusion of preliminary matters, provided that the specific time and place of the hearing may be set on ten days notice.

(c) The purpose of the designation of issues is to provide for an effective hearing process. 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.

(d) The provider may make application for the issuance of subpoenas upon a showing of good cause therefore to the administrative law judge.

(e) A certification of the 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 the Office 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; provided, that the opinion, if rendered by the organization or agency, is advisory only and not binding on the administrator law judge.

§ 10.454 Hearings and recommended decision.

(a) To the extent appropriate proceedings before the administrative law judge shall be governed by 29 CFR Part 18 (promulgated July 15, 1983, at 48 FR 32538).

(b) The administrative law judge shall receive such relevant evidence as may be adduced at the hearing. 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 support 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. 512a, the administrative law judge may:

- (1) Issue subpoenas for and compel the attendance of witnesses within a radius of 100 miles;
- (2) Administer oaths;
- (3) Examine witnesses; and
- (4) Require the production of books, papers, documents, and other evidence with respect to the proceedings.

(e) At the conclusion of the hearing, the Administrative Law Judge shall issue a written decision and cause it to be served on all parties to the proceeding, their representatives and the Director.

§ 10.455 Review by Director.

(a) *Procedure.* Any party adversely affected or aggrieved by the decision of the Administrative Law Judge may file a petition for discretionary review with the Director within 30 days after issuance of the decision. The Judge's decision, however, shall be effective on the date issued and shall not be stayed except upon order of the Director.

(b) *Review discretionary.* Review by the Director shall not be a matter of right but of the sound discretion of the Secretary.

(c) *Grounds.* Petitions for discretionary review shall be filed only 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) *Requirement.* 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

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for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the judge had not been afforded an opportunity to pass."

(e) *Statement in opposition.* A statement in opposition to the petition for discretionary review may be filed, but such filing shall in no way delay action on the petition.

(f) *Scope of review.* If a petition is granted, review shall be limited to the questions raised by the petition.

(g) *Denial of petition.* A petition not granted within 20 days after receipt of the petition is deemed denied.

(h) The decision of the Director 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.

§ 10.454 Effects of exclusion.

(a) The Office shall give notice of the exclusion of a physician, hospital, or provider of medical support services or supplies to:

- (1) All OWCP district offices;
- (2) All employing Federal agencies;
- (3) The Health Care Financing Administration;

(4) The State of Local authority responsible for licensing or certifying the excluded party;

(5) All claimants who are known to have had treatment, services or supplies from the excluded person within the six month period immediately preceding the order of exclusion.

(b) Notwithstanding any exclusion of a physician, hospital, or provider of medical support services or supplies under this subpart, the Office shall not refuse a claimant 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) Claimant could not reasonably have been expected to have known of such exclusion.

(c) A claimant who is notified that his or her attending physician has been excluded shall have a new right to select a duly qualified physician. See § 10.401(b)

§ 10.457 Reinstatement

(a) If a physician, hospital, or provider of medical support services or supplies has been automatically excluded pursuant to § 10.451, the person excluded will automatically be reinstated upon notice to the Office 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 the

Office from instituting exclusion proceedings based upon the underlying facts of the matter.

(b) A physician, hospital, or provider of medical support 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 Associate 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 oral argument. Oral argument will be allowed only in unusual circumstances where it will materially aid the decisional process.

(d) The Associate Director shall order reinstatement only in instances where such reinstatement is clearly consistent with the ultimate goal of this subpart which is 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 G—Cases Involving the Liability of a Third Party

§ 10.500 Prosecution of third party action by a beneficiary.

If an injury or death for which benefits are payable under the Act is caused under circumstances creating a legal liability upon some person or persons other than the United States to pay damages, the Office may require the beneficiary to prosecute an action for damages against the third party. When so required, the cause of action shall be prosecuted in the name of the beneficiary.

§ 10.501 Assignment of third party.

If an injury or death for which benefits are payable under the Act is caused under circumstances creating a legal liability upon some person other than the United States to pay damages therefor, the beneficiary shall, if required by the Office assign any right of action he may have to the United States. All such assignments shall be in writing and no such cause of action shall vest in the United States unless and until the assignment is accepted by the Office.

§ 10.502 Refusal to assign or prosecute claim when required; effect.

Refusal on the part of a beneficiary to assign his right of action to the United States or to prosecute an action in his own name when required to do so pur-

suant to § 10.500 or § 10.501, shall deprive the beneficiary of all rights to benefits under the Act.

§ 10.503 Distribution of damages recovered by a beneficiary.

If an injury or death for which benefits are payable under the Act is caused under circumstances creating a legal liability upon a person or persons other than the United States to pay damages and, as a result of claim brought by or settlement made by the beneficiary or by someone acting on the beneficiary's behalf, the beneficiary recovers damages or receives money or other property in satisfaction of the liability on account of that injury or death, the proceeds of the recovery shall be applied as follows:

(a) If an attorney is employed, a reasonable attorney's fee and cost of collection, if any, shall first be deducted from the gross amount of the settlement;

(b) The beneficiary is entitled to retain one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted.

(c) There shall then be remitted to the Office the benefits which have been paid on account of the injury including payments made on account of medical treatment, transportation costs, funeral expenses, and any other payments made under the Act on account of the injury or death, but not including continuation of pay as provided by 5 U.S.C. 8118. If an attorney was employed, the amount to be remitted to the Office shall be reduced by an amount equivalent to a reasonable attorney's fee proportionate to any refund to the United States.

(d) Any surplus remaining after proper refund has been made to the Office may be retained by the beneficiary but shall be credited by the Office against future payment of benefits to which the beneficiary may be entitled under the Act on account of the same injury or death.

§ 10.504 Distribution of damages where cause of action is assigned.

If recovery is realized upon a cause of action assigned to the United States pursuant to 5 U.S.C. 8131, the money or other property so received shall be applied in the following manner: After deducting the amount of any payments made under the Act in respect of the injury or death on account of which the cause of action arose, and the expense of such realization or collection, which sum shall be placed to the credit of the proper fund of the Office, the surplus, if any, of such amount received shall be paid to the beneficiary and credited pro tanto upon any future payment of benefits payable to him on account of the same injury. However, the beneficiary is entitled to not less than one-fifth of the net amount of a settlement or recovery remaining after the expenses of such

realization or collection have been deducted.

§ 10.505 Office may require beneficiary to settle or compromise third party suit.

Where a beneficiary under the Act has commenced an action in his or her own name or has initiated such action through an administrator of a deceased person to recover damages against the third party liable for the injury or death, the Office shall, at all times, have authority to require the beneficiary or such administrator to settle or compromise such action whenever it shall determine that further prosecution of the cause of action is not warranted. Refusal on the part of such beneficiary or other person acting in the interest of the beneficiary to make such settlement or to effect such compromise when so directed shall be deemed to be sufficient cause for refusal on the part of the Office to pay or cause to be paid any benefits under the Act on account of the same injury or death, or the Office may suspend or cause to suspend the payment of benefits under the Act during the period of such refusal.

§ 10.506 Official superior's responsibility in cases involving potential third party liability.

If it appears that an injury or death for which benefits are payable under the Act was caused under circumstances creating a legal liability upon a person or persons other than the United States to pay damages, the official superior or other agency official shall investigate the third party aspect of the injury or death and submit a report of the findings with related documents to the Office.

§ 10.507 Satisfaction of the interest of the United States.

No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or the beneficiary's designee the proceeds of any suit or settlement without first satisfying or assuring satisfaction of the interest of the United States.

Subpart H—Special Category Employees

Peace Corps Volunteers

§ 10.600 Definition of volunteer.

The term "volunteer" means—

- (a) A volunteer enrolled in the Peace Corps under 22 U.S.C. 2504;
- (b) A volunteer leader enrolled in the Peace Corps under 22 U.S.C. 2505; and
- (c) An applicant for enrollment as a volunteer or volunteer leader during a period of training under 22 U.S.C. 2507(a) before enrollment.

§ 10.601 Applicability of the Act.

Except as provided by 5 U.S.C. 8142 and elsewhere in this subpart, the provisions of the Act are applicable to Peace Corps volunteers.

§ 10.602 When disability compensation commences.

Pursuant to 5 U.S.C. 8142(b), entitlement to disability compensation payments does not commence until the day after the date of termination of the volunteer's service.

§ 10.603 Pay rate for compensation purposes.

(a) The pay rate of a volunteer is the lowest step of grade 7 of the General Schedule.

(b) The pay rate of a volunteer leader is the lowest step of grade 11 of the General Schedule.

(c) The pay rate of a volunteer with one or more minor children as defined in 22 U.S.C. 2504 is the lowest step of grade 11 of the General Schedule.

(d) The pay rate for compensation purposes is defined as the pay rate in effect on the date following separation, provided that it is equal to or greater than the pay rate on the date of injury, and is not subject to the provisions of 5 U.S.C. 8101(4).

§ 10.604 Period of service as a volunteer.

The period of service of an individual as a volunteer includes any period of training under 22 U.S.C. 2507(a) before enrollment as a volunteer and the period between enrollment as a volunteer and the termination of service as a volunteer by the President or by death or resignation.

§ 10.605 Conditions of coverage while serving outside the United States and the District of Columbia.

(a) Any injury suffered by a volunteer during any time when the volunteer is located abroad shall be presumed to have been sustained in the performance of duty and any disease or illness contracted during such time shall be presumed to be proximately caused by the employment, except the presumption will be rebutted by evidence that:

- (1) The injury or disease or illness was caused by the volunteer'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 volunteer; or
- (2) The disease or illness is shown to have pre-existed the period of service abroad; or
- (3) The disease or illness or condition claimed is either a manifestation of symptoms of or consequent to a pre-

existing congenital defect or abnormality.

(b) If an injury is not presumed to have been sustained in the performance of duty as provided by paragraph (a) of this section, the volunteer has the burden of proving by the submission of substantial and probative evidence that the injury was sustained in the performance of duty with the Peace Corps.

(c) If a disease or illness or claimed condition, or episode thereof, comes within exception paragraph (a)(2) or (a)(3) of this section, the volunteer has the burden of proving by the submission of substantial, probative and reasoned medical evidence that it was proximately caused by the factors of conditions of Peace Corps service, or that the condition was materially aggravated, or accelerated or precipitated by factors of Peace Corps Service.

Non-Federal Law Enforcement Officers

§ 10.610 Definition of a law enforcement officer.

For purposes of this subpart, a law enforcement officer is defined as an employee of a State or local government including 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, District of Columbia Code, whose functions include one or more of the following:

(a) The apprehension of persons sought for the commission of crimes, including those sought by a law enforcement agency for such commission, as well as material witnesses sought in connection with criminal cases; or

(b) The protection or guarding of persons held for the commission of crimes or as such material witnesses; or

(c) The prevention of the commission of crimes.

§ 10.611 Applicability.

Except as provided by 5 U.S.C. 8191 and 8192 and elsewhere in this subpart, the provisions of the Act and subparts A, B, and D through G are applicable to law enforcement officers, as defined in § 10.610.

§ 10.612 Conditions for eligibility.

(a) The benefits of the Act are available as provided in 5 U.S.C. 8191 *et seq.* and this subpart to a law enforcement officer as defined in § 10.610 and his or her survivors if the Office determines that an individual on any given occasion was—

(1) A law enforcement officer and to have been engaged on a given occasion in the apprehension or attempted apprehension of any person:
(i) For the commission of a crime against the United States, or
(ii) Who at that time was sought by a law enforcement authority of the United States for the commission of a crime against the United States, or
(iii) Who at that time was sought as a material witness in a criminal proceeding instituted by the United States; or
(2) A law enforcement officer and to have been engaged on that occasion in protecting or guarding a person held for the commission of a crime against the United States or as a material witness in connection with such crime; or
(3) A law enforcement officer and to have been engaged on that occasion in the lawful prevention of, or lawful attempt to prevent, the commission of a crime against the United States:
and to have been on that occasion not an employee as defined in 5 U.S.C. 8101 (1) and to have sustained on that occasion a personal injury for which the United States would be required under 5 U.S.C. 8101 to pay compensation if the individual has been on that occasion an employee within the meaning of 5 U.S.C. 8101 (1) engaged in the performance of duty.
(b) The mere fact that an injury to a law enforcement officer is in some way related to the commission of a Federal crime does not in itself bring the injury within the scope of this subpart. For the purpose of this subpart, being engaged in the apprehension or attempted apprehension of a person for the commission of a crime against the United States requires that the specific criminal activity which caused the officer's response was an actual Federal crime. Further, where the actions which result in an injury to an officer are based solely on a local police matter, the later discovery (i.e., discovery after the arrest has been made) of a Federal crime or potential Federal crime does not in itself bring the injury within the meaning of 5 U.S.C. 8191. For example, coverage under this subpart would extend to an officer who responded to an armed robbery and who was shot by the suspect. (For the purpose of this example, the suspect must be illegally in possession of a firearm in violation of Federal law.) With the officer's knowledge of an armed robbery (and/or the actual viewing of a firearm in the possession of the suspect), the firearm would be both an integral part of a Federal crime and a part of the specific criminal activity to which the officer

was reacting. Coverage would be extended in this situation even though the officer may not have been aware at the time that the suspect was in fact in violation of Federal law. However, coverage under this subpart would not be extended to an officer injured while apprehending an individual for a violation of local law where it is discovered during a search of the individual (i.e., after the arrest has been made) that the individual was in violation of Federal law due to illegal possession of a controlled substance. In this situation, even though the individual was in violation of Federal law, the existence of the controlled substance was not a part of the specific criminal activity to which the officer was responding and thus did not play a part in the apprehension. Coverage would be extended in this situation if the officer had been aware of the existence of the substance prior to the arrest being made. To be considered a part of the criminal activity, it would not be necessary for the officer to know the nature of the substance, but only that the officer had reason to believe it was a controlled substance. If later investigation showed that the substance was not in fact a controlled substance, coverage would not be extended since no Federal crime had in fact been committed. Similarly, an officer injured while responding to an alarm of a robbery at a federally insured bank would be entitled to benefits as provided by this subpart. However, coverage would not be extended where the alarm was false since no Federal crime had actually occurred.
(c) Coverage for injuries or death while a law enforcement officer and to have been engaged on that occasion in the lawful prevention of, or lawful attempt to prevent, the commission of a crime against the United States shall not attach unless a Federal crime had been committed or was about to be committed. Whether or not a Federal crime was about to be committed cannot be open to speculation. The threat must be actual and imminent. However, in situations where the 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 individual entitled to be provided or actually provided protection by the United States Secret Service pursuant to 18 U.S.C. 3056(a), 3 U.S.C. 202-209, and the regulations promulgated pursuant to the latter provisions at 13 CFR 13.1-13.8, coverage will be extended for injury or death sustained in such activity, because the threat of Federal crime in

those circumstances is presumed to be always imminent.
(d) No person otherwise eligible to receive a benefit under this subpart because of the disability or death of an eligible officer shall be barred from the receipt of such benefit because the person apprehended or attempted to be apprehended by such officer was then sought for the commission of a crime against a sovereignty other than the United States.
(e) Coverage for members of the United States Park Police and those members of the Uniformed Division of the United States Secret Service who are covered under the District of Columbia Policemen and Firemen's Retirement and Disability Act is limited to specific activities involving crimes against the United States, and does not include numerous tangential activities of law enforcement, such as reporting for work, changing clothing etc., even though the laws enforced in the job deal solely with crimes against the United States. However, members of the Non-Uniformed Division of the United States Secret Service who are covered under the District of Columbia Policemen and Firemen's Retirement and Disability Act are considered to be engaged in the types of activities specified in 5 U.S.C. 8191 (1)-(3), and are covered by the provisions of 5 U.S.C. 8191-8193 during the performance of all official duties.
§ 10.613 Time for filing a claim.
A claim for benefits under the Act must be received by the Office within 5 years after the injury or death. The five-year limitation is maximum and mandatory and is not subject to waiver.
§ 10.614 How to file a notice of injury or death.
(a) A claim for benefits due to the injury or death of an eligible officer shall be made by—
(1) Any eligible officer or survivor of an eligible officer.
(2) Any guardian, personal representative, or other person legally authorized to act on behalf of an eligible officer, his or her estate, or any of his or her survivors, or
(3) Any association of law enforcement officers which is acting on behalf of an eligible officer or any of his or her survivors.
(b) The form provided for filing a claim for injury or occupational disease is CA-721.
(c) The form provided for filing a claim for death is CA-722.
(d) A claim for benefits should be submitted to the officer's employing agency for completion and forwarding to

the Office of Workers' Compensation Programs.

§ 10.615 Benefits.

(a) In the event of injury the Office shall furnish to any eligible officer the benefits, except for Continuation of Pay, to which he or she would have been entitled under subparts A through H of this Part if, on the occasion giving rise to eligibility, the officer had been an employee as defined in 5 U.S.C. 8101(1) engaged in the performance of duty. However, such benefits shall be reduced or adjusted as the Secretary in his discretion may deem appropriate to reflect comparable benefits, if any, received by the officer (or which the officer would have been entitled to receive but for this subpart) by virtue of actual employment on that occasion. When an eligible officer has contributed to a disability compensation fund, the reduction of Federal benefits provided for in this subsection is to be limited to the amount of the State or local government benefits which bears the same proportion to the full amount of such benefits as the cost or contribution paid by the State or local government bears to the cost of disability coverage for the individual officer.

(b) In the event of death the Secretary shall pay to any survivor of an eligible officer the difference, as determined by the Secretary in his discretion, between the benefits to which that survivor would be entitled if the officer had been an employee defined in 5 U.S.C. 8101(1) engaged in the performance of duty on the occasion giving rise to eligibility, and the comparable benefits, if any, received by the survivor (or which that survivor would have been entitled to receive but for this subpart) by virtue of the officer's actual employment on that occasion. When an eligible officer has contributed to a survivor's benefit fund, the reduction of Federal benefits provided for in this subsection is to be limited to the amount of the State or local government benefits which bears the same proportion to the full amount of such benefits as the cost or contribution paid by the State or local government bears to the cost of survivors' benefits coverage for the eligible officer.

§ 10.616 Computation of benefits.

(a) In determining the amount of benefits payable to an eligible officer or survivors of an eligible officer, the Office shall compute the beneficiaries' entitlement under the Act including applicable cost-of-living adjustments under 5 U.S.C. 8148a, then reduce the amounts by any comparable benefits

payable by a State or local entity for the same injury or death.

(b) Benefits payable under the Public Safety Officers' Benefit Act (42 U.S.C. 3796) for the same death constitute a prohibited dual benefit and any benefits payable under the Act will be reduced commensurate with the amounts payable under 42 U.S.C. 3796. Where a lump sum benefit is paid under 42 U.S.C. 3796, no benefits under the Act will be paid to a beneficiary until the entire amount, or the individual beneficiaries' portions of the entire amount, has been fully recovered.

(c) Where one or more beneficiaries in a death claim is not eligible to receive compensation due to the fact that comparable benefits from a State or local program or benefits payable under another Federal program exceed what is payable to the individual(s) under the Act, no adjustment shall be made to the percentage(s) upon which compensation is computed for other beneficiaries until the happening of an event which would otherwise change the criteria for determining entitlement under the Act, e.g., death or remarriage of a spouse, a child turning 18 or marrying, or the birth of a posthumous child.

§ 10.617 Responsibilities of the claimant, the employing agency and the Office.

(a) The claimant, or someone acting on his or her behalf as specified in § 10.614(a), shall be responsible for fully completing all forms, or portions thereof, which require information of the claimant, as well as for providing any supporting documentation or statements requested in support of the claim for benefits.

(b) The employing law enforcement agency is responsible for fully completing all necessary portions of claim forms designated for the employing agency and for submitting evidence necessary to the Officer's determination of coverage under 5 U.S.C. 8191 including police reports, investigative reports, and records providing or disproving the involvement of a Federal crime or Federal felony.

(c) The Office is responsible for evaluating a claim, advising of the deficiencies in a claim and requesting supportive information of the claimant and employing agency. Nothing in this subpart shall be construed as placing the burden on the Office to secure the information needed to discharge the responsibilities of the claimant(s) or the employing agency.

§ 10.618 Consultation with Attorney General and other agencies.

The Secretary may refer any application received pursuant to this

subpart to the Attorney General for assistance, comments and advice as to any determination required to be made pursuant to 5 U.S.C. 8291. The Secretary may request any Federal department or agency to supply any statistics, data or any other materials deemed necessary to carry out the functions of this subpart. Each such department or agency shall cooperate with the Secretary and, to the extent permitted by law, furnish such materials to him or her.

§ 10.619 Cooperation with State and local agencies.

The Secretary shall cooperate fully with the appropriate State and local officials, and shall take all other practicable measures, to assure that the benefits of this subpart and the Act are made available to eligible officers and their survivors with a minimum of delay and difficulty.

Federal Grand and Petit Jurors

§ 10.620 Definition of juror.

The term "juror" means an individual selected pursuant to Chapter 21 of Title 28, United States Code, and serving as a petit or grand juror.

§ 10.621 Applicability.

Except as provided by 28 U.S.C. 1877 and elsewhere in the subpart, the provisions of the Act and subparts A, B, C, and D through G are applicable to Federal grand or petit jurors as defined in § 10.620.

§ 10.622 Performance of duty.

(a) Performance of duty as a juror 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) For the purposes of this subpart, a juror is not in the performance of duty while traveling to or from home in connection with the activities enumerated in paragraphs (a)(1)-(4) of this section.

§ 10.623 When disability compensation commences.

Pursuant to 28 U.S.C. 1877, entitlement to disability compensation payments does not commence until the day after the date of termination of service as a juror.

§ 10.624 Pay rate 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 a Government employee 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.

compensation, as provided under such Act, 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. Therefore, in respect to cases of such employees whose injury (or injury resulting in death) has occurred subsequent to December 7, 1941, or may occur, the following provisions shall be applicable.

§ 25.2 General adoption of local law.

(a) Pursuant to the provisions of 5 U.S.C. 8137, the benefit features of local workers' compensation laws, or provisions in the nature of workers' compensation, in effect in the areas referred to in § 25.1, shall, effective as of December 7, 1941, by adoption and adaptation, as recognized by the Director, Office of Workers' Compensation Programs, apply in the cases of the employees specified in § 25.1: *Provided, however*, That there is not established and promulgated under this part, for the particular locality, or for a class of employees in the particular locality, a special schedule of compensation for injury or death.

(b) The benefit provisions as thus adopted or adapted are those dealing with the money payments for injury and death (including provisions dealing with medical, surgical, hospital and similar treatment and care), as well as those dealing with services and purposes forming an integral part of the local plan, provided they are of a kind or character similar to services and purposes authorized by the Federal Employees' Compensation Act. Procedural provisions, designations of classes of beneficiaries in death cases, limitations (except those affecting amounts of benefit payments), and any other provisions not directly affecting the amounts of the benefit payments, in such local plans, shall not apply, but in lieu thereof the pertinent provisions of the Federal Employees' Compensation Act shall apply, unless modified by further specification in this section. However, the Director may at any time modify, limit or redesignate the class or classes of beneficiaries entitled to death benefits, including the designation of persons, representatives, or groups entitled to payment under local statute or custom whether or not included in the classes of beneficiaries otherwise specified by this subchapter.

(c) Compensation in all cases of such employees paid and closed prior to the effective date of the regulations in this part 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) Persons employed in a country or area having no well-defined workers' compensation benefits structure shall be accorded the benefits provided—either by local law or special schedule—in a nearby country as determined by the

PART 25—COMPENSATION FOR DISABILITY AND DEATH OF NONCITIZEN FEDERAL EMPLOYEES OUTSIDE THE UNITED STATES

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AUTHORITY. (Sec. 32, 39 Stat. 749, as amended; (5 U.S.C. 8145, 8149); 1946 Reorg. Plan No. 2, sec. 3, 3 CFR 1943-1948 Comp., p. 1064; 60 Stat. 1095; 1950 Reorg. Plan No. 19, sec. 1, 3 CFR 1949-1953 Comp., p. 1010; 64 Stat. 1271, unless otherwise noted)

Subpart A—General Provisions

§ 25.1 General statement.

The provisions of this part shall apply in respect to compensation, under the Federal Employees' Compensation Act, payable only to employees of the United States who are neither citizens nor residents of the United States, any territory, or Canada, or payable to any dependents of such employees. It has previously been determined, pursuant to 5 U.S.C. 8137, that the amount of com-

Director. In selecting the benefit structure to be applied, equity and administrative feasibility shall be given due consideration, as well as local custom.

(e) Compensation for disability and death of noncitizens outside the United States under this part, whether paid under local law or special schedule, shall in no event exceed that generally payable under the Federal Employees' Compensation Act.

§ 25.3 General provisions relating to special schedule.

The special schedule established by Subpart B of this part is intended as the vehicle of general basic provisions, to be adapted, with such modifications as may be necessary, and as local conditions outside the United States require. The application of this special schedule will be by specific and appropriate provision in the regulations in this part, such provision specifying the locality to which applied, and the particular modifications of or additions to the schedule, as may be made.

§ 25.4 Authority to settle and pay 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 (a) 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 (b) to compromise and pay claims for any benefits provided for under this part, including claims in which there is a dispute as to jurisdiction or other facts, or questions of law. The Director shall, in administrative instructions to the particular representative concerned, establish such procedures in respect to action under this section as may be deemed necessary, and may specify the scope of any administrative review of such action.

§ 25.5 Applicable criteria.

The following criteria shall apply to cases of employees specified in § 25.1 and such cases, if otherwise compensable, shall be approved only upon evidence of the following nature without regard to the date of injury or death for which 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 military personnel, or;
- (d) Recommendation of an armed service's "Claim Service" based on investigations conducted by it.

(79 Stat. 802)

§ 25.6 Third and fourth country nationals.

(a) Definitions.

- (1) A third country national is a per-

son who is neither a citizen nor resident of the United States who is hired by the United States in the person's country of citizenship or residence for employment in another foreign country, or in a possession or territory of the United States.

(2) A fourth country national is a person who is neither a citizen nor resident of either the country of hire or the place of employment, but otherwise meets the definition of third country national.

(3) "Benefits applicable to local hires" are the benefits provided in this part by local law or special schedule, as determined by the Director. In relation to a United States territory or possession, local law means only the law of the particular territory or possession.

(b) Benefits payable.

(1) Third and fourth country nationals shall be paid the benefits applicable to local hires in the country of hire or the place of employment, whichever benefits are greater, provided that all benefits payable on account of one injury must be paid under the same benefit structure.

(2) Where no well-defined workers' compensation benefits structure is provided in either the country of hire or the place of employment, the provisions of § 25.2 (d) shall apply.

(3) Where equitable considerations as determined by the Director so warrant, a fourth country national may be awarded benefits applicable to local hires in his home country.

§ 25.7 Noncitizen residents of possessions.

An employee who is a bona fide permanent resident of any United States possession, territory, commonwealth or trust territory shall be accorded the full benefits of the basic law (Federal Employees' Compensation Act, as amended), provided that the application of the minimum benefit provisions therein shall be governed by the restrictions set forth in 5 U.S.C. 8138.

Subpart B—Special Schedule of Compensation

§ 25.11 Compensation for disability.

Compensation for disability shall be paid to the employee as follows:

(a) *Permanent total disability.* In case of disability, total in character and permanent in quality, 66⅔ per centum of the monthly pay during the continuance of such disability.

(b) *Temporary total disability.* In case of disability, total in character and temporary in quality, 66⅔ per centum of the monthly pay during the continuance of such disability.

(c) *Permanent partial disability.* In case of disability, partial in character and permanent in quality, 66⅔ per centum of the monthly pay, for the following losses and periods:

- (1) Arm lost, 280 weeks' compensation.
- (2) Leg lost, 248 weeks' compensation.

(3) Hand lost, 212 weeks' compensation.

(4) Foot lost, 173 weeks' compensation.

(5) Eye lost, 140 weeks' compensation.

(6) Thumb lost, 51 weeks' compensation.

(7) First finger lost, 28 weeks' compensation.

(8) Great toe lost, 26 weeks' compensation.

(9) Second finger lost, 18 weeks' compensation.

(10) Third finger lost, 17 weeks' compensation.

(11) Toe, other than great toe, lost, 8 weeks' compensation.

(12) Fourth finger lost, 7 week' compensation.

(13) Loss of hearing: One ear, 52 weeks' compensation; both ears, 200 weeks' compensation.

(14) 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.

(15) 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.

(16) Binocular vision or per centum of vision: Compensation for loss of binocular vision, or for 80 per centum or more of the vision of an eye shall be the same as for the loss of the eye.

(17) 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.

(18) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

(19) 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.

(20) Consecutive awards: In any case in which there shall be a loss or loss of use of more than one member or parts of more than one member, set forth in sections (1) to (19), inclusive, of this paragraph 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, except that where the injury affects only two or more digits of the same hand or foot, paragraph (c) (17) of this section shall apply.

(21) Other cases: In all other cases within this class of disability the com-

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pensation during the continuance of disability shall be that proportion of compensation for permanent 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.

(22) Compensation under paragraph (c)(1) to (21), inclusive, 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.

(d) *Temporary partial disability.* In case of disability, partial in character and temporary in quality, during the continuance of disability that proportion of compensation for temporary total disability, as determined under paragraph (b) of this section, which is equal in percentage to the degree or percentage of physical impairment caused by the disability.

§ 25.12 Compensation for death.

If the disability causes death the compensation shall be payable in the amount and to or for the benefit of the persons, determined as follows:

(a) To the undertaker or person entitled to reimbursement, reasonable funeral expenses not exceeding \$200.

(b) To the widow, if there is no child, 35 per centum of the monthly pay until her death or remarriage.

(c) To the widower, if there is no child and if wholly dependent for support upon the deceased employee at the time of her death, 35 per centum of the monthly pay until his death or remarriage.

(d) To the widow or widower, if there is a child, the compensation payable under paragraph (b) or (c) of this section, and in addition thereto 10 per centum of the monthly wage for each child, not to exceed a total of 66⅔ per centum for such widow or widower and children. If a child has a guardian other than the surviving widow or widower, the compensation payable on account of such child shall be paid to such guardian. The compensation 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.

(e) To the children, if there is no widow or widower, 25 per centum of such monthly pay for one child and 10 per centum thereof for each additional child, not to exceed a total of 66⅔ per centum thereof, divided among such children share and share alike. The compensation of each child shall be paid until 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.

(f) To the parents, if one is wholly dependent for support upon the deceased

employee at the time of his death and the other is not dependent to any extent, 25 per centum of such monthly pay; if both are wholly dependent, 20 per centum 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 widow, widower, or child, but if there is a widow, widower, 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 widow, widower, and children, will not exceed a total 66⅔ per centum of such pay.

(g) 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 per centum of such pay to such dependent if more than one are wholly dependent; 30 per centum 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 per centum of such pay divided among such dependents share and share alike. The compensation to such beneficiaries shall be paid if there is no widow, widower, child, or dependent parent. If there is a widow, widower, 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 widow, widower, children, and dependent parents, will not exceed a total of 66⅔ per centum of such pay.

(h) The compensation of each beneficiary under paragraphs (f) and (g) 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 grandparent 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 child, for such child, as the Director in his or her discretion shall determine.

(i) Upon the cessation of any person's compensation for death under this subpart, the compensation of any remaining person entitled to the continuation of compensation in the same case shall be adjusted, so that the continuing compensation shall be at the same rate such person would have received, had no award been made to the person whose compensation was terminated.

(j) In case there are two or more classes of persons entitled to compensation for death under this subpart, and the apportionment of such compensation as above provided would result in injustice, the Director may in his or her discretion modify the apportionments to meet the requirements of the case.

§ 25.13 General provisions.

(a) The definitions of terms in the Federal Employees' Compensation Act of

September 7, 1916, as amended shall apply to terms used in this subpart.

(b) The provisions of such Act unless modified by this subpart, or unless otherwise inapplicable, shall be applied whenever possible in the application of this subpart.

(c) The provisions of the regulations for the administration of the Federal Employees' Compensation Act, as amended, and as 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.

Subpart C—Extensions of Special Schedule of Compensation

§ 25.21 Republic of the Philippines.

(a) *Modified special schedule of compensation.* 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 (i) all awards not paid in full before July 1, 1969, and (ii) 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 cases are entitled to share equally):

(1) Widow, dependent widower, 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 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 subparagraphs (1) through (19) of paragraph (c) of the special schedule, 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 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 extent of entitlement is established.

(k) *Exceptions.* The Director in his or her discretion may make exceptions to these regulations 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.

§ 25.22 Australia.

(a) The special schedule of compensation established by Subpart B of this part shall apply with the modifications or additions specified in paragraph (b) of this section, as of December 8, 1941, in Australia, 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 Federal Employees' Compensation Act.

(5 U.S.C. 8137, 8138, 8146, 8149); Reorganization Plan No. 19 of 1960 (64 Stat. 1271, 3 CFR 1946-1963 Comp., p. 1010); and General Order No. 46 (Rev.), (24 FR 8472)

§ 25.23 [Reserved]

§ 25.24 [Reserved]

§ 25.25 Republic of Korea.

(a) *Modified special schedule of compensation.* 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 Korea, 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 specified 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 rates specified in the special schedule as modified in this section for (i) all awards not paid in full before July 1, 1969, and (ii) 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 injury or death occurring on or after December 1, 1954, 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 survivor or survivors in the following order of priority:

(1) Spouse.

(2) Unmarried children who were supported by or lived with the deceased employee at the time of death.

(3) Parents who were supported by or lived with the deceased employee at the time of death.

(4) Unmarried grandchildren who were supported by or lived with the deceased employee at the time of death.

(5) Grandparents who were supported by or lived with the deceased employee at the time of death.

(6) Unmarried brothers and sisters who were supported by or lived with the deceased employee at the time of death.

(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 subparagraphs (1) through (19) of paragraph (c) of the special schedule, subject to an aggregate limitation of 400 weeks' compensation. In all other cases, that proportion of the compensation provided for permanent total disability (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 of 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 extent of entitlement is established.

(k) *Exceptions.* The Director may in his or her discretion make exception to these regulations 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.

§ 25.26 Japanese seamen.

(a) The special schedule of compensation established by Subpart B of this part shall apply, with the modifications or additions specified in paragraphs (b) through (i) of this section, as of November 1, 1971, 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 in 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 § 25.11 shall apply to the types of permanent partial disability enumerated in paragraph (c), subparagraphs (1)-(19) of that section. *Provided*, That weekly compensation shall be paid at 75 percent of the weekly wage rate, and *Further provided*, 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 [paragraph (d) of the 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 (temporary disability, permanent disability, and death) 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 \$40,000.

(j) *Prior injury.* In cases where injury or death occurred prior to November 1, 1971, benefits will be paid in accord with regulations previously promulgated.

§ 25.27 Territory of Guam (nonresident aliens).

(a) The special schedule of compensation established by Subpart B of this part shall apply, with the modifications or additions specified in paragraphs (b) through (k) of this section, to injury or death occurring on or after July 1, 1971 in the Territory of Guam to nonresident alien employees recruited in foreign countries for employment by the military departments in the Territory of Guam. However, the Director may, in his or her discretion, adopt the benefit features and provisions of local workers' compensation law as provided in Subpart A of this part, or substitute the special schedule in Subpart B of this part or other modifications of the special schedule in this Subpart C, if such adoption or substitution would be to the advantage of the employee or his beneficiary. This schedule shall not apply to any employee who becomes a permanent resident in the Territory of Guam prior to the date of his or her injury or death.

(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.* Beneficiaries of death benefits shall be determined in accordance with the laws or customs of the country of recruitment.

(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 subparagraphs (1) through (19) of paragraph (c) of § 25.11, subject to an aggregate limitation of 400 weeks' compensation. In all other cases, that proportion of the compensation provided for permanent total disability (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 \$24,000, exclusive of medical costs and burial allowance. The weekly rate of compensation for disability or death shall not exceed \$70.

(j) *Method of payment.* Compensation for temporary disability shall be payable periodically. Compensation for permanent disability and death shall be payable in full at the time extent of entitlement is established.

(k) *Exceptions.* The Director may in his or her discretion make exception to the regulations in this section by:

(1) Reapportioning death benefits for the sake of equity.

(2) Excluding from consideration potential beneficiaries of a deceased employee 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 employee or his beneficiary(s).

APPENDIX C

Appendix A. Basic Forms for Processing

FORM NO.	FORM TITLE	PURPOSE	PREPARED BY	WHEN SUBMITTED	COMPLETED FORMS SENT TO
CA-1	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation	Notifies supervisor of a traumatic injury and serves as the report to OWCP when (1) the employee has sustained a traumatic injury which is likely to result in a medical charge against the compensation fund; (2) the employee loses time from work on any day following the injury date, whether the time is charged to leave or to continuation of pay; (3) disability for work may subsequently occur; (4) permanent impairment appears likely; or (5) serious disfigurement of the face, head, or neck is likely to result.	Employee or someone acting on employee's behalf; witness (if any); supervisor	By employee within 30 days (but will meet statutory time requirements if filed no later than 3 years after the injury); by supervisor within 10 working days following receipt of the form from the employee.	Supervisor, by employee or someone acting on employee's behalf; then to the appropriate OWCP office by the supervisor.
CA-2	Federal Employee's Notice of Occupational Disease and Claim for Compensation	Notifies supervisor of an occupational disease and serves as the report to OWCP when (1) the disease is likely to result in medical charge against the compensation fund; (2) the employee loses time from work on any day because of the disease, whether the time is charged to leave or the employee chooses to claim injury compensation; (3) disability for work may subsequently occur; (4) permanent impairment appears likely; or (5) serious disfigurement of the face, head, or neck is likely to result.	Employee or someone acting on employee's behalf; witness (if any); supervisor	By employee within 30 days (but will meet statutory time requirements if filed no later than 3 years after the injury); by supervisor within 10 working days after receipt of the form from the employee.	Supervisor, by employee or someone acting on employee's behalf; then to the appropriate OWCP office by the supervisor.

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FORM NO.	FORM TITLE	PURPOSE	PREPARED BY	WHEN SUBMITTED	COMPLETED FORMS SENT TO
CA-2a *	Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation	Notifies OWCP that an employee, after returning to work, is again disabled due to a prior injury or occupational disease. It also serves as a claim for continuation of pay or for compensation based on the recurrence of a previously reported disability.	Supervisor	Immediately upon receiving notice that the employee has suffered a recurrence. When the employee stops work as a result of recurring disability, the employee shall advise the supervisor whether he/she wishes to continue to receive regular pay provided qualifications are met or charge the absence to sick or annual leave.	Appropriate OWCP office.
CA-3	Report of Termination of Disability and/or Payment	Notifies OWCP that disability from injury has terminated and/or that continuation of pay has terminated and/or that employee has returned to work.	Supervisor	Immediately after the disability or continuation of pay terminates, or the employee returns to work.	Appropriate OWCP office.
CA-5	Claim for Compensation by Widow, Widower and/or Children	Claims compensation on behalf of these dependents when injury results in death.	Person claiming compensation (for self or on behalf of children) and attending physician.	Within 30 days, if possible, but not later than 3 years after death. If the death resulted from an injury for which a disability claim was timely filed, the time requirements for filing death claim have been met.	Supervisor, by claimant or someone acting on claimant's behalf; then to appropriate OWCP office.

* Instructions shown apply to versions of Form CA-2a dated prior to December 1987. Form CA-2a as revised in December 1987 is prepared by the employee. The completed form is to be sent to the supervisor, who should forward it to the appropriate OWCP office. If no longer employed by the Federal Government, the employee should complete Parts A and C and submit all materials directly to the appropriate OWCP office. The employee and supervisor should refer to the revised Form CA-2a for further instructions. (OWCP Addendum - 7/88)

FORM NO.	FORM TITLE	PURPOSE	PREPARED BY	WHEN SUBMITTED	COMPLETED FORMS SENT TO
CA-5b	Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren	Claims compensation for these dependents when injury results in death.	Person claiming compensation (or guardian on behalf of children) and attending physician	Within 30 days, if possible, but not later than 3 years after death. If the death resulted from an injury for which a disability claim was timely filed, the time requirements for filing death claim have been met.	Supervisor, by claimant or someone acting on claimant's behalf; then to appropriate OWCP office.
CA-6	Official Supervisor's Report of Employee's Death	Notifies OWCP of the employment-related death of an employee.	Supervisor	Within 10 workdays after knowledge by supervisor of the employment-related death of an employee.	Appropriate OWCP office.
CA-7	Claim for Compensation on Account of Traumatic Injury or Occupational Disease	Claims compensation if (1) medical evidence shows disability is expected (and is not covered by COP in traumatic cases); (2) the injury has resulted in permanent impairment involving the total or partial loss, or loss of use, of certain parts of the body or serious disfigurement of the face, head or neck; (3) loss of wage-earning capacity has resulted.	Employee or someone acting on employee's behalf; supervisor, and attending physician (on attached Form CA-20)	In case of traumatic injury, the form must be completed and filed with OWCP not more than 5 working days before the termination of the 45 days. In case of occupational disease, this form should be submitted as soon as pay stops.	Supervisor, by employee or someone acting on employee's behalf; then to the appropriate OWCP office by the supervisor.

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FORM NO.	FORM TITLE	PURPOSE	PREPARED BY	WHEN SUBMITTED	COMPLETED FORMS SENT TO
CA-8	Claim for Continuing Compensation on Account of Disability	Claims compensation when loss of pay continues beyond the time covered by the claim on Form CA-7.	Employee or someone acting on employee's behalf; supervisor, and attending physician (on attached Form CA-20a)	At least 5 days before the end of the period claimed on Form CA-7 or CA-8 for the period of disability supported by medical evidence.	Supervisor, by employee or someone acting on employee's behalf; then to the appropriate OWCP office by the supervisor.
CA-16	Authorization for Examination and/or Treatment	Authorizes an injured employee to obtain examination and/or treatment for up to 60 days and provides OWCP with initial medical report. Treatment may be obtained from a local hospital or physician (who may be a surgeon, osteopath, podiatrist, dentist, clinical psychologist, optometrist, or, under certain circumstances, a chiropractor), or from a U.S. medical facility, if available. May also be used for illness or disease if prior approval is obtained from OWCP. The employee may initially select the medical provider of his/her choice but must request any change from OWCP.	Part A—Supervisor Part B—Attending Physician	Part A—By supervisor, in duplicate, within 48 hours followed first examination and/or treatment. Part B—By attending physician or medical facility as promptly as possible after initial examination.	Part A—Physician or medical facility. Part B—Appropriate OWCP office.
CA-17	Duty Status Report	In traumatic injury cases, provides supervisor and OWCP with interim medical report containing information as to employee's ability to return to any type of work.	Supervisor and attending physician	Promptly upon completion of examination or most recent treatment.	Original to the employing agency and copy to appropriate OWCP office.
CA-20	Attending Physicians Report	Provides medical support for claim and is attached to Form CA-7; provides OWCP with medical information.	Attending physician	Promptly upon completion of examination or most recent treatment.	Appropriate OWCP office.

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FORM NO.	FORM TITLE	PURPOSE	PREPARED BY	WHEN SUBMITTED	COMPLETED FORMS SENT TO
CA-20a	Attending Physician's Supplemental Report	Provides OWCP with additional medical information in connection with supplemental claim filed on attached Form CA-8.	♦ Attending physician	Promptly upon completion of examination or most recent treatment.	Appropriate OWCP office.
OWCP-1500a	Federal Employee's Compensation Program Medical Provider's Claim Form	Provides OWCP with standard billing form to facilitate payment of medical bills. The form should accompany the CA-16 when employee is referred to a physician.	Attending physician; employee must sign in item 12	Promptly upon completion of examination or treatment; physician may submit in usual billing cycle.	Appropriate OWCP office.

Appendix B. Injury/Illness Type and Source Codes; ♦ Occupation Codes ♦

INJURY/ILLNESS TYPE

100 STRUCK	500 CONTACT
110 Struck by	510 Contact with (motion of person)
111 Struck by falling object	511 Rubbed, abraded
120 Struck against	520 Contact by (motion of object)
200 FELL, SLIPPED, TRIPPED	600 EXERTION
210 Fell on same level	610 Lifted, strained by [single action]
220 Fell on different level	620 Stressed by [repeated action]
230 Slipped, tripped (no fall)	700 EXPOSURE
300 CAUGHT	710 Inhalation
310 Caught on	720 Ingestion
320 Caught in	730 Absorption
330 Caught between	800 TRAVELING IN
400 PUNCTURED, LACERATED	999 UNCLASSIFIED OR INSUFFICIENT DATA
410 Punctured by	
420 Cut by	
430 Stung by	
440 Bitten by	

INJURY/ILLNESS SOURCE

0100 BUILDING OR WORKING AREA	0280 Stress (emotional)
0110 Walking/working surface (floor, street, curbs, porches)	0290 Confined space
0120 Stairs, steps	0300 MACHINE OR TOOL
0130 Ladder	0310 Hand tool (powered: Saw, grinder, etc.)
0140 Furniture, furnishings, Office equipment	0320 Hand tool (non-powered)
0150 Boiler, pressure vessel	0330 Mechanical power transmission apparatus
0160 Equipment layout (ergonomic)	0340 Guard, shield (fixed, moveable, deadman)
0170 Windows, doors	0350 Video Display Terminal
0180 Electric, electricity	0360 Pump, compressor, air pressure tool
0200 ENVIRONMENTAL CONDITION	0370 Heating equipment
0210 Temperature extreme (indoor)	0380 Welding equipment
0220 Weather (ice, rain, heat, etc.)	0400 VEHICLE
0230 Fire, flame, smoke (not tobacco)	0410 Privately-owned vehicle (includes rental)
0240 Noise	0411 As driver
0250 Radiation	0412 As passenger
0260 Light	0420 Government-owned vehicle
0270 Ventilation	0421 As driver
0271 Tobacco smoke	0422 As passenger

0430 Common carrier (airline, bus, etc.)	0730 Plastic
0440 Aircraft (not commercial scheduled)	0740 Water
0450 Boat, ship, barge	0750 Medicine
0500 MATERIAL HANDLING EQUIPMENT	0800 INANIMATE OBJECT
0510 Earthmover (tractor, backhoe, etc.)	0810 Box, barrel, container, etc.
0520 Conveyor (for material and equipment)	0820 Paper
0530 Elevator, escalator, personnel hoist	0830 Metal item, mineral
0540 Hoist, sling chain, jack (for material and equipment)	0831 Needle
0550 Forklift, crane	0840 Glass
0560 Handtrucks, dollies	0850 Scrap, trash
0600 DUST, MIST, VAPOR, ETC.	0860 Wood
0610 Dust (silica, coal, grain, cotton)	0870 Food
0620 Fibers	0880 Personal clothing, apparel, shoes
0621 Asbestos	0900 ANIMATE OBJECT
0630 Gases	0910 Animal
0631 Carbon monoxide	0911 Bite (dog)
0640 Mist, steam, vapor, fume	0912 Bite (other)
0650 Particles (unidentified)	0913 Disease
0700 CHEMICAL, PLASTIC, ETC.	0920 Plant
0710 Chemical dry	0930 Insect
0711 Corrosive	0940 Human (violence)
0712 Toxic	0950 Human (communicable disease)
0713 Explosive	0960 Bacteria, virus (not human contact)
0714 Flammable	1000 PERSONAL PROTECTIVE EQUIPMENT
0720 Chemical liquid	1010 Protective clothing, shoes, glasses/goggles
0721 Corrosive	1020 Respirator, mask
0722 Toxic	1021 Diving equipment
0723 Explosive	1030 Safety belt, harness
0724 Flammable	1040 Parachute
	9999 UNCLASSIFIED OR INSUFFICIENT DATA

Note: Select most specific type and source for event which initiated injury/illness.

Use heading as "other" for that category.

Use TYPE as "verb" and SOURCE as "noun" to describe incident.

EX: Employee slipped on ice, cut hand on rock.

TYPE: 210 fell on same level

SOURCE: 0220 weather

♦ OCCUPATION

For Postal Service employees, the occupation code consists of the characters "PS" plus the first four numbers of the appropriate occupation code. For all other Federal employees, the code begins with the two letters of the employee's pay plan (i.e., "GS", "GM", "WG", etc.), followed by the four numbers of the occupation series. For workers who perform services for the Federal government but who do not have job titles which fall under the usual job classification systems, a list of "non-standard" occupation codes and titles follows. Each code begins with the characters "???" instead of the usual pay plan letters.

ALPHINUM CODE	TITLE	ALPHINUM CODE	TITLE
??013600	Peace Corps Volunteer	??006000	Chaplain
??008300	Non-Fed. Law Enf. Off.	??186300	State/Local Agri. Insp.
??002100	VISTA Volunteer	??003000	Sports Clinic Performer
??024300	Neighborhood YC Enrollee	??018800	Entertainer/Armed Forces
??024300	Job Corps Enrollee	??024300	Vocational Trainee
??030200	Mail Messenger	??046000	Forest Service Cooperator
??350100	Contract Job Cleaner	??131600	Gage Reader, Corps Engrs.
??062100	Student Nurse	??470100	Maintenance Worker, HUD
??046200	Forest Svc. Volunteer	??002600	Nat'l Park Svc. Volunteer
??134100	Vol. Weather Observer	??020400	Nat'l Defense Exec. Reserve
??009900	State Maritime Acad. Cadet	??174000	Nat'l Teacher Corps Mbr.
??009900	ROTC Cadet	??061000	Contract Nurse
??093000	Federal Juror	??060200	Contract Physician
??218100	Civil Air Patrol Vol.	??063000	Nutritional Aide, USDA
??068500	Vol. Hospital Worker	??174000	Reader for the Blind
??024300	Youth Cons. Corps Vol.	??101600	Trust Empl. Smithsonian
??047500	Cnty Agnt, Dept. Agri.	??045700	Soil/Water Cons. Dist. Empl.
??350600	Student Aide	??024300	Yth/adlt Cons. Corps Enrll.
??982500	Seaman	??009900	Military Acad. Cadet
??020400	Coast Guard Res. Member	??000600	Vol. Trainee Probation Off.
??024000	Coast Guard Aux. Member	??000600	Urban Crime Prev. Prog. Vol.
??002300	Nat'l Park Svc. Collab.	??034500	Congressional Staff Mbr. ♦
??009900	College Wk/Stdy Partic.		

APPENDIX D

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Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation

U.S. Department of Labor
Employment Standards Administration
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 ☐ Male ☐ Female		5. Home telephone ()		6. Grade as of date of injury Level Step	
7. Employee's home mailing address (include city, state, and zip code)							8. Dependents ☐ Wife, Husband ☐ Children under 18 years ☐ 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 : ☐ a.m. ☐ 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:

- ☐ 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.
- ☐ b. Sick and/or Annual Leave

Signature of employee or person acting on his/her behalf _____

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 felony criminal prosecution and may, under appropriate 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.

End of Employee Report

Witness

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

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Official Supervisor's Report: Please complete information requested below

Supervisor's Report

17. Agency name and address of reporting office (Include city, state, and zip code)		OWCP Agency Code
		OSHA Site Code
Zip Code		

18. Employee's duty station (Street address and zip code)	Zip Code
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9. Regular work hours	From: ☐ a.m. ☐ p.m.	To: ☐ a.m. ☐ p.m.	20. Regular work schedule	☐ Sun.	☐ Mon.	☐ Tues.	☐ Wed.	☐ Thurs.	☐ Fri.	☐ Sat.
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21. Date of injury	Mo. Day Yr.	22. Date notice received	Mo. Day Yr.	23. Date stopped work	Mo. Day Yr.	Time: ☐ a.m. ☐ p.m.
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24. Date pay stopped	Mo. Day Yr.	25. Date 45 day period began	Mo. Day Yr.	26. Date returned to work	Mo. Day Yr.	Time: ☐ a.m. ☐ p.m.
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27. Was employee injured in performance of duty? ☐ Yes ☐ No (If "No," explain)

28. Was injury caused by employee's willful misconduct, intoxication, or intent to injure self or another? ☐ Yes (If "Yes," explain) ☐ No

29. Was injury caused by third party? ☐ Yes ☐ No (If "No," go to item 31.)	30. Name and address of third party (Include city, state, and zip code)
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31. Name and address of physician first providing medical care (Include city, state, zip code)	32. First date medical care received	Mo. Yr.
	33. Do medical reports show employee is disabled for work?	☐ Yes ☐ No

34. Does your knowledge of the facts about this injury agree with statements of the employee and/or witness? ☐ Yes ☐ No (If "No," explain)

35. Does the employing agency controvert continuation of pay? ☐ Yes (If "Yes," explain) ☐ No See instructions for explanation of "controvert"	36. Pay rate when employee stopped work
	\$ Per

Signature of Supervisor and Filing Instructions

7. 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

1. 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

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 employee's 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 file CA-1 within thirty days of the injury, you are 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. You may elect sick or annual leave if you wish, but compensation from OWCP may not be claimed during the 45 days of COP entitlement. (You may not claim compensation to repurchase leave used during this period.) Also, if you later change your election, the agency is not obliged to convert past periods of leave to COP.

Your agency may controvert (dispute) your entitlement to COP, but must continue pay unless the controversion is based on one of the nine reasons listed in the instructions for item 35.

If you receive COP, but OWCP later determines that you are not entitled to COP, you may either change COP to sick or annual leave or pay the employing agency back for the COP received.

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 38, 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 two 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.

29) 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.

31) 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.

32) First date medical care received

The date of the first visit to the physician listed in item 31.

35) Does the employing agency controvert continuation of pay?

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:

- The disability results from an occupational disease or illness
- The employee is a volunteer working without pay or for nominal pay, or a member of the office staff of a former President;
- The employee is neither a citizen nor a resident of the United States or Canada;
- The injury occurred off the employing agency's premises and the employee was not involved in official "off premise" duties
- 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;
- The injury was not reported on Form CA-1 within 30 days following the injury;
- Work stoppage first occurred six months or more following the injury;
- The employee initially reported the injury after his or her employment was terminated; or
- 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.

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 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; however, to avoid possible interruption of pay, the form should be filed within 2 working days. If the form is not filed within 30 days, compensation may be substituted for continuation of pay.)
- (2) Payment of compensation for wage loss after the 45 days, if disability extends beyond such 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 disfigurement of the head, face, or neck.
- (4) Vocational rehabilitation and related services where necessary.
- (5) Full medical care from either Federal medical officers and hospitals, or private hospitals or physicians, of the employee's choice. Generally, 25 miles from the place of injury, place of employment, or employee's home is a reasonable distance to travel for medical care; however, other pertinent factors must also be considered in making selection of physicians or medical facilities.

At the time an employee stops work following a traumatic, job-related injury, he or she may request continuation of pay or use sick or annual leave credited to his or her record. Where the employing agency continues the employee's pay, the pay must not be interrupted until:

- (1) The employing agency receives medical information from the attending physician to the effect that disability has terminated;
- (2) The OWCP advises that pay should be terminated; or
- (3) The expiration of 45 calendar days following initial work stoppage.

If disability exceeds, or it is anticipated that it will exceed, 45 days, and the employee wishes to claim compensation, 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. Form CA-3 shall be submitted to OWCP when the employee returns to work, disability ceases, or the 45 day period expires.

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 (Public Law No. 93-579, 5 U.S.C. 552a), you are hereby notified that:

- (1) The Federal Employees' Compensation Act, as amended (5 U.S.C. 8101, et seq.) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor. In accordance with this responsibility, the office receives and maintains personal information on claimants and their immediate families.
- (2) The information will be used to determine eligibility for and the amount of benefits payable under the Act.

- (3) The information may be used by other agencies or persons in matters relating directly or indirectly to the matter of the claim, so long as such agencies or persons have received the consent of the individual claimant, or complied with the provisions of 20 CFR 10.
- (4) Failure to furnish all requested information may delay the process, or result in an unfavorable decision or a reduced level of benefits (disclosure of a social security number is voluntary; the failure to disclose such number will not result in the denial of any right, benefit or privilege to which an individual may be entitled).

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.)

Employing Agency Responsibilities
Under the Federal Employees'
Compensation Act

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

1. IF an employee reports a job-related injury and requests authorization for medical treatment of that injury from a specific physician, authorization must be issued within four hours of the request, unless it meets one of the criteria following:

- a. The condition claimed is an occupational disease.
- b. The employee has already received medical treatment, and is requesting authorization for that treatment.
- c. Authorization is requested more than a week after the injury.
- d. The employee's choice of physician has been excluded from receipt of FECA payments under 20 CFR 10.450.

2. When the employee provides written Notice of Injury (form CA-1) or Notice of Occupational Disease (form CA-2), the form should be forwarded to OWCP within 10 working days of receipt, if lost time has occurred or medical expenses have been incurred as a result of the injury. If lost time or medical expenses have not occurred, the form should be placed in the Employee Medical File (EMF), but should be forwarded to OWCP within 10 working days after notification of lost time or medical expenses due to that injury.

3. If the employee requests continuation of pay (CCP) for a job-related traumatic injury, such pay must be granted to the employee, unless COP can be terminated for one of the nine reasons listed on the instructions to form CA-1.

4. When an employee files a claim for an occupational disease, you should provide the employee with a copy of the occupational disease checklist (Form CA-35a through CA-35g) appropriate to the condition. You should arrange for the submission of information on the checklist which is requested from the employing agency.

5. The employee must be notified that he or she is responsible for obtaining medical evidence which supports disability for work. Notification can be made by providing the employee with a copy of "FEDERAL EMPLOYEE RESPONSIBILITIES UNDER THE FEDERAL EMPLOYEE'S COMPENSATION ACT".

6. You must notify the employee if you are willing to accommodate restrictions which may be imposed by the attending physician of the employee, if the employee is incapable of performing regular duties but alternative employment is available. If you have a specific assignment, the employee and his or her physician must be provided with a written summary of the duties and requirements of the new assignment.

7. If the physician finds the employee fit only for light duty, any light duty offer which may be made to the employee must be in writing and specifically describe the duties and responsibilities of the job, including a summary of the physical demands required by the duties assigned.

8. When an employee files a claim for compensation for wage loss on form CA-7 or form CA-8 with the employing agency, the form should be forwarded to OWCP within 5 working days of receipt.

**Federal Employees' Responsibilities
for Traumatic Injury Claims under the
Federal Employees' Compensation Act (FECA)**

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

This information sheet supplements information contained in the attachment to Form CA-1, Federal employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation. It should be given to the employee with the CA-1 when the employee reports an injury. Refer to the attachment to the CA-1 for further instructions and description of FECA benefits. The Federal employing agency supplies the forms needed for processing FECA claims, including those referenced below.

To obtain medical treatment for your on the job injury, ask your supervisor to authorize or arrange for authorization for medical treatment.

- Obtain authorization (Form CA-16) BEFORE you go for medical treatment. Except for emergency care, your agency may not issue the authorization retroactively for past treatment.
- Provide the name of the physician you have selected to provide medical treatment for the injury. While you have the right to initially choose your physician, you must obtain OWCP approval to change physicians, except where your physician has referred you to another doctor.
- Obtain prior approval from OWCP for non-emergency surgery.

If possible, take the CA-16 with you when first go to the doctor. Your agency should also give you Form CA-17, Duty Status Report, and OWCP 1500 (or HCFA 1500), the AMA Uniform Health Insurance Claim Form that physicians use to submit bills to OWCP.

Agency may require fitness-for-duty examinations in accordance with Office of Personnel Management regulations or equivalent agency authority. The FECA does not provide any additional authority for agency-conducted medical examinations.

To establish a claim for Compensation Benefits under FECA, complete the front of the CA-1 and submit it to your supervisor as soon as possible, but not later than 30 days after the injury. Failure to file written notice within 30 days may result in loss of compensation rights.

Obtain the receipt for the CA-1 from your supervisor. You may also request a copy of the CA-1 after it is completed by the supervisor.

After OWCP receives the CA-1 from your employing agency, they will send you and your agency a postcard that identifies your OWCP Case File Number. Use this number on all documents submitted to OWCP. Instruct your doctor and other medical providers to include your Case File Number on all bills or other documents they send to OWCP. If you have questions about your claim, write to the OWCP District Office at the address shown on the postcard, and refer to your OWCP Case File Number. Not all injuries are reported to OWCP. In general, CA-1 forms for injuries that involve no medical expenses and no lost time are retained by the agency.

To obtain payment for medical expense, your physicians and other medical providers may claim payment by submitting their bills to OWCP. Physicians MUST submit their bills on form OWCP 1500 (also called HCFA 1500). Other medical providers, such as hospitals, may use their own billing forms.

If you paid the medical provider, you may request reimbursement by submitting a written request with the billing form(s) described above and proof that you paid the provider, e.g., a receipt, or cancelled check. You may also claim reimbursement for expenses of travel to obtain medical treatment on Standard Form 1012, Travel Voucher.

To be considered for payment, bills must be submitted to OWCP within a year after the end of the calendar year in which the expense was incurred or the service was provided, or within a year after the end of the calendar year in which the treated condition was first accepted as compensable by OWCP. For example, if you were treated in 1987 and OWCP accepted your claim in 1987, OWCP will process bills for that treatment if they are submitted by December 31, 1988. If, however, OWCP accepted your claim in 1988, you would have until December 31, 1989 to submit bills, even though treatment was received in 1987.

If you are unable to work because of your injury, you may be eligible for continuation of your regular pay (COP) if you do the following:

- File a written claim for COP with your agency within 30 calendar days from the date of the injury (the Form CA-1 is designed for this purpose). Your agency's accident reporting form is not a substitute for the CA-1.
- Ensure that medical evidence is submitted to your agency that shows you sustained a traumatic injury and are unable to work as a result of it. Forms CA-16 or CA-17, or a narrative report from your doctor would generally meet this requirement. Your agency may stop paying COP if it does not receive such medical evidence within 10 working days after the date you submitted your claim for COP (Form CA-1) or the date you stopped work, whichever is later. You are responsible for ensuring such medical evidence is submitted to your employing agency. If your agency stops paying COP because you did not submit medical evidence within 10 working days, they will reinstate payment retroactive to the date supported by medical evidence, when this evidence is received.

If you elect to receive sick or annual leave pay instead of COP, and later elect COP for a period that you used leave, your agency shall grant COP, provided your request for COP is submitted within one year of the date that leave was used, your agency has received prima facie medical evidence to establish that you were unable to work during that period because of your injury, and you are otherwise entitled to COP.

If you are not entitled to COP or your entitlement has ended, and you are in a without-pay status or expect to lose pay because you are unable to work, you may claim compensation by filing Form CA-7, Claim for compensation on Account of Traumatic Injury or Occupational Disease, or you may use leave. If claiming compensation, the following guidelines apply:

- To avoid or minimize salary interruption, you should submit the CA-7 to your agency 7 to 10 days before the end of your COP or as soon as you are aware that wage loss will occur.
- Arrange for OWCP to receive a medical report that shows you are unable to work because of the injury. OWCP cannot pay compensation unless it has such medical evidence for all periods for which you claim compensation for wage loss.
- If your disability continues, submit Form CA-8, Claim for Continuing Compensation on Account of Disability, to OWCP through your agency. Submit the CA-8 5 to 7 days before the end of the period claimed on the last claim form you submitted. Submit CA-8 forms until you return to work or until OWCP advises they are no longer needed.

If you use leave, you may request leave buy back, a process whereby OWCP pays compensation which is used to partially reimburse your agency for the leave pay you received. Since compensation (paid at 2/3 without dependents or 3/4 with dependents) is less than your salary, you would also be required to arrange to pay your agency for any difference between the leave pay and the compensation payment. The leave can then be restored to your leave record. This requires your agency's approval. You are NOT required to use your leave before claiming compensation.

You are obligated to return to work as soon as your doctor allows you to do so.

If your employer advises you that light duty is available or is willing to provide work that is compatible with the work restrictions caused by the injury, you must so advise your physician.

- If your agency has given you a description of duties and physical demands of a light duty job, you must furnish a copy of it to your physician and ask whether and when you will be able to perform such duties.
- If your agency has advised you that it will provide light duty that is compatible with the limitations caused by the injury, you must ask your doctor to specify the work limitations. You must then advise your employing agency immediately of the limitations and restrictions, and arrange for your agency to receive written verification of this information. If you or your doctor received a CA-17 from your agency, it may be used for this purpose.

If you are able to work at least 4 hours a day, and your agency offers you a job within the work restrictions set by your doctor, and the job is otherwise suitable, you are obligated to return to work. If you do not, your agency may stop paying COP or OWCP may terminate compensation.

[illegible]

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OFFICIAL SUPERIOR'S REPORT OF OCCUPATIONAL DISEASE				
22. Department or Agency		23. Bureau or Office		
24. Name and Address of Reporting Office (No., street, city, state, ZIP code)		25. Name of Supervisor when Employee Contracted Disease or Illness		
26. Employee's Regular Day Begins ☐ AM ☐ PM Ends ☐ AM ☐ PM		27. Number of Hours Worked Per Day		28. Number of Days Worked Per Week
29. Date Employee First Obtained Medical Care for Disease or Illness (Mo., day, year)		30. Name and Address of Physician First Providing Medical Care		31. Do Medical Reports Show Employee is Disabled for Work? ☐ Yes ☐ No
32. Date Employee First Reported Condition to Supervisor (Mo., day, year)		33. Date and Hour Employee Stopped Work (Mo., day, year) ☐ AM ☐ PM		34. Date and Hour Employee's Pay Stopped (Mo., day, year) ☐ AM ☐ PM
35. Date Employee was Last Exposed to Conditions Alleged to Have Caused Disease or Illness (Mo., day, year)		36. Did Employee Work in the Position a Full Eleven Months Prior to Stopping Work Due to the Disease or Illness? ☐ Yes ☐ No		
37. If Answer to Item 36 is No, would the Position Have Provided Employment for a Full Eleven Months, Except for the Disease or Illness? ☐ Yes ☐ No		38. Total Length of Employee's Federal Civilian Service (Years and months)		
39. Pay Rate at the Time Employee Stopped Work		a. Base Pay b. Subsistence c. Quarters d. Other		
40. If Employee Received Additional Pay, i.e. Premium, Sunday, Night Differential, Identify and Show Amount: Type \$ Per		41. Circle Days Worked Per Week When Pay Stopped, If Other Than Monday Through Friday. S M T W T F S		
41. Deductions A. Was employee enrolled on date pay stopped? B. If Yes, furnish code number. C. If Yes, give month, day, year, through which deductions were made.		Health Benefits Optional Life Insurance ☐ Yes No ☐ ☐ Yes No ☐ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> () ()		
43. Date and Hour Employee Returned to Work (Mo., day, year) ☐ AM ☐ PM		44. Pay Rate at Time Employee Returned to Work \$ Per		45. Work Week on Return to Work if Other Than Monday Through Friday S M T W T F S
46. If Employee Has Returned to Work and Work Assignment has Changed, Describe New Duties.				
47. 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 exceptions:				
48. Signature of Supervisor		49. Title and Office Phone Number		50. Date (Mo., day, year)

INSTRUCTIONS FOR COMPLETING EMPLOYEE'S PORTION OF FORM CA-2

IMPORTANT: The employee should read the following instructions and those on the reverse of this page before completing his or her portion of the form. Under the Federal Employees' Compensation Act, compensation may be paid only if the disease or illness was proximately caused by conditions of Federal employment. If you must stop work as a result of the disease or illness, you may use sick or annual leave, or claim compensation from the OWCP.

1. Items 1 through 21 on the form are to be completed by you or another person acting on your behalf within 30 days after you became aware of the disease or illness and its possible relationship to your employment.
2. You must prepare a statement which should include the following data:
 - a. Detailed history of the disease or illness from the date it started.
 - b. Complete details of types of substances or conditions of employment which you believe are responsible for the disease or illness.
 - c. 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 attack with particular attention to the final 24 hours of such period.)
 - e. Statement as to whether you ever suffered a similar condition. If so, provide full details of onset, history, medical care received with names and addresses of physicians rendering treatment.
3. You must arrange for submission of a detailed medical report from each private physician who has treated you for your present disease or illness. Each report should include:
 - a. Dates of examination and treatment.
 - b. History given by you to the physician.
 - 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 with medical reasons as to whether the disease or illness was caused or aggravated by the employment.
4. When you have completed the statement requested in item number 2 above, it must be submitted to your supervisor for review and comment concerning those factors of which he or she has knowledge and responsibility.

NOTE: All information requested must be submitted to the OWCP. It should accompany Form CA-2, otherwise adjudication of the claim will be delayed.

INSTRUCTIONS FOR COMPLETING OFFICIAL SUPERIOR'S PORTION OF FORM CA-2

IMPORTANT: The official superior (supervisor) should read the following instructions and those on the reverse of this page before completing this portion of the form.

1. Items 22 through 50 are to be completed by the supervisor - if required information is not readily available, it should be obtained from appropriate sources within the agency.
2. The form should be completed and forwarded to the appropriate OWCP District Office within 10 working days following receipt from the employee if:
 - a. The disease or illness causes disability for work beyond the day or shift it was reported; or
 - b. It appears the condition will result in prolonged treatment, permanent disability, or serious disfigurement of the head, face, or neck; or
 - c. The condition has resulted (or will likely result) in a charge for medical or other related expenses.
3. If the employee has not stopped work at the time the supervisor completes the form, item 33 should be answered "Has not stopped." Other questions contingent upon this answer may then be completed as "Not Applicable" or "NA."
4. In a separate, narrative statement to be attached to Form CA-2, the supervisor (or appropriate official in the employing agency) should:
 - 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 exposure, including hours per day and days per week.
 - b. Attach copies of all physical examination 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 employee state 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 as requested by item 2 on the reverse of this sheet.
5. Submit any other information or evidence pertinent to the determination of the merits of this claim.
6. The employing agency shall ensure that all evidence bearing on the injury is submitted to the OWCP and such evidence shall be submitted with the Form CA-2, or the OWCP shall be advised of the date additional evidence will be submitted.

18 USC 1920 provides: Whoever makes, in an affidavit or report required by section 8106 of title 5 or in a claim for compensation under subchapter I of chapter 81 of title 5, a statement, knowing it to be false, is guilty of perjury and shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

18 USC 1922 provides: 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 of 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 not more than \$500 or imprisoned not more than one year, or both.

DISABILITY BENEFITS FOR EMPLOYEES UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT (FECA)

The FECA, 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, 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.

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 Civil Service Commission's Federal Personnel Manual.

RECEIPT OF NOTICE OF DISEASE OR ILLNESS		
<p>This acknowledges receipt of notice of disease or illness sustained by _____ <div style="text-align: right; margin-top: -10px;">(Name of injured employee)</div> </p> <p>I was first notified about this condition on _____ <div style="display: flex; justify-content: space-between; margin-top: -10px;"> (Mo., day, year) (Location) </div> </p>		
Signature of Official Superior	Title	Date (Mo., day, year)

CA-2
Rev. April 1980

Federal Employees' Responsibilities for
Occupational Disease Claims under the
Federal Employees' Compensation Act (FECA)

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

This information sheet supplements information contained in the attachment to Form CA-2, Federal Employee's Notice of Occupational Disease and Claim for Compensation. It should be given to the employee when the employee reports an occupational disease or illness. Refer to the CA-2 attachment for further instructions and description of FECA benefits. The Federal employing agency supplies the forms needed for processing FECA claims, including those referenced below.

To establish a Claim for Compensation Benefits for Occupational Disease or Illness, complete the front of the CA-2 and submit it to your supervisor as soon as possible, but not later than 30 days after you are aware of a connection between your disease or illness and your Federal employment, or 30 days after you were last exposed to the conditions of your employment implicated in your claim, whichever is later. Failure to file written notice within 30 days may result in loss of compensation rights.

Submit with the CA-2 (or shortly thereafter) the additional evidence described in the instruction sheet attached to the CA-2. Checklists for specific medical conditions (Forms CA-35a through g) may be used as an aid to ensure that you and your agency submit the supporting evidence. This additional factual and medical evidence is essential to your Occupational Disease Claim.

Obtain the receipt for the CA-2 from your supervisor. You may also request a copy of the CA-2 after it is completed by your supervisor.

After OWCP receives the CA-2 from your employing agency, they will send you and your agency a postcard that identifies your OWCP Case File Number. Use this number on all documents submitted to OWCP. Instruct your doctor and other medical providers to include your OWCP Case File Number on all bills or other documents they send to OWCP. If you have questions about your claim, write to the OWCP District Office at the address shown on the postcard, and refer to your OWCP Case File Number.

If you need medical care for an Occupational Disease or Illness, you should arrange for your medical treatment. If OWCP accepts your claim, they will pay for medical treatment that is related to the condition(s) accepted, including treatment received prior to acceptance. Your agency may not authorize medical treatment for occupational disease or illness except when approved by OWCP.

To obtain payment for medical expenses, your physicians and other medical providers may claim payment by submitting their bills to OWCP. Physicians MUST submit their bills on AMA Uniform Health Insurance Claim Form, OWCP-1500 (also called HCFA-1500). Other medical providers, such as hospitals, may use their own billing forms.

If you paid the medical provider, you may request reimbursement by submitting a written request with the billing form(s) described above and proof that you paid the provider, e.g., a receipt, or cancelled check. You may also claim reimbursement for expenses of travel to obtain medical treatment on Standard Form 1012, Travel Voucher. Bills submitted to OWCP before the case has been approved will be returned to the employee.

To be considered for payment, bills must be submitted to OWCP within a year after the end of the calendar year in which the expense was incurred or the service was provided, or within a year after the end of the calendar year in which the treated condition was first accepted as compensable by OWCP. For example, if you were treated in 1987 and OWCP accepted your claim in 1987, OWCP will process bills for that treatment if they are submitted by December 31, 1988. If, however, OWCP accepted your claim in 1988, you would have until December 31, 1989 to submit the bills, even though treatment was received in 1987.

If you are unable to work because of an Occupational Disease or Illness, you may use sick or annual leave, leave without pay, and/or claim compensation for wage loss.

If you are in a without pay status or expect to lose wages because you are unable to work, you may claim compensation by filing Form CA-7, Claim for Compensation on Account of Traumatic Injury or Occupational Disease. If you are claiming compensation, the following guidelines apply:

- Submit the CA-7 as soon as you are aware that you will enter a without pay status.
- Arrange for OWCP to receive a medical report that shows you are unable to work due to an employment related-disease or illness. OWCP can pay compensation only for periods for which such medical evidence is received.
- If your disability continues, submit form CA-8, Claim for Continuing Compensation on Account of Disability, to OWCP through your agency. Submit the CA-8 5 to 7 days before the end of the period claimed on the last claim form you submitted. Submit CA-8 forms until you return to work or until OWCP advises they are no longer needed.

If you use leave, you may request leave buy back, a process whereby OWCP pays compensation which is to be used to partially reimburse the agency for the leave pay. Since compensation (paid at 2/3 without dependents or 3/4 with dependents) is less than your salary, you would also be required to arrange to pay your agency for any difference between the leave pay and the compensation payment. The leave can then be restored to your leave record. This requires your agency's approval. You are NOT required to use your leave before claiming compensation.

You are obligated to return to work as soon as your doctor allows you to do so.

If your employer advises you that light duty is available or is willing to provide work that is compatible with the work restrictions caused by the occupational disease, you must so advise your physician.

- If your agency has given you a description of duties and physical demands of a light duty job, you must furnish a copy of it to your physician and ask whether and when you will be able to perform such duties.
- If your agency has advised you that it will provide light duty that is compatible with the limitations caused by the injury, you must ask your doctor to specify those work limitations and restrictions, and arrange for your agency to receive written verification of this information. If you or your doctor received a CA-17 from your agency, it may be used for this purpose.

If you are able to work at least 4 hours a day, and your agency offers you a job within the work restrictions set by your doctor, and the job is otherwise suitable, you are obligated to return to work. If you do not, OWCP may terminate compensation.

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**Federal Employee's Notice of
Recurrence of Disability and Claim
for Continuation Pay/Compensation**

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

Employee: Please complete Part A below.

Employing Agency (Supervisor or Compensation Specialist): Complete Part B.

OMB No. 1215-0167
Expires: 07-31-90

Employee Data Part A - Employee				
1. Name of employee (Last, First, Middle)		2. Social Security Number		3. OWCP file number for original injury (if known)
4. Date of birth Mo. Day Yr. 	5. Sex ☐ Male ☐ Female	6. Home telephone ()		
7. Employee's home mailing address (include city, state, and zip code) 			8. Dependents ☐ Wife, Husband ☐ Children under 18 years ☐ Other	
9. Name and Address of Employing Establishment at time of original injury (number, street, city, state, zip code)		10. Name and Address of Employing Establishment at time of recurrence, if other than 9. If you are no longer employed with the Federal Government, complete Part C in addition to Part A.		
11. Date and Hour of original injury (mo., day, year) ☐ a.m. ☐ p.m.	12. Date and Hour of recurrence (mo., day, year) ☐ a.m. ☐ p.m.	13. Date and Hour stopped work following recurrence (mo., day, year) ☐ a.m. ☐ p.m.	14. Date and Hour pay stopped following recurrence (mo., day, year) ☐ a.m. ☐ p.m.	15. Date and Hour returned to work (mo., day, year) ☐ a.m. ☐ p.m.
16. Dates of medical treatment following recurrence (mo., day, year)		17. Name and Address of physician treating employee following recurrence		
18. After returning to work following the original injury, were you handicapped or in any way limited in performing your usual duties? (If yes, explain) ☐ Yes ☐ No				
19. Describe fully your condition since you returned to work including all medical treatment received.				
20. Describe the circumstances of the recurrence of disability. Explain why you believe your present condition is related to the original injury.				
21. Describe all injuries and illnesses which you suffered between the date you returned to work following 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 FECA or who knowingly accepts compensation to which that person is not entitled, is subject to felony criminal prosecution and may, under appropriate 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 and/or Compensation while disabled for work. I certify, under penalty of law, that the information provided on this form is true and correct to the best of my knowledge.</p>				
22. Signature of employee			23. Date (mo., day, year)	

Form CA-2a
Rev Dec 1987

Part B - Employer

Official Supervisor's Report: Please complete information requested below

Supervisor's Report

24. Agency name and address of reporting office (include city, state, and zip code)

OWCP Agency Code

Zip Code

OSHA Site Code

25. Employee's duty station (Street address and zip code)

Zip Code

26. Date of first return to REGULAR duty following original injury.

Mo. Day Yr.

27. Regular work hours From: ;

a.m.
p.m.

To: ;

a.m.
p.m.

28. Regular work schedule

☐ Sun.☐ Tues.☐ Thurs.☐ Wed.☐ Fri.☐ Sat.

29. Date of Injury Mo. Day Yr.

30. Date of recurrence Mo. Day Yr.

31. Date stopped work following recurrence Mo. Day Yr. Time : a.m.
p.m.

32. Date pay stopped following recurrence Mo. Day Yr.

33. Date COP paid for recurrence From Mo. Day Yr. To Mo. Day Yr.

34. Date returned to work following recurrence Mo. Day Yr. Time : a.
p.

35. Inclusive Dates Employee Received Leave Pay For Any Part of The Period Since Stopping Work

a. Annual Leave

b. Sick Leave

c. Other (Specify)

36. Pay Rate in Effect On:

a. Base pay

b. Subsistence

c. Quarters

d. Other Pay, i.e., Sundt premium or night differential

A. Date of Recurrence

\$ per

\$ per

\$ per

\$ per

B. Date Stopped Work following Recurrence

\$ per

\$ per

\$ per

\$ per

37. Did the employee receive medical care at an agency facility due to the recurrence? ☐ Yes ☐ No
If so, please attach all relevant medical records.38. At time of recurrence did official superior authorize medical treatment on form CA-16? ☐ Yes ☐ No39. Following the original injury, did the employer make any accommodations or adjustments in the employee's regular duties due to injury related limitation? ☐ Yes ☐ No
If yes, provide full details.

40. Please review the statements provided by the employee in response to Part A of this form and provide all relevant comments and additional information.

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.

41. Signature of official superior (at time of recurrence)

42. Title

43. Official superior's work phone number

44. Date (mo., day, year)

Part C - Employee

(To be completed by the employee if not employed with the Federal Government at the time of a claimed recurrence of disability attributed to an occupational injury or illness sustained while Federally employed.)

1. For all jobs held since you left the job held when the initial injury occurred, list the full name and address of all employers, and the inclusive dates of all employment. Include any self-employment.

2. For all jobs listed in number 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 when you stopped work due to this recurrence of disability?

\$ _____ per _____

5. Do you claim compensation for lost wages? ☐ Yes ☐ No

If yes, for what period _____ through _____

6. Have you received any pay during the period claimed? ☐ Yes ☐ No

If yes, how much and from what source? _____

7. Claimant Signature

8. Date

INSTRUCTIONS FOR COMPLETING FORM CA-2a RECURRENCE OF DISABILITY

DEFINITION OF RECURRENCE

Recurrence - when an employee who sustained an occupational injury or disease suffers disability for work due to the original injury, and such disability occurs after the employee returned to work following the injury, and the disability is the result of (1) a spontaneous return of the symptoms of the previous injury or disease without intervening cause, or (2) the need for medical treatment, other than a usual office call, for residuals of the previous condition. In these instances Form CA-2a is required. If a new incident or injury occurs which precipitates the disability, even if the injury is to the same part of the body previously injured, or is new exposure to the same cause(s) of a previously suffered occupational disease, this constitutes a new injury and Form CA-1 or CA-2 should be filed accordingly.

INSTRUCTIONS FOR EMPLOYEE

- Review the definition of recurrence provided above. If you have suffered a recurrence, you should complete Part A completely. Attach a separate sheet of paper where necessary to provide full details.
- If you are employed by the Federal Government at the time of recurrence, Form CA-2a should be submitted promptly to your employing agency. If you are no longer employed with the Federal Government, you should complete Parts A and C and submit all materials directly to OWCP.
- If the original injury was not previously reported to OWCP, a report specifically covering the original injury should be made on Form CA-1 (traumatic injury) or CA-2 (occupational disease) and attached when Form CA-2a is submitted. Medical reports concerning the original injury should also be attached, if not previously submitted.
- If this is a recurrence of an occupational disease, or if the 45 days Continuation of Pay (COP) have been exhausted, you may claim wage loss on Form CA-7 if this form was not submitted following original injury. If Form CA-7 was previously submitted, compensation may be claimed on Form CA-8. The OWCP will be responsible for payment of compensation if the claim is approved.
- You should arrange for the submission of a detailed medical report from your attending physician. The report should include: dates of examination and treatment; history given by the employee; findings; results of x-ray and lab tests; diagnosis; course of treatment, and the physician's opinion, with medical reasons, regarding causal relationship between your condition and the original injury. The physician should also describe your ability to perform your regular duties. If you are disabled for your regular work, (s)he should identify the dates of disability and provide work tolerance limitations.
- If you were treated by other physicians after returning to work following the original injury, similar medical reports should be obtained from each.

INSTRUCTIONS FOR THE EMPLOYING AGENCY

- Upon receipt of a claim for recurrence, the employing agency should promptly complete Part B and submit it to OWCP.
- Where pay is continued, the employing agency should obtain medical evidence on Form CA-17, "Duty Status Report", as often as circumstances indicate.
- If the recurrent disability has not ended at the time Form CA-2a is submitted, Form CA-3, Report of Termination of Disability and/or Payment, should be forwarded when the employee returns to work.
- If the recurrence happens less than six months following employee's return to work following the injury, the supervisor shall authorize required medical care by use of Form CA-16. If the recurrence happens more than six months after the employee's return to work, authorization for further medical care must be obtained from the OWCP.
- If the recurrent disability continues after the expiration of the 45 days Continuation of Pay (COP) or if this is a recurrence of an occupational disease, you should instruct the employee to file Form CA-7. If Form CA-7 was previously submitted, compensation should be claimed on Form CA-8.

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U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION Office of Workers' Compensation Programs		REPORT OF TERMINATION OF DISABILITY AND/OR PAYMENT									
PART - A GENERAL											
1. Name of Injured Employee (<i>Last, first, middle</i>)		2. Social Security Number	3. OWCP File Number (If known)								
4. Department or Agency		5. Bureau or Office									
6. Name and Address of Reporting Office (<i>Include Zip Code</i>)											
7. Date and Hour of Injury (<i>Mo., day, year</i>) ☐ AM ☐ PM	8. Date and Hour Stopped Work (<i>Mo., day, year</i>) ☐ AM ☐ PM	9. Date and Hour Pay Stopped (<i>Mo., day, year</i>) ☐ AM ☐ PM	10. Date and Hour Returned to Work (<i>Mo., day, year</i>) ☐ AM ☐ PM								
11. Employee's Work Week On Return To Duty If Other Than Monday Through Friday S M T W T F S	12. Present Pay Rate If Different From That Received At Time Employee Stopped Work. <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px dashed black; width: 25%;">a. Base Pay</td> <td style="border-bottom: 1px dashed black; width: 25%;">b. Subsistence</td> <td style="border-bottom: 1px dashed black; width: 25%;">c. Quarters</td> <td style="border-bottom: 1px dashed black; width: 25%;">d. Other (<i>Specify</i>)</td> </tr> <tr> <td style="height: 20px;"></td> <td></td> <td></td> <td></td> </tr> </table>			a. Base Pay	b. Subsistence	c. Quarters	d. Other (<i>Specify</i>)				
a. Base Pay	b. Subsistence	c. Quarters	d. Other (<i>Specify</i>)								
13. Inclusive Dates Employee Received Pay For Any Part of The Period of Absence Because of: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px dashed black; width: 33%;">a. Annual Leave</td> <td style="border-bottom: 1px dashed black; width: 33%;">b. Sick Leave</td> <td style="border-bottom: 1px dashed black; width: 33%;">c. Other (<i>Specify</i>)</td> </tr> <tr> <td>From: _____ Through: _____</td> <td>From: _____ Through: _____</td> <td>From: _____ Through: _____</td> </tr> </table>				a. Annual Leave	b. Sick Leave	c. Other (<i>Specify</i>)	From: _____ Through: _____	From: _____ Through: _____	From: _____ Through: _____		
a. Annual Leave	b. Sick Leave	c. Other (<i>Specify</i>)									
From: _____ Through: _____	From: _____ Through: _____	From: _____ Through: _____									
14. Has Employee's Work Assignment Been Changed Because of Disability Resulting From This Injury? ☐ Yes ☐ No If Yes, Describe The Type of Work Employee Is Performing.											
15. If Interrupted, Show Dates Deductions For Health Benefits and/or Optional Insurance Were Resumed (<i>Mo., day, year</i>) <u>Health Benefit</u> <u>Optional Insurance</u>		16. If Health Benefits Option Has Changed Since Disability Began, Show New Code Number and Date of Change (<i>Mo., day, year</i>) Number _____ Date _____									
17. Remarks:											
PART - B CONTINUATION OF PAY											
18. Inclusive Dates That The Employee's Regular Pay Continued During The Period Of Disability. Do not include period of sick or annual leave (<i>Mo., day, year</i>) From: _____ Through: _____		19. Show The Gross Dollar Amount Of Regular Pay Which The Employee Received During The Period Of Disability. Do not include pay received for sick or annual leave. <div style="text-align: right;">\$ _____</div>									
20. If Pay Rate Changed During The Period Employee Was Receiving Continuation Of Pay, Show The Date of Change (<i>Mo., day, year</i>)	21. If Pay Rate Changed During The Period Employee Was Receiving Continuation of Pay, Give New Rate <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px dashed black; width: 25%;">a. Base Pay</td> <td style="border-bottom: 1px dashed black; width: 25%;">b. Subsistence</td> <td style="border-bottom: 1px dashed black; width: 25%;">c. Quarters</td> <td style="border-bottom: 1px dashed black; width: 25%;">d. Other (<i>Specify</i>)</td> </tr> <tr> <td style="height: 20px;"></td> <td></td> <td></td> <td></td> </tr> </table>			a. Base Pay	b. Subsistence	c. Quarters	d. Other (<i>Specify</i>)				
a. Base Pay	b. Subsistence	c. Quarters	d. Other (<i>Specify</i>)								
22. Signature of Supervisor	23. Title and Office Phone Number		24. Date (<i>Mo., day, year</i>)								

175-01

INSTRUCTIONS FOR COMPLETING FORM CA-3
WHEN EMPLOYEE RETURNS TO WORK

PART - A

REQUIRED
WRITTEN
REPORT

- When disability ceases and/or employee returns to work, the official superior shall immediately report that fact to the OWCP on Form CA-3 unless this information has been previously submitted on Form CA-1 or CA-2 or otherwise. This form should be submitted for each injury resulting in time lost from work whether or not claim for compensation is made.

TELEPHONE/
TELEGRAPH
REPORT

- If the employee is receiving disability compensation periodically each four weeks, the official superior should immediately telephone or telegraph the OWCP advising the date employee returned to work. This will avoid an overpayment of compensation. Follow-up should then be made with Form CA-3.

PAY RATE
INFORMATION

- Employee's base pay in items 12a or 21a should not include value of subsistence, quarters or other pay. These should be shown separately in their own columns.

PART - B

CONTINUATION
OF PAY

- In most traumatic injury cases, the employee will have qualified for and received continuation of pay under 5 USC 8118 (FECA). When this occurs, items 9, 13, and 15 in Part A will usually be left blank. When there is a continuation of pay, Part B must always be completed, unless the information has been submitted on Form CA-7, Claim for Compensation on Account of Traumatic Injury.

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Stock Number 029-016-00024

Claim for Compensation by Widow, Widower, and/or Children

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

OMB No. 1215-0155
Expires: 03-31-89

Expires: 03-31-89				
1. Name of deceased employee (Last, first, middle)	2. Date of Birth (Mo., day, year)	3. Date of Injury (Mo., day, year)	4. Date of Death (Mo., day, year)	5. Social Security Number <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div> <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div>
6. Name and address of employing agency (last, first, middle) <div style="border: 1px solid black; height: 40px; margin: 5px 0;"></div>				

6. Name and address of employing agency (Include zip code)	7. Nature of injury which caused death

Claim of Surviving Husband or Wife (Items 8 through 13)

8. Name and address (Include Zip Code)	9. Your Date of Birth (Mo., day, year)	10. Date of Marriage to Employee (Mo., day, year)
--	---	--

11. Were you living with the employee at time of death? ☐ Yes ☐ No	12. Were you ever married to anyone other than the employee? ☐ Yes ☐ No	13. Was employee ever married to anyone other than yourself? ☐ Yes ☐ No
---	--	--

14. List all of employee's children from this marriage who may be entitled to compensation (See attached information sheet for definition of children):

Name	Relationship	Date of Birth	Address (Include Zip Code)

14a. List all of employee's children from prior marriages who may be entitled to compensation:			
Name	Relationship	Date of Birth	Address (Include Zip Code)

15. If a legal guardian has been appointed for any child named above, give name of child, name and address of the guardian.

Child	Guardian	Guardian's Address (Include Zip Code)
-------	----------	---------------------------------------

16. List other relatives who were fully or partially dependent on employee:			
Name	Relationship	Date of Birth	Address (Include Zip Code)

<p>17. If employee was ever in the Armed Forces of the United States, give:</p> <p>Service number:</p> <p>Branch of service:</p> <p>Period of service:</p>	<p>18. If application has been made for Veterans Administration (VA) benefits because of employee's death, give:</p> <p>VA Claim number:</p> <p>Address of VA office where claim is filed:</p>
--	--

<p>19. If application has been made for U.S. Civil Service Annuity because of employee's death, give:</p> <p>CSF Claim Number: _____</p> <p>Date Annuity began: _____</p> <p>Amount paid per month: \$ _____</p>	<p>20. If a claim has been made against a third party because of employee's death, give:</p> <p>Amount of recovery: \$ _____</p> <p>Name and address of third party: _____</p>
--	--

21. Total burial expense	22. Amount of burial expense paid or payable by VA	23. Name and address of party (other than VA) whose funds were used to pay burial expense and amount paid:
\$ _____	\$ _____	\$ _____

I hereby certify that each and every statement made above is true to the best of my knowledge.

24. Signature of person filing claim			25. Address (Include Zip code)		26. Date (Mo., day, year)

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Attending Physician's Report

1. Name of deceased employee (Last, first, middle)

2. Date of death (Mo., day, year)

3. What history of injury or employment related disease was given to you?

4. If treated for disease, give diagnosis

5. If death was not instantaneous, describe the treatment you provided

6. Show dates on which treatment was given.

7. What was the direct cause of death?

8. What were the contributory causes of death, if any?

9. In your opinion, was the death of the employee due to the injury as reported in item 3 above?
Give the medical reasons for your opinion, unless causal relationship is obvious

☐ Yes ☐ No

10. Was a biopsy or an autopsy performed?

If yes, give name and address of physician and arrange for a copy of the report to be submitted.

☐ Yes
☐ No

11. Name and address (Please type - include Zip Code)

12. Signature

13. Date signed (Mo., day, year)

**INSTRUCTIONS FOR COMPLETING FORM CA-5, CLAIM FOR COMPENSATION
BY WIDOW, WIDOWER, AND/OR CHILDREN**

Who Should
File Claim	● This claim form should be completed and filed by the widow or widower for self and surviving children. If there is no surviving widow or widower, the children's guardian completes the claim.
When Should
Claim Be Filed	● Claim must be filed within three years following date of death, unless the decedent's immediate superior had actual knowledge of an on-the-job injury or death within 30 days; or written notice of the injury or death was given within 30 days. The timely filing of a disability claim will satisfy the time requirements for a death claim based on the same injury.
What Documents
Are Required	● The marriage certificate(s) for a widow or widower; death certificate for decedent if not previously submitted; birth certificate or adoption documents for each child. Also, if appropriate, Letter of Guardianship. If either the decedent or the surviving spouse was previously married, legal documents showing dissolution of such prior marriage(s). Copies of certificates or documents are acceptable only if they are certified by the person having official custody of such records. They should then be attached to the claim form when it is filed.
How to
Complete Claim	● All items should be completed. If an item is not applicable, indicate by showing "NA". Note that the form requests information about several different categories of persons, i.e., items 1-7 make inquiry about the decedent; 8-13 the surviving widow or widower; 14-14a, surviving children, and 15, the children's guardian. The attending physician's report on the reverse of the claim must also be completed before the form is submitted to the QWCP.
Funeral/Burial
Allowance	● Submit original itemized funeral and burial bills. If paid, so indicate and give name and address of person making payment. If an Administrator or Executor has been appointed give such person's name and address and attach a copy of the appointment document.

See the reverse of this page for a definition of dependents and a description of benefits.

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**DEATH BENEFITS FOR SURVIVING WIDOW, WIDOWER AND/OR CHILDREN
UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT (FECA)**

Widow or
Widower:	● To qualify for benefits, a widow or widower must have been living with the employee or separated for reasonable cause prior to the time of death. Payments continue for life or until remarriage. Upon remarriage, a widow or widower will receive a lump sum equal to 24 times his or her monthly compensation. If the remarriage occurs at age 60 or later, no lump sum is paid. Instead, payments continue for life.
Children:	● Eligible children include natural, adopted, step and posthumous children unmarried and under 18 years of age. Payments continue beyond 18 if the child is incapable of self-support because of mental or physical incapacity. Payments also continue on behalf of children over 18 if they are full-time students. Student benefits terminate on marriage, completion of four years of education beyond high school level or at age 23, whichever occurs first.
Compensation
Rates:	● For widows or widowers - 50% of the employee's monthly pay if there are no surviving eligible children - 45% if there are eligible children. Children - 15% each, not to exceed a total of 30%, shared equally if there is a widow or widower; if there is no widow or widower, 40% for one child plus 15% for each additional child, shared equally. Monthly payments for all beneficiaries cannot exceed 75% of the employee's monthly pay rate or 75% of the top step of GS-15 of the General Schedule.
Funeral/Burial
Allowance:	● Funeral and burial expenses up to a maximum of \$800 may be paid. Amount paid by the VA will be deducted. If death occurs away from the employee's duty station, transportation costs may be paid to return the deceased employee to his home or last place of residence. In addition to any funeral or burial expenses, a sum of \$200 may be paid for reimbursement of the costs of termination of the decedent's status as an employee of the United States.
Third Party
Action:	● If the injury or death results from activity of a person or party other than the Federal Government, a "third party action" or lawsuit may be indicated. In such instances the Department of Labor will provide further instructions.

If additional information is needed, it may be obtained from the Office of Workers' Compensation Programs

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U.S. DEPARTMENT OF LABOR Employment Standards Administration Office of Workers' Compensation Programs			CLAIM FOR COMPENSATION BY PARENTS, BROTHERS, SISTERS, GRANDPARENTS, OR GRANDCHILDREN																	
1. NAME OF DECEASED EMPLOYEE (last, first, middle)		2. DATE OF BIRTH (Mo., day, year)	3. DATE OF INJURY (Mo., day, year)	4. DATE OF DEATH (Mo., day, year)	5. SOCIAL SECURITY NUMBER															
6. NAME AND ADDRESS OF EMPLOYING AGENCY (include zip code)			7. NATURE OF INJURY WHICH CAUSED DEATH																	
8. NAME OF DEPENDENT (last, first, middle)		9. DEPENDENT'S ADDRESS (include zip code)		10. DEPENDENT'S BIRTH DATE (Mo., day, year)																
11. DEPENDENT'S OCCUPATION	12. DEPENDENT'S SOCIAL SECURITY NUMBER	13. DEPENDENT'S RELATIONSHIP TO EMPLOYEE		14. EXTENT OF DEPENDENCY OF EMPLOYEE ☐ TOTAL ☐ PARTIAL																
15. TOTAL AMOUNT EMPLOYEE CONTRIBUTED TO DEPENDENT'S SUPPORT DURING 12 MONTHS IMMEDIATELY PRIOR TO DEATH. \$ _____	16. DID EMPLOYEE LIVE WITH DEPENDENT DURING THE 12 MONTHS IMMEDIATELY PRIOR TO DEATH? ☐ YES ☐ NO IF "YES" COMPLETE 17 & 18	17. TOTAL AMOUNT EMPLOYEE PAID DEPENDENT IN MONEY OR SERVICE FOR ROOM AND BOARD IN ADDITION TO AMOUNT SHOWN IN 15. \$ _____ PER _____		18. IF NO FIXED AMOUNT WAS PAID FOR ROOM AND BOARD, WHAT IS THE FAIR VALUE OF SUCH ROOM AND BOARD? \$ _____ PER _____																
19. IF DEPENDENT WAS EMPLOYED DURING 12 MONTH PERIOD PRIOR TO EMPLOYEE'S DEATH, GIVE: TYPE OF WORK PERFORMED _____ PERIOD OF EMPLOYMENT _____ MONTHLY PAY RATE _____ NAME AND ADDRESS OF EMPLOYER _____		20. SHOW DEPENDENT'S INCOME FROM ALL SOURCES OTHER THAN EMPLOYMENT DURING 12 MONTH PERIOD PRIOR TO EMPLOYEE'S DEATH: INVESTMENTS \$ _____ PENSIONS \$ _____ PERSONS OTHER THAN EMPLOYEE \$ _____ OTHER \$ _____ TOTAL \$ _____																		
INFORMATION ABOUT DEPENDENT'S HUSBAND OR WIFE (Items 21 through 25)	21. BIRTH DATE (Mo., day, year)	22. OCCUPATION	23. MONTHLY PAY RATE \$ _____	24. TOTAL INCOME FROM ALL SOURCES FOR 12 MONTHS PRIOR TO EMPLOYEE'S DEATH \$ _____																
	25. LIST ALL PROPERTY OWNED BY DEPENDENT AND HUSBAND OR WIFE (omit clothing, furniture, personal items). GIVE DESCRIPTION, DATE ACQUIRED AND APPROXIMATE VALUE OF EACH.																			
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;">DESCRIPTION</th> <th style="width: 20%;">DATE ACQUIRED</th> <th style="width: 40%;">VALUE</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>					DESCRIPTION	DATE ACQUIRED	VALUE												
	DESCRIPTION	DATE ACQUIRED	VALUE																	
26. IF EMPLOYEE WAS EVER IN THE ARMED FORCES OF THE UNITED STATES, GIVE: SERVICE NUMBER _____ BRANCH OF SERVICE: _____ PERIOD OF SERVICE: _____			27. IF AN APPLICATION HAS BEEN MADE FOR VETERANS ADMINISTRATION (VA) BENEFITS BECAUSE OF EMPLOYEE'S DEATH, GIVE: VA CLAIM NUMBER: _____ ADDRESS OF VA OFFICE WHERE CLAIM IS FILED: _____																	
28. IF AN APPLICATION HAS BEEN MADE FOR U.S. CIVIL SERVICE ANNUITY BECAUSE OF EMPLOYEE'S DEATH, GIVE: CSF CLAIM NUMBER: _____ DATE ANNUITY BEGAN: _____ AMOUNT PAID PER MONTH: \$ _____			29. IF A CLAIM HAS BEEN MADE AGAINST A THIRD PARTY BECAUSE OF EMPLOYEE'S DEATH, GIVE: AMOUNT OF RECOVERY: \$ _____ NAME AND ADDRESS OF THIRD PARTY: _____																	
30. TOTAL BURIAL EXPENSE \$ _____	31. AMOUNT OF BURIAL EXPENSE PAID OR PAYABLE BY VA \$ _____	32. NAME AND ADDRESS OF PARTY (OTHER THAN VA) WHOSE FUNDS WERE USED TO PAY BURIAL EXPENSE AND AMOUNT PAID: \$ _____																		
I hereby certify that each and every statement made above is true to the best of my knowledge.																				
33. SIGNATURE OF PERSON FILING CLAIM		34. ADDRESS (include Zip code)		35. DATE (Mo., day, year)																

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ATTENDING PHYSICIAN'S REPORT		
1. NAME OF DECEASED EMPLOYEE (Last, first, middle)		2. DATE OF DEATH (Mo., day, year)
3. WHAT HISTORY OF INJURY OR EMPLOYMENT RELATED DISEASE WAS GIVEN TO YOU?	4. IF TREATED FOR DISEASE, GIVE DIAGNOSIS	
5. IF DEATH WAS NOT INSTANTANEOUS, DESCRIBE THE TREATMENT YOU PROVIDED.	6. SHOW DATES ON WHICH TREATMENT WAS GIVEN	
7. WHAT WAS THE DIRECT CAUSE OF DEATH?		
8. WHAT WERE THE CONTRIBUTORY CAUSES OF DEATH, IF ANY?		
9. IN YOUR OPINION, WAS THE DEATH OF THE EMPLOYEE DUE TO THE INJURY AS REPORTED IN ITEM 3 ABOVE? ☐ YES ☐ NO GIVE THE MEDICAL REASONS FOR YOUR OPINION, UNLESS CAUSAL RELATIONSHIP IS OBVIOUS.		
10. WAS A BIOPSY OR AN AUTOPSY PERFORMED? ☐ YES ☐ NO IF "YES" GIVE NAME AND ADDRESS OF PHYSICIAN AND ARRANGE FOR A COPY OF THE REPORT TO BE SUBMITTED.		
11. NAME AND ADDRESS (Please type - include Zip Code)	12. SIGNATURE	13. DATE SIGNED (Mo., day, year)

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**INSTRUCTIONS FOR COMPLETING FORM CA-5b, CLAIM FOR COMPENSATION
BY PARENTS, BROTHERS, SISTERS, GRANDPARENTS OR GRANDCHILDREN**

Who Should File Claim	This claim form should be completed and filed by the deceased employee's parents, grandparents or representative (custodian or guardian) of minor brothers, sisters or minor grandchildren. A separate form is required for each person claiming benefits.
When Should Claim Be Filed	Claim must be filed within three years following date of death, unless the decedent's immediate superior had actual knowledge of an on-the-job injury or death within 30 days; or written notice of the injury or death was given within 30 days. The timely filing of a disability claim will satisfy the time requirements for a death claim based on the same injury.
What Documents Are Required	The birth certificate of the deceased employee; also a death certificate if not previously submitted; birth certificates for minor brothers, sisters and grandchildren. If claim is made on behalf of a grandparent, birth certificate of decedent's mother or father, as appropriate. If claim is made on behalf of a grandchild, birth certificate of decedent's son or daughter as appropriate. Copies of certificates or documents are acceptable only if they are certified by the person having official custody of such records. They should then be attached to the claim form when it is filed.
How To Complete Claim	All items on the claim form should be completed. If an item is not applicable, indicate by showing "NA". Note that the claim form requests information about several categories of persons, i.e., items 1-7 make inquiry about the decedent; 8-20 the dependent; 21-25 the dependent's husband or wife, if married at the time of employee's death. The attending physician's report on the reverse of the form must also be completed before the form is submitted to the OWCP.
Funeral/Burial Allowance	Submit original itemized funeral and burial bills. If paid, so indicate and give name and address of person making payment. If an Administrator or Executor has been appointed, give such person's name and address and attach a copy of the appointment document.

See the reverse of this page for a definition of dependents and a description of benefits.

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Stock Number 029-016-00035-6

Cat. No. 1 7, Form CA-5b.

**DEATH BENEFITS FOR PARENTS, BROTHERS, SISTERS, GRANDPARENTS
AND GRANDCHILDREN UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT (FECA)**

Eligible Dependents	● Benefits are payable on behalf of partially or totally dependent parents, brothers, sisters, grandparents and grandchildren.
Period Of Entitlement	● Parents and grandparents: Payments continue until death, remarriage or termination of dependency. Minor brothers, sisters and grandchildren: Payments continue until death, marriage or upon reaching 18 years of age. Payments may continue beyond 18 if the child is mentally or physically incapable of self-support or is a "fulltime" student. Student benefits terminate on: marriage, completion of 4 years of education beyond high school level, or at age 23, whichever occurs first.
Compensation Rates	● For parent - 25% of the employee's monthly pay, if one is wholly dependent and the other is not dependent at all. If both are wholly dependent - 20% each. A proportionate amount is paid if either or both are partially dependent. Brothers, sisters, grandparents, and grandchildren - 20% if only one is wholly dependent. If more than one is wholly dependent - 30% shared equally. If one or more is partially dependent - 10% shared equally if more than one.
Payment Priorities	● Monthly payments for all beneficiaries cannot exceed 75% of the employee's monthly salary or 75% of the top step of GS-15 of the General Schedule. The surviving widow or widower and children have first priority. Other eligible dependents may receive payment only if the widow or widower and children's percentages are less than 75%.
Funeral/Burial Allowance	● Funeral and burial expense up to a maximum of \$800 may be paid. Amount paid by the VA will be deducted. If death occurs away from the employee's duty station, transportation costs may be paid to return the deceased employee to his home or last place of residence. In addition to any funeral or burial expenses, a sum of \$200 may be paid for reimbursement of the costs of termination of the decedent's status as an employee of the United States.
Third Party Action	● If the employee's death was caused by a person or party other than the Federal Government, a "third party action" or lawsuit may be indicated. In such instances the Department of Labor will provide further instructions.

If additional information is needed, it may be obtained from the Office of Workers' Compensation Programs.

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U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION Office of Workers' Compensation Programs		OFFICIAL SUPERIOR'S REPORT OF EMPLOYEE'S DEATH	
1. Name of Deceased Employee (Last, first, middle)		2. Date of Birth (Mo., day, year)	3. ☐ Male ☐ Female
4. Social Security No.		5. Department or Agency	
6. Bureau or Office		7. Name and Address of Reporting Office	
8. Name and Office Phone Number of Employee's Official Superior		9. Date and Hour of Injury (Mo., day, year) AM ☐ PM ☐	
10. Date and Hour of Death (Mo., day, year) AM ☐ PM ☐		11. Date and Hour Employee's Pay Stopped (Mo., day, year) AM ☐ PM ☐	
12. Describe How Injury Occurred		13. Was Employee in Performance of Duty When Injury Occurred? ☐ Yes ☐ No <i>If No, Explain</i>	
14. Location Where Injury Occurred		15. Location Where Death Occurred	
16. Immediate Cause of Death: Attach Medical and Autopsy Reports if Available			
17. Employee's Pay Rate As Of		18. Did Employee Work in Position Held At Time of Injury for a Full Eleven Months Immediately Prior to the Injury? ☐ Yes ☐ No	
a. Base Pay		b. Subsistence	
c. Quarters		d. Other	
A. Date of Injury	\$ per	\$ per	\$ per
B. Date Pay Stopped	\$ per	\$ per	\$ per
19. If Answer to 18 is No, Would Position Have Afforded Employee for Eleven Months Except for the Injury? ☐ Yes ☐ No		20. Did Employee Receive Leave Pay for Any Part of Period from Time Pay Stopped to Date of Death? <i>Give Inclusive Dates</i>	
a. Annual		b. Sick	
c. Other: <i>Specify</i>			
21. Did Employee Receive Continuation of Pay (COP) During Period Prior to Death?			
a. Pay Rate Used For COP \$ per		b. Inclusive Dates of COP From To	
c. Gross Dollar Amount of COP \$			
22. If Employee was Enrolled in Health Benefit Plan for Self and Family, Show HBS Code Number:		23. Show Date Through Which HBS Deductions Were Last Made (Mo., day, year)	
24. If Employee Received Medical Care Prior to Death: Give Name and Address of Attending Physician			
25. If Injury was Caused by a Third Party, Give Name and Address of Third Party		26. Give Name and Address of the Attorney Representing the Survivors if Legal Action is Instituted Against the Third Party	
27. Show Amount of Third Party Recovery, If Any \$			
28. If Employee was a Member of the Armed Services of the United States, Show: Branch of Service: Serial No. (if known)		29. Has a Claim for Survivor's Benefit Been Filed with the United States Civil Service Commission? ☐ Yes ☐ No	
30. Name and Address of Employee's Spouse or Next of Kin (Show relationship, if other than spouse)			
31. Signature of Official Superior		32. Title	
		33. Date (Mo., day, yr.)	

INSTRUCTIONS FOR COMPLETING FORM CA-6

When a Federal employee dies as a result of injury in performance of duty or because of an employment related disease, the death should be reported on this form. This form eliminates the need to complete and file the official superior's report on Form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation or Form CA-2, Federal Employee's Notice of Occupational Disease and Claim for Compensation. It also replaces the "Report of Death" on Form CA-3 (Dec. 1970 version).

The form is to be completed by the deceased employee's official superior or other authorized official of the employing agency. It should be accompanied by a certified copy of the death certificate, when submitted to the OWCP.

If additional space is required, attach separate sheets numbering the answers to correspond with the items on the form.

For additional information about death benefits, see 20 CFR 1.1 and/or Chapter 810, Injury Compensation, Federal Personnel Manual.

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Stock No. 029-016-00039-9

Authorization For Examination And/Or Treatment

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs

OMB No.: 1215-0103
Expires: 09-30-88

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.

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

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 due 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)

12. Send one copy of your report: (Fill in remainder of address)

13. Name and Address of Employee's Place of Employment:

U.S. DEPARTMENT OF LABOR
Employment Standards Administration
Office of Workers' Compensation Programs

Department or Agency

Bureau or Office

Local Address (including Zip Code)

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PART B - ATTENDING PHYSICIAN'S REPORT

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)

☐ Yes ☐ No

17. What Are Your Findings? (Include results of X-rays, laboratory tests, etc.)

18. What Is Your Diagnosis?

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? ☐ Yes ☐ No

If yes, date of admission (Mo., day, year)

Date of discharge (Mo., day, year)

21. Is Additional Hospitalization Required?

☐ Yes ☐ No

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

☐ Light Work Date:
☐ 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 on 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.

INFORMATION 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 Office shown in Item 12 of Part A.

Please Remove These Instructions Before Submitting Your Report.

INSTRUCTIONS TO 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 standard 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 requires 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 8. Check Box 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 1 and/or Chapter 810, Federal Personnel Manual (FPM).

Information for Physician — See Reverse Side

PART B – PHYSICIAN

☐ PART TIME ☐ FULL TIME Date (Mo., day, year)

11. IS THE EMPLOYEE ABLE TO PERFORM LIGHT WORK? ☐ NO ☐ YES. IF YES, CHECK THE WORK TOLERANCE LIMITATIONS WHICH ARE DUE TO THE INJURY. (Including Preexisting Conditions.)

PHYSICAL LIMITATIONS

EXPOSURE LIMITATIONS (Specify).

[illegible]

12. IF THE EMPLOYEE IS TOTALLY DISABLED FOR DUTY, GIVE A BRIEF REPORT AND PROGNOSIS

LIGHT WORK ☐

REGULAR WORK ☐

15. IF EMPLOYEE IS ABLE TO RESUME WORK, HAS HE/SHE BEEN ADVISED? ☐ YES ☐ NO. IF YES, FURNISH DATE ADVISED
(Mo., day, year)

15. DIAGNOSIS OF CONDITION DUE TO INJURY

18. DATES OF FURTHER APPOINTMENTS, IF ANY

21. DATE (Mo., day, year)

Attending Physician's Report

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

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Record of Examination

1. Patient's name Last First Middle	2. Date of Injury mo. day yr. _ _ _	3. OWCP File Number	OMB No. 1215-015 Expires: 9-30-88
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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)

☐ Yes ☐ 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

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 #12

☐ Yes ☐ 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) ☐ Yes ☐ 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.
_ _ _

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.

_ _ _

20. Date employee is able to resume regular

work mo. day yr.

_ _ _

21. Has employee been advised that

he/she can return to work?

☐ Yes ☐ 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 #24 if necessary.)

24. Are any permanent effects expected as a result of this injury? If yes, describe in item #24.

☐ Yes ☐ 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?

☐ Consultation

☐ 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 statement 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

Address

City

State

Zip

30. Tax ID Number

31. Do you specialize?

☐ Yes ☐ No

32. If yes, indicate specialty

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.

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-1500a.

INSTRUCTIONS TO PHYSICIAN FOR COMPLETING ATTENDING PHYSICIAN'S REPORT

1. COMPLETE THE ENTRIES 1-31 ON THE FORM; AND
2. IF DISABILITY HAS NOT TERMINATED, INDICATE IN ITEM 16; AND
3. SEND THE FORM AND YOUR BILL TO:

OFFICE OF WORKERS' COMPENSATION PROGRAMS

For Sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, DC 20402

• U.S. GOVERNMENT PRINTING OFFICE 1967 • 267-081 • 615/75751

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OMB No. 1215-011
Expires: 09-30-88

Attending Physician's Supplemental Report

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs

FOR INSTRUCTIONS SEE REVERSE SIDE	
1. NAME OF INJURED EMPLOYEE (Last, first, middle)	
2. OWCP FILE NUMBER, IF KNOWN	
3. HOME MAILING ADDRESS (Include ZIP code)	
4. SOCIAL SECURITY NUMBER	
5. DATE AND HOUR OF INJURY (Mo., day, year) ☐ AM ☐ PM	
6. PERIOD COMPENSATION IS CLAIMED AS A RESULT OF PAY LOSS (Mo., day, year) FROM: THROUGH:	
7. DATE OF MOST RECENT EXAMINATION (Mo., day, year)	8. IS EMPLOYEE'S PRESENT CONDITION DUE TO THE INJURY FOR WHICH COMPENSATION IS CLAIMED? ☐ YES ☐ NO
9. IS EMPLOYEE TOTALLY DISABLED FOR USUAL WORK? ☐ YES ☐ NO	
10. DESCRIBE NATURE OF PRESENT IMPAIRMENT	
11. STATE DIAGNOSIS	
12. WHAT TREATMENT IS EMPLOYEE RECEIVING AND HOW OFTEN IS IT GIVEN?	
13. WHAT PERMANENT EFFECTS, IF ANY, ARE ANTICIPATED?	
14. DESCRIBE ANY CONCURRENT DISABILITY EMPLOYEE HAS WHICH IS NOT RELATED TO THIS INJURY	
15. WILL DISABILITY FOR REGULAR WORK CONTINUE FOR 90 DAYS OR LONGER? ☐ YES ☐ NO IF NO, APPROXIMATELY WHAT DATE WILL EMPLOYEE BE ABLE TO RETURN TO WORK? (Mo., day, year)	
16. IF EMPLOYEE IS ABLE TO RESUME REGULAR WORK, HAS HE OR SHE BEEN ADVISED? ☐ YES ☐ NO IF YES, SHOW DATE EMPLOYEE WAS INFORMED (Mo., day, year)	
17. IF EMPLOYEE IS ONLY PARTIALLY DISABLED, SHOW DATE HE OR SHE WAS ABLE TO PERFORM SOME WORK AND DESCRIBE SPECIFIC WORK RESTRICTIONS. (I.e. limitations in stooping, bending, lifting, etc.)	
18. IF EMPLOYEE HAS BEEN REFERRED TO ANOTHER PHYSICIAN FOR CONSULTATION OR TREATMENT, GIVE PHYSICIAN'S NAME & ADDRESS.	
19. RECOMMENDATIONS AND PROGNOSIS	
20. ADDRESS (Include ZIP code)	
21. IF YOU SPECIALIZE, INDICATE SPECIALTY	
22. SIGNATURE OF PHYSICIAN. I certify that the statements on the reverse apply to this report and are made a part hereof.	
23. DATE OF REPORT (Mo., day, year)	

Claim For Continuing Compensation
On Account Of Disability

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

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STATEMENT OF INJURED EMPLOYEE - SEE INSTRUCTIONS ON REVERSE SIDE				
1. NAME OF INJURED EMPLOYEE (Last, first, middle)			2. OWCP FILE NUMBER, IF KNOWN	
3. HOME MAILING ADDRESS (Include ZIP code)			4. SOCIAL SECURITY NUMBER	
5. DATE AND HOUR OF INJURY (Mo., day, year)		6. PERIOD COMPENSATION IS CLAIMED AS A RESULT OF PAY LOSS (Mo., day, year) IF PAY LOSS WAS INTERMITTENT ATTACH SEPARATE SHEET SHOWING DATES AND HOURS OF PAY LOSS.		
☐ AM ☐ PM		FROM: _____ THROUGH: _____		
7. HAVE YOU RECEIVED ANY LEAVE PAY DURING THE PERIOD SHOWN IN ITEM 6? ☐ YES ☐ NO SHOW INCLUSIVE DATES. FROM: _____ THROUGH: _____ IF LEAVE USE WAS INTERMITTENT, ATTACH SEPARATE SHEET SHOWING DATES AND HOURS USED.			8. DO YOU WISH TO REPURCHASE LEAVE? ☐ YES ☐ NO	
9. COMPLETE THIS ITEM IF YOU WORKED DURING THE PERIOD SHOWN IN ITEM 6. ATTACH A SEPARATE SHEET IF NEEDED.				
a. SALARIED EMPLOYMENT.				
DATES & HOURS WORKED	PAY RATE (Per hour, day or week)	TOTAL AMOUNT EARNED	TYPE WORK PERFORMED	NAME & ADDRESS OF EMPLOYER
b. COMMISSION AND SELF-EMPLOYMENT. SHOW ALL ACTIVITIES, WHETHER OR NOT INCOME RESULTED FROM YOUR EFFORTS.				
DATES & HOURS WORKED	NAME AND ADDRESS OF BUSINESS	SELF-EMPLOYED COMMISSION	TYPE OF ACTIVITY PERFORMED	INCOME DERIVED (ATTACH EXPLANATION IF NEEDED)
10. IF YOU HAVE APPLIED FOR EMPLOYMENT WITH THE U.S. TRAINING AND EMPLOYMENT SERVICE GIVE THE FOLLOWING:				
REGISTRATION NO.	DATE OF REGISTRATION	OFFICE ADDRESS		
11. IF YOU WERE ONLY PARTIALLY DISABLED AND DID NOT WORK, STATE REASON FOR NOT WORKING.				
12. IF, SINCE FILING YOUR INITIAL CLAIM FOR COMPENSATION, YOU HAVE APPLIED FOR OR RECEIVED VA BENEFITS BASED ON MILITARY SERVICE FOR THE UNITED STATES, GIVE THE FOLLOWING:				
CLAIM NO.	NATURE OF DISABILITY AND MONTHLY PAYMENT	NAME AND ADDRESS OF OFFICE WHERE CLAIM IS FILED		
13. IF, SINCE FILING YOUR INITIAL CLAIM FOR COMPENSATION, YOU HAVE APPLIED FOR OR RECEIVED AN ANNUITY UNDER THE CIVIL SERVICE RETIREMENT ACT OR OTHER FEDERAL RETIREMENT OR DISABILITY LAW, GIVE THE FOLLOWING:				
CLAIM NO.	AMOUNT OF MONTHLY PAYMENT	NAME AND ADDRESS OF OFFICE WHERE CLAIM IS FILED		
14. SIGNATURE OF EMPLOYEE OR PERSON ACTING ON EMPLOYEE'S BEHALF. 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 felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.				15. DATE (Mo., day, year)

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STATEMENT OF OFFICIAL SUPERIOR

16. IF EMPLOYEE HAS RETURNED TO WORK, SHOW DATE AND HOUR (Mo., day, year)

☐ AM
☐ PM

17. SHOW EMPLOYEE'S WORK WEEK ON RETURN TO DUTY, IF OTHER THAN MONDAY THRU FRIDAY

S	M	T	W	T	F	S
---	---	---	---	---	---	---

18. HAS EMPLOYEE RECEIVED ANY PAY FOR WORK, LEAVE, SUBSISTENCE, QUARTERS OR OTHER REMUNERATION FROM YOUR AGENCY DURING THE PERIOD SHOWN IN ITEM 6 ON THE REVERSE SIDE?

☐ YES ☐ NO

19. IF ANSWER TO ITEM 18 IS YES, SHOW:

AMOUNT: \$

TYPE OF PAYMENT:

PERIOD: FROM: _____ THROUGH: _____

20. IF THERE HAS BEEN ANY CHANGE IN EMPLOYEE'S HEALTH BENEFIT ENROLLMENT AND/OR OPTIONAL INSURANCE SINCE PREVIOUS CLAIM FOR COMPENSATION WAS SUBMITTED, PLEASE EXPLAIN. (i.e. change of plan or option; if additional deductions have been made by the agency, show amount and period.)

21. REMARKS

22. SIGNATURE OF OFFICIAL SUPERIOR

23. TITLE

24. DATE (mo., day, year)

INSTRUCTIONS FOR INJURED EMPLOYEE

- Items 1 through 15 on the reverse side should be completed by the injured employee or by someone acting on the employee's behalf. The form should then be given to the official superior.
- The injured employee should file Form CA-8 each two weeks during the period of disability unless otherwise notified by OWCP. Forms may be obtained from OWCP or the employing agency.
- Employees are advised that fraudulent claims are punishable by a fine of not more than \$2,000, or imprisonment for not more than one year, or both.

INSTRUCTIONS FOR OFFICIAL SUPERIOR

- The official superior must complete items 16 through 24 and forward the form to the appropriate OWCP office.
- The official superior must also complete items 1 through 6 on Form CA-20a before sending that form to the attending physician. It will also be necessary for the official superior to show in item 3 on the reverse of the Form CA-20a, the address of the OWCP office to which the physician should send the completed form.

If additional space is required for any reply, a separate sheet of paper may be used, numbering the answers to correspond with items on the form.

NOTE: FAILURE TO SUBMIT THIS FORM PROPERLY COMPLETED WITH SUPPORTING MEDICAL EVIDENCE WILL DELAY PAYMENT OF COMPENSATION.

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INSTRUCTIONS FOR COMPLETING ATTENDING PHYSICIAN'S REPORT

CERTIFICATION: BY SIGNING BLOCK 22 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-20a 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.

IMPORTANT: A MEDICAL REPORT IS REQUIRED BY THE OFFICE OF WORKERS' COMPENSATION PROGRAMS BEFORE PAYMENT OF COMPENSATION CAN BE MADE TO THE EMPLOYEE.

IF YOU HAVE SUBMITTED A MEDICAL REPORT ON FORM CA-16, CA-20 OR A NARRATIVE REPORT TO THE OWCP WITHIN THE PAST 10 DAYS, YOU NEED NOT SUBMIT THIS FORM CA-20a.

OWCP REQUIRES THAT MEDICAL BILLS, OTHER THAN HOSPITAL BILLS, BE SUBMITTED ON THE AMERICAN MEDICAL ASSOCIATION HEALTH INSURANCE CLAIM FORM, HCFA-1500/OWCP 1500a.

1. Complete the entries 7-23 on this report (and items 1-6 if not previously completed by the employing agency), and
2. Forward the report directly by mail to the OWCP office indicated below.

3.

OFFICE OF WORKERS' COMPENSATION PROGRAMS

PRIVACY ACT

In accordance with the Privacy Act of 1974 (Public Law No. 93-579, 5 U.S.C. 552a), you are hereby notified that: (1) The Federal Employees' Compensation Act, as amended (5 U.S.C. 8101, et seq.) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor. In accordance with this responsibility, the Office receives and maintains personal information on claimants and their immediate families. (2) The information will be used to determine eligibility for and the amount of benefits payable under the Act. (3) The information may be used by other agencies or persons in handling matters relating, directly or indirectly, to the subject matter of the claim, so long as such agencies or persons have received the consent of the individual claimant, or have complied with the provisions of 20 CFR 10. (4) Failure to furnish all requested information may delay the process, or result in an unfavorable decision or a reduced level of benefits (disclosure of a social security number is voluntary; the failure to disclose such number will not result in the denial of any right, benefit or privilege to which an individual may be entitled).

FORM CA-20, PHYSICIAN'S REPORT

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, complete items 1-3 on the front, and print the OWCP district office address on the reverse. 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. 10.304). 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.

PRIVACY ACT

In accordance with the Privacy Act of 1974 (Public Law No. 93-579, 5 U.S.C. 552a), you are hereby notified that: (1) The Federal Employees' Compensation Act, as amended (5 U.S.C. 8101, et seq.) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor. In accordance with this responsibility, the Office receives and maintains personal information on claimants and their immediate families. (2) The information will be used to determine eligibility for and the amount of benefits payable under the Act. (3) The information may be used by other agencies or persons in handling matters relating, directly or indirectly, to the subject matter of the claim, so long as such agencies or persons have received the consent of the individual claimant, or have complied with the provisions of 20 CFR 10. (4) Furnishing all requested information will facilitate the claims adjudication process; and the effects of not providing all or any part of the requested information may delay the process, or result in an unfavorable decision or a reduced level of benefits (disclosure of a social security number is voluntary; the failure to disclose such number will not result in the denial of any right, benefit or privilege to which an individual may be entitled).

THIS NOTICE SHOULD BE RETAINED FOR YOUR INFORMATION.

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810-C-1

Appendix C. Occupational Disease ♦ Checklists ♦

Evidence Required in Support of A Claim for Occupational Disease

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

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 factors.		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:		8. Attach copies of the employee's:	
a. Dates of examination and treatment.		a. SF-171, Application for Employment.	
b. History given by you.		b. Position description with physical requirements.	
c. Detailed description of findings.		c. Pertinent dispensary records.	
d. Results of all diagnostic tests.		d. Most recent SF-50, Notification of Personnel Action.	
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.			

Form CA-35A
August 1985

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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.

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Appendix C. Occupational Disease Checklist

810-C-3

Evidence Required in Support of a Claim for Work-Related Hearing Loss

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

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.		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.	
4. Describe any hobbies which involve exposure to loud noise.		12. If the employee is no longer exposed to hazardous noise, give date of last exposure and the payrate in effect on that date.	
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.			
8. Give the date you first noticed your hearing loss. Give date you first related hearing loss to employment, and reason why.			

Form CA-35F
August 1985

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NOTICE TO EMPLOYEES FILING CLAIM FOR OCCUPATIONAL DISEASE

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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.

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**Evidence Required In Support of A
Claim for Asbestos-Related Illness**

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

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:
5. Give your smoking history to include amount per day, and years (dates) you have smoked (see attached questionnaire).	a. SF-171, Application for Employment.
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.	b. Position description with physical requirements for last job held.
7. Give the date you first consulted a physician regarding respiratory or asbestos-related disease.	c. Job sheet and employment record.
8. Submit reports of examination, treatment or hospitalization for any previous similar condition or pulmonary problem.	d. Pertinent dispensary records.
	e. Most recent SF-50, Notification of Personnel Action.
	f. Laboratory test results and chest x-ray reports on file.
	13. Describe safety regulations and protective devices in use by employee, with period and frequency of use.

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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.

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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, 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.

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We appreciate your cooperation in this effort.

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Appendix C. Occupational Disease Checklists

810-C-7

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.			

(PLEASE CONTINUE ON REVERSE SIDE)

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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 held 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.										

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Appendix C. Occupational Disease Checklists

810-C-11

Evidence Required in Support of a Claim for
Work-Related Skin DiseaseU.S. Department of Labor
Employment Standards Administration
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. 			

Form CA-35E
August 1985

NOTICE TO EMPLOYEES FILING CLAIM FOR OCCUPATIONAL DISEASE

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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

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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.

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Appendix C. Occupational Disease Checklists

810-C-11

Evidence Required in Support of a Claim for
Work-Related Skin DiseaseU.S. Department of Labor
Employment Standards Administration
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: 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: 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: 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.			

Form CA-35E
August 1985

NOTICE TO EMPLOYEES FILING CLAIM FOR OCCUPATIONAL DISEASE

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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.

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Appendix C. Occupational Disease Checklists

810-C-13

Evidence Required in Support of a Claim for
Work-Related Pulmonary Illness (not asbestosis)

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

IF YOU ARE FILING A CLAIM FOR A 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-3. 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 the employee's statements 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:	
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.		a. SF-171, Application for Employment.	
5. Attach or forward a medical report which includes the following items:		b. Position description with physical requirements.	
a. Dates of examination and treatment.		c. Preemployment medical examination and any other pertinent medical records.	
b. History given by you.		d. Most recent SF-50, Notification of Personnel Action.	
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 factors of employment listed in item no. 1.			

Form CA 35F
August 1985

NOTICE TO EMPLOYEES FILING CLAIM FOR OCCUPATIONAL DISEASE

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We appreciate your cooperation in this effort.

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Appendix C. Occupational Disease Checklists

810-C-15

Evidence Required in Support of a Claim for
Work-Related Psychiatric Illness

U.S. Department of Labor
Employment Standards Administration
Office 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 the 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: <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. 	

Form CA-35G
August 1985

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 affect 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.

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**Evidence Required In Support of A Claim
for Work-Related Carpal Tunnel Syndrome**

U.S. Department of Labor
Employment Standards Administration
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.	
2. Ask all doctors who treated you to send us a copy of reports or notes describing the condition, testing, and treatment given.	
3. Ask the doctor currently treating your condition to provide a detailed current medical report to include the following specifics:	
a. Dates of examinations;	e. Treatment to date and prognosis;
b. Complete medical history of condition;	f. Reasoned opinion explaining any causal relationship between the condition and your Federal civilian job.
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;	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.

Form CA-35H
October 1987

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Notice to Employees Filing Claim for Occupational Disease

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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 (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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1. Form CA-2, 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.

◆ Appendix D. Address List and Jurisdictional Map

FECA DISTRICT OFFICES

District Office 1—Boston		District Office 2—New York	
John F. Kennedy Building, Room 1800		201 Varick Street, Room 750	
Boston, MA 02203		P.O. Box 566	
FTS	835-2137	New York, NY 10014-0566	
Commercial	(617) 565-2137	FTS	660-2075
		Commercial	(212) 337-2075
District Office 3—Philadelphia		District Office 6—Jacksonville	
Gateway Building, Room 15100		311 West Monroe, Room 223	
3535 Market Street		Jacksonville, FL 32202	
Philadelphia, PA 19104		FTS	
FTS	596-1457	Commercial	946-2821
Commercial	(215) 596-1457		(904) 791-2821
District Office 9—Cleveland		District Office 10—Chicago	
1240 East Ninth Street, Room 851		230 South Dearborn, 8th Floor	
Cleveland, OH 44199		Chicago, IL 60604	
FTS	942-3800	FTS	353-1657, 5656
Commercial	(216) 522-3800	Commercial	(312) 353-1657, 5656
District Office 11—Kansas City		District Office 12—Denver	
1910 Federal Office Building		1961 Stout Street	
911 Walnut Street		Drawer 3558	
Kansas City, MO 64106		Denver, CO 80294	
FTS	867-2195	FTS	564-5407, 2627
Commercial	(816) 426-2195	Commercial	(303) 844-5407, 2627
District Office 13—San Francisco		District Office 14—Seattle	
71 Stevenson Street, 2nd Floor		4010 Federal Office Building	
San Francisco, CA 94105		909 First Avenue	
Mail: P.O. Box 3769		Seattle, WA 98174	
San Francisco, CA 94119-3769		FTS	
FTS	995-5699	Commercial	399-5508
Commercial	(415) 995-5699		(206) 442-5508
District Office 25—Washington, D.C.		District Office 16—Dallas	
1100 L Street, N.W., Room 9101		525 Griffin Street, Room 100	
Washington, D.C. 20211		Dallas, TX 75202	
FTS	724-0713	FTS	729-4707
Commercial	(202) 724-0713	Commercial	(214) 767-4707
Note: Jurisdiction for each district office is shown on the map on the following page.		District Office 50—Special Claims	
		200 Constitution Ave., N.W.	
		Washington, D.C. 20210	
		Mail: P.O. Box 37117	
		Washington, D.C. 20013	
		FTS	523-6490
		Commercial	(202) 523-6490 ◆

DISTRICT OFFICE TERRITORIAL JURISDICTION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT

District Office	No.
Boston	1
New York	2
Philadelphia	3
Jacksonville	4
Cleveland	5
Chicago	6
Kansas City	7
Denver	8
San Francisco	9
Seattle	10
Dallas	11
Washington, D.C.	12
Washington, D.C.	13
Washington, D.C.	14
Washington, D.C.	15
Washington, D.C.	16
Washington, D.C.	17
Washington, D.C.	18
Washington, D.C.	19
Washington, D.C.	20
Washington, D.C.	21
Washington, D.C.	22
Washington, D.C.	23
Washington, D.C.	24
Washington, D.C.	25

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Office of Workers' Compensation Programs

* District 50 (the Branch of Special Claims)—Washington, D.C.: Handles the claims of individuals injured overseas; individuals claiming exposure to AIDS, radiation, or Agent Orange; Department of Labor employees; Peace Corps and Vista volunteers; Members of Congress and their staffs; White House officials and employees; Reserve Officer Training Corps (ROTC) Cadets; members of the Coast Guard Auxiliary and temporary members of the Coast Guard Reserve; individuals whose cases involve security considerations; and certain non-Federal claims.

APPENDIX E

Federal Injury Compensation

FAUL JANOV

PLEASE DO NOT LOAN

Questions
and Answers
About the
Federal Employees'
Compensation Act

U.S. Department of Labor
Employment Standards Administration
Office of Workers' Compensation Programs

Pamphlet CA-550
(Rev. Feb. 1983)

QUESTIONS AND ANSWERS
ABOUT THE FEDERAL EMPLOYEES'
COMPENSATION ACT

This publication contains the questions and answers most frequently raised about the Federal Employees' Compensation Act (FECA). It does not have the effect of law or regulation, but is designed to supply general information and guidance. More detailed information on specific problems may be obtained by contacting the Office of Workers' Compensation Programs (OWCP). See the map on page 24 for the district office locations and geographical boundaries. The addresses can be found on page 25.

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QUESTIONS & ANSWERS CONCERNING
BENEFITS OF THE FEDERAL
EMPLOYEES' COMPENSATION ACT (FECA)

1. What is the Federal Employees' Compensation Act?

This is a workers' compensation law that provides compensation benefits to civilian employees of the United States for disability due to personal injury sustained while in the performance of duty or due to employment-related disease. The term "injury" also includes damage to or destruction of medical braces, artificial limbs, and other prosthetic devices which shall be replaced or repaired, and such time lost while such device is being replaced or repaired is compensable. The Act also provides for the payment of benefits to dependents if the injury or disease causes the employee's death.

2. Are eyeglasses and hearing aids included in the term "injury"?

If the damage to the eyeglasses or hearing aid is incidental to a personal injury on the job requiring medical services, then they too would be included in the term "injury" and will be repaired or replaced, and such time lost while these are being repaired or replaced is compensable.

3. Who administers the FECA?

The act is administered by the Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor, through district offices located throughout the United States. Each employing agency has the district office address which services its geographic area.

4. Are all work injuries covered under the FECA?

All personal injuries sustained by civilian employees of the United States while in the performance of duty and disease proximately caused by the employment are covered. Coverage is also provided for injury or disease incurred by civilian employees of the United States while serving on a Federal grand or petit jury. Benefits cannot be paid if the injury or death is caused by willful misconduct of the injured employee or by intention to bring about the injury or death of oneself or another, or if intoxication of the injured employee is the proximate cause of the injury or death.

5. Is it necessary to report a minor injury which occurs at work, like a scratched finger or bumped knee?

Yes. All injuries should be reported. Many times a so-called minor injury develops into a serious, complicated condition. For the protection of the employee, he or she should file a report of the injury with the immediate supervisor when it occurs.

6. Is there a specific form to be used for reporting an injury?

Form CA-1 "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation" is the official form to use when reporting a traumatic injury. Form CA-2 "Federal Employee's Notice of Occupational Disease and Claim for Compensation" is the official form to use when reporting an occupational disease. The forms may be obtained from the employing agency or from the OWCP. Each form has attached instructions for its completion.

7. May someone complete the notice of injury for an employee who is unable to complete it at the time the injury occurs?

Yes. Forms CA-1 and CA-2 may be completed by another person, including the supervisor, acting on behalf of the injured employee. The forms should be completed and signed by the person making the report. Form CA-1 should then be given to the supervisor within 2 working days following the injury. Form CA-2 should be filed promptly, within 30 days following the injury.

8. If a pre-existing condition is aggravated by factors of employment, does the employee have coverage under the FECA?

Yes. Provided it is established by factual and medical evidence that the employment aggravated the pre-existing condition.

9. Is a recurrence of an employment-related disability covered by the FECA?

Yes. If an injured employee is again disabled as a result of the original injury or occupational disease, there is coverage under the FECA. The recurrence should be reported to the employing agency or to the OWCP.

10. Are all employment-related diseases and illnesses covered under the FECA?

All diseases and illnesses proximately caused or aggravated by the employment are covered. However, the burden of proof is on the claimant to establish by medical and factual evidence, that the employment caused or aggravated the disease.

11. Is an injured employee entitled to medical care, and if so, how is it obtained?

If the injury was sustained in the performance of duty, the employee is entitled to first aid and medical care, including hospitalization, without cost. When needed, the employee should request the supervisor to authorize necessary treatment. In addition, an injured employee is entitled to continuing medical treatment and care as may be appropriate.

12. Can the injured employee choose the physician who will provide treatment?

An injured employee may use available government medical facilities or, at the employee's option, may elect to be treated by a duly qualified local physician or hospital of his or her choice.

13. Will a claim for compensation benefits be jeopardized if an employee obtains treatment without authorization or changes physicians after an authorization has been made?

The employee's claim for compensation is not jeopardized under these circumstances. The employee may have to bear the cost of such treatment if the OWCP or employer did not authorize it.

14. If an employee has paid medical expenses for authorized treatment or medication for an on-the-job injury, can he/she obtain reimbursement?

The employee may obtain reimbursement by submitting itemized receipted bills to the OWCP.

15. May an employee be paid for transportation expenses in securing medical treatment for a work injury?

An employee will be reimbursed for reasonable transportation expenses incurred in obtaining medical treatment. Claim should be submitted on Form SF-1012 which may be secured from the employing agency or the OWCP.

16. What is meant by the term "duly qualified local physician"?

The term includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners. However, reimbursable services of a chiropractor are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist. The term does not include medical care rendered by any other than the type of practitioners listed above. The word "local" generally means within 25 miles from the place of injury, the employing agency, or the employee's home.

17. Will an employee's Health Benefit Plan pay medical expenses resulting from work-related injury or disease?

Health Benefit Plans have an exclusion clause regarding workers' compensation injuries, and the Plan will not pay medical expenses if the insurance carrier is aware that a workers' compensation injury is involved.

18. Will the OWCP pay for emergency medical treatment even though prior authorization has not been obtained?

Yes. The employee may claim reimbursement by submitting a receipted, itemized bill and explaining the need for emergency care.

19. May an employee change physicians if dissatisfied with the medical care he or she is receiving?

The employee may contact the OWCP and request authorization for treatment from another physician. The employee should explain the reasons for the request. The request will be considered and the OWCP will advise whether a change may be made.

20. Will the OWCP authorize medical treatment for recurrence of an injury-related disability which initially occurred several years ago?

If the proper reports were completed at the time of the original injury, and it is established by medical and factual evidence that the recurrent disability is related to the accepted injury, an employee would be entitled to medical treatment for the recurrence. To eliminate the possibility of the employee having to pay for such treatment, authorization should first be obtained from the OWCP.

21. Does an injured employee have to report for medical examinations when directed?

Yes. The employee is required to submit to examination by a physician approved by the OWCP as frequently as is reasonably required. Failure to do so without adequate reason may result in suspension of compensation.

22. Will the OWCP pay for private nurses necessary as a result of an on-the-job injury?

Yes. The OWCP provides for services, medicine, and supplies prescribed or recommended by qualified physicians. This includes the services of private nurses, if required.

23. Does the FECA provide for any appliances, supplies, or prostheses required because of a work injury?

Yes. Any medical appliances, supplies, or prostheses recommended by the attending physician will be provided, if likely to cure, give relief or reduce the degree or period of disability. (Also see numbers 1 and 2)

24. Will the OWCP pay for the services of an attendant if the employee requires assistance in caring for personal needs, such as feeding, dressing, bathing, etc.?

Yes. If the disability is so severe as to require the services of an attendant (to feed, dress, and care for personal needs) an allowance not to exceed \$500 per month may be paid to the injured employee for such services.

25. Can a member of the family serve as an attendant?

An attendant allowance will be paid to the injured employee on the basis of the restrictions imposed by the disability. A family member may serve as an attendant.

26. Will an employee continue to receive an allowance for an attendant while hospitalized?

No. The attendant's allowance is not payable while an employee is hospitalized, since all personal needs are provided by the hospital staff.

27. Is an employee considered to be in performance of duty for compensation purposes 24 hours a day while on travel status?

An employee in travel status is generally covered 24 hours per day for any reasonable incident of such status.

28. Is an employee covered by compensation if injured while going to and from work?

Generally speaking, employees are not covered by compensation for injuries sustained while going to and from work before they reach or after they have left Government premises. There are, however, exceptions to the general rule such as when an employee who is serving as a Federal juror sustains injury while going to or from the place where such jury service is to be performed or when an employee uses his or her automobile with the approval of the employing agency to perform the work. If an employee believes his or her injury is an exception, claim should be filed with the OWCP.

29. Is an employee entitled to compensation benefits if injured while on coffee break?

Generally speaking, if an employee is on Government premises and is injured, there is an entitlement to compensation benefits - if not on Government premises during the coffee break, complete information regarding the absence will have to be obtained before a determination can be made.

30. Is an employee covered by compensation if injured while at lunch?

If the employee is on Government premises during lunch, there will be coverage. Ordinarily, the employee will not be entitled to compensation benefits while off the premises during lunch period. However, lunchtime coverage may extend to outdoor workers, or to off-premises workers, under certain circumstances.

31. What must an employee do to receive benefits when injured at work?

An employee injured at work should do the following:

- (a) Report the injury immediately to the supervisor and obtain first aid as directed;
- (b) If further medical treatment is needed, obtain an authorization from the supervisor for treatment by a physician or hospital of the employee's choice. The supervisor should first telephone to see if the physician is willing to render treatment. If the physician is unavailable, the employee still has an initial choice and should therefore select another physician;
- (c) Complete a written report (or someone else may complete the report on the employee's behalf) and submit it to the supervisor. If the employee sustained a traumatic injury, Form CA-1 should be submitted within two working days. In nontraumatic cases, Form CA-2 should be submitted within 30 days. These may be obtained from the employing agency or from the OWCP.

32. What form should be used to claim Continuation of Pay (COP) when an employee has sustained a disabling traumatic injury?

In case of traumatic injury, Form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation should be used.

33. Is the employing agency required to continue pay in all cases of disabling traumatic injury?

Unless the employing agency controverts the claim on one of the bases listed below, the injured employee is entitled to continuation of pay (COP) for up to 45 days of disability. The employing agency must continue the employee's pay unless the controversion is based on one of the following:

- (a) The disability is a result of an occupational disease or illness; or
- (b) The employee falls within the exclusions of 5 U.S.C. 8101(1) (B) or (E);* or
- (c) The employee is neither a citizen nor resident of the United States or Canada (i.e., a foreign national employed outside of the United States or Canada); or
- (d) The injury occurred off the employing agency's premises and the employee was not involved in official "off premises" duties; or
- (e) The injury was caused by the employee's willful misconduct; the employee intended to bring about the injury or death of himself/herself or another person; or the employee's intoxication was the proximate cause of the injury; or
- (f) The injury was not reported on an approved form within 30 days following the injury; or
- (g) Work stoppage first occurred 6 months or more following the injury; or

*Persons whose employment status for compensation purposes is determined under 5 U.S.C. 8101(1) (B), are excluded for continuation of pay for the 45-day period. Such persons render personal service to the United States similar to civil officers and employees of the United States, but they work without pay or for nominal pay. These persons generally are not carried in a regular, continuing pay status and they frequently serve as consultants, volunteers, or contract employees. Persons appointed to a position on the office staff of a former President are considered to be employees; however, they are specifically excluded from continuation of pay for the 45-day period.

- (h) The employee initially reports the injury after his or her employment has terminated; or
- (i) The employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, Youth Conservation Corps, Work Study Programs or other similar groups.

The employing agency may controvert, but they must continue the employee's pay in all circumstances except those described above. If the disability continues beyond 45 days, the employee should complete Form CA-7, Claim for Compensation on Account of Traumatic Injury, in order to claim compensation beyond the 45-day period. Note: If the OWCP subsequently rules in favor of the claimant the employing agency will be required to pay continuation of pay up to 45 days of disability.

34. What is the definition of "Traumatic Injury"?

A traumatic injury is defined as a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable as to time and place of occurrence and member or function of the body affected; and be caused by a specific event or incident or series of events or incidents within a single day or work shift.

Traumatic injuries are distinguished from occupational disease or illness in that the latter are produced by systemic infections; continued or repeated stress or strain; exposure to toxins, poisons, fumes, etc., or other continued and repeated exposure to conditions of the work environment over a long period of time.

Traumatic injuries also include damage or destruction to prosthetic devices or appliances, exclusive of eyeglasses and hearing aids unless the eyeglasses and hearing aids were damaged incidental to a personal injury requiring medical services.

35. Could exposure to toxic fumes at one specific time during an employee's work shift that results in the employee's illness be considered a traumatic injury?

Yes, if the exposure occurs on one workday or one work shift. Exposure continuing beyond one day or one shift would be an occupational illness.

36. An employee who works outdoors may be exposed to poison oak, poison ivy, etc., bee stings, and other insect bites. Are these considered traumatic?

Yes. If the injury (exposure or bite) is the result of one day's exposure. If the exposure continues beyond one day or one shift it would be an occupational illness.

37. Can the employing agency require the employee to use annual or sick leave during the 45-day period pending OWCP's adjudication of a traumatic injury?

No, unless controverted under circumstances described in answer to question #33, on pages 7 and 8. If COP is controverted the employee has the option of using leave or taking leave without pay and applying for compensation.

38. If an employee elects to use sick and/or annual leave instead of COP does the 45-day continuation of pay period start after the leave expires?

No. The employee may use leave or receive COP following the injury; however, the 45-day period commences on the first full day or first full shift on which the disability begins.

39. If the Duty Status Report, Form CA-17, indicates an employee can return to light duty before expiration of the 45-day period, is this sufficient to justify termination of COP?

Form CA-17 or an equivalent medical statement from the employee's physician must show that the employee is capable of returning to duty, in order to justify termination of COP by the employing agency. If the physician's report indicates light duty, the employee is required to accept any reasonable offer of suitable light or limited duty. If the employee disagrees and refuses to accept the work offered, COP should be terminated. OWCP will then resolve the dispute on the basis of evidence submitted.

40. What form should be used to claim compensation for loss of pay if the employee sustained a nontraumatic injury?

Form CA-4, Claim for Compensation on Account of Occupational Disease, is the official form used to claim compensation for loss of pay or a schedule award based on permanent loss or loss of use of a member, function, or certain important external and internal organs of the body, resulting from nontraumatic injury.

41. Does an employee need an attorney or other representative in order to file a claim for compensation?

This is not necessary. If desired, however, the employee may obtain the services of an attorney or other person for representation. If representation is obtained, the employee should not pay any fee for services in connection with the claim until the amount of fee has been approved by the OWCP.

42. Is there a time limit for filing notice of injury and claim for compensation?

Yes. The supervisor should have actual knowledge of the injury

or the employee should file written notice or claim within 30 days following the injury. However, written claim will meet the time requirements if filed within 3 years from the date of injury.

43. Is there a maximum period of time during which an employee can receive compensation for wage loss?

No. An employee can receive compensation as long as the medical evidence indicates total or partial disability and the employee suffers wage loss due to the injury.

44. Does the employing agency have the authority to make determinations as to whether a claim is approved or disallowed?

No. Only the OWCP has the authority to adjudicate a claim for compensation. This should not be confused with the employing agency's role in paying or withholding COP, which is reviewed in every case by OWCP examiners.

45. If an employee qualifies for disability retirement under the Civil Service Retirement Act, does this automatically mean that the employee is qualified to receive compensation benefits?

No. To be eligible for compensation benefits, it must be established that an employee is disabled for his/her regular work as the result of job-related disability. The Office of Personnel Management, formerly Civil Service Commission, will consider disability whether job-related or not.

46. Are only regular, full-time employees eligible for compensation benefits?

No. Compensation coverage is extended regardless of the length of time on the job or the type of position held.

47. May an employee receive compensation payments while on sick or annual leave?

No. An employee must be in a leave-without-pay status before compensation is payable for wage loss.

48. Does an employee have to use any or all of accumulated sick or annual leave before compensation may be paid?

No. The injured employee has a choice of using sick or annual leave or going on leave-without-pay and claimant compensation. It is the injured employee who makes the decision.

49. When do compensation payments begin?

In a traumatic injury, compensation for loss of wages is payable after a 3-day waiting period following expiration of the 45 days of continuation of pay. In a nontraumatic injury case, compensation for loss of wages is payable after an initial 3-day waiting period. In either event, no waiting period is required when there is a permanent disability, or where the disability causing wage loss exceeds 14 days from the time compensation begins.

50. May an employee use sick leave or annual leave to satisfy the 3-day waiting period?

No. The 3-day waiting period may not be satisfied by using sick or annual leave. The employee must be in a nonpay status. Any day or fractional part of a day in which pay loss occurs can be counted as a waiting day. Saturdays, Sundays, and holidays not falling within a period of leave may also be counted as waiting days.

51. If an employee uses sick or annual leave due to an on-the-job injury, is there any method by which the leave can be restored and compensation can be paid instead?

Yes. This is called the "buy back" procedure. An employee may make arrangements with the employing agency to convert the period to leave-without-pay for the purpose of receiving compensation. The employee must refund to the agency the amount of leave paid for the period involved. After this refund is made, the employer will change the leave record to leave-without-pay and the employee will then be paid appropriate compensation. If the employee cannot refund the entire amount, the OWCP upon the employee's authorization, can pay the compensation to the employer. (This is done after the records have been changed by the employer to show leave-without-pay for the period.) The employee will then only have to refund the difference between the amount paid to him or her by the employer for the leave and the amount of compensation paid to the employer by the OWCP.

52. How are disability compensation payments computed?

Compensation generally is payable at two-thirds of the employee's pay rate if there are no dependents, or three-fourths of the salary if there are one or more dependents.

53. Are there any deductions made from "continuation of pay" or from compensation?

Continuation of pay is not compensation and therefore is subject to all appropriate deductions. However, there are only two regular deductions from compensation; one for the employee's premium share of health benefit plan, the other for optional life insurance, if enrolled.

54. Are deductions made from compensation for basic Government life insurance?

No. An injured employee will continue to be protected by basic Government life insurance coverage, without cost, as long as OWCP benefits are being paid and the employee is unable to resume usual employment due to the injury. Premiums for optional life insurance, however, are deducted.

55. Is there any limit on the total amount of compensation payable?

No. There is no limitation on the total amount of compensation payable in any case. However, the maximum payment per month cannot exceed three-fourths of the highest rate of basic pay provided for Grade GS-15 of the General Schedule.

56. Are night differential, hazard, premium, holiday, and Sunday pay included in the pay rate used for compensation computations?

Yes. All are included in determining the pay rate on which compensation is based.

57. Is overtime pay included when determining the pay rate for compensation purposes?

No. Overtime pay is excluded by law and cannot be part of the pay rate for compensation purposes.

58. If, while an employee is receiving compensation, an increase in salary occurs (due to an in-grade increase or promotion), will the compensation reflect the increase?

Salary increases taking effect during a period in which compensation is being paid will not increase the amount of compensation.

59. Is the amount of compensation increased as the cost-of-living rises?

Yes. In general, if a claimant has been receiving compensation for more than a year, the law provides for increases based upon the rise in the cost-of-living.

60. Who may qualify as a dependent, to entitle an employee to compensation at the three-fourths (3/4) rate?

The term "dependent" includes a wife or husband, unmarried children under 18 years of age, or a wholly dependent parent. Children under 23 years of age who are unmarried and are full-time students may also qualify if they have not completed 4 years of schooling beyond the high school level.

61. Is the augmented three-fourths (3/4) compensation rate applicable to an employee who is divorced and pays child support?

Yes, provided the employee is making regular contributions to the support of the child.

62. If a female employee is injured, is she entitled to compensation at the three-fourths rate?

Yes, provided she has at least one child, unmarried, under the age of 18 and living in her household or receiving regular support contributions from her. She is also qualified if the children are over age 18, provided they are full-time students, unmarried, under age 23, and have not completed 4 years of education beyond high school. A husband or a wholly dependent parent may also qualify her to receive compensation at the three-fourths (3/4) rate.

63. Are step-children and adopted children considered dependents for compensation purposes?

Yes. Step-children and adopted children are considered dependents and they entitle an employee to receive compensation at the three-fourths (3/4) rate.

64. Are there any burial expenses payable if an employee dies as the result of a work injury?

Yes. Burial expenses up to \$800 are payable. If the Veterans Administration also pays a burial allowance, the VA allowance must be deducted. Also, whether or not any funeral or burial expenses were paid, the personal representative of a deceased Federal employee may also be entitled to the sum of \$200 for reimbursement of the cost of termination of the decedent's status as an employee of the United States.

65. Will spouse be entitled to any benefits if an employee dies as a result of an employment-related injury or disease?

Yes. If there are no children, an employee's surviving spouse will receive monthly compensation at the rate of 50 percent of the employee's salary. Monthly compensation continues until death, or remarriage before reaching age 60, for either the surviving husband or wife.

66. Will both the spouse and children be entitled to compensation benefits if an employee dies as the result of an employment related injury or disease?

Yes. If there are children, a surviving spouse will receive monthly compensation at the rate of 45 percent of the decedent's salary. The spouse will receive an additional 15 percent for each child up to a total of 75 percent of the salary. Total monthly compensation for all dependents cannot exceed 75 percent of the monthly salary.

67. If there is no surviving widow or widower, what is the compensation rate for the children?

Compensation for the first child is 40 percent of the employee's monthly salary; 15 percent is paid for each additional child up to the maximum of 75 percent. The money is to be divided equally between the children (share and share alike).

68. Is a surviving spouse's compensation terminated upon remarriage?

If the remarriage occurs at age 60 or later, compensation will continue. If the remarriage occurs prior to age 60, compensation terminates and the surviving spouse is paid a lump sum equal to 24 times his or her monthly compensation rate.

69. For how long will children be entitled to compensation benefits?

Compensation for a child ceases when the child marries or reaches age 18. If a student, or incapable of self-support because of physical or mental disability, compensation on behalf of the child may continue beyond age 18. (See number 70)

70. Is there any provision for payment of educational expenses if a child continues as a student after reaching age 18?

Yes. Compensation for a child may continue after age 18 provided the child is a full-time student, unmarried, under age 23, and has not completed 4 years of education beyond high school.

71. In addition to the surviving spouse and children what other dependents are entitled to death compensation benefits?

Compensation may be paid on behalf of dependent parents, grandparents, brothers, sisters, and grandchildren.

72. If, as a result of an on-the-job injury, an employee returns to work at a lower rate of pay, is he or she entitled to compensation?

Yes. The employee may receive compensation for the loss of earning capacity resulting from the injury. The compensation rate is two-thirds of the loss of earning capacity if there are no dependents; or three-fourths of the loss if the employee has one or more dependents.

73. How is the wage-earning capacity of a partially disabled employee determined?

The employee's actual earnings, if any, are studied to see if they fairly and reasonably represent the individual's wage-earning capacity. If they do not, or if the employee has no actual earnings, the OWCP must determine such earning capacity taking into consideration the nature of the injury, the degree of physical impairment, the employee's age, employment qualifications, the availability of suitable employment, and any other

factors or circumstances in the employee's case which may affect the capacity to earn wages in his or her disabled condition.

74. If, after returning to work, an employee must again stop work to seek medical care, can the individual receive compensation for any loss of wages suffered?

Yes. Compensation is payable for wage loss sustained while obtaining medical care.

75. If an employee suffers a permanent injury which prevents a return to usual work, does the OWCP assist in obtaining reemployment?

Yes. The OWCP can arrange for vocational rehabilitation services in such cases. These services are provided through the facilities of State vocational agencies participating in the Federal vocational program. A maintenance allowance up to \$200 a month may be paid where necessary while the claimant is undertaking an approved course of training. A claimant undergoing an OWCP approved vocational training program will receive total compensation until the completion of the program. If the claimant is drawing less than total compensation and is in an approved vocational program, total compensation will be restored.

76. Where does a claimant send an inquiry concerning rehabilitation training?

Questions concerning rehabilitation should be directed to the attention of the Rehabilitation Specialist in the OWCP district office servicing the injured employee's claim.

77. Does an injured employee have Civil Service retention rights when injured on the job?

Yes. The provisions of 5 U.S.C. 8151, administered by the Office of Personnel Management, assures Federal employees, including those of the U.S. Postal Service, who are injured on the job and who have received, or are receiving compensation, that upon their return to Federal employment they will incur no loss of benefits which they would have received but for the injury (or disease). It also permits an injured employee to return to his/her former or equivalent position if recovery occurs within 1 year from the date compensation begins or 1 year from recurrence of that same injury. For those employees whose disability extends beyond 1 year, the employing agency or department is to grant priority in employment to the injured worker, provided application for reappointment is made within 30 days of the date of cessation of compensation.

78. Is an employee obligated to seek work after total disability ceases and he or she is left with a permanent partial disability?

Yes. The act provides that the employee must seek suitable work. If the individual refuses to do so, or if the employee refuses or neglects to work after such work is offered or found for him or her, the employee is not entitled to compensation.

79. If as the result of employment, an employee suffers permanent loss or loss of use of a member, function, or organ of the body such as an arm, foot, lung, loss of vision or hearing, is the employee entitled to compensation for impairment, in addition to compensation for wage loss?

The compensation law provides a schedule of payments for the loss or loss of use of specified members and functions of the body. The law also provides an award for permanent loss or loss of use of other specified important external or internal organs of the body. A list of schedule awards is shown below in number 84.

80. May schedule award payments be made while an employee is working?

If an employee is entitled to a schedule award, the payments are made regardless of whether the employee returns to work. Payment is made for a specified number of weeks even though the individual returns to regular work at full pay. Schedule awards may also be paid while an employee is receiving sick or annual leave pay, working for private industry, is self-employed, or is drawing Civil Service Retirement benefits.

81. May a schedule award be paid on the basis of permanent impairment of the brain, heart, or back?

No. Schedule awards may be paid only for permanent impairment to body members and organs listed in the schedule. These parts of the body are not listed in the schedule award provisions of the FECA. Compensation is payable for such permanent impairment if it results in a loss of wage-earning capacity.

82. Does a loss of hearing qualify an employee for a schedule award?

If it is established that the hearing loss was caused by factors of employment, an employee would be entitled to a schedule award for such loss.

83. What happens if an employee suffers a disfigurement as a result of a work injury?

The FECA provides for payment of an award for any serious disfigurement of the head, face, or neck, which is likely to handicap an individual in securing or maintaining employment. Compensation for disfigurement cannot exceed \$3,500.

84. Specifically, what is the schedule of payments for permanent impairment of the various extremities, organs, body functions, and disfigurement?

Schedule benefits are awards for permanent impairment of certain members or functions of the body, including certain internal and external organs. The following table shows the number of weeks of compensation payable in the event an employee suffers the permanent loss of or loss of use of specified body members. Payments are made at the total weekly compensation rate and are in addition to any payments for periods of temporary disability.

<u>Anatomical Member</u>	<u>Weeks of Compensation</u>
Arm	312
Leg	288
Hand	244
Foot	205
Eye	160
Thumb	75
First Finger	46
Great Toe	38
Second Finger	30
Third Finger	25
Toe (other than great toe)	16
Fourth Finger	15
Complete loss of hearing (one ear)	52
Complete loss of hearing (both ears)	200
Breast	52
Kidney	156

Larynx	160
Lung	156
Penis	205
Testicle	52
Tongue	160

Disfigurement--Proper and equitable compensation not to exceed \$3,500 as determined by the OWCP in addition to any other compensation payable under this schedule, is authorized for serious disfigurement of the face, head, or neck, if it is of a character likely to handicap a person in securing or maintaining employment.

Eye or hearing--The degree of loss of vision or hearing under this schedule is determined without regard to correction.

Where injury related loss of earning capacity persists after scheduled payments are completed, compensation may then be continued for loss of earning capacity.

85. If an employee is seriously injured at work and must terminate all employment, should he or she claim workers' compensation or apply for Civil Service retirement benefits?

The employee may immediately make application for both benefits to ascertain the amount of entitlement under each law. If entitled to both, the individual may then elect whichever benefit is more advantageous.

86. Must an employee elect between Civil Service retirement and all monetary benefits payable under the FECA?

A schedule award is payable for the same period as Civil Service retirement benefits but it is the only monetary compensation payable under the FECA concurrently with a retirement annuity. An employee must make an election between annuity and compensation benefits in all other instances.

87. If an employee elects Civil Service retirement benefits, must he or she pay for medical treatment which may be required as a result of the job-related injury?

The cost of all medical treatment required for the effects of the injury may be paid for by the OWCP even though the employee elects Civil Service retirement benefits.

88. May an employee obtain vocational rehabilitation under the FECA while receiving Civil Service retirement benefits?

No. An employee is entitled to vocational rehabilitation under the FECA only if (a) the employee sustained a permanent job-related disability which has resulted in an employment handicap for the usual work and, (b) the employee is receiving compensation from the OWCP.

89. Is an award for a service-connected disability from the VA payable concurrently with FECA compensation?

If the employee suffers a service-connected disability and subsequently, as a result of Federal civilian employment, injures a different part of the body, the employee may receive both benefits at the same time. However, if there is a reinjury to the same member of the body for which the employee receives VA service-connected benefits and the VA increases such benefits, the employee will be required to make an appropriate election.

90. May dependents receive a nonservice connected award (pension) from the VA concurrently with compensation from the OWCP if an employee dies due to a work-related injury?

Yes. Pension is the only form of VA benefits which dependents may receive concurrently with FECA compensation benefits. An election is necessary between compensation and all other types of VA benefits, if benefits payable by both agencies are based on the same disability or death.

91. May children receive educational benefits under the FECA concurrently with VA educational benefits?

No. If children are entitled to both VA and FECA educational benefits, an election will have to be made; they cannot receive both benefits concurrently.

92. Is retirement or retainer pay for military services payable concurrently with FECA compensation?

Yes. For all periods of compensation entitlement beginning September 7, 1974, both benefits are payable concurrently. The appropriate Military Finance Center should be contacted regarding whether they will reduce retirement/retainer pay because the employee is receiving compensation.

93. Are FECA benefits payable concurrently with Social Security benefits?

There is no prohibition under the FECA against payment of concurrent benefits; however, the Social Security Administration may, in certain instances, reduce their payments. The Social Security Administration should be contacted regarding their procedures in this matter.

94. Are the proceeds of a disability or death insurance policy payable concurrently with FECA compensation?

Yes. Concurrent receipt of compensation benefits and private insurance benefits for disability or death is not prohibited under the FECA.

95. Is an employee entitled to compensation if the job-related injury is caused by some party other than the United States?

Yes, but when an injury is sustained under such circumstances the claimant may be required to prosecute a claim against the third party or to assign the cause of action to the United States. An employee (or the beneficiary, in the event of death) who refuses to make such assignment or prosecute a claim against a third party as directed, loses the right to compensation.

96. Is an employee permitted to make a personal settlement of a third party claim?

Yes. The employee may engage an attorney or may present a claim directly to the responsible party or insurance company. Since the Federal Government is entitled to reimbursement for compensation payments and medical expense, the OWCP should be kept informed of all developments and recoveries in connection with a third party action. No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or a designee the proceeds of such settlement without first satisfying or assuring satisfaction of the interest of the United States.

97. How is money or property distributed following a third party recovery?

The FECA specifies how the third party recovery shall be distributed. First, the costs of the settlement including a reasonable attorney's fee, if a fee was paid, is deducted from the total sum recovered as damages. The injured employee retains one-fifth of the net. From the remaining four-fifths, a refund must be made to the compensation fund for the cost of all compensation benefits paid on account of the injury, less an amount equivalent to a reasonable attorney's fee proportionate to the refund made to the United States. The surplus remaining, if any, is turned over to the injured employee and is set up as a credit against future compensation benefits on account of the same injury.

98. If an employee or the survivors disagree with a final determination of the OWCP, what recourse is available?

The claimant may: (a) submit new evidence to the OWCP and ask for reconsideration of the decision, or (b) request a hearing before a representative of the OWCP, or (c) appeal to the Employees' Compensation Appeals Board, U.S. Department of Labor, for review of the decision. The claimant need not follow a fixed sequence of action, but may first request a hearing, or appeal directly to the Employees' Compensation Appeals Board without having requested either reconsideration or a hearing.

99. If a claimant requests a hearing before the OWCP, will the Hearing Representative consider new evidence?

Yes. The Hearing Representative will consider any new evidence a claimant may submit in support of the claim.

100. Is there a time limit for requesting a hearing?

Yes. It should be requested within 30 days following a formal decision by the OWCP.

101. What if the claimant disagrees with the Hearing Representative's decision? Is there any further action that can be taken?

Yes. The claimant may appeal the Hearing Representative's decision to the Employees' Compensation Appeals Board. This review is limited to the evidence of record; that is, to all written evidence contained in the employee's file.

102. Is the Employees' Compensation Appeals Board a division of the OWCP?

No. The Board is a separate entity in the U.S. Department of Labor which is authorized to hear and make final decisions on appeals from final determinations made by the OWCP.

103. Is there a time limit for requesting a review by the Employees' Compensation Appeals Board?

Yes. An employee should file an appeal within 90 days after a formal decision by the OWCP. The Board can extend this limitation up to a year for good cause.

104. If a claimant disagrees with the decision of the OWCP, the Hearing Representative or the Employees' Compensation Appeals Board, may review be obtained through a State or Federal court system?

An employee's exclusive remedy lies within the FECA. Only the Employees' Compensation Appeals Board has authority to consider and decide appeals from final decisions made by the OWCP.

105. May an attorney represent a claimant before the Employees' Compensation Appeals Board?

Yes, a claimant may be represented by an attorney or by any other person duly authorized by the claimant. The Appeals Board must approve any fee for such representation.

106. Who approves the amount of the fee charged for representing a claimant before the OWCP?

The OWCP will approve a fee based on an itemized statement submitted by the representative showing the necessary work done. A contract between the claimant and the legal representative for the payment of an agreed sum or a sum based on a contingent contract will not be recognized.

107. Will the OWCP pay the cost of legal services in the event the claimant obtains representation?

No. The OWCP can neither direct the payment of nor assist in the collection of legal fees. This is a matter between the claimant and the attorney.

108. If an employee sustains a job-related injury and also suffers damage to personal property, such as clothing, can the employee be paid for such loss?

There is no provision for reimbursement for loss of personal property under the FECA. The employee may claim reimbursement for noncovered personal property from his or her employing agency under the Military and Civilian Personal Property Act of 1964, 31 U.S.C. 240.

109. Are compensation payments subject to claims by creditors?

The FECA specifically provides that assignment of a claim for compensation is void and all compensation payments are exempt from the claims of creditors.

Disability compensation payments are, however, subject to garnishment for alimony and child support payments if the legal process is served in accordance with State law and workers compensation is garnishable for those purposes under the law of the State wherein the process is issued.

110. How much does compensation coverage cost a Federal employee?

No salary deductions are made for compensation coverage under the FECA. Coverage is extended if the person qualifies as an employee of the Federal Government and if the injury falls within the purview of the Act.

111. What is the penalty for filing a false claim?

The law (18 U.S.C. 1920) provides: "Whoever makes, in an affidavit or report required by section 8106 of title 5 or in a claim for compensation under subchapter I of chapter 81 of title 5, a statement, knowing it to be false, is guilty of perjury and shall be fined not more than \$2,000 or imprisoned not more than one year, or both."

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

The OWCP should be notified of such refusal. The 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."

DISTRICT OFFICE TERRITORIAL JURISDICTION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT

District Offices	No.
Boston	1
New York	2
Philadelphia	3
Jacksonville	4
New Orleans	5
Cleveland	6
Chicago	7
Kansas City	8
Denver	9
San Francisco	10
Seattle	11
Portland	12
San Diego	13
Phoenix	14
Albuquerque	15
San Antonio	16
Fort Worth	17

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Office of Workers' Compensation Programs

* Districts 6 and 17 cover the same geographic area.
District 6 adjudicates all new claims, while District 17 maintains periodic roll cases.

Rev. Feb. 1979

OFFICE OF WORKERS' COMPENSATION PROGRAMS

DISTRICT OFFICE ADDRESSES FOR FECA

Revised February 1983

District No. 1

Room 1800, John F. Kennedy Bldg.
Government Center
Boston, Massachusetts 02203
Tel. FTS 8-223-6755

District No. 2

1515 Broadway (at West 44th)
New York, New York 10036
Tel. FTS 8-265-4796

District No. 3

Gateway Building, Room 15200
3535 Market Street
Philadelphia, Pennsylvania 19104
Tel. FTS 8-596-1180

District No. 6

400 West Bay Street, Box 35049
Jacksonville, Florida 32202
Tel. FTS 8-946-3426

District No. 7

Hale Boggs Federal Building
500 Camp Street, Room 840
New Orleans, Louisiana 70130
Tel. FTS 8-682-3664

District No. 9

1240 East 9th Street, Room 867
Cleveland, Ohio 44199
Tel. FTS 8-293-2049

District No. 10

230 South Dearborn Street, 8th Floor
Chicago, Illinois 60604
Tel. FTS 8-353-5650

District No. 11

1910 Federal Office Building
911 Walnut Street
Kansas City, Missouri 64106
Tel. FTS 8-758-2723

District No. 12

Drawer 3558, Federal Building
1961 Stout Street
Denver, Colorado 80294
Tel. FTS 8-327-5402

District No. 13

450 Golden Gate Ave., Box 36066
San Francisco, California 94102
Tel. FTS 8-556-6183

District No. 14

4010 Federal Office Building
909 First Avenue
Seattle, Washington 98174
Tel. FTS 8-399-5521

District No. 15

300 Ala Moana Boulevard
Room 5108, Box 50209
Honolulu, Hawaii 96850
Tel. FTS 8-808-546-8336

District No. 16

555 Griffin Square Bldg. Rm. 100
Griffin and Young Streets
Dallas, Texas 75202
Tel. FTS 8-729-2580

District No. 17

1371 Peachtree St., NE, Rm. 105
Atlanta, Georgia 30367
Tel. FTS 8-257-7566

District No. 25

Room 405, 666-11th St., N.W.
Washington, D.C. 20211
Tel. FTS 8-724-0702

District No. 50

711 14th Street, N.W.
P.O. Box 28608
Washington, D.C. 20005
Tel. FTS 8-724-0051

APPENDIX F

COST BREAKDOWN - SAN FRANCISCO

1988 LEGEND %

#1

DISAB 70

MED 24

FATAL 5

DISABILITY COMPENSATION

\$ 156.2 Million

FATAL
COMPENSATION
\$ 11.3 Million

MEDICAL

\$ 54.3 Million

TOTAL : 221.8 \$ MILLION

CHARGEBACK COSTS - NATIONWIDE

1988

NAVY
181.7

ARMY
120.4

VETERANS
ADMIN
92.0

AIR FORCE
88.9

TRANSPORTATION
71.2

TENNESSEE VALLEY
AUTHORITY 45.2

AGRICULTURE 37.8

ALL OTHERS
209.9

LEGEND	%	#1
USPS	26	
NAVY	16	
ARMY	11	
VA	8	
AF	8	
TRANS	6	
TVA	4	
AGRI	3	
OTHS	18	

TOTAL : 1144 \$ MILLION

CHARGEBACK COSTS - SAN FRANCISCO

1988

LEGEND %

#1

NAVY 35

USPS 22

AF 8

VA 7

ARMY 6

INT 3

TRANS 3

AGRI 3

OTHS 11

NAVY 77.1

U.S. POSTAL
SERVICE
48.8

AIR FORCE
18.8

VETERANS ADMIN
15.2

ARMY
13.9

INTERIOR
7.6

AGRICULTURE 7.5

TRANSPORTATION 7.5

ALL OTHERS
25.4

TOTAL : 221.8 \$ MILLION

[231]

CHARGEBACK COST BREAKDOWN-NATIONWIDE

1988

DISABILITY COMPENSATION

\$ 837.9 Million

FATAL
COMPENSATION
\$ 67.4 Million

MEDICAL
\$ 238.7 Million

TOTAL : 1144 \$ MILLION

LEGEND %

#1

■ DISAB 73

▨ MED 21

⋯ FATAL 6

APPENDIX G

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

[233]

NOV 10 1988

Ms. Linda Harper
323 Spade Way
San Jose, California 95123

Dear Ms. Harper:

I am in receipt of your request for information to the U.S. Small Business Administration. The information you have requested on the Worker's Compensation Program (OWCP) is extensive and would require time to gather it beyond the date for return specified in your letter.

The basic procedures for processing OWCP claims is government-wide and must involve the Department of Labor. The procedures leave to agencies only limited discretion for the processing of claims.

I also advise that the information you request is maintained on all Federal agencies by the Department of Labor. Your request would be more appropriately addressed to:

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
OFFICE OF WORKERS' COMPENSATION PROGRAMS
1100 L STREET, N.W., ROOM 9404
WASHINGTON, D.C. 20211

Best wishes on the successful completion of your project.

Sincerely,

H. Steven L. Newbold II
Director, Office of Employee
and Labor Relations

UNITED STATES POSTAL SERVICE
Employee Relations Department
475 L'Enfant Plaza, SW
Washington, DC 20260-4200
November 1, 1988

Ms. Linda L. Harper
323 Spade Way
San Jose, CA 95123-5126

Dear Ms. Harper:

This will acknowledge your October 20 letter requesting our participation in a survey for your thesis concerning the Federal Employee's Compensation Act. We have responded to your questions in the following manner:

1. How many Federal Workers' Compensation claims have been filed and processed by and for your Agency in the last 10 years or less?

<u>Year</u>	<u>No. of Claims</u>
1988	60,362
1987	57,700
1986	59,371
1985	61,107
1984	62,501
1983	58,504
1982	67,529
1981	74,190
1980	82,109
1979	84,324

2. Please provide a breakdown by gender, grade and race?
Information is not available.
3. How many were traumatic injuries?
80 percent estimated.
4. How many were occupational disease claims?
20 percent estimated.
5. How many of the injured received rehabilitation or did self-rehabilitation?
Information is not available.

-2-

6. What is your annual budget for compensating injured workers?
The 1988 Postal Service costs were \$260 million.
7. What number of your injured employees returned to their previous jobs?
99 percent estimated.
8. What was the average length of time from the date of filing the claim to the date of completion of processing?
Information is not available.
9. Have your employees been briefed on the processing of claims?
Yes.
10. Would your Agency prefer to process your claims from start to finish?
Inappropriate to comment.

I hope the above responses will prove helpful to you in preparing your thesis.

Sincerely,

for Richard H. Bauer
Manager
Injury Compensation Branch
Office of Safety and Health

62365

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

NOV 14 1988

Ms. Linda Harper
323 Spode Way
Sun Jose, CA 95123

Dear Ms. Harper:

This letter is written in response to your letter dated, October 20, 1988, which was addressed to the Secretary of Education. The Secretary has requested that this office respond to your request for data relating to the Workers' Compensation Program.

While we would like to assist you in your survey, we are unable to provide data for the past ten years. Data for the 10 years that you are requesting is maintained at the Office of Workers' Compensation Programs, U.S. Department of Labor, 1100 L Street, N.W., Washington, D.C. 20211. You may wish to contact them directly if additional data is needed for your survey. In the meantime, we are able to provide you with information for the last three years as follows:

1. Q. How many federal workers compensation claims have been filed and processed by and for your agency in the last 10 years or less?
 - A. The total number of claims processed in the past three years was 443.
2. Q. Please provide a breakdown by gender, grade and race.
 - A. This data is not maintained within the Department.
3. Q. How many were traumatic injuries?
 - A. 417 were traumatic injuries.
4. Q. How many were occupational disease claims?
 - A. 26 were for occupational diseases.
5. Q. How many of the injured received rehabilitation or did self-rehabilitation?
 - A. We have only had one case where rehabilitation was necessary and received.
6. Q. What is your annual budget for compensating injured workers?
 - A. There is no annual budget. The Department of Education pays for whatever amount we are assessed by the Department of Labor. (See enclosure 1)

7. Q. What number of your injured employees returned to their previous jobs?
- A. All employees returned to work except one who is currently under Rehabilitation.
8. Q. What was the average length of time from the date of filing the claim to the date of completion of processing?
- A. Normally claims are forwarded to the Department of Labor within one week after receipt in this office. We are unable to provide you with data relevant to the completion of processing once the claim is forwarded to Labor.
9. Q. Have your employees been briefed on the processing of claims?
- A. Yes, employees and supervisors have been briefed on the proper processing and filing of Workers Compensation Claims.
10. Q. Would your agency prefer to process your claims from start to finish?
- A. The Federal Employees' Compensation Act is administered by the Office of Workers' Compensation Programs, U.S. Department of Labor. The program consists of funds appropriated by Congress either directly or indirectly, and as such, this function must remain under the administration of the Department of Labor.

The completed survey form is enclosed which includes the above information. If further assistance is needed, please contact the Department of Labor at the above address.

Sincerely,

Hazel Mingo
Director, Division of
Personnel Operations

Enclosures:

1. Budget Information
2. Survey Form

SURVEY

	1986	1987	1988
<u>TOTAL CASES</u>	<u>154</u>	<u>144</u>	<u>145</u>
<u>RACE</u>	<u>Not Available</u>		
<u>GENDER</u>	<u>Not Available</u>		
<u>GRADE</u>	<u>Not Available</u>		
<u>TRAUMATIC INJURY</u>	<u>146</u>	<u>135</u>	<u>136</u>
<u>OCCUP DISEASE</u>	<u>8</u>	<u>9</u>	<u>9</u>
<u>ANNUAL BUDGET</u>	<u>See Attached Response</u>		
<u>REHAB Y/N</u>	<u>1</u>	<u>---</u>	<u>---</u>
<u>RET TO JOB Y/N</u>	<u>Yes*</u>	<u>Yes*</u>	<u>Yes*</u>

*All employees returned to work except one who is currently under Rehabilitation.

	<u>Traumatic Injuries</u>	<u>Occupational Diseases</u>	<u>Total Injuries</u>
1982	162,083	12,580	174,933
1983	154,750	13,792	168,542
1984	156,567	12,274	168,841
1985	157,607	13,381	170,988
1986	148,134	13,313	161,447
1987	145,294	13,394	159,688

12.18 - WORKMAN'S COMPENSATION

	<u>1987</u> <u>Actual</u>	<u>1988</u> <u>Estimate</u>	<u>Pres.</u> <u>Budget</u>	<u>1989</u> <u>Revised</u> <u>Budget</u>	<u>New</u> <u>Activities</u>	<u>1990</u> <u>Request</u>
DM	\$ 532.2	\$ 600.0	\$ 617.0	\$ 550.0	\$ 0	\$ 550.0

This line item represents reimbursement to the Department of Labor for Workman's Compensation claims paid to ED employees as the result of injuries on the job.

There is no way of estimating this particular line item. The amount billed by DOL is based on the number of employees filing claims for injuries during a specific time period. Since the total for each claim is based on both medical charges and salary during recuperation and/or rehabilitation, it is impossible to know from year to year just how much ED will be billed.

The following amounts were charged in previous years: FY 1983 - \$413,855; FY 1984 - \$409,553; FY 1985 - \$562,971; FY 1986 - \$700,105; FY 1987 - \$532,153. As of this date we have not received our FY 1988 charges.

At the time of the original FY 1989 Request, we had not received our FY 1987 usage. Based on this usage, we are assuming a lower President's Budget level and will hold to this level for FY 1990.

629-0872

(201) 624-8892

(202) 233-2381
Emp. Relations, Nora E
not there - no listing

(241)

~~Russell~~ - VA Central Office (202) 373-2384

could it be SURVEY Royce Britt (202)

(202) 283-5013 or 233-2384

~~233-3371~~

1978 1979 1980 1981 1982 1983 1984 1985 1986 1987

TOTAL CASES *mailed*

RACE

GENDER

GRADE

TRAUMATIC

INJURY

OCCUP

DISEASE

ANNUAL

BUDGET

REHAB

Y/N

RET TO

JOB Y/N

Chargeback -

91,997,3

84,519,337
84,411,111 / 91,977,252
90M

October 20, 1988

RE: Survey for Thesis

Dear Madam/Sir:

I am a Political Science student at San Jose State University in the final semester of graduate studies.

Public policy is my major and I have chosen the Federal Employee's Compensation Act for my thesis.

Therefore, I am asking that you participate in the attached survey and return the information in the enclosed self-addressed, stamped envelope.

I am told that only ten per cent of the twenty request will possible be returned but as a retired civil service employee I have assured my committee they are wrong.

Please return the requested information within ten days if possible in order to assist me in reaching my deadline and goals. Somehow I would like to show my appreciation but I am not sure how, if you have any suggestions please let me know. If you have any questions, please call me collect at 408 629-0872.

Thank you in advance for your cooperation in this desperate matter as my presentation is in November 1988.

Sincerely

Linda L. Harper

SURVEY QUESTIONS

Attached to this form is a graph for your convenience in answering the following question except for no. 7 and 8. My statistical data will be based on your response. Data will be based on four different area and ten agencies.

1. How many federal workers compensation claims have been filed and processed by and for your agency in the last 10 years or less?
2. Please provide a breakdown by gender, grade and race.
3. How many were traumatic injuries? (87)
4. How many were Occupational disease claims? (87)
5. How many of the injured received rehabilitation or did self-rehabilitation?

6. What is your annual budget for compensating injured workers? No budget - goes up every year; more acci. -

7. What number of your injured employees returned to their previous jobs? here - chose comp vs Retirement or dis. pen (generous)

8. What was the average length of time from the date of filing the claim to the date of completion of processing? immediately

9. Have your employees been briefed on the processing of claims? through poster - indicating 45 calendar days not working days

10. Would your agency prefer to process your claims from start to finish?

15,000 gr.
15% of
Total
practice left
on file

largest EOP
is due to
higher grade employees
15% of
lawyers & ↓
dis. retirement
hard to prove

System not in
computer
Reps. from Dept. of Labor
Very little info.
hard to prove more lighting

while person
contesting case
got to be work-
related

moving down - turn

10. Yes - we are billed for it -
but Office of Workers comp -
stays in school -

----- SURVEY -----

----- 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 -----

TOTAL CASES -----

RACE -----

GENDER -----

GRADE -----

TRAUMATIC
INJURY -----

OCCUP
DISEASE -----

ANNUAL
BUDGET -----

REHAB
Y/N -----

RET TO
JOB Y/N -----

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
OFFICE OF WORKERS COMPENSATION PROGRAMS
DIVISION OF FEDERAL EMPLOYEES COMPENSATION

RUN DATE: 10/05/88
PAGE NO. 4

FECs II - ANALYSIS OF FEC PROCESSING PERFORMANCE - ALL DISTRICT OFFICES
NON-TRAUMATIC ADJUDICATIONS (%) (RCV-ADJ)

CASES PROCESSED FROM 10/01/87 TO 09/30/88

TOTAL NBR CASES	0 - 14 DAYS	0 - 30 DAYS	0 - 45 DAYS	0 - 120 DAYS	0 - 180 DAYS	0 - 300 DAYS	0 - 365 DAYS	> 365 DAYS
12,471	6.90	10.69	13.66	48.38	79.11	94.88	97.47	2.53

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
OFFICE OF WORKERS COMPENSATION PROGRAMS
DIVISION OF FEDERAL EMPLOYEES COMPENSATION

RUN DATE: 10/05/88
PAGE NO. 1

FECs II - ANALYSIS OF FEC PROCESSING PERFORMANCE - ALL DISTRICT OFFICES
TRAUMATIC ADJUDICATIONS (%) (RCV-ADJ)

CASES PROCESSED FROM 10/01/87 TO 09/30/88

TOTAL NBR CASES	0 - 14 DAYS	0 - 30 DAYS	0 - 45 DAYS	0 - 120 DAYS	0 - 180 DAYS	0 - 300 DAYS	0 - 365 DAYS	> 365 DAYS
143,232	61.80	77.34	92.22	99.26	99.77	99.91	99.92	0.08

(245)

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs
Division of Federal Employees' Compensation
Washington, D.C. 20210

File Number:

NOV 14 1988

Ms. Linda L. Harper
323 Spade Way
San Jose, California 95123

Dear Ms. Harper:

Your letter of October 20 concerning a survey about the Federal Employees' Compensation Act (FECA) has been referred to me.

The attached sheet shows cases filed under FECA, broken down by traumatic injury and occupational disease, since 1982. The injury statistics shown are for the calendar year. These figures should respond to questions 1, 3 and 4 in your survey.

In response to question 2 in your survey, the Office of Workers' Compensation Programs (OWCP) does not collect information breaking down injuries by race or grade; although we do request that information pertaining to gender be provided, this information is used only for the purpose of titles (Mr. or Ms.) in letters and is not compiled.

In response to question 5, OWCP provided rehabilitation services to 4852 injured Federal employees in Fiscal Year 1988, and returned 1032 employees to duty through rehabilitation services. Cases of self-rehabilitation are not included in this total; as this information is not reported to us, we cannot provide you with any figures in this area.

In response to question 6, for the period July 1, 1987 through June 30, 1988, \$1,199,000,000 was paid on behalf of FECA beneficiaries. For Fiscal Year 1988, the operating budget for FECA was 54 million dollars.

Question 7 is not specific enough to allow us to provide you with meaningful data. Employees may have returned to similar employment at a different government agency, for example; this return to duty would not be recorded by OWCP. In addition, it is not clear how this return to duty should be counted; whether, for example, an employee injured in December, 1986 and returning to work in January, 1988 should be counted in 1986 injuries or 1988 returns to duty. We do know that, of the 1061 Department of Labor employees who filed injury claims during the period July 1, 1987 to June 30, 1988, 34 were still disabled and were receiving FECA benefits as of September 30, 1988.

In response to question 8, processing times for FECA claims are compiled separately for traumatic injuries and occupational diseases. In addition, the processing times are measured in ranges of days rather than exact days. In Fiscal Year 1988, we are attaching a chart which shows the percentage of adjudications (initial decisions denying or approving the claim) within the ranges shown, for traumatic injuries and occupational diseases.

In response to question 9, employees of the Department of Labor, as part of their orientation process, receive a pamphlet which briefly explains the procedures and benefits of FECA. Since the Department of Labor does process claims on behalf of their own employees, question 10 is not relevant to our agency.

I trust that this letter is responsive to your inquiry.

Sincerely,

THOMAS M. MARKEY
Associate Director for
Federal Employees' Compensation

Enclosures