



United States  
Department of  
Agriculture

Food Safety  
and Inspection  
Service

FSIS Directive  
4810.1

Revision 3

# **On-the-Job Injury and Illness Compensation Program**

**ON-THE-JOB INJURY AND ILLNESS COMPENSATION  
PROGRAM**

**TABLE OF CONTENTS**

**PART ONE—BASIC PROVISIONS**

<b>Title</b>	<b>Page No.</b>
I. PURPOSE . . . . .	1
II. CANCELLATION . . . . .	1
III. REASON FOR REISSUANCE . . . . .	1
IV. REFERENCES . . . . .	1
V. ABBREVIATIONS AND FORMS. . . . .	2
VI. APPLICABILITY . . . . .	3
VII. DEFINITIONS . . . . .	3
VIII. RESPONSIBILITIES . . . . .	3
A. OM. . . . .	3
B. WCB . . . . .	3
C. CM . . . . .	4
D. CT . . . . .	4
E. Supervisors . . . . .	4
F. Employees . . . . .	6
G. Program Offices. . . . .	6
H. HRO. . . . .	6
I. EHSB, WSHD . . . . .	7
J. LERD. . . . .	7
K. Center For Learning . . . . .	7
L. Office of the Chief Financial Officer . . . . .	7
ATTACHMENT 1-1, Definitions . . . . .	9
ATTACHMENT 1-2, Forms Used with Job Related Injury Or Illness Claims . . . . .	11

**PART TWO—POWER INITIATIVE**

I. REFERENCES. . . . .	13
II. PROTECTING OUR WORKERS AND ENSURING REEMPLOYMENT (POWER) INITIATIVE. . . . .	13
A. Background. . . . .	13
B. Goals and Performance Targets . . . . .	13
C. FSIS Goals. . . . .	14
III. ADDITIONAL INFORMATION . . . . .	14

**PART THREE—ENTITLEMENTS**

	<b>Title</b>	<b>Page No.</b>
I.	REFERENCES. . . . .	15
II.	FECA COVERAGE . . . . .	15
	A. Compensation and Medical Care . . . . .	15
	B. Death Benefits . . . . .	15
	C. Coverage . . . . .	15
	D. Recurrence Claim . . . . .	15
III.	BENEFITS . . . . .	15
	A. Medical Care . . . . .	15
	B. COP in Cases of Traumatic Injury . . . . .	16
	C. Compensation for Wage Loss . . . . .	16
	D. Reimbursement for Burial and Funeral Expenses . . . . .	18
	E. VRP . . . . .	18

**PART FOUR—CLAIMS MANAGEMENT**

I.	REFERENCES. . . . .	19
II.	FORMS PROCESSING. . . . .	19
	A. Reporting Procedures . . . . .	19
	B. Time and Attendance Report . . . . .	19
	C. Electronic Submission . . . . .	19
	D. Form CA-16 . . . . .	19
	E. Leave Buy-Back . . . . .	20
	F. Return to Work from Disability Status . . . . .	20
III.	AUDITING . . . . .	20
	A. Chargeback . . . . .	20
	B. COP . . . . .	20
	C. Third Party Settlements. . . . .	20
IV.	FRADULENT CLAIMS. . . . .	20
	A. Referrals to OIG . . . . .	20
	B. Indicators and Warning Signs of Fraud and Abuse. . . . .	21
V.	THIRD PARTY CLAIMS . . . . .	21
VI.	CHALLENGE OR CONTROVERT . . . . .	22
	A. Claims . . . . .	22
	B. Categories for Terminating or Not Beginning COP . . . . .	23
VII.	PROGRAM MONITORING . . . . .	24
VIII.	COMMUNICATIONS . . . . .	24
	A. Electronic . . . . .	24
	B. Written. . . . .	24
IX.	HEARINGS. . . . .	24
	A. Right to Hearing . . . . .	24
	B. OWCP Notification . . . . .	24
	C. Agency Attendance at Hearing . . . . .	24
X.	INJURY COMPENSATION CASE FILES . . . . .	25
XI.	PENALTIES . . . . .	25
XII.	INFORMATION TECHNOLOGY. . . . .	25
XIII.	CASE INQUIRIES . . . . .	25
XIV.	DEATH . . . . .	26
	ATTACHMENT 4-1, Medical Provider Letter . . . . .	27
	ATTACHMENT 4-2, Indicators of Potential Fraud . . . . .	29
	ATTACHMENT 4-3, Sample Hearing Transcript Transmittal . . . . .	31

**PART FIVE—RETURN TO WORK AND VOCATIONAL REHABILITATION**

	<b>Title</b>	<b>Page No.</b>
I.	REFERENCES. . . . .	33
II.	ADP . . . . .	33
	A. Assigning Work . . . . .	33
	B. Responsibilities . . . . .	33
	C. ADP Exceptions. . . . .	34
III.	WHP . . . . .	35
	A. Benefits . . . . .	35
	B. Duration. . . . .	35
	C. Procedure . . . . .	35
	D. Agreement Outlining Provisions of Return to Duty . . . . .	35
VI.	JOB OFFERS . . . . .	35
V.	VRP . . . . .	36
VI.	ADDITIONAL INFORMATION. . . . .	36
	ATTACHMENT 5-1, Sample FSIS Form 4610-11, Alternative Duty Assignment Worksheet. . . . .	39
	ATTACHMENT 5-2, Sample Alternative Duty Assignment Memo . . . . .	41
	ATTACHMENT 5-3, Sample Letter for Potential Alternative Duties. . . . .	43
	ATTACHMENT 5-4, Work Hardening Agreement . . . . .	45
	ATTACHMENT 5-5, Acceptance or Declination Statement . . . . .	47

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE  
WASHINGTON, DC

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**FSIS DIRECTIVE**

4810.1  
REVISION 3

2/4/13

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**ON-THE-JOB INJURY AND ILLNESS COMPENSATION  
PROGRAM**

**PART ONE—BASIC PROVISIONS**

**I. PURPOSE**

- A. To encourage Agency management support for injury and illness cost reductions and return-to-work programs.
- B. To establish the responsibilities and procedures for managing and administering the injury and illness compensation program for the Agency.
- C. To summarize the benefits and entitlements provided under the Federal Employee Compensation Act (FECA) to Federal employees who sustain injuries and illnesses in the performance of work.
- D. To enhance the injury and illness prevention activities and facilitate adherence to procedures and policies.

**II. CANCELLATION**

This directive cancels FSIS Directive 4810.1, Revision 2, On-the-Job Injury and Illness Compensation and Prevention Program, dated 7/19/05.

**III. REASON FOR REISSUANCE**

This directive was completely revised to update the guidance and procedures for the On-the-Job Injury and Illness Compensation Program.

**IV. REFERENCES**

FSIS Directive 4306.1, Employment of Persons with Disabilities (Including Disabled Veterans)  
FSIS Directive 4630.2, Leave  
FSIS Directive 4791.1, Basic Occupational Safety and Health Program  
FSIS Directive 4791.12, Reporting and Correcting Occupational Hazards  
FSIS Directive 4791.13, Workplace Inspections, and Injury, Illness and Motor Vehicle Incident Reporting  
5 CFR, Part 353, Restoration to Duty from Uniformed Service or Compensable Injury  
29 CFR, Part 22, Department of Labor Regulations  
29 CFR, 1910, Occupational Safety and Health Standards  
29 CFR, 1960, Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Materials  
5 U.S.C. 8101, Federal Employees' Compensation Act

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**DISTRIBUTION:**  
Electronic; All Field Employees

**OPI:**  
OCHRO – Workers' Safety and Health Division

18 U.S.C. Crimes and Criminal Procedures, Sections 287, 1001, 1920, 1922  
31 U.S.C. 3801-12, Program Fraud Civil Remedies Act of 1986  
EO 12196, Occupational Safety and Health Programs for Federal Employees  
Federal (FECA) Procedure Manual  
Public Law 93-579, Privacy Act of 1974  
Public Law 104-191, Health Information Portability and Accountability Act, April 2003  
Presidential Memorandum dated July 19, 2010  
Publication CA-550, Questions and Answers  
Publication CA-810, Injury Compensation for Federal Employees  
Secretary of Labor Memorandum dated September 21, 2010  
Supervisor's Guide to Workers' Compensation (Web Version Revised July 2011)

V. **ABBREVIATIONS AND FORMS**

The following appears in their shortened form in this directive:

ADP	Alternative Duty Program
CM	Case Manager
COP	Continuation of Pay
CS	Case Specialist
CT	Claims Technician
DOL	Department of Labor
EEO	Equal Employment Opportunity
EHSB	Environmental, Health and Safety Branch
EMF	Employee Medical File
FECA	Federal Employees' Compensation Act
FPC	Financial Processing Center
HRO	Human Resources Office
LERD	Labor and Employee Relations Division
LWOP	Leave Without Pay
MSPB	Merit Systems Protection Board
OIG	Office of Inspector General
OJT	On-the Job Training
OM	Office of Management
OSHA	Occupational Safety and Health Administration
OSHP	Occupational Safety and Health Program
OWCP	Office of Workers' Compensation Program
PII	Personally Identifiable Information
POWER	Protecting Our Workers and Ensuring Reemployment
PPE	Personal Protective Equipment
RC	Rehabilitation Counselor
RS	Rehabilitation Specialist
T&A	Time and Attendance Report
VRP	Vocational Rehabilitation Program
WCB	Workers' Compensation Branch
WHP	Work Hardening Program
WORCO	Workers' Compensation, Injury and Illness Database
WSHD	Workers' Safety and Health Division

FSIS Form 4610-9, Acceptance or Declination Statement  
FSIS Form 4610-11, Alternative Duty Assignment Worksheet  
AD-202, Travel Authorization  
Standard Form 52, Request for Personnel Action

VI. **APPLICABILITY**

This directive applies to all Federal civilian employees of FSIS covered by the FECA regardless of type or duration of appointment. This directive does not apply to contracted employees.

VII. **DEFINITIONS**

See Attachment 1-1 for a listing of the definitions used in this directive.

VIII. **RESPONSIBILITIES**

A. **OM.**

1. Takes appropriate action to ensure Agencywide POWER goals targeting timeliness and lost production days are met.
2. Encourages employee support for meeting the goals of the POWER initiative through involvement in committees and other incentives.
3. Ensures employee compliance with Agency safety and health policy, procedures, and guidelines.
4. Evaluates the performance of supervisors and managers in their efforts to support the POWER initiative goals.
5. Ensures supervisors and managers receive training regarding workers' compensation and the benefits of return to work programs.

B. **WCB.**

1. Establishes and maintains a liaison with OM and with DOL, OWCP.
2. Provides oversight of the Injury and Illness Compensation Program.
3. Ensures Agency policies and procedures conform to the requirements of FECA.
4. Coordinates and monitors information necessary to dispute or challenge OWCP claims and presents the Agency's position on the facts of the claim.
5. Provides technical advice, functional guidance, and policy interpretation on all aspects of the Injury and Illness Compensation Program.
6. Monitors the development and implementation of the Agency's electronic submission of claim forms and data. See Attachment 1-2 for a listing of Claim Forms.
7. Monitors the authorization of Form CA-16, for appropriateness.
8. Reviews Agency injury and illness prevention strategies and makes recommendations to strengthen the program.

**C. CM.**

1. Works to enhance the OWCP Program.
2. Maintains oversight over COP, auditing usage, Third Party claims processing, chargeback auditing activities and, prepares response materials related to congressional, EEO, Freedom of Information Act, and other inquiries.
3. Administers the return to work programs of former and current disabled employees.
4. Identifies eligible candidates for programs.
5. Coordinates medical documents substantiating ability to work and modifies jobs to fit medical restrictions.
6. Coordinates with the staffing specialist for necessary personnel actions.
7. Monitors case tracking to determine any trends that need to be addressed.
8. Prepares controversies of claims and COP.
9. Processes requests for leave buy-back.

**D. CT.**

1. Provides advice and guidance to employees filing OWCP claims by ensuring they are informed of entitlements and have the appropriate forms for processing their claims.
2. Ensures the type, source, and cause of injuries are properly coded on the CA-1 or CA-2 forms.
3. Ensures OWCP claim forms are completed properly.
4. Facilitates the submission of claim forms to OWCP within required timeframes.
5. Monitors T&A records containing COP to ensure compliance with OWCP guidelines.
6. Forwards questionable expenditures to the CM.
7. Verifies new claims charged to the Agency.

**E. Supervisors.**

1. Provide employees the appropriate forms to complete following an injury or illness.

2. Enforce safety and health regulations and ensure that Form CA-10 is posted at Headquarters plants.
3. Ensure that the location and telephone numbers of emergency medical facilities are posted at the worksite.
4. Ensure that employees know when and how to report occupational injuries and illnesses, and send injured employees for medical treatment when an injury is reported. (**NOTE:** If an employee refuses treatment, the supervisor documents the facts of the situation as reported and investigates as necessary.)
5. Report all injuries and illnesses promptly to the WCB.
6. Complete the supervisor's portion of injury compensation forms and send them to the servicing CT within 24 hours of receipt. Ensure the information provided on the forms is accurate and complete. Obtain statements from employees who may have information relevant to the injury.
7. Maintain communication with injured employees while they are receiving COP or workers' compensation. Work with the CT and CM, as appropriate in identifying jobs suitable for their return.
8. Assist in making decisions regarding whether to controvert COP based on available information. Advise the employee if COP will be controverted and the basis for the controversion.
9. Recommend appropriate disciplinary or adverse action against employees for failure to comply with safety and health policies, directives, and regulations.
10. Ensure that Agency directives, notices, and policies, that include safety and health guidelines, are readily available to employees.
11. Ensure that all employees know how to report a hazard or a potential hazard, and to take the appropriate action as required.
12. Ensure that all safety and health procedures and policies are adhered to.
13. Ensure all employees wear prescribed PPE, where appropriate.
14. Maintain a first-aid kit and post the location of the first-aid kit on the official bulletin board at the work site.
15. Advise the employee on appropriate leave entitlements associated with their claim.
16. Become familiar with the FSIS Supervisors Guide to Workers' Compensation located on *InsideFSIS* at <https://inside.fsis.usda.gov/fsis/emp/static/centerContent/fsisPage.jsp?keyword=carSupervisor>.

**F. Employees.**

1. Adhere to all safety and health instructions, policies, procedures, and regulations. Report any hazard or potential hazard incident to their supervisor following the procedures in FSIS Directive 4791.12 and FSIS Directive 4791.13.

2. Promptly and accurately complete all OWCP forms for all job-related injuries or illnesses and report to their supervisor within 48 hours. (**NOTE:** If an employee is unable to report an injury or illness, a friend, relative, co-worker, or supervisor can report the injury on behalf of the employee. Ensure the information provided is accurate and complete, including obtaining statements of employees who witnessed the injury.)

3. Indicate leave desired (sick leave, annual leave, leave without pay, or continuation of pay), if the employee is unable to return to work.

4. Obtain documentation from the physician stating the earliest date to return to work in either a limited or full duty capacity. Provide the treating physician with a Medical Provider Letter which identifies the Agency's return to work programs.

5. Provide medical documentation as soon as possible to support medical expenses and any period(s) of absence. Provide medical documentation within 10 calendar days of requesting the initial COP for an absence related to a job-related injury, (or within 48 hours for subsequent days).

6. Return to a duty status, (regular status, work hardening, or alternative duty assignments), as soon as medically feasible.

**G. Program Offices.** Each of the program areas and the Office of the Administrator:

1. Ensure the procedures in health and safety directives, policies and procedures are enforced by:

a. Conducting a safety inspection bi-annually in every facility housing Agency employees, as stated in FSIS Directive 4791.13.

b. Ensuring prescribed PPE is available to all employees, where appropriate.

2. Implement measures to support Department goals to reduce injuries, illnesses, costs, and lost production days.

3. Ensure occupational safety and health training is provided to employees as appropriate.

4. Ensure supervisors and managers are trained in their responsibilities in workers' compensation and the benefits of return-to-work programs.

**H. HRO.** Staffing specialists and their assistants coordinate with the WCB in efforts to return employees to meaningful employment.

I. **EHSB, WSHD.**

1. Manage the Occupational Safety and Health and Environmental Management programs.

2. Develop, implement, and monitor injury and illness prevention activities, including the following:

- a. Coordinate the development and delivery of health and safety training.
- b. Investigate all reportable injuries and illnesses for probable cause.
- c. Carryout a medical surveillance program for hearing conservation and laboratory activities.
- d. Recommend appropriate control measures including administrative and PPE, based on hazards identified during workplace hazards assessments.
- e. Provide support and guidance on hazards or potential hazardous situations and correct them in a timely manner.
- f. Provide reports on injury and illnesses occurrence and trends.

J. **LERD.** Review and determine appropriate action for misconduct, false, or fraudulent claims.

K. **Center For Learning.** Coordinate with EHSB and the WCB to determine required training and the means of delivering the training.

L. **Office of the Chief Financial Officer.** Oversees the appropriation and dispersal of funds to meet program needs.

## DEFINITIONS

- A. **Abuse.** Excessive, extravagant, or wrongful use of the FECA in a manner contrary to its legal intent to acquire additional benefits for personal gain (**example:** an employee prolongs the length of recovery period for a job-related injury).
- B. **Accepted Medical Restrictions.** The medical restrictions related to a claimant's physical limitations for an injury or occupational disease or illness accepted by OWCP.
- C. **Alternative Duty Program.** A program that allows an employee to return to work under an alternative duty assignment as opposed to their regular duties due to medical restrictions imposed after a work-related injury or illness. Alternative duty assignments are temporary in nature. This program allows employees to return to the workplace sooner in the healing process while performing necessary and productive work for the Agency.
- D. **Challenge.** The administrative procedure to question the appropriateness of a claim regardless of COP application.
- E. **Chargeback.** A system used by the DOL to annually assess agencies for all costs associated with claims filed by their respective employees that are dispensed from the Employees' Compensation Fund.
- F. **Commuting Area.** All worksites or plants within a 35-mile radius of the involved duty station.
- G. **Compensation.** The financial sum the injured employee receives for loss of wages. It is subject to an individual case review of the facts of the injury and the amount of duty time lost. An employee who sustains a pay loss attributable to an occupational injury or illness is eligible for the following compensation as appropriate: permanent total disability, partial disability, schedule award, or compensation to dependents of deceased employees.
- H. **COP.** Continuance of the employee's regular pay for a period of time not to exceed 45 calendar days of disability. COP only applies to traumatic injuries.
- I. **Controversion.** The formal administrative procedure through which the employing agency or the supervisor presents evidence to question an employee's claim of COP.
- J. **Dependents.** Spouse, unmarried children under 18 years old, children of any age who are incapable of self-support, children who are students, (until reaching 23 years of age or completing four years of school beyond high school level), and wholly dependent upon the parent.
- K. **Fraud.** The intentional deceptive act or series of acts an individual commits with the specific intent to cause FSIS or OWCP to grant benefits under the FECA which are not normally provided. (**Examples:** An employee misrepresents an injury, concealing circumstances of an off-duty injury or failing to report other employment.)
- L. **Hazard.** Unsafe act or condition.
- M. **Leave Buy-Back.** The option to buy back annual or sick leave used for lost work time in lieu of taking LWOP and collecting workers' compensation from OWCP.

N. **Long-Term Claimant.** A current or former employee receiving workers' compensation benefits for more than 12 months.

O. **Lost-Time Case.** A non-fatal traumatic injury that causes a disability for an injured employee to perform work beyond the day or shift on which it occurred, or a non-fatal illness or disease (occupational) that causes disability.

P. **Medical Care.** The treatment or ongoing medical care an injured employee receives from a qualified physician or hospital of employee's choice.

Q. **Occupational Disease or Illness.** Disease or illness caused by the work environment and producing systemic infection, continued or repeated stress or strain, exposure to toxins, poisons, or fumes, or other continued and repeated exposure to conditions over a long period of time.

R. **Physician.** Includes surgeons, osteopathic practitioners, podiatrists, dentists, clinical psychologists, optometrists, and chiropractors within the scope of their practice as defined by law. The term physician does not include a physician's assistant or nurse practitioner.

S. **Regular Pay.**

1. **For full time and part time employees** who work the same number of hours each week, regular weekly pay is the number of hours worked each week times the hourly rate on the date of injury, **exclusive of overtime.**

2. **For intermittent employees** who do not work the same number of hours each week, the weekly rate is the average of the employee's weekly earnings, exclusive of overtime, during the one-year period immediately before the injury. The average annual earning must not be less than 150 times the average daily wage earned.

T. **Recurrence.** When an injured employee is again disabled after returning to work, without sustaining a new injury, and stops work as a result of the original injury.

U. **Schedule Awards.** Additional compensation provided for specified periods for permanent loss or loss of use of certain members, organs, or functions of the body. Awards also cover serious disfigurement of the head, face, or neck.

V. **Third-Party Claims.** Claims for injury occurring while performing official duty and there is a legal liability on a party other than the United States. (**Example:** Employee is driving a vehicle under reimbursable mileage status and is involved in a motor vehicle accident in which the other party is at fault.)

W. **Traumatic Injury.** A wound or other injury of the body resulting from external forces including stress or strain. The injury must result from a specific event or incident, or series of events or incidents within a single day or work shift.

X. **Work Hardening Program.** A formal program that permits employees to return to the position they occupied before the injury, but with limited hours that progressively increase until the employee is at the pre-injury work schedule.

**FORMS USED WITH JOB-RELATED INJURY OR ILLNESS CLAIMS**

Supervisors must maintain or have ready access to an adequate supply of the listed forms in the Supervisor's Guide to Workers' Compensation located on *InsideFSIS* at <https://inside.fsis.usda.gov/fsis/emp/static/centerContent/fsisPage.jsp?keyword=carSupervisor> starting on page 4.

CA-1	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation
CA-2	Federal Employee's Notice of Occupational Disease and Claim for Compensation
CA-2a	Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation
CA -3	CA-3 Report of Termination of Disability or Payment
CA -5	CA-5 Claim for Compensation by Widow, Widower, or Children
CA-5b	CA-5b Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren
CA-6	CA-6 Official Superior's Report of Employee's Death
CA-7	CA-7 Claim for Compensation on Account of Traumatic Injury
CA-7a	CA-7a Time Analysis Form
CA7b (BB)	DFEC CA-7b, Leave Buy Back (LBB) Worksheet/Certification and Election
CA-16	Authorization for Examination and/or Treatment
CA-17	Duty Status Report
CA-20	Attending Physician's Report
CA-20	Attending Physician's Supplemental Report
CA-35	Instructions for CA-35 Forms
OWCP-5a	Work Capacity Evaluation Psychiatric/Psychological Conditions
OWCP-5b	Work Capacity Evaluation Cardiovascular/Pulmonary Conditions
OWCP-5c	Work Capacity Evaluation for Musculoskeletal Conditions
OWCP-915	Claim for Medical Reimbursement
OWCP-957	Medical Travel Refund Request

## PART TWO—POWER INITIATIVE

### I. REFERENCES

Presidential Memorandum dated July 19, 2010  
Secretary of Labor Memorandum dated September 21, 2010

### II. PROTECTING OUR WORKERS AND ENSURING REEMPLOYMENT (POWER) INITIATIVE

A. **Background.** President Barack Obama established a 4-year Protecting Our Workers and Ensuring Reemployment (POWER) Initiative, covering fiscal years 2011 through 2014. The POWER Initiative extends prior workplace safety and health efforts of the Federal Government by setting more aggressive performance targets, encouraging the collection and analysis of data on the causes and consequences of frequent or severe injury and illness, and prioritizing safety and health management programs that have proven effective in the past. The POWER initiative sets forth minimum targets for improvement in the following seven goals, which is measured against a baseline of agency performance in fiscal year 2009. Under the POWER Initiative, each Executive department and agency is expected to improve its performance in seven areas:

1. Reducing total injury and illness case rates.
2. Reducing lost-time injury and illness case rates.
3. Analyzing lost-time injury and illness data.
4. Increasing the timely filing of workers' compensation claims.
5. Increasing the timely filing of wage-loss claims.
6. Reducing lost production day rates.
7. Speeding employees' return to work in cases of serious injury or illness.

B. **Goals and Performance Targets.** Each Federal agency through collaboration with the DOL, sets goals and performance targets. The DOL:

1. Measures and tracks the performance.
2. Works with the Agency to improve:
  - a. Safety and health at high injury rate sites.
  - b. The timeliness of reporting claims through electronic and other means.
  - c. Guides agencies in providing suitable work.

C. **FSIS Goals.** Specific goals and targets for POWER Goals are posted annually to the DOL website at <http://www.dol.gov/owcp/dfec/power>.

III. **ADDITIONAL INFORMATION**

A copy of the memorandums from the President and Secretary of Labor and additional information about POWER can be accessed at <http://www.dol.gov/owcp/dfec/power>.

## PART THREE—ENTITLEMENTS

### I. REFERENCES

5 U.S.C. 8101, Federal Employees' Compensation Act  
29 CFR, Part 22, Department of Labor Regulations  
Federal (FECA) Procedure Manual  
Publication CA-810, Injury Compensation for Federal Employees  
Public Law 93-579, Privacy Act of 1974  
Public Law 104-191, Health Information Portability and Accountability Act, April 2003  
Supervisor's Guide to Workers' Compensation (Web Version Revised July 2011)

### II. FECA COVERAGE

A. **Compensation and Medical Care.** FECA provides compensation and medical care for disability due to injuries sustained while in the performance of duty. "Injuries" includes diseases proximately caused by employment. An employee who is injured in the performance of duty can recover damages only through FECA.

B. **Death Benefits.** FECA provides payment of funeral and burial expenses and compensation for dependents if the work-related injury or disease results in the employee's death.

C. **Coverage.** FECA coverage is extended to Federal employees regardless of the length of time on the job or the type of position held. The employee must provide medical and factual evidence to establish the essential elements of the claim, such as, that the claim was filed within the statutory time requirements of the FECA, the injured or deceased person was an employee within the meaning of the FECA, the employee sustained an injury or disease, the employee was in the performance of duty when the injury occurred, and the condition found resulted from the injury. Benefits cannot be paid if injury or death is caused by willful misconduct, intent to bring about the injury or death of oneself or another, or by substance abuse of the injured employee.

D. **Recurrence Claim.** If an injured employee is again disabled as a result of the original injury or occupational disease, there is coverage under the FECA. A recurrence is claimed on a Form CA-2a.

E. **Penalty.** Any person who knowingly makes any false statement, misrepresentation, concealment of fact, or any other act of fraud to obtain compensation, as provided by FECA, or who knowingly accepts compensation to which they are not entitled, is subject to felony criminal code provisions, be punished by a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both.

### III. BENEFITS

FECA provides the following benefits to an employee who has sustained an injury or occupational disease:

A. **Medical Care.** An injured employee is entitled to receive:

1. Hospital care when needed, provided by any qualified local private physician or hospital of the employee's choice.
2. Reimbursement for OWCP if the medical providers are enrolled in the FECA program.
3. Reimbursement for travel and incidental expenses if the travel is necessary to receive medical care.

**B. COP in Cases of Traumatic Injury.**

1. **Entitlement.** An employee who sustains a disabling, job-related traumatic injury is entitled to continuation of regular pay for a period not to exceed 45 calendar days unless the claim is controverted.

2. **Calculating the 45-day Period.** The following days must be counted as one of the 45 calendar days during which the employee's pay is continued:

a. The first day of COP is the day **following the date of injury** when there is immediate and continuing time loss due to the injury (consecutive days). The balance of the work shift on the date of injury is counted as administrative leave. **Exception:** If injury occurred before the start of the shift the date of injury is the first day of COP.

b. Any partial day after the date of injury on which the employee is absent from work to see their physician or therapist. (**NOTE:** Limited to no more than 4 hours.) The employee submits medical documentation (to the supervisor and WCB) within 48 hours to receive COP for the absence.

c. Weekends (nonworkdays) are counted as days of COP when the medical documentation states the employee is disabled on the day before and the day after the weekend (nonworkdays).

d. Intermittent (sporadic) use of COP, contact WCB for assistance in counting days.

**C. Compensation for Wage Loss.**

1. **Compensation for Work-Related Injury or Occupational Disease.** An employee who sustains a pay loss attributable to a work-related injury or occupational disease is eligible for the following compensation:

a. **Permanent Total Disability.** When an injury or illness causes permanent total disability, the employee is entitled to compensation until death. The rate of compensation for total disability is  $66 \frac{2}{3}$  percent of the pay rate at the time of disability or 75 percent if the employee has dependents.

b. **Partial Disability.** An employee may receive compensation computed on loss of wage-earning capacity when unable to return to usual employment because of partial disability resulting from injury or illness.

c. **Schedule Awards.** Additional weeks of compensation are provided for specified periods for permanent loss or loss of use of certain members, organs, or functions of the body. Awards also cover serious disfigurement of the head, face, or neck.

2. **Compensation to Dependents of Deceased Employees.**

Dependents of the deceased employee (death due to an accepted work related injury or occupational disease) are entitled to the following benefits:

a. **Spouse without Dependent Children.** The spouse is entitled to 50 percent of the deceased employee's pay until death or remarriage. On remarriage, widow or widower receives a lump sum equal to 24 times the monthly compensation being paid.

**Exception:** If such remarriage occurs on or after age 55, the lump sum payment will not be made and the monthly compensation will continue until the beneficiary's death.

b. **Spouse with Dependent Children.** The spouse receives 45 percent of the deceased employee's pay. Each child receives 15 percent. (**NOTE:** The maximum combined benefit for spouse and children cannot exceed 75 percent.) A child must meet the following criteria for compensation:

(1) A child is entitled to compensation until the child dies, marries, or reaches 18 years of age, or, if over 18 and incapable of self-support due to a physical or mental disability, becomes capable of self-support.

(2) A child between 18 and 23 years of age who has not completed 4 years of post-high school education and is regularly pursuing a full-time course of study.

3. **Claiming Lost Salary.**

a. The injured employee has a choice of using sick or annual leave and not receiving OWCP compensation OR using LWOP and claiming OWCP compensation. The injured employee makes the decision, not the Agency.

b. Use Form CA-7 to claim compensation for lost pay resulting from an on-the-job injury. In the case of an occupational disease claim, submit a CA-7 the first pay period where there is a wage loss. For a traumatic injury, the CA-7 must be submitted on the 40<sup>th</sup> day of COP if wage loss is expected to continue beyond the 45 day COP period.

4. **Compensation Payments.**

a. Compensation payments can begin after wage loss begins and the medical evidence shows that the employee is unable to perform the duties of their regular job. In a traumatic injury, compensation for wage loss is payable after a three day waiting period following expiration of the 45 calendar days of COP. If disability exceeds 14 days beyond the expiration of COP, no waiting days are charged. In occupational disease claims or traumatic injuries where COP is not payable, compensation for wage loss is payable after the three day waiting period. No waiting period is required when the disability causing wage loss exceeds 14 days.

b. An employee must be in a LWOP status to receive compensation payments. Any day or fraction of a day in which pay loss occurs can be counted as a waiting day. Saturdays, Sundays, and holidays not falling within a period of leave can also be counted as waiting days.

D. **Reimbursement for Burial and Funeral Expenses.** If an employee's death results from a traumatic injury or an occupational disease or illness, an amount not to exceed \$1,000 can be paid for funeral and burial expenses. If the employee's death occurs away from home, official duty station, or outside the United States, an additional sum can be paid for transporting the remains home. A reimbursement cost of \$200 is paid to the personal representative of the deceased to terminate the decedent's status as an employee (**example:** completion of survivor forms).

E. **VRP.** See Part Five, Paragraph V.

## PART FOUR—CLAIMS MANAGEMENT

### I. REFERENCES

5 CFR, Part 353, Restoration to Duty from Uniformed Service or Compensable Injury  
5 U.S.C. 8101, Federal Employees' Compensation Act, as amended  
18 U.S.C. Crimes and Criminal Procedures, Sections 287, 1001, 1920, 1922  
31 U.S.C. 3801-12, Program Fraud Civil Remedies Act of 1986  
29 CFR, Part 22, Department of Labor Regulations  
29 CFR, 1960, Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Materials  
EO 12196, Occupational Safety and Health Programs for Federal Employees  
Public Law 93-579, Privacy Act of 1974  
Public Law 104-191, Health Information Portability and Accountability Act, April 2003  
Publication CA-550, Questions and Answers

### II. FORMS PROCESSING

#### A. Reporting Procedures.

1. Supervisors must submit completed Forms CA-1 or CA-2 to the WCB within 24 hours of receipt.

2. The WCB forwards the completed CA-1 or CA-2 to the Office of Workers' Compensation with jurisdiction within 2 workdays of the date of receipt of a properly completed notice of injury or occupational illness.

#### B. Time and Attendance Report.

1. **Continuation of Pay.** Transaction code 67 (OWCP Injury Leave Taken), is used to indicate that the employee is on injury leave. The CT tracks the 45-calendar day period, calculating the period as indicated in Part Three, Subparagraph III. B. 2. The employee receives regular weekly pay during this period. **Exception:** When an employee leaves the workplace because of an injury (after the beginning of the employee's shift), the remainder of the shift for that day (example: the day of injury) is charged to administrative leave (code 66).

2. **Disallowed Claim.** The claimant amends their T&A(s) to show annual leave, sick leave, or leave without pay for those hours previously recorded as transaction code 67 if claim is disallowed.

C. **Electronic Submission.** When available within USDA, the Agency will use electronic claims submission for Forms CA-1, CA-2, and CA-7.

D. **Form CA-16.** This form is a contract authorizing a medical provider to treatment for a reported job-related injury. Provide the treating physician with medical provider letter (see Attachment 4-1) which identifies the Agency's return to work programs. Use Form CA-16 only for a traumatic injury. Only one Form CA-16 is issued with each new traumatic injury. The supervisor faxes the completed Form CA-16 to the WCB as soon as it is received from the employee, and mails the original promptly to WCB. OWCP will only reimburse medical providers that are enrolled in the FECA program.

E. **Leave Buy-Back.** A financial cost to the employee is usually associated with a leave buy-back. An employee receives compensation at 100 percent of their usual pay entitlement. When converting the leave time to LWOP and accepting compensation from OWCP, the employee's pay is either 66 2/3 percent or 75 percent (based on dependents). The Agency receives a refund based on the difference. There are other implications when an employee chooses the leave buy-back option, (**examples:** leave earning, retirement, holiday pay (if applicable), and impact on an employee's Thrift Savings Plan). Employees must contact the assigned CT in WCB for guidance in buying back leave used for absences for a work related injury.

F. **Return to Work from Disability Status.** The supervisor notifies WCB immediately when a disabled employee is able to return to work in a full duty or limited capacity. The CT prepares a Form CA-3 when the employee returns to work or the disability ends and forwards to the appropriate OWCP office, with a copy to the employee's OWCP file.

### III. **AUDITING**

A. **Chargeback.** The OWCP uses the chargeback system to annually access agencies for all costs associated with claims filed by their respective employees that are dispensed from the Employees' Compensation Fund. The CS reviews and documents verification of all assigned Agency chargeback codes for new cases. Errors are corrected with the Washington, D.C. district office within 60 days from receipt of Form CA-801 or other notification.

#### B. **COP.**

##### 1. **CTs:**

a. Monitor usage of COP by the injured employee and verify the appropriateness and accuracy of hours.

b. Maintain contact with the FPC, the injured employee, and the employee's supervisor or assigned district office to ensure injured employees are authorized to use claimed COP and that they are using it properly.

2. **Correcting Unauthorized COP.** Corrections to unauthorized use of COP are required in all cases. CT's issue an instructional letter to the injured worker on a case by case basis to inform the employee to submit a corrected T&A sheet for the affected pay period(s) using available leave options to replace unauthorized or excessive COP.

C. **Third-Party Settlements.** Any lawsuit involving an injured worker and a third party are monitored as part of the Agency's chargeback auditing practices.

### IV. **FRAUDULENT CLAIMS**

A. **Referrals to OIG.** The WCB closely scrutinizes fraudulent claims for possible referral to OIG. WCB retains a copy of a referral request (basis for referral, copy of the questionnaire, and any relative documents) with supporting evidence in separate file folder (not the injury case file). OIG forwards cases without merit to the WCB for any administrative action. Cases can be resubmitted for investigation should additional or new material facts surface. Claims to OWCP should not be delayed because fraud or abuse is suspected and the claim is being referred (or is already under investigation) by OIG.

B. **Indicators and Warning Signs of Fraud and Abuse.** In processing or reviewing compensation claim files, supervisors and CT's should watch for various indicators and warning signs with possible fraudulent or abusive claims. Examples of such indicators and warning signs are documented in Attachment 4-2.

V. **THIRD PARTY CLAIMS**

A. FSIS employees perform work in settings that can involve property and equipment that are owned and managed by others. Many injuries occur due to unsafe conditions that are created or not omitted by a third party. The following situations can involve third party liability. As such, a third party claim should be filed to recover any costs associated with that specific injury, to include medical and compensation costs. Examples of this can include:

1. A slaughter environment where plant management does not remove snow or ice from the steps leading to the government office, thereby contributing to an injury of an FSIS employee from a slip or fall.

2. A patrol inspector that is injured in an automobile accident while driving from one plant to another to perform inspection duties due to the act of an unsafe driver.

B. Employees must report traumatic injuries on Form CA-1 and Illnesses on Form CA-2. Both forms contain the block titled "Injury Caused by Third Party." Check the "Yes" block when a third party is liable for the reported injury. If not appropriate, check "No." If the supervisor is unsure which block to check, contact WCB and ask to speak with the CS. The CS can advise the supervisor if the third party indicator is appropriate.

C. FECA prohibits the employee from accepting the proceeds of a settlement without first satisfying the interest of the United States. If an employee initiates action to recover damages from the responsible party, and a settlement results, the interests of the United States Government must be satisfied before a claimant accepts part of a settlement.

D. All third party claims should be properly identified before submission to OWCP to ensure that all Government funds paid for a job-related injury or illness caused by a third party is recovered to the maximum extent possible. On receipt of Form CA-1 or Form CA-2, the CT reviews the forms to determine if a third party was involved and whether the third party could be liable. If it appears there can be third party liability and the third-party indicator is not checked, the CT should refer the matter to the CS for appropriate follow-up with the supervisor of the injured employee. When the third party indicator is checked, employees must include a brief description of how the accident or illness occurred. Include the following information, as appropriate:

1. Name and address of the owner of the property.

2. Vehicle police report.

3. Type of equipment involved.

4. How, if any, a third party played a part in the accident or illness.

E. After identifying a potential third party claim the WCB:

1. Determines if the employee's supervisor, EHSB, or any other entity conducted an accident investigation of the incident. If so, obtains a copy of the report and the investigation file.

2. Forwards the following items to OWCP:

a. A detailed written statement by the injured employee concerning the circumstances of the incident. Also, include statements from witnesses or other persons who can have pertinent information.

b. The name, address, and telephone number of the third party.

c. A detailed description of the place where the incident occurred (including a diagram), and all of the circumstances concerning the incident.

d. Travel Authorization, AD-202, if applicable.

F. Before reaching a settlement, the employee or the employee's representative contacts the OWCP. OWCP and the Agency monitor settlements due to third party actions. Recoveries offset attorney's fees and expenses as well as medical and compensation costs charged to the Agency. An employee retains 20 percent of the adjusted settlement figure before OWCP costs are deducted.

G. OWCP monitors use of the third party indicators and decides, based on criteria in 29 CFR when to direct an injured Federal employee to pursue a third party claim. An employee who refuses to prosecute an action in their own name against the responsible third party after being asked to do so by the OWCP can be denied compensation.

H. OWCP provides the full range of medical and compensation benefits authorized by the FECA while an action or suit is pending against a third party.

## VI. CHALLENGE OR CONTROVERT

A. **Claims.** The supervisor or other Agency officials must challenge injury or illness claims when questionable circumstances surround those claims.

1. **Challenging a Claim When an Employee has Not Elected or is Not Entitled to COP.** To challenge an employee's injury or illness claim, the supervisor should complete appropriate blocks of Forms CA-1 or CA-2 and include copies of any written, factual documentation to support their position of challenging the claim. Attach this information to the Form CA-1 or CA-2 on submission to the WCB. (**NOTE:** The supervisor provides a copy of the Form CA-1 or CA-2 and supporting documentation to challenge the claim to the employee.)

a. Examples of acceptable supporting documentation could include written instructions or warning letters to employees with dates before the date of the injury that relate to the cause of the injury and pages from Agency publications citing requirements for using Agency issued PPE.

b. Examples of an injury or illness claims that must be challenged include injuries caused to an employee by their willful misconduct or intent to injure, intoxication, or not being in compliance with the Agency's policies regarding the use of PPE.

2. **Challenging a Claim When an Employee has Elected or is Entitled to COP.** If the claim being challenged is an injury claim (not an illness or occupational disease claim), any use of COP should also be controverted by completing the appropriate controversion block of Form CA-1 (**NOTE:** The supervisor provides a copy of the Form CA-1 and supporting documentation to challenge the claim to the employee).

3. **Controverting COP.** The supervisor or other Agency official must controvert the use of COP when:

- a. The claim is being challenged.
- b. One of the nine factors listed in Subparagraph B. is applicable to the claim.

4. While COP is a benefit injured employees are entitled to following a traumatic injury, there exists situations where this benefit is not appropriate and its use must be controverted or terminated. The employee's supervisor can oppose an employee's use of COP, but the entitlement to use it cannot be terminated until:

- a. OWCP makes the final determination of eligibility for use of COP and notifies WCB to terminate its use for a particular claim.
- b. The attending physician informs the WCB when the employee is no longer disabled.
- c. The 45 calendar day continuation of pay period expires.
- d. The allowed time for an employee to furnish the required medical documentation has expired with no such medical documentation being provided.
- e. One of the nine factors listed in Subparagraph B. is determined by OWCP to be applicable.

5. To controvert the employee's use of COP, the supervisor completes the appropriate controversion block of Form CA-1 and attaches any supporting documentation. (**NOTE:** The supervisor provides a copy of the Form CA-1 and supporting documentation to controvert the use of COP to the employee.) OWCP makes all final determinations on the use of COP and can overturn the Agency's controversion, if appropriate.

**B. Categories For Terminating or Not Beginning COP.** The following are categories for terminating or not beginning COP:

1. The disability is a result of occupational disease or illness.
2. The employee is excluded by 5 USC 8101 (1) B or E (**example:** volunteers).
3. Employee is a foreign national employed outside the United States or Canada.

4. The injury occurred off the employing premises and the employee was not engaged in official "off-premises" duties.

5. The injury was caused by the employee's willful misconduct, the employee intended to bring about the injury or death of himself or another person, or the employee's intoxication was the proximate cause of the injury.

6. The injury was not reported on Form CA-1 within 30 days following the injury.

7. Work stoppage first occurred more than 45 calendar days following the injury.

8. Employee first reported injury after employment was terminated.

9. The employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, Youth Conservation Corps, or other similar groups.

## VII. PROGRAM MONITORING

WCB monitors all cases referred to the VRP on a continuous basis to ensure compliance of the participant and to assist in assuring that the participant successfully completes the training plan (if applicable), and placement phase in the labor market. Periodic contact with the OWCP RS and the contracted RC will occur and progress results documented in the claimant's OWCP Injury folder in WCB.

## VIII. COMMUNICATIONS

A. **Electronic.** Program changes, actions, and results are communicated to Program Managers and others using Agency email, conference calls, and video conferencing whenever possible.

B. **Written.** The program is communicated through the FSIS Issuance System, the Beacon, Wednesday Newslines, FSIS News & Notes, and training materials.

## IX. HEARINGS

A. **Right to Hearing.** If the claimant is not satisfied with a decision by OWCP, the employee is entitled to a hearing by an OWCP representative. This hearing is applicable if the claim for compensation was timely filed and the request for a hearing is made within 30 days after the date the decision is issued.

B. **OWCP Notification.** The OWCP notifies the employee and the Agency of the hearing (date, time, location). The Agency notifies OWCP if a representative will attend the hearing.

### C. Agency Attendance at Hearing.

1. The WCB determines whether attendance at the hearing is necessary. If attendance is warranted, the attendee should become familiar with the facts and issues involved in the case (to include grievance, arbitration, EEO, and MSPB actions, if any), and be prepared to testify at the hearing, if requested. However, the primary role of the Agency representative is that of an observer without the right to question the claimant or make any argument.

2. The OWCP hearing representative can make a specific request for the Agency representative to give oral testimony based upon the claimant's evidence. The Agency representative can also be cross-examined by the claimant or the claimant's representative. If the hearing appears to involve any questions of legal interpretation of the FECA, the Agency representative should contact WCB for assistance or participation at the hearing.

3. The Agency receives a copy of the transcript of the hearing. The transcript is reviewed and comments forwarded to OWCP within the timeframe provided, which is normally 20 calendar days. Use Attachment 4-3 to request comments from appropriate Agency officials.

#### **X. INJURY COMPENSATION CASE FILES**

A. Folders are established for each new injury or illness and filed by name in folders separate and apart from EMF and the official personnel file. WCB maintains the folders, however, they are under the OWCP jurisdiction. The files are subject to the OWCP Records Retirement Schedule.

B. Individual case files are protected by the Privacy Act. Only the employee and the employee's representative, if one has been designated, and Agency personnel can have routine access to a particular file.

#### **XI. PENALTIES**

A. A number of statutory provisions make it a crime to file a false or fraudulent claim or statement with the Government in connection with a claim under the FECA, or to wrongfully impede a FECA claim. Included among these provisions are sections 287, 1001, 1920, and 1922 of 18, U.S.C. Enforcement of these and other criminal provisions that can apply to claims under the FECA are within the jurisdiction of the Department of Justice.

B. Administrative proceedings can be initiated under the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801-12, to impose civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted or presented, false, fictitious or fraudulent claims or written statements to OWCP in connection with a claim under the FECA. The DOL's regulations implementing the Program Fraud Civil Remedies Act are found at 29 CFR Part 22.

#### **XII. INFORMATION TECHNOLOGY**

A. Information from the Workers' Compensation Claim Forms, CA-1 and CA-2 is entered in the WorCo by the WCB. WorCo contains information needed by WCB to track workers' compensation claims within FSIS.

B. WCB enters Form CA-1 and CA-2 information into the data base.

C. The WorCo tracks workers' compensation cases. EHSB also follows injury and illness trends.

#### **XIII. CASE INQUIRES**

The Agency or their representative periodically conducts home visits to validate entitlements received by the appropriate person as required by the FECA.

XIV.           **DEATH**

Supervisors immediately notify the Program office, WCB, and EHSB if an employee dies because of work-related injury or occupational illness. The supervisor is advised of the necessary forms to be completed.

## MEDICAL PROVIDER LETTER

Dear Medical Provider:

In order to provide better customer service for you and your patient, we are providing you with the following information.

All bills should be submitted to the following address after the claim number has been assigned:

U.S. Department of Labor  
Office of Workers Compensation Programs  
P.O. Box 8300  
London, KY 40742-8300

**When submitting bills for payment use a HFCA-1500 or UB-92 only, all other billing forms will be returned and delay payment for your facility.**

The Office of Workers Compensation (OWCP) has consolidated its medical authorization and bill payment process. You may call, toll-free, (866) 335-8319, IVR (Interactive Voice Response) about medical authorization or to check on the status of a bill/reimbursement. We recommend monitoring the status of bill processing at the following website: <http://owcp.dol.acs-inc.com>. If you need to speak with a representative, a toll call, the number is (850) 558-1818, Monday – Friday, 8 AM – 8 PM, EST.

**Please note you will not be able to obtain any information until you have the nine digit claim number assigned by the OWCP. You will not be given the claim number using this system. OWCP will not pay any bills without medical documentation.**

**Regardless of any authorization, the medical provider must be enrolled with the central bill payment and medical authorization unit. To enroll, contact the central bill payment and medical authorization unit's IVR at 1-866-335-8319 or <http://owcp.dol.acs-inc.com>. Until the physician has become enrolled, no medical bills will be paid.**

We are requesting you fax the medical documentation from each and every visit made by our employee to our office. By doing so, the claim will be kept up to date and the vital information pertaining to your patient will be forwarded to OWCP after our review. The fax number for medical documentation is **612-370-2070**. If you can not fax the medical documentation please mail to the address at the top of this letter.

Sincerely,

## INDICATORS OF POTENTIAL FRAUD

All of the possible indicators and warning signals of fraud need to be considered in reviewing and processing suspect claims. If any of these indicators are identified, supervisors must contact the WCB for guidance. The following list is not all inclusive:

1. Employee regularly participates in physically demanding activities (**examples:** sports and farming).
2. Medical treatment for documented diagnosis is not consistent with the claimed injury.
3. Employee changes physicians for unexplained or irrational reasons.
4. Employee has a secondary job (injury may have occurred or been caused by the secondary employment).
5. Injury occurs at start of duty Monday or end of duty day, Friday. Injury occurs after notification or announcement of functional transfer or reduction in force.
6. Injury occurs after a leave request is denied. Obtain a copy of the leave request or a signed statement from the supervisor or person denying the leave request.
7. Employee has a history of leave abuse (obtain copies of payroll leave and attendance records).
8. Employee has a history of personal or financial problems.
9. Employee fails to identify witnesses even though the injury occurred in an area where it should have been observed.
10. Incriminating witness statements.
11. False or altered forms.
12. Injury occurs when disciplinary action is pending.
13. Payments to physicians without medical reports to substantiate the payments as related to the accepted injury.
14. Filing of a claim is not timely and the employee is not sure of data such as date and time of injury. Compare statements of employee, supervisor, witness and treating physician.
15. Employee changes the description of how injury occurred.
16. Employee has concealed information regarding a previous injury, physical condition or a medical problem.
17. Stated disability is inconsistent with the requirements for total disability, (look for strains, cuts, back injury and repeated injuries).

18. Chargeback reports reflect little or no costs for the claim associated with medical payments, yet the claimant is on long-term compensation.

**SAMPLE HEARING TRANSCRIPT TRANSMITTAL**

To: Subject Matter Expert  
From: Case Specialist  
Subject: Review of Hearing Transcript

Enclosed is a copy of a hearing transcript from the U.S. Department of Labor covering claim number: (9 spaces). The claimant's name is contained in the transcript. This transcript records a hearing that occurred as a result of the claimant questioning an adverse decision made by the Office of Workers' Compensation Program involving said claim.

You have been chosen to review the transcript because of your expert knowledge of the circumstances surrounding this claim.

Please review the transcript in the context of the following:

Facts of Injury – Whether the claimant actually experienced the event which is alleged to have occurred. Whether the accident or employment factor resulted in an injury or disease.

Performance of Duty – Was the claimant performing assigned duties or engaging in an activity which was reasonably associated with the employment.

Casual Relationship – This involves establishment of a connection between the injury and the condition found.

Please pay special attention to the highlighted sections of the transcript.

Because our review of the hearing transcript is in accordance with strict timeframes provide your comments back to me via outlook by (5 workdays).

I appreciate your prompt response to this memo. If you have any questions feel free to contact me via outlook or by telephone at \_\_\_\_\_.

For your information I have enclosed the appropriate OWCP regulations that cover how an oral hearing is conducted and how a review of the written record is made.

Enclosure

cc: Appropriate Distribution

## PART FIVE—RETURN TO WORK AND VOCATIONAL REHABILITATION

### I. REFERENCES

FSIS Directive 4306.1, Employment of Persons with Disabilities (Including Disabled Veterans)  
FSIS Directive 4630.2, Leave  
Supervisor's Guide to Workers' Compensation (Web Version Revised July 2011)  
Publication CA-550, Questions and Answers  
Publication CA-810, Injury Compensation for Federal Employees

### II. ADP

A. **Assigning Work.** Employees who file a claim with OWCP for an injury or illness occupational disease, and are restricted from full duty resulting in lost time, will be returned to work as soon as medically possible. When a medical release from a physician includes "light or alternate duty" restrictions, employees can be assigned work as part of the Agency's ADP. This program includes assigning work:

1. Within an employee's accepted medical restrictions.
2. Within the employee's current duty station or commuting area.
3. At one or more duty points.
4. Using a combination of inspection and administrative tasks for which the employee is trained, or can be trained using OJT.

#### B. Responsibilities.

1. **Employees.** Failure to follow these procedures can compromise benefits or result in disciplinary or adverse action.

a. Generally during the first treatment, give the physician the Agency's Medical Provider Letter (see Attachment 4-1) referencing return-to-work programs and in cases of traumatic injury, a copy of Form CA-16. The treating physician uses Form CA-16, (or other acceptable medical paperwork) to document the employee's medical restrictions resulting from the injury.

b. Immediately but no later than 48 hours after treatment provide the supervisor with medical release certificates to return to duty with any physical restrictions noted.

c. Report to alternative duty assignment when and where directed and perform assigned tasks.

#### 2. Supervisors.

a. Provide the injured employee with a Form CA-16 (traumatic injuries only) and the Agency's Medical Provider Letter that advises of the Agency's return-to-work programs, to give to the treating physician.

b. Contact the WCB immediately upon receipt of a medical release with performance or duty restrictions as noted on the Form CA-16 or other forms or medical slips. Provide a fax copy to the WCB.

c. Upon receipt of the ADP letter (see Attachment 5-1) and Alternative Duty Assignment Worksheet from WCB (see Attachment 5-2), identify which tasks could be assigned at any and all work locations in the commuting area of the employee's duty station. Work assigned will not exceed 40 hours of regular work, including Donning and Doffing time. Work will not be assigned that result in payment of overtime or holiday pay. This includes inspectional or administrative tasks in support of the Agency's mission that is within the direct or delegated jurisdiction of the supervisor. Communication between the supervisor and program office is required when assigning alternative duties to employees. Office of Field Operations employees must communicate with the district office.

d. Return the completed checklist to the WCB by fax or email by the date indicated in the memo.

e. Where the employee is released to alternative duties, issue the assignment letter received from the WCB (see Attachment 5-2) to the employee describing alternative duty tasks that will be temporarily assigned during the recovery period.

### 3. **WCB.**

a. Upon notification by a supervisor that an employee has been released with medical restrictions, forward the ADP letter and Alternative Duty Assignment Worksheet to the supervisor by fax or email.

b. On receipt of the completed checklist from the supervisor, review tasks identified for medical suitability and forward the alternative duty assignment memo to the supervisor to issue to the employee (see Attachment 5-2). Appropriate supervisory levels receive copies of the assignment letter.

c. **Assignments under this program may extend to 90 day durations.** Extensions may be granted for an additional 30 days when appropriate and where updated medical documentation substantiates an extension. Only under very limited circumstances will additional extensions be granted beyond a total of 120 days in an alternative duty assignment. Approval authority for extensions resides with the WCB after consultation with the appropriate supervisory channels of the affected employee.

d. Process an informational personnel action (SF-52) for documentation purposes for details to unclassified duties for 30 days or more. Provide copies to the employee and supervisor.

#### C. **ADP Exceptions.** The following are exceptions to the ADP:

1. Temporary detail assignments to other positions.
2. Reassignment.

### III. **WHP**

A. **Benefits.** Employees recovering from on-the-job injuries or illnesses are often released to return to their assignments with the ability to perform all the elements of their positions, but for a limited number of hours daily. The WHP allows employees to return to work with such medically imposed restrictions on a progressively increased work schedule over a period of time as stated in an agreement and signed by the employee. WHP agreements are based on medical documentation and established by the WCB staff in consultation with the appropriate program office, affected employee, and the employee's supervisor.

B. **Duration.** The duration of this program is generally 2 weeks to 3 months in length, although under unusual circumstances there may be exceptions. The minimum assignment may be as short as 2 hours per day; however, 4 hours is the preferred length of time. For in-plant employees, the exact starting time during the shift is at the discretion of the Program Official. An example of a work hardening schedule is:

1. Four hours per day for 2 weeks.
2. Six hours per day for 2 weeks.
3. Eight hours per day for 2 weeks.
4. Full duty (with overtime for inspection personnel, if required).

C. **Procedure.** Work schedule adjustments to the injured employee's agreement may be made as necessary when supported by appropriate medical documentation. Adjustments require concurrence by the Program Official. WCB prepares and distributes revised agreement incorporating the adjustments.

D. **Agreement Outlining Provisions of Return to Duty.** Once an injured employee has been approved to participate in the WHP, the employee receives a written agreement from WCB outlining the terms and conditions of the WHP.

1. The Agency provides an agreement to the injured employee outlining terms for a gradual return to a normal work schedule (see Attachment 5-4). The agreement includes the specifics of the WHP, the dates of return to duty, and the progressive hours of work.

2. The injured employee is given 7 calendar days to accept or decline the offer. The employee's decision must be in writing (see Attachment 5-5). A declination of a work hardening agreement can be cause for OWCP to terminate benefits, if reasons for the declination are unacceptable to OWCP. Failure to respond is considered a declination.

### IV. **JOB OFFERS**

A. Long-term claimants (current and former employees) in receipt of compensation for work related injuries or illnesses that have reached an acceptable level of improvement can be extended job offers. Individual circumstances such as job availability and medical restrictions will dictate Agency job offers to long-term claimants. Job offers include, as a minimum, the following information:

1. Work location.
2. Job title, pay, and hours.
3. Accepted medical restrictions.
4. Physical requirements of job.
5. Effective date of assignment.
6. Relocation information, if applicable.
7. Acceptance or declination statement to be completed and returned.

B. WCB provides OWCP with copies of job offer letters as well as completed Acceptance or Declination Statements indicating the employee's intentions toward the offer. Declination of a job offer can be cause for OWCP to terminate benefits. A non-response to a job offer is considered a declination of the offer.

#### V. **VRP**

A. Candidates for OWCP's VRP include injured employees who are at a point of maximum medical improvement from their injury or illness, and have permanent medical restrictions that will not allow them to return to:

1. Their day-of-injury job.
2. A similar job in the Agency.
3. Another suitable job in the Agency.

B. The VRP allows claimants to seek employment in other occupations and with other employers when no other options within the Agency are suitable based on documented medical restrictions. The WCB recommends claimants eligible to enter the VRP to the OWCP Claims Examiner.

C. An RS from OWCP manages the VRP. An RC contracted with OWCP is assigned to work directly with the claimant to identify current skill sets, administer skills level testing, and recommend either a training plan or immediate job placement in the local labor market. The claimant's compensation is reduced or eliminated based on completion of the training plan and the employment placement phase.

#### VI. **ADDITIONAL INFORMATION**

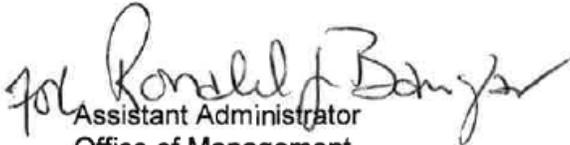
A. Employees must stay abreast of FSIS OCIO programs for security training and awareness. Supervisors and managers must ensure that all employees attend annual PII and Privacy Act training. Examples of PII include the following:

1. Personal identification number, such as social security number, passport number, driver's license number, taxpayer identification number, vehicle registration number, or financial account or credit card number.
2. Address information, such as street address or email address.

3. Personal characteristics, including photographic image, fingerprints, handwriting, or other biometric data.

4. Information about an individual that is linked or linkable to one of the above personal characteristics (**examples:** date of birth, place of birth, race, religion, weight, activities, geographical indicators, employment information, medical information, education information, and financial information).

B. For additional information about the On-the-Job Injury and Illness Compensation Program contact WCB on 301-504-4245.

  
Assistant Administrator  
Office of Management

**SAMPLE FORM FSIS 4610-11, ALTERNATIVE DUTY ASSIGNMENT  
 WORKSHEET**

U. S. Department of Agriculture Food Safety and Inspection Service <b>ALTERNATIVE DUTY ASSIGNMENT WORKSHEET</b> (To be completed by Immediate Supervisor)				
EMPLOYEE'S NAME		DISTRICT	DATE	OWCP CASE NUMBER
EMPLOYEE'S DUTY STATION	GRADE	SUPERVISOR'S NAME		SUPERVISOR'S TITLE
SUPERVISOR'S TELEPHONE NUMBER		SUPERVISOR'S FAX NUMBER		CONTACT HOURS
Please list any establishments or other work sites within the commuting area of your employee's duty station where he/she may perform alternative duties:				
Please identify any duties from the checklist below that could be assigned to your employee at his/her duty station, or other work sites within his/her commuting area.				
<b>Inspection Duties (check all that apply)</b>		<b>Administrative Duties (check all that apply)</b>		
<input type="checkbox"/> Assist the Public Health Veterinarian in recording disposition data.		<input type="checkbox"/> Answer phones and take messages.		
<input type="checkbox"/> Give relief breaks at the rail station while the rail inspector gives breaks to other inspection staff.		<input type="checkbox"/> Inventory, order supplies and forms, etc.		
<input type="checkbox"/> Assist with or perform ante-mortem inspection tasks.		<input type="checkbox"/> Maintain government files at one or more government facilities.		
<input type="checkbox"/> Assist with or perform humane handling tasks.		<input type="checkbox"/> Assist in maintenance of inspection and protective equipment.		
<input type="checkbox"/> Assist with or perform sampling tasks, i.e., assemble materials, etc.		<input type="checkbox"/> Assist new employees with completion of Time and Attendance Reports, Travel Vouchers and administrative responsibilities.		
<input type="checkbox"/> Generate Performance Based Inspection System (PBIS) reports for Supervisor and Frontline Supervisor (if qualified).		<input type="checkbox"/> Copy documents and assemble materials for work unit meetings conducted by the unit Supervisor or the Frontline Supervisor.		
<input type="checkbox"/> Assist with or perform export inspection tasks.		<input type="checkbox"/> Maintain government office bulletin boards with current information.		
		<input type="checkbox"/> Process incoming and outgoing mail at one or more government offices.		
		<input type="checkbox"/> Compare Material Safety Data Sheet files with chemical inventory for use in plant environments.		
		<input type="checkbox"/> Conduct noise level surveys in multiple agency locations.		
		<input type="checkbox"/> Participate in various training initiatives, i.e., shadowing, cross training, and provide staffing assistance to allow others to participate in training.		
List additional inspection and administrative duties that are available to this employee:				
1. _____		4. _____		
2. _____		5. _____		
3. _____		6. _____		
FORM COMPLETED BY: (Please Print)				DATE
Return completed form via email or fax to the assigned Claims Technician by the date identified in the memo. Thank you for our assistance.				
FSIS 4610-11 (2/25/05)				Designed in FormFlow

**SAMPLE ALTERNATIVE DUTY ASSIGNMENT MEMO**

To: Claimant Name and Address  
\_\_\_\_\_  
(signed acknowledgement)

From: Supervisor  
\_\_\_\_\_  
Signature

Subject: Return to Work Instructions

Based on the most recent information received from your medical provider and reviewed by the assigned Claims Technician, we are pleased to inform you that we are able to return you to work using the Agency's Alternative Duty Program (ADP). You will be assigned alternative duties during your recovery period, with the intent of eventually returning you to your permanent assignment.

The attached list identifies alternative duties. Those duties that are checked have been identified as existing in your duty station and/or commuting area and are within your documented medical restrictions. You are expected to perform those tasks for the duration of the alternative duty assignment.

Please note you are not authorized to work any overtime (including donning and doffing) or holidays during your ADP assignment.

Your alternative duty assignment begins on \_\_\_\_\_ and ends on \_\_\_\_\_.

You are instructed to report for work on \_\_\_\_\_ at \_\_\_\_\_. Please report to Supervisor at the following address:

\_\_\_\_\_

Do not hesitate to contact me with any questions you may have.

Sincerely,  
Claimant's Immediate Supervisor or Designee

Enclosure

**SAMPLE LETTER FOR POTENTIAL ALTERNATIVE DUTIES**

\_\_\_\_\_  
Supervisor, Date

\_\_\_\_\_  
Claims Technician, WCB, Date

Potential Alternative Duties for \_\_\_\_\_

The above identified employee has been off work since \_\_\_\_\_ due to a work related injury or illness. He or she recently received a medical release that allows him or her to return to work with specific restrictions. As such, we will be returning him or her to the workplace as soon as possible. Supervisors play a critical role in this process.

Worker's Compensation is an important benefit for our employees, and we want to be certain those that qualify for this benefit receive the compensation they are entitled to. At the same time, we also understand that it is beneficial to the employee and the Agency when we are able to return employees' to the workplace, in some capacity, as early as possible in their recovery period. To accomplish this process we have the following two programs at our disposal:

**Work Hardening Program:** This program is appropriate for when an employee has recovered sufficiently to perform all the functions of his or her position, but whose condition is such that he or she cannot perform them for a full work day.

**Alternative Duty Program:** This program is appropriate when an employee has medical restrictions resulting from a work related injury and cannot perform their regular duties because of the physical demands of those duties, even for a part of the workday. However, the individual is capable of performing an alternative set of duties for the entire work day. The program allows for this assignment to be for a limited period of time while the employee recovers further from their job related injury or illness, which can then lead to a return to their regular assignment.

Based on the medical restrictions provided by the treating physician for your employee, it appears the Alternative Duty Program is the process we will need to use to return him or her to meaningful employment while he or she completes his or her recovery period.

## ALTERNATIVE DUTY PROGRAM (ADP) page 2

The enclosed worksheet outlines possible duties that could be assigned to your employee under the Alternative Duty Program. Please review this list and indicate any duties which could be assigned to the employee on a temporary basis. Please also identify any additional duties not specifically listed which may be available in your employee's commuting area. Duties can be identified for possible assignment in a single plant setting, or a combination of plants. Duties can also be assigned to provide administrative assistance to the Frontline Supervisor position. You may wish to consult with peer Supervisors in the employee's commuting area, and your respective Frontline Supervisor, when identifying suitable duties.

The duties you identify on the enclosed checklist should provide a full and productive work shift for your employee. The selected tasks will be evaluated for suitability based on the medical restrictions of the employee. The Workers' Compensation Branch will draft a letter listing appropriate alternative duties to be assigned. You should sign the letter and forward the letter to your employee. The assignment letter will include the effective starting date of the alternative duty assignment, the tasks to be performed and the length of the assignment. Overtime is not authorized while working in this assignment.

Please return the completed checklist to me via fax or email by (date). My fax number is 612-370-2070. If you have any questions, you may reach me at 1-800-370-3747, Extension \_\_\_\_\_

Thank you for your prompt reply and assistance with this process.

Enclosure  
cc: Appropriate Distribution

**WORK HARDENING AGREEMENT**

(DATE)

OWCP Case #

Dear:

Based on information received from your treating physician, \_\_\_\_\_, MD, I am pleased to inform you that you are able to return to work on a gradual schedule.

While maintaining this revised schedule, you will be performing your duties at your assigned duty station. Your physician may release you to full duties earlier than this schedule dictates.

Your schedule will be:

- Starting \_\_\_\_\_, work \_\_\_ hours per day, (*provide days, e.g., Monday-Friday, and times, e.g., 7:00 a.m. to 1:30 pm*) for a period not to exceed \_\_\_\_\_, (*provide circumstance: release to full duty or perhaps the date indicated as a next appointment with the treating physician*).

Your decision whether to accept or decline this offer must be in writing within seven (7) calendar days from the date of this agreement. The enclosed FSIS Form 4610-9, Acceptance/Declination Statement is provided for this purpose.

Sincerely,

Case Management Specialist

Attachment

CC: OWCP DISTRICT

**ACCEPTANCE OR DECLINATION STATEMENT**

EMPLOYEE NAME:

OWCP CASE NUMBER

DATE:

**PLEASE RETURN THIS FORM TO THE WORKERS' COMPENSATION BRANCH**

**PART A**

I voluntarily accept the work-hardening schedule as proposed and understand that I may return to full duties if my physician releases me.

---

Signature of Employee

Date

**PART B**

I decline this offer of work-hardening. I fully understand the consequences that if I decline this offer, I may be terminated or denied compensation benefits (except for medical benefits) if my reasons for declination of the offer are unacceptable to OWCP.

These are my reasons for declination:

---

Signature of Employee

Date

Failure to respond to this offer is considered a declination.