

MANAGING WORKERS' COMPENSATION CASES AND COSTS

- 1. REASON FOR ISSUE:** To update the Department of Veterans Affairs' (VA) Office of Workers' Compensation Programs policy.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive sets forth policy for managing workers' compensation cases and costs. The directive contains:
 - a. VA's commitment to support employees who have been injured on the job.
 - b. Requirement for prompt action on injury claims and returning employees to duty as soon as possible.
 - c. Requirement to notify employees of their rights and responsibilities.
 - d. Requirement to apply appropriate leave procedures.
 - e. Establishment of procedures for examining and treating job-injured employees at VA medical facilities.
 - f. Identification of responsibilities for implementing and managing the program.
 - g. Definitions of key terms used in the directive.
- 3. RESPONSIBLE OFFICE:** Office of the Assistant Secretary for Human Resources and Administration.
- 4. RESCISSIONS:** VA Directive 5810, Managing Workers' Compensation Cases and Costs, August 5, 1997.

CERTIFIED BY:

/s/
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**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
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WORKERS' COMPENSATION

1. PURPOSE. The purpose of this directive is to revise policies and procedures for managing the Department of Veterans Affairs' (VA) workers' compensation cases and costs for all employees and former employees through the use of case management techniques, transitional duty assignments, and rehabilitation and reemployment of partially disabled claimants. The Federal Employees' Compensation Act (FECA) provides benefits to employees of the Federal government who incur work related injuries or illnesses. This policy applies to all VA employees regardless of type of appointment. In addition, contract employees, volunteers, and loaned employees may also be covered under some circumstances. Determinations regarding coverage of these cases must be made on an individual basis (refer to 20 CFR, pt. 10, sec. 10.5).

2. POLICY:

a. VA is committed to the maintenance of a safe and productive workforce. When employees are injured on the job, it is VA's policy to cooperate fully with the Department of Labor's (DOL) Office of Workers' Compensation Programs (OWCP) in providing appropriate benefits to the injured employee and to provide proper stewardship of Federal funds expended for workers' compensation.

b. Workers' Compensation Specialist/Coordinator/Manager: Personnel selected by the employing facility to manage the facility's OWCP cases must attend the 3-day DOL Injury Compensation Specialist Course (Basic Course) within a reasonable time period.

c. VA will take prompt action with regard to all job-related injuries and or illnesses so that employees receive the appropriate benefits expeditiously and are returned to duty as soon as possible. Employees will be informed about their rights and responsibilities related to job-incurred injuries and illnesses.

d. Transitional Duty Assignments: Employees who are disabled due to job-related injuries or illnesses will be provided transitional duty assignments consistent with their medical limitations and qualifications. Transitional duty assignments must be in writing, of limited duration and not to be considered indefinite or permanent in nature.

e. Leave: Unless the injury occurs before the beginning of the work day, time loss on the day of injury should be charged to administrative leave. Any time lost after the day of injury for medical treatment, examination, or disability, should be charged to the appropriate leave category or Continuation of Pay (COP) up to the first 45 calendar days following disability. Administrative leave or excused absence after day of injury is not authorized in cases of work-related injuries.

f. Use of VA Medical Facilities:

(1) Employee health/occupational health physicians are authorized to examine and treat job-related injuries if elected by the injured employee as their treating provider; however, employees must be informed, in writing, of the right to elect a physician of their choice for treatment, including those in the private sector. Employee health/occupational health physicians may recommend to the supervisor release from duty of only those employees who are unable to perform any type of work.

(2) When an employee elects to be treated at a VA facility, all medical services of VA will be provided to the extent that the medical center director (or designee) determines that such treatment or service will not interfere with treatment or hospitalization of beneficiaries of VA. In addition to treatment, medical services may also include: pharmacy prescription beyond the 3-day limit for employees, prosthetic appliances and equipment, CAT scans, MRIs, and therapy treatments.

(3) OWCP will not be billed by VA for emergency diagnosis and first-treatment provided to employees for job-related injuries/illnesses. However, if outpatient treatment extends beyond the emergency diagnosis and first-treatment, OWCP **shall** be billed as required by current appropriation laws and as currently prescribed by Veterans Health Administration's (VHA) Directive 2005-058, Cost-Based and Inter-Agency Billing Rates. Employee health/occupational health units and workers' compensation specialists should assist by providing fiscal service with the names and procedure codes of all employees receiving medical treatment for a job-related injury for the purpose of preparing bills for reimbursement as prescribed by law.

3. RESPONSIBILITIES:

a. **Assistant Secretary for Human Resources and Administration (HR&A).**

The Assistant Secretary for HR&A is responsible for oversight, which includes the management and administration of the workers' compensation program. Additionally, as the Designated Agency Safety and Health Official (DASHO), the Assistant Secretary is responsible for assuring the coordination of workers' compensation with the safety and health programs.

b. **Deputy Assistant Secretary for Administration.** The Deputy Assistant Secretary for Administration is responsible for general oversight of the workers' compensation program, to include:

(1) Developing departmental policies, providing advice and assistance to Under Secretaries, Assistant Secretaries, and Other Key Officials and indirectly to VA field facilities, conducting program evaluations, and providing liaison with DOL.

(2) Supervising VA's Director, Occupational Safety and Health (OSH), who also has program management responsibility over the Department's national workers' compensation program.

(3) Ensuring that the Safety Plan and the Workers' Compensation Strategic Plan (WCSP) are current and implemented.

(4) Ensuring VA is making progress in meeting the President's Safety, Health and Return-to-Employment (SHARE) goals.

(5) Ensuring there are adequate resources for VA's OSH Office to function effectively and implement the Department's workers' compensation mission.

c. **VA's OSH Director.** The primary responsibility of VA's OSH Office is to provide staff support to the DASHO, who is also responsible for VA's workers' compensation program. This support includes:

(1) Recommending departmental policy and procedures that ensure the effective implementation of VA's workers' compensation programs and the WCSP.

(2) Facilitating leadership for the Department's Workers' Compensation Steering Committee (WCSC), including facilitating the development of recommended departmental goals, objectives, strategies, and performance measures. This leadership includes recommending VA strategies and measures for the WCSP to meeting the President's SHARE goals (i.e., for workers' compensation claim timeliness and return-to-employment).

(3) Developing and analyzing workers' compensation performance indicators that assist with the review of the effectiveness of workers' compensation programs and educational initiatives.

(4) Analyzing workers' compensation data from the Workers' Compensation/Management Information System (WC/MIS) and other information to identify areas that can be used to set new strategies for improving workers' compensation program management.

(5) Coordinating departmental workers' compensation site-visits, reporting analysis to the DASHO, WCSC, and VA's Strategic Management Council.

(6) Working with the WCSC Educational Subcommittee to prepare departmental OSH training initiative budget.

(7) Managing the WC/MIS.

d. **Under Secretaries, Assistant Secretaries, and Other Key Officials.** Under Secretaries, Assistant Secretaries, and Other Key Officials are responsible for:

(1) Ensuring that the policies set forth in the attachment to this directive are carried out by all organizational elements under their jurisdiction.

(2) Complying with workers' compensation statutory requirements.

(3) Maintaining a management infrastructure to achieve workers' compensation program implementation.

(4) Annually reviewing the performance of their workers' compensation program with a focus on how workers' compensation strategies developed for the WCSP, has assisted VA in meeting the President's SHARE goals.

(5) Funding workers' compensation initiatives from existing funds of those VA organizations required to establish and maintain comprehensive workers' compensation programs.

(6) Supporting the DASHO and VA's OSH Office in performing their oversight function by:

(a) Notifying VA's OSH Office of directives, policies, handbooks, procedures, and/or memorandums of understanding that impact national policies and procedures or the WCSP, under development for signature of Under Secretaries, Assistant Secretaries, and Other Key Officials. VA's OSH Director shall review such documents and provide preliminary comments and recommendations prior to issuance of such correspondence.

(b) Supporting VA's OSH Director as the Department's liaison with external organizations. Should the need arise to coordinate policy, procedural development, or a memorandum of understanding with external organizations impacting the Department's OSH program, such as OWCP, the respective Under Secretary, Assistant Secretary, or Other Key Official and the DASHO or VA's OSH Office will determine appropriate participation in these meetings and discussions.

(c) Notifying VA's OSH Office of policy or guidance documents that are issued by Under Secretaries, Assistant Secretaries, and Other Key Officials concerning the workers' compensation programs and providing copies of these letters.

(d) Providing oversight on Under Secretaries workers' compensation programs and ensuring field safety programs respect workers' compensation program privacy restrictions. FECA data that may be shared with safety staff:

1. From OWCP Form CA-1, Federal Employees' Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation: Description of Injury, Place Where the Injury Occurred, Date Injury Occurred, Date of CA-1 Notice, Cause of Injury, Description, Type and Source Code.

2. From OWCP Form CA-2, Notice of Occupational Disease and Claim for Compensation: Location Work Address, Date of Awareness of Illness or Disease, Nature of Disease or Illness Description, Nature of Disease or Illness Code, and Type/Source/Cause Codes.

3. Where VA Form 2162, Report of Accident, is used rather than OSHA's Accident Form 301, VA's OSH Office must approve all changes and be on file in VA Publications Service (0497).

4. DEFINITIONS:

a. **Case Management.** The active case management of job-injured employees, from time of injury until resolution, to ensure that claimants receive appropriate benefits expeditiously and are returned to duty as soon as possible. Some of the main elements of successful case management involve:

- (1) forms and forms processing;
- (2) employee and health care provider involvement;
- (3) investigations;
- (4) controversion of COP, when appropriate, and questionable claims;
- (5) transitional duty determinations;
- (6) COP and leave administration;
- (7) vocational rehabilitation programs; and
- (8) job offers.

b. **Transitional Duty.** The temporary assignment of duties and functions that are consistent with the employee's physical restrictions and qualifications. A transitional duty assignment may consist of assignment to a vacant position, or to a set of tasks/functions created specifically to accommodate the injured employee or to a transitional range of duties within the employee's current position. Transitional duty may also include reduced hours or changing the employee's scheduled tour of duty without loss of pay.

5. REFERENCES

- a. VHA Directive 2005-058, Cost-Based and Inter-Agency Billing Rates.
- b. 5 U.S.C. 8101, et seq.
- c. 20 CFR, Part 10, Claims for Compensation under FECA.

WORKERS' COMPENSATION (WC) FIELD MANAGEMENT

1. Field Facility Directors. Field facility directors are responsible for implementing the policy and procedures in this directive, providing necessary resources for effective and efficient management of the workers' compensation program, and monitoring and controlling chargeback costs for the facility.

2. Human Resources Management Officers and other Appropriate Management Officials. Human resources management officers and other appropriate management officials are responsible for managing the overall workers' compensation program for all facilities to which they provide personnel service and will:

a. Develop local policies and ensure that the safety officer and employee health/occupational health physician (in those facilities that employ such physicians) are involved in the development. These policies must ensure that employees are informed of their rights and responsibilities, supervisors are trained to carry out their responsibilities, claims are processed in a timely manner, transitional duty assignments are available and employees are returned to duty as soon as possible.

b. Establish an effective relationship with the OWCP District Office and cooperate fully, to the extent possible, with OWCP in efforts to return injured workers to duty. Visit the OWCP District Office at least twice a year for the purpose of discussing the more difficult cases and to establish and maintain an excellent rapport with the Office, providing travel funds are available.

c. Maintain adequate records and current medical status on injured employees (whether on or off the facility's employment rolls) to ascertain when job offers and transitional duty are appropriate.

d. Ensure that the injured employee and his individual representative (if any are designated in writing), have access to their records in accordance with applicable laws and regulations. The properly authorized, designated representative shall have the same access to records as the employee.

e. Assign workers' compensation case management to a specific, highly-qualified, technically competent and trained individual or individuals.

f. Establish coordination procedures between the workers' compensation specialist/coordinator/manager and the safety officer who will ensure the matching of OWCP Forms CA-1 and CA-2 with VA Form 2162.

3. Service/Division Chiefs. (Note: At facilities that do not have subordinate services or divisions, the head of the facility will assume these responsibilities). Service/division chiefs will:

a. Ensure that the policies and procedures of this directive are carried out by supervisors and employees under their jurisdiction, and that appropriate transitional duty assignments are identified and developed within their service/division. Normally, transitional duty assignments will be used to place job-injured employees within their own service/division. However, they can be used by designated staff for the placement of job-injured employees with medical restrictions that cannot be accommodated within the employee's assigned service/division.

b. Cooperate with designated staff in the placement of any job-injured employees.

c. Take appropriate corrective or disciplinary actions, where warranted, if negligence occurs or where safety procedures are not followed.

4. Occupational Health Physicians or Designee. (Note: Although the following responsibilities generally apply only to VA medical facilities, other facilities should implement them to the extent practicable through employee health/occupational health units). Occupational health physicians or designee will:

a. Provide examinations and treatment of job-injured employees if elected by the injured employee as the treating provider and inform supervisors of specific physical restrictions or limitations for purposes of job placement decisions.

b. When requested, provide clarification of medical restrictions/limitations from private attending physicians who are treating job-injured employees.

5. Workers' Compensation Specialists/Coordinators/Managers. Workers' compensation specialists/coordinators/managers are responsible for day-to-day case management and will:

a. Coordinate the facility workers' compensation program appropriately with job-injured employees, supervisors, attending physicians, OWCP, and payroll to ensure that all required actions and/or communications are performed.

b. Ensure that the OWCP claim forms are processed within the 14 calendar day timeframe established in DOL regulations so that injured employees may be compensated, when entitled, in a timely manner.

c. Controvert or dispute questionable claims, when appropriate, and instruct supervisors in effective methods for controverting or disputing claims by proper investigation and documentation.

d. Verify that all OWCP forms are properly coded (e.g., facility chargeback code, injury codes, occupational code, and ZIP code) so that Department reports may accurately track injuries and compensation recipients.

e. Verify all chargeback reports provided by OWCP on a quarterly basis to ensure that claimants are properly charged to the correct agency.

f. Monitor all cases from the time of injury until return to full duty and take appropriate actions to achieve the injured employee's return to duty as soon as possible.

g. Maintain the current status on all individuals receiving compensation whether or not the individual is still on the facility's active employment rolls.

h. Determine which cases involve the potential for reemployment and coordinate with the OWCP District Office and facility supervisor to that end.

i. Coordinate rehabilitation training with OWCP for job-injured disabled employees when suitable positions within their medical restrictions cannot be identified at the employing facility.

j. Issue OWCP Form CA-16, Authorization for Examination and/or Treatment, to employees with work-related injuries, within 4 hours of the claimed injury, as appropriate.

k. Issue OWCP Form CA-35, Evidence Required in Support of a Claim for Occupational Disease, with each occupational disease claim filed on OWCP Form CA-2.

l. Ensure that employees are notified of all controversies and disputes of their claim for FECA benefits and the reason(s) for the controversy or dispute.

6. Supervisors. Supervisors will:

a. Ensure that their employees understand their rights and responsibilities regarding claims for benefits under the FECA, emphasizing the importance of promptly reporting job-related injuries/illnesses.

b. Provide the employee with OWCP Form CA-1 or CA-2, and other appropriate forms, and process claim forms as soon as possible after becoming aware of an employee's job-related injury or illness. Provide assistance to employees in completing OWCP forms when requested. Supervisory action on claim forms shall be completed within 5 working days after written notification is received from the employee.

c. Promptly inform the facility Safety Officer of all reported job-related injuries and illnesses.

d. Review all reports of job-related injuries or illnesses and, if having a reason to disagree with any aspect of a claim, immediately gather pertinent information and conduct fact finding reviews. Review witness statements and reports of contact and provide written documentation of findings. Notify the workers' compensation specialist of any discrepancies found and take corrective action as appropriate.

e. Identify and make available transitional duty assignments that accommodate the medical restrictions of job-injured employees. If unable to provide a transitional duty assignment within the employee's current job classification and service, employees will be referred to the Human Resources Management Office, or appropriate management official, for placement elsewhere within the employing facility.

7. Employees. Employees will:

a. Exercise safe work practices. Obey all safety rules.

b. Notify their supervisors as soon as possible after a job-related injury/illness, or exposure to a hazardous material that is likely to result in a job-related illness by furnishing notice to the supervisor on OWCP Forms CA-1, CA-2, or CA-2a, Federal Employee's Notice of Recurrence of Disability and Claim for Continuation Pay/Compensation, as appropriate.

c. File claims and furnish necessary information to support claims in a timely manner and on appropriate forms.

d. Fully cooperate with VA efforts to return to employment following a work-related injury where medically feasible.

e. Except for emergencies, obtain OWCP Form CA-16, from the workers' compensation specialist/coordinator/manager before seeking treatment from a private physician or hospital for a job-related traumatic injury.

f. Keep supervisors informed of current medical status. This includes providing the supervisor immediately with acceptable written medical documentation listing specific physical limitations and restrictions, if any, resulting from a job-related injury and imposed by the attending physician, so that transitional duty may be identified, when appropriate. Employees are responsible for returning to duty when offered duties that are consistent with their attending physician's determination of limitations and restrictions.

g. Request leave in accordance with appropriate procedures to cover all absences necessitated by a work-related injury or illness.

h. Request appropriate leave and provide sufficient medical documentation to support the request.