

CHAPTER 8

WORKERS' COMPENSATION PROGRAM

8.1 PURPOSE

This Chapter provides current policy and procedures on Workers' Compensation (WC) in the Marketing and Regulatory Programs (MRP), Animal and Plant Health Inspection Service (APHIS), as required by the Federal Employees Compensation Act (FECA) and the 2004 Safety, Health and Return to Employment (SHARE) Initiative.

8.2. BACKGROUND

8.2.1 The FECA provides compensation benefits to civilian employees of the United States Federal government for disability due to personal injury or illness sustained while in the performance of their duties. FECA provides compensation benefits to dependents for a work-related injury or illness that causes an employee's death. FECA also provides wage replacement benefits, medical treatment, and vocational rehabilitation.

8.2.2 On January 4, 2004, President Bush signed the SHARE Initiative to lower workplace injury and illness case rates, lower lost-time injury and illness case rates, increase the timely reporting of injuries and illnesses, and reduce lost days resulting from work injuries and illnesses. SHARE requires Federal agencies to meet the following goals over the next 5 years:

- A. Reduce the overall occurrence of injuries by 3 percent each year,
- B. Increase the timeliness of reporting injuries and illnesses by 5 percent each year,
- C. Reduce the rate of lost production days (i.e., the number of days employees spend away from work) by 1 percent each year.

8.3. AUTHORITIES

The authorities for providing Workers Compensation (WC) benefits for injuries and illnesses sustained in the performance of official duties are contained in:

- A. Title 5, United States Code, Chapter 81, FECA;
- B. Title 20, Code of Federal Regulations, Chapter I, Parts 1 - 199;
- C. USDA Safety and Health Manual, Chapter 3, Section 8, dated 1996;
- D. Safety, Health and Return to Work Initiative (SHARE), dated January 4, 2004.

8.4 DEFINITIONS

- 8.4.1 Chargeback. Mechanism by which costs for work-related injuries and deaths are assigned to employing agencies through the Department of Labor (DOL) Occupational Workers' Compensation Program (OWCP). Payments are made from the Employees Compensation Fund.
- 8.4.2 Continuation of Pay (COP). Continuation of an employee's salary for up to 45 calendar days of wage loss due to disability and/or medical treatment following a traumatic injury.
- 8.4.3 DOL District Office. DOL regional office that conducts operations of OWCP, and maintains claimant records.
- 8.4.4 Employee Medical File (EMF). A separate file folder, SF-66D, used to place all OWCP claim forms, medical information, and other documentation such as rehabilitation and adjudication notes.
- 8.4.5 FECA. Federal Employees Compensation Act.
- 8.4.6 Occupational Disease. Condition produced in the work environment over a period longer than one workday or shift, resulting from systemic infection, repeated stress or strain, exposure to toxins, poisons, or fumes; or other continuing conditions of the work environment.
- 8.4.7 OWCP. The Federal agency within the DOL having the authority to approve or deny Federal civilian employees WC claims for work-related injuries or illnesses.
- 8.4.8 OWCP Claimant. An APHIS employee who has become injured or ill while performing his/her official duties and has submitted OWCP forms to the DOL District Office.
- 8.4.9 Nurse Intervention. A service provided by DOL where a registered nurse contacts the claimant to inquire about his/her injuries or illness. DOL believes that with early medical intervention and followup, the claimant can recuperate better and return to work faster. Each DOL District Office has a registered nurse responsible for contacting claimants.
- 8.4.10 Traumatic Injury. A wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable as to time and place of occurrence and member or function of the body, caused by a specific event or series of events, or incidents within a single day or work shift.

- 8.4.11 APHIS-WC Field Contacts. Field employees within APHIS assigned the collateral duty function to assist in WC program administration by providing advice and counsel to employees on WC matters.
- 8.4.12 WC Program Manager. The designated employee within Marketing and Regulatory Programs - Business Services (MRPBS) responsible for the development, implementation, and evaluation of a comprehensive WC program for APHIS.

8.5 POLICY

- 8.5.1 APHIS is committed to assisting employees in receiving all benefits under the Federal Employees Compensation Act (FECA) to which they are entitled and will not discipline or otherwise retaliate against employees for reporting an injury or illness.
- 8.5.2 COP is allowed only for 45 calendar days, beginning the first day after the initial traumatic injury if employees provide medical documentation stating they cannot resume full duty. This note must be received by the supervisor within 10 days of the request for COP. Employees can use COP intermittently during the 45-day period for medical appointments. They will be charged a full day for COP as COP cannot be broken down into hours.
- 8.5.3 Supervisors must sign and forward the CA-1, Notice of Traumatic Injury, or CA-2, Notice of Occupational Injury or Illness, forms within 3 days to the APHIS WC field contact. If the supervisor does not have knowledge of the injury/illness or was not the supervisor at the time of the injury/illness, a statement must be provided to this effect to support the certification statement on the OWCP forms.
- 8.5.4 WC Contacts must review (for completeness and accuracy) and forward the OWCP forms (CA-1 or CA-2) within 5 days of receipt from a supervisor.
- 8.5.5 The CA-16, Authorization for Examination and/or Treatment, is issued only for traumatic injuries. Supervisors cannot issue a CA-16 if the employee has not requested medical treatment within 48 hours of a traumatic injury. This form cannot be issued retroactively.
- 8.5.6 Supervisors may only contact the OWCP claimant's physician, in writing, for the purpose of monitoring an employee's medical progress and duty status. The employer is prohibited from contacting the physician by telephone or in person. However, written communication with physicians is allowed.

8.6 RESPONSIBILITIES

8.6.1 APHIS Deputy Administrators will ensure that:

- A. Each APHIS Program Unit has employees assigned as a WC contact at the field and HQ level, and
- B. WC contacts are properly trained in OWCP to assist APHIS employees.

8.6.2 MRPBS serves as the liaison with the USDA WC Coordinator; attends USDA, DOL, and Federal interagency meetings; submits annual reports; replies to Congressional inquiries and submits other reports as necessary. MRPBS will administer and monitor the WC program for APHIS by ensuring that:

- A. Changes in OWCP policy and procedures are communicated promptly to the field contacts and management.
- B. APHIS management is informed of Agencywide WC issues, including progress on the SHARE Initiative and corrective action needed (e.g., training of field contacts and supervisors to ensure forms are filled out correctly and promptly), as appropriate.
- C. Long term cases are monitored to determine if and when employees may return to work.
- D. Rehabilitation assessments are requested when it is medically determined that employees have reached maximum medical improvement and employees cannot perform the function of their position.
- E. Suspected fraud and false claim cases are investigated.
- F. Reviews of the CA-1 and CA-2 are conducted to monitor the proper completion of the forms (i.e., Agency code, organizational and occupational code, salaries, form is completed in its entirety, etc).
- G. APHIS Program Units are provided quarterly reports for medical and compensation costs, causes, types, and anatomical location of injury.

- H. Annual reviews of the MRPBS leave without pay (LWOP) rolls are conducted to determine if any employees can be officially removed from the Agency's rolls. Information will be forwarded to the Employee Relations Staff for action.
- I. All long-term stress claims are reviewed periodically.
- J. Procedures are provided in areas of long term management, leave buy back, fraud, seasonal employees, and other areas that are significant to improve the quality of the WC program.

8.6.3 Supervisors/Managers must:

- A. Provide a CA-1 or CA-2 to the employee within 1 day of request or notification that injury/illness has occurred. If necessary, the supervisor may fill out the CA-1 or CA-2 (e.g., when an employee has been involved in an accident and is hospitalized.)
- B. Completely fill out the "Official Supervisor's Report" on either the CA-1 or CA-2 and, after making a copy, forward the original form to the WC field contact within 3 days of receipt from the employee.
- C. Ensure that:
 - 1. Employees receive time off to seek medical treatment when an injury or illness is sustained while performing work. (Employees may elect to use annual, sick, or LWOP for occupational or traumatic injuries. COP can be used for traumatic injuries.)
 - 2. Facts pertaining to the injury are obtained, in order to complete an injury report (CA-1 or CA-2).
 - 3. Any witnesses document their statements on the CA-1, or provide an attachment.
 - 4. If a third party caused the injury, the name and address of the party responsible will be provided on the CA-1.
 - 5. A CA-17, Duty Status Report, is completed if the physician indicates that the employee's injury/illness will result in two or more weeks of leave or limited/light duty. A copy of the employee's position description should be provided for the physician.

6. Injured employees who are recuperating at home or at a medical institution, are contacted, as appropriate, to maintain employer/ employee communication.
7. Employees who are recuperating, receiving compensation, and have regained limited ability to work will be assigned medically appropriate light duty or intermittent assignments/shifts, by the immediate supervisor.
8. Employees are officially placed in a LWOP status when OWCP places the employee on their Periodic or Disability Rolls by entering an Employee Personnel Action (SF-52).
9. Any fraudulent cases are forwarded to MRPBS for investigation.

8.6.4 Employees:

- A. Should complete the CA-1 or 2, and submit it to their supervisor/manager within 3 days of injury or illness.
- B. Should select their initial physician within 25 miles of their residence or official duty station.
- C. Must inform their supervisors of their ability to return to work or perform light duty, within 24 hours of physician approval, even for intermittent light duty assignments of less than a full day.
- D. Must submit medical documentation justifying time away from the workplace in regard to the workplace injury. Medical documentation is required for any COP (including, but not limited to, diagnosis, prognosis, any work restrictions, and return to work date).
- E. Must cooperate with efforts to be returned to work.

8.6.5 WC Field Contacts will:

- A. Review the CA-1 or CA-2 after receiving it from a supervisor to ensure the form is completely and correctly filled out.
- B. Enter the Occupational Code, Type, Source, Agency, and Site codes on the CA-1 or CA-2. Appendix D contains information about these codes.
- C. Forward the CA-1 or CA-2 within 5 days of receipt from a supervisor with a copy of all medical documentation, if available.

- D. Place the original CA-1 or CA-2 and a copy in the EMF, SF 66D, if the employee did not seek medical treatment and no lost time is reported. Should complications develop at a later date, the WC contact will forward the original to the appropriate DOL District Office. This folder should be retained by the WC field contact.
- E. Maintain contact with the employee and provide assistance as needed to complete any additional OWCP forms. Case folders for employees who resign or retire must be archived to the National Records Center in Kansas City, Kansas.
- F. Review for accuracy (i.e., unmatched cases, cases that do not belong to the Agency) the quarterly OWCP report and report any errors, closed cases or fraud indicators. Any corrections or suspicions of fraud will be reported to the MRPBS WC program manager.
- G. Review the DOL Agency Query System receipt data with the claimant forms to verify the accuracy of OWCP information. If incorrect, the WC field contact must notify OWCP within 30 days for corrections. After 30 days, the WC field contact must notify MRPBS WC program manager who will work with the USDA WC program manager to resolve the issue.
- H. Immediately report to the MRPBS WC program manager any suspected fraud or false claims.

8.7 CONTACTING OWCP DISTRICT OFFICES AND OBTAINING OWCP FORMS

- 8.7.1 DOL/OWCP District Office information can be obtained by accessing the OWCP web page at <http://www.dol.gov/esa/contacts/owcp/fecacont.htm>
- 8.7.2 OWCP claim and reimbursement forms can be accessed at <http://www.dol.gov/esa/regs/compliance/owcp/forms.htm>

8.8 RETURN TO WORK

APHIS is committed to returning OWCP claimants to work at their original or a modified (light duty) job as soon as possible, including any period of COP, to reduce time lost due to a work-related injury or illness.

- 8.8.1 A claimant with an OWCP case open less than 1 year may receive nurse intervention services during the COP period. During the first 45 days of injury a DOL nurse will be assigned to review the claimant's case. The nurse will contact the claimant, the physician, and the WC program manager to find out about the employee's injury, his/her progress, and any pertinent information to help facilitate return to work.

8.8.2 Cases open more than 1 year are reviewed annually by the DOL District Office to determine medical status, rehabilitation potential, and return to work eligibility.

8.9 CHARGEBACK BILLING

8.9.1 The FECA program is financed by the Employees Compensation Fund, which consists of monies appropriated by Congress or through agencies' operating revenues. OWCP furnishes agencies with statements of payments made from the Fund for injuries, illness, or death benefits to employees based on the OWCP fiscal year, July 1 through June 30. The statement represents charges the Agency will incur in 2 years.

8.9.2 The Director, Resource Management Staff, will receive a quarterly report which lists all OWCP claimant cases and charges that appear on the chargeback bill. This report must be reviewed to determine:

- A. Any disputes, errors, or omissions.
- B. If compensation costs exceed medical costs. Cases with little to no medical and high compensation costs require an in-depth review.

8.9.3 Each WC field contact must verify the report and notify MRPBS of any disputes, errors, or omissions (e.g., any case or cost that does not belong within the respective organizational code), within 15 days of receiving the quarterly chargeback bill. MRPBS will submit requests for changes to the USDA WC Program Manager, within 2 weeks of receipt of the reported disputes.

8.10 FRAUD OR FALSE CLAIMS

8.10.1 DOL-OWCP has the sole responsibility for determining whether or not any injury or illness claim is valid. Supervisors are cautioned against assuming this role in any way.

8.10.2 Any person charged with the responsibility for making reports in connection with an injury or illness is subject to a fine of no more than \$500, or imprisonment for no more than 1 year, or both, if that person:

- A. Willfully fails, neglects, or refuses to make such reports;
- B. Knowingly files a false report;
- C. Induces, compels, or directs an injured employee to forego filing a claim; or

D. Willfully retains any notice, report, or paper required in connection with an injury.

8.10.3 Any person who makes a false statement to obtain compensation, or who accepts unearned compensation, is subject to a fine of no more than \$10,000 or imprisonment for no more than 5 years, or both.

8.10.4 In addition, administrative penalties may be imposed, up to and including removal from Federal service.

8.11 INQUIRIES

8.11.1 For additional information about the WC Program, or to reach the MRPBS WC program manager, call 301-734-6116 or write to:

MRPBS WC Program Manager
4700 River Road, Unit 124
Riverdale, MD 20737

8.11.2 Copies of current APHIS issuances can be accessed at <http://www.aphis.usda.gov/library> .