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540 Injury Compensation Program

541 Overview

541.1 Background

541.11 Law

Under the provisions of the Postal Reorganization Act, 39 U.S.C. 1005 (c), all employees of the United States Postal Service are covered by the Federal Employees' Compensation Act (FECA), 5 U.S.C. 81.

541.12 Administration

FECA is administered by the Office of Workers' Compensation Programs (OWCP), United States Department of Labor. OWCP determines whether the employee, or a survivor of the employee, is entitled to benefits under FECA. The director of OWCP and his or her designees have the exclusive authority to administer, interpret, and enforce the provisions of the Act.

541.13 Coverage

541.131 Disability

FECA provides that employees who suffer job–related disabilities are entitled to:

a. Continuation of pay (COP) for the period of the disability, up to a maximum of 45 calendar days, for a traumatic job–related injury (see 541.2d).
b. Compensation for wages lost as a result of job–related injury or disease or illness.
c. Medical care for disability due to:
    1. Personal injuries sustained while in the performance of duty.
    2. Diseases proximately caused, aggravated, or accelerated by postal employment.
d. Vocational rehabilitation.

541.132 Death

FECA provides for payment of monetary compensation to specified survivors of an employee whose death results from a work–related injury or occupational disease or illness and payment of certain burial expenses subject to the provisions of 5 U.S.C. 8134.

541.133 Schedule Awards

Compensation is provided for the permanent loss, or loss of use, of each of certain members, organs, and functions of the body.

541.14 Privacy Act

Injury compensation records are maintained by the Postal Service within the privacy system of records identified as USPS 120.098 (*OWCP Record Copies*).

541.2 Definitions

Except where the content clearly indicates otherwise, the following definitions apply:

a. *Benefits* or *compensation* — any of the following:
    1. Money paid to claimants by OWCP because of loss of wages or earning ability.
    2. Money paid in the form of schedule awards (e.g., loss of finger).
    3. Money paid as reimbursement for medical diagnostic and treatment services supplied under FECA.
    4. Money paid as reimbursement for the replacement or repair of medical braces, artificial limbs, and other prosthetic devices, and for time lost while such devices or appliances are being replaced or repaired. However, a claim is not appropriate for the replacement or repair of eyeglasses and hearing aids except as provided in 541.2h.
    5. Money paid to specified survivors of employees whose death is job–related.
    6. Certain payments to individuals who are participating in an approved vocational rehabilitation program.
b. *Claim* — an assertion, in writing, of an individual's entitlement to benefits under FECA. This claim must be submitted on a form as required by 542. A claim may be filed for a traumatic injury, an occupational disease or illness, or death.
c. *Claimant* — an individual whose claim for benefits and/or compensation has been filed in accordance with FECA and the provisions of 542.
d. *Continuation of pay (COP)* — continuation of the employee's regular pay for a period of 45 calendar days. The first COP day is the first day disability begins following the date of injury (except where the injury occurs before the beginning of the work day or shift, in which case the date of injury is charged to COP). COP can be received only if the disability begins within 45 days of the date of the injury or within 45 days from the date the employee first returns to work following the initial period of disability. Examples are as follows:
    1. If an employee is called in ahead of the employee's scheduled tour, is injured during the call–in period, and is unable to continue to work due to the injury, the 45–calendar–day period begins at the start of the scheduled tour.
    2. If an employee is injured during the scheduled tour and is unable to work due to the injury, the 45–calendar–day period begins on the next calendar day.
    3. If an employee works only a portion of a day or tour (other than the day or tour when the injury occurred), that day or tour is counted as 1 calendar day toward the 45–day period.
e. *Control office* — a unit staffed with an Injury Compensation manager and human resources specialists responsible for injury compensation program administration.
f. *Control officer* — the Injury Compensation manager who heads the control office and manages the administration of the injury compensation program within a performance cluster.
g. *Control point* — an individual who is designated by the district manager and/or installation head to coordinate claim management activity with the control office and is one of the following:
    1. A human resources specialist if an injury compensation unit is available and staffed.
    2. The postal physician or occupational health nurse administrator if an occupational health services office is available and staffed.
    3. An appropriate designated supervisor (full–time or collateral duty).
h. *Injury* — a traumatic injury (see 541.2r) or an occupational disease or illness (see 541.2j), including damage to or destruction of medical braces, artificial limbs, and other prosthetic devices. The term does not include the damage or destruction of eyeglasses and hearing aids, unless the damage or destruction is a direct result of a personal job–related injury requiring medical services.
i. *Monthly pay* — the greatest of the following:
    1. Monthly pay at the time of injury.
    2. Monthly pay at the time disability begins.
    3. Monthly pay at the time compensable disability recurs if the recurrence begins more than 6 months after the injured employee resumes full–time employment with the Postal Service or other government agency.
j. *Occupational disease or illness* — an illness or disease produced by one of the following:
    1. Systemic infections.
    2. Continued or repeated stress or strain.
    3. Exposure to toxins, poisons, fumes, etc.
    4. Other continued and repeated exposure to conditions of the work environment over a longer period of time than a single day or work shift.
k. *Occupational health nurse administrator* — a career postal or contract occupational health nurse who, at the district level, is responsible for the oversight and management of the medical and occupational health services.
l. *Official supervisor* — an individual who is responsible for the supervision, direction, or management of employees.
m. *Physician* — any surgeon, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, or osteopathic practitioner used within the scope of his or her practice as defined by state law. Exceptions are as follows:

1. Chiropractors are included only to the extent that their reimbursable services are limited to treatment to correct a spinal subluxation as demonstrated by X ray to exist.

   Note: "Subluxation as demonstrated by X ray to exist" must appear in the chiropractor's report for OWCP to consider payment of a chiropractor's bill. Also, a chiropractor may provide physical therapy under the direction of a physician.
2. Clinical psychologists serve as physicians within the scope of practice as defined by state law. Unless the state law allows clinical psychologists to treat physical conditions, a clinical psychologist may not serve as a physician when a condition includes a physical component.
3. *Naturopaths, faith healers, and other practitioners of the healing arts* are not recognized as physicians within the meaning of FECA.

n. *OWCP* — the Office of Workers' Compensation Programs, Employment Standards Administration, of the Department of Labor.

o. *Postal physician* — a Postal Service physician, medical designee, or contract physician.

p. *Recurrence of disability* — an employee's inability to work, after return to work, that is caused by a spontaneous change in the employee's medical condition and is related to a previous injury or illness without intervening injury or new exposure.

q. *Recurrence of medical condition* — a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no work stoppage.

r. *Traumatic injury* — a condition of the body caused by external force, including stress or strain. The injury:
   1. Must be identifiable as to time and place of occurrence and member or function of the body affected.
   2. Must be caused by a specific event or incident, or series of events or incidents, within a single day or work shift.

541.3 Forms

Each installation head/Health & Resource Management office must maintain an adequate supply of the following basic forms, which are needed for recording and reporting injuries.

Form	Title
CA-1	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation
CA-2	Notice of Occupational Disease and Claim for Compensation
CA-2a	Notice of Recurrence
CA-5	Claim for Compensation by Widow, Widower, and/or Children
CA-5b	Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren
CA-6	Official Superior's Report of Employee's Death
CA-7	Claim for Compensation
CA-7a	Time Analysis Form
CA-7b	Leave Buy-Back (LBB) Worksheet/Certification and Election
CA-10	What a Federal Employee Should Do When Injured at Work
CA-16	Authorization for Examination and/or Treatment
CA-17	Duty Status Report
CA-20	Attending Physician's Report
CA-35A	Evidence Required in Support of a Claim for Occupational Disease
CA-35B	Evidence Required in Support of a Claim for Work-Related Hearing Loss
CA-35C	Evidence Required in Support of a Claim for Asbestos-Related Illness
CA-35D	Evidence Required in Support of a Claim for Work-Related Coronary/Vascular Condition
CA-35E	Evidence Required in Support of a Claim for Work-Related Skin Disease
CA-35F	Evidence Required in Support of a Claim for Work-Related Pulmonary Illness (not asbestosis)
CA-35G	Evidence Required in Support of a Claim for Work-Related Psychiatric Illness
CA-35H	Evidence Required in Support of a Claim for Carpal Tunnel Syndrome
HCFA-1500	Health Insurance Claim Form
OWCP-915	Claim For Medical Reimbursement
PUB WHD 1420	Employee Rights and Responsibilities Under the Family and Medical Leave Act
PS Form 2488	Authorization for Medical Report
PS Form 2573	Request — OWCP Claim Status

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545 Control Office or Control Point Claim Management Responsibility

545.1 General

545.11 Claim Management Relationships

Injury compensation claims must always be managed by control offices at management levels above that of the injured employee.

Designated control office and control point claim management relationships are as follows:

Employee	Control Office or Control Point Level
Craft supervisor	Installation or district
Postmaster (associate office)	District
PCES postmaster; district or plant manager; district Safety and Health manager; and all full–time and collateral injury compensation personnel	Area injury compensation analyst
Area vice president: area Human Resources manager; and area injury compensation analyst	Headquarters

545.12 Establishing Control Office and Control Points

The district manager establishes a control office to handle injury compensation program administration.

At installations where there is no injury compensation control office, the district manager or installation head designates an appropriate control point individuals responsible for coordination of injury compensation activities with the injury compensation control office. (See 541.2g for instructions on designating a control point.)

Control offices ensure that control point personnel are properly trained to review cases. Control point personnel must not, under any circumstances or for any reason, delay timely submission of reports or claim forms to the control office. Human resources specialists serving as control points at major installations may be given authority by the control office to manage and submit claims directly to OWCP.

545.2 Authorizing Examination and/or Treatment With Form CA–16

545.21 Traumatic Injury

When an employee sustains a work–related traumatic injury that requires medical examination, medical treatment, or both, the control office or control point must authorize such examination and/or treatment by issuing a Form CA–16. Form CA–16 is used for all traumatic injuries requiring medical attention. The control office or control point must advise the employee of the right to an initial choice of physician (see 543.3). The control office or control point must promptly authorize medical treatment by issuing the employee a properly executed Form CA–16 within 4 hours of the claimed injury. If the control office or control point gives verbal authorization for care, Form CA–16 should be issued within 48 hours. The control office or control point is not required to issue a Form CA–16 more than one week after the occurrence of the claimed injury.

Exception: Issuance of Form CA–16 is not required for job–related first aid injuries where initial medical care is provided by either a postal physician or a contract physician and the employee voluntarily accepts this care (see 545.43).

545.22 Occupational Disease or Illness

In cases of occupational disease or illness, the control office or control point contacts OWCP district office for instructions if treatment authorization is requested by the employee.

545.23 Exposure to Workplace Hazards

Simple exposure to a workplace hazard, such as an infectious agent, does not necessarily constitute a work–related injury entitling an employee to medical treatment under FECA. The control office or control point should not use a Form CA–16 to authorize medical testing for an employee who has merely been exposed to a workplace hazard unless the employee has sustained an identifiable injury or medical condition as a result of that exposure.

545.24 Preventive Treatment

FECA does not authorize payment for preventive measures such as vaccines and inoculations. However, OWCP can authorize treatment for the following conditions:

a. Complications from preventive measures that are provided or sponsored by the agency, such as an adverse reaction to prophylactic immunization.
b. Actual or probable exposure to a known contaminant due to an injury, thereby requiring disease–specific measures against infection. Examples include the provision of tetanus antitoxin or booster toxoid injections for puncture wounds; administration of rabies vaccine for a bite from a rabid or potentially rabid animal; or appropriate measures where exposure to human immunodeficiency virus (HIV) has occurred.
c. Conversion of tuberculin reaction from negative to positive following exposure to tuberculosis in the performance of duty. In this situation, the appropriate therapy may be authorized.
d. Where injury to one eye has resulted in loss of vision, periodic examination of the uninjured eye to detect possible sympathetic involvement of the uninjured eye at an early stage.

545.3 Return to Work Responsibility

545.31 Control Office or Control Point Responsibility

Upon authorization of medical care, the control office or control point advises the employee, in writing, of the obligation to return to work as soon as possible. The term *return to work* refers to work in the employee's bid assignment or work in other locations and positions. Notification to the employee must include the following:

a. If a specific alternative position is available, the control office or control point must advise the employee in writing of the specific duties and physical requirements of the position.
b. If no specific alternative position is necessary, the control office or control point should advise the employee of any change the agency can make to the employee's permanent assignment to accommodate the employee's limitations due to the injury.

545.32 Suitable Work

To be considered suitable by OWCP, the job offer must include the following:

a. A description of the duties of the position.
b. A description of the specific physical requirements of the position and any special demands of the workload or unusual working conditions.
c. The organizational and geographical location of the job.
d. The effective date of the position.
e. The date the employee must accept or refuse the job offer.
f. Pay rate information for the offered position.

The job offer may be made verbally, as long as a written job offer is provided to the employee within 2 business days of the verbal job offer.

545.33 Employee Responsibility

The employee is responsible for the following:

a. Ensuring that the treating physician specifies work limitations and provides them to the control office or control point.
b. Providing the treating physician with a description of any specific alternative positions offered.
c. Ensuring a prompt response from the treating physician with an opinion on whether and how soon the employee can be expected to return to work in any capacity, either an offered position or offered modified duties.
d. Seeking and accepting suitable work.

545.4 Implementing Medical Care

3-3 Authorizing Medical Treatment in an Emergency — ICCO or control point

Obligation: Authorizing Medical Examination and/or Treatment

Initial medical examination and/or treatment must be authorized in accordance with the FECA provisions and applicable OWCP regulations and policies governing medical care. FECA guarantees the employee the right to a free choice of physician.

- If the injury is an emergency and the employee needs medical attention immediately and selects a private physician or hospital, give verbal authorization and issue CA-16, *Authorization for Examination and/or Treatment*, within 4 hours. Coordinate transportation for the employee to his or her elected medical facility.

◇ *Remember that an injured employee cannot issue a CA-16 for himself or herself. If a person designated to issue a CA-16 becomes injured, the control point at the next higher level of authority would have to issue the CA-16.*

SEE Chapter 1, USPS Injury Compensation Program.

Supervisor and Control Point Responsibilities in a Nonemergency

When a nonemergency job-related accident or illness occurs...

3-4 Notifying the ICCO — *supervisor*

Obligation: Notifying the ICCO

The supervisor must notify the ICCO immediately or as soon as possible after an injury has been reported.

- Notify the ICCO as soon as possible after an injury has been reported. Since most ICCOs are equipped with answering machines, notification can be given on a 24-hour basis.

  Give the following information as soon as it is available:

  - Name of injured employee.
  - Date and time of injury.
  - Injury type.
  - Brief incident summary.
  - Description of medical care provided, if any.
  - Employee's duty status.

3-5 Advising the Employee of Rights and Responsibilities — *supervisor*

Obligation: Advising Employees of Entitled Benefits Under FECA

FECA provides that employees who suffer job-related disabilities are entitled to continuation of regular pay up to a maximum of 45 calendar days for a traumatic injury, compensation for wage loss if disability continues beyond 45 days, medical care, schedule awards, and vocational rehabilitation.

Obligation: Notifying Employees Whether Absences Count Toward FMLA 12-Week Allowance

Employees are to be notified in writing if related absences will count toward the 12 workweeks allowed under FMLA and, if so, provided with a copy of Publication 71, *Notice for Employees Requesting Leave for Conditions Covered by the Family and Medical Leave Act*.

- Review rights, responsibilities, and benefits with the employee (see Exhibit 3.5a).
- Determine if absences related to the accident or illness are covered by FMLA.

FMLA Protection

Only employees who have accumulated a total of 1 year of postal employment and have actually worked a total of 1,250 hours during the 12 months preceding the absence are eligible for the 12-week FMLA leave allotment.

Eligible employees who are absent because of an on-the-job injury or work-related illness receive FMLA protection if *either* of the following two conditions are met:

- *Hospital care:* inpatient care (i.e., an overnight stay) in a hospital or residential care facility.
- *Absence plus treatment:* a period of incapacity of more than 3 consecutive calendar days that also involves *one* of the following:
  - Treatment, examination, or evaluation of the condition two or more times by a health care provider or health care services provider.
  - Treatment, examination, or evaluation of the condition by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. A regimen of continuing treatment includes, for example, a course of prescription medication or therapy that requires a visit to a health care provider to initiate.

- Provide the employee with the letter called Employee Rights, Responsibilities, and Choice of Physician (see Exhibit 3.5b). If absences are covered by FMLA, use the modified letter (see Exhibit 3.5c) and attach Publication 71, *Notice for Employees Requesting Leave for Conditions Covered by the Family and Medical Leave Act*. Annotate a copy of the letter with the date that the employee was given the letter so that it can be forwarded to OWCP to be filed in the employee's case file.
- Provide the employee with one of the following forms, depending on the situation:

- CA-1, *Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/ Compensation.*
- CA-2, *Notice of Occupational Disease and Claim for Compensation.*
- CA-2a, *Federal Employee's Notice of Recurrence of Disability and Claim for Continuation of Pay/Compensation.*

■ Proceed as indicated in 3.6, 3.7, or 3.8, depending on the situation.

3-6 Assisting the Employee in Reporting an Injury and Making a Choice of COP or Leave — *supervisor*

- Provide the employee with CA-1, *Federal Employee's Notification of Traumatic Injury and Claim for Continuation of Pay/Compensation.* Instruct him or her to do the following:
  - Complete the employee's section of the form.
  - Make choice of treating physician.
  - Elect COP, annual leave, or sick leave if time loss occurs from the job-related injury.
  - Promptly return CA-1 with supporting medical documentation, if available, to the supervisor. If the employee submits medical information later, forward that information to the ICCO for submission with the CA-1, or with the case number, to OWCP.

◇ *The employee is responsible for submitting prima facie medical evidence of disability to the supervisor within 10 working days. If he or she fails to do so, COP can be terminated.*

Prima Facie Evidence

Prima facie evidence is medical evidence that indicates the employee is disabled as a result of a job-related injury and thus cannot perform the job held at the time of injury.

- Upon receiving the completed CA-1 from the employee, do the following:
  - Document on CA-1 the date the form was received.
  - Complete the receipt attached to CA-1 and give a copy to the employee or his or her representative.
  - Review the CA-1 for completeness and accuracy, and assist the employee in correcting any deficiencies found.
  - Complete the official supervisor's report of traumatic injury, items 17 through 18.
  - Inform the employee of his or her right to elect COP or annual or sick leave for time loss resulting from the job-related injury.
  - Comment on the employee's narrative statement by either confirming it, refuting it, or providing additional, relevant, and probative information in a separate cover letter to the OWCP.
  - Complete Form 1769, *Accident Report.*
  - Submit the completed CA-1, a copy of Form 1769, *Accident Report*, and all other documentation to the ICCO within 24 hours of receipt from the employee.
  - Inform the employee whether COP will be controverted and whether pay will be terminated in accordance with one of the eight regulatory reasons.
  - Explain to the employee his or her responsibility to submit prima facie medical evidence of disability within 10 working days of the date of receipt of the CA-1 from the employee.

3-7 Assisting the Employee in Reporting an Occupational Illness or Disease — *supervisor*

- Provide the employee with CA-2, *Notice of Occupational Disease and Claim for Compensation*, and two copies of the appropriate checklist on CA-35 A-H (see Appendix D, Forms, for the individual names of these forms) for the disease reported. Instruct him or her to do the following:
  - Complete the employee's section of the form.
  - Provide all the necessary documentation as outlined in items 1 and 2 under "Instructions for Completing Form CA-2."
  - Promptly return the CA-2 and narrative statement within 2 days, if possible.
  - Provide detailed information for the supporting medical and factual information requested on the checklist.
  - Choose sick leave, annual leave, or leave without pay pending the OWCP adjudication of the claim, if unable to work.
  - Contact the ICCO for further guidance and compensation information.
- Upon receiving the completed CA-2 from the employee, do the following:
  - Document on CA-2 the date the form was received.
  - Complete the "Receipt of Notice of Occupational Disease or Illness" and give it to the employee or his or her representative.
  - Review the CA-2 for completeness and accuracy. If incomplete, contact the employee or his or her representative for the missing information and assist the employee in correcting any deficiencies found.
  - Complete the official supervisor's report of occupational disease, items 19 through 34.
  - Comment on the employee's narrative statement by either confirming, refuting, or providing additional, relevant, and probative information in a separate cover letter to OWCP.
  - Complete Form 1769, *Accident Report*.
  - Submit the completed CA-2, a copy of Form 1769, *Accident Report*, and all other documentation to the ICCO within 24 hours of receipt from the employee.

SEE Chapter 1, The USPS Injury Compensation Program.

3-8 Assisting the Employee in Reporting a Recurrence of Disability — *supervisor or ICCO*

- Provide the employee with CA-2a, *Federal Employee's Notice of Employee's Recurrence of Disability*, and instruct him or her to do the following:
  - Complete part A, items 1 through 23. Provide a narrative statement explaining the circumstances surrounding the current disability and describe the connection between the current condition and job duties to the earlier injury or occupational disease or illness.
  - Complete part C, items 1 through 8, only if no longer employed by either the USPS or another federal agency at the time of recurrence. In this case, send the form directly to OWCP.
  - Choose COP (if entitled and the 45 calendar days have not been used, and 90 days have not elapsed since first return to duty) or annual or sick leave pending adjudication of the recurrence claim.
- Upon receiving CA-2a from the employee, do the following:
  - Complete part B, items 24 through 44. Seek assistance from the ICCO, if necessary.
  - Forward CA-2a and the employee's statement to the ICCO.

3-9 Initiating Medical Treatment in a Nonemergency — *ICCO or designated control point*

Obligation: Ensuring Right to a Free Choice of Physician

Initial medical examination and treatment must be authorized in accordance with FECA provisions and applicable OWCP regulations and policies governing medical care. FECA guarantees the employee the right to a free choice of physician.

- Inform the employee of his or her right to treatment by a USPS contract medical provider or by a private physician or hospital of his or her choice:
  - Provide the definition of *physician* (if necessary).
  - Advise the employee that, at any time, and at his or her own free will, the employee may select a physician or hospital within approximately 25 miles of his or her home or work site.

Physician

A *physician* is any surgeon, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, or osteopathic practitioner used within the scope of his or her practice as defined by state law. Exceptions are as follows:

1. Chiropractors, if their reimbursable services are other than treatment consisting of manual manipulation of the spine to correct subluxation as demonstrated to exist by X ray.
2. Naturopaths, faith healers, and other practitioners of the healing arts, because they are not recognized as physicians within the meaning of FECA.

◇ *In nonemergency situations, a postal supervisor is not authorized to accompany the employee to the medical facility.*

- Provide the appropriate forms and make arrangements for the employee to see the physician of choice:
  - If the employee selects treatment by a USPS contract medical provider, issue the following:
    - Form 3956, *Authorization for Medical Attention*, if it is necessary in your installation.
    - Form 2491, *Medical Report — First-Aid Injuries*.
  - If the employee selects a private outside physician or hospital, issue any or all of the following forms (see 3.10, Authorizing Medical Treatment in a Nonemergency):
    - CA-16, *Authorization for Examination and/or Treatment*.
    - CA-17, *Duty Status Report*.
    - CA-20, *Attending Physician's Report*.
    - HCFA-1500, *Health Insurance Claim Form*.
  - If the employee does not select a physician, refer the employee to the USPS contract medical provider for diagnosis and initial evaluation, advising the employee that he or she may select a physician of choice after initial evaluation by the contract medical provider in accordance with ELM 543.1.

    If the employee is to be examined by the USPS contract medical provider before seeking treatment from a private physician or hospital, ensure the following:
    - The examination is performed promptly following the report of the injury.

- CA-16 is provided for the private physician of choice, within 4 hours of the injured employee's reporting of injury.
- The USPS examination in no way interferes with or delays the employee's right to seek a prompt examination and treatment from a physician of choice.

Form 2491, *Medical Report — First-Aid Injuries*

Form 2491 is only for USPS provider-treated first-aid injuries and can be used for a maximum of two visits per injury (one initial and one follow-up) to confirm full recovery. If treatment is required beyond the second visit, the injury is no longer considered a first-aid injury, and the same forms must be issued as those needed for treatment when an outside physician or hospital is selected, as set forth in the following section. (This is true even if the employee continues treatment with the contract medical providers.)

■ Refer the employee to the IC unit for assistance if he or she wishes to change his or her treating physician.

◇ *For continued payment of medical expenses by OWCP, a change of the employee's initial choice of physician is permitted only with OWCP approval.*

3-10 Authorizing Medical Treatment in a Nonemergency — *supervisor or ICCO*

Obligation: Authorizing Medical Examination and/or Treatment

Initial medical examination and/or treatment must be authorized in accordance with the FECA provisions and applicable OWCP regulations and policies governing medical care. FECA guarantees the employee the right to a free choice of physician.

- In a nonemergency, determine if CA-16 issuance is required, as shown in the information block below.
  - If it is required, issue the employee the form within 4 hours.
  - If it is not required, provide a CA-17, *Duty Status Report*, and CA-20, *Attending Physician's Report,* to the employee for completion by the treating physician.

◇ *The CA-20 is attached to CA-7, Claim for Compensation on Account of Traumatic Injury or Occupational Disease. When used as mentioned above, it is to be detached from the CA-7.*

When to Issue CA-16

Issue CA-16 to authorize medical treatment:

- For all traumatic injuries requiring medical attention when the employee elects outside treatment, even if the initial treatment is provided by the contract physician, except as cited below.
- When the injured employee elects the USPS contract medical provider for continued medical treatment beyond the first-aid care (after the first two visits).
- Following a recurrence of disability, provided the ICCO agrees.

  You must have concurrence by the ICCO for recurrence cases.

Do not issue CA-16 to authorize medical treatment:

- For first-aid injuries when medical care is provided by a USPS contract medical provider for the first two visits and the employee voluntarily accepts this care.
- Following the submission of an occupational disease or illness claim (CA-2) or an occupational disease or illness recurrence claim (CA-2a) that has not been accepted by OWCP.

  Issuance of CA-16s for an occupational disease or illness claim must have prior OWCP approval. Refer all inquiries to the IC unit.
- At some future time or as the need arises.

  Advanced or blanket authorization is not to be given. Advise employees who ask for it to contact OWCP in writing.

  Do not issue CA-16 to authorize a change of physicians after the initial choice has been made. Refer the employee to the ICCO.

- When the employee elects a physician of choice, ask the employee to contact the selected physician by telephone to determine if the physician is available and will accept the employee for treatment. If not, the employee should be encouraged to select another

qualified physician or hospital in order to obtain prompt medical care. Inform the employee of his or her obligation to advise the physician of the availability of limited duty, letting the physician know that the USPS will accommodate most restrictions.

◇ *USPS personnel must not interfere with the medical care prescribed by the employee's attending physician. Supervisory contact with a physician or a physician's staff is to be limited to inquiries regarding the employee's duty status (see 4.5, Reviewing the Medical Documentation to Assess the Duty Status).*

- Complete your portion of the following forms and give them to the employee:
  - CA-16, *Authorization for Examination and/or Treatment,* or CA-20, *Attending Physician's Report.*
  - CA-17, *Duty Status Report.*
  - HCFA-1500, *Medical Provider's Claim Form.*
- Advise the employee to report back to you following the examination and treatment, if medically able:
  - If you will not be available, let the employee know to whom he or she should report.
  - Provide a telephone number to call in case the employee is medically unable to return.

21.3 **Section 3. Retirement**

The provisions of Chapter 83 and 84 of Title 5 U.S. Code, and any amendments thereto, shall continue to apply to employees covered by this Agreement.

CSRS and FERS Retirement. Letter carriers are covered by federal retirement law guaranteeing them retirement annuities. Each carrier is covered by either the Civil Service Retirement System (CSRS) or by the newer Federal Employees Retirement System (FERS). More detailed retirement information is contained in ELM Sections 560 and 580.

21.4 **Section 4. Injury Compensation**

Employees covered by this Agreement shall be covered by Subchapter I of Chapter 81 of Title 5, and any amendments thereto, relating to compensation for work injuries. The Employer will promulgate appropriate regulations which comply with applicable regulations of the Office of Workers' Compensation Programs and any amendments thereto.

Workers' Compensation. Letter carriers who sustain occupational injury or disease are entitled to workers' compensation benefits under the Federal Employees' Compensation Act (FECA), administered by the U.S. Department of Labor's Office of Workers' Compensation Programs (OWCP).

Sources of information concerning federal workers' compensation benefits are:

- ELM Section 540—USPS regulations governing workers' compensation;
- USPS Handbook EL-505, Injury Compensation (February 2017);
- Title 5 United States Code Section 8101 (5 U.S.C. 8101)—the Federal Employees' Compensation Act (FECA);
- Title 20 Code of Federal Regulations Section Chapter 1 (20 C.F.R. 1) —regulations of the Office of Workers' Compensation Programs;
- Title 5 Code of Federal Regulations Part 353 (5 C.F.R. 353)—regulations concerning the restoration to duty of employees who sustain compensable injuries.

Limited Duty. Limited duty work is work provided for an employee who is temporarily or permanently incapable of performing his/her normal duties as a result of a compensable illness or injury. The term limited duty work was established by Title 5 CFR, Part 353; the OPM regulation implementing 5. U.S.C. 8151(b), that portion of the Federal Employees' Compensation Act (FECA) pertaining to the resumption of employment following compensable injury or illness. USPS procedures

This content is from the eCFR and is authoritative but unofficial.

Title 20 —Employees' Benefits
Chapter I —Office of Workers' Compensation Programs, Department of Labor
Subchapter B —Federal Employees' Compensation Act
Part 10 —Claims for Compensation Under the Federal Employees' Compensation Act, as Amended
Subpart D —Medical and Related Benefits
Emergency Medical Care

Authority: 5 U.S.C. 301, 8102a, 8103, 8145 and 8149; 31 U.S.C. 3716 and 3717; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; Secretary of Labor's Order No. 10–2009, 74 FR 218; Pub. L. 117–263.
Source: 76 FR 37903, June 28, 2011, unless otherwise noted.

§ 10.300 What are the basic rules for authorizing emergency medical care?

(a) When an employee sustains a work-related traumatic injury that requires medical examination, medical treatment, or both, the employer shall authorize such examination and/or treatment by issuing a Form CA–16. This form may be used for occupational disease or illness only if the employer has obtained prior permission from OWCP.

(b) The employer shall issue Form CA–16 within four hours of the claimed injury. If the employer gives verbal authorization for such care, he or she should issue a Form CA–16 within 48 hours. The employer is not required to issue a Form CA–16 more than one week after the occurrence of the claimed injury. The employer may not authorize examination or medical or other treatment in any case that OWCP has disallowed.

(c) Form CA–16 must contain the full name and address of the qualified physician or qualified medical facility authorized to provide service. The authorizing official must sign and date the form and must state his or her title. Form CA–16 authorizes treatment for 60 days from the date of injury, unless OWCP terminates the authorization sooner.

(d) The employer should advise the employee of the right to his or her initial choice of physician. The employer shall allow the employee to select a qualified physician, after advising him or her of those physicians excluded under subpart I of this part. The physician may be in private practice, including a health maintenance organization (HMO), or employed by a Federal agency such as the Department of the Army, Navy, Air Force, or Veterans Affairs. Any qualified physician may provide initial treatment of a work-related injury in an emergency. See also § 10.825(b).

ARTICLE 3 MANAGEMENT RIGHTS

The Employer shall have the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

A. To direct employees of the Employer in the performance of official duties;

B. To hire, promote, transfer, assign, and retain employees in positions within the Postal Service and to suspend, demote, discharge, or take other disciplinary action against such employees;

C. To maintain the efficiency of the operations entrusted to it;

D. To determine the methods, means, and personnel by which such operations are to be conducted;

E. To prescribe a uniform dress to be worn by letter carriers and other designated employees; and

F. To take whatever actions may be necessary to carry out its mission in emergency situations, i.e., an unforeseen circumstance or a combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature.

(The preceding Article, Article 3, shall apply to City Carrier Assistant Employees.)

The Postal Service's exclusive rights under Article 3 are basically the same as its statutory rights under the Postal Reorganization Act, 39 U.S.C. Section 1001(e). While postal management has the right to manage the Postal Service, it must act in accordance with applicable laws, regulations, contract provisions, arbitration awards, letters of agreement, and memoranda. Consequently, many of the management rights enumerated in Article 3 are limited by negotiated contract provisions. For example, the Postal Service's Article 3 right to suspend, demote, discharge, or take other disciplinary action against employees is subject to the provisions of Articles 15 and 16.

Article 3.F Emergencies. This provision gives management the right to take whatever actions may be necessary to carry out its mission in emergency situations. An emergency is defined as an unforeseen circumstance or a combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature.

Emergencies—Local Implementation Under Article 30. Article 30.B.3 provides that a Local Memorandum of Understanding (LMOU) may include, among other items, guidelines for the curtailment or termination of postal operations to conform to orders of local authorities or as local conditions warrant because of emergency conditions.

ARTICLE 5 PROHIBITION OF UNILATERAL ACTION

The Employer will not take any actions affecting wages, hours and other terms and conditions of employment as defined in Section 8(d) of the National Labor Relations Act which violate the terms of this Agreement or are otherwise inconsistent with its obligations under law.

(The preceding Article, Article 5, shall apply to City Carrier Assistant Employees.)

Prohibition on Unilateral Changes. Article 5 prohibits management from taking any unilateral action inconsistent with the terms of the existing agreement or with its obligations under law. Section 8(d) of the National Labor Relations Act prohibits an employer from making unilateral changes in wages, hours, or working conditions during the term of a collective bargaining agreement.

In H1N-5G-C 14964, March 11, 1987 (C-06858) National Arbitrator Bernstein wrote concerning Article 5:

> The only purpose the Article can serve is to incorporate all the Service's "obligations under law" into the Agreement, so as to give the Service's legal obligations the additional status of contractual obligations as well. This incorporation has significance primarily in terms of enforcement mechanism—it enables the signatory unions to utilize the contractual vehicle of arbitration to enforce all of the Service's legal obligations. Moreover, the specific reference to the National Labor Relations Act is persuasive evidence that the parties were especially interested in utilizing the grievance and arbitration procedure spelled out in Article 15 to enforce the Service's NLRB commitments.

Not all unilateral actions are prohibited by the language in Article 5—only those affecting wages, hours, or working conditions as defined in Section 8(d) of the National Labor Relations Act. Additionally, certain management decisions concerning the operation of the business are specifically reserved in Article 3 unless otherwise restricted by a specific contractual provision.

Past Practice

The following explanation represents the national parties' general agreement on the subject of past practice. The explanation is not exhaustive, and is intended to provide the local parties general guidance on the subject. The local parties must ensure that the facts surrounding a dispute in which past practice plays a part are surfaced and thoroughly developed so an informed decision can be made.

C-H 06858

IN THE MATTER OF
THE ARBITRATION

between

UNITED STATES POSTAL SERVICE	)	
	)	
and	)	Case H1N-5G-C 14964
	)	
NATIONAL ASSOCIATION OF LETTER CARRIERS	)	
	)	

Decision of the Arbitrator

Before
Neil N. Bernstein
Arbitrator

APPEARING:

FOR THE SERVICE: C. B. Weiser, Attorney
Office of Field Legal Services
United States Postal Service
Southern Regional Office
Memphis, Tennessee 38166

FOR THE UNION: Ms. Shailah T. Stewart
Cohen, Weiss & Simon
330 West 42nd Street
New York, New York 10036

OPINION OF THE ARBITRATOR

This proceeding involves the issue whether the Service violated the National Agreement by prohibiting uniformed letter carriers from wearing buttons bearing the insignia of Local 1280 of the Union on their uniforms in its South San Francisco facility in April 1983.

I

The facts of this dispute are not substantially in controversy. In January, 1983, Local 1280 of the Union began a campaign to induce more members of the bargaining unit to become Union members. As part of that campaign, Local 1280 purchased 1,000 buttons, roughly the size of a 25 cent piece, bearing the Union's identifying logo, and distributed them to its members.

Sometime in late February or early March of that year, Union Steward Gary Ono began wearing his Local 1280 button on his uniform during his regular working hours. His display of the button was noticed by the Postmaster, who contacted Regional Labor Relations for advice on handling the matter. Late in April, the Postmaster was told that the wearing of these buttons on uniforms should be prohibited. Steward Ono was ordered by his Supervisor on April 27, 1983 to remove the button from his uniform. Ono complied with the directive.

The Union requested a Step 1 meeting on the order, which was held on May 11, 1983. When the parties were unable to resolve their differences, the Union filed the instant grievance

on May 23, 1983. Sometime between August 5, 1983 and April 11, 1984, the Union, pursuant to Article 15.4 of the National Agreement, withdrew the case from regional arbitration and referred it to Step 4 of the grievance procedure. After the parties were unable to resolve their dispute at Step 4, the Union, on April 20, 1984, certified the case for National arbitration.

II

The Union relies principally on Article 5 of the National Agreement, under which the Service promises that it will not take any actions affecting terms and conditions of employment that are "inconsistent with its obligations under law". The Union claims that this language incorporates all applicable federal and state statutes into the Agreement, thereby providing an arbitrator with contractual authority to enforce them. The statutes incorporated into the Agreement include the National Labor Relations Act.

Under the National Labor Relations Act, the Union continues, the wearing of union buttons is a protected activity, which cannot be prohibited by management in the absence of "special circumstances". The only possible "special circumstances" that might apply in this case would be a perceived need to present a specific image to the public, which "circumstance" must be balanced against the employees' right to wear their union buttons. Finally, the Union presented evidence that the Service had permitted employees to wear advertising penholders and various buttons and insignia with their uniforms, which both

defeats the claim of a need to present a uniform image and amounts to discriminatory enforcement of its regulations regarding uniforms.

III

The Service relies principally on Article 3 of the National Agreement which gives it the right to prescribe a uniform dress to be worn by letter carriers and other designated employees. Pursuant to that authorization, the Service adopted Section 580 of the Employee and Labor Relations Manual, spelling out its uniform dress prescriptions. Section 583 of the Manual sets out the insignia that may be worn with a uniform. That section, after allowing employees to wear stars or bars to indicate their length of service, provides:

> ".32 Other Insignia. Other insignia may not be worn with the uniform. Exception: An award emblem for safe driving or superior accomplishment, or other officially authorized insignia, may be worn on the cap (left side). Employees not required to wear caps may wear the insignia on the lapel of the jacket."

The Service contends that the Union made no attempt to induce the Service to authorize wearing of the Union buttons involved in this case. Therefore, they were prohibited by Section 583.32, which was incorporated into the National Agreement through Article 19. Secondly, the Service claims that enforcement of Part 583.32 has not been discriminatory. Uniformed employees have only been permitted to wear authorized insignia, which the Union has never challenged. Moreover, the Union has waived its

right to contest these provisions by failing to do so when the regulations were originally promulgated. In addition, the Service notes that it was not trying to prevent the Union from soliciting new members, utilizing the methods specifically permitted by Articles 17.6 and 31.1 of the National Agreement.

With respect to the National Labor Relations Act, the Service contends that only the Board and not an arbitrator has authority to enforce its provisions. The Service also maintains that there has been no violation of the Act, because the Union has waived its right to contest the provisions of Part 583. Finally, the Service argues it has the right to prohibit the wearing of emblems and buttons by uniformed employees to protect the Service's public image.

IV

The Arbitrator concludes that the Service violated the National Agreement by ordering uniformed employees in the South San Francisco office to remove local union buttons from their uniforms in April 1983. Therefore the instant grievance, protesting that order, must be sustained.

This conclusion is derived from the following:

A

If the focus of attention is limited to the contractual provisions relating to uniforms, there is considerable merit to the Service's position. Article 3.E gives management the right to "prescribe a uniform dress to be worn by letter carriers". Pursuant to that authority, the Service has enacted Part 580 of

the Employee and Labor Relations Manual. That part includes Section 583.32, which prohibits uniformed employees from wearing insignia with their uniforms, other than "stars and bars" for years of service and "an award emblem for safe driving or superior accomplishment or other authorized insignia".

There is no contention from the Union that the union button involved in this proceeding comes within any of the exceptions. Therefore, the language of Section 583.32 would appear to prohibit such button-wearing by uniformed employees.

B

But Section 583.32 is not the whole story. Article 3 of the National Agreement qualifies management's right to prescribe a uniform dress by making that right "subject to the provisions of the Agreement and consistent with applicable laws and regulations".

Even more directly, Article 5 of the National Agreement contains this explicit commitment from the Service:

ARTICLE 5

PROHIBITION OF UNILATERAL ACTION

> The Employer will not take any actions affecting wages, hours and other terms and conditions of employment as defined in Section 8(d) of the National Labor Relations Act which violate the terms of this Agreement or are otherwise inconsistent with its obligations under law.

This language appears curious, because the Service is barred from taking any actions that violate the Agreement or "its obligations under the law", even if Article 5 were totally

absent. The only purpose the Article can serve is to incorporate all the Service's "obligations under law" into the Agreement, so as to give the Service's legal obligations the additional status of contractual obligations as well. This incorporation has significance primarily in terms of enforcement mechanism--it enables the signatory unions to utilize the contractual vehicle of arbitration to enforce all of the Service's legal obligations. Moreover, the specific reference to the National Labor Relations Act in the text of Article 5 is persuasive evidence that the parties were especially interested in utilizing the grievance and arbitration procedure spelled out in Article 15 to enforce the Service's NLRB commitments.

In other words, if the Service has taken action which violated the National Labor Relations Act, it thereby violated Article 5. Consequently, the parties have given the Arbitrator jurisdiction to interpret and apply the National Labor Relations Act.

C

The question of the power of employers to regulate or prohibit the wearing of union buttons by their employees is one that has been extensively litigated under the National Labor Relations Act.

More than forty years ago, the Supreme Court of the United States established that the wearing of union buttons is a protected right under Section 7 of the Act. Republic Aviation Corp. v. NLRB, 324 U.S. 793 (1945). As interpreted by the Board,

this holding does not mean that employees have an absolute right to wear union buttons. However, they do have at least a presumptive right to wear them, and any employer rule that curtails that right is "presumptively invalid unless special circumstances exist which make the rule necessary to maintain production or discipline, or to ensure safety". Malta Construction Co., 276 NLRB No. 171 (1985). The courts have been more lenient toward employers and have also permitted them to curtail the wearing of union buttons where that curtailment is necessary to avoid distraction from work demanding great concentration or is a part of a policy "to project a certain type of image to the public". Pay'N Save Corp. v. NLRB, 641 F.2d 697 (9th Cir. 1981); Burger King Corp. v. NLRB, 725 F.2d 1053 (6th Cir. 1984).

D

Applying these precedents to Section 583.32 is not easy. It appears that the Board itself would find that the Service has no recognized "special circumstance" for banning the wearing of union buttons by uniformed employees and that the application of the rule in that manner would be found to violate Section 8(a)(1) of the NLRA. On the other hand, if the Service appealed such a holding to a circuit court of appeals, there is a strong likelihood that the court would find the rule, at least on its face, to be permissible because the Service, by outlawing insignia, is trying to "project a certain type of image to the public".

Given this state of the law, the Arbitrator holds that Section 583.32, on its face, does not violate the Service's obligations under the National Labor Relations Act, even though it has an inevitable consequence of curtailing the wearing of union buttons.

E

On the other hand, the Arbitrator find that the regulation was applied in a disparate and inconsistent manner in the South San Francisco office. Consequently, the rule was used there, not to project a certain image of uniform and consistent dress. Instead, the Service at that location was regulating the content of the buttons being worn, and was permitting uniformed employees to wear buttons of distracting size and shape if it like the message that the buttons were projecting, and prohibiting them when it did not like the content. This it may not do, where one of the prohibited buttons is a union button.

The Arbitrator does not base this holding on the Union's evidence with respect to stamp pins, penholders or the APWU "letter perfect" button. The Union's evidence failed to establish that the Service permitted uniformed employees to wear these items at the time that it was prohibiting the wearing of union buttons.

The Arbitrator also believes that the Service had the right to allow uniformed employees to wear insignia of "superior accomplishment", such as safe driving awards. Although it is a closer question, he also finds that the Combined Federal Campaign

button, worn by employees who had contributed to the campaign, is permissible as a recognition of a worthwhile accomplishment, similar to a pin for donating blood. These can be worn without destroying the Service policy of presenting a certain image to the public.

The Service violated the Act, and Article 5 of the National Agreement, by permitting uniformed employees to wear the "attitude makes the difference" buttons while prohibiting union buttons. The "attitude" buttons are much larger and gaudier than the union buttons and constituted a much greater distraction from any consistent image. The fact that the attitude buttons were intended to promote a specific internal program, the Employee Involvement Program, does not explain why these buttons were worn by carriers in contact with the public, where the image was most important. Nor does it matter that the Employee Involvement Program was a joint effort between the Service and the Union.

By banning the union buttons while permitting the "attitude" buttons, the Service enforced its rule in a discriminatory manner and destroyed any "special circumstance" that could have justified its prohibition. Consequently, the ban violated the Service's obligation under the National Labor Relations Act and also Article 5 of the National Agreement.

THE AWARD

The grievance filed on May 22, 1983 on behalf of Branch 1280 is sustained. The Service is directed to refrain from prohibiting the wearing of union buttons whenever it permits

the wearing of any items other than stars and bars, safe driving awards or other insignia which recognize special accomplishments.

Neil N. Bernstein
Arbitrator

Dated: March 11, 1987

ARTICLE 19 HANDBOOKS AND MANUALS

Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable. This includes, but is not limited to, the Postal Service Manual and the F-21, Timekeeper's Instructions.

Notice of such proposed changes that directly relate to wages, hours, or working conditions will be furnished to the Union at the national level at least sixty (60) days prior to issuance. At the request of the Union, the parties shall meet concerning such changes. If the Union, after the meeting, believes the proposed changes violate the National Agreement (including this Article), it may then submit the issue to arbitration in accordance with the arbitration procedure within sixty (60) days after receipt of the notice of proposed change. Copies of those parts of all new handbooks, manuals and regulations that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement, shall be furnished the Union upon issuance.

Article 19 shall apply in that those parts of all handbooks, manuals and published regulations of the Postal Service, which directly relate to wages, hours or working conditions shall apply to CCA employees only to the extent consistent with other rights and characteristics of CCA employees provided for in this Agreement and otherwise as they apply to the supplemental work force. The Employer shall have the right to make changes to handbooks, manuals and published regulations as they relate to CCA employees pursuant to the same standards and procedures found in Article 19 of the National Agreement.

[see Memo, page **214**]

This Memo is located on JCAM pages 19-2 and 19-3.

Handbooks and Manuals. Article 19 provides that those postal handbook and manual provisions directly relating to wages, hours, or working conditions are enforceable as though they were part of the National Agreement. Changes to handbook and manual provisions directly relating to wages, hours, or working conditions may be made by management at the national level and may not be inconsistent with the National Agreement. A challenge that such changes are inconsistent with the National Agreement or are not fair, reasonable, or equitable may be made only by the NALC at the national level.

A memorandum included in the 2019 National Agreement establishes a process for the parties to communicate with each other at the national level regarding changes to handbooks, manuals, and published regulations that directly relate to wages, hours, or working conditions. The purpose of the memorandum is to provide the national parties with a better understanding of their respective positions in an effort to eliminate