



Employee narratives

When filing a claim for workers' compensation, it is generally necessary to develop two different types of employee narrative. The first would involve a step by step breakdown of your job duties for your doctor to refer to. You should keep in mind that most people do not understand what must take place for mail to show up in their mailbox. Avoid "postal phrases" when explaining your job to your physician. The second narrative will focus on what parts of your job you find to be responsible for either causing or aggravating the medical condition that you are claiming as an occupational disease.

An appropriate narrative for your physician should include information such as:

Upon reporting for work, retrieve mail from designated location and place on mail case ledge, cutting strings, straps, bands, etc... as appropriate for returning equipment to its proper location. While standing the entire time, pick up fold/crease newspaper sized articles to fit into one or two inch separations on a mail case twisting to reach as necessary. The mail case has approximately four hundred separations in a "U" shaped configuration. The bottom shelf is approximately three feet from the floor and extends upward to approximately six feet, with six shelves. This movement/action is repeated until all flats (newspaper type items) are inserted into the mail case. On my route I repeat this motion approximately ... (number of flats that you fold on your route and the number of hours normally spent casing).

Pick up handful of letters and hold in one hand with the other hand taking individual letter pieces to insert into the one or two inch separations of the mail case. This action is repeated (number of letter sized items on your route and the number of hours spent casing). Any other items which can be cased into the mail case of odd size or shape will be sorted.

Parcel post hamper is then retrieved from its designated location and brought to the mail case where parcels are arranged in delivery sequence. Once all mail is inserted into the mail case, it is extracted from the case by pulling down the individual customer's mail from the one or two inch separations. This mail is held, tied, bundled, banded, or compressed by straps or containers until all mail that has previously been inserted into the mail case has been extracted into delivery sequence.

The mail (now in bundles, trays, etc...) is now taken to the vehicle and loaded using a heavily laden cart. The carrier drives to the first delivery point or park and loop location (describe the type of route you have, i.e., mounted, park and loop, business or VIM. Include information such as number of miles and/or hours walking, carrying a satchel weighing up to 35 pounds, etc...) You will now need to describe the delivery process for your particular type of route. As an example, the carrier arrives at the first delivery point and pulls up the mailbox or begins the park and loop process. The mail for that delivery is gathered and combined into one bundle to be inserted into the mailbox. Any outgoing mail is also collected and placed in the vehicle, push cart or satchel. At that point, the carrier drives/walks to the next delivery point. This is a typical action that is repeated (insert number of deliveries/boxes on your route).

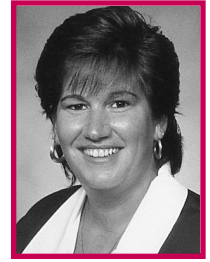
Upon return to the office, the mail collected from patrons on the route and other items that need to be brought to the post office are again loaded onto a conveyance and transported to the designated work location.

The above sample will be useful for most occupational repetitive motion injury claims. Some conditions will need a more detailed description of other types of events. The sample is not meant to be used for each and every situation, but is being provided as a template for you to use.

In providing an employee narrative for a traumatic injury claim, focus should be on providing the specific date, time and location of the incident. A clear picture of what occurred should be given.

For example, if you are in a car accident on the route, you would want to say that on October 10, 2001, I was traveling west on Main Street at 10:05 a.m. A vehicle ran through a stop sign and collided with my vehicle on the passenger side. (Enclosed is the police report or insurance information). My left shoulder struck the driver door, my right knee struck the steering wheel and my neck was whipped back and forth.

The next issue of *The Postal Record* will contain a sample narrative for the information that is required from your physician in support of a workers' compensation claim. ☒



Medical narratives

Last month's article addressed the information that should be included in an employee narrative submitted with either a CA-1 or CA-2 claim for an on-the-job injury. This article will address the key points needed for a narrative from your treating physician.

An employee who is claiming an on-the-job injury is entitled to receive medical treatment from a physician of their choosing. Along with this right, goes the obligation to obtain medical evidence from the chosen physician to support the claim. The burden of proof in an OWCP claim rests with the employee to show that he or she was injured in the performance of duty and that any disability for work is due to the injury.

For a traumatic injury, the employee must provide or arrange to provide medical evidence supporting disability resulting from the claimed injury, including a statement as to when the employee can return to his or her date-of-injury job. The narrative from the physician should include a reference to the traumatic event that occurred and provide objective findings supporting that the diagnosed medical condition is causally related to the event. Key in this narrative is the need for a clear diagnosis, objective test result findings, and an opinion as to the causal relationship between the condition and what occurred on that specific date.

As an example for an employee who is claiming an arm injury after falling on a customer's front porch: the doctor would provide a diagnosis of a fractured right arm, provide the x-ray results showing the fracture and explain that while falling, the carrier extended the right arm to break the fall. When landing, the fracture occurred. Medical narratives for traumatic injuries are generally much more straightforward than occupational disease claims.

The information required for an occupational disease (CA-2) claim should contain more information. This report should include:

- Carrier's name and address (and OWCP file number if one has been assigned);
- History of occupational disease. This is a key item and should consist of a written statement by the physician reflecting knowledge of the conditions of the patient's employment believed to be the causative factors. It is suggested that the physician first be furnished with your written statement. The physician should ideally include or attach a copy of the statement referencing it with remarks similar to the following: "I have read the statement dated... prepared by... regarding the conditions of employment at... during the period from... to... ;

- Dates of examinations and/or treatment (past and present);
- Periods of hospitalization, if any;
- Tests given, findings and results (x-rays, lab tests, EKG, MRI, etc...);
- Definitive diagnosis (no impressions). Please remember that "pain" is not a diagnosis. It is a symptom of some medical condition;
- Opinion: was condition caused, permanently or temporarily aggravated, accelerated, or precipitated (hastened) by conditions of employment described by the patient?
- Medical reasons for opinion (i.e., how did the physician, from a medical point of view, arrive at the opinion?). This is very important and it should be as specific as possible and include how any test results helped form a basis for the opinion;
- Statement describing any concurrent medical conditions unrelated to the Occupational Disease;
- Period(s) of disability and the extent of disability during the period(s). This should specify whether the disability is total or partial; and if partial, the work limitations while partially disabled. The work limitations should describe the restrictions and include the number of hours allowed for each function per day. Disability from any apparent concurrent medical conditions unrelated to the Occupational Disease must be considered in determining the employee's ability to work; and an explanation included describing how any unrelated injuries affect the employee's ability to work;
- Statement concerning whether maximum medical improvement has been reached; and if so, the nature and extent of any remaining disability;
- Signature of physician (show specialty and Board Certifications); and date.

In summary, an injured employee must understand that he or she has specific responsibilities to furnish medical evidence and inform his or her attending physician of the availability of alternative work and other forms of limited duty. Failure to comply may result in the denial of a claim, and the loss of COP and other benefits.

If you have not received a written response to correspondence sent to my office since late September, please resubmit. We have experienced mail delivery problems as a result of anthrax. ✉



Conditions of coverage

Each claim for compensation must meet certain requirements before it can be accepted. This is true whether the claim is for traumatic injury, occupational disease, or death. While the requirements are addressed somewhat differently according to the type of claim, they are always considered in the same order:

1. Time
2. Civil Employee
3. Fact of Injury
4. Performance of Duty
5. Causal Relationship

Time

The Federal Employees' Compensation Act (FECA) requires that an employee give written notice of injury or occupational disease and file claim for compensation within specified time periods. If the employee fails to meet the appropriate time limitations, the claim will be denied even if it is otherwise valid. Forms CA-1, CA-2 and CA-7 are provided for the purpose of giving written notice of injury and claiming compensation.

The time limitations imposed by the FECA do not apply to minors under the age of 21 or an incompetent individual while he or she is incompetent and does not have a duly appointed legal representative. For all other employees, the following time limitations apply.

For injuries and deaths on or after September 7, 1974, the law provides that a claim for compensation must be filed within three years of the injury or death. Even if claim is not filed within three years, however, compensation may still be allowed if written notice of injury was given within 30 days or the immediate superior had actual knowledge of the injury or death within 30 days after occurrence. This knowledge may consist of written records or verbal notification; an entry into an employees' medical record may also satisfy this requirement if it is sufficient to place the agency on notice of a possible work-related injury or illness.

For traumatic injury, the statutory time limitation begins to run from the date of injury. Since traumatic injuries are identifiable as to time and place of occurrence, meeting this time limit is fairly obvious. Although the FECA provides a three-year time frame for entitlement, it should be noted that in order to qualify to receive Continuation of Pay (COP), a CA-1 for a traumatic injury must be filed within 30 days of the date of injury.

For a latent condition or occupational disease claim, time begins to run when an injured employee who has a com-

pensable disability becomes aware, or reasonably should have been aware, of a possible relationship between the medical condition and the employment. Where the exposure to the identified factors of employment continues after this knowledge, the time for filing begins to run on the date of the employee's last exposure to those factors.

For instance, you could have been diagnosed with Carpal Tunnel Syndrome four or five years ago, but were able to continue working. You and your physician determine that the repetitive motion of casing your route has caused or contributed to the condition, but it is not that serious yet and you are released to return to full duties. Finally the condition gets to such a point, that your physician wants to either perform particular treatment options or pull you from work for a period of time. Your three-year statutory time limit would begin running from the last day at work where you were casing mail.

Civil Employee

If the claim is timely filed, it must next be determined whether the injured or deceased individual was an "employee" within the meaning of the law.

The FECA covers all civilian Federal employees. Temporary employees are covered on the same basis as permanent employees. Contract employees, volunteers, and loaned employees are covered under some circumstances; such determinations must be made on a case-by-case basis once a claim is filed. Federal employees who are not citizens or residents of the United States or Canada are covered subject to certain special provisions governing their pay rates and computation of compensation payments. All Postal Service employees in the letter carrier craft are covered by the FECA, regardless of designation status or period of employment. ☒

Conditions of coverage

- Time
- Civil Employee
- Fact of Injury
- Performance of Duty
- Causal Relationship



Conditions of coverage —Part two

In last month's issue of the *Postal Record*, we discussed the first two required elements of a compensation claim.

After the elements of "time" and "civil employee" have been considered, the claims examiner must decide whether the employee sustained a personal injury. This is called "fact of injury."

Fact of injury

Fact of injury involves two issues:

1. Whether the claimant actually experienced the accident, event, or employment factor which is alleged to have occurred.
2. Whether a medical condition has been diagnosed in connection with this event.

Performance of duty

If the first three criteria have been accepted, it must be determined whether the employee was in the performance of duty when the injury occurred. Generally the issue of performance of duty falls within three distinct areas: on agency premises, off agency premises, and other factors.

1. On Agency Premises: The majority of cases reported to OWCP involve straightforward situations in which the injury occurs while the employee is performing assigned duties or engaging in an activity which is reasonably associated with the employment on agency premises. Such activities include use of facilities for the employee's comfort, health, and convenience. The premises include areas immediately outside the building such as steps or sidewalks, if they are federally owned or maintained.

Coverage is extended to employees who are on the premises for a reasonable time (usually considered 30 minutes) before or after working hours. It is not extended, however, to employees who are visiting the premises for non-work related reasons.

Injuries to employees performing representational functions entitling them to official time are also covered while on the agency premises. Injuries to employees engaged in the internal business of a labor organization, such as soliciting new members or collecting dues are not covered.

The agency's premises include the parking facilities which it owns, controls or manages. An employee will usually be covered if injured on such parking facilities.

2. Off Premises Injuries: Coverage is extended to workers such as letter carriers who perform service away from the agency's premises. It is also extended to workers who are sent on errands or special missions.

Employees do not have the protection of the FECA when injured en route between work and home, except where the agency furnishes transportation to and from work, the employee

is required to travel during a curfew or an emergency, or the employee is required to use his or her vehicle during the workday.

Injuries which occur during lunch hour off the premises are not ordinarily covered unless the employee is in travel status or is performing regular duties off premises. Different rules, however, apply to letter carriers who must have lunch on or near their route. In such cases, lunch off the premises is covered if the eating facility is on or reasonably near the carrier's route. Caution: An identifiable deviation from the route for a personal reason, including lunch, will remove you from coverage. It should be noted that deviations of less than 3/10 of a mile have resulted in denied claims.

3. Other Factors: Some injuries occur under circumstances which are not governed, or not completely governed, by the premises rules. Injuries involving any of the circumstances indicated below must be determined on a case-by-case basis.

Recreation: An employee is covered while engaged in formal recreation for which he or she is paid or is required to perform as part of training or assigned duties.

Horseplay: An employee who is injured during horseplay is covered if the activity was one which could reasonably be expected where a group of workers are closely associated for extended periods of time. In this kind of case, it must be determined whether the specific activity was a reasonable incident of the employment or whether it was an isolated event which could not reasonably have been expected to result from close association.

Assault: An injury or death caused by the assault of another person may be covered if it is established that the assault was accidental and arose out of an activity directly related to the work or work environment. Coverage may also be extended if the injury arose out of a personal matter having no connection with the employment if it was materially and substantially aggravated by the work association.

Emergencies: Coverage is extended to employees who momentarily step outside the sphere of their employment to assist in an emergency such as to extinguish a fire or help a person hit by a car. ☒

Conditions of coverage

Time

Civil Employee

Fact of Injury

Performance of Duty

Causal Relationship



Conditions of coverage — Part three

This article completes the discussion about the five conditions of coverage necessary for a workers' compensation claim. The first four conditions were covered in the March and April 2002 articles. The final element is "Causal Relationship."

After the four factors described in past articles have been considered, the causal relationship between the condition claimed and the injury or disease sustained is examined. Unlike "fact of injury" which involves the determination that a medical condition is present, "causal relationship" involves the establishment of a connection between the injury and the condition found. This factor is based entirely on the medical evidence provided by physicians who have examined and treated the employee.

An injury or disease may be related to employment factors in any one of four ways:

1. Direct Causation: This term refers to situations where the injury or factors of employment result in the condition claimed through a natural and unbroken sequence. A fractured arm sustained in a fall would be considered a direct result of the fall, and a sensorineural hearing loss might likewise be caused directly by occupational noise exposure over a period of time.

2. Aggravation: If a pre-existing condition is worsened, either temporarily or permanently, by a work-related injury, that condition is said to be aggravated. For instance, a traumatic back injury may aggravate a claimant's pre-existing degenerative disc disease, and compensation would be payable for the duration of the aggravation as medically determined.

Temporary aggravation involves a limited period of medical treatment and/or disability, after which the employee returns to his or her previous medical status. Compensation is payable only for the period of aggravation established by the medical evidence, and not for any disability caused by the underlying disease. This is true even if the employee cannot return to the job held at the time of injury because the pre-existing condition may be aggravated again.

Temporary aggravations may involve either symptoms or short-term worsening of a condition. For instance, a claim may be accepted for angina, which is essentially a symptom, in which case medical treatment and compensation would be limited to the period of work-related angina and would not encompass treatment or disability due to the underlying condition. Likewise, a claimant with a psychiatric condition

may suffer a short-term worsening of the condition which then reverts to its prior state. Both of these situations qualify as temporary aggravation.

Permanent aggravation occurs when a condition will persist indefinitely due to the effects of the work-related injury or when a condition is materially worsened by a factor of employment such that it will not return to the pre-injury state. For instance, an allergy which would have persisted in any event may be permanently aggravated by exposure to dust and fumes in the workplace such that subsequent episodes are more severe than they otherwise would have been.

3. Acceleration: A work-related injury or disease may hasten the development of an underlying condition, and acceleration is said to occur when the ordinary course of the disease does not account for the speed with which a condition develops. For example, a claimant's diabetes may be accelerated by a work schedule which is so erratic that it prohibits the regular food intake required by persons with this condition. An acceptance for acceleration of a condition carries the same force as an acceptance for direct causation. That is, the condition has been accepted with no limitation on its duration or severity.

4. Precipitation: This term refers to a latent condition which would not have manifested itself on this occasion but for the employment. For example, tuberculosis may be latent for a number of years, then become manifest due to renewed exposure in the workplace. The claim would be accepted for precipitation, but the acceptance would be limited to the period of work-related tuberculosis and the OWCP's responsibility for the condition would cease once the person recovered. Any ensuing episode of the disease would be considered work-related only if medical evidence supported such a continued relationship. In this way acceptance for precipitation may resemble acceptance for temporary aggravation. ☒

Conditions
of
coverage:

1. Time
2. Civil employee
3. Fact of injury
4. Performance of duty
5. Causal relationship



Workers' Compensation and the USPS Transformation Plan

In the May issue of the *Postal Record*, many of the national officers discussed the USPS Transformation Plan and how it would affect the USPS and labor relations. I would like to take some time to address some of the proposals that might affect workers' compensation.

The general purpose of addressing workers' compensation in the Transformation Plan is to reduce costs to the Postal Service for injuries that are sustained on the job. The Transformation Plan states that there are specific issues under FECA that are contributing to their escalating compensation costs:

1. The Postal Service's inability to contact the employee's medical provider by phone.
2. The fact that there is no waiting period before wage-loss compensation is paid for traumatic injuries.
3. They believe that compensation rates are too generous. They propose only one rate (66 2/3%).
4. The USPS contends that compensation should not be a lifetime benefit. At retirement age, compensation should be adjusted to a tax-free amount equal to what a retiree would receive.
5. Medical costs are not adequately controlled by fee schedule.

They are proposing five "sub-strategies" to achieve these goals.

Sub-strategy 1: Expand the Preferred Provider Organization Program with First Health and Office of Workers' Compensation Programs. We announced in previous articles, and on the website, that the Postal Service was undertaking a pilot program with First Health to save money on medical expenses relating to workers' compensation claims. This proposal would expand the pilot from its current locations and enact it nationwide. First Health pays medical providers at agreed upon rates that are usually substantially lower than what OWCP would allow through their bill payment system. This savings is filtered back to the Postal Service.

Sub-strategy 2: Move all Federal Employees' Compensation Act recipients to FECA annuity at age 65. The plan states: "Employees who receive benefits through the FECA program will receive 66 2/3 percent or 75 percent of their basic salary, the latter for employees with a dependent. This tax free salary is extremely generous and in many instances equates to as much as 25 percent more than what the employee would receive for a comparable OPM retirement through one of the government programs. The annual compensation cost of living adjustments that are added each year to an employee on

total injury disability rewards someone who stays out on compensation versus returning to work." The Postal Service is proposing a FECA managed retirement program that would calculate benefits similar to those of a normal retirement for all present and former employees over age 65 on the compensation rolls of OWCP. What this means is that once an injured worker reaches age 65, his/her compensation benefits would be recalculated from the 66 2/3% or 75% level to a figure that would more closely mirror their earned retirement benefits.

Sub-strategy 3: Encourage the Office of Workers' Compensation Programs to revise current regulations to allow for direct contact with the treating physician by the employing agency. In January 1999 OWCP amended their regulations to prevent agency personnel from contacting an employee's treating physician directly (by phone and/or in person). The Postal Service is looking to regain that right in order to explain limited duty assignments and offer options to accommodate employees. The Postal Service believes that changing this current regulation would ensure that postal managers initiated close monitoring of employees' physical condition and it would allow early worker's compensation program specialists' intervention to assist the employee in a speedy return to the work environment.

Sub-strategy 4: Private sector outplacement of Injured Postal Service employees and the creation of new internal positions to accommodate injured workers. The goals of this strategy are to successfully implement, with OWCP, an accelerated private sector placement program that reduces the amount of time necessary for an outplacement from up to two years to less than one year, and to reduce the number of postal employees in non-productive rehabilitation assignments by placing them in private sector employment.

Sub-strategy 5: Interagency work cooperation to attain organizational objectives. The Postal Service believes that cooperation must exist between them and the OWCP, especially as it relates to the timely processing of compensation claims and medical bills. The Postal Service wants to work with OWCP in developing joint strategies to achieve both agencies' objectives and not at each other's expenses. The goal is to have all claims paid in a timely manner, while performing quality checks to prevent the duplicate payment of medical bills.

The National Association of Letter Carriers will continue to monitor the progress of these strategies and will provide you with as up to date information as is possible. ☐



Recurrence (CA-2a)

Traumatic Injuries (CA-1) and Occupational Disease (CA-2) claims have been previously discussed (October and November 2001). However, there is another type of claim that an injured employee can make for an on-the-job injury. This is a claim for a recurrence and is filed on a CA-2a.

Under the Federal Employees' Compensation Act (FECA), a recurrence is defined as follows:

"A work stoppage that occurs after an employee has returned to work following a preceding period of disability and is the result of:

1. a spontaneous return of symptoms (disability) of a previously accepted work-related condition without intervening cause; or
2. a return or increase of disability due to a consequential injury."

In most cases, the key to differentiating a recurrence from a new injury is that, in a recurrence situation, the only evident

jury which occurs as the result of a previously accepted work-related injury; for example, it occurs because of weakness or impairment caused by a work-related injury.

Consequential injuries may resemble traumatic injuries in certain cases. Like a traumatic injury, a consequential injury may be the result of a specific, identifiable event. This event, however, must be related in some way to a previously accepted, work-related condition.

Unlike a traumatic injury, a consequential injury may be accepted even if it occurs when an employee is in a non-pay, non-working status (that is "off the clock").

Tom has a previously accepted claim for a strain of the left knee, which was sustained when he slipped on a wet floor at work. While at his doctor's office for treatment of the strained left knee, Tom's left knee gave out and he fell to the floor, bruising the same knee. The new injury would be considered a consequential injury.


A consequential injury to a new body part may result from medical treatment or the original injury, as in the following examples:

Tom has a previously accepted claim for a strain of the left knee. While attending physical therapy for his knee, Tom was involved in weight training. Tom developed a back injury due to the strengthening exercises. Tom must file a form CA-2a to claim this as a workers' compensation injury.

Tom has been walking with a limp as a result of his left knee condition. He awakens one morning to find that his back is aching. He sees his doctor and is informed that as a result of the limping, he now has a muscle strain in his lower back.

The following example shows a consequential injury sustained by a claimant in his own home:

Tom has an accepted claim for a strained left knee. Following initial disability, Tom was on crutches due to the accepted injury, working in a limited duty assignment. One day, while walking to his car, Tom's crutch slipped on a patch of ice in his driveway. He fell to the ground, worsening the condition in his left knee and making him unable to continue in his limited duty assignment.

Please note that, in all of the examples above, the consequential injuries were all caused by the previously accepted injury. This is the most important factor in identifying a consequential injury. 

'Recurrence is defined as a spontaneous worsening of the condition without any intervening action.'

cause of disability or increased symptoms is the original accepted injury. No new identifiable event or events are responsible for the increased symptoms or disability.

The following is an example of a recurrence.

Tom is a letter carrier who has a previously accepted left knee condition. Following initial disability, Tom returned to work in a limited duty position that met all of his medical restrictions, in which he is seated at a table answering the phone. There is no unusual use of the legs involved in this limited duty position. Several weeks later, Tom's knee symptoms increased to the point that he was unable to continue in his limited duty position answering the phone.

This is an easily identifiable recurrence because there is no apparent, cause for the worsening of the condition other than the original condition itself.

Included in the definition of recurrence is the special case of "consequential injury." A consequential injury is a new in-



Separation on account of disability

The Compensation Department has received many calls from injured-on-duty letter carriers who have recently received letters from the Postal Service concerning their separation from service. As you will recall, the May 2001 article forewarned of this possibility and it was mentioned in the June 2002 issue in the discussion about the USPS Transformation Plan. Since it appears that the warning has become reality, I thought it would be best to readdress the issue.

The Postal Service is attempting to reduce workers' compensation costs. Their first area of attack is the limited duty/rehabilitation program (LDC 68 and 69). The USPS is looking at all postal employees who are totally disabled, are on limited duty, or have been given permanent modified positions that are not considered useful or efficient. These employees are receiving notification that they are to provide medical documentation regarding their ability to perform their date of injury job assignment.

“The Postal Service is attempting to reduce costs. Limited duty and rehab jobs are at risk.”

The first step in this process entails a letter from the Injury Compensation Specialist that provides guidance on what steps will follow the request for updated medical evidence. Basically, the letter addresses what will occur when the medical evidence submitted supports that the injured employee can not return to full duty as a letter carrier. The Postal Service notifies the employee of their intent to separate them from service under the guidelines established by the Office of Personnel Management (OPM). These guidelines state that if an employee has been unable to perform their regular duties for a period of one year, they are no longer entitled to automatic placement. At this point, the employee has to take several steps to protect their rights and the benefits of their spouses or survivors.

The first step is to file a CA-7 with OWCP claiming lost wages as a result of the withdrawal of accommodation. The second step, which is vitally more important, is to apply for disability retirement through OPM. An application for dis-

ability retirement must be filed within one year of the separation in order to maintain entitlement to benefits. By filing for retirement benefits, you are protecting your spouse and survivors if you were to die from an illness that is not related to your workers' compensation claim. OWCP will not continue to pay benefits to your spouse unless your work related condition led directly to your death.

Once you have taken the above steps, you will have to make an election of benefits. In order to assist you with this choice, OPM will send out a letter that shows what your annuity payments would be compared to your compensation benefits from OWCP. You will then have to write to both agencies informing them of your election. In most cases, OWCP benefits will be higher than OPM annuity payments, but there are other personal factors that must be considered in your election.

If you elect to receive benefits from OPM, OWCP will continue to cover all the medical expenses relating to your approved condition, but they will terminate any compensation benefits for lost wages. The only monetary benefit that you can simultaneously receive from OWCP while retired, is a Schedule Award.

If you elect to receive benefits from OWCP, OPM will hold your application and OWCP will continue to compensate you for lost wages and medical expenses related to your approved condition. OWCP will also start the vocational rehabilitation process in order to assist you in seeking other employment that is suitable to your medical restrictions. This process is a long one, and is currently averaging 2 to 3 years for implementation.

A related area of concern with this process involves the Thrift Savings Plan (TSP). When you are separated for at least 30 days, the TSP will issue a letter to you concerning your account and the options that you have. There are basically three options available to you. The first option is to do nothing. Your funds will remain with TSP. The only thing to keep in mind with this option is that you can not continue to contribute to the fund. The second option is to withdraw your funds. The issue with this option is that if you are under age 55 ½ you will be penalized with taxes. The third, and generally the best, option is to roll your funds into your own Individual Retirement Account (IRA). This option allows you to defer paying taxes and provides you with a financial vehicle that would allow you to continue contributing to your retirement. ☐



Separation on Account of Disability —continued...

The August 2002 Compensation Department article raised many concerns for injured letter carriers. The intent was to provide information about a process that we have previously written about. It is no secret that the Postal Service is attempting to withdraw limited duty assignments from employees with approved workers' compensation claims. The article was intended to let you know that this was happening and to provide you with the information that you would need to protect your rights and benefits. The article was written from the standpoint of OWCP rules and regulations; however, there are some Postal Service rules and procedures that must be adhered to in the process. As a result, the Compensation Department and the Contract Administration Unit thought it would be important to provide you with the Employee and Labor Relations Manual (ELM) language addressing these possible separations.

ELM 365.341 defines Separation for disability as the separation of an employee other than a temporary, casual, or a probationary employee whose medical condition renders the employee incapable of performing the duties of the position and who is ineligible for disability retirement.

ELM 365.342 (d) If an employee on the rolls of the Office of Workers' Compensation Programs (OWCP) is unable to return to work at the end of the initial 1-year period of LWOP, the LWOP may be extended for successive additional periods of up to 6 months each. Extensions are granted only if it appears likely that the employee will be able to return to work within the period of the extension. If it does not appear likely that the employee will be able to return to work during the period, the employee, upon approval of the regional General Manager, Employee Relations, is separated subject to re-employment rights.

ELM 365.342(e) Before any employee on the rolls of the OWCP can be separated, the requesting postal official must submit a comprehensive report through channels to the regional General Manager, Employee Relations, with appropriate recommendations. The employee must be retained on the rolls of the Postal Service pending a decision.

ELM 365.342 (f) If the request is approved by the region, and if the employee has sufficient service for entitlement to retirement, the employee is not separated until given an opportunity to retire. For involuntary separation, the notice and

appeal procedures outlined in ELM 650 or the applicable collective bargaining agreement, whichever is appropriate, is followed.

ELM 546.142 When an employee has partially overcome the injury or disability, the Postal Service has the following obligation:

When an employee has partially overcome a compensable disability, the Postal Service must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerances. In assigning such limited duty, the Postal Service should minimize any adverse or disruptive impact on the employee.

ELM 546.65 'Management's Refusal to Reemploy.

The appointing official may not be able to accommodate the former employee for medical reasons or other considerations. If the former employee will not be reemployed, the appointing officer must:

a. Notify the district manager or postmaster with written justification stating specific reasons for refusal to reemploy. If the district manager or postmaster agrees with the appointing officer's refusal to reemploy, then he or she must seek final concurrence from the manager of Health and Resource Management at Headquarters through the area human resources analyst for injury compensation.

b. With the final concurrence, notify the employee in writing of the refusal to employ, including a paragraph informing the individual of the right to appeal to the Merit Systems Protection Board, and send a copy to OWCP."

The initial August article, which repeated information that had been previously published in May 2001 and June 2002, was meant to provide you with an indication of what your rights and the rights of the Postal Service are in situations where an injured employee is unable to return to duty. If you find yourself faced with an actual separation notice from the Postal Service, you should contact your local union and National Business Agent's office for assistance. Please note that the Postal Service is currently undertaking an audit function titled LDC68/LDC69 Reassessment Initiative. This audit of productive labor distribution codes is not the same thing as a separation. More information on the Reassessment Initiative will be provided in a future issue of *The Postal Record*. ☐



LDC 68/69 Reassessment Initiative

The Postal Service is undertaking an internal audit to re-code job functions into productive labor codes. This internal audit affects all letter carriers working in limited duty and permanent modified positions.

According to the Postal Service, the objective of this initiative is “to provide employees injured on the job with a standardized administrative process built on eliminating ambiguous and subjective assumptions by placing employees in assignments that support the employees’ recovery plan as well as meet organizational goals. Equally important, management must ensure that existing and new limited duty and rehabilitation assignments comply with all laws and postal policies while, at the same time, provide meaningful work for employees within their medical restrictions.”

“The critical element of this initiative is to ensure that LDC 68/69 employees are performing work within their craft to the maximum extent possible.”

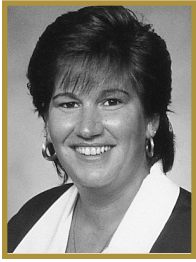
This initiative begins with the updating of medical information for each employee who is currently assigned to a limited duty or rehabilitation assignment. Each employee should expect to receive a letter requesting this updated medical restriction list from their treating physician. In most cases, the letter contains information concerning who will pay for this updated medical report. The Postal Service is responsible for the cost, if a claim with OWCP has been closed. If the claim is still open and active with OWCP, the doctor visit would be covered by OWCP for billing purposes because updated medical reports and restriction lists are required for the claim. During this initial stage, the supervisor will also be asked to complete a worksheet that clearly delineates the current job functions and duties that the employee is performing, including the amount of time spent performing each duty.

Once this information is gathered, the original job offer, the actual duties being performed and the listed medical restrictions are reviewed. This process will determine if the injured employee still requires alternate work assignments, and ensure that hours are being charged to the proper operation number. Some employees may require medical reassessment and some may be reassigned. The critical element of this initiative, according to the Postal Service is to ensure that LDC 68/69 employees are performing work within their craft to the maximum extent within their medical limitations.

The team will review whether the employee’s assigned duties appear to exceed medical restrictions, whether the employee is being underutilized because the medical restrictions allow for more extensive work assignments, or whether the employee is being assigned duties that are not part of the original job offer. In each of these instances, the appropriate action will be taken and will, in nearly all cases, result in a new written offer being provided.

In a great many instances, changes to labor distribution codes will be basically invisible to the injured employee and will create no change in the duties being performed. If any labor distribution codes are changed, the employee and supervisor will be notified for timekeeping purposes. However, if new job offers are made based on the updated medical restrictions provided, the carrier will be so notified and all OWCP and Postal Service policies and regulations will be followed. This will include the production of a written job offer and an opportunity for that offer to be reviewed by the employee and treating physician. Once reviewed, OWCP due process will attach. What this means is that if the job is refused, OWCP will provide the employee with 30 days in order to provide reasons for refusal. These reasons will be reviewed and OWCP will rule on the suitability of the offer.

In summary, the LDC 68/69 Reassessment Initiative is a USPS internal audit designed to properly track the appropriate operational codes associated with limited duty and rehabilitation assignments. However, it is important for you to be aware of the regulations and policies of both the USPS and OWCP if any changes are proposed to your current situation. ☒



Year in review

At the end of each year, the Compensation Department article will consist of an index of the articles printed that year, along with a brief overview of their contents. All of these articles, as well as those from other years are available on the NALC website under the Compensation Department section. The website can be found at: www.nalc.org.

- January: "Employee Narratives"
- February: "Medical Narratives"
- March: "Conditions of Coverage"
- April: "Conditions of Coverage - Part 2"
- May: "Conditions of Coverage - Part 3"
- June: "Workers' Compensation and the Transformation Plan"
- July: "Recurrence (CA-2a)"
- August: "Separation on Account of Disability"
- September: No Article - Convention Issue
- October: "Separation on Account of Disability - Continued"
- November: "LDC 68/69 Reassessment Initiative"

The January and February articles focused on the initial filing of a compensation claim and provided a guide to the information that is required for both the injured employee and physician statements supporting the claim.

The employee narrative article focused on providing a clear explanation of the actual work duties of a letter carrier and provided a template that should be followed. The key points of this article were: to avoid using "postal" phrases, to be as specific as possible, and to provide a copy to your doctor to assist with his or her medical narrative.

The medical narrative article specified the required information that a physician needs to address in his or her statement. There are three key parts of this statement: diagnosis, objective findings supporting the diagnosed condition, and the physician's medical opinion concerning the causal relationship between the condition and factors of your letter carrier job. The article also included a list of other items that need to be provided.

March, April and May addressed the basic requirements for coverage under the Federal Employees' Compensation Act (FECA). These conditions are: Time, Civil Employee, Fact of Injury, Performance of Duty, and Causal Relationship. For any claim, these conditions must be shown to exist and will always be considered in this order by a claims examiner adjudicating your claim.

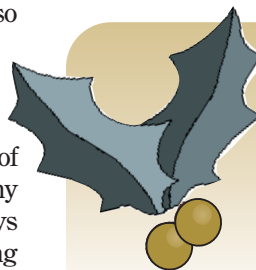
The June article was important in that it addressed the impact of the USPS Transformation Plan on workers' compensation benefits. It highlighted the five areas of potential impact. These are:

1. Expanding the Preferred Provider Organization Program for First Health.
2. Moving all Federal Employees' Compensation Act recipients to FECA annuities at age 65.
3. Encouraging OWCP to revise current regulations allowing for direct contact with the treating physician by the employing agency.
4. Private sector outplacement for injured employees and the creation of new internal positions to accommodate injured workers.
5. Interagency work cooperation to attain these organizational objectives.

The July article should be read in connection with October and November of 2001. These articles completed a discussion on the types of OWCP claims: Traumatic, Occupational and Recurrence. The series completion was delayed as a result of other pressing workers' compensation topics.

The August and October articles addressed the fact that the Postal Service began taking action to accomplish the goals that they had established in their Transformation Plan. This resulted in many injured letter carriers being notified of potential separations from the service. They addressed the rights employees are given under OWCP regulations and provided the language from the ELM to show what obligations the Postal Service has in order to take such action.

The final article of the year addressed another initiative being implemented by the Postal Service to attain the goals established in the Transformation Plan. The LDC 68/69 Reassessment Initiative is an administrative audit of all employees performing limited duty and rehabilitation job assignments. The audit is designed to ensure that the work being performed is charged to the proper labor distribution code. ✉



The Compensation Department
wishes all of you a Happy,
Healthy and Safe
Holiday Season.