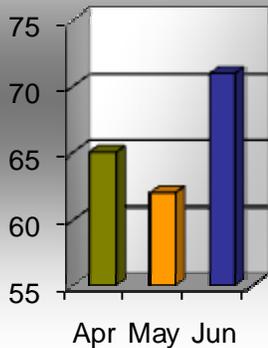


Injury Compensation Insider

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New Injury Claims Received by DHRS-I 2nd Quarter 2010



"I was seldom able to see an opportunity until it ceased to be one."

—Mark Twain



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Presidential POWER Initiative Seeks to Reduce Workplace Injuries, Improve Claims Processing

On July 19, 2010, President Barack Obama issued the POWER Initiative: Protecting Our Workers and Ensuring Reemployment. This initiative seeks to reduce Federal workplace injuries and improve the efficiency in processing injury claims and return-to-work outcomes.



The POWER initiative will cover Fiscal Years (FY) 2011 through 2014. It extends prior Federal Government workplace safety and health efforts by setting more aggressive performance targets, encouraging the collection and analysis of data on the causes and consequences of frequent/severe injury or illness, and prioritizing proven safety and health management programs. Under the POWER initiative, each executive department and agency will be expected to improve performance in seven areas: reducing total injury/illness case rates; reducing lost time injury/illness case rates; analyzing lost time data; increasing timely filing of injury and wage-loss claims; reducing lost production day rates, and speeding injured employees' return to work. The official Presidential Memorandum is published in the *Federal Register*, where it can be viewed in its entirety.

Some of these areas are the same or similar to the recent Safety, Health, and Return-to-Employment (SHARE) Initiative, which expired in 2009. The SHARE Initiative was established in January 2004 as a Government-wide effort to reduce workplace injury and illness rates, lower lost-time injury and illness case rates, increase timely reporting of injuries and illnesses, and lower the lost production day rate resulting from work injuries and illnesses. When the SHARE Initiative was established, the cost of Federal workplace injuries in FY 2003 exceeded \$2 billion, which covered over 168,000 injuries and 2 million lost production days. FY 2009 costs exceeded \$1.6 billion, covering more than 79,000 new claims.

Latest Chargeback Trends Show Decreased Agency Workers' Compensation Program Costs

"A penny saved is a penny earned," so the saying goes. If that is true, then the Agency really has done well. For the latest Chargeback Year (CY) ending June 30, 2010, DLA's workers' compensation program costs have decreased by nearly \$360K as compared to CY2009. This is particularly significant given the administratively uncontrollable reality of rising medical costs.



For CY2010, DLA's total workers' compensation program costs were \$23.5M. Of those costs, nearly \$6.5M was paid in medical costs, and \$17M was

paid in compensation costs. This can be compared to \$5.8M and \$18M in CY2009 respectively.

Within DLA, there is also good news for the DLA Distribution organization. In CY2009, costs for this organization alone comprised 68.89% of DLA's overall chargeback bill. In CY2010, this percentage decreased to 67.01%.

These savings can be attributed to early return to work efforts, the utilization of the DOD Pipeline Program to reemploy injured workers, and the investigation and prosecution of identified instances of workers' compensation fraud.

Case Law: Divorce Results in Compensation Overpayment

An injured employee is entitled to augmented compensation when he or she has one or more eligible dependents.

Dependents can include a spouse, children, and certain other individuals. In the case of divorce, it can get a little complicated.



A spouse may remain an eligible dependent after the parties divorce only if the employee regularly contributes to the spouse's support or has been ordered by the court to contribute to the spouse's support. Consider the case of *R.A. and U.S. Postal Service, 110 LRP 27384, 4/26/10*:

In this case, the employee began receiving compensation on the periodic rolls after sustaining an injury in 1971. Because he was married at the time, he was paid compensation at the augmented rate. He and his wife sepa-

rated in 2002 and divorced in 2003. He continued to receive the higher compensation rate afterwards.

The U.S. Department of Labor (DOL) determined that an overpayment of \$18,289.00 occurred as there were no other eligible dependents. The employee argued that he was entitled to this money because he contributed to his wife's support by paying the mortgage and property taxes on the marital home as well as the premiums for the family's health insurance plan. DOL did not agree and the employee appealed.

The Employees' Compensation Appeals Board upheld DOL's decision, finding that the employee's wife was not a member of the same household, he did not pay alimony or regular support, and he was not ordered by the court to do so.

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, DHRS-I wants to hear from you! <http://www.cpms.osd.mil/pipeline/pipeline.aspx>
(866) 737-9724

Schedule Awards 101

Under the Federal Employees' Compensation Act, compensation is payable for the permanent loss, or loss of use, of a body part or function due to work-related injury. To process a claim, DOL requires a medical report establishing that maximum medical improvement has been reached, and containing the physician's assessment on the loss of function to the affected body part(s).

This assessment, more commonly referred to as an impairment

rating, must be completed in accordance with the Sixth Edition of the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment. This information is forwarded by DOL to their resident District Medical Advisor (DMA) for review.

The DMA is considered to be the resident expert in the application of the AMA Guides. In the event of a conflict between medical opinions, DOL can utilize second opinion and referee medical examinations to provide any needed clarification.

Case Law: \$7,500 Mattress Short on Support

FECA provides for services and supplies that are 'likely to cure, give relief, reduce the degree or period of disability, or aid in lessening the amount of monthly compensation.' That doesn't mean the sky is the limit, though. Consider the case of *R.S. v. U.S. Postal Service, 109 LRP 42185, ECAB 6/23/09*:

In this case, the employee suffered a work-related back injury and requested DOL approval for a Tempur-

Pedic brand mattress at an estimated cost of \$7,500. The treating physician stated that it would help control his pain and minimize his use of medication. The employee stated that he had slept on a similar bed at his parents' home. He provided literature regarding the bed and an article on back pain.

DOL denied the request, finding that the medical evidence did not support the need for the particular mattress. On appeal, ECAB concurred with DOL.

"National Hot Dog Month Observed in July"

A summer staple, the hot dog is one of the most loved comfort foods. The term 'hot dog' is credited to sports cartoonist Tad Dorgan, who sketched a cartoon in 1901 of baseball vendors selling hot dachshund sausages. Unsure of how to spell 'dachshund,' he called them simply 'hot dogs' and the rest is history.

<http://www.factmonster.com>

Case Law: Nurse Practitioner Not Included in FECA Definition of Physician

Is the doctor in? In the healthcare industry today, you may be just as likely to see a nurse practitioner or a physician assistant as you would an actual medical doctor. In most cases, you can get the care that you need in a timely manner. But what happens if you need treatment for a work-related injury? Consider the case of *K.H. vs. Department of Veterans Affairs, 110 LRP 32572, 09-2292, May 14, 2010*:

In this case, an employee suffered a work-related injury and provided a medical note from a nurse practitioner recommending she remain out of work until further notice. The U.S. Department of Labor (DOL)

notified the employee that she needed to submit additional medical documentation. She did not, and DOL denied the claim based on insufficient medical evidence. The employee appealed.



On appeal, the Employees' Compensation Appeals Board (ECAB) affirmed DOL's denial. ECAB cited the fact that the Federal Employees' Compensation Act (FECA) provides a specific definition of physician. As a nurse practitioner is not included in this definition, any medical documentation submitted by this individual has no probative value and is insufficient to establish a claim.

An employee seeking compensation under FECA has the burden of establishing the essential elements of the claim to include submitting sufficient medical evidence. Because the employee did not submit a rationalized medical opinion from a physician, ECAB found that she did not establish a claim.

Under FECA, The term "physician" includes surgeons, osteopathic practitioners, podiatrists, dentists, clinical psychologists, optometrists, and chiropractors within the scope of their practice as defined by State law. Naturopaths, faith healers, and other practitioners of the healing arts not recognized as physicians within the meaning of the law.

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

New Draft FECA Regulations Published in Federal Register

Proposed regulations to amend current Federal Employees' Compensation Act (FECA) regulations were published in the Federal Register on August 13, 2010. The official comment period runs until October 12, 2010. Among the proposed changes:

- increasing the definition of reasonable travel to and from a physician from 50 miles round-trip to 100 miles round-trip.
- amending one section to clarify that leave donated to an employee is

not leave that may be restored through the leave buy back program.

—the U.S. Department of Labor, Office of Workers' Compensation Programs is planning on creating a separate form for claiming a schedule award.

- a provision that all agencies should create a method to submit forms electronically by December 31, 2012.
- more stringent requirements for authorizing Durable Medical Equipment.

The DHRS-I Staff Have Been Asked...

Q: Can the Agency refuse to pay Continuation of Pay (COP) to an injured employee?

A: Yes, but only in limited circumstances. There are nine reasons whereby an Agency can refuse to pay COP to an injured employee. These reasons are listed on the instruction page for the CA-1 Form, *Notice of Traumatic Injury*. Outside of these circumstances, the

general advice is that COP should be granted provisionally until a final entitlement determination is made by the U.S. Department of Labor (DOL).

Q: I was just told that my work-related traumatic injury claim is in "Short Form Closure" status. What does this mean?

A: Generally speaking, this is an administrative status used by DOL in the majority of new traumatic injury claims. It allows for a claim number to be assigned quickly and for some limited medical bill payment. The formal merits of the claim have not been reviewed by DOL. Some injury claims never move past this status, while those incurring significant lost time from work and/or medical expense will be formally adjudicated.



**DLA Human Resources Services
Injury Compensation (DHRS-I)**

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The DLA Human Resources Services, Injury Compensation Office (DHRS-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 DHRS-I officially opened for business on November 4, 2002. Based at DLA Headquarters in Fort Belvoir, Virginia, the DHRS-I also has two satellite offices located at the DLA Distribution Depots in San Joaquin, California and Susquehanna, Pennsylvania. It is currently staffed by a team of nine (9) Specialists and five (5) Assistants operating under the supervision of the Director, DLA Injury Compensation Program. The DHRS-I staff offers over 130 years of expertise in the Federal Personnel and Workers' Compensation program areas.

August 13, 2010: Feeling Lucky?

Friday the 13th is an unlucky day in much of Western Europe, North America, and Australia. Many people avoid travel on this day, and floors in tall buildings often skip from 12 to 14. But how did 13 become 'unlucky'?

—Norse mythology: Evil god Loki was the uninvited 13th guest at Valhalla, and caused the death of Balder, the god of light, joy, and reconciliation.

—Maritime: In the 18th century, the 'HMS Friday' was launched on Friday the 13th and was lost forever.

—Christian religion: There were 13 people at the Last Supper.

(Source: www.factmonster.com)

Is there a topic you want us to write about? Please send us your ideas at: 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-1, *Notice of Traumatic Injury*, due to a recent work-related injury. The employee has provided you with medical documentation supporting a brief period of temporary total disability for work due to the injury. The medical documentation confirms the work events leading up to the injury, and it provides a firm diagnosis, the anticipated treatment plan, and a medical opinion relating the claimed work factors to the employee's medical condition. Upon closer inspection, you note that the medical documentation is signed by a Nurse Practitioner (NP). When you ask the employee about this, he explains that when he contacted his doctor's office and requested to be seen immediately, the NP was the only one who could see him. He relates that he's seen this same NP before due to non-industrial illness and his insurance plan has paid benefits without incident. The employee has elected Continuation of Pay (COP) for his work-related period of disability. What do you do?

- A. You grant the COP because the employee has provided supporting medical documentation, and because you realize that NP's are prevalent and accepted within the medical community .
- B. You advise the employee that you must have medical documentation that is countersigned by an actual medical doctor in order to support the COP request. You grant the COP provisionally.



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>