

INDIAN AFFAIRS EMPLOYEE INJURY COMPENSATION PROGRAM HANDBOOK

25 IAM 6-H



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FOREWORD

This handbook documents the procedures required to implement the Indian Affairs' (IA) Employee Injury Compensation Program policy, 25 IAM 6. It supersedes all related content in 25 IAM H: Safety and Health Handbook for Field Operations, issued (updated) 10/05/2004, and all policies and procedures related to IA employee injury compensation that may have been created and/or distributed throughout IA previously.

Although this handbook is intended to primarily assist Workers Compensation Coordinators (WCCs) who administer the IA Employee Injury Compensation Program policy, it may also be informative for IA employees.

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Chapter 1: Introduction

1.1 Purpose

This handbook provides guidance for the management of federal employee claims for on-the-job injury and occupational disease or illness, and the Indian Affairs' (IA) Employee Injury Compensation Return to Work Program. It also explains IA policy for the Federal Employees' Compensation Act (FECA) and the IA Employee Injury Compensation Program. FECA provides compensation benefits to civilian employees of the United States (U.S.) for disability due to personal injury or disease sustained while in the performance of duty. It can also provide for payment of benefits to dependents if a work-related injury or disease causes an employee's death. The FECA is intended to be remedial in nature, and proceedings under it are non-adversarial.

1.2 Background

The goal of FECA is to return injured employees to work as soon as possible, when medically able to do so. The workers' compensation process begins when the injured employee, or someone acting on behalf of the injured employee, starts a claim for a work-related traumatic injury, occupational disease, recurrence of disability, or death. The employee must demonstrate that their injury was obtained while performing work duties. All employees must submit their incident report in the Department of the Interior's (DOI) Safety Management Information System (SMIS) and all workers' compensation claims must be initiated in the U.S. Department of Labor's (DOL) Employees' Compensation Operations and Management (ECOMP) portal.

The DOL's Office of Workers' Compensation Programs (OWCP) administers the FECA program and settles, approves, and/or disapproves all injury or illness claims.

Chapter 2: General Standards and Requirements

The workers' compensation program is a benefit entitlement and must be managed carefully. The employee and supervisor are expected to communicate regularly with the Workers Compensation Coordinator (WCC) to discuss the employee's full or partial return to duty.

2.1 Medical Documentation Requirements

IA is committed to providing initial medical treatment, referral, and follow-up attention under FECA when an employee sustains a job-related injury or illness. Medical benefits under FECA include the payment of medical care such as hospital bills, physician bills, prescriptions, and travel to obtain medical treatment.

All medical documents are required to be signed or countersigned by a qualified physician and include the following information:

- 1) Dates of examination and treatment
- 2) History given by the employee
- 3) Physical findings
- 4) Results of diagnostic tests
- 5) Diagnosis
- 6) Course of treatment
- 7) Relationship of injury to work duties

Chiropractors are recognized as physicians under FECA only if their treatment consists of manual manipulation of the spine, and only where the accepted condition is a subluxation of the spine.

The employee must make sure that the medical provider accepts Federal Workers' Compensation with the DOL. Providers should send medical bills via U.S. mail (request address from supervisor and/or WCC) or via the web bill pay portal at: www.owcpmed.dol.gov

2.2 Continuation of Pay (COP) Requirements

FECA was amended to authorize the employing agency to continue an employee's pay for a period not to exceed 45 calendar days, pending the OWCP adjudication of the employee's claim for compensation. COP applies only to traumatic injuries and is reported by the employee on an OWCP claim form within 30 calendar days. The supervisor should inform the employee of the right to elect COP, annual, or sick leave if time loss will occur as the result of a traumatic injury. COP is not authorized for occupational disease or illness claims and is only given in cases of traumatic injury.

2.3 Controverting COP Requirements

A supervisor may object to paying COP by completing the indicated portion of Form CA-1: Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation and submitting detailed information to support the objection to OWCP. An objection to a COP claim should be based on one of the following reasons:

- 1) The disability results from an occupational disease or illness.
- 2) The employee is a volunteer working without pay or for nominal pay.

- 3) The employee is neither a citizen nor a resident of the U.S.
- 4) The injury occurred off the employing agency's premises and the employee was not involved in official "off premise" duties.
- 5) The employee caused the injury by their willful misconduct, intent to bring about injury or death to self or another person, or intoxication.
- 6) The injury was not reported on Form CA-1 within 30 calendar days following the injury.
- 7) Work stoppage first occurred 90 calendar days or more following the injury.
- 8) The employee initially reported the injury after their employment was terminated.
- 9) The employee is enrolled in the Civil Air Patrol, Peace Corps, Youth Conservation Corps, Work Study Programs, or other similar groups.

The supervisor should inform the employee if a COP claim will be controverted, and whether pay will be terminated. The basis for the controversion must be explained to the employee.

2.4 Survivor Benefit Requirements

A surviving spouse with no children is eligible for wage compensation equal to 50% of the deceased employee's salary. Benefits are paid to the spouse until death or remarriage if they are under the age of 55.

If a spouse under the age of 55 remarries, OWCP makes a lump sum payment equal to 24 times the monthly compensation at the time of remarriage. The benefits of a spouse who remarries after the age of 55 are not affected by the marriage.

Eligible surviving child(ren) is defined under 5 U.S.C. 8101(9) as one who is under 18 years old, or incapable of self-support, or a full-time student under age 23. Included are stepchildren and children who are legally adopted prior to the parent's death. Illegitimate children and posthumous children of the deceased are also entitled to compensation (a posthumous child is entitled to benefits effective the date of birth). Married children and foster children are excluded. Compensation payable to, or on behalf of, a child is continued until the child dies, marries, or becomes 18, or if over 18 and incapable of self-support, becomes capable of self-support. OWCP makes all decisions on determining eligible survivors.

If a surviving child(ren) is (are) eligible in addition to the spouse, the widow(er) and eligible child(ren) may receive compensation equal to 45%, plus an additional 15% for each child, not to exceed 75% of the salary.

If the deceased employee leaves no spouse, the first eligible child is entitled to 40% and each additional child is entitled to 15% of the employee's salary, up to a maximum of 75%. Up to \$800 will be paid for funeral and burial expenses.

If the employee dies away from home, the cost of transporting the body to the place of burial may be paid over and above the \$800 allowance. In cases where related medical and transportation expenses were incurred prior to death, those expenses will also be paid.

2.5 Termination of Disability Requirements

COP is discontinued when the employee returns to regular duty without restrictions, or when medical evidence states the employee is medically capable of returning to work without restrictions based on the work-related medical condition. COP is also discontinued when a partially disabled employee returns to a full-time modified position without official reassignment and without pay loss.

The employee is expected to accept any reasonable modified assignment that accommodates the established work restrictions defined by their physician. Failure to accept the work offered results in the termination of COP. In all cases, OWCP has the final authority to determine whether the agency's action for termination is correct.

2.6 Claim for Compensation Requirements

If disability is expected to continue beyond the 45 calendar day period of entitlement to COP, the employee can use Form CA-7: Claim to Compensation, to claim compensation or use leave to cover their absence from work. Form CA-7 must be completed by both the employee and the employee's supervisor.

The employee must also provide medical evidence using Form CA-20: Attending Physician's Report, to support the period of disability claimed. The dates of compensation claimed should represent the period of disability supported by the medical evidence or the interval until the employee's next medical appointment.

Each claim for compensation must meet the following requirements before it can be accepted by OWCP:

- 1) The claim was filed within three years.
- 2) The injured person was a federal employee at the time of the injury.
- 3) An injury, disease, or death must in fact have occurred.
- 4) The injury, disease, or death occurred while the employee was performing job duties.
- 5) The medical condition for which compensation or medical benefits are claimed is causally related to the claimed injury, disease, or death.

An employee with no dependents is allowed 66 2/3% of the established gross pay rate. An employee with dependents is allowed 75% of the established gross pay rate. Compensation payments are tax-free. The length of time for which compensation may be paid can be a period

of time in the past or can extend indefinitely into the future. Under 5 U.S.C. 8146a, Cost-of-Living Adjustment of Compensation, consumer price increases are granted where the disability occurred more than one year before the effective date of the increase.

2.7 Leave Buy Back Requirements

An employee who uses sick and/or annual leave to avoid possible interruption of income may repurchase that leave if the claim is approved. Form CA-7: Claim for Compensation, Form CA-7a: Time Analysis Form, and CA-7b: Leave Buy Back (LBB) Worksheet/Certification and Election, should be completed for leave repurchase.

The employee and supervisor should supply factual and medical evidence and a detailed breakdown of leave used, showing number of hours charged for each day claimed and whether sick or annual leave was used.

2.8 Duty Status Report Requirements

The supervisor must instruct the employee to submit medical evidence of a disabling traumatic injury within 10 calendar days of the date disability begins or pay may be terminated.

The supervisor should also complete the agency's portion of Form CA-17: Duty Status Report (part A) to obtain interim medical reports concerning the employee's fitness for duty. The supervisor should describe the physical requirements of the employee's job and note the availability of any light duty. Form CA-17 should then be provided to the employee so that they can take it to their physician for completion.

The supervisor may send Form CA-17 to the physician at reasonable intervals, but not more often than once a week, to monitor the employee's medical status and ability to return to light or full duty.

2.9 Challenging a Claim Requirements

The employing agency may challenge the claim as a whole based on other objections associated with the five basic requirements for FECA coverage. A claim can be challenged whenever there is factual evidence that indicates the claim may not be valid.

If the supervisor has evidence that indicates that the claim may not be valid, they should provide it to the WCC. The WCC and/or the supervisor can write up a formal challenge to OWCP indicating the element(s) where requirements of coverage is lacking or defective. Claim challenges must be made in writing, and must be unemotional, objective, and factual. The claim challenge should also cite applicable laws, Employees' Compensation Appeals Board (ECAB) decisions, regulations, and/or sections of the DOL OWCP's Division of Federal Employees' Compensation (DFEC) Procedure Manual, as well as include evidence (i.e., photographs, maps, witness statements, police or investigative reports, and other hard evidence).

Anything sent to OWCP becomes part of the official file. The employee is entitled to a copy of the information submitted to OWCP. The Claims Examiner will provide agency statements to the employee for a response as part of the adjudication process.

Chapter 3: Employee Injury Compensation Procedures

3.1 Traumatic Injury Claims

The Form CA-1: Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation is used for traumatic injury cases only. See the corresponding policy, 25 IAM 6, for the definition of a traumatic injury. It must be caused by a specific event or incident or series of events or incidents within a single day or work shift.

If a work-related traumatic injury happens, the employee or person acting on behalf of the employee must complete the following steps:

- 1) Report injuries to their supervisor as soon as possible and seek medical care if necessary.
- 2) Report the incident in SMIS.
- 3) File Form CA-1 in ECOMP.
- 4) If medical treatment is required as a result of the injury, request Form CA-16: Authorization for Examination and/or Treatment from the supervisor and/or WCC as soon as possible, but no later than one week (i.e., seven calendar days) from the date of injury. If there is no time for the supervisor to complete this form (medical emergency), the supervisor may authorize medical treatment by telephone and send the completed form directly to the medical facility within 48 hours. Retroactive issuance of this form is usually not permitted under other circumstances.
- 5) Form CA-1 must be initiated by the employee as soon as possible, but no later than 30 calendar days from the date of injury for COP eligibility. The time limitation for a claim is up to three years from the date of injury. The employee or the person acting on their behalf must file a CA-1 for the Form CA-16 to be valid.
- 6) Must have witness(es) complete statements, if applicable.
- 7) Return the completed CA-16 form to the supervisor and/or WCC.
- 8) Provide work restrictions/limitations from their medical provider (if any) to their supervisor and WCC. The employee must continue to update the supervisor and WCC with updated work restrictions until released to full duty.
- 9) Ensure that the medical provider they seek treatment from accepts federal workers' compensation, and that the medical provider is given their OWCP case/claim number and billing information.

If a work-related traumatic injury happens, the employee's supervisor must complete the following steps:

- 1) Ensure that the employee receives medical treatment if necessary.
- 2) Assist the employee or person acting on the behalf of employee in completing the Form CA-1 in ECOMP.
- 3) Review the employee's Form CA-1 and complete the supervisor portion within 10 business days from the date the employee initiated the claim in ECOMP.
- 4) If the employee requires emergency medical treatment, the supervisor should complete Form CA-16 within four hours of the employee request whenever possible, but not later than 48 hours. The supervisor can obtain assistance with completing the form from the WCC if necessary. The supervisor must provide the injured employee the Form CA-16 packet after completing and signing the 1st page of the form.
- 5) Provide a copy of the completed and signed CA-16 to the WCC for submission to the OWCP.
- 6) Complete the accident report through SMIS within seven calendar days.
- 7) Following incident notification from the employee, the supervisor should initiate an investigation of the accident, either personally or through a trained accident investigator.

If a work-related traumatic injury happens, the WCC must complete the following steps:

- 1) Review the claim form through ECOMP in "Agency Review" within 14 calendar days or within 10 business days from the date the employee initiates the claim for processing or submission to OWCP.
- 2) Verify information entered on the claim form by the employee.
- 3) Verify supervisor information of the injured employee.
- 4) Make any necessary corrections to the supervisor portion of the claim form.
- 5) Upload any additional documentation to the claim for OWCP review.
- 6) Complete the OWCP case audit through the SMIS Case Management System within 20 calendar days to track and manage the claim.

3.2 Occupational Disease or Illness Claims

The Form CA-2: Notice of Occupational Disease and Claim for Compensation is used for occupational illness and injury cases only. See the corresponding policy, 25 IAM 6, for the definition of occupational disease or illness. This form must be used for injuries that resulted over a period of more than a single workday or shift.

If a work-related occupational disease or illness occurs, the employee or person acting on behalf of the employee must complete the following steps:

- 1) Notify the supervisor of the date when the employee realizes the disease or illness was caused or aggravated by their employment if the employee is still currently employed.
- 2) Report the incident in SMIS.
- 3) File Form CA-2 in ECOMP.
- 4) Select and complete Form CA-35 (A-H): Evidence Required in Support of a Claim for Occupational Disease that relates to the condition being claimed. Depending on the type of occupational disease, there are different documentation requirements that must be submitted.
- 5) Form CA-2 must be initiated by the employee as soon as possible. The time limitation for a claim is up to three years from the date the employee was aware of a relationship between the disease and their Federal Government employment and/or last date of exposure.
- 6) Must have witness(es) complete statements, if applicable.
- 7) Obtain medical care. The employee will be responsible for their own medical expenses until and if OWCP accepts the claim.
- 8) Provide work restrictions/limitations from their medical provider (if any) to their supervisor and WCC. The employee should return to work as soon as medically able. The employee must continue to update the supervisor and WCC with updated work restrictions until released to full duty.
- 9) Use annual, sick, or Leave Without Pay (LWOP) for timesheet coding if the employee requires time off due to the work-related illness/disease.
- 10) Once the claim is accepted by OWCP, the employee is responsible for ensuring that they provide all medical provider information related to their care for the OWCP accepted condition(s), and for receiving their OWCP case/claim number and billing information.

The employee may be entitled to compensation for wage loss or can request leave buy back. The employee can elect compensation for wage loss and/or leave buy back by filing Form CA-7: Claim for Compensation in ECOMP. Timecard options also can change to LWOP/FECA (Code 162) if the employee does not want to elect their own leave for lost time from work due to the accepted work condition(s).

If a work-related occupational disease or illness occurs, the supervisor must complete the following steps:

- 1) Assist the employee or person acting on the behalf of the employee with completing the Form CA-2 in ECOMP.
- 2) Review the employee's Form CA-2 and complete the supervisor portion within 10 working days from the date the employee initiated the claim in ECOMP.
- 3) Assist the employee with completing the appropriate version of Form CA-35.
- 4) Provide a copy of the completed and signed CA-16 to the WCC for submission to the OWCP.
- 5) Complete the accident report through SMIS within seven calendar days.
- 6) Following incident notification from the employee, the supervisor should initiate an investigation of the accident, either personally or through a trained accident investigator.
- 7) Advise the employee of their right to elect sick, annual, and/or LWOP pending settlement of the claim with OWCP.

If a work-related occupational disease or illness occurs, the WCC must complete the following steps:

- 1) Review the claim form through ECOMP in "Agency Review" within 14 calendar days or within 10 business days from the date the employee initiates the claim for processing or submission to OWCP.
- 2) Verify the information entered on the claim form by the employee.
- 3) Verify the supervisor information of the injured employee.
- 4) Make any necessary corrections to the supervisor portion of the claim form.
- 5) Upload any additional documentation to the claim for OWCP review.
- 6) Complete the OWCP case audit through the SMIS Case Management System within 20 calendar days to track and manage the claim.

3.3 Recurrence of Disability Claims

If a recurrence occurs and the employee is currently employed by the Federal Government agency (where they worked when they were injured/illness occurred), the employee (or someone acting on behalf of the employee) must complete the following steps:

- 1) Obtain paper Form CA-2a: Notice of Recurrence. Complete Part A and Part C of the form.
- 2) Submit supporting medical evidence to OWCP by uploading it into ECOMP, or by sending it via U.S. Postal Service (USPS) mail to:
U.S. Department of Labor, OWCP/DFEC, PO Box 8311
London, KY 40742-8311
Include the claim number on every page.
- 3) Complete Form CA-7 online in ECOMP if the employee has wage loss due to their recurrence.

If the employee was entitled to use COP for the original injury and 45 calendar days have not been used up, they may be eligible to use the remaining days as long as the recurrence occurs within 45 calendar days from their first return to work date. Otherwise, the employee may choose to elect sick, annual, or LWOP until settlement of the claim is made by OWCP.

The current supervisor and/or WCC will complete the following steps:

- 1) Assist the employee with completing Form CA-2a.
- 2) Review the employee's Form CA-2a claim and complete the "Supervisor" portion.
- 3) Upload the completed CA-2a in ECOMP to the original injury/illness case file.

If a recurrence occurs and the employee is no longer employed by the original Federal Government agency (where they worked when they were injured/illness occurred), the employee (or someone acting on behalf of the employee) must complete the following steps:

- 1) Obtain paper Form CA-2a. Complete Part A and Part C of the form, and upload the form directly into their case file in ECOMP.
- 2) Submit supporting medical evidence to OWCP by uploading it into ECOMP, or by sending it via U.S. Postal Service (USPS) mail to:
U.S. Department of Labor, OWCP/DFEC, PO Box 8311
London, KY 40742-8311
Include the claim number on every page.

- 3) Complete Form CA-7 online in ECOMP if the employee has wage loss due to their recurrence.

The WCC will complete the following steps:

- 1) Assist the employee with completing Form CA-2a.

The WCC will *not* complete the “Supervisor” portion of the form (since the employee is separated), but will ensure that documentation is provided in ECOMP to the original injury/illness case file that the employee is no longer employed with that agency.

- 2) Sometimes the [former] employee will send the Form CA-2a directly to the agency/WCC instead of to OWCP through ECOMP. If that happens, the WCC should upload the completed Form CA-2a in ECOMP to the original injury/illness case file.

3.4 Death Claims

When an employee dies because of an injury that occurred while in performance of duty, the following should be completed by the supervisor, survivors, and WCC.

The supervisor will do the following in the event of an employee’s death:

- 1) Immediately contact the district office by telephone or electronic message.
- 2) Complete Form CA-6: Official Supervisor’s Report of Employee’s Death within 10 business days of the incident.
- 3) Assist the survivor(s) in obtaining and submitting the following documents to OWCP:
 - A copy of the death certificate
 - A certified marriage certificate if the surviving spouse is making a claim
 - A copy of any divorce or annulment decree if the deceased employee or spouse was formerly married
 - A certified copy of any birth certificate(s) of surviving children for whom a claim is made
- 4) Contact any survivor(s) and provide them with Form CA-5: Claim for Compensation by Widow, Widower, and/or Children or Form CA-5b: Claim for Compensation by Parents, Brothers, Sisters, Grandparents or Grandchildren to submit claims for death benefits. The survivor(s) should complete the front of the form and then forward it on to the attending physician for completion.

The survivor(s) will do the following in the event of an employee's death:

- 1) Use Form CA-5 or Form CA-5b to submit claims for death benefits. The survivor should complete the front of the form and then forward it on to the attending physician for completion.
- 2) The attending physician should complete the medical report on the reverse of Form CA-5 or Form CA-5b and return it to the agency for submission to the OWCP.
- 3) The survivor is responsible for providing the following documents to OWCP:
 - A copy of the death certificate
 - A certified marriage certificate if a surviving spouse is making the claim
 - A copy of any divorce or annulment decree if the deceased employee or spouse was formerly married.
 - A certified copy of any birth certificate(s) of surviving children for whom a claim is made.

Chapter 4: Return to Work

4.1 Return to work

Consideration for returning an employee to work is always given first to the previous employer. Should the previous employer be unable to place the injured worker, then other rehabilitation services are considered.

OWCP will make every effort to reemploy or reassign permanently disabled employees who have been injured on the job to positions consistent with their medical work restrictions. Administrative policies and procedures are outlined in the DFEC Procedure Manual (FECA Part 3 and Part 8).

An employee is eligible for specific rights and benefits, depending on the length of time of disability or extent of recovery.

A. Fully Recovered Within One Year.

If the employee is fully recovered from their injury 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), the employee has mandatory restoration rights to their old position or its equivalent, regardless of whether the employee is still on the agency payrolls.

Note: The U.S. Office of Personnel Management (OPM) administers the restoration rights provision of the law. OWCP administers all other aspects of the law.

B. Fully Recovered After One Year.

If the employee is fully recovered from their injury after more than 365 days from the date eligibility for compensation began (or from the time compensable disability recurs if the recurrence begins after the injured employee resumes regular full-time employment), the employee is entitled to priority consideration, if eligible, as long as the employee applies within 30 calendar days from the date that compensation benefits end.

Reemployment priority placement only applies to career and career conditional employees. Contract and Title 25 employees are not eligible to be placed on the Reemployment Priority List (RPL). Refer to OPM policy for more information: [https://www.opm.gov/policy-data-oversight/workforce-restructuring/employee-guide-to-career-transition/#:~:text=The%20reemployment%20priority%20list%20\(RPL,after%20more%20than%201%20year.](https://www.opm.gov/policy-data-oversight/workforce-restructuring/employee-guide-to-career-transition/#:~:text=The%20reemployment%20priority%20list%20(RPL,after%20more%20than%201%20year.)

C. Partially Recovered.

If the employee is partially recovered, they are entitled to be considered for employment in their former commuting area. If employment is restored at a lower grade or pay level than prior to the injury, then OWCP will make up the difference in pay. Alternatively, the agency may choose to pay the employee at their former rate.

If the employee fully recovers later on, they are entitled to the restoration rights of fully recovered employees based on the timing of the recovery (within or after one year).

D. Physically Disqualified.

If the employee is physically disqualified from their previous position, they are entitled to be placed in a position that most closely matches the seniority, status, and/or pay to which they are otherwise entitled within one year of the date that compensation begins.

After one year, the employee is entitled to the same restoration rights as individuals who are partially recovered.

E. Status Upon Recovery.

The employee is generally entitled to be treated as though they never left for the period of compensation or COP. This includes maintaining the employee's credit for length of service, within-grade increase, career tenure, time-in-grade restrictions, leave rate accrual, and completion of probationary period.

4.2 Rehabilitation Benefits

If an employee is permanently disabled and cannot resume usual duties, they may be eligible for occupational rehabilitation services authorized by OWCP. These services can include vocational testing, counseling, training, and job placement.

If the employee is unable to work with their previous employer, OWCP may use the Assisted Reemployment Program. This program provides partial reimbursement of wages to new employers for up to three years. Reimbursements may be made to private sector employers, local governments, or other federal agencies.

4.3 Reemployment

When the medical evidence shows that total disability has ended for the employee, the agency is encouraged to consider reemployment. The following guidance applies to all employees still active in IA's employment records/systems, regardless of how long the employee has received compensation from OWCP for their work injury/illness.

A. Medical Evidence.

In order to make a job offer, the agency will need medical evidence describing the employee's medical limitations (in some cases OWCP can provide this information). Medical reports which address current limitations will usually suffice for this purpose. If the employee refuses to provide sufficient medical information for the agency to evaluate whether a job offer is appropriate, the agency should notify the OWCP.

B. Degree of Recovery.

If the employee is expected to return eventually to the job held at the time of injury, the agency may offer light, limited, or modified duty pending full recovery. Any such offer should be made in the manner outlined in section D. below.

If the residuals of the injury will prohibit the employee from returning to the position held at the time of injury and the employee has received compensation for more than one year, the agency should consider reemployment in this order of preference:

1. Return to the position held at the time of injury with modifications to accommodate the employee's limitations.
2. Employment in another position at the same salary as the position held at the time of injury.
3. Employment in another position at a lower salary than the position held at the time of injury.

C. Reemployment Position Guidelines.

The position should be compatible with the employee's medical condition, including any non-work-related medical condition which either pre-existed the injury at work or developed since it occurred.

A temporary position may be offered only to a worker who held a temporary position when injured, and if such a job is offered, it must be at least 90 calendar days in duration. Similarly, a seasonal position may be offered only to a worker who held a seasonal position when injured.

Generally, an employee who is capable of working four or more hours a day should be offered a position providing at least that much work, since employment of less than four hours a day is considered sheltered work and is reserved for the severely disabled. An offer of less than four hours a day is suitable for an employee who cannot work longer hours.

The tour of duty and the location of the identified job should correspond to those of the job held on the date of injury as much as possible. If a job is offered in a location other than the one where the employee currently resides, the agency must document that no positions are available in the current location. The agency must ensure that any position offered will be available for the entire period allowed for response to that offer.

D. Elements of the Job Offer.

The agency may contact the employee by telephone to advise that a job is available, but the offer must be confirmed in writing within two business days. A copy of the offer must be sent to OWCP at the same time. The offer should include:

- A description of duties to be performed.
- The specific physical requirements of the position and any special demands of the workload or unusual working conditions.
- The organizational and geographical location of the job.
- The date on which the job will be available.
- The date by which a response to the job offer is required.

The agency should not, however, request election of OPM benefits if the employee declines the job offer. OWCP is solely responsible for obtaining such an election.

E. Employee Response.

In whatever manner the employee responds to the agency, a copy should be forwarded to OWCP. See section 4.7 below as well. Additionally, the following guidance applies:

- Acceptance - If the employee accepts the job, the agency should notify OWCP as soon as possible of the date of return to duty so as to avoid overpayments of compensation. Effective the date of return to duty, compensation will be terminated if no loss of pay has resulted; or will be reduced, if the new job pays less than the old.

- No Response - If no answer is received, OWCP will terminate benefits and issue a formal decision on the basis that the employee has refused suitable work.
- Refusal with No Explanation - If the employee refuses the offer without explanation, OWCP will terminate benefits and issue a formal decision.
- Refusal with Explanation - If the employee refuses the offer and provides reasons in support of the refusal, OWCP will evaluate them and determine whether reasonable cause has been shown. If so, OWCP will advise the employing agency and compensation will continue at a level reflecting the degree of disability while further attempts at placement are made. If not, OWCP will advise the employee and allow him/her an additional 15 calendar days from the date of notice to return to work. If the employee still does not return to work, OWCP will terminate benefits and issues a formal decision.

F. Advising the Employee.

If the employee does not accept the job, OWCP will make a suitability determination. If the job is deemed unsuitable, OWCP will advise the employing agency of the reasons. If the job is found to be suitable, OWCP will notify the employee in writing and advise that he/she is expected to accept the job or to show reasonable cause for refusal. OWCP will advise the employee that failure to accept the job or respond within 30 calendar days from the date of notice will result in termination of compensation payments.

Returning employees to gainful employment requires close cooperation between the agency and OWCP. Early notification of a job offer(s) and complete information about the offer(s) aids OWCP in making its decisions. For its part, OWCP recognizes its responsibility to evaluate job offers promptly and to advise employees of their rights and responsibilities in a timely manner so as to avoid undue delays.

4.4 Medical Considerations

A number of factors must be considered when determining accommodations for an injured employee and include the following:

- Nature of disability – can the agency accommodate the employee’s limitations?
- Concurrent disability – does the employee have further disabilities, in addition to the work-related disability, which increase the limitations?
- Employment history – did the employee have a good employment record prior to injury?
- General qualifications – does the employee have other skills that might qualify them for a job with lighter physical demands?
- Previous light duty assignment – was the employee ever on light duty assignment, and was it effective?

- Tour of duty – is the employee able to work full days or half days?

4.5 Medical Documentation

OWCP should contact the employee's physician in writing and provide the physician with the employee's position description (PD) and Form CA-17: Duty Status Report or applicable Form OWCP-5: Work Capacity Evaluation. They should request information on the current medical condition of the employee or request a medical release to return to work.

If the physician provides work limitations, the agency has the following options:

- 1) Modify the current PD
- 2) Consider a suitable vacant position
- 3) Remove the employee from the position
- 4) Refer the employee to the DOL Rehabilitation Program
- 5) Advise the employee to consider disability retirement

If the physician specifies limitations, Human Resources and the supervisor will need to modify the current PD to accommodate the limitations or assign the employee to a suitable vacant position. This may result in a reduction of the employee's grade level. However, OWCP will make up the difference in salary if the grade level is reduced.

If the agency cannot find a suitable job, the supervisor will notify OWCP and request that the employee be referred to the DOL Rehabilitation Program.

4.6 Relocation Expenses

If possible, IA should offer suitable reemployment in the location where the employee currently resides. If this is not practical, IA may offer suitable reemployment at the employee's former duty station or other location.

If the distance between the location of the offered job and the location where the employee currently resides is at least 50 miles, OWCP may pay relocation expenses if the employee has been terminated from the agency's employment records/systems and would suffer relocation expenses by accepting the offered reemployment. OWCP may also pay such relocation expenses if the new employer is other than a Federal Government employer.

OWCP will notify the employee that relocation expenses are payable if it makes a finding that the job is suitable. To determine whether a relocation expense is reasonable and necessary, OWCP should use the federal travel regulation for permanent changes of duty station as a guide.

4.7 Job Offer

The WCC will inform the employee in writing of the job offer. The WCC has the responsibility to coordinate with Human Resources to obtain position information in order to write the job offer. At the same time, a copy of the job offer will be sent to OWCP for review and agreement.

If the employee accepts the job offer, he/she will return to work after acceptance. The supervisor will monitor the employee's progress. The Employee Assistance Program (EAP) can be used if the employee is having a difficult time transitioning back to work.

If the employee decides to decline the job offer, the WCC will notify OWCP in writing. OWCP will then determine the suitability of the job offer and if the employee is eligible for continued benefits. If the job offer is found suitable, OWCP will notify the employee in writing and advise that the employee is expected to accept the job or to show reasonable cause for refusal. OWCP will advise the employee that failure to accept the job or respond within 30 calendar days will possibly result in the termination of compensation benefits.

If OWCP's decision is to terminate benefits, then the WCC will maintain contact with the employee until they are no longer eligible for OWCP benefits.

4.8 "Permanently Disabled" Employees

OWCP may direct a permanently disabled employee to undergo vocational rehabilitation services under 5 U.S.C. 8104(a). An injured employee who has a loss of wage-earning capacity will be presumed to be "permanently disabled" for the purposes of vocational rehabilitation until the employee proves that the disability is not permanent.

If an employee refuses to apply for, undergo, or participate in a vocational rehabilitation effort as directed, OWCP will respond in the following ways:

- 1) If a suitable job has been identified, OWCP will reduce the employee's future monetary compensation based on the amount which would likely have been their wage-earning capacity had they undergone vocational rehabilitation.
- 2) If a suitable job has not been identified because the employee failed, or refused to participate in, the early stages of a vocational rehabilitation effort (e.g., meeting with the OWCP nurse, interviews, and counseling), OWCP cannot determine what would have been the employee's wage-earning capacity.

OWCP will determine the likely wage-earning amount based on the job identified through the vocational rehabilitation planning process. In the circumstance where a suitable job has not been identified, OWCP will assume that the vocational rehabilitation effort would have resulted in a return to work with no loss of wage-earning capacity and will reduce the employee's monetary compensation to zero. The reductions will remain in effect until the employee acts in good faith to comply with OWCP instructions.

4.9 Vocational Rehabilitation Services

OWCP may, at its discretion, provide vocational rehabilitation services as authorized by 5 U.S.C. 8104. These services include assistance from registered nurses working under the direction of OWCP. Among other things, the nurses visit the worksite, ensure that the duties of the position do not exceed the medical limitations as represented by the medical evidence established by OWCP, and address any problems the employee may have in adjusting to the work setting. The nurses do not evaluate medical evidence; OWCP claims staff perform this function.

Vocational rehabilitation services may also include vocational evaluation, testing, training, and placement services with either IA or a new employer, when the injured employee cannot return to the job held at the time of injury. These services also include functional capacity evaluations, which help to tailor individual rehabilitation programs to employees' physical reconditioning and behavioral modification needs and help employees to meet the demands of current or potential jobs.

After an employee completes a vocational rehabilitation program, OWCP may adjust their compensation to reflect the worker's wage-earning capacity. Actual earnings will be used if they fairly and reasonably reflect the employee's earning capacity, whether or not the employee is placed in such a position.

An employee who is receiving compensation for partial or total disability must inform OWCP immediately of any return to work, either part-time or full-time. An employee who is receiving compensation for partial disability will be periodically required to submit a report of earnings from employment or self-employment, either part-time or full-time.

Chapter 5: Training Requirements for WCC

Prior to obtaining an ECOMP Agency Reviewer (AR) account from the IA Division of Safety and Risk Management (DSRM), the WCC must complete mandatory ECOMP AR web-based self-certification training. This training is available on the DOL OWCP ECOMP home page here: <https://www.ecomp.dol.gov>

Prior to obtaining an ECOMP AR account and a SMIS WCC account from the DSRM, the WCC must satisfactorily attend and complete OWCP Compensation Specialists in the Federal Employees' Compensation Act Training. The calendar of training is available on the DOL OWCP home page here: <https://www.dol.gov/owcp/contacts/fecacont.htm>

Reports and Forms

- 1) A list of OWCP's Federal Employees Program forms, including those described throughout this handbook, can be found at <https://www.dol.gov/agencies/owcp/dfec/regs/compliance/forms>.
- 2) The OWCP Chargeback Report documents workers' compensation benefits being paid out by OWCP and charged back to the employing agency. It is generated by the Bureau of Indian Affairs (BIA) Regional Safety Manager (RSM) and the Bureau of Indian Education (BIE) Human Resources Office (HRO) within SMIS. This report must be submitted by the RSM and HRO to the DSRM no later than the 15th calendar day following the end of the Fiscal Year (FY) quarter (this is for reporting on the previous FY quarter).

Definitions

See 25 IAM 6: Employee Injury Compensation Program for a complete list of related definitions.