

DIRECTIVE

GIPSA 4810.1

6/7/02

WORKERS' COMPENSATION

1. PURPOSE

This Directive establishes the authorities and policy of the Grain Inspection, Packers and Stockyards Administration (GIPSA) for compensating employees under the Federal Employees Compensation Act (FECA) for disabilities from injuries and illnesses sustained in the performance of their duties.

2. AUTHORITIES

The authorities for providing compensation for injuries and illnesses sustained in the performance of duty are contained in Title 5, United States Code 8101; Title 20, Code of Federal Regulations, Parts 1-399.

3. DEFINITIONS

- a. Continuation of Pay (COP). An employee's regular pay continues for up to 45 calendar days of wage loss due to a disability and/or medical treatment after a traumatic work-related injury. COP is not paid for an occupational disease or illness.
- b. Controversion of COP and/or Claim. The action of the supervisor or Agency recommending to the Office of Workers' Compensation Programs (OWCP) that COP or a claim for compensation be denied.
- c. Occupational Disease or Illness. A condition produced in the work environment over a period longer than one workday or shift. It may result from systemic infection, repeated stress or strain, exposure to toxins, poisons, or fumes, or other continuing conditions of the work environment.

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

4. POLICY

It is GIPSA policy to:

- a. Ensure that employees who suffer work-related injuries and illnesses receive all compensation and benefits to which they are entitled.
- b. Reduce workers' compensation costs and minimize time lost due to a work-related injury or illness by:
 - (1) Returning claimants to work in the original or modified (light duty) job as soon as possible, including during any period of COP.
 - (2) Re-employing every possible long-term disability claimant by structuring a job anywhere possible.
 - (3) Vigorously contesting (controverting) COP and claims if the evidence does not show a disability due to a job-related incident.
- c. Expedite the processing of claims to minimize the adverse impact of work-related injuries or illnesses. Organizational units are encouraged to review their reporting channels and eliminate steps between the supervisor, the employee, and the compensation specialist.

5. PENALTIES FOR FRAUD OR FALSE CLAIMS

- a. False Claim. Any 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 workers' compensation claim, or who knowingly accepts compensation to which he/she is not entitled, is subject to criminal prosecution and may be punished by a fine of not more than \$10,000 and/or imprisonment for not more than five years, or both.

- b. Conspiracy to Defraud. Any person who enters into an agreement to make, submit, or present or cause to be made, submitted, or presented, false, fictitious or fraudulent claims or written statements to the Office of Workers' Compensation Programs (OWCP) in connection with a claim is subject to a civil penalty of up to \$5,000.
- c. Responsibility for Reports. 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 and/or imprisonment for not more than one year.

Note: OWCP has sole responsibility for determining whether or not an injury or illness claim is valid. Supervisors are cautioned against assuming this role in any way. This includes a supervisor or other agency official pursuing controversion due to no direct witness to the injury. Lack of witnesses is NOT a valid reason for controverting a claim.

6. RESPONSIBILITIES

- a. The Safety and Health Staff will:
 - (1) Provide guidance to employees and supervisors.
 - (2) Check the completeness and timeliness of submission of compensation claims and supporting information/documentation.
 - (3) Help organizational units reduce workers' compensation costs through efficient claims management.
- b. Employee will:
 - (1) Report work-related injuries and illnesses by asking the compensation specialist for the appropriate form(s) and giving it/them to his/her supervisor as soon as possible. The employee is encouraged to ask the compensation specialist in his/her office for assistance in completing the forms, in order to reduce errors and omissions that may delay payment of valid claims. (See Attachment 1 for a listing of OWCP forms).

- (2) Arrange for submission of medical evidence to substantiate claims within 10 working days of a traumatic injury, or risk termination of COP.
- (3) Obtain from the physician the earliest date that he/she will be able to return to work.
- (4) Advise the physician that light duty work is available when notified of light duty availability by the supervisor.
- (5) Keep the Agency informed, through the immediate supervisor, of his/her medical status/recovery.
- (6) Risk termination of compensation benefits if he/she does not accept job offers consistent with his/her physical limitations.

Note: For specific information regarding employees' rights, responsibilities, and what to do when injured, the employee should see his/her supervisor or the compensation specialist.

c. Supervisors will:

- (1) Authorize medical treatment, if it is required, by completing the front of Medical Treatment Form CA-16. (See Attachment 1 for information concerning Form CA-16).
- (2) Inform the employee of the right to elect Continuation of Pay (COP) or annual or sick leave if time loss will occur.
- (3) Advise the employee whether COP will be controverted, and if so, whether pay will be terminated. The basis for the action must be explained to the employee.
- (4) Advise the employee of his/her responsibility to submit evidence of medical disability within 10 working days or risk termination of COP
- (5) Review the form for completeness and accuracy and assist the employee in correcting any deficiencies found. Supervisors are encouraged to ask the compensation specialist at his/her office for assistance in completing the forms, in order to reduce errors and omissions that may delay payment of valid claims.
- (6) Complete and sign the reverse of Form CA-1. A telephone number should be included in case OWCP staff has questions about the injury.

- (7) Sign and return to the employee the receipt attached to Form CA-1 and give a copy of the entire form to the employee.
- (8) Forward the form to the appropriate OWCP office in a timely manner.
- (9) Assist in workers' compensation cost reduction efforts by:
 - (a) Investigating and reporting all injuries and illnesses and any instances of possible abuse or false or fraudulent claims to the Safety and Health Staff.
 - (b) Looking for ways to bring employees back to work as soon as possible after the injury, including during the period of COP.
 - (c) Advising the Division Director of the availability of light duty or other re-employment opportunities for workers' compensation claimants.
- (10) Post the Form CA-10 poster, "What A Federal Employee Should Do When Injured At Work," in a prominent place at each worksite.

7. TRAINING AVAILABLE FROM OWCP

OWCP provides the following courses in response to requests from Agency personnel:

- a. The Federal Employees' Compensation Act (FECA) Seminar. An overview of the law for first-line supervisors as well as middle and senior level managers. The seminar includes lectures and visual aids. It may range from one to six hours and may be given for either small or large groups.
- b. The Basic Compensation Specialist Workshop. This is a three-day formal training session in a classroom setting. It is intended for agency staff primarily responsible for processing OWCP claims. The training stresses the skills needed to counsel injured employees, review claims forms for accuracy, document continuation of pay, and develop a recordkeeping system.
- c. The Advanced Compensation Specialist Training. This is a self-instructional unit requiring approximately 12 hours to complete. It is primarily intended for compensation specialists who have attended the basic course and have nine to twelve months of experience handling compensation claims. The course stresses management of agency compensation case files with regard to third-party matters, review of chargeback reports and billings, light and limited-duty assignments, and re-employment of long-term disabled employees.

- d. The FECA Supervisor's Workshop. This training is tailored to the needs of the Agency requesting training. It usually covers supervisory responsibilities to employees who are injured at work. It includes reviewing initial reporting forms, counseling employees about continuation of pay, deciding whether to controvert a claim, and offering light or limited-duty assignments to injured employees. The length of this course varies according to the kind and amount of material presented.

Arrangements for these courses may be made with the technical assistance of the OWCP district office serving a particular area.

8. RESTORATION RIGHTS AND RE-EMPLOYMENT

When not totally disabled for all work, the employee is expected to seek suitable work. OWCP and GIPSA will attempt to arrange for re-employment of such employees.

- a. Restoration Rights.
 - (1) An employee who has fully recovered from an injury or disability within one year of beginning compensation or from the time compensable disability recurs has restoration rights to his/her old position or its equivalent, immediately upon ending compensation.
 - (2) An employee whose recovery takes more than one year, and who was separated due to a job-related injury, is entitled to priority consideration for restoration to the position he/she left or an equivalent one provided he/she applies for reappointment within 30 days of the end of compensation.
- b. Re-employment with the Agency. When the medical evidence shows that total disability has ended, the Agency may consider re-employment even if notification from OWCP has not yet been received. If the employee refuses to provide sufficient medical information for the Agency to evaluate the propriety of a job offer, the Agency will notify OWCP.

NOTE: Failure to accept the job or to respond in a timely manner will result in termination of compensation payments.

- c. Light Duty or Modified Jobs.
 - (1) When the physician's report indicates the employee is no longer totally disabled, he/she is required to accept any offer of suitable light or limited duty within his/her work limitation tolerances. The offer will include a description of the duties and requirements of the offered position.

- (2) Supervisors are encouraged to look for ways to accommodate physical problems when the employee would otherwise be on COP.
- (3) If the employee accepts the light duty assignment but neglects to comply with the physical limitations imposed, and this neglect results in further injury or disability, the employee may not be entitled to compensation and will be carried on sick or annual leave, if requested and approved. Additionally, the employee, by virtue of his/her actions, subjects himself/herself to the appropriate corrective action, which may include disciplinary action.

NOTE: If the employee refuses to accept the work offered, COP should be terminated as of the date of the employee's refusal or after five workdays from the date of the offer, whichever is earlier.

9. THIRD-PARTY LIABILITY

When the injury or death is caused by circumstances creating a legal liability upon someone other than the employee or the Agency, OWCP may require the workers' compensation claimant or beneficiary to pursue a third party action for damages in his/her own name. While the claim is pending against the third party, OWCP will provide the full range of medical and compensation benefits. The employee and supervisor are responsible for noting such potential liability when a claim is filed.

NOTE: No person claiming compensation should attempt to settle a third-party claim arising out of an injury or death without first obtaining counsel and approval from OWCP.

10. RECONSIDERATION, HEARING, AND APPEAL

When OWCP makes an adverse decision on a claim, they will notify the employee in writing and will advise the employee of his/her rights to reconsideration of the decision, hearing before an OWCP representative, or appeal to the Employees Compensation Appeals Board. An employee may request only one form of review at a time.

11. INQUIRIES

For inquiries concerning this Directive, please contact the Safety and Health Staff. Copies of GIPSA/FGIS Directives are accessible on the Internet at www.aphis.usda.gov/library.

/S/ Donna Reifschneider
Administrator

Attachments

**Attachment 1
Workers' Compensation Forms**

Note: Forms may be ordered from the Superintendent of Documents, U. S. Government Printing Office, Washington DC 20402. The purchase order must include the agency appropriation symbol and the requestor's signature. Forms may also be ordered by telephone at 202-512-1800 or by fax at 202-512-2250. The forms can also be downloaded from the OWCP web page <http://www.dol.gov/dol/esa/public/regs/compliance/OWCP/fecacont.htm>.

Form Number	Title	Purpose	Prepared By	When Submitted	Completed Forms Sent To
CA-1	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 after 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 in employee's behalf: witness (if any); supervisor	By employee as soon as possible but no later than 30 days from date of injury; by supervisor within 10 workdays following receipt of the form from the employee	Supervisor by employee or someone acting on his behalf; then to the appropriate OWCP by supervisor

Form Number	Title	Purpose	Prepared By	When Submitted	Completed Forms Sent To
CA-2 (the appropriate occupational disease checklist form must be submitted with Form CA-2 (see listing of checklist forms))	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 a medical charge against the compensation fund; (2) the employee loses time from work because of the disease, whether the time is charged to leave or leave without 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 three years after the injury); by supervisor within 10 workdays 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 supervisor

Form Number	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 or has suffered a recurrence of the accepted medical condition. It also serves as a claim for continuation of pay or for compensation based on the recurrence of a previously reported disability	Employee	Immediately upon receiving notice that the employee has suffered a recurrence. An employee who stops work as a result of recurring disability shall advise the supervisor whether he or she wishes to continue receiving regular pay (if eligible) or charge the absence to sick or annual leave.	Supervisor by employee or someone acting on employee's behalf; then to the appropriate OWCP office by supervisor

Form Number	Title	Purpose	Prepared By	When Submitted	Completed Forms Sent To
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 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 no later than three years after death. If the death resulted from an injury for which a disability claim was timely filed, the time requirements for filing the death claim have been met	Supervisor, by claimant or someone acting on claimant's behalf; to appropriate OWCP office
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 three years after death. If the death resulted from an injury for which a disability claim was timely filed, the time requirements for filing the death claim have been met	Supervisor, by claimant or someone acting on claimant's behalf; to appropriate OWCP office
CA-6	Official Superior's Report of Employee Death	Notifies OWCP of the work-related death of an employee	Supervisor	Within 10 workdays after knowledge by supervisor of an employee's work-related death	Appropriate OWCP office

Form Number	Title	Purpose	Prepared By	When Submitted	Completed Forms Sent To
CA-7	Claim for Compensation	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 traumatic injury cases, the form must be completed and filed with OWCP not more than five work days before the termination of the 45 days of COP, or within 10 days following termination of pay. In occupational disease cases, the 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
CA-16	Authorization for Examination and/or Treatment	Authorizes an injured employee to obtain immediate examination and/or treatment from a physician chosen by the employee for an on-the-job injury and provides OWCP with initial medical report. Treatment may be obtained from a local hospital or physician	Part A- Supervisor Part B-Attending Physician	Part A-by supervisor within four hours of a traumatic injury. May be issued up to one week after injury. Part B- by attending physician or medical facility as promptly as possible after initial examination	Part A-given to employee to provide to physician Part B-appropriate OWCP office

Form Number	Title	Purpose	Prepared By	When Submitted	Completed Forms Sent To
CA-17	Duty Status Report	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 employing agency, which should send copy to appropriate OWCP office
CA-20	Attending Physicians Report	Provides medical support for claim and is attached to Form CA-7 (can also be obtained separately); provides OWCP with medical information	Attending physician	Promptly upon completion of examination or most recent treatment	Appropriate OWCP office
OWCP 1500	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

Occupational Disease Checklist to be submitted with Form CA-2

Form Number	Condition Addressed
CA-35a	Occupational Disease in General
CA-35b	Hearing Loss
CA-35c	Asbestos-Related Illness
CA-35d	Coronary/Vascular Condition
CA-35e	Skin Disease
CA-35f	Pulmonary Illness (Not Asbestosis)
CA-35g	Psychiatric Illness
CA-35h	Carpal Tunnel Syndrome