

WORKERS' COMPENSATION PROGRAM MANAGEMENT

1. REASON FOR ISSUE: This Veterans Health Administration (VHA) directive states policy and sets mandatory standards for managing the VHA Workers' Compensation Program (WCP).

2. SUMMARY OF MAJOR CHANGES: This directive updates information about VHA WCP and includes the following major changes:

a. Revises policy, roles and responsibilities in paragraph 5 for implementing, managing and evaluating VHA WCP.

b. States mandatory standards for managing VHA WCP at all levels of VHA.

c. Removes a mandate to create a local light duty assignment policy and requires that Department of Veterans Affairs (VA) medical facilities have standard operating procedures regarding accommodation of injured employees with physical restrictions due to their work-related injury (see VA medical facility Director responsibilities in paragraph 5.n.).

d. Removes a mandate to create a local policy to inform employees of their option to elect or not elect Employee Occupational Health as a provider of choice to allow for flexibility in implementation but requires that employees are provided with their options (see VA medical facility Director responsibilities in paragraph 5.n.).

e. Removes prior Appendices D-L which can now be found in the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*

3. RELATED ISSUES: VA Directive 5810, VA Workers' Compensation Program, dated September 1, 2021.

4. RESPONSIBLE OFFICE: The Assistant Under Secretary for Health for Support (19) is responsible for the content of this directive. Questions may be addressed to the Director, Occupational Safety and Health Office, Office of Healthcare Environment and Facilities Programs (19HEF) at VHAOccSafetyandHealthAction@va.gov.

5. RESCISSIONS: VHA Directive 1609, Workers' Compensation Program Management, dated November 6, 2016, is rescinded.

6. RECERTIFICATION: This VHA directive is scheduled for recertification on or before the last working day of April 2027. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

April 5, 2022

VHA DIRECTIVE 1609

**BY THE DIRECTION OF THE OFFICE OF
THE UNDER SECRETARY FOR HEALTH:**

/s/ Deborah E. Kramer
Acting Assistant Under Secretary for Health
for Support

NOTE: *All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.*

DISTRIBUTION: Emailed to the VHA Publications Distribution List on April 6, 2022.

CONTENTS

WORKERS' COMPENSATION PROGRAM MANAGEMENT

1. PURPOSE..... 1

2. BACKGROUND..... 1

3. DEFINITIONS 2

4. POLICY 3

5. RESPONSIBILITIES 3

6. FEDERAL EMPLOYEES' COMPENSATION ACT GENERAL PROVISIONS FOR INJURED EMPLOYEES..... 15

7. USE OF VA MEDICAL FACILITIES 16

8. TRAINING 17

9. RECORDS MANAGEMENT..... 17

10. REFERENCES..... 17

APPENDIX A

PROGRAM ADMINISTRATIONA-1

APPENDIX B

STAFFING, BUDGET AND RESOURCESB-1

APPENDIX C

PRIVACY AND SECURITY OF DATA C-1

APPENDIX D

PERFORMANCE MANAGEMENT..... D-1

WORKERS' COMPENSATION PROGRAM MANAGEMENT

1. PURPOSE

a. This Veterans Health Administration (VHA) directive states policy for managing the VHA Workers' Compensation Program (WCP) and must be used in conjunction with Department of Veterans Affairs (VA) Directive 5810, VA Workers' Compensation Program, dated September 1, 2021.

b. This directive also establishes core administrative and technical requirements for VHA WCP at VHA program offices, Veterans Integrated Services Networks (VISNs) and VA medical facilities to standardize the roles, responsibilities and processes for managing and administering workers' compensation (WC) claims. Implementing the requirements set forth in this directive establishes a uniform program across VHA, standardizes the quality of customer service provided to injured employees and builds confidence in VHA WCP as a trusted source for fair, effective medical and administrative case management. **AUTHORITY:** 38 U.S.C. § 7301(b).

2. BACKGROUND

a. VA employees may be entitled to WC benefits under the Federal Employees' Compensation Act (FECA), 5 U.S.C. §§ 8101-8193, which provides for the payment of WC benefits to civilian officers and employees of all branches of the United States (U.S.) Government. Regulations in 20 C.F.R. parts 10 and 25 describe the rules for filing, processing and paying claims for benefits under FECA. Part 10 sets forth the regulations governing the administration of all claims filed under FECA. Its provisions are intended to assist persons seeking compensation benefits under FECA and personnel in the various Federal agencies who process claims filed under FECA or who perform administrative functions with respect to FECA.

b. FECA provides compensation benefits to civilian Federal employees for disability because of personal injury or disease sustained while performing duty. FECA also provides for the payment of benefits to dependents if a work-related injury or illness causes an employee's death.

c. FECA is remedial and proceedings under it are non-adversarial. Under 5 U.S.C. § 8116, FECA is the exclusive remedy for Federal workers' work-related injuries, illnesses or death.

d. The responsibility for administering FECA, except for 5 U.S.C. § 8149 as it pertains to the Employees' Compensation Appeals Board, is assigned to the Director of the Office of Workers' Compensation Programs (OWCP) of the Department of Labor (DOL). OWCP has delegated this authority to the Division of Federal Employees' Compensation.

3. DEFINITIONS

a. **Continuation of Pay.** Continuation of pay (COP) is an employer-paid benefit to continue regular pay with no charge to sick leave or annual leave for up to a maximum of 45 calendar days of disability related to a traumatic injury. COP is subject to income tax, retirement and other deductions.

b. **Fraud.** Fraud is the intentional deceptive act or series of acts committed by an individual with the intent to cause VA or OWCP to grant benefits that would not normally be provided under FECA.

c. **Injured Employee.** An injured employee is a current or former employee or volunteer of VA who has claimed WC benefits under FECA for a traumatic injury or occupational illness. For purposes of this directive, an injured employee also includes any individual, attorney or attorney group as a representative appointed in writing by the injured employee and approved by OWCP.

d. **Light Duty Assignment.** Light duty assignment is work duties offered by the supervisor verbally and followed up in writing to an injured employee when the appropriate physician imposes temporary medical restrictions. These are also described as “Transitional Duty Assignment,” “Limited Duty Assignment” or “Modified Duty Assignment” within VA.

e. **Maximum Medical Improvement.** Maximum medical improvement (MMI) is when an injured employee reaches a state where their impairment is well-stabilized and unlikely to improve substantially with or without medical treatment.

f. **Occupational Illness.** Occupational illness is a condition produced by the work environment over a period longer than a single workday or shift.

g. **Permanent Job Offer.** Permanent job offer is a classified and graded position offered to an injured employee who has reached MMI and where the employee is no longer capable of performing the job held on the date of injury (DOI).

h. **Representative.** A representative is an individual or law firm properly authorized by a claimant in writing to act for the claimant in connection with a claim or proceeding under FECA.

i. **Traumatic Injury.** A traumatic injury is a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable by time and place or occurrence and member of the body affected. It must be caused by a specific event or incident or series of events or incidents within a single day or work shift. Traumatic injuries also include damage to or destruction of prosthetic devices or appliances, including eyeglasses, contact lenses, and hearing aids, if they were damaged incidental to a personal injury requiring medical services.

4. POLICY

It is VHA policy that VHA WCP must be managed at all levels of VHA in accordance with FECA and in alignment with VA Directive 5810.

5. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for ensuring overall VHA compliance with this directive.

b. **Assistant Under Secretary for Health for Support.** The Assistant Under Secretary for Health for Support is responsible for establishing policy and providing guidance and oversight as necessary to ensure the timely and successful implementation of this directive.

c. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for:

(1) Communicating the contents of this directive to each of the VISNs.

(2) Assisting VISN Directors to resolve implementation and compliance challenges in all VA medical facilities within that VISN.

(3) Providing oversight of VISNs to ensure compliance with this directive and its effectiveness.

d. **Executive Director, VHA Healthcare Environment and Facilities Program.** The Executive Director, VHA Healthcare Environment and Facilities Program is responsible for:

(1) Overseeing the VHA Occupational Safety and Health (OSH) program.

(2) Periodically assessing the VHA WC Program for continued need, currency and effectiveness.

(3) Coordinating with the Assistant Under Secretary for Health for Operations, VISN Directors and VA medical facility Directors to ensure all necessary action is taken and funding is obtained to address VHA WC Program performance in a manner that meets the requirements of Federal, State and local statutes and regulations; applicable Executive Orders and VA and VHA directives.

e. **Director, VHA Office of Occupational Safety and Health.** The Director, OSH is responsible for overall program management of VHA WCP, including:

(1) Providing leadership and oversight of the development, implementation, operation, administration and evaluation of VHA WCP national policies and guidance.

(2) Allocating and securing necessary funds to implement and maintain sufficient staffing, training, resources and support for VHA WCP.

f. **VHA National Workers' Compensation Program Manager.** The National WCP Manager is assigned to OSH and is responsible for:

(1) Developing policies, procedures and guidance for VHA WCP.

(2) Evaluating VHA WCP and reporting, as necessary, on the status of compliance with laws, regulations, policies and procedures through the Assistant Under Secretary for Health for Support.

(3) Developing, implementing and tracking WCP performance measures; compiling and dispatching data reports for use by appropriate stakeholders (e.g., VISN and VA medical facility management, human resource officers (HROs), and key officials) to evaluate the effectiveness of VHA WCP nationally, at VHA program offices, VISNs and VA medical facilities. **NOTE:** *VHA WCP performance measures are based on DOL's Protecting Employees, Enabling Reemployment (PEER) Initiative; more information can be found at: <https://www.dol.gov/agencies/owcp/FECA/peer>.*

(4) Collaborating with the VISN WCP Manager to validate WCP performance measures and address deficiencies or inaccuracies related to key aspects of case management and fiscal liability. See Appendix D for more information.

(5) Identifying appropriate measures, methodologies, time parameters and communication methods to ensure stakeholders are apprised of the level of program effectiveness and operational efficiency.

(6) Developing and implementing methods of communication on matters involving compliance, policy, procedures, special initiatives, news releases and performance measures.

(7) Identifying and evaluating annual quality indicators within VHA WCP to determine if WC cases are being managed effectively and identifying training needs for program improvement.

(8) Evaluating tools and technology, developing functional requirements, coordinating the delivery of tools and technology to support the program and ensuring that VHA uses current systems, tools and technologies to manage WC case files, evaluate VHA WCP performance measures and research new tools and technologies that may improve case management and data integrity.

(9) Maintaining a Change Control System in accordance with Appendix D.

(10) Serving as a liaison between VA Central Office (VACO), VHA program offices, VISNs, VA medical facility Directors and OWCP, to relay relevant program data.

(11) Counseling and advising the Workforce Management Consulting (WMC) program office and VISN WCP Managers on administrative and technical laws, regulations, policies and procedures.

(12) Administering a standardized program throughout WCP Offices that supports the requirements of this directive.

(13) Planning, conceptualizing, implementing, funding and accomplishing new initiatives, special projects or studies regarding WC issues.

(14) Developing and submitting annual budget plans to the Director, OSH, including any travel expenses required to support their responsibilities.

(15) Maintaining the VHA WCP SharePoint and VHA WCP distribution lists for use by VHA WCP personnel at: <https://dvagov.sharepoint.com/sites/VHAohshg/vhawc/default.aspx>. **NOTE:** This is an internal VA website that is not available to the public and access is restricted to VHA WCP personnel.

g. VHA Workforce Management Consulting Program Office Director. NOTE: The two WMC program offices that handle WC claims filed by VACO/VHACO employees and VHA program office employees are HR Operations Office (HROO) and HR Management and Consulting Service (HRMACS). Paragraphs 5.f., 5.g. and 5.h. apply to only those program offices and their WCP personnel and not to any other VHA entity. The WMC program office Director is responsible for:

(1) Ensuring that appropriate staffing, budget and resources are available to implement and oversee WMC program office WCPs. See Appendix B for further information.

(2) Monitoring and evaluating performance according to VHA WCP performance measures established by the National WCP Manager. See Appendix D for further information.

(3) Ensuring that suspected fraud, waste and abuse within their WMC program office WCP are referred to the VA Office of Inspector General (OIG) and appropriate officials. **NOTE:** For further information, see the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. This is an internal VA website that is not available to the public.

(4) Ensuring all VHA program office Service Chiefs, Managers, and Supervisors are trained and held accountable for their roles and responsibilities with respect to injured employees at VHA program offices (see paragraph 5.i.).

h. VHA Workforce Management Consulting Human Resource Director. NOTE: See Note to paragraph 5.f. The WMC program office Human Resource Director is responsible for:

(1) Allocating sufficient staff and other resources to implement an effective WMC program office WCP that meets the goals and requirements of VHA WCP across all VHA program offices.

(2) Staffing the WCP Office within the WMC program office in accordance with the Human Resources Delivery Model (HRDM) 2010 or a subsequent HRDM, approved by the Under Secretary for Health.

(3) Hiring a WMC program office WCP Manager to manage the WMC program office WCP; hiring WCP personnel to manage WCP processes within their WMC program office.

(4) Identifying WCP backup staff members to provide coverage for periods of absence of WCP personnel in the WMC program office.

(5) Supporting the WMC program office WCP Manager in providing oversight and compliance enforcement to WCP personnel within their WMC program office.

i. **VHA Workforce Management Consulting Program Office Workers' Compensation Program Manager.** *NOTE: See Note to paragraph 5.f.* The WMC program office WCP Manager is responsible for:

(1) Providing oversight and compliance enforcement of the WMC program office WCP through site visits, quality assurance initiatives and case file review activities; documenting outcomes and follow up with WCP personnel in their WMC program office to ensure corrective actions are implemented.

(2) Managing the WMC program office WCP and supervising the work of WCP personnel in their WMC program office.

(3) Reviewing WCP performance measures within the WMC program office and collaborating with WCP personnel in their WMC program office to develop action plans to address areas where improvement is needed.

(4) Serving as a hiring official for WCP personnel in their WMC program office.

(5) Providing WCP personnel in their WMC program office with professional guidance, education, training and new staff orientation to ensure compliance with laws, regulations and policies.

(6) Participating as a member in stakeholder meetings including the VHA Workers' Compensation Advisory Group and VHA program office OSH meetings.

(7) Demonstrating leadership and management skills within the WMC program office WCP and providing technical expertise about FECA and VHA WCP requirements, performance measures, tools and initiatives.

(8) Performing quality case review and regular on-site consultation with WCP personnel within their WMC program office WCP on complex administrative cases, Congressional correspondence and other written program responses.

(9) Developing a professional working relationship with OWCP District Offices that administer FECA within the WMC program office WCP and reviewing case file information not available electronically.

(10) Ensuring that Public Key Infrastructure (PKI) encryption is available and that WMC program office WCP personnel are using PKI to transmit protected data through electronic messaging; ensuring that WCP personnel in their WMC program office receive and understand VA Privacy and Information Security Awareness training and signs the Rules of Behavior.

(11) Periodically reviewing the WMC program office WCP Staffing List in accordance with paragraph 2.b. in Appendix A.

j. **Veterans Integrated Services Network Director.** The VISN Director is responsible for:

(1) Ensuring that all VA medical facilities within the VISN comply with this directive and informing leadership when barriers to compliance are identified.

(2) Ensuring that appropriate staffing, budget and resources are available to implement and oversee WCPs at the VISN and VA medical facilities. See Appendix B for further information.

(3) Ensuring regulations, policies, procedures, goals, objectives and strategies relative to VHA WCP are carried out across the VISN.

(4) Establishing VISN-specific metrics, as needed, to monitor and evaluate performance according to VHA WCP performance measures established by the National WCP Manager. See Appendix D for further information.

(5) Ensuring that suspected fraud, waste and abuse within the VISN WCP are referred to the VA OIG and appropriate officials. For further information, see the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*

(6) Ensuring all VISN Service Chiefs, Managers, and Supervisors are trained and held accountable for their roles and responsibilities with respect to injured employees at the VISN level.

k. **Veterans Integrated Services Network Human Resource Officer.** The VISN HRO is responsible for:

(1) Allocating sufficient staff and other resources to implement an effective VISN WCP that meets the goals and requirements of VHA WCP across all VA medical facilities within the VISN.

(2) Staffing the VISN WCP Office in accordance with the HRDM 2010 or a subsequent HRDM, approved by the Under Secretary for Health.

(3) Hiring a VISN WCP Manager to manage the VISN WCP; hiring VISN WCP personnel to manage WCP processes for all VA medical facilities within the VISN.

(4) Identifying WCP backup staff members to provide coverage for periods of absence of VISN WCP personnel.

(5) Supporting the VISN WCP Manager in providing oversight and compliance enforcement to VISN WCP personnel.

l. **Veterans Integrated Services Network Workers' Compensation Program Manager.** The VISN WCP Manager is responsible for:

(1) Providing oversight and compliance enforcement of the VISN WCP through site visits, quality assurance initiatives and case file review activities; documenting outcomes and following up with VISN WCP personnel to ensure corrective actions are implemented.

(2) Collaborating with the National WCP Manager to validate VHA WCP performance measures related to key aspects of case management and fiscal liability.

(3) Reviewing VHA WCP performance measures within the VISN and collaborating with VISN WCP personnel to develop action plans to address VISN WCP areas where improvement is needed.

(4) Serving as a hiring official for the VISN WCP.

(5) Providing VISN WCP personnel with professional guidance, education, training and new staff orientation to ensure compliance with laws, regulations and policies.

(6) Participating as a member in stakeholder meetings including the VHA Workers' Compensation Advisory Group and VISN or VHA program office OSH meetings.

(7) Demonstrating leadership and management skills within the VISN and providing technical expertise about FECA and WCP requirements, performance measures, tools and initiatives.

(8) Performing quality case review and regular on-site consultation with VISN WCP personnel on complex administrative cases, Congressional correspondence and other written program responses.

(9) Developing a professional working relationship with OWCP District Offices that administer FECA within the VISN and reviewing case file information not available electronically.

(10) Managing the WCP for all VA medical facilities within the VISN and supervising the work of the assigned VISN WCP personnel.

(11) Ensuring that Public Key Infrastructure (PKI) encryption is available and that VISN WCP personnel are using PKI to transmit protected data through electronic messaging; ensuring that VISN WCP personnel receives and understands VA Privacy and Information Security Awareness training and signs the Rules of Behavior.

(12) Periodically reviewing the VISN WCP Staffing List in accordance with paragraph 2.b. in Appendix A.

m. **VHA Service Chiefs, Managers and Supervisors.** *NOTE: The duties listed here apply to all Service Chiefs, Managers and Supervisors at VHA program offices, VISNs and VA medical facilities. VHA Service Chiefs, Managers and Supervisors are responsible for:*

(1) Working to minimize risk of work-related injury or illness by conducting periodic inspections of all work areas used by staff to identify potential hazards and addressing concerns related to workplace safety issues as soon as possible.

(2) When emergency care is required, advising the injured employee of the right to emergency diagnosis and first treatment by the VA medical facility Employee Occupational Health (EOH) or by a private physician or hospital of choice; ensuring that the appropriate health care personnel are notified; obtaining the name and address of the physician elected as the provider of choice and providing that information to WMC program office or VISN WCP personnel, as appropriate, once emergency treatment is secured.

(3) Notifying WMC program office or VISN WCP personnel, as appropriate, immediately or as soon as possible, after an employee reports an injury or illness.

(4) Investigating the possible causes of the reported injury or illness; documenting the investigation on Occupational Safety and Health Administration (OSHA) Form 301 (Injury and Illness Incident Report) or equivalent electronic record and recommending abatement strategies in coordination with the VA medical facility Safety Office.

(5) Providing guidance and counseling to injured employees regarding entitlements, rights and responsibilities when filing a claim for benefits under FECA. **NOTE:** See paragraph 6 for further information regarding FECA benefits that injured employees may be entitled to.

(6) Providing the injured employee with instruction on how to complete OSHA Form 301 and DOL Form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation (CA-1) or DOL Form CA-2, Notice of Occupational Disease and Claim for Compensation (CA-2) in the DOL Employee Compensation Operations & Management Portal (ECOMP) available at: <https://www.ecomp.dol.gov/>.

(7) Completing, printing and obtaining original signatures on the employing agency section of forms CA-1 and CA-2 within 3 business days of receipt and forwarding the claim to the VISN WCP personnel as appropriate.

(8) Informing the injured employee to advise the physician of the availability of light duty and that VA will accommodate most restrictions; and completing DOL Form CA-17, Duty Status Report (CA-17), Side A with physical requirements of the position held by the employee at DOI.

(9) Identifying and offering light duty work assignments to injured employees who have medical restrictions as soon as restrictions are received.

(10) Providing the injured employee with the appropriate medical forms, such as a CA-17 Duty Status report, for all visits to the elected provider or any referral providers, prior to each scheduled appointment.

(11) Immediately notifying WMC program office or VISN WCP personnel, as appropriate, when an injured employee loses time from work that is related to a WCP injury or illness; and ensuring that COP entitlement and authorization is determined by WCP personnel before posting or certifying time.

(12) Forwarding all work status notes, medical documentation and completed forms received from the injured employee to the VISN WCP personnel no later than 2 business days from date of receipt.

(13) In cases of death, notifying WMC program office or VISN WCP personnel, VA medical facility Safety Office and VA medical facility leadership immediately of the death and coordinating with safety personnel, local law enforcement personnel or other investigative agencies, when appropriate, to conduct a thorough investigation of the circumstances surrounding the employee's death.

n. **VA Medical Facility Director.** The VA medical facility Director is responsible for:

(1) Ensuring regulations, policies, procedures, goals, objectives and strategies relative to VHA WCP are implemented at the VA medical facility.

(2) Ensuring that VA medical facility employees are informed of their rights and responsibilities under FECA during new employee orientation and at claim initiation; and ensuring that information about FECA is readily available throughout the VA medical facility.

(3) Ensuring all VA medical facility Service Chiefs, Managers and Supervisors are trained and held accountable for their roles and responsibilities with respect to injured employees at their VA medical facility.

(4) Establishing light duty assignment standard operating procedures to ensure injured employees return to productive duty as soon as medically able by providing light duty assignments when physical restrictions are present due to their work-related injury.

(5) Determining if providing medical services in the EOH to injured employees beyond emergency diagnosis and first treatment would interfere with the ability to provide treatment or service to Veterans; and informing employees of their option to elect or not elect EOH as a provider of choice (see paragraph 7 for further information).

(6) Ensuring that fiscal processes are in place to appropriately bill OWCP for services provided by EOH to injured employees, beyond emergency diagnosis and first treatment or VA Primary Care physicians at the current cost-based inter-agency rate prescribed in the Federal Register (see paragraph 7 for further information).

(7) Ensuring that suspected fraud, waste and abuse within the VA medical facility WCP are referred to VA OIG and appropriate officials. For further information, see the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*

(8) Ensuring that VISN WCP personnel located at VA medical facilities have appropriate secure office space containing locked file cabinets and dedicated computer equipment (to include printer, fax and scanner) due to the sensitive and confidential nature of the program.

o. VHA Workforce Management Consulting Program Office or VA Medical Facility Finance Officer. The VHA WMC program office or VA medical facility Finance Officer is responsible for:

(1) Authorizing access to payroll information related to employees' injury leave to WMC program office or VISN WCP personnel.

(2) Tracking COP or other injury-related leave when authorized by WMC program office or VISN WCP personnel; and correcting time and leave records to document leave as requested by the employee when COP is rescinded.

(3) Providing a detailed injury-related leave report to WMC program office or VISN WCP personnel each pay period to validate that COP leave authorizations are paid appropriately.

(4) Providing pay rate and premium pay data to WMC program office or VISN WCP personnel within 5 business days, when requested, so that claims for compensation are submitted to and processed by OWCP within regulatory timeframes.

(5) Ensuring that the leave balance of an injured employee is re-credited accordingly as a result of an approved claim for leave buy-back (LBB) and notifying the injured employee of any overpayment or indebtedness.

(6) Ensuring proper coding and processing of bills for in-house medical services provided to injured employees complies with OWCP's billing contractor requirements and are submitted within the month charges were incurred; monitoring bills to determine payment or rejection status for reconciliation; and correcting any rejected bills and re-submitting to OWCP for payment. For further information, see the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** This is an internal VA website that is not available to the public.

p. **VA Medical Facility Employee Occupational Health Clinicians.** The VA medical facility EOH clinicians are responsible for:

(1) Documenting each work injury visit in the employee health record and ensuring that each injury examination progress note is signed or co-signed by a qualified physician, as defined in 5 U.S.C. § 8101, within 24 hours of the visit.

(2) Ensuring that each medical report complies with regulatory requirements and is provided to VISN WCP personnel in support of an employee's claim. All medical documentation must be provided to VISN WCP personnel within 5 business days of appointment.

(3) Referring injured employees who elect treatment from EOH for appropriate treatment and consultations to affiliated network providers, when available.

(4) Obtaining required authorizations for specific services from OWCP prior to treatment.

q. **VHA Workers' Compensation Program Personnel.** **NOTE:** VHA WCP personnel include VHA WCP staff at either the WMC program offices (i.e., HROO and HRMACS) or VISN level. The duties listed here are not all inclusive and additional assignments may be assigned by the WMC program office or VISN WCP Manager to ensure successful program administration. VHA WCP personnel are responsible for:

(1) Ensuring privacy of WCP records by maintaining and disclosing information in accordance with the OWCP, Federal Employees' Compensation Act File (DOL/GOVT-1) System of Records and the procedures outlined in this directive. See Appendix C for further information.

(2) Completing required DOL Privacy Act training annually to maintain access to OWCP and VA official WC Systems of Record.

(3) Requesting the appropriate level of access to program tools and technology required to manage the WCP in their WMC program office or VISN.

(4) Using the established case file management system and standard case folder structure to ensure consistency in case file documentation and records retention for VHA WCP. For further information, see the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*

(5) Implementing the claim initiation process, providing guidance and counsel to every injured employee upon the employee's request; performing initial case management and continually evaluating and managing active WC case files throughout the life of an injured employee's claim. For further information, see paragraphs 2.a., 2.d., and 3 in Appendix A and the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*

(6) Calculating, tracking, evaluating, authorizing and monitoring an injured employees' leave usage; providing guidance and counseling on leave options; ensuring necessary personnel actions are taken and working collaboratively with the injured employee, supervisor, timekeeper, payroll and OWCP to effectively manage WCP leave and compensation. For further information, see the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*

(7) Evaluating work capacity documentation and ensuring necessary personnel actions, job duties, light duty work assignments and when appropriate, permanent job offer processes are completed. For further information, see the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*

(8) Notifying medical billing personnel when an injured employee elects EOH or their assigned VA Primary Care provider, for treatment and collaborating with EOH and coding and billing offices to ensure they have the necessary information to bill OWCP at the inter-agency rate.

(9) Evaluating WC case files and elected health care providers against the VA OIG Characteristics for Potential Fraud checklist and collaborating with the VISN WCP Manager to make referrals to the appropriate programs. For further information, see the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*

(10) Documenting all communications, decision-making processes, evaluations and data reviews in WC case files and forwarding information to OWCP for inclusion in the official case file.

(11) Reviewing and analyzing VHA WCP performance measures and cost reports within their WMC program office or VISN WCP to identify program areas requiring

improvement and develop action plans to address deficiencies and implement corrective actions. See Appendix D for further information.

(12) Ensuring that the WMC program office or VISN WCP Staffing List is up to date and that correspondence information such as addresses, phone numbers and email addresses are accurate.

(13) Completing required and recommended training (see paragraph 8).

r. **Injured Employee.** The injured employee is responsible for:

(1) Reporting any work-related incidents that may have caused an injury or illness to their supervisor immediately but no later than the end of the work shift in which the injury occurred or the illness was first realized and initiating OSHA Form 301.

(2) Filing DOL Form CA-1 or CA-2 within 3 years from the DOI to claim benefits under FECA. In cases of traumatic injury, filing DOL Form CA-1 within 30 calendar days from the DOI to maintain entitlement to continuation of pay (COP).

(3) Making an election between COP and sick or annual leave for injury-related absences. An injured employee who initially elects to use leave has the right to change to an election of COP within 365 calendar days from the date the leave was used or the date of written approval of the claim by OWCP, whichever is later. Electing/entering sick or annual leave or leave without pay (LWOP) for absences related to occupational illness claims, during the adjudication period, for periods of total temporary disability and medical treatment.

(4) Following VA leave policy and procedures for requesting any combination of sick leave, annual leave, LWOP or Family and Medical Leave Act, when absence occurs due to a work injury or illness. For further information, see VA Handbook 5011/34, Hours of Duty and Leave (Weather and Safety Leave), dated October 25, 2019.

(5) Providing medical evidence, which on its face value supports duty status immediately upon return from a medical appointment.

(6) Notifying the elected treating provider that light duty work assignments are available.

(7) Returning to work when medically authorized. For further information, see the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*

(8) Submitting DOL Form CA-7, Claim for Compensation and DOL CA-7a, Time Analysis Form and DOL CA-7b, LBB Worksheet/Certification and Election, when applicable, to request a leave buy back within 365 calendar days from OWCP's approval of the claim, unless it is administratively determined that the injured employee was prevented from exercising this option because of the disability.

6. FEDERAL EMPLOYEES' COMPENSATION ACT GENERAL PROVISIONS FOR INJURED EMPLOYEES

a. **Medical Care.** If a claim is compensable under FECA, the injured employee is entitled to medical services. Medical services include examinations, treatments and related services such as hospitalization, medications, appliances, supplies and transportation, as prescribed or recommended by qualified physicians that in the opinion of OWCP are likely to cure, give relief or reduce the degree or the period of disability. Medical care is provided as long as authorized by OWCP.

b. **Attendant Allowance.** Under 5 U.S.C. § 8111, up to \$1500 per month is payable when the service of an attendant is necessary because the employee is totally blind or has lost the use of both hands or both feet, or is paralyzed and unable to walk, or because other disability resulting from the injury requires constant attendance.

c. **Continuation of Pay.** An employee's regular pay may be continued for up to 45 calendar days of wage loss because of disability and medical treatment following a traumatic injury. COP ensures that the employee's income is not interrupted while the claim is being adjudicated. It also provides VHA with a period of up to 45 calendar days to return an injured employee back to productive duty without the injured employee having to file a CA-7, *Claim for Compensation*. COP is not considered compensation and is therefore subject to income tax, retirement and other deductions. After entitlement to COP is exhausted, the employee may apply for compensation or use leave.

d. **Compensation for Wage Loss.** In cases of disability determined by OWCP, an employee is entitled to compensation at the rate of 66 and two-thirds % of the employee's established pay if there are no dependents or 75% of their pay if there are one or more dependents. Pay may include additional amounts over their base salary, such as premium pay; night and Sunday differential; and holiday pay. Compensation payments for total disability may continue as long as the disability continues.

e. **Cost of Living Adjustments.** Compensation benefits are increased by the applicable Consumer Price Index effective March 1 each year for all beneficiaries who have been in receipt of benefits for more than 365 calendar days prior to that date.

f. **Compensation for Loss of Wage-Earning Capacity.** When an injured employee suffers a wage loss because of a disability that is less than total disability, compensation may be paid for loss of wages or Compensation for Loss of Wage-Earning Capacity (LWEC). VHA WCP personnel may request that an LWEC determination be made by the OWCP claims examiner. Sufficient medical evidence must indicate that an individual who is receiving compensation has attained MMI, is unable to return to the position held at the time of injury (or to earn equivalent wages) and is not totally disabled for all gainful employment. If an injured employee demonstrates that assigned work duties can be performed or OWCP determines that the employee can perform the duties of a job paying less than the DOI position and the job is deemed suitable by OWCP, compensation will be payable based on the LWEC determination.

g. **Vocational Rehabilitation.** When an injured employee has permanent limitations and cannot return to the DOI position, vocational rehabilitation services may be provided to assist in returning the worker to a suitable job. Rehabilitation services are carried out by OWCP with the assistance of State or private rehabilitation agencies. When vocational rehabilitation is under way, OWCP may provide a monthly maintenance allowance not to exceed \$200 in addition to compensation for wage loss.

h. **Schedule Award.** Compensation is provided for permanent loss or loss of use (either partial or total) of certain internal organs, members or functions of body parts such as arms, legs, hands, feet, fingers, toes or eyes and loss of hearing or loss of vision. Schedule awards may vary for different body parts. Each extremity is rated for a specific number of weeks for compensation. If a serious disfigurement of the head, face or neck results from a job-related injury, a schedule award may also be made for such disfigurement.

i. **Death Benefits.** In the event of death arising out of employment, FECA provides for funeral and burial expenses. If the employee dies away from their place of residence, these expenses will include the cost of transporting the body to the place of burial. In addition, a \$200 allowance will be paid to the personal representative of the decedent for administrative costs of terminating employee status with the Federal government. Survivors are entitled to benefits in the form of compensation payments.

j. **Death Gratuity.** Under 5 U.S.C. § 8102(a), the U.S. is authorized to pay up to \$100,000 to the survivors of a Federal employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation. For more information about how this benefit can be claimed, see DOL Form CA-810, Injury Compensation for Federal Employees.

7. USE OF VA MEDICAL FACILITIES

a. EOH physicians and other VA health care providers are authorized to examine and treat job-related injuries if elected by the injured employee as their treating provider; however, employees must be informed of the right to elect a physician of their choice for treatment, including those in the private sector.

b. When an employee elects to be treated at a VHA facility, all medical services of VA will be provided to the extent that the VA medical facility Director 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.

c. 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. EOH units and VA health care providers 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.

8. TRAINING

a. VHA WCP personnel must complete required and supplemental training. VA and VHA-sponsored training may include modules in the VA Talent Management System (TMS), VA-approved e-learning or virtual training systems, face-to-face training sessions or other emerging training formats. The following training is **required** for VHA WCP personnel:

(1) VHA Workers' Compensation Staff Training (TMS Curriculum ID # 34661 and 35666).

(2) DOL Privacy Act training. **NOTE:** *This training must be completed annually to maintain access to OWCP and VA WC official Systems of Record. It is presented virtually.*

b. It is recommended that VHA WCP personnel attend VA and VHA WCP-planned conference calls using interactive electronic media.

9. RECORDS MANAGEMENT

All records regardless of format (e.g., paper, electronic, electronic systems) created by this directive must be managed as required by the National Archives and Records Administration (NARA) approved records schedules found in VHA Records Control Schedule 10-1. Questions regarding any aspect of records management should be addressed to the appropriate Records Officer.

10. REFERENCES

a. 38 U.S.C. §§ 703(c), 1725, 1729, 1784, 1785, 7301(b).

b. 29 U.S.C. § 654.

c. 5. U.S.C. §§ 552a, 8101-8193.

d. 20 C.F.R. §§ 10.11, 10.115, 10.220, 10.222, 10.508, 10.707 and part 25.

e. VA Directive 5810, VA Workers' Compensation Program, dated September 1, 2021.

f. VA Directive 6609, Mailing of Sensitive Personal Information, dated May 20, 2011.

g. VA Handbook 5011/34, Hours of Duty and Leave (Weather and Safety Leave), dated October 25, 2019.

- h. VHA Workers' Compensation Guidebook.
<http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*
- i. VHA WCP Electronic Media Repository.
<https://dvagov.sharepoint.com/sites/VHAohshg/vhawc/default.aspx>. **NOTE:** *This is an internal VA website that is not available to the public.*
- j. OSHA Form 301, Injury and Illness Incident Report.
- k. DOL Form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation.
- l. DOL Form CA-2, Notice of Occupational Disease and Claim for Compensation.
- m. DOL Form CA-7, Claim for Compensation.
- n. DOL Form CA-7a, Time Analysis Form.
- o. DOL Form CA-7b, LBB Worksheet/Certification and Election.
- p. DOL Form CA-17, Duty Status Report.
- q. DOL Form CA-810, Injury Compensation for Federal Employees.
- r. DOL Employee Compensation Operations & Management Portal (ECOMP) available at: <https://www.ecomp.dol.gov/>.
- s. Standard Form (SF)-52, Request for Personnel Action.

PROGRAM ADMINISTRATION

This appendix addresses program oversight, administration, customer support expectations and communication methods within the Veterans Health Administration (VHA) Workers' Compensation Program (WCP).

1. PROGRAM OVERSIGHT

As described in paragraph 5.f. in this directive, the National WCP Manager is responsible for the oversight and compliance of VHA WCP to ensure that the Workforce Management Consulting (WMC) program offices and Veterans Integrated Services Network (VISN) WCP Managers understand program requirements and reports to stakeholders, as necessary, the status of compliance with laws, regulations, policies and procedures through the Assistant Under Secretary for Health for Support. **NOTE:** *The two WMC program offices that handle WC claims filed by Department of Veterans Affairs (VA)/VHA Central Office and VHA program office employees are HR Operations Office and HR Management and Consulting Service. The responsibilities for implementing VHA WCP at VHA program offices apply to only those program offices and their WCP personnel and not to any other VHA entity.*

2. ADMINISTRATION

a. Office of Workers' Compensation Programs Agency Code Assignment.

(1) VHA WCP personnel request Office of Workers' Compensation Programs (OWCP) Agency Codes from the National WCP Manager through the WMC program office or VISN WCP Manager.

(2) OWCP assigns at least one four-digit OWCP Agency Code to each WMC program office or VISN WCP so that costs paid by OWCP to or on behalf of, the injured employee are charged back to the appropriate program office or VA medical facility (e.g., 4000, 4010).

(3) The program office or VA medical facility is assigned a standard two-character suffix of "00" along with the four-digit OWCP Agency Code (e.g., 4000 00, 4010 00). When there is a need to separate costs by service, such as by appropriation, service or geographic boundary; VHA WCP personnel request an individual two-character suffix that is added to the four-digit OWCP Agency Code. (i.e., 4000AB, 4000AC).

(4) In all cases, VHA WCP personnel are responsible for ensuring that the correspondence address and point of contact information is accurate at OWCP. To make changes, VHA WCP personnel notify the National WCP Manager, through the WCP Manager in their WMC program office or VISN, to ensure that the OWCP National Office updates their records.

(5) VHA WCP personnel assign appropriate OWCP Agency Codes to each workers' compensation (WC) case during the claim initiation process and validates the accuracy of the assigned OWCP Agency Codes upon first review of the OWCP record after transmitting to OWCP for processing.

b. Workers' Compensation Program Staffing List.

(1) The National WCP Manager maintains a staffing list of all VHA WCP personnel used as a distribution list for communications and to evaluate staffing levels against approved staffing allocation models. This list also serves as a networking tool for VHA WCP personnel.

(2) WCP personnel ensure that the VHA WCP Staffing List for their WMC program office or VISN is up to date and that correspondence information such as addresses, phone numbers and email addresses are accurate.

(3) WMC program office or VISN WCP Managers periodically review the VHA WCP Staffing List for accuracy and assist VHA WCP personnel when changes are necessary.

c. Workers' Compensation Program Distribution Lists.

(1) The National WCP Manager creates and reviews distribution lists on a quarterly basis. Distribution lists align with each specific stakeholder group to control information based on a 'need to know.'

(2) The National WCP Manager maintains the VHAWCGROUP@va.gov distribution email list in Microsoft Outlook and updates the email list monthly. Information released to this group includes program communications and other information requiring immediate release to all VHA WCP personnel.

d. Case File Management.

VHA WCP personnel manage all WC claims filed by injured employees within the duty stations serviced; including claims from injured employees within a duty station that are on temporary duty in another location at the time of the injury, illness or death. The following are exceptions:

(1) VHA WCP personnel must not manage their own WC claims. The WMC program office or VISN WCP Manager assigns another WMC program office or VISN WCP to manage the claim. When reassigning, the WMC program office or VISN WCP Manager must take into consideration that tools and technology may limit other WCP from accessing WC case file information.

(2) VHA employees who are injured while on a detail assignment documented on Standard Form (SF)-52, Request for Personnel Action, and outside of the regular duty station must file their WC claim with the WMC program office or VISN WCP personnel responsible for managing WC claims for the assigned duty station. VHA WCP personnel use the OWCP Agency Code and suffix for the assigned duty station.

e. **Staffing Titles.** VHA WCP personnel use official position titles in signage or emails, (e.g., John Doe, Employee Benefits Specialist). The use of the acronym “OWCP” in signage or emails (e.g., Jane Doe, OWCP Specialist) is not permitted because it lends to the perception that VHA WCP personnel is acting on behalf of the U.S. Department of Labor (DOL) OWCP.

3. CUSTOMER SUPPORT

a. **Internal Customer Support.** VHA WCP personnel follow a three-tier customer support process when questions arise regarding interpretation of law, policy, guidance and processes; or when issues related to supporting tools and technology exist. VHA WCP personnel must first research the matters using the communication methods provided by the National WCP Manager and WMC program office or VISN WCP Manager before making a request for assistance. VHA WCP personnel respond to customer support issues in writing to the originator, with copies to all VHA WCP personnel involved in the customer support process. For matters of importance to a wider WCP community, WCP personnel send a copy of the response to their WMC program office or VISN WCP Manager for inclusion in program communications to all VHA WCP personnel.

(1) **Tier 1 Support.** VHA WCP personnel make requests for assistance to the WMC program office or VISN WCP Manager. The WMC program office or VISN WCP Manager evaluates the request and attempts to resolve the question using available reference materials.

(2) **Tier 2 Support.** When the WMC program office or VISN WCP Manager cannot resolve the request for assistance, they escalate the request to the National WCP Manager for resolution. The National WCP Manager evaluates the submitted research and attempts to resolve the request for assistance.

(3) **Tier 3 Support.** The National WCP Manager escalates the request to VA Human Resources and Administration, Office of Occupational Safety and Health when assistance is required in obtaining resolution.

b. **External Customer Support.** When requesting customer support from OWCP, the following protocol is used:

(1) VHA WCP personnel contact the OWCP Office Phone Bank when making telephone inquiries about a WC case to increase the likelihood that the telephone contact is documented and a response is received. VHA WCP personnel provide intake staff members with enough information to assist the OWCP Claims Examiner (CE) with the request and follow up with written Reports of Contact providing more detailed information. VHA WCP personnel upload the Report of Contact into the Employee Compensation Operations & Management Portal (ECOMP) so that the CE has the Report of Contact available when responding to the request. **NOTE:** For more information on contacting OWCP, see <https://www.dol.gov/agencies/owcp/FECA/contacts/fecacont>.

(2) Written requests for assistance must be clear, concise and factual. When requesting case file information, VHA WCP personnel describe the purpose for the request and the intended use of the information. VHA WCP personnel upload the written request to ECOMP. If OWCP does not respond within 30 calendar days, VHA WCP personnel make a second request for the information. If the second request is unanswered within 30 calendar days, WCP personnel may contact their WMC program office or VISN WCP Manager for assistance in escalating the issue with the OWCP District Office.

4. COMMUNICATIONS

a. **Workers' Compensation Program Stakeholder Communications.** The National WCP Manager develops WCP stakeholder communications based on the appropriate 'need to know.' The National WCP Manager determines the level of data included in communications in collaboration with stakeholder groups, such as the WMC program office or VISN Directors, WMC program office or VISN WCP Managers, WMC program office Human Resource Directors and VISN Human Resource Officers.

b. **Information for Immediate Release.** The National WCP Manager forwards information for immediate release to applicable stakeholders through appropriate communication methods, including operational memoranda, as determined by stakeholder's role within VHA WCP. A copy of the communication is sent via email to the WMC program office or VISN WCP Manager.

c. **Electronic Media Repository.** The National WCP Manager maintains an electronic media repository to provide program support and access to other WCP laws, regulations, policies, procedures, references, tools and templates. **NOTE:** *The electronic media repository is located at: <https://dvagov.sharepoint.com/sites/VHAohshq/vhawc/default.aspx>. This is an internal VA website that is not available to the public and access is restricted to WMC program office and VISN WCP Managers and VHA WCP personnel.*

STAFFING, BUDGET AND RESOURCES

Staffing, budget, resources and training must be made available to effectively implement, manage and provide oversight of the Veterans Health Administration (VHA) Workers' Compensation Program (WCP). This section addresses the minimum requirements for staffing, budget, resources and training required to effectively implement, manage and provide oversight of VHA WCP.

1. STAFFING

a. **Office of Occupational Safety and Health.** The Office of Occupational Safety and Health (OSH) provides necessary staffing to perform policy, planning, training and oversight compliance of VHA WCP.

b. **VHA National Workers' Compensation Program Manager.** The National WCP Manager provides policy, planning, training, oversight and compliance of VHA WCP and ensures Workforce Management Consulting (WMC) program office and Veterans Integrated Services Networks (VISN) Managers understand program requirements and report, as necessary, the status of compliance with this directive.

c. **VHA Workforce Management Consulting Program Office or Veterans Integrated Services Network Director.** The WMC program office or VISN Director ensures the appropriate level of oversight so that staffing, budget and resources are available to implement and oversee the WCP in their WMC program office or VISN.

d. **VHA Workforce Management Consulting Program Office Human Resource Director or Veterans Integrated Services Network Human Resource Officer.** The WMC program office Human Resource Director (HRD) or VISN Human Resource Officer (HRO) allocates sufficient staff, resources and budget to implement an effective WCP. The WMC program office HRD or VISN HRO:

(1) Staffs the WMC program office or VISN WCP Office in accordance with the Human Resources Delivery Model (HRDM) 2010 or a subsequent HRDM, approved by the Under Secretary for Health.

(2) Hires a WMC program office or VISN WCP Manager to manage the WMC program office or VISN WCP and provide sufficient WCP personnel to manage the WCP for all VHA program offices and VA medical facilities within the VISN.

(3) Identifies WCP backup staff members to provide coverage for periods of absence of WMC program office or VISN WCP personnel.

2. BUDGETING

a. **Office of Occupational Safety and Health.** The Director, OSH allocates funds necessary to implement and maintain sufficient staffing, training and resources in support of the National WCP Manager.

b. **VHA National Workers' Compensation Program Manager.** The National WCP Manager prepares and submits an annual budget to the Director, OSH, including any travel expenses required to support their responsibilities in policy, planning, training and oversight and compliance for VHA WCP.

c. **VHA Workforce Management Consulting Program Office and Veterans Integrated Service Network Directors.** WMC program office and VISN Directors allocate funds necessary to implement and maintain sufficient staffing, training and to procure resources necessary to support the WCP in their WMC program office or VISN.

d. **VHA Workforce Management Consulting Program Office and VISN WCP Managers.** WMC program office and VISN WCP Managers prepare and submit an annual budget to the WMC program office HRD or VISN HRO, including any travel expenses required to support their roles in training, oversight and compliance site visits and other activities in support of their WCP duties.

e. **WCP Personnel.** WCP personnel prepare and submit requests for funding to their WMC program office or VISN WCP Manager, including any travel expenses, training or office supplies and equipment and other resources to efficiently manage the WCP in their WMC program office or VISN.

3. RESOURCES

a. To effectively manage VHA WCP and protect Personally Identifiable Information and Personal Health Information, WCP Offices must be organized in a manner that centralizes the processing of administrative paperwork.

b. Private, secured offices are optimal to protect Privacy Act information, particularly during guidance and counseling sessions or telephone conversations with injured employees.

c. When private offices are not available, the VA medical facility must have at least one dedicated conference area within close proximity to the WCP Office to allow for privacy while interviewing injured employees or preparing and discussing individual compensation cases.

d. Where possible, it is optimal to locate WCP Offices in close proximity to the Employee Occupational Health (EOH) Unit to ensure that injured employees can obtain emergency diagnosis and first treatment from EOH when elected, receive guidance and counseling by VHA WCP personnel; and process workers' compensation (WC) claim forms expeditiously.

e. Documents and data related to a WC case file, including VHA copies, are part of the Office of Workers' Compensation Programs, Federal Employees' Compensation Act File (DOL/GOVT-1) system of records and are not VA records.

f. WCP Offices must have a dedicated fax machine or equivalent fax through computer to mitigate the risk of improper disclosure of protected records to employees without an official "need to know."

g. Only authorized personnel may access WC case files. Computer security safeguards must be in place to protect electronically stored WCP data and locked locations must be available for paper WC case files. To minimize the risk of access by unauthorized personnel, WC case files should be stored in secure locations (e.g., restricted file shares, locked cabinets) that are limited to only WCP data and restricted to VHA WCP personnel. File storage must be of a sufficient size to store all active case files in accordance with VHA Records Control Schedule, Section II, Item 05-29, *Personal Injury Files*.

h. Each VHA WCP personnel must have use of dedicated office equipment such as computers, printers and telephones. Scanners, document shredders and sensitive bins must be made available and located either in or within close proximity to the WCP Office.

i. Case file folders and general office supplies sufficient to meet the requirements of VHA WCP must be made available as needed.

PRIVACY AND SECURITY OF DATA

Confidentiality and security of Veterans Health Administration (VHA) Workers' Compensation Program (WCP) documentation and data must comply with Federal regulations and be released in accordance with the routine use of the applicable System of Record Notices. Department of Veterans Affairs (VA) and VHA Central Office authorized and approved electronic tools and technology must be used in the management and oversight of VHA WCP. This section addresses the minimum requirements that a WCP must implement to ensure proper handling of records kept to reflect the status of all WCP claims and to ensure compliance with the Privacy Act of 1974 (5 U.S.C. § 552a) and, if applicable, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules.

The Department of Labor's (DOL) Office of Workers' Compensation Programs (OWCP) controls disclosure of all copies of Federal Employees' Compensation Act (FECA) file information in DOL/GOVT-1, including any duplicate copies of FECA records maintained by employing agencies. See 20 C.F.R. § 10.11. The release of FECA file information – including copies of FECA records maintained at employing agencies – must be made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a) and DOL's interpretation of its routine uses published in DOL/GOVT-1. Moreover, the anticipated use of FECA file information must be compatible with the purpose for which the information was collected, which is the administration of the FECA.

1. OVERVIEW

a. **The Privacy Act of 1974.** The Privacy Act of 1974 imposes certain obligations and responsibilities concerning the creation, maintenance, use and disclosure of records pertaining to individuals, including WCP records related to government employees and contractors.

b. **Office of Workers' Compensation Programs, Federal Employees' Compensation Act File.** Office of Workers' Compensation Programs, Federal Employees' Compensation Act File (DOL/GOVT-1) is the system of records for FECA claims. OWCP is the owner of all records in this.

c. **Office of Workers' Compensation Programs.** OWCP authorizes access for Federal agency WCP personnel to VHA WCP records through the DOL/GOVT-1 system of records. Copies of workers' compensation (WC) case information and original claims bearing original signature maintained by VHA WCP personnel are protected under DOL/GOVT-1 and may only be disclosed if authorized by a routine use in this system or another Privacy Act exception.

d. **Health Insurance Portability and Accountability Act Privacy and Security Rules.** HIPAA Privacy and Security Rules generally do not apply to WCP records owned by OWCP and maintained by VHA. A covered entity, such as VHA or another

health care provider, may disclose protected health information regarding an individual to the extent necessary to comply with FECA. However, if protected health information covers both a work-related condition and a concurrent condition, the health care provider should redact any medical information not related to the WC case unless the injured employee authorizes its release.

2. ACCESS TO PROTECTED RECORDS

a. OWCP and VA authorize VHA WCP personnel to access protected information in electronic systems covered by one or more systems of record.

(1) OWCP authorizes access to systems within DOL/GOVT-1, such as the Agency Review Imaging System, Affiliated Contract Services Medical Bill Portal and the Employee Compensation Operations and Management Portal to assist in administratively managing WC cases.

(2) VA authorizes access to the Workers' Compensation Occupational Safety and Health/Management Information System (WCOSH/MIS) or other VA-approved System of Records.

b. The Workforce Management Consulting (WMC) Program Office or Veterans Integrated Services Network (VISN) Director (or designee) approves access for VHA WCP personnel to obtain protected information in the following systems:

(1) Human Resources Management Information Systems at a level sufficient to review an injured employee's employment status, pay status including grade, step and salary; and employee benefits such as Federal Employee Health Benefits, Federal Employees' Group Life Insurance and retirement systems in order to validate and appropriately manage administrative aspects of a WC case.

(2) Personnel and Accounting Pay System at a level sufficient to access reports to support administrative case management activities such as processing of initial WC claims, authorizing and reconciling continuation of pay, confirming hours or days away from work, completing DOL Form CA-7, Claim for Compensation and verifying hours of work and return to work begin dates.

c. VHA WCP personnel are not authorized access to the electronic health record (EHR) to support administrative case management activities. Access to the EHR poses a risk to the health information of other VHA employees and Veterans, which may present potential disclosure of non-work-related medical documentation. VHA WCP personnel request health information related to a WC case by writing to the physician of record or by requesting it through OWCP.

3. PROGRAM RECORDS

a. VHA WCP personnel maintain the following three types of program records:

(1) **Case Files.** VHA WCP personnel prepare a case file for each new WC claim they receive. These files consist of all relevant WC claim forms, medical documentation, correspondence and any other pertinent information necessary to manage a WC case.

(2) **Claim Status Records.** VHA WCP personnel obtain or create and reconcile reports that relate to the status of claims (e.g., Chargeback and Return to Work reports, Potential Characteristics of Fraud checklists) These records contain information that identifies individual injured employees and therefore are restricted to only authorized VHA WCP personnel.

(3) **Program Administration and General Office Records.** These records relate to the general administration and internal operations of the VA medical facility WCP (i.e., directives, summarized injury trend analyses, aggregate data reports). These records must not contain Personally Identifiable Information (PII) or Personal Health Information (PHI).

b. Reports are available through OWCP, VA and VHA systems. VHA WCP personnel must use approved technologies to perform case management and evaluate VHA WCP. VHA WCP personnel may only create and maintain manual or electronic reports outside of these systems when no availability exists to capture data in the existing systems. The development of local databases, (e.g., Microsoft Access) to circumvent the use of OWCP, VA and VHA systems is prohibited.

c. VHA WCP personnel must protect WC files and claim status records when not in use. VHA WCP personnel are required to adhere to DOL/GOVT-1 Routine Use provisions as well as VA Privacy and Information System Awareness practices to protect WC case files and case status reports.

(1) **Privacy Screens.** VHA WCP personnel must use privacy screens on computer monitors where it is likely that unauthorized personnel may be able to view protected data.

(2) **Workers' Compensation Program Data.** VHA WCP data must not be left unattended and must be saved to a secure network drive or maintained in a locked file cabinet or desk drawer when not in use by VHA WCP personnel.

d. VHA WCP personnel must safeguard protected data during storage and when sharing with entities having an official need to know. Individual or groups of documents, however sent, that contain protected information and are sent to VA personnel must be accompanied by a notice sheet containing language that explains the penalties for violations of the Privacy Act and, if applicable, the HIPAA Privacy and Security Rules.

(1) **Shared Network Drive.** VHA WCP personnel must ensure that any electronic case file or claim status record is protected with a strong electronic password only known by VHA WCP personnel with a need to know.

(2) **Electronic Mail.** VHA WCP personnel must ensure that Public Key Infrastructure (PKI) encryption is placed on electronic mail communications and recipients who do not have trusted certificates do not receive protected case file or claim status record information by electronic mail.

(a) Subject lines of electronic mail should not include PII or PHI.

(b) Documents contained in electronic mail sent without PKI must contain a strong electronic password. The sender must provide authorized recipients with passwords in a separate electronic mail message with a blank subject line.

(c) Interoffice Mail. When the use of interoffice mail is necessary, VHA WCP personnel ensure that the notice sheet is included as a cover sheet to the protected document within the interoffice envelope.

(d) Regular Mail. When it is necessary to mail case files or claim status records to an authorized recipient, VHA WCP personnel must comply with VA Directive 6609, Mailing of Sensitive Personal Information, dated May 20, 2011, and ensure protection of the information during the delivery process. Each shipped case folder must include a notice sheet. Each box prepared for shipment must include a shipping manifest. VHA WCP personnel must maintain a copy of the shipping manifest in the WCP Office. The sender must use a delivery service that provides shipment tracking to maintain a chain of custody. A signature of receipt must be required at time of delivery. It is unacceptable for the delivery service to deliver without signature or to deliver to Post Office Boxes as it results in a break in the chain of custody.

e. VHA WCP personnel must use and protect WC information in accordance with the routine uses and safeguard provisions in the applicable systems of record.

(1) **Office of Workers' Compensation Programs Systems of Record.** VHA WCP personnel ensure that data reviewed, printed and maintained from OWCP systems is protected from unauthorized disclosure and is only used for official business and in accordance with DOL/GOVT-1.

(2) **Workers' Compensation Occupational Safety and Health/Management Information System or Other VA/VHA Official Systems of Record.** VHA WCP personnel ensure that data reviewed, printed and maintained from WCOSH/MIS or other VA/VHA systems is protected from unauthorized disclosure and is only used for official business and in accordance with the applicable systems of record.

PERFORMANCE MANAGEMENT

1. Internal and external performance measures are essential tools for Workforce Management Consulting (WMC) program offices and Veterans Integrated Services Network (VISN) WCPs to determine program effectiveness and operational efficiency and provide data to support analyses to improve efficiencies in program areas.
2. Measures focus on continuous process improvement methods and may incorporate cost, rate and indicators from special initiatives to address program compliance, special initiative outcomes and fiscal integrity. Metrics may be specific to a single year or based on Veterans Health Administration (VHA) performance trends over several years.
3. Performance goals and outcomes assess program areas of compliance, case management activities and fiscal recovery; provide a basis for prioritizing oversight reviews, training and outreach; and communicate successes within the program to stakeholders.
4. Oversight of standard operating procedures and processes taken to meet the program goals and objectives, in collaboration with all stakeholders, will be ongoing to monitor program effectiveness.
5. Data to support performance metrics is obtained from the Office of Workers' Compensation Programs and VHA systems and other data sources that may be blended to improve the stakeholder's ability to evaluate opportunities for improvement.
6. The National WCP Manager ensures that a Change Control System is developed and implemented to evaluate requests for functional requirements, system corrections, reporting and other issues that may impact WCP tools and technologies to meet data integrity.