

ADS Chapter 442 - WORKERS' COMPENSATION PROGRAM

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442.1 Authority

1. Federal Employees' Compensation Act, as amended
2. [5 USC 81](#)
3. [20 CFR Part 10, Claims for Compensations under the Federal Employees' Compensation Act, as amended](#)
4. FPM 810, Injury Compensation
5. Privacy Act of 1974

442.2 Objective

This chapter provides guidance, policies and procedures regarding the Federal Employees' Compensation Act (FECA), which provides [compensation](#) benefits to civilian federal employees for disability due to personal injury, disease or illness sustained while in the performance of duty.

442.3 Responsibility

1. The Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor is responsible for administering the program governmentwide.
2. The Bureau for Management, Office of Human Resources, Personnel Operations Division, Employee Services Branch (M/HR/POD/ESB) is responsible for:
 - a. Providing overall management of the Agency's Federal Employees' Compensation Act (FECA), program
 - b. Submitting employee claims and program reports to the OWCP.
 - c. Establishing methods to centrally track claims.
 - d. Maintaining supplies of OWCP forms.
 - e. Coordinating with the Agency's payroll and personnel systems to track and monitor [Continuation of Pay \(COP\)](#).
 - f. Presenting evidence to OWCP to controvert claims.

- g. Requesting placement of partially disabled employees commensurate with their skills, medical limitations and earnings.
 - h. Validating OWCP's Detailed Chargeable Billing List and resolves discrepancies.
 - i. Retaining medical and compensation records of FECA claimants while claims are pending; transfers closed claims to the appropriate recording holding unit.
 - j. Providing advice to Agency management concerning personnel matters related to the workers' compensation program.
 - k. Maintain USAID/W log of injuries or illnesses.
 - l. Helping to accumulate information to support a death claim, and meets with survivors to explain benefits.
 - m. Provides the Safety and Health Staff with copies of all CA-1 and CA-2 forms for abatement purposes.
3. Personnel Operations Division (M/HR/POD), Executive Personnel Management Staff (M/HR/EM), and the Assistant Inspector General for Resource Management (IG/RM) are responsible for:
- a. Establishing procedures to reserve positions for and offer positions to claimants who recover.
 - b. Identifying light duty positions for partially disabled employees who can work while recovering and provides placement assistance.
 - c. Coordinating with bureau/office administrative and executive management staffs concerning reassignments, reemployment and rehabilitation of claimants.
 - d. As appropriate, informing the Employee Services Branch M/HR/POD/ESB regarding potential adverse personnel actions involving employees covered by work-related injuries or illnesses.
4. Office of Financial Management (M/FM) is responsible for:

- a. Providing assistance to M/HR/POD/ESB concerning OWCP claims.
 - b. Providing quarterly COP reports to M/HR/POD/ESB.
 - c. Establishing procedures involving an employee's approved request to repurchase leave used relating to a work-related injury and reaccrediting leave to the employee's leave account.
 - d. Paying the OWCP's "Federal Employees' Compensation Chargeback Assessments" bill.
5. Office of Administrative Services of the Bureau for Management (M/AS) is responsible for:
- a. Investigating safety aspects of all reported work-related traumatic injuries and illnesses and recommends appropriate abatement procedures.
 - b. On request by the OWCP and M/HR/POD/ESB, providing data or information to OWCP to support or controvert a claim.
 - c. Providing Agency employees appropriate safety training and education.
 - d. Cooperating with M/HR/POD/ESB to collect, analyze and report information related to the workers' compensation program.
6. Office of Medical Services, Department of State (M/MED) is responsible for:
- a. Releasing to the requesting [official superior](#) all medical records, forms and reports related to a claim whether or not it was accepted, and any other medical records, forms and reports that may be relevant to or used in connection with a claim.
 - b. Communicating with the employee's personal [physician](#) to clarify medical evidence, and to advise physician of supportive treatment the Agency can provide.

- c. Medically reviewing controversial and complex cases, including medical reports received from the OWCP, to help the official superior determine a course of action.
 - d. Cooperating with the official superior regarding the return of employees to duty as soon as medically feasible.
7. Administrative Management Staffs (AMS) and Executive Officers (EXOs) are responsible for:
- a. Advising supervisors and employees of their responsibilities and rights under the workers' compensation program, and helps complete OWCP claim forms.
 - b. Designating a bureau/office official to authorize initial medical treatment through Authorization for Examination and/or Treatment Form CA-16 for work-related injuries.
 - c. Making certain that an effort is made to return an injured employee to work and that light duty positions are available according to medical limitations.
 - d. Making certain that every effort is made to restructure positions for employees permanently or partially disabled as a result of a work-related injury, or occupational disease or illness.
 - f. Monitoring COP to make certain it does not extend beyond the 45 calendar days.
 - g. Notifying M/HR/POD/ESB that a claimant's absence from work may extend beyond 45 days.
 - h. Monitoring compensation claims for fraud, waste and abuse, and refer suspected fraud cases to M/HR/POD/ESB.
 - i. Notifying M/HR/POD of employees who need placement assistance.
 - j. Coordinating with the Office of the General Counsel and M/HR/POD/ESB on claims that appear to involve third-parties.

- k. Responding to inquiries regarding the status of claims or requests for claims information.
 - l. Overseas posts only: Maintaining a log for every injury or illness, and updating the log monthly. The log must include the date of injury, the date the report was received, the type of injury or illness, the employee's employment status and a brief description of how the injury or illness occurred.
8. Supervisors are responsible for:
- a. Enforcing safety and health regulations.
 - b. Making certain employees know when and how to report work-related injuries and illnesses, and send injured employees for medical treatment when they report an injury. If an employee refuses treatment, document the facts of the situation as reported and investigate as necessary.
 - c. Advising Administrative/Executive Officers that authorization is required to send an employee for medical treatment.
 - d. Submitting claims of injuries, diseases, illnesses and deaths as soon as possible but no later than 10 days after receipt of written notice from the employee or their representative to M/HR/POD/ESB.
 - e. Making decisions regarding whether to controvert COP or to discontinue COP.
 - f. Maintaining personal contact with the injured employee throughout the disability period, and monitor the use of COP, as appropriate.
 - g. Completing OWCP Report of Termination of Disability and/or Payment form (CA-3) advising M/HR/POD/ESB when an employee returns to work or that an employee is on long-term disability.
9. Employees are responsible for:
- a. Promptly reporting work-related injuries or illnesses to

supervisors.

- b. Observing safety instructions, procedures and regulations.
- c. Being familiar with "Federal Injury Compensation: Questions and Answers About the Federal Employees' Compensation Act" (Pamphlet CA-550, U.S. Department of Labor, Office of Workers' Compensation Programs).
- d. Reporting for medical examination or treatment as described by established procedures or as directed by the supervisor.
- e. Advising personal physician when offered light duty jobs.
- f. Providing medical documentation as soon as possible to support medical expenses and any period(s) of absence.
- g. Returning to regular or light duty as soon as medically possible.

442.4 Definitions (See [ADS GLOSSARY](#))

CLAIMANT
COMPENSATION
CONTINUATION OF PAY
CONTROVERSION
DAY
DEPENDENTS
FORMAL DECISION
LEAVE REPURCHASE
LIGHT DUTY
OFFICIAL SUPERIOR
OCCUPATIONAL DISEASE OR ILLNESS
PARTIAL DISABILITY
PHYSICIAN
RECURRENCE
REHABILITATION
SCHEDULE AWARDS
TOTAL DISABILITY
TRAUMATIC INJURY

442.5 POLICY

The following are the official Agency policies and corresponding essential procedures:

442.5.1 BASIC BENEFITS

- a) The Agency shall authorize appropriate medical treatment for an employee disabled due to personal injury or disease or illness sustained while in the performance of duty, and will help an employee file an Office of Workers' Compensation Program claim (OWCP).
- b) No employee shall be denied the right to file an OWCP claim.
- c) The Agency shall monitor all OWCP claims and will seek to provide, where practicable, appropriate light duty assignments consistent with medical limitations to partially disabled employees.
- d) The Agency shall request the OWCP to offer rehabilitative training, where practicable, to long-term claimants who have fully or partially recovered.
- e) The Agency shall not coerce an employee into resigning because of a work-related injury or [occupational disease or illness](#) for which a claim has been approved by the OWCP.
- f) The Agency shall reassign a recovering disabled employee to another position of similar grade and job series when such a position can be identified.
- g) The Agency may require an employee who has applied for or is receiving Continuation Of Pay or compensation as a result of an work-related injury or occupational disease or illness to report for an examination to determine medical limitations that may affect placement decisions.
- h) Written notice of [traumatic injury](#) or death due to traumatic injury, or of occupational disease or illness, must be given to the supervisor no later than 30 [days](#) from the date of the injury, disease, illness or death, or from the date the employee or survivor was first aware of a possible relationship between the disease, illness or death, or the employee or survivor shall lose compensation rights.

i) The Agency shall approve/disapprove an employee's request to buy back leave used during a period of disability caused by an occupational disease or illness or traumatic injury.

j) The Agency shall separate an employee when it appears that there is little prospect that the employee will return to work because of a physical or mental disability.

Employees are eligible for medical benefits, Continuation Of Pay, disability compensation, [schedule awards](#), vocational [rehabilitation](#), and death benefits, including funeral benefits and survivor compensation. The program applies to temporary or permanent, and partial or total disabilities incurred as a result of a work-related disease, illness or traumatic injury.

442.5.1a MEDICAL BENEFITS

Payments shall be made for any reasonable medical services to counteract or minimize the effects of a work-related disease, illness or injury determined. There is no monetary or time limit on medical expenses so long as the need for medical treatment can be substantiated and connected to the work-related disease, illness or injury. Payment will be made for first aid, medical treatment, transportation or hospitalization, physician's fees, drugs, and appliances or other supplies directed for use by a qualified physician. The employee may elect to be treated by a government physician, if available, or by a physician of their choice. Payment will not be made for preventive treatment.

For emergency first aid treatment, an employee can elect any qualified physician.

442.5.1b CONTINUATION OF PAY (COP)

An employee who sustains an on-the-job traumatic injury is eligible for up to 45 calendar days of their regular pay. Any portion of a day in which there is absence from work counts as a full day toward the 45-day maximum for that injury. The first day of COP must be taken within 90 days of the date of injury.

An employee may elect to use annual or sick leave to cover all or part of an absence due to injury. Each full or partial day for which leave is taken will be counted against the 45 days of entitlement. While an employee may use COP intermittently along with sick or annual leave, entitlement is not extended beyond 45 days of combined absence.

After COP is exhausted, the employee may apply for compensation or may use leave.

An employee who claims a work-related disease or illness is not entitled to COP.

442.5.1c COMPENSATION

An employee must be in a leave-without-pay status before compensation for wage-loss is payable.

In establishing an employee's wage rate to determine compensation, certain additional amounts may be included in earnings, e.g., premium pay and housing allowance. Overtime is never included. At the present time, compensation payments are not subject to Federal income tax. An employee must be in a leave-without-pay status before compensation for wage-loss is payable. When medical evidence no longer supports disability, the OWCP will take steps to reemploy the employee.

442.5.1d TOTAL DISABILITY COMPENSATION

Compensation is payable after the end of COP where entitlement exists or from the beginning of pay loss.

An employee without [dependents](#) receives compensation at 66 2/3 percent of their salary; with dependents, employee is entitled to 75 percent of their salary.

A three-day waiting period for which no compensation is payable applies except in cases where disability is for more than 1 days or permanent disability results.

Compensation for [total disability](#) will continue as long as medical evidence supports total disability. There is no total dollar maximum or time limitation.

442.5.1e PARTIAL DISABILITY COMPENSATION

Compensation is at the same rate for total disability (66 2/3 and 75 percent) and is paid for the duration of the wage loss.

If an injury is so severe that an employee is unable to care for their physical needs, an attendant's allowance of up to \$500/month may be paid in addition to compensation.

1) Schedule Awards

Compensation is provided for specified periods of time for the permanent loss or loss of use of certain body parts and functions; partial loss or loss of use of these parts and functions is compensated on a proportional basis. If a serious disfigurement of the head, face or neck results from a work-related injury, the employee is entitled to an award not to exceed \$3,500. Schedule awards may also be paid while an employee is receiving sick or annual leave pay, drawing retirement benefits, working for the private sector, or is self-employed. Employees cannot receive wage loss compensation and schedule award benefits concurrently for the same injury. Compensation can be paid even if the employee returns to work at full salary.

2) Home/Vehicle Modification

An employee whose injury restricts mobility and independence in the normal functions may be entitled to house/vehicle modification. Based on an assessment by the Office of Workers' Compensation.

442.5.1f VOCATIONAL REHABILITATION

If an injured employee suffers a vocational handicap due to the injury and cannot resume usual employment, OWCP-directed vocational rehabilitation will be arranged to help the employee return to gainful employment consistent with their physical, emotional and educational abilities. In addition to the cost of rehabilitation, an employee may be paid an allowance, not to exceed \$200/month for miscellaneous expenses, to cover travel and transportation, if the situation warrants it. An employee is entitled to collect total disability payments during their rehabilitation period. When the rehabilitation program is completed, the employee is expected to seek employment.

Vocational rehabilitation is not confined to formal retraining, and may include employment efforts of vocational rehabilitation counselors and compensation specialists or the claimant's career initiatives.

442.5.1g DEATH BENEFITS

Survivors of employees who die as a result of a work-related injury or illness are entitled to certain death benefits, payable if a claim is filed by eligible beneficiaries. The employee's official supervisor

must complete Official Superior's Report of Employee's Death form (CA-6). If the employee is survived by a spouse and/or children, Claim for Compensation by Widow, Widower, and/or Children form (CA-5) must be file. If the employee is survived by parents, brothers, sisters, grandparents or grandchildren a Claim for Compensation by parents, brothers, sisters, grandparents, or grandchildren (CA-5b)is required. These forms must be submitted even if a disability claim has been filed and benefits paid. Continuation of benefits is not automatic; beneficiaries must show that the death resulted from the same condition for which the disability claim was accepted.

1) Surviving Spouse: A surviving spouse with no eligible children is eligible for 50 percent of the deceased employee's salary. Benefits continue until death or remarriage before age 60 plus cost of living increases. If remarriage before age 60 occurs, a 24-month compensation lump sum payment of death benefits is made, after which benefits cease. Dependent children are eligible for an additional 15 percent of the applicable salary (the surviving spouses share is reduced to 45 percent), up to a maximum of 75 percent for the surviving spouse and children, until the children turn 18 or complete their schooling. If no spouse survives, the first child is entitled to 40 percent and each additional child, 15 percent up to a maximum of 75 percent of the employee's salary, payable on a share and share alike basis. Other surviving dependents may be eligible for a certain percentage of total benefits paid, up to a maximum of 75 percent.

2) Burial Expenses: Up to \$800 in burial expenses will be paid for funeral and burial expenses. An additional \$200 is payable for administrative costs incurred in closing the employment status of the deceased employee, and all expenses incurred while transporting the body from the place of death to the place of burial, e.g., when the employee died while on travel duty, are payable.

442.5.1h COVERAGE

1) Conditions

An employee whose claim does not meet the basic requirements of time, employment, fact of injury and causal relationship, in that order, will receive a formal denial of benefits with appeal rights. Also, an employee has certain retention rights while recovering from a work-related injury; for OWCP purposes, these rights apply only to OWCP-approved claims.

a. Time Limitation

An employee has three years from the injury to file a written claim; for an occupational disease or illness, the limitation begins to run on the date of last exposure to injurious conditions or the date of awareness of a work-related condition, whichever comes last. The limitation can be waived if the Agency had actual knowledge of the injury within 30 days after the injury occurred.

b. Employment

1) Generally, once an employee is on work premises during normal working hours, they are presumed to be in the performance of duty unless circumstances indicate otherwise. Activities such as altercations, willful misconduct and intoxication, even though they occur on the job, may remove an employee from the performance of duty. Employees injured off the premises, including travel to and from work, generally are not covered unless they are in a special duty status, i.e., travel duty or proper use of a government vehicle.

2) Coverage is extended to workers such as chauffeurs and messengers who perform service away from the Agency's premises and to employees sent on errands or special missions and employees who perform service at home if the injury was so associated with work so as to bring it within the scope of the performance of duty.

3) Injuries incurred under other circumstances will be determined on a case-by-case basis.

c. Fact of Injury

An employee must identify the employment factor(s) that allegedly caused the disability. An injury need not be witnessed, but its history must be consistent with related facts and circumstances.

d. Causal Relationship

The employee must show that their injury was caused by or aggravated, accelerated or precipitated by employment factors. Medical certification must cite a relationship between the claimed injury and employment. An employee who initially shows that their disability is work-related may be

asked to submit to further medical evaluations to determine if disability continues to be work-related.

2) Limitations

a. Benefits will be denied if the Agency or the OWCP proves willful misconduct, intoxication or intention to bring about injury or death to oneself or another.

b. Payment of compensation and certain other federal benefits, i.e., regular or disability annuity paid by the U.S. Office of Personnel Management or benefits paid by the Department of Veteran Affairs or under the Foreign Service retirement systems, at the same time is prohibited. Some allowable concurrent compensation include military retired pay, social security payments and unemployment benefits.

442.5.2 HEARING, RECONSIDERATION OR APPEAL

a) Decision and Notification

Employees will be notified in writing of the approval/disapproval of their claims. Employees also will be notified of their obligations to return to work after total or partial recovery.

b) Appeal

An employee may appeal a [formal decision](#) with which their disagrees, but may request only one form of appeal at a time.

c) Hearing

An employee may request an oral hearing before an OWCP representative or a review of the written record, but not both. The request must be made in writing with 30 days after the date of the formal decision.

d) Reconsideration

An employee may ask the OWCP to reconsider a formal decision made by the district office. The request must be made within one year of the date the contested formal decision was issued, and must specify the grounds for reconsideration.

e) Appeal

An employee may ask the Employees' Compensation Appeals Board (ECAB) to review the OWCP's final decision. If the employee resides in the continental United States or Canada, the appeal request for review must be submitted within 90 days of OWCP's final determination; if the claimant resides elsewhere, the request for review must be submitted within six months of the formal decision. To file an appeal, the employee must write to the Employees' Compensation Appeals Board, U.S. Department of Labor, Washington, DC 20210. No new evidence may be filed with an appeal; the ECAB review is based on the case record before the OWCP when the decision is made.

442.5.3 SPECIAL CONSIDERATIONS

a) Coverage While in Travel Status

Civil or Foreign Service employees on official travel status are covered by the FECA. Coverage is provided 24 hours a day for all reasonable incidents of travel, including securing meals and using lodging facilities. Recreation activities may be covered, however, the agency must explain what benefit it derived from the employee's participation, the extent to which the agency sponsored or directed the activity, and whether the employee's participation was mandatory or optional.

b) Personal Service Contractors

U.S. citizens or residents hired under a personal service contract retain the same benefits as direct-hire employees. However, foreign service nationals hired under a PSC are ineligible for continuation of pay.

c) Foreign Service Nationals

Compensation under the FECA is payable to FSNs in amounts determined by the OWCP, which will base its compensation rates on local workers' compensation laws, regulations and customs. FSNs employed in a country or area having no well-defined workers' compensation benefits structure will be accorded the benefits provided in a nearby country. The compensation for disability and death, whether paid under local law or special schedule, will not exceed that generally payable under the FECA.

442.5.4 GENERAL BENEFITS

a) Restoration Rights

Federal employees who have fully or partially recovered from work-related injuries have certain job retention rights.

Full Recovery: An employee who recovers within one year of beginning compensation has mandatory restoration rights to their former position or its equivalent, regardless of whether they is on the Agency's rolls.

Partial Recovery: If recovery occurs after one year, the employee is entitled to priority consideration providing that application is made within 30 days of the date compensation ceases. If the employee is partially recovered, the Agency must make every effort to restore they according to the circumstances of the case.

b) [Leave Repurchase](#)

Subject to Agency approval, an employee has the option of buying back leave used as a result of a work-related injury or illness. The employee must request that they leave record be changed to leave without pay within one year after the date leave was used or the date the claim was accepted, which is later. The request must be based on an OWCP accepted claim and must be justified by medical evidence supporting the periods of absence. The employee may choose to repay the Agency directly for the salary collected and request reimbursement directly from the OWCP. Alternatively, the employee may authorize the OWCP to pay the Agency directly for the periods of absence, which it will apply to the uncollected salary. The Agency may seek payment of any imbalance or refund any difference. The Agency will restore the purchased leave to the employee's leave account.

c) Health Benefits/Optional Life Insurance

The OWCP will make deductions for Federal Employee's Health Benefits coverage for claimants entitled to continue enrollment while receiving compensation. Basic coverage under the Federal Employee's Group Life Insurance Program is continued at no cost to the employee while they is receiving compensation unless the claimant has elected Post-Retirement Basic Life Withholdings at 100 or 50 percent of original value.

442.5.5 CUSTODY, CONFIDENTIALITY AND PROTECTION OF RECORDS

a) A federal employee responsible for filing reports who fails,

neglects or refuses to make a report of injury, or files a false report may be fined not more than \$500 or be imprisoned for not more than one year, or both.

b) All records, medical and other reports, statements of witnesses and other papers relating to the injury or death of an employee or other persons entitled to compensation under FECA are the official records of the OWCP.

c) OWCP records pertaining to an injury or death are confidential and exempt from disclosure to the public. No official or employee of an agency, establishment or department who has investigated or secured statements from witnesses and others pertaining to a claim, or any person having the care or use of such reports, shall disclose information from or pertaining to such records to any person, except according to 29 CFR Part 70 and 70a.

d) The protection, release, inspection and copying of records pertaining to an injury or death shall be done according to 29 CFR Part 70 and 70a.

e) 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 Department of Labor regulations govern all other aspects of safeguarding records established by the Privacy Act. When requested to amend records, the Agency shall so advise the office and shall provide the office with a copy of any amended record.

f) Records of the OWCP pertaining to an employee or beneficiary may be released by the employing agency to that employee or beneficiary, or their representative, according to 29 CFR Part 70a, including copies retained by the employing agency of records previously submitted to and in the possession of the OWCP.

g) When an employee or beneficiary is prosecuting an action for damages under 5 USC 8131, records may be released according to 29 CFR 70a.

442.5.6 PENALTIES

The following persons are subject to criminal prosecution:

a) Any person who knowingly makes or certifies to any false

statement, misrepresentation, concealment of fact or any other act of fraud with respect to a claim under the FECA or who knowingly accepts compensation to which they are not entitled;

b) Any person who, with respect to a claim under the FECA, enters into an 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;

c) Any person responsible for making reports in connection with an injury and who willfully fails, neglects or refuses to do so; induces, compels or directs an injured employee to forego filing claim; or willfully retains any notice, report or paper required in connection with an injury.

442.6 Supplementary Reference - N/A

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