

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

DEPARTMENTAL REGULATION	Number: 4430-004
SUBJECT: Workers' Compensation Program	DATE: March 8, 2016
	OPI: Office of Procurement and Property Management

1. PURPOSE

This directive sets forth the Department of Agriculture's (USDA) policy on the Federal Employees Compensation Act (FECA), providing information on the reporting of and compensation for job-related injuries and occupational diseases.

2. REFERENCES

This directive must be used in conjunction with the authorities listed below, and with applicable collective bargaining agreements:

- a. 5 U.S.C. Chapter 81 (Sections 8101-8152), Compensation for Work Injuries;
- b. 20 CFR parts 1 and 10, Federal Employees' Compensation Act (FECA);
- c. Division of Federal Employees' Compensation (DFEC) Procedure Manual Claims (FECA Part 2) Chapter 2-0814, Job Offers and Return to Work;
- d. DR 4430-005 Workers Compensation Return to Work
- e. 5 CFR 339.205, Medical Qualifications Determinations;
- f. 5 CFR 353, Restoration to Duty from Uniformed Service or Compensable Disability;
- g. 5 USC Section 8102a, Death Gratuity Injuries Incurred in Connection with Service with an Armed Force;
- h. www.dol.gov/owcp/dfec - this website contains laws, regulatory material and other resources pertaining to the DOL/OWCP Federal Employees Compensation Act (FECA); and
- i. The Health Insurance Portability and Accountability Act (HIPAA).

3. SPECIAL INSTRUCTIONS/CANCELLATIONS

This regulation supersedes previously issued Departmental Regulation (DR) 4430-003, dated August 31, 2010.

4. BACKGROUND

FECA provides monetary compensation, medical care and assistance, vocational rehabilitation, and reemployment rights to Federal employees who sustain disabling injuries as a result of their employment with the Federal Government. FECA also provides for the payment of some funeral expenses and for compensation benefits to qualified survivors of the decedent in cases of employment-related death. The compensation program is conducted under laws and regulations administered by the [U.S. Department of Labor](#) (DOL), Office of Workman's Compensation Programs (OWCP).

5. APPLICABILITY

The provisions of this directive cover all USDA employees as defined by 5 U.S.C. Section 8101 (1) (A), regardless of the tenure of their employment.

6. POLICY

The USDA is committed to the prevention of occupationally related injuries and illnesses, with a goal of reducing the number of occupational injury and illness claims, including those that result in a Continuation of Pay (COP). It is USDA's policy, as directed by [FECA 8102 - DOL Office of Workers' Compensation Programs \(OWCP\)](#) to provide compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of duty. Through proactive and preventive management efforts, the USDA will work with supervisors to reduce compensation costs by reducing injury and accident rates.

The USDA will seek to timely return injured employees to work. Employees with job-related disabilities who are unable to perform previously assigned duties will be considered for reassignment to duties for which they are qualified, and which they are medically capable of performing. The USDA Return to Work (RTW) [DR 4430-005 Workers Compensation Return to Work](#) will facilitate the process of re-employing employees and former employees who are participating in the Workers' Compensation (WC) Program and cannot perform the full scope of their official duties due to an accepted work-related injury. Employees may be re-employed to their former positions with accommodations or another appropriate position in USDA for which they are qualified and as allowed by law and in accordance with and medical restrictions issued by a confirmed treating physician.

The USDA will provide employees prompt attention and assistance in claiming just compensation from the DOL, OWCP, for job-related injuries and occupational diseases.

7. DEFINITIONS

- a. Agency. An organization unit of the Department, other than a Staff Office as defined below, whose head reports to an Under Secretary.
- b. Agency Head. The head of a USDA agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.
- c. Bargaining Unit: A group of employees represented by a union in collective bargaining.
- d. Chargeback: Mechanism by which costs for work-related injuries and deaths are assigned to employing agencies through the DOL, OWCP. Payments are made from the Employees' Compensation Fund.
- e. Continuation of Pay (COP): Continuation of an employee's salary for up to 45 calendar days of wage loss due to disability and/or medical treatment following a traumatic injury.
- f. Controversion: The process by which a supervisor or an agency recommends to the DOL OWCP that COP be denied.
- g. Department of Labor (DOL): A Federal Department charged with preparing the America's work force for new and better jobs in the 21st Century work force, and ensuring the adequacy of America's work places. DOL enforces Federal statutes which cover a wide variety of workplace activities to include protecting workers' wages, health, safety, employment, and pension rights; promoting equal employment opportunity; and administering job training, unemployment insurance, and WC programs.
- h. DOL/Office of Workers' Compensation Programs: Adjudicates new claims for benefits, manages ongoing cases, and pays medical expenses and compensation benefits to injured workers and survivors.
- i. Disability: The incapacity, because of an employment injury/illness, to perform the duties an employee was performing at the time of the injury/illness.
- j. Federal Employees Compensation Act (FECA): Provides workers' compensation coverage to Federal United States civilian workers including wage replacement, medical and vocational rehabilitation benefits for work-related injury and occupational disease. FECA also provides for payment of benefits to dependents if a work-related injury or disease causes an employee's death.
- k. Injured Worker (IW): An employee who is injured in the performance of official duties, either by a traumatic injury or occupational disease or illness.

- l. Light or Modified Duty. Those duties and responsibilities that are outside an employee's regular position but that meet the employee's current work capabilities as identified by a physician. They may be performed for a full work shift or for shorter time periods.
- m. Limited Duty. Those specific duties and responsibilities of an employee's regular position that meet the employee's current work capabilities as identified by a physician. These duties may include all or part of the employee's regular job assignment. They may be performed for a full work shift or for shorter time periods.
- n. Medical Documentation: Medical information pertaining to an employee's work related injury which addresses current medical limitations of the employee as it relates to the performance of duty for the purpose of determining appropriate duties and placement for the employee upon returning to work.
- o. Medical Services: Services and supplies provided by or under the supervision of a physician.
- p. Occupational Disease or Illness. A condition which is the result of systemic infection; continued/repeated stress or strain; exposure to toxins, fumes, or other continued/repeated exposure to conditions of the work environment over a period of time longer than a single work day or shift.
- q. Office of Workers' Compensation Program (OWCP): The Federal agency within the DOL having the authority to approve or deny Federal civilian employees WC claims for work-related injuries or illnesses.
- r. Return to Work (RTW): Process where claimants are returned to work after a period of recuperation away from the job. Claimants can be returned to work in part-time or light duty positions, their position prior to the injury/illness, or a new position depending upon several criteria (availability of positions, injury status, medical limitations, etc.)
- s. Staff Office. A Departmental Administrative Office whose head reports either to the Assistant Secretary for Administration or to the Secretary.
- t. Staff Office Head. The head of a Staff Office or an official who has been delegated the authority to act for the head of the Staff Office in the matter concerned.
- u. Temporary Light Duty: A temporary work status an employee may be eligible for if the employee produces sufficient medical documentation, until Maximum Medical Improvement has been reached.
- v. Traumatic Injury: A wound or other condition of the body caused by external force, including stress or strain. The injury is identifiable as to time and place of occurrence and member or function of the body affected. It must be caused by a specific event or incident or series of events or incidents within a single day or work shift.

- w. WC Case Manager: USDA Agency employees with the responsibility of assisting in WC program administration by providing advice and counsel to employees on WC matters.
- x. WC Program Manager: The designated employee within the Agency responsible for the development, implementation, and evaluation of a comprehensive WC program.

8. RESPONSIBILITIES

Note: One employee may be accountable for more than one of the responsibilities identified in this section.

a. Office of Procurement and Property Management (OPPM) Director shall:

- (1) Establish USDA's WC and RTW policies;
- (2) Provide technical assistance and advice on complex issues that arise;
- (3) Monitor agency and staff office compliance with Departmental policy;
- (4) Provide Agencies with access to the automated cost and claim information necessary to manage their programs;
- (5) Review, analyze and distributed quarterly chargeback data received electronically from the DOL;
- (6) Conduct reviews of agency programs as necessary or as requested and;
- (7) Report to the DOL and other entities, as required.

b. Agency and/or Staff Office Heads shall:

- (1) Delegate appropriate authority to managers, supervisors, and other management officials, as required, to implement and operate the requirements of this Directive in a manner consistent with effective operations and sound management practices; and
- (2) Administer USDA WC program in accordance with law and applicable regulations consistent with this directive and USDA's policy. Agency programs must be designed to reduce work related injuries and illnesses and to minimize time lost by:
 - (a) Establish an Agency/Mission Area-wide RTW program to offer IW's suitable jobs and return them to work as soon as possible;
 - (b) Establish an Agency wide RTW process to offer IWs suitable jobs and return them to work outside of the employing Agency when the employing Agency is unable to find a suitable placement; and

- (c) Establish accountability by driving program cost charges to the lowest possible organizational level.
- c. Mission Area or Agency Human Resources Directors and/or Staff Office Heads shall:
- (1) Administer the USDA-wide RTW process to offer IW suitable jobs, consider retraining options based on employee needs and agency requirements and seek to return them to work outside of the employing Agency when the employing Agency is unable to find a suitable placement. This will require cross-collaboration between USDA Mission Areas, Agencies, and Staff Offices to facilitate placements;
 - (2) Exhaust OHRM's repository list containing eligible USDA RTW employees prior to recruiting;
 - (3) Agencies have special Non-Competitive Hiring Authorities, Schedule A, for employees with disabilities. Schedule A is a hiring authority that Federal agencies may use to hire qualified individuals with documented disabilities (Schedule A letter required) into positions non-competitively without going through the often lengthy traditional hiring process. If you have a temporary or term employee that has become disabled due to their accepted injury/condition and cannot return to their previous position, you are strongly encouraged to use Special Hiring authorities for alternative placements;
 - (4) Designate a WC Program Manager. This position may be either full-time or collateral-duty, as appropriate for the size of the program. If the WC program is not under the purview of the OHRM Director, the senior Agency representative will be responsible for designating a WC program manager;
 - (5) Retain program management responsibility within the agency even if case management is outsourced;
 - (6) Provide adequate training and information on program and case management and procedures for managers, supervisors, and employees;
 - (7) Provide assistance for managers and supervisors in the execution of their program responsibilities;
 - (8) Conduct analyses or participate in program evaluations using established program assessment tools to assess whether programs comply with established principles, policies, procedures, and determining the need for improvement, training, or guidance;
 - (9) Take adequate measures to protect the privacy of IW's;

- (10) Provide requested reports and documentation of program activities to support USDA and DOL accountability program reviews and/or audits; and
- (11) Require OHRM to develop a repository of WC claimant vacated positions requiring backfill prior to other forms of recruitment. In other words, injury positions should be refilled with an employee who is medically cleared to RTW.

d. Managers and Supervisors shall:

- (1) Ensure that employees are oriented in safety practices and that they observe safe work habits;
- (2) Provide healthy and safe work areas;
- (3) Correct, to the extent of their authority, recognized hazards that are causing or are likely to cause death or serious physical harm;
- (4) Ensure employees receive prompt medical care for injuries sustained on the job;
- (5) Notify the appropriate WC program manager and/or Human Resources (HR) specialist immediately of any injury sustained on the job by an employee under their supervision;
- (6) Complete all Supervisory sections of all DOL CA forms submitting the original of these forms filled out correctly and within allotted time limits to the appropriate WC program manager and/or HR Specialist;
- (7) Advise employees of their rights regarding election of continuation of regular pay or use of annual or sick leave as applicable to their injuries;
- (8) Inform employees whether COP will be controverted, and, if so, whether it will be terminated, including the basis for this action;
- (9) Receive and acknowledge all requests for light duty, allow for flexible work schedules should the IW require additional medical treatment and or physical therapy after they return to work;
- (10) In consultation with the IW HR office and the WC staff, determine the availability of light duty and continually monitor potential assignments that may meet the needs of the IW and the employing agencies as needed;
- (11) Respond to WC inquiries regarding the availability of and options for light duty. Make every effort to safely and appropriately accommodate an IW's temporary medical limitations provided by the treating physician;

- (12) Require the employee to submit current medical documentation to the Agency WC Case Manager for use by the agency to identify an assignment or position that appears to meet the abilities and/or limitations of the employee;
 - (13) Require that an employee assigned light duty submit medical documentation at designated intervals to support the need for continued light duty or to modify the assignment consistent with changes in physical limitations. Strict adherence to the protection of employee's medical documentation in compliance with 2HIPAA is expected of all supervisors and managers.
 - (14) Refer the employee to the appropriate HR staff regarding benefits, when necessary;
 - (15) Follow up on an employee's request for light duty assignment to ascertain if light duty becomes available after an initial determination of unavailability;
 - (16) Document efforts to utilize a partially disabled employee and submit this documentation to the WC staff to ensure that supervisor fulfills obligations under this policy. Provide IW with a copy of documentation;
 - (17) Initiate appropriate requests for personnel action, as needed; and
 - (18) Report any instances of possible abuse or false claims.
- e. Workers Compensation (WC) Staff/ Case Manager shall:
- (1) Notify the IW of their benefits rights under FECA;
 - (2) Review all IW files to identify current and former employees who may be able to return to work in either a temporary light duty or permanent assignment situation. Base their review on the most current medical documentation available and may work with DOL/OWCP, the Reasonable Accommodation Program Manager, and/or Employee Relations Branch to request and assess new, updated medical information regarding the limitations and abilities of the injured individual;
 - (3) Coordinate with the servicing DOL/OWCP office regarding the value, cost, and extent of vocational rehabilitation necessary to retrain and re-employ IW for whom no work is available for which they can use their current skills/abilities;
 - (4) Monitor rehabilitation efforts and progress; re-training and re-employment with available resources;
 - (5) Coordinate with Mission Area HR Directors to determine placement opportunities if none are available in the employing Agency;

- (6) Establish job information networks and ensure outreach efforts for position vacancies giving consideration to disabled claimants as a pool of potential candidates; and
- (7) Assist management with official light duty offers to current IWs that comply with FECA requirements and the IW's medical limitations. Advise the employee in writing of:
 - (a) Light duty availability, its organizational/geographical location and expected duration;
 - (b) All duties of the proposed position;
 - (c) The specific physical limitations communicated by the employee's attending physician and used to determine appropriate duties for returning to work;
 - (d) The employee's responsibility to work within prescribed medical limitations;
 - (e) The employee's responsibility to use universal tools, processes and procedures and instructions for access (e.g., pharmaceuticals contract, rehabilitation services, etc.);
 - (f) Assess the adequacy of efforts to place eligible employees in light duty assignments on a case-by-case basis; and
 - (g) Periodically evaluate the effectiveness of and recommend changes/enhancements to the RTW program.

f. IW shall:

- (1) Comply with all applicable safety and health rules and regulations in order to prevent injuries and illnesses;
- (2) Ensure unsafe or unhealthful working conditions are reported to their immediate supervisor as soon as possible;
- (3) Report work-related injuries and illnesses to their immediate supervisor as soon as possible;
- (4) Submit or ensure someone acting on the employee's behalf submits the necessary reporting information promptly;
- (5) Comply promptly with requests from their supervisor, the appropriate WC program manager, and/or HR for status updates or medical reports; and RTW as soon as the medical condition permits, even into a part-time, limited-duty, or light-duty work assignment or arrangement;

(6) Advise the supervisor immediately of any change in the medical condition impacting the ability to perform the full scope of duties to which officially assigned, and provide medical documentation to substantiate any changes in the medical condition and/or approval to return to the full range of duties; and

(7) Resume regular Federal employment, if capable.

9. PROGRAM ADMINISTRATION AND EVALUATION

This directive is administered through the OPPM, Safety and Health Management Division, Washington, D.C. 20250. As part of its overall program responsibility, OPPM may conduct reviews of agency WC programs. These will be conducted as part of comprehensive Management Reviews when deemed necessary by OPPM, or at the request of an agency.

When conducted, these program reviews will examine agency compliance with DOL and USDA requirements. This includes, but is not necessarily limited to, agency actions to:

- Track claim forms submissions, IW files, and OWCP time lag reports to ensure timely processing, or controversion of claims;
- Manage new and long-term claims;
- Monitor IW status during periods of disability, and ensure that IW's are RTW as soon as medically capable;
- Implement agency and/or Mission Area-wide RTW programs;
- Utilize available job information networks in the reemployment process and to consider disabled IW's for position vacancies;
- Review quarterly charge back reports to monitor cases and to identify any discrepancies involving overpayments and third party recoveries;
- Coordinate with OWCP offices regarding the cost and extent of vocational rehabilitation necessary to retrain and re-employ IW's; and
- Charge back WC costs to the unit incurring those costs.

-END-