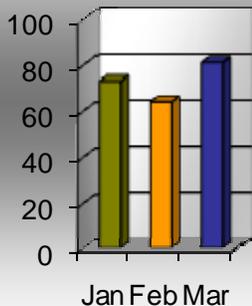


# DHRC-I Insider

Volume 7 Issue 1

April 2010

**New Injury Claims Received by DHRC-I 1st Quarter 2010**



*"A good beginning is half the work."*

—Irish Proverb

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## Former DDCN Supervisor Pleads Guilty to Workers' Compensation Fraud

On January 5, 2010, a former Defense Distribution Depot Cherry Point, North Carolina (DDCN) supervisor pled guilty in U.S District Court to Mail Fraud in relation to receipt of Federal Employees' Compensation Act (FECA) benefits, and to manufacturing a sawed-off shotgun. In late March 2010, the employee was sentenced to 13 months in prison and ordered to pay restitution to the Agency.

The employee filed a FECA claim for a foot condition in 1999, just as an A-76 was announced. The claim was accepted by the U.S. Department of Labor (DOL), who paid compensation and medical benefits totaling nearly \$302K from 1999 to 2010. A joint investigation by the DLA Accountability Office (DA), the Naval Criminal Investigative Service, and DOL's Office of Inspector General revealed the employee operated a Marine Construction business, secretly building maritime piers and bulkheads, while claiming to be totally disabled and unable to earn wages. Video surveillance and evidence obtained from executing a Federal search warrant upon his residence provided incriminating documentation.



Subsequent to the guilty plea, DOL terminated compensation benefits. To date, the employee has paid \$160K in restitution to DLA. A Federal civil suit has been filed to use the proceeds from the sale of the employee's home toward repaying the remaining \$142K owed. It is estimated that DLA would have incurred future liability of over \$2.5M in compensation payments made to the employee over his lifetime.

The DHRC-I office continues to partner with DA professionals located throughout the DLA Enterprise in pursuing the detection, investigation, and prosecution of FECA fraud. Anyone with information regarding suspected FECA fraud is encouraged to contact DHRC-I at (703) 767-8105 or the DA office via email at [HqFecaFraud@dla.mil](mailto:HqFecaFraud@dla.mil).

## DHRC-I Staff Complete DOD Level I Certification Training for Injury Compensation Program Administrators

The DHRC-I staff is committed to providing the highest quality advice and assistance to injured workers and their supervisors regarding FECA program benefits and entitlements. Keeping this commitment requires that all staff members be fully trained on program basics as well as current trends and procedural revisions and updates.



Recently, all DHRC-I staff members completed the newly released Department of Defense (DOD) Level I Certification Training for Injury Compensation Program Administrators. This highly-

anticipated training was provided as an online course by the Defense Civilian Personnel Management Service (CPMS). The training was self-paced and offered immediate performance feedback. The staff found the training to be very helpful, enabling them to brush-up on the basics, which in turn, will enhance customer service.

The DHRC-I office receives periodic FECA program updates from DOL and CPMS. Staff members also attend DOL-scheduled Interagency Meetings and other training offerings whenever available.

## Case Law: The Lillian Cutler Rule

*Lillian Cutler, 28 ECAB 125 (1976)* was the watershed case on emotional claims. It produced a concept known as the Cutler rule:



“Where the disability results from an employee’s emotional reaction to regularly or specifically assigned duties, or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees’ Compensation Act (FECA).”

*Cutler* drew a line between compensable and non-compensable emotional injuries by looking at the work event that caused the emotional reaction. In this case specifically, Ms. Cutler became upset over not receiving an anticipated promotion. The Employees’ Compensation Appeals Board (ECAB) held that her resulting disability was not compensable be-

cause her emotional reaction was self generated and did not relate to her employment duties.

In building on the *Cutler* case, ECAB has held that a disability is not compensable where it results from an employee’s reaction to administrative or personnel matters such as:

—a poor performance appraisal or a denied transfer (*Gaytan v. Department of Labor, 104 LRP 60543*).

—the handling of disciplinary actions and leave requests (*Sanders v. Department of Agriculture, 105 LRP 6473*).

—reassignment (*Dario G. Gonzales, 33 ECAB 119 (1982)*).

Exceptions to these rules may occur when there is evidence of error or abuse committed by the Agency.

## DOL Contact Information For Employees and Medical Providers:

- Interactive Voice Response System (IVRS) provides automated information regarding bill status and medical authorization request status 24/7 by dialing: (866) 335-8319
- Automated information regarding compensation payments is available 24/7 by dialing: (866)-692-7487
- The Affiliated Computer Services (ACS) website provides information on medical bills, treatment authorizations, and provider enrollment, and can be reached 24/7 at: <https://owcp.dol.acs-inc.com/portal/main.do>
- To speak with a Customer Service Representative regarding bill payment, treatment authorization, or provider enrollment issues, employees and medical providers may call: (850) 558-1818



Funding for salaries, benefits, and overhire authority for the first year of reemployment

### DOD PIPELINE PROGRAM

If you have a job to do, DHRC-I wants to hear from you! <http://www.cpms.osd.mil/pipeline/pipeline.aspx>  
(866) 737-9724

## DOL Adopts Final Rule Administering Death Gratuity, Will Take Effect In April 2010

The U.S. Department of Labor (DOL) has adopted a final rule governing the administration of the death gratuity created by the National Defense Authorization Act of 2008. The rule becomes effective April 5, 2010.



The Federal Employees’ Compensation Act, 5 USC 8102a, provides for a death gratuity of up to \$100,000 to eligible survivors of Federal civilian employees who die as a result of injuries incurred while

serving with the Armed Forces in a contingency operation. Contingency operations include humanitarian and peacekeeping operations.

*Form CA-40* allows employees to designate recipients for this benefit prior to their deployment. *Form CA-41* is used by survivors in making a claim. *Form CA-42* is completed by the Agency in the event of an employee’s death.

All forms are available on DOL’s website at: <http://www.dol.gov>.

## Personal Property Damage Not Compensable Under FECA; Alternate Process Available

The Federal Employees’ Compensation Act (FECA) does not provide for reimbursement for loss of personal property. An employee who suffers damage to personal property, such as eyeglasses, clothing, personal appliances, and prostheses in connection with a work-related



injury may file a claim under the Military and Civilian Personal Property Act of 1964, 31 U.S.C. 240.

For further information on the specific process and requirements for filing a claim, employees may contact the DHRC-I office or a local Office of General Counsel.

### “Beware the Ides of March”

The soothsayer’s warning to Julius Caesar has forever linked that date with a sense of foreboding. In reality, the term “Ides” comes from the earliest Roman calendar and merely refers to the 15th day of the month. So, the “Ides of March” is just one of a dozen ‘Ides’ that occur every month of the year.

<http://www.factmonster.com>

# Case Law: Octogenarian Refuses Suitable Employment, Has Compensation Benefits Terminated

Injury compensation specialists know the importance of returning injured employees to work when they are deemed medically-capable of doing so. A successful return-to-work effort can produce significant compensation cost savings as well as boosting the morale of an injured worker. But what if the injured employee being returned to work is elderly? Consider the case of *J.L. v. Internal Revenue Service*, 109 LRP 315, November 25, 2009.

In this case, the claimant sustained sprains to her hips and a permanent aggravation to her left shoulder degenerative joint disease after a

work-related fall. At the time of injury, the claimant was 79 years old.



During routine management of the injury claim, a conflict arose over whether the claimant could return to work. To resolve the issue, the U.S. Department of Labor (DOL) sent the claimant for an impartial medical evaluation. This doctor, while sympathetic to the claimant's age, stated that although she was unable to perform her date-of-injury duties, she could work 8 hours per day with restrictions. On this opinion, the Agency offered a light duty position to the claimant, then 81 years old. She refused.

DOL ruled that the job offer was within the claimant's medical limitations and afforded her the opportunity to accept it and return to work. The claimant did not, and DOL terminated her compensation benefits. She appealed to the Employees' Compensation Appeals Board (ECAB).

ECAB found that DOL had properly terminated compensation benefits due to the claimant's refusal of suitable work. Under the Federal Employees' Compensation Act, wage-loss compensation benefits paid by DOL are not considered retirement benefits. A partially disabled employee who refuses or neglects to return to work after suitable work is offered is not entitled to compensation.

### Got Fraud?

- Claim Inconsistencies
- Doctor-shopping
- Filing multiple claims

Defense Logistics Agency

All DLA employees and supervisors are asked to remain vigilant toward FECA fraud.



DLA Office of Accountability

Contact:  
Special Agent Patrick Gookin  
(910) 451-0976

A conviction of fraud can result in fines, jail time, and forfeiture of benefits

## FEDVIP Deductions from Compensation

Injured employees enrolled in the Federal Employees' Dental and Vision Insurance Program (FEDVIP) must take special care to ensure that the premiums for these benefits are covered during periods of disability for work. Currently, there is no place on the CA-7, *Claim for Compensation*, form to show an employee's enrollment in these benefits.



Disabled injured employees enrolled in the FEDVIP program must contact the Office of Personnel Management (OPM) at 877-888-3337 to advise that they are in receipt of

wage-loss compensation benefits. OPM will notify the Office of Workers' Compensation Program's (OWCP) National Office of the correct deduction amount and OWCP will then begin making deductions.

Employees are encouraged to check out the "Enrollment Terms and Conditions" at [www.benefeds.com](http://www.benefeds.com). Generally, employees in a leave without pay status for two consecutive pay periods will be switched to a 'Direct Bill' method for which they personally will be responsible for the premium payment. Benefits may be cancelled if the billed premiums are not paid.

## The DHRC-I Staff Have Been Asked...

**Q: Why does it cost me money to restore leave I used in connection with my work-related injury?**

**A:** Under the Leave Buyback process, an injured employee is responsible for repaying to the Agency the difference between what he/she received in Agency salary while using leave and his/her compensation entitlement from DOL for the period in



which the leave was originally used. DOL pays wage-loss compensation benefits as a percentage of the injured employee's salary: either 66 2/3 percent without dependents, or 75 percent with dependents. This money is tax-free.

**Q: What is a 'short form closure' status?**

**A:** This is an administrative status



used by DOL on new traumatic injury claims to allow for a claim number to be assigned quickly and to facilitate prompt payment of initial medical bills. Injury cases in this status have not been formally adjudicated by a DOL claims examiner, nor have the overall merits of the claim been established. Generally, claims in this status are associated with minimal (or no) time loss from work and limited medical bills.

**DLA Human Resources Center  
Injury Compensation (DHRC-I)**

Defense Logistics Agency, DHRC-I  
8725 John J. Kingman Road, Suite 1232  
Fort Belvoir, Virginia 22060-6221

Business Hours: 6:30 a.m. to 5:00 pm. (EST)

(703) 767- 7494/2958 Toll Free: (866) 737-9724

DSN 427- 7494/2958 FAX: (703) 767-7128

Email: [ICC@dla.mil](mailto:ICC@dla.mil) Website: [www.hr.dla.mil](http://www.hr.dla.mil)



The DLA Human Resources Center, Injury Compensation Office (DHRC-I) is designed to provide the best possible service to the injured employee while efficiently and effectively managing the processes and costs of the Agency's workers' compensation program.

The DHRC-I officially opened for business on November 4, 2002. Based at DLA Headquarters in Fort Belvoir, Virginia, the DHRC-I also has two satellite offices located at the Defense Distribution Depots in San Joaquin, California and Susquehanna, Pennsylvania. It is currently staffed by a team of eight (8) Specialists and five (5) Assistants operating under the supervision of the Director, DLA Injury Compensation Program. The DHRC-I staff offers over 130 years of expertise in the Federal Personnel and Workers' Compensation program areas.

**March is Womens' History Month. Among many notables:**

*1587: Virginia Dare is the first person born in America to English parents in Roanoke Island, Virginia.*

*1887: Susanna Medora Salter becomes the first woman elected mayor of an American town, in Argonia, Kansas.*

*1975: Elizabeth Ann Seton is canonized, making her the first American-born saint.*

*1990: Dr. Antonia Novello is sworn in as the first woman, and first Hispanic, U.S. Surgeon General.*

*1992: Mae Jemison becomes the first black female astronaut.*

(Source: [www.factmonster.com](http://www.factmonster.com))

Is there a topic you want us to write about? Please send us your ideas at: [ICC@dla.mil](mailto:ICC@dla.mil)

**Putting the Knowledge to the Test: What Would You Do?**

Knowledge is power, so the saying goes. Applying that knowledge in a real-life situation though, takes skill. Looking for a challenge? Read the scenario below and then choose the best answer from the choices that follow. The solution is available on our web site: <http://www.hr.dla.mil/resources/benefits/InjuryNewsletters.html>

**Scenario:** You are a supervisor with an employee who has filed a form CA-2a, *Notice of Recurrence*, due to a flare-up of a prior work-related injury. The employee indicates the old injury is giving her trouble again and she wishes to seek additional medical care. By history, you are aware that the employee previously sustained a shoulder injury 6 months ago. Following the injury, she was placed on restricted duty for 2 weeks and was then released back to full duty. You have medical documentation supporting that after the full duty release, the employee was discharged from any further medical care. In reviewing the CA-2a form, you note that the description of recurrence includes a statement that the employee developed pain in the shoulder after lifting boxes at work the day before. What do you do?

- A. You complete the supervisory portion of the CA-2a form and send it to the Injury Compensation Center for processing along with current medical documentation.
- B. You advise the employee that based on the circumstances of the claimed recurrence, that this may be considered to be a new injury to the same body part due to the intervening incident of her moving boxes the day before which precipitated the onset of her shoulder pain. You advise the employee to instead complete form CA-1, *Notice of Traumatic Injury*.



**Bonus Question:** How would the employee's work absence be coded to cover the time she misses to see the doctor?

For information on recording employee absences due to work-related injuries and illnesses, check out our website: <http://www.hr.dla.mil/resources/benefits/injurycomp.html>