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# ADS Chapter 442

## The Workers' Compensation Program

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 ADS Chapter 442 –The Workers’ Compensation Program  
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## ADS Chapter 442 – The Workers’ Compensation Program

### 442.1

#### OVERVIEW

Effective Date: 08/11/2016

This chapter provides USAID policy directives and required procedures for workers’ compensation benefits under the [Federal Employees’ Compensation Act \(FECA\) - \(5 USC Chapter 81\)](#). This statute authorizes compensation benefits to civilian federal employees for disability due to personal injury sustained while in the performance of duty or due to employment-related disease or illness. It also authorizes the payment of benefits to dependents if a work-related injury or disease causes an employee’s death. This chapter covers the operation of the workers’ compensation program for federal employees and outlines Agency procedures and obligations with respect to claims processing and claims management.

### 442.2

#### PRIMARY RESPONSIBILITIES

Effective Date: 08/11/2016

a. The **Office of Workers’ Compensation Programs (OWCP), U.S. Department of Labor**, is responsible for:

- (1) Administering the Federal Workers’ Compensation Program government-wide;
- (2) Adjudicating claims in accordance with applicable regulations; and
- (3) Managing any medical or compensation payments that may be authorized.

b. The **Office of Human Capital and Talent Management, Human Capital Service Center, Employee Services and Benefits Division (HCTM/HCSC/ESB)**, is responsible for providing overall administration and management of FECA responsibilities in USAID, including:

- (1) Coordinating FECA claims with OWCP and various offices within USAID to facilitate timely processing of claims and related paperwork;
- (2) Monitoring Continuation of Pay (COP) entitlements and payments;
- (3) Coordinating controversies of COP claims with the employee’s supervisor and OWCP;
- (4) Validating Chargeback Billing Reports with the Bureau for Management, Office of the Chief Financial Officer (M/CFO) and the Office of Inspector General (OIG), as appropriate;

- (5) Facilitating placement of employees returning to work by coordinating with OWCP when it is clear that the employee can return to duties;
- (6) Coordinating with the Office of Civil Rights and Diversity (OCRD) to identify and facilitate reasonable accommodation(s) for returning employees, when appropriate;
- (7) Maintaining proper documentation for all claim cases pending and processed; and
- (8) Sharing claims information with the Agency's Occupational Safety and Health Administrator in the Bureau for Management, Office of Management Services (M/MS) for assessment and investigation of safety and health program implications.

c. The **Office of Human Capital and Talent Management, Human Capital Service Center (HCTM/HCSC)**, the **Foreign Service Center (HCTM/FSC) Divisions**, the **Center for Performance Excellence, Executive Resources Division (HCTM/CPE/ER)**, and **USAID Missions** are responsible for:

- (1) Working with Bureau/Independent Office (B/IO) management staff to identify and offer positions to employees who recover from covered injuries and illnesses, and/or to identify light or limited duty positions for qualifying partially disabled employees who are cleared to work;
- (2) Coordinating with OCRD to identify and facilitate reasonable accommodation(s) for returning employees when appropriate;
- (3) Coordinating reassignments and reemployment of approved claimants; and
- (4) Informing HCTM/ESB regarding various personnel actions involving employees who have filed work-related injury or illness claims.

d. **The Office of Civil Rights and Diversity (OCRD)** is responsible for:

- (1) Administering the reasonable accommodation program in a manner consistent with USAID policies and procedures, and all applicable federal laws, regulations, and guidelines (see [ADS 110, Equal Employment Opportunity](#)); and
- (2) Coordinating with HCTM, B/IO management staff, and the returning employee to identify and facilitate reasonable accommodation(s), when appropriate.

e. The **Office of the Inspector General, Assistant Inspector General for Management (OIG/AIG/M)**, is responsible for:

- (1) OWCP claims filed by OIG employees in Washington and overseas;
- (2) Payment of chargeback bills associated with OIG claims; and
- (3) Identifying light or limited duty and other positions for employees cleared to return to work.

f. The **Bureau for Management, Office of the Chief Financial Officer (M/CFO)** is responsible for:

- (1) Providing HCTM/ESB with quarterly (or more frequent) Continuation of Pay reports;
- (2) Establishing procedures for, and processing, employees' approved requests for repurchase and recrediting of leave;
- (3) In coordination with HCSC/ESB, reviewing/reconciling and paying OWCP's Federal Employees' Compensation Assessment bills associated with claims for USAID; and
- (4) Ensuring appropriate cost allocation for payment of OIG claims.

g. The **Bureau for Management, Office of Management Services (M/MS)** is responsible for:

- (1) Investigating, assessing, and making appropriate action and abatement recommendations concerning safety and health aspects of all reported work-related traumatic injuries and illnesses;
- (2) Providing Agency employees with appropriate safety education and training; and
- (3) On request by the OWCP and/or HCSC/ESB, providing data or information to OWCP and/or HCSC/ESB to support or controvert a claim.

h. The **Office of Medical Service, Department of State (M/MED)** is responsible for:

- (1) Documenting injuries of USAID employees, as necessary and appropriate, when they occur at U.S. embassies; and
- (2) Coordinating with HCSC/ESB, as necessary, on any claims resulting from the injuries.

i. **Bureau/Independent Office (B/IO) Administrative Management Staff (AMS)** are responsible for:

- (1) Coordinating with the HCSC/ESB Workers Compensation Specialist regarding rights and procedures under the workers' compensation program;
- (2) Helping employees and supervisors complete OWCP claim forms;
- (3) Coding Continuation of Pay actions in webTA based upon guidance from HCSC/ESB;
- (4) Reviewing their B/IO's compensation claims and referring suspected fraud or otherwise questionable cases to HCSC/ESB;
- (5) Coordinating with the Office of the General Counsel (GC) and HCSC/ESB on claims that appear to involve third parties;
- (6) Working with supervisors to ensure that light or limited duty and other positions are available, according to medical limitation, for employees returning to work; and
- (7) Coordinating with OCRD and the returning employee to identify and facilitate reasonable accommodation(s), when appropriate.

**j. Executive Officers (EXOs) - Overseas posts only.** EXOs must maintain a log for every injury or illness, and update the log monthly. The log must include the date of injury, the date that the report was received, the type of injury or illness, the employee's employment status, and a brief description of how the injury or illness occurred.

**k. Supervisors** are responsible for complying with all FECA program requirements, with assistance, as necessary, from HCSC/ESB, and/or their own AMS, including:

- (1) Reviewing and completing their portions of all required forms within the timeframe allowed by regulation;
- (2) Ensuring COP is entered accurately;
- (3) Notifying HCSC/ESB of whether a claim should be controverted; and
- (4) Offering light or limited duty assignments to employees who are cleared by OWCP to return to work.

Employees who exercise supervisory functions must, to the extent of their authority, furnish employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm. They must also comply with the occupational safety and health standards applicable to their agency and with all rules, regulations, and orders issued by the head of the agency with respect to the agency occupational safety and health program.

- I. Employees** are responsible for the following:
- (1) Observing safety instructions, procedures, and regulations;
  - (2) Reporting unsafe conditions to the Occupational Safety and Health Administrator in M/MS;
  - (3) Complying with FECA regulations with respect to reporting work-related injuries or illnesses promptly;
  - (4) Completing the [CA-1](#) claim form for injury compensation or the [CA-2](#) claim form for illness compensation, as appropriate, within required timeframes;
  - (5) Reporting for medical examination or treatment, as described by established procedures in this ADS chapter or as directed by their supervisor; and returning to regular, light, or limited duty as soon as medically possible when cleared by OWCP;
  - (6) Cooperating with USAID and OWCP throughout the claims and compensation process; and
  - (7) Consulting [owcp@usaid.gov](mailto:owcp@usaid.gov) or the [Department of Labor's publication CA-810, Injury Compensation for Federal Employees](#) if additional information is needed.
- m. The Office of General Counsel (GC)** is responsible for:
- (1) Providing controlling legal guidance and analysis; and
  - (2) Litigating claims against the Agency that implicate the issues involved in this ADS chapter.

## **442.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES**

### **442.3.1 General Provisions** Effective Date: 08/11/2016

The FECA program applies to temporary or permanent, and partial or total disabilities incurred as a result of a work-related disease, illness, or traumatic injury. The following general provisions apply to USAID's administration of the workers' compensation program.

- a. USAID ensures employees disabled due to personal injury or work related disease or illness sustained while in the performance of duty receive medical treatment and any other authorized benefit.



- b. No employee will be denied the right to file an OWCP claim and employees will receive assistance from HCTM/ESB in filing and pursuing claims when needed.
- c. USAID monitors all OWCP claims and will seek to provide, where practicable, appropriate light duty assignments (consistent with medical limitations) to partially disabled employees.
- d. The Agency will request that the OWCP offer rehabilitative training, where practicable, to long-term claimants who have fully or partially recovered.
- e. USAID must not coerce an employee into resigning because of a work-related injury or occupational disease or illness for which a claim has been approved by the OWCP.
- f. USAID must reassign a recovering disabled employee to another position with a similar grade and job series, when such a position can be identified.
- g. USAID may require an employee, who has applied for, or is receiving Continuation of Pay or compensation as a result of, a work-related injury or occupational disease or illness, to report for an examination to determine medical limitations that may affect Agency placement decisions.
- h. The employee must notify his/her supervisor in writing of traumatic injury as soon as possible, but no later than 30 days from the date of injury or disease. If the employee is incapacitated, this action may be taken by someone acting on the employee's behalf, including a family member, union official, the employee's supervisor, or other representative.
- i. If death due to traumatic injury occurs, the supervisor must notify HCTM/ESB and survivors immediately. The OWCP district office must also be notified by the person claiming benefits or someone acting on his or her behalf. Claims for compensation must be filed within a period of three (3) years as explained in **442.3.2** and **442.3.8**.
- j. Based upon OWCP's approval, M/CFO/P processes employee's request to buy back leave used during a period of disability that was caused by an occupational disease or illness or traumatic injury.
- k. HCTM separates an employee when it appears that there is little prospect that the employee will return to work because of a physical or mental disability.
- l. USAID must provide reasonable accommodation(s) for eligible individuals upon their return to duty, consistent with [ADS 110](#) and applicable laws and regulations.

**442.3.2 Conditions of Coverage**

Effective Date: 12/31/2007

In order to be approved, an employee's claim must meet the basic requirements of time, status as a civilian employee, fact of injury, and performance of duty and causal relationship, in that order. Otherwise, the employee will receive a formal denial of benefits with appeal rights (see **442.3.13**).

**a. Time**

For injury or death, the law provides that a claim for compensation must be filed within three years of the injury or death. Even if the claim is not filed within three years, compensation may still be allowed if written notice of injury was given within 30 days or if the immediate supervisor had actual knowledge of the injury or death within 30 days of the occurrence. The supervisor may acquire actual knowledge through firsthand observation of the incident, from another employee, or from medical personnel. OWCP may excuse failure to comply with the three year time requirement because of exceptional circumstances (for example, being held prisoner of war).

For traumatic injury, the statutory time limitation begins to run from the date of injury. Where death is due to traumatic injury, time begins to run from the date of death.

**b. Civilian Employee**

If the claim is timely filed, it must be determined whether the injured or deceased individual was an "employee" within the meaning of the law.

The FECA program covers all civilian federal employees except non-appropriated fund employees. Temporary employees are covered on the same basis as permanent employees. Contract employees, volunteers, and loaned employees are covered under some circumstances; such determinations must be made on a case-by-case basis once a claim is filed. Federal employees who are not citizens or residents of the United States or Canada are covered, subject to certain special provisions governing their pay rates and computation of compensation payments.

**c. Fact of Injury**

An employee must identify factors that allegedly caused the disability. The two factors involved are:

- (1) Did an incident occur at the time and place and in the manner claimed?  
An injury does not have to be witnessed to be compensable, but its history must be consistent with related facts and circumstances.
- (2) Is a medical condition present which may be related to the incident? This is determined on the basis of the attending physician's statement.

#### d. Performance of Duty

- (1) Generally, once an employee is on work premises during normal working hours, s/he is presumed to be on duty, unless circumstances indicate otherwise. Activities such as altercations, willful misconduct, and intoxication, even though they occur on the job, may remove an employee from the performance of duty. Employees injured off the premises, including travel to and from work, generally are not covered unless they are in a special duty status, i.e., travel duty or using a government vehicle.
- (2) Coverage is extended to workers - such as chauffeurs and messengers who perform service away from the Agency's premises, employees sent on errands or special missions, and employees who perform service at home – if the injury was associated with work and within the scope of the performance of duty.
- (3) Injuries incurred under other circumstances will be determined on a case-by-case basis by OWCP.

#### e. Causal Relationship

The employee must show that his/her injury was caused by or aggravated, accelerated, or precipitated by employment factors. Medical certification must cite a relationship between the claimed injury and employment. An employee who initially shows that a disability is work-related may be asked to undertake further medical evaluations to determine if the disability continues to be work-related.

#### f. Statutory Exclusions

- (1) Benefits will be denied if the Agency or the OWCP proves that the employee engaged in willful misconduct, intoxication, or intention to bring about injury or death to oneself or another.
- (2) Payment of compensation and certain other federal benefits, e.g., regular or disability annuity paid by the U.S. Office of Personnel Management or under the Foreign Service retirement systems, at the same time is prohibited. Allowable concurrent compensation includes military retired pay, social security payments, and unemployment benefits.

#### **442.3.3 Special Provisions** Effective Date: 08/11/2016

This subsection discusses special circumstances that need to be evaluated under the worker's compensation program **in order to determine whether benefits may be claimed.**

**a. Coverage While in Travel Status**

Civil or Foreign Service employees on official travel status are covered by FECA. Coverage is provided 24 hours a day for all reasonable incidents of travel, including securing meals and using lodging facilities. Recreational activities may be covered; however, USAID must explain what benefit it derived from the employee's participation, the extent to which USAID sponsored or directed the activity, and whether the employee's participation was mandatory or optional.

**b. Personal Service Contractors (PSCs)**

U.S. citizens or Third Country Nationals (TCNs) hired under a personal service contract retain similar benefits as direct-hire employees; however, **this must be based upon a determination by OWCP that they are eligible employees.**

**c. Foreign Service Nationals (FSNs)**

Compensation under FECA is payable to FSNs (including FSN/PSCs) on a case-by-case basis in amounts determined by the OWCP, which will base its compensation rates on local workers' compensation laws, regulations, and customs. FSNs employed in a country or area which has no well-defined workers' compensation benefits structure will be accorded the benefits provided in a nearby country. The compensation for disability and death, whether paid under local law or special schedule developed for the country, will not exceed that generally payable under FECA. FSN/PSCs are not eligible for Continuation of Pay (COP).

**The following subsections describe the benefits provided under FECA to employees who have a claim accepted by OWCP.**

**442.3.4 Medical Benefits**

Effective Date: 12/31/2007

Payments are made for any reasonable medical services to counteract or minimize the effects of a work-related disease, illness, or injury approved as compensable. There is no monetary or time limit on medical expenses as long as the need for medical treatment can be substantiated and connected to the work-related disease, illness, or injury. Payment will be made for first aid, medical treatment, transportation or hospitalization, physicians' fees, drugs, and appliances or other supplies directed by a qualified physician for treatment. The employee may elect to be treated by a government physician, if available, or by a physician of their choice. Payment will not be made for preventive treatment. For emergency first aid treatment, an employee can choose any qualified physician.

**442.3.5 Continuation of Pay (COP)**

Effective Date: 08/11/2016

FECA provides that an employee's regular pay may be continued for up to 45 calendar days of wage loss due to disability and/or medical treatment following a traumatic injury. The intent of this provision is to avoid interruption of the employee's income while the case is being adjudicated. Continuation of Pay is not considered a Workers' Compensation benefit and is therefore subject to the usual deductions from pay, such as income tax, retirement allotments, and other deductions.

The first day of COP must be taken within 90 days of the date of injury. An employee may elect to use annual or sick leave to cover all or part of an absence due to injury. Each full or partial day where leave is taken will be counted against the 45 days of entitlement to COP. While an employee may use COP intermittently along with sick or annual leave, entitlement is not extended beyond 45 days of combined absence. After COP is exhausted, the employee may apply for compensation or may use sick or annual leave.

Employees who elect leave may request to substitute COP during the 45-day period or may request to have leave restored retroactively. Requests for restoration must be made within one year of the date the leave was used or the date of written approval of the claim by OWCP, whichever is later. Employees and supervisors should consult with HCTM/ESB for further guidance on COP.

The Agency may object to paying COP (that is, controvert a claim) for specific reasons provided by regulation (see [5 CFR § 10.220](#)), or may dispute an employee's right to receive COP, and/or the validity of the claim as a whole, on other grounds (for example, on the basis that the employee was not performing assigned duties when the injury occurred or that the condition claimed is not the result of a work-related injury). In such cases, the employee's supervisor must consult with the HCTM/ESB Workers' Compensation Specialist and provide detailed supporting information on the OWCP claim form. Even though a claim is controverted, the Agency must continue the employee's regular pay unless one of the conditions in [5 CFR § 10.220](#) exists.

An employee who claims a work-related disease or illness is not entitled to COP.

#### **442.3.6 Compensation Benefits**

Effective Date: 12/31/2007

An employee must be in a leave-without-pay status before compensation for wage-loss is payable.

In establishing an employee's wage rate to determine compensation, certain additional amounts may be included in earnings, e.g., premium pay and housing allowance. Overtime is never included. Compensation payments are not taxable. When medical evidence no longer supports disability, the OWCP will take steps to effect reemployment.

##### **a. Total Disability Compensation**

Compensation is payable after the end of COP or the beginning of pay loss, where entitlement is established.

An employee without dependents receives compensation at 66 2/3 percent of their salary; with dependents, an employee is entitled to 75 percent of their salary.

A three-day waiting period for which no compensation is payable typically applies, except in cases of permanent disability.

Compensation for total disability will continue as long as medical evidence supports total disability. There is no total dollar maximum or time limitation.

#### **b. Partial Disability Compensation**

Compensation is at the same rate for total disability (66 2/3 and 75 percent) and is paid for the duration of the wage loss.

If an injury is so severe that an employee is unable to care for their physical needs, an attendant's allowance may be paid, in addition to compensation. An employee who believes he or she is entitled to such an allowance must contact their OWCP district office by letter for instructions on how to apply for this benefit.

#### **Home/Vehicle Modification**

An employee, whose injury restricts mobility and independence in the normal functions of living, either permanently or for a prolonged period, may be entitled to house/vehicle modifications. Examples of these conditions include blindness, profound bilateral deafness, and total loss of use of limbs, such as if a prosthesis, wheelchair, or leg brace is required. An employee may apply for such modifications by narrative letter. They must be recommended by the attending physician and the modified house or vehicle must be consistent with the employee's pre-injury standard of living.

#### **Schedule Awards**

Compensation is provided for specified periods of time for the permanent loss or loss of use of certain body parts and functions; partial loss or loss of use of these parts and functions is compensated on a proportional basis. For example, if there is a serious disfigurement of the head, face, or neck, which results from a work-related injury, the employee is entitled to a fixed sum. Schedule awards may also be paid while an employee is receiving sick or annual leave pay, drawing retirement benefits, working within the private sector, or is self-employed. Employees cannot receive wage loss compensation and schedule award benefits concurrently for the same injury. Compensation can be paid even if the employee returns to work at full salary.

#### **442.3.7 Vocational Rehabilitation**

Effective Date: 12/31/2007

FECA ([5 USC 8104](#)) provides for vocational rehabilitation services to assist disabled employees in returning to gainful employment, consistent with their physical, emotional, and educational abilities. An employee with an extended disability may be considered for rehabilitation services if requested by the attending physician, the employee, or Agency personnel. In addition, OWCP will routinely consider a case for rehabilitation services if the agency cannot reemploy the employee.

If the request for rehabilitation is approved, the employee is referred to a state or private Rehabilitation Counselor for development of a rehabilitation plan. A plan may include one or more of the following: selective placement with the previous employer, placement with a new employer, counseling, guidance, testing, work evaluation, training, and job follow-up. When suitable jobs are identified, OWCP expects the employee to return to work and will determine entitlement to future compensation. OWCP will provide 90 days of placement services.

An employee in an approved vocational rehabilitation program may be paid an allowance in connection with the program. The employee is also entitled to compensation at the rate for total disability during the rehabilitation program.

**442.3.8**      **Death Benefits**  
Effective Date: 08/11/2016

Survivors of employees who die as a result of a work-related injury or illness are entitled to certain death benefits, payable if a claim is filed by eligible beneficiaries. The employee's official supervisor must complete the [Official Superior's Report of Employee's Death form \(CA-6\)](#). If the employee is survived by a spouse and/or children, the [Claim for Compensation by Widow, Widower, and/or Children form \(CA-5\)](#) must be filed. If the employee is survived by parents, brothers, sisters, grandparents or grandchildren, a [Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren \(CA-5b\)](#) is required. HCSC/EBS must submit the CA-6 form to OWCP and OWCP will give forms CA-5 and CA-5b to the survivors. Continuation of benefits is not automatic; beneficiaries must show that the death resulted from the same condition for which the disability claim was accepted. Claims for compensation must be filed within a period of three (3) years.

**a. Compensation Payments**

- A surviving spouse with no eligible children is entitled to compensation at the rate of 50% of the deceased employee's salary. Benefits, including cost of living increases, are paid to the spouse until death or remarriage before age 55. If a spouse under age 55 remarries, OWCP makes a lump-sum payment equal to 24 times the monthly compensation at the time of remarriage; no additional compensation will be paid. Remarriage after the age of 55 does not affect benefits.

- A surviving spouse who has eligible children is entitled to compensation at the rate of 45 percent of the deceased employee's salary. An additional 15 percent is payable for each child, to a maximum of 75 percent of the deceased employee's salary payable on a "share and share alike" basis.
- If the deceased employee leaves no spouse, the first child is entitled to 40 percent and each additional child, 15 percent, in the manner described above.
- OWCP determines if other survivors are entitled to compensation. These individuals must contact OWCP regarding claims.
- In addition, an eligible survivor who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation may be entitled to receive a death gratuity payment of up to \$100,000 under [5 USC 8102a](#) (see also [3 FAM 3652.2.c](#)).

#### b. Funeral and Burial Expenses

In cases approved for death benefits, OWCP will pay up to \$800 for funeral and burial expenses. The decedent's personal representative maybe paid up to an additional \$200 for administrative costs incurred in closing the employment status of the deceased employee.

#### **442.3.9 Dual Benefits** Effective Date: 08/11/2016

FECA prohibits payment of compensation and certain other federal benefits at the same time. This prohibition does not, however, prevent an individual from filing for benefits from more than one government program at a time. For instance, a claimant for disability benefits may file for a retirement annuity (regular or disability) while his or her claim with OWCP is pending. Similarly, a claimant for death benefits may file for a death annuity while his or her claim with OWCP is pending. Only if both benefits are approved will the rules governing dual benefits be invoked. Employees who plan to file for benefits in addition to workers' compensation should consult with HCTM/ESB.

#### **442.3.10 Job Retention and Restoration Rights** Effective Date: 08/11/2016

Federal employees who have OWCP-approved claims and have fully or partially recovered from work-related injuries have certain job retention rights [in accordance with 5 USC 8151](#) and [5 CFR Sections 353, 301, and 302](#).

**Full Recovery:** An employee who recovers within one year of beginning compensation has mandatory restoration rights to his/her former position or its equivalent, regardless of whether s/he is on the Agency's rolls.



**Partial Recovery:** If recovery occurs after one year, the employee is entitled to priority consideration, provided that application is made within 30 days of the date compensation ceases. If the employee is partially recovered, the Agency must make every effort to restore him/her to his/her former position, according to the circumstances of the case.

**442.3.11 Leave Repurchase**  
Effective Date: 08/11/2016

Subject to OWCP approval, an employee has the option of buying back leave used as a result of a work-related injury or illness. The employee has up to one year after the leave was used to request the leave buy back. The request must be based on an OWCP accepted claim and must be justified by medical evidence supporting the periods of absence. The employee may choose to repay USAID directly for the salary collected and request reimbursement directly from the OWCP. Alternatively, the employee may authorize OWCP to pay the Agency directly for the periods of absence, which it will apply to the uncollected salary. USAID may seek payment of any balance or refund any difference. M/CFO/P will restore the purchased leave to the employee's leave account in accordance with established procedures.

**442.3.12 Health Benefits/Optional Life Insurance**  
Effective Date: 08/11/2016

The OWCP will make deductions for Federal Employee's Health Benefits coverage for claimants who are entitled to continue enrollment while receiving compensation. Basic coverage under the Federal Employee's Group Life Insurance Program is continued at no cost to the employee while s/he is receiving compensation, unless the claimant has elected Post-Retirement Basic Life Withholdings at 100 or 50 percent of original value.

**442.3.13 Hearing, Reconsideration, or Appeal**  
Effective Date: 12/31/2007

This section describes the process that OWCP has established for handling employee claims.

**a. Decision and Notification**

OWCP will notify employees in writing of the approval/disapproval of their claims. Employees also will be notified of their obligations to return to work after total or partial recovery.

**b. Appeal**

An employee may appeal a formal decision to OWCP with which s/he disagrees, but may request only one form of an appeal at a time.

**c. Hearing**

An employee may request an oral hearing before an OWCP representative or a review of the written record, but not both. The request must be made in writing within 30 days after the date of the formal decision.

**d. Reconsideration**

An employee may ask the OWCP to reconsider a formal decision made by the district office. The request must be made within one year of the date the contested formal decision was issued, and must specify the grounds for reconsideration.

**e. Further Appeal**

An employee may ask the Employees' Compensation Appeals Board (ECAB) to review the OWCP's final decision. If the employee resides in the continental United States or Canada, the appeal request for review must be submitted within 90 days of OWCP's final determination. If the claimant resides elsewhere, the request for review must be submitted within six months of the formal decision. To file an appeal, the employee must write to the following address:

Employees' Compensation Appeals Board  
U.S. Department of Labor  
Washington, DC 20210

No new evidence may be filed with an appeal. The ECAB review is based on the case record presented before the OWCP when the decision was made.

**442.3.14 Custody, Confidentiality and Protection of Records**

Effective Date: 12/31/2007

This section describes the handling of records related to worker's compensation.

- a. All medical records, other reports, statements of witnesses, and other papers relating to the injury or death of an employee or other persons entitled to compensation under FECA are the official records of the OWCP.
- b. OWCP records pertaining to an injury or death are confidential and exempt from disclosure to the public. No official or employee of USAID who has investigated or secured statements from witnesses and others pertaining to a claim, or any person responsible for the care or needing to use such reports, can disclose information from or pertaining to such records to any person, except according to [29 CFR Part 70](#) and [70a](#).
- c. The protection, release, inspection, and copying of records pertaining to an injury or death must be done according to [29 CFR Part 70](#) and [70a](#).

- d. The regulations of USAID govern the procedure for requesting access to, or amendment of the records, including initial determinations on such requests. Department of Labor regulations govern all other aspects of safeguarding records. When requested to amend records, USAID must advise OWCP and provide OWCP with a copy of any amended record.
- e. Records of OWCP pertaining to an employee or beneficiary may be released by the employing agency to that employee or beneficiary, or their representative, according to [29 CFR Part 70a](#), including copies retained by the employee agency of records previously submitted to and in the possession of OWCP.
- f. When an employee or beneficiary is prosecuting an action for damages under [5 USC 8131](#), records may be released according to [29 CFR 70a](#).

#### 442.3.15 Penalties

Effective Date: 12/31/2007

The following persons are subject to criminal prosecution:

- a. Any person who knowingly makes or certifies to any false statement, misrepresentation, concealment of fact or any other act of fraud with respect to a claim under FECA or who knowingly accepts compensation to which they are not entitled;
- b. Any person who, with respect to a claim under FECA, enters into an agreement, combination, or conspiracy to defraud the United States by obtaining or aiding to obtain the payment or allowance of any false, fictitious, or fraudulent claim; and
- c. Any person responsible for making reports in connection with an injury and who willfully fails, neglects, or refuses to do so; induces, compels, or directs an injured employee to forgo filing claim; or willfully retains any notice, report, or paper required in connection with an injury.

#### 442.4 MANDATORY REFERENCES

##### 442.4.1 External Mandatory References

Effective Date: 08/11/2016

- a. [3 FAM 3652](#)
- b. [5 USC 81](#)
- c. [20 CFR Part 10, Claims for Compensation under the Federal Employees' Compensation Act, as amended](#)
- d. [29 CFR 1630](#)

- e. [CA-810, Injury Compensation for Federal Employees](#)
- f. [Federal Employees' Compensation Act, as amended](#)
- g. [Privacy Act of 1974](#)
- h. [The Rehabilitation Act of 1973, as amended, 29 USC 791, et. seq.](#)

**442.4.2 Internal Mandatory References**

Effective Date: 08/11/2016

- a. [ADS 110, Equal Employment Opportunity](#)

**442.4.3 Mandatory Forms**

Effective Date: 08/11/2016

- a. [CA-1, Federal Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation](#)
- b. [CA-2, Notice of Occupational Disease and Claim for Compensation](#)

**442.5 ADDITIONAL HELP**

Effective Date: 12/31/2007

There are no Additional Help documents for this chapter.

**442.6 DEFINITIONS**

Effective Date: 12/31/2007

See the [ADS Glossary](#) for all ADS terms and definitions.

**claimant**

An individual whose claim for entitlement to Federal Employees' Compensation Act (FECA) benefits has been filed according to FECA provisions. (**Chapter 442**)

**compensation**

Nontaxable benefits, including money paid due to loss of wages, medical expenses, rehabilitation expenses, loss of use of major body functions, and death benefits, payable under the FECA. (**Chapter 442**)

**Continuation of Pay (COP)**

Continuation of regular salary for up to 45 calendar days due to disability and/or medical treatment following a traumatic injury, intended to eliminate interruption of income while the Office of Workers Compensation Program (OWCP) is processing the employee's claim. Continuation of Pay (COP) is subject to taxes and all other usual payroll deductions. (**Chapter 442**)

**controversion**

The formal administrative procedure through which the Agency presents evidence to the Office of Workers' Compensation Program challenging an employee's claim.

**(Chapter 442)**

**day**

Means, unless otherwise specified, a calendar day. **(Chapter 442)**

**dependent**

A spouse (defined as a partner in any legally-recognized marriage, regardless of the employee's state of residency. The term "spouse" does not include unmarried domestic partners, unless they meet the requirements of being spouses in a common-law marriage in States where such marriages are recognized.), unmarried child (including unmarried dependent stepchild or adopted child) under 21 years of age, a dependent mother or father, a dependent designated in official records, or an individual determined to be a dependent by the Chief Human Capital Officer (CHCO), Office of Human Capital and Talent Management (HCTM), or designee. **(Chapters 442, [443](#), [478](#))**

**formal decision**

Any Office of Workers' Compensation Program determination which states that Office's findings with respect to the case and includes a description of the employee's appeal rights. **(Chapter 442)**

**leave repurchase**

The "buy back" and re-accredit of leave used by an employee during a period of disability caused by an injury or occupational disease or illness after the employee's claim for compensation has been approved. **(Chapter 442)**

**light or limited duty**

The temporary or permanent assignment to productive duty of an employee partially disabled from a work-related injury or illness and unable to perform their regular duties. The employee's return to work must be recommended by an appropriate medical authority and the assigned tasks must be consistent with specified physical limitations. **(Chapter 442)**

**occupational disease or illness**

A condition produced in the work environment over a period longer than one workday or shift by such factors as systemic infection; repeated stress or strain, or exposure to hazardous elements such as, but not limited to, toxins, poisons, fumes, noise, particulate or radiation, or other continuing conditions of the work environment.

**(Chapter 442)**

**partial disability**

An employee is unable to return to regular duty but is not totally disabled.

**(Chapter 442)**

**physician**

Surgeons, osteopathic practitioners, podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited treatment) within the scope of their practice as defined by state law. (**Chapter 442**)

**reasonable accommodation**

Any change in the work environment or application process that enables a person with a disability to enjoy equal employment opportunities. There are three general categories of reasonable accommodations:

- Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille and providing a sign language interpreter);
- Modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters; making existing facilities accessible; job restructuring; part-time or modified work schedules; acquiring or modifying equipment; changing tests, training materials, or policies; providing qualified readers or interpreters; and reassignment to a vacant position); and
- Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (such as (1) training; (2) services (e.g., employee assistance programs (EAP's), credit unions, cafeterias, lounges, gymnasiums, auditoriums, transportation); and (3) parties or other social functions (e.g., parties to celebrate retirements and birthdays, and Agency outings). (**Chapters [110](#), [111](#), [405](#), [442](#)**)

**recurrence**

A disability that occurs after the employee returns to work following absence due to a work-related disease, condition or injury. The disability is the result of a spontaneous return of the symptoms of the previous injury, disease or illness without intervening cause, or the need for medical treatment, other than a usual office call, for residuals of the previous condition. (**Chapter 442**)

**rehabilitation**

Services and/or training provided to an injured employee who suffers from a vocational handicap due to an occupational injury or illness and who cannot resume usual employment. (**Chapter 442**)

**schedule awards**

Compensation is provided for specified periods of time for the permanent loss, or loss of use, of each of certain body members, organs and functions. (**Chapter 442**)

**total disability**

The inability of an employee to work in any capacity as a result of a work-related injury or occupational disease or illness. (**Chapter 442**)

**traumatic injury**

A wound or other condition of the body caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and affected body member or function, and which occurs within a single day or work-shift. Traumatic injury includes prosthetic devices or applications, such as eyeglasses and hearing aids, damaged or destroyed incidental to a work-related personal injury requiring medical services. (**Chapter 442**)

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