

BEST PRACTICES, TOOLS, AND TECHNIQUES FOR EFFECTIVE OWCP CASE MANAGEMENT

PRESENTED

BY

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RESTORATION RIGHTS

(5 CFR SEC. 353.301 RESTORATION RIGHTS)

- ◆ FULLY RECOVERED WITHIN ONE YEAR FROM THE DATE ELIGIBILITY FOR COMPENSATION BEGAN, OR FROM THE TIME COMPENSABLE DISABILITY RECURS IF THE RECURRENCE BEGINS AFTER THE EMPLOYEE RESUMES REGULAR FULL-TIME EMPLOYMENT.

-ENTITLED TO BE RESTORED IMMEDIATELY AND UNCONDITIONALLY TO HIS OR HER FORMER POSITION OR AN EQUIVALENT POSITION.

-ALTHOUGH RESTORATION RIGHTS ARE AGENCYWIDE, BASIC ENTITLEMENT IS TO FORMER FACILITY OR WITHIN COMMUTING AREA.

RESTORATION RIGHTS

(5 CFR SEC. 353.301 RESTORATION RIGHTS)

-IF THERE IS NO SUCH POSITION IN THE LOCAL COMMUTING AREA, THE AGENCY MUST OFFER A POSITION IN ANOTHER LOCATION.

-THIS ALSO APPLIES WHEN AN INJURED EMPLOYEE ACCEPTS A LOWER-GRADE POSITION IN LIEU OF SEPARATION AND SUBSEQUENTLY FULLY RECOVERS.

FULLY RECOVERED AFTER ONE (1) YEAR (5 CFR SEC. 353.301)

-ENTITLED TO PRIORITY CONSIDERATION TO THE POSITION HE OR SHE LEFT OR AN EQUIVALENT POSITION, PROVIDED HE OR SHE APPLIES WITHIN 30 DAYS OF THE CESSATION OF COMPENSATION.

-THIS ALSO APPLIES WHEN AN INJURED EMPLOYEE ACCEPTS A LOWER-GRADED POSITION IN LIEU OF SEPARATION AND SUBSEQUENTLY FULLY RECOVERS.

FULLY RECOVERED AFTER ONE(1) YEAR (5 CFR SEC. 353.301)

-PRIORITY CONSIDERATION IS ACCORDED BY ENTERING THE INDIVIDUAL ON THE AGENCY'S REEMPLOYMENT PRIORITY LIST FOR THE COMPETITIVE SERVICE OR REEMPLOYMENT LIST FOR THE EXCEPTED SERVICE.

PHYSICALLY DISQUALIFIED

(5 CFR SEC. 353.301)

◆ DISQUALIFIED FOR FORMER OR EQUIVALENT POSITION.

- Entitled to another position for which qualified with same status, and pay, or nearest approximation thereof.
- Right is agencywide for 1 year. After 1 year the same as fully or partially recovered, as applicable.

PARTIALLY RECOVERED

(5 CFR SEC. 353.301 RESTORATION RIGHTS)

-AGENCY MUST MAKE EVERY EFFORT TO RESTORE IN THE LOCAL AREA EMPLOYEES ABLE TO WORK LIMITED DUTY.

-As a minimum, this would mean providing reasonable accommodations.

-Partially recovered employee is expected to seek reemployment as soon as he or she is able.

MERIT SYSTEMS PROTECTION BOARD

(353.304)

◆ MAY APPEAL:

- Agency's failure to restore, improper restoration, or failure to return following leave of absence.
- Partially recovered employee, as to whether agency is acting arbitrarily and capriciously in denying restoration.
- When reemployed: agency's failure to credit time for rights and benefits.

REDUCTION IN FORCE (RIF)

REDUCTION IN FORCE COVERAGE OF EMPLOYEES ON INJURY COMPENSATION:

An employee on compensation because of injury enjoys no special protections in a reduction in force.

An employee may not be denied bump and retreat rights because they are not physically qualified for the lower-standing position.

Separation by RIF or cause terminates restoration rights.

(5 CFR PART 353)

RIF AND OWCP BENEFITS

- ◆ RIF WHEN NO FORMAL LOSS OF WAGE EARNING CAPACITY (LWEC) DETERMINATION HAS BEEN MADE:
 - RIF constitutes a recurrence of disability
 - Upon receipt of CA-7, reinstate to TTD Daily Roll or Short-term Roll
 - OWCP will obtain second opinion
 - If no continuing injury-related disability, terminate compensation without pre-termination notice

RIF AND OWCP BENEFITS

(FECA BULLETIN NO. 92-4 DATED DECEMBER 29, 1992)

◆ RIF WITH NO FORMAL LWEC DETERMINATION

-If injury-related disability, place on periodic roll and follow case management procedures, including referral for rehabilitation services

-Advise agency claimant receiving compensation until a LWEC can be determined

RIF AND OWCP BENEFITS

- ◆ **RIF WITH A FORMAL LWEC DETERMINATION**
- ◆ **NO ACTION is to be initiated by OWCP**
- ◆ **If claimant files a recurrence:**
 - Claimant's burden to support the claim with appropriate medical and factual evidence
 - Claim will be handled as normal recurrence

RIF, BUYOUT, AND OWCP

- ◆ SEVERANCE pay for employees involuntarily separated by RIF
 - Severance pay is computed based on weekly basic pay, years of civilian service, and age. May not exceed 1 year's basic pay at the rate received immediately before separation.
 - OWCP compensation suspended for number of weeks (not amount of money) of severance pay
 - Paid concurrently with compensation for LWEC, Scheduled Award, and medical benefits continue.

RIF, BUYOUT, AND OWCP

- ◆ **SEPARATION** pay (BUYOUTS) employee voluntarily leaves Federal employment.
- ◆ **Separation pay based on Period of Time**
 - May not receive OWCP compensation for TTD
 - May receive Scheduled Award and LWEC
 - Medical benefits continue

RIF, BUYOUT, AND OWCP

◆ **SEPARATION pay (BUYOUT) based on amount of money**

- Claimant **may not** receive OWCP compensation for TTD. Compensation offset dollar-for-dollar.
- Claimant **may** receive LWEC.
- Claimant **may** receive Scheduled Award
- Medical benefits will continue.

APPEAL RIGHTS

◆ HEARINGS

◆ RECONSIDERATION

◆ EMPLOYEES' COMPENSATION APPEALS
BOARD (ECAB)

APPEAL RIGHTS

◆ HEARINGS (Written or Oral)

-If a claimant selects a hearing, they must make a choice between a written or oral hearing.

HEARING (Written)

- ◆ Request to have a review of the written record.
- ◆ Request must be made within 30 days of the date of the decision.
- ◆ No attendance necessary, however, additional evidence may be submitted.
- ◆ Agency is provided copy of request and given 20 days to review and respond.

HEARING (ORAL)

- ◆ Request must be made within 30 days of the date of the decision.
- ◆ Request must be in writing.
- ◆ Informal atmosphere where claimant can present oral testimony and written evidence.
- ◆ Workers' Compensation Personnel can attend the hearing and/or elect to have a transcript of the hearing.

HEARING (ORAL)

- ◆ Transcript sent to employer with 20 days to comment. Comments from employer sent to claimant with 20 days to respond.
- ◆ **REQUEST FOR A HEARING MUST BE MADE PRIOR TO A REQUEST FOR RECONSIDERATION.**

RECONSIDERATION

- ◆ Request must be submitted in writing;
- ◆ Show that OWCP made an error applying or interpreting a specific point of law;
- ◆ Advance a relevant legal argument not previously considered by OWCP; or
- ◆ Constitute relevant and pertinent new evidence not previously considered by OWCP.

RECONSIDERATIONS

- ◆ Request must be made within one year of the date of the OWCP decision.
- ◆ If OWCP grants reconsideration, application and supporting evidence sent to Agency, 20 days to respond/20 days for claimant to respond.
- ◆ Dissatisfied with new merit decision, claimant may again request reconsideration or appeal to ECAB. May NOT request a hearing on this decision.

ECAB

(Employees' Compensation Appeals Board)

- ◆ Request must be made within 90 days of final decision by OWCP.
- ◆ Based solely on case record at time of final decision. No new evidence.
- ◆ ECAB IS A SEPARATE ENTITY FROM THE OWCP AND PROVIDES THE APPELLANT DUE PROCESS.

RELOCATION EXPENSES

- ◆ Not a part of a job offer letter.
- ◆ OWCP pays relocation expenses and charges costs back to employing agency.
- ◆ Agencies are not allowed to pay relocation expenses for MOST former employees.

PRIVATE INVESTIGATIONS

- ◆ CAN NOT investigate Federal employees for fraud.
- ◆ CAN NOT be given information from the OWCP case files.
- ◆ Can investigate for ability to perform work.

SAFETY VIOLATIONS

◆ **SELL THE SAFETY PROGRAM**

- Avoid accidents, avoid cost and pain

- Teach Safety by setting the examples for employees to follow

- Corrective Action

SAFETY VIOLATIONS

TO SUCCESSFULLY CONTROVERT A CLAIM:

- Must have a policy
- Employees must be aware of the policy
- Must show that you are enforcing the policy

BASIC TRAINING COURSE

END