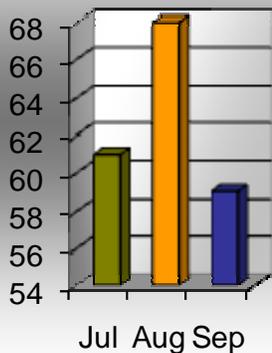


# DHRC-I Insider

Volume 6 Issue 4

December 2009

**New Injury Claims Received by DHRC-I 3rd Quarter 2009**



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*“Give a man a fish and you feed him a day. Teach a man to fish and you feed him for a lifetime.” —Chinese Proverb*

**Inside this Issue...**

Supervisor Orders Lunch, Buys Compensable Injury Claim	2
Contingency Fee Arrangements Not Permitted...	2
DHRC-I Staff Now Able to eFile Compensation...	2
Case Law: TV Channel Change in Agency...	3
DOL Posts CA-40 Form to Website	3
The DHRC-I Staff Have Been Asked...	3
Putting the Knowledge to the Test: What Would...	4

## DHRC-I Presents Common Misconceptions About the Workers' Compensation Program

And so it was. As 2009 comes to a close, the DHRC-I staff reflected back over the past year, and in the tradition of year-end Countdowns, we now offer ours. While no two injury claims are ever exactly alike, there were some common misconceptions that we encountered. By spotlighting them here, we hope it will help to further educate our customers on the worker's compensation program:

Misconception	Truth
Once a claim is approved, all medical care and procedures are automatically authorized.	Claims adjudication and medical care authorization do not always go hand-in-hand. Certain medical treatments and procedures require advance authorization even under an approved claim.
An injured employee can self-certify disability for work.	There is no provision for an injured employee seeking Continuation of Pay or wage-loss compensation to self-certify his/her disability for work.
The Agency cannot communicate with the injured employee's physician.	The Agency can communicate with physicians to obtain periodic medical status reports for injured employees. All such communication must be in writing, with rare exceptions.
The DHRC-I office adjudicates claims and authorizes medical care.	The U.S. Department of Labor adjudicates all claims and authorizes medical care.

## Claims for Compensation Should Not Be Submitted in Advance of Actual Wage Loss

The DHRC-I office continues to receive forms CA-7, *Claim for Compensation*, submitted in advance of actual wage loss. Except for the initial period following a surgery, it is really not possible for the agency to certify an employee's specific work status until after the period of time has passed.



Employees and supervisors should be aware that the CA-7 form is essentially a time and attendance form, and as such, it should not be 'pre-certified.' The U.S. Department of Labor (DOL) has the capability to issue compensation payments every week. DOL is not tied to

DLA's specific payroll cycle. Just as employees and supervisors should not file claims for compensation for wage loss which has not yet occurred, DOL won't pay CA-7 claims in advance of actual wage loss. Submitting the paperwork ahead of time has the potential of doing a disservice to the injured employee who faces the possibility of having the paperwork returned unprocessed by DOL.

Generally, CA-7 forms should be submitted every two weeks while wage loss continues. Medical documentation must be provided for all periods of claimed disability for work. Questions may be addressed to any DHRC-I staff member.

## Supervisor Orders Lunch, Buys Compensable Injury Claim

Supervisors who use subordinate employees as food couriers beware, lunch may not be the only thing you end up paying for. Consider the case of *A.N. vs. U.S. Postal Service, 109 LRP 69644, October 27, 2009.*

In this case, the claimant was directed by her supervisor to pick up a lunch order she had placed at a local Red Lobster restaurant. The supervisor provided the claimant with \$35.00 cash to pay for the food. En route, the claimant was involved in a motor vehicle accident, and she filed a traumatic injury claim for the injuries she sustained.

During the claims process, the supervisor denied sending the claimant on the lunch errand; although, witness testimony later provided by co-workers sup-

ported otherwise. The U.S. Department of Labor (DOL) denied the claim on the basis that the injury did not occur during the performance of duty, but rather during the course of a personal errand. The claimant appealed to the Employees' Compensation Appeals Board (ECAB).



On appeal, ECAB reversed DOL's decision, citing that the claimant had proven that she had been given a specific task by her supervisor that caused her to leave the Agency's premises. ECAB found that pursuant to this special errand, the claimant's required travel away from the job site fell within the scope of her employment. The case was remanded to DOL for further processing of the claimant's medical issues. Check, please...

### 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

## Contingency Fee Arrangements Not Permitted for Representative Services

The Federal Employees' Compensation Act (FECA) contains procedures for designating a representative as well as the fee approval process. In administering these provisions, DOL considers it unacceptable for a representative to create what amounts to a contingency fee.

FECA Circular No. 09-03, June 1, 2009 was issued to clarify continued questions received regarding the representative fee approval process and it includes discussion

on contingency fee arrangements. Such arrangements refer to any agreement where a client agrees to pay a representative a percentage of any monies paid or recovered as part of a DOL claim.

Current FECA regulations set forth a "deemed approved" method which anticipates the use of an hourly rate. In order for the deemed approved process to apply, the claimant must specifically concur with a fee request consistent with the FECA regulatory requirements of an itemized statement and a specified hourly rate.

## DHRC-I Staff Now Able to e-File Compensation Claim Forms to DOL

Recently, DOL implemented technology to allow employing agencies to electronically submit (or e-file) compensation claim forms to their office. This includes forms CA-7, *Claim for Compensation*, form CA-7a, *Time Analysis Form*, and form CA-7b, *Leave Buyback Worksheet*. Effective



October 15, 2009, the DHRC-I staff began e-filing these forms to DOL. Employees and supervisors are still responsible for manually completing and signing all forms and submitting them, along with supporting medical documentation, to the DHRC-I office. Agencies are required to retain this information in official injury files.

### "Attention Holiday Shoppers"

In 1939, 1940, and 1941 President Franklin D. Roosevelt, seeking to lengthen the Christmas shopping season, proclaimed Thanksgiving the third Thursday in November. Controversy followed, and Congress passed a joint resolution in 1941 decreeing that Thanksgiving should fall on the fourth Thursday, where it remains.

<http://www.factmonster.com>

# Case Law: TV Channel Change in Agency Break Room Leads to a Scuffle and a Compensable Injury Claim

‘Don’t touch that dial!’ How often have we heard that phrase while watching television? How many of us have brazenly dared to grab that remote anyway? Consider the case of *M.A. vs. U.S. Postal Service*, 60 ECAB 08-2510, 7/16/09.



In this case, the claimant had just changed the channel on the television while on an approved break on the Agency’s premises. A co-worker took exception to the channel change and a physical altercation ensued. The claimant sustained lacerations and contusions to his face and scalp, along with a cervical paraspinal muscle sprain. The claimant stated he did not know the

identity of the co-worker who had struck him, nor had he previously engaged in any prior conversation with this individual. The U.S. Department of Labor (DOL) denied the claim on the basis that the claimant was on a break and not in performance of his official duties. The claimant appealed.

On his first appeal, DOL affirmed their original decision, stating that the altercation arose out of a non-work related discussion which did not occur during the claimant’s official duties or those reasonably incidental thereto.

On second appeal, the Employees’ Compensation Appeals Board (ECAB)

disagreed with DOL, finding that the altercation did occur in the performance of duty. ECAB stated that the dispute in this case was readily distinguishable from a private matter imported into the workplace. In this situation, the claimant and the co-worker did not know each other nor did they have a relationship outside of the workplace.

ECAB stated that an assault is compensable if the work of the participants brought them together and created the conditions that created the clash. ECAB also ruled that the fact that the claimant was on break did not preclude coverage, as such activity fell under the Personal Comfort Doctrine.

### 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

## DOL Posts CA-40 Form on Website

The DOL has posted the CA-40, *Death Gratuity Designation Form*, to their website at: <http://www.dol.gov/owcp/dfec/regs/compliance/forms.htm>.



This form is to be utilized in accordance with Section 1105 of Public Law 110-181. This law, in part, provides that if a federal civilian employee dies of injuries incurred in connection with his or her service with an Armed Force in a contingency operation, his or her eligible survivors may receive a death gratuity payment of up to \$100,000. The gratuity is a one-time payment

disbursed to the highest ranked survivor according to an established order of precedence.

This form should be provided to every civilian and completed before he or she is deployed to Iraq or Afghanistan, or any other area designated as a contingency operation. Even if the individual has no dependents under the Federal Employees’ Compensation Act (FECA), the form should be completed, as benefits are payable for this death gratuity even if the individual designated by the deploying civilian employee does not qualify as a dependent under FECA.

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

**Q:** I’d like to receive my compensation payments via electronic funds transfer. How can I make this happen?

**A:** You’ll need to complete a Standard Form 1199, *Direct Deposit Sign-up*, and submit it to DOL along with your CA-7, *Claim for Compensation*, form. DOL cannot recognize any direct deposit information already on file with the employing Agency.



**Q:** I understand that all DOL mail goes to London, KY, and that medical authorizations and billing questions are handled in Tallahassee, FL. Where is my claims examiner physically located?

**A:** It depends. DOL has 13 District offices located throughout the U.S. Each office is responsible for managing the claims submitted within cer-

tain geographical jurisdictions. To find out where your claim is specifically located, you may ask any DHRC-I staff member, or you may go to: <http://www.dol.gov/owcp/contacts/feacacont.htm>

**Q:** What does “FECA” stand for?

**A:** It stands for “Federal Employees’ Compensation Act.”



**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.

**Fowl Fact- How the Turkey Got Its Name**

*There are a number of explanations for the name origin:*

—some believe Christopher Columbus thought the land he discovered was connected to India; therefore, he called the bird "tuka" which is "peacock" in Tamil, an Indian language. (the turkey is actually a type of pheasant)

—the Native American name for turkey is "firkee" and some say this is how it got its name.

—simple facts sometimes produce the best answers: when a turkey is scared, it makes a "turk, turk, turk" sound.

Source: <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 timely form CA-1, *Notice of Traumatic Injury*, for an injury which occurred 1 week ago. The employee indicates he injured his neck while driving home from work. The employee stated another driver hit him on the local interstate highway that he travels on everyday. The employee said he had not deviated from his usual route in any way, and he was proceeding directly to his residence when the accident occurred. By history, you are aware that the employee has a fixed duty station and tour of duty, and that he was not engaged in any official off-premises duties when the injury occurred. The employee sought medical care and he missed 3 days of work as a result of the injury and he wants to file a workers' compensation claim for his injury. What do you advise?

- A. You advise him that he may file a CA-1 form; however, you tell him that because his injury occurred under the auspices of the 'coming and going rule', his claim will be controverted by the Agency.
- B. You advise him that he cannot file a CA-1 form because the injury occurred after his regular work shift, and he waited too long to report it.



**Bonus Question:** How would you handle COP if the employee requested it for the 3 days of missed work?

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>