

PUZZLE SOLUTION – December 2009 *DHRC-I Insider*

**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 every day. 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?

The best answer is:

**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.**

As a general rule, off-premises injuries sustained by employees having fixed hours and places of work while going to or coming from work, or during a lunch period, are not compensable. These accidents typically are considered to be merely the ordinary, non-employment hazards of the journey itself, which are shared by all travelers.

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

The Agency may controvert (challenge) an injured employee's Continuation of Pay (COP) entitlement for any reason; however, there are only limited circumstances in which the Agency may refuse to pay COP. These specifically are defined within the instructions for completing a CA-1, *Notice of Traumatic Injury* form.

Under the circumstances described in the scenario above, if the employee requested COP, it would be appropriate for the Agency to grant it provisionally (assuming the employee had medical documentation supporting disability for work). The employee should be advised that the Agency will be controverting the COP entitlement, and it will be up to the U.S. Department of Labor (DOL) to determine final eligibility. Should DOL find that the employee is not entitled to the COP, it will direct the Agency to recoup this time and charge it instead to the employee's sick or annual leave, or deem it an overpayment producing an indebtedness.