

The basics of workers' compensation

The work that letter carriers do is dangerous. Driving and delivery duties can result in accidents that cause traumatic injuries such as muscle and tendon sprains, broken bones, torn ligaments and worse. Repetitive tasks performed over extended periods of time can cause occupational injuries such as carpal tunnel syndrome, tendinitis, “tennis elbow” and similar overuse syndromes.

Fortunately, a law exists that protects postal employees who suffer on-the-job injuries by providing certain benefits to them. The law applies to all postal employees, career and non-career, including city carrier assistants (CCAs). However, the law comes with an associated bureaucracy and complex system of regulations that can be frustratingly difficult to navigate, particularly when the injury is hard to diagnose, has long-term

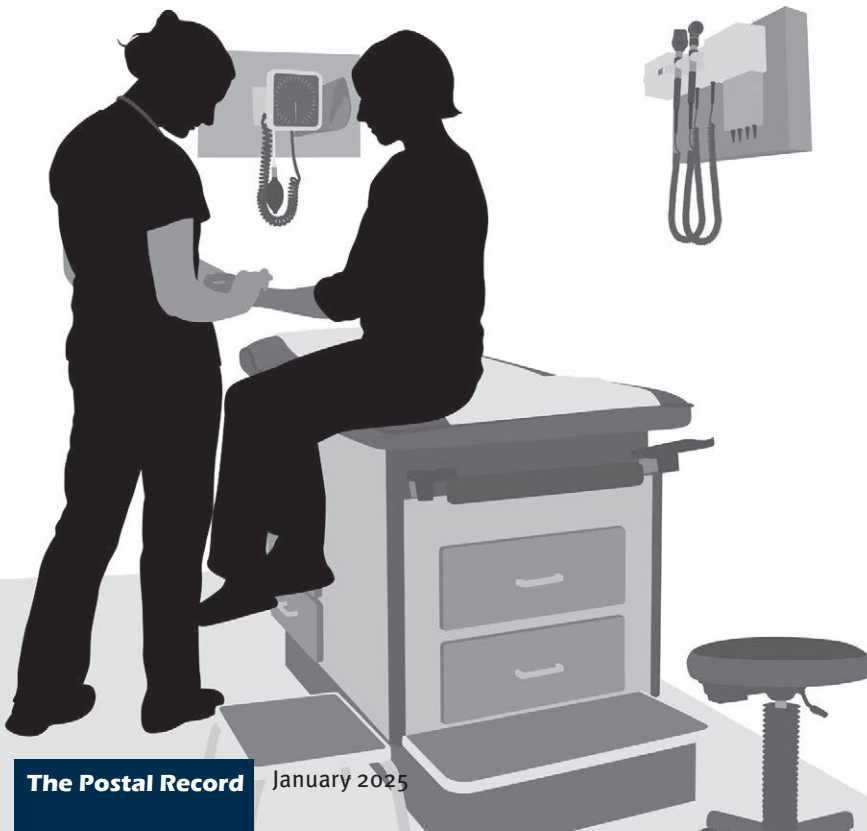
effects, or causes significant disability from work. This difficulty can be reduced by a basic understanding of the law and by help from NALC. NALC helps members file on-the-job injury claims, deal with the complexities that often arise, and appeal adverse decisions when necessary. That assistance is one of the benefits of membership in the NALC.

The Federal Employees' Compensation Act (FECA), enacted in 1916, protects carriers and provides benefits such as full payment of medical expenses, travel expenses to medical appointments, partial payment of lost wages, and compensation for permanent impairments to certain body parts and functions. It authorizes the Department of Labor (DOL) to establish regulations and administer the law. DOL created a sub-department—the Office of Workers' Compensation Programs (OWCP)—to

administer the program and decide all issues regarding on-the-job injury claims. OWCP has sole authority to decide all questions regarding the claimed injury. OWCP decides whether an injury is work-related, whether wage-loss compensation is payable, whether surgery is authorized, and all related issues.

The Postal Service *has no authority* to decide whether an injury is job-related, what benefits are payable, or any other adjudication-related issue. Instead, the role of the Postal Service is largely limited to completing and forwarding injury claim forms to OWCP and, ultimately, paying for the benefits that OWCP awards. It's important to understand that Postal Service errors and delays in forwarding claim forms to OWCP can result in serious problems, including claim denials and non-payment of compensation. Since OWCP bills the Postal Service for all of the money OWCP spends paying medical bills, wage-loss compensation, etc., the Postal Service has a distinct interest in minimizing the number of claims that are accepted by OWCP as work-related, and in minimizing the payments that are made when claims are accepted. This interest sometimes results in a lack of training for supervisors about OWCP requirements, low prioritization of processing OWCP claim forms, and similar manifestations.

To alleviate some processing delays, NALC recommends that injured carriers always use the Employees' Compensation Operations & Management Portal (ECOMP) when filing on-the-job injury claims. ECOMP is a free web-based application hosted by OWCP that provides federal agencies with an electronic system for recording workplace injuries and illnesses, and processing claims under the FECA. Using ECOMP to submit OWCP claims and related documents will provide



the injured worker with an electronic receipt and peace of mind that they have done their part.

Consider the following scenario for an example of how Postal Service delays or errors can result in serious problems for an injured worker.

When an injury is accepted by OWCP as work-related and the employee is disabled from work, the employee may be entitled to wage-loss compensation (which is paid by OWCP at two-thirds or three-quarters of salary).

OWCP regulations require that the injured worker claim wage-loss compensation by submitting OWCP Form CA-7. The regulations then require the Postal Service to certify the correct pay rate and forward the CA-7 to OWCP within five working days of receipt from the employee.

If the Postal Service loses or misplaces the CA-7 and the employee does nothing, OWCP will not pay wage-loss compensation because it will not be aware that the employee is claiming wage-loss compensation. If the Postal Service delays forwarding the CA-7 to OWCP, payment to the employee also will be delayed because OWCP cannot process wage-loss compensation until it receives a CA-7. The use of the ECOMP web portal is one way to circumvent this issue.

Because OWCP has complex regulations and sole authority to decide all on-the-job injury claim issues, and USPS errors can cause problems, it is vital that NALC members who suffer an on-the-job injury have a basic understanding of OWCP rules, and they should seek assistance from the NALC to monitor the progress of the claim.

One vital OWCP principle to remember is that claimants have the burden of proof. That means the injured carrier has the burden of proving all elements of a claim: that a diagnosed condition exists, that work factors caused the condition, that the identified work factors actually took place, and so on.

To prove that a diagnosed condition exists, OWCP requires that a claimant provide a written report from an authorized physician or practitioner that states a diagnosis. OWCP also requires that the claimant provide a written opinion from a physician/practitioner that specifically identifies the work factors the practitioner believes caused the diagnosed injury and provides a detailed explanation of why they hold that opinion.

OWCP differentiates between traumatic and occupational injuries, based on the duration of the causing factors. When an injury is caused by work factors that occur at one point in time (for instance, a fall down stairs) or during the course of one workday or shift, it is a traumatic injury, and a CA-1 is used to report it. When an injury is caused by work factors that occur over a course of time, more than one workday or shift (for instance, carpal tunnel syndrome and other repetitive-use syndromes), it is an occupational injury (or illness) and a CA-2 is used to report it.

To meet the burden of proof that work factors caused the reported injury, OWCP requirements generally differ depending on whether the injury was traumatic or occupational. In traumatic injuries (CA-1), evidence that work factors actually took place is often readily apparent. For instance, if a traumatic injury is caused in a vehicle accident, then police reports or Postal Service forms will show that the incident took place. If a traumatic injury is caused by a slip and fall, there often are direct witnesses. Even when there are no witnesses, traumatic injury claims in most cases do not present problems regarding the burden to prove that work factors actually existed.

On the other hand, occupational injuries (CA-2) always require a specific procedure to meet the burden of proof that work factors actually took place. In every claim of occupational injury, the injured worker must write a description

of the work duties they believe caused the injury. The written description must then be provided to the attending physician and to the worker's supervisor. The attending practitioner must read the description and then write a report stating that they have read the description and providing an opinion about whether those identified work factors caused the injury. The supervisor must advise OWCP whether the Postal Service agrees that the identified work factors actually took place.

The description of work factors written by the injured employee is a critical element in every occupational injury (CA-2) claim. The written description should be factual and concise. It should avoid the use of postal terms that non-postal personnel may be unfamiliar with. Estimations of weights, repetitions, durations, etc., should never be exaggerated. The written description of work factors in occupational injury claims will constitute one of the foundations of the claim, and it is important that it be done correctly. It is generally a good idea to seek assistance from your branch OWCP specialist or national business agent's office in writing the description of work factors required in every occupational injury claim.

A second important OWCP principle is that adverse decisions by OWCP can be challenged only through OWCP's own internal appeals procedures. When OWCP denies a claim, it is required to provide a formal written decision explaining the reason for the denial and providing notice of appeal rights. OWCP has three avenues of appeal when it denies a claim. Only one appeal route can be pursued at a time. The time limits, as well as the rules regarding evidence and related matters, differ for each of the appeal routes. The choice of which appeal route to pursue will depend on the specific facts of the case, and the reasons that OWCP gave when it denied the claim. Suc-

cessfully navigating the OWCP appeal procedures can be challenging. NALC members who receive formal denials of OWCP claims should also seek assistance from their branch OWCP specialist or national business agent's office.

While it is important to understand that *OWCP decisions* may be challenged only through the OWCP internal appeals procedures, it is just as important to understand that *Postal Service errors* relating to on-the-job injury claims may be challenged through the NALC-USPS grievance procedure. The FECA places the burden of proof on the injured worker, but it also places a number of requirements on the employing agencies, including the Postal Service. For instance, when an employee submits a hard copy CA-1 or CA-2 to a supervisor, the FECA requires that the supervisor sign the receipt portion of the form and provide it to the employee. If the injured employee submits their claim electronically, the electronic confirmation becomes their receipt. FECA then requires the employer within 10 working days to complete the agency portion, provide a complete copy of all pages of the form to the employee, and submit the completed form to OWCP. Regardless of the method of claim submission the employee chooses, Postal Service management must meet this 10-day requirement.

After you file a CA-1 or CA-2 form in ECOMP, it will be forwarded to your supervisor for the supervisor portion of the form to be completed. Once the supervisor has completed the claim form, a hard copy must be given to the injured worker to sign. Again, this must be done within 10 working days. The Postal Service must allow an injured worker access to a postal computer to file a claim. However, you do not have to

use a postal computer; you also can file a claim from your personal computer, tablet or cell phone. Electronic claim submission should be utilized whenever possible. The "Injured on the Job" section of the NALC website has instructions and links to accessing ECOMP.

These and other employer requirements are in place to protect injured workers. Postal Service failures to comply with them can result in denied and delayed OWCP claims. Therefore, it is important to let your local union representative know whenever you have an on-the-job injury so that Postal Service compliance with its obligations can be monitored and challenged through the grievance procedure when necessary. NALC members do not need lawyers or organizations to assist them with their claims. OWCP benefits belong to the injured worker, not to a lawyer or organization. If your OWCP claim becomes complex, your NBA may refer you to one of NALC's regional workers' compensation assistants (RWCAs). RWCAs are fellow letter carriers who have expertise relating to the FECA and the claims process. They are available to assist members free of charge.

"The work that letter carriers do is physically demanding and objectively dangerous. Sometimes they suffer on-the-job injuries," NALC President Brian L. Renfroe said. "When they do, the FECA is intended to protect them from many of the adverse financial consequences. In too many cases, however, the intent of the FECA is difficult to

understand because the letter carrier is not familiar with the rules for reporting and proving the claimed injury, or because the Postal Service fails to comply with its obligations regarding the injury. NALC members can avoid that unhappy situation by being familiar with OWCP's rules and by relying on their branch or national business agent for assistance."

Steps to take:

1. Report the injury to your supervisor as soon as you can.
2. Tell your local NALC representative about the injury right away.
3. File injury claims electronically via ECOMP or complete Form CA-1 or CA-2 and submit it to your supervisor.
4. If you submit a hard-copy CA-1 or CA-2, ask the supervisor to sign the receipt portion of the CA-1 or CA-2 and give it to you.
5. Ask the supervisor to give you a completed copy of the CA-1 or CA-2 after the Postal Service completes its part of the form.
6. Go to your doctor for treatment.
7. Request assistance from your local branch or your national business agent's office.
8. Make and keep your own copies of all claim-related documents that you provide to OWCP and/or to USPS.
9. When submitting hard-copy documents to OWCP, always put the OWCP claim number at the top right-hand corner of each page.
10. If OWCP requests information, scrupulously comply with it, including the time limit (usually 30 days). **PR**

