

# DeCA

## Workers' Compensation Handbook



**Defense Commissary Agency  
Fort Lee, VA 23801-1800**

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DEPARTMENT OF DEFENSE  
HEADQUARTERS DEFENSE COMMISSARY AGENCY  
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Human Resources

**WORKERS' COMPENSATION HANDBOOK**



BY ORDER OF THE DIRECTOR

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**AUTHORITY:** This handbook is established in compliance with provisions of DoD Directive 5105.55, Defense Commissary Agency (DeCA), November 1990.

**MANAGEMENT CONTROLS:** This handbook does not contain Management Control provisions that are subject to evaluation, testing, and other requirements of DeCAD 70-2 and as specified by the Federal Manager's Financial Integrity Act.

**APPLICABILITY:** This handbook applies to all DeCA civilian employees.

**HOW TO SUPPLEMENT:** This handbook may not be supplemented; however, any recommended revisions may be submitted to DeCA-DPP for consideration.

**HOW TO ORDER COPIES:** Commissary Stores and Satellite Offices needing additional copies will submit requirements on DeCA Form 30-21, through the Region to DeCA-DPP. Regions will consolidate requirements and order per published schedule. Headquarters and Field Operating Activities will order on DeCA Form 30-21 to DeCA-DPP.

**SUMMARY:** This handbook provides important information concerning employee entitlements under the Federal Employee Workers' Compensation Program. It is designed in question and answer format and can be used as a reference source by managers, supervisors and employees throughout the Agency.

OFFICE OF PRIMARY RESPONSIBILITY (OPR): HQ DeCA-DPP  
COORDINATORS: None  
DISTRIBUTION: E

**LOCAL REPRODUCTION OF THIS HANDBOOK IS PROHIBITED.**

## TABLE OF CONTENTS

<b><u>Subject</u></b>	<b><u>Question</u></b>
General Information.....	1-10, 125-128
Medical Benefits.....	11-24
Attendants' Allowance .....	25-27
Performance of Duty.....	8-32
Reports of Injury.....	33,129
Continuation of Pay .....	34-45,55,64
Compensation .....	46-52, 55, 64,72-76,82
Leave.....	53-54,56-58
Dependents.....	59-63
Health Benefits/Life Insurance .....	65-71
Death Benefits.....	77-83
Return to Work/Rehabilitation .....	84-97, 110
Schedule Awards .....	98-102
Elections of Benefits.....	103-116
Third Party Claims.....	117-119
Appeal Rights .....	120-121
Attorneys/Representatives .....	122-124

## **PREFACE**

This publication contains questions and answers most frequently raised about the Federal Employees' Compensation Act (FECA). It does not have the effect of law or regulation, but it describes in non-technical language the basic provisions of the FECA and includes information concerning the most common issues about entitlement and claims processing. The information contained in this publication is subject to policy and/or procedural change. More detailed information on specific problems may be obtained by contacting your Region Workers' Compensation Specialist.

## **General Information:**

### **1. What is the Federal Employees' Compensation Act?**

The Federal Employees' Compensation Act (FECA) is a law that provides compensation benefits to civilian employees of the United States for disability due to personal injury (including occupational disease) sustained while in the performance of duty.

Damage to or destruction of medical braces, artificial limbs, and other prosthetic devices incidental to a personal injury is also compensable. The FECA also provides for the payment of benefits to dependents if job-related injury or disease causes the employee's death.

### **2. Who administers the FECA?**

The FECA is administered by the Office of Workers' Compensation Programs (OWCP), U. S. Department of Labor, through district offices located throughout the United States.

### **3. Are all work injuries covered under the FECA?**

All injuries, including disease proximately caused by employment, sustained while in the performance of duty by civilian employees of the United States, except for non-appropriated fund employees, are covered. Temporary employees are covered on the same basis as permanent employees.

The employee must provide medical and factual evidence to establish the essential elements of the claim; i.e., that the claim was filed within the statutory time requirements of the FECA, the injured or deceased person was an employee within the meaning of the FECA, the employee sustained an injury or disease, the employee was in the performance of duty when the injury occurred, or the condition found resulted from the injury. Benefits cannot be paid if injury or death is caused by willful misconduct of the injured employee, by intent to bring about the injury or death of oneself or another, or by intoxication of the injured employee.

### **4. Is it necessary to report all injuries that occur at work, even minor injuries such as a scratched finger or bumped knee?**

All injuries should be reported, since a seemingly minor injury may develop into a more serious condition. For protection, the employee should file a report of the injury with the immediate supervisor when it occurs. Benefits cannot be paid unless an injury is reported.

## **5. How is a "Traumatic Injury" defined?**

A traumatic injury is defined as a wound or other condition of the body caused by external force, including stress or strain. The injury must be 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. Traumatic injuries include damage to or destruction of prosthetic devices or appliances, including eyeglasses and hearing aids if they were damaged incidental to a personal injury requiring medical services.

## **6. What is the definition of an "Occupational Disease or Illness" (also called non-traumatic injury)?**

An occupational disease is defined as a condition produced in the work environment over a period longer than one workday or shift. It may result from systemic infection, repeated stress or strain, exposure to toxins, poisons, fumes or other continuing conditions of the work environment.

## **7. Is there a specific form to be used for reporting an injury?**

Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation," is the form to use when reporting a traumatic injury.

Form CA-2, "Federal Employee's Notice of Occupational Disease and Claim for Compensation," is the form for reporting an occupational disease.

Instructions attached to Forms CA-1 and CA-2 should be followed carefully. Form CA-1 should be filed within 30 days following the injury, and Form CA-2 should be filed within 30 days from the date the employee realized the disease or illness was caused or aggravated by the employment. The forms may be obtained from the employing agency.

## **8. Can someone besides the employee complete a notice of injury?**

Yes. Forms CA-1 and CA-2 may be completed by another person, including the supervisor, acting on behalf of an injured employee, who is incapacitated. The person making the report should complete and sign the Form CA-1 or CA-2, and should then submit it to the employee's supervisor.

## **9. Is a pre-existing condition that is aggravated by factors of employment covered by the FECA?**

Diseases and illnesses aggravated, accelerated or precipitated by the employment are covered. The employee must submit medical and factual evidence that establishes that the employment aggravated, accelerated, or precipitated the condition.

**10. Is a recurrence of an employment-related disability covered by FECA?**

Yes. If an injured employee is again disabled as a result of the original injury or occupational disease, there is coverage under FECA. The recurrence should be reported by completing Form CA-2A, "Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation."

**11. Is an injured employee entitled to medical care, and if so, how is it obtained?**

If the employee requires medical treatment because of a work-related traumatic injury, the supervisor should complete the front of Form CA-16, "Authorization for Examination and/or Treatment," within four hours of the request. In an emergency, where there is no time to complete a Form CA-16, the agency may authorize medical treatment by telephone and then forward the completed form to the medical facility within 48 hours. Retroactive issuance of Form CA-16 is not permitted under any other circumstance. The supervisor may refuse to issue a CA-16 if more than a week has passed since the injury. Charges for initial medical treatment received without authorization by a CA-16 may be paid by OWCP when it is determined that the treatment resulted from the employment injury. The CA-16 guarantees payment to the original treating physician (or any physician to whom the employee was referred by the original treating physician) for 60 days from date of issuance unless OWCP terminates this authority at an earlier date. Treatment may continue at OWCP expense if the claim is approved.

Form HCFA 1500, American Medical Association Standard Health Insurance Claim Form, or Form OWCP-1500, the version of the form that includes instructions for submitting bills to OWCP, should accompany the CA-16.

If the employee requires medical treatment because of a disease or illness that is believed to be work related, the employee should arrange for the necessary medical treatment. If OWCP accepts the claim, they will pay for medical treatment that is required by the condition(s) accepted, including treatment received prior to acceptance. An agency may issue a CA-16 for an occupational disease or illness ONLY after obtaining approval from OWCP.

**12. Can the injured employee choose the physician who will provide treatment?**

An injured employee is entitled to initial selection of physician or facility for treatment of an injury. The provider must meet the definition of "physician" under the FECA. An agency may examine the employee at its own facility in accordance with Office of Personnel Management regulations, but the employee's choice of physician must be honored, and treatment by the employee's physician must not be delayed.

**13. What is the definition of "physician" under the FECA?**

The term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, osteopathic practitioners, and chiropractors within the scope of their practice as defined by state law. Under the FECA, the services of chiropractors may be reimbursed only for treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist. The term "subluxation" is defined as an incomplete dislocation, off-centering, misalignment, fixation or abnormal spacing of the vertebrae anatomically which must be demonstrable on any X-ray film to individuals trained in the reading of X-rays.

The term "qualified physician" does not include those whose licenses to practice medicine have been suspended or revoked by a state licensing or regulatory authority or who have been excluded from payment under the FECA.

**14. Will a claim for compensation benefits be jeopardized if an employee obtains treatment without authorization or changes physicians after an authorization has been made?**

No, but the employee may have to bear the cost of unauthorized medical care. An employee who wishes to change physicians after the initial choice must contact OWCP in writing for approval and include the reasons for requesting the change.

**15. Will OWCP pay the entire amount of the medical bill or is there a limit?**

OWCP uses a schedule of maximum allowable medical charges. This schedule applies to charges for medical services rendered on and after June 9, 1986, by providers (i.e., physicians, surgeons, podiatrists, clinical psychologists, optometrists, chiropractors, osteopathic practitioners, physicians' assistants, and therapists), including those services rendered in a hospital or nursing home setting. However, the schedule is not applicable to hospital, pharmacy, or nursing home charges.

The employee is not responsible for amounts charged in excess of the maximum allowable medical charges.

**16. If an employee pays medical expenses for authorized treatment or medication for a job-related injury, can employee obtain reimbursement?**

Yes. The employee may request reimbursement by submitting to OWCP a completed HCFA-1500, American Medical Association Standard Health Insurance Claim Form (or OWCP-1500) signed by the provider and itemized bills showing that the employee has paid the bill. Photocopies of cancelled checks may be accepted in lieu of receipts but must be accompanied by itemized bills or other evidence of the charge for which payment was made. Prescription receipts must include the name of the drug, name of prescribing physician and the date the prescription was filled.

However, to be considered for payment, bills must be submitted to OWCP within a year after the end of the calendar year in which the expense was incurred or the service was provided, or within a year after the end of the calendar year in which the treated condition was first accepted as compensable by OWCP. For example, if you were treated in 1987 and OWCP accepted your claim in 1987, OWCP will process bills for that treatment if they are submitted by December 31, 1988. If, however, OWCP accepted your claim in 1988, you would have until December 31, 1989, to submit bills, even though treatment was received in 1987.

**17. Can an employee be paid for transportation expenses incurred in obtaining medical treatment for a work-related injury?**

An employee can be reimbursed for reasonable transportation expenses incurred while obtaining medical treatment. A distance of 25 miles from the employee's home or the employing agency is usually considered a reasonable distance within which to travel. Travel should be undertaken by the shortest route and by public conveyance such as bus or subway unless the employee's medical condition requires the use of a taxicab or specially equipped vehicle. If an automobile is used, the employee will be reimbursed at the standard mileage rate for government travel. Standard Form 1012 or other official government travel forms should be used to claim reimbursement for travel expenses. The form should be submitted through the appropriate DeCA channels for processing.

**18. Will an employee's health benefit plan pay medical expenses resulting from work-related injury or disease?**

Health benefit plans have an exclusion clause regarding workers' compensation injuries, and a plan will not pay medical expenses if the insurance carrier is aware that a workers' compensation injury is involved. If the insurance carrier pays for medical expenses that are later determined to be employment related, OWCP will reimburse the insurance carrier upon submission of copies of the medical bills.

**19. Will OWCP pay for emergency treatment even though prior authorization has not been obtained?**

Yes, provided the treatment is required for an employment-related injury. The employee should claim reimbursement by submitting itemized bills from the provider and a completed OWCP-1500 signed by the provider, explaining the need for emergency care (also see response to [Question 15](#)).

**20. Can an employee who is dissatisfied with his or her medical care change physicians?**

The employee must contact OWCP and request authorization to change to another physician. Otherwise, OWCP will not be liable for the expenses of treatment. The employee should request any such change in writing with an explanation of the reasons for the request.

**21. Will OWCP authorize medical treatment for recurrence of an injury-related disability that initially occurred several years earlier?**

If the proper reports were completed at the time of the original injury, and the medical and factual evidence establish that the recurrent disability is related to the original injury, an employee would be entitled to medical treatment for the recurrence once it has been approved by OWCP.

**22. Does an injured employee have to report for medical examinations when directed by OWCP?**

Yes. The employee is required to submit to examination by a physician when so requested by OWCP. Failure to do so without adequate reason may result in suspension of compensation or denial of the claim.

**23. Will OWCP pay for private nurses needed because of an employment-related injury?**

Yes. OWCP provides for services and medicine prescribed or recommended by qualified physicians, including the services of private nurses, if required. However, advance approval should be obtained from OWCP in order to guarantee payment.

**24. Does FECA provide for any appliances, supplies, or prostheses required because of a work-related injury?**

Yes. Any medical appliances, supplies, or prostheses recommended by the attending physician will be provided, if likely to cure, give relief or reduce the degree or period of disability. The request should include the physician's reasons for believing the items to be necessary.

**25. Will OWCP pay for the services of an attendant if the employee requires assistance in caring for personal needs, such as feeding, dressing, bathing, etc.?**

Yes. If the disability is so severe that the employee is unable to care for his/her physical needs, such as feeding, bathing, or dressing, an allowance of up to \$500 per month may be paid in addition to compensation for wage loss. The assistance required must be personal in nature; an attendant's allowance cannot be paid for housekeeping services. An employee who believes he/she is entitled to such an allowance should check with the DeCA personnel office for instructions on how to apply for this benefit.

**26. Can a member of the family serve as an attendant?**

Yes, a member of the injured employee's family may serve in this capacity if he or she is performing the services of an attendant.

**27. Will an employee continue to receive an allowance for an attendant while hospitalized?**

No. The attendant's allowance is not payable while an employee is hospitalized, since all personal needs are provided by the hospital staff.

**28. Is an employee considered to be in performance of duty for compensation purposes 24 hours a day while in travel status?**

An employee in travel status is covered 24 hours a day for all activities that are reasonably incident to the employment being performed in such status.

**29. Is an employee covered by compensation if injured while going to and from work?**

Employees are not generally covered by the FECA for injuries sustained before they reach or after they have left government premises. Exceptions to this rule include situations where the agency furnishes transportation to and from work, where the employee is required to travel during a curfew or an emergency, or where the employee is required to use his/her automobile during the workday.

**30. Are recreational injuries covered under the FECA?**

An employee is covered while engaged in recreation that he or she is required to perform as a part of training or assigned duties or which occurs in pay status. Employees engaged in informal recreation, such as jogging, while on the employing agency's premises may also be covered, as may employees injured while engaged in activities approved in a documented individual plan developed under a formal agency-managed physical fitness program. Under other circumstances, the agency must explain what benefit it derived from the employee's participation, the extent to which the agency sponsored or directed the activity, and whether the employee's participation was mandatory or optional.

**31. Is an employee entitled to compensation benefits if injured while on coffee break?**

Generally speaking, if an employee is on government premises for the purpose of performing service and is injured, there is coverage under FECA. Otherwise, complete information regarding the absence from the premises will have to be obtained before a determination can be made.

**32. Is an employee covered by FECA if injured while at lunch?**

If the employee is on government premises for the purpose of performing service and is injured while at lunch, coverage will be extended. Injuries that occur during lunch hour off the premises are not ordinarily covered unless the employee is in travel status or is performing regular duties off premises.

### **33. What must an employee do to receive benefits when injured at work?**

An employee injured at work should do the following:

- a. Report the injury immediately to the supervisor and obtain first aid as necessary.
- b. If further medical treatment is needed, obtain authorization (Form CA-16) from the supervisor for treatment by a physician or hospital of the employee's choice. The supervisor should first telephone to see if the physician is willing to render treatment. If the physician is unavailable, the employee still has a right to choose a treating physician and should, therefore, select another.
- c. Complete a written report (Form CA-1 or CA-2) and submit it to the supervisor (someone else may complete the report on the employee's behalf) within 30 days of the date of injury or illness;
- d. Furnish the supervisor with medical evidence of a disabling traumatic injury within ten work days of claiming continuation of pay (COP).

### **34. What is Continuation of Pay (COP)?**

COP is continuation of an employee's regular salary 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 eliminate interruption of the employee's income while OWCP is processing the claim. COP is not considered compensation and is therefore subject to deductions for income tax, retirement, etc.

### **35. What form should be used to claim Continuation of Pay (COP)?**

The injury should be reported on Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation," within 30 days of the injury.

### **36. What is the definition of "controvert" as it pertains to COP?**

The term "controvert" means to dispute, challenge, or deny the validity of a claim for COP.

The term "controvert" is also used to apply to the validity of the claim.

### **37. Is an employing agency required to continue pay in all cases of job related, disabling traumatic injuries?**

Unless the employing agency controverts the claim for one of the reasons listed below, the employee is entitled to continuation of pay (COP) for up to 45 calendar days of disability.

The employing agency must continue the employee's pay unless the controversion is based on one of the following reasons:

- a. The disability is a result of an occupational disease or illness.
- b. The employee comes within the exclusions of 5 U.S.C. 8 101 (1) (B) or (E), that refers to persons serving without pay or nominal pay, and to persons appointed to the staff of a former President, or is an individual selected pursuant to Chapter 121 of Title 28 and serving as a petit or grand juror and who is not otherwise an employee of the United States.
- c. The employee is neither a citizen nor a resident of the United States or Canada (i.e., a foreign national employed outside the areas indicated).
- d. The injury occurred off the employing agency's premises and the employee was not engaged in authorized "off premises duties".
- e. The injury was caused by the employee's willful misconduct; the employee intended to bring about the injury or death of himself/herself or another person; or the employee's intoxication by alcohol or illegal drugs was the proximate cause of the injury.
- f. The injury was not reported on a form approved by OWCP (usually Form CA-1) within 30 days following the injury.
- g. Work stoppage first occurred 90 days or more following the injury (for injuries on or after June 1, 1987).
- h. The employee initially reported the injury after employment was terminated.
- i. The employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, Youth Conservation Corps, work study program, or other group covered by special legislation.

**38. Can the employing agency terminate COP for any other reason?**

Yes, the employing Agency can terminate COP if:

- a. The employee does not provide the agency with medical evidence of a disabling traumatic injury within 10 work days of claiming COP. The requirement can be waived if the supervisor is satisfied that the employee sustained a disabling traumatic injury. Retroactive reinstatement of COP is provided where evidence is received after the 10 days and supports disability; or

b. The injured employee's physician has found the employee to be partially disabled and the employee refuses suitable work, or fails to respond to the job offer within **five** work days; or

c. The injured employee's scheduled period of employment expires or employment is otherwise terminated, provided the date of termination or period of employment is established prior to the date of injury.

**39. Does the employing agency have the right to interrupt COP if a disciplinary action has been taken against an employee?**

No. The employing agency cannot interrupt COP as a result of disciplinary action. COP can be terminated if employment is terminated as a result of disciplinary action, provided final written notice of termination is issued prior to date of injury.

**40. What happens if the injured employee's disability goes beyond the 45-day period?**

If it appears that the disability will continue beyond 45 days, the employee and the employing agency should complete Form CA-7, "Claim for Compensation on Account of Traumatic Injury or Occupational Disease," and submit it on the 40th day of COP to the appropriate OWCP district office.

**41. An employee may be exposed to toxic fumes, poisonous plants, or insects that cause injury. Are injuries from these hazards considered traumatic?**

Yes, if the injury is the result of one day's exposure. If the exposure continues beyond one day or one shift it would be an occupational illness.

**42. Can the employing agency require the employee to use annual or sick leave during the 45-day period pending OWCP's adjudication of a traumatic injury?**

No. The employee cannot be required to use leave when he or she suffers a traumatic injury. If COP is controverted and terminated (see Questions 36 and 37) the employee has the option of using leave or taking leave without pay and applying for compensation.

**43. If an employee elects to use sick and/or annual leave instead of COP during the first 45 days of disability in a traumatic injury case, will COP start after the leave expires?**

No. The employee may use leave or receive COP following the injury; however, the 45-day period commences on the first day or first shift after the date of injury on which disability occurs.

**44. Can an employee request that his or her leave record be changed to reflect COP if leave has been elected?**

An employee may request that his or her leave record be changed within one year after the date leave was used or the date the claim was accepted, whichever is later. If otherwise entitled, the employing agency must change the past period from leave to COP and restore leave.

**45. If the "Duty Status Report," Form CA-17, indicates that an employee can return to light duty before expiration of the 45-day period, is the employee required to return to light duty in order for the pay to continue?**

Yes. If Form CA-17 or an equivalent medical statement from the employee's physician shows that the employee is capable of returning to duty, the employee must do so in order for the pay to continue. If the physician's report indicates light duty, the employee is required to accept any reasonable offer of suitable light or limited duty. If the employee refuses to accept the work offered or fails to respond to the job offered within five workdays, the employing agency should terminate COP. OWCP will then resolve the dispute on the basis of evidence submitted.

**46. What form should be used to claim compensation for loss of pay if the employee is disabled by an occupational disease or illness?**

Form CA-7, "Claim for Compensation on Account of Traumatic Injury or Occupational Disease," is the form used to claim compensation for loss of pay resulting from non-traumatic injury.

**47. Does an employee need an attorney or other representative in order to file a claim for compensation?**

No. If desired, however, the employee may obtain the services of an attorney or other representative. If representation is obtained, the employee should not pay any fee for services in connection with the claim until OWCP has approved the amount of fee, unless the payment is made to an escrow account pending OWCP's fee approval. OWCP will not, however, pay the fee or be a party to its collection.

**48. Is there a time limit for filing notice of injury and claim for compensation?**

Yes. A claim for compensation must be filed within three years of the date of injury. If a claim is not filed within three years, however, compensation may still be allowed if written notice of injury was given within 30 days or the employing agency had actual knowledge of the injury within 30 days after occurrence.

**49. Is there a maximum period of time during which an employee can receive compensation payments for wage loss?**

No. An employee can receive compensation payments for as long as the medical evidence shows that total or partial disability is related to the accepted injury or condition. OWCP requires most individuals receiving compensation for disability to undergo medical examinations once a year. This evaluation is usually obtained from the employee's attending physician. OWCP may, however, require the employee to be examined by another physician.

**50. Does the employing agency have the authority to approve or disallow a claim?**

No. Only OWCP has the authority to adjudicate a claim for compensation. While the employing agency has a role in paying or withholding COP, this action is reviewed in every case by OWCP.

**51. If an employee qualifies for disability retirement under the Civil Service Retirement Act, does this automatically mean that the employee is qualified to receive compensation benefits?**

No. To be eligible for compensation benefits, it must be established that an employee is disabled for regular work as the result of an employment-related injury. The Office of Personnel Management, formerly the Civil Service Commission, will consider disability whether it is employment related or not.

**52. Are only regular, full-time employees eligible for FECA benefits?**

No. FECA coverage is extended to Federal employees regardless of the length of time on the job or the type of position held.

**53. Can an employee receive compensation payments while on sick or annual leave?**

No. An employee must be in a leave without pay status before compensation for wage loss is payable.

**53. Does an employee have to use any or all accumulated sick or annual leave before compensation may be paid?**

No. An injured employee has a choice of using sick or annual leave or going on leave without pay and claiming compensation. The injured employee makes this decision.

**55. When do compensation payments begin?**

Compensation payments can be made after wage loss begins and medical evidence shows that the employee is unable to perform the duties of his/her regular job. In a traumatic injury, compensation for loss of wages is payable after a three-day waiting period following expiration of the 45 days of COP. If disability exceeds 14 days beyond the expiration of COP, no waiting days are charged. In traumatic injuries where there is no COP entitlement and in non-traumatic injuries, compensation for loss of wages is payable after an initial three-day waiting period. No waiting period is required when permanent disability exists, or when the disability causing wage loss exceeds 14 days.

**56. Can an employee use sick leave or annual leave to satisfy the three-day waiting period?**

No, the employee must be in a leave-without-pay status. Any day or fraction of a day in which pay loss occurs can be counted as a waiting day. Saturdays, Sundays, and holidays not falling within a period of leave may also be counted as waiting days.

**57. If an employee uses sick or annual leave due to an on-the-job injury, is there any method by which the leave can be restored and compensation paid instead?**

Such leave may be repurchased, subject to agency concurrence, if the claim is approved and medical evidence shows the employee was unable to work because of the injury during the period claimed. An employee who chooses to use sick or annual leave may request "leave buy back" by submitting Form CA-7 to OWCP through the employing agency. Any compensation payment is to be used to partially reimburse the agency for the leave pay. The employee must also arrange to pay the agency the difference between the leave pay based on 100 percent of the employee's usual wage rate and the compensation payment that is paid at two-thirds or three-fourths of the wage rate. The agency will then restore the leave to the employee's leave record.

**58. Will OWCP require an employing agency to grant an employee's leave buy back request?**

No, this is solely an agency decision. The policy at DeCA is to allow an employee to buy back leave provided the employee agrees to pay the difference between the leave pay and the compensation payment (see 57, above).

**59. How are disability compensation payments computed?**

Compensation is paid at two-thirds of the employee's pay rate if he or she does not have any dependents, or augmented to three-fourths of the pay rate if he or she is married or has one or more dependents.

**60. Who may qualify as a dependent to entitle an employee to compensation at the three-fourths rate?**

The following are considered dependents for compensation purposes:

- a. A wife or husband residing with the employee or receiving regular support payments from him/her, either court-ordered or otherwise;
- b. An unmarried child who lives with the employee or who receives regular contributions of support from him/her, and who is under the age of 18, or over the age of 18 and incapable of self-support due to physical or mental disability;
- c. A student between 18 and 23 years of age who has not completed four years of post-high school education and who is regularly pursuing a full-time course of study;
- d. A parent who is completely dependent upon and supported by the employee.

**60. Is the three-fourths compensation rate applicable to an employee who is divorced and pays child support?**

Yes, provided the employee is making regular contributions to the support of the child.

**62. Is the three-fourths compensation rate applicable to an employee who is making alimony payments?**

No. The definition of dependent does not include ex-wife or ex-husband. If an employee is making alimony payments, and has no other dependents, the three-fourths compensation rate does not apply.

**63. Is a female employee who receives compensation entitled to the three-fourths rate?**

She is entitled under the same circumstances as male employees. If she is married or has at least one child or other dependent who meets the criteria shown in the answer to Question No. 60, above, she is entitled to compensation at three-fourths of her pay rate.

**64. Are there any deductions made from "continuation of pay" or from compensation?**

Continuation of pay is not compensation and is subject to the usual deductions. The only regular deductions from compensation are for the employee's share of health benefit premiums, for optional life insurance, and post retirement basic life withholdings if the employee is enrolled in these plans.

**65. Are deductions made from compensation for health benefits coverage?**

Yes, if one of the following requirements is met:

- a. The employee was enrolled in a health benefits plan at first opportunity; or
- b. The employee was enrolled in a health benefits plan for five consecutive years prior to the date leave without pay began.

Health benefits coverage may continue up to 365 days for employees who receive compensation benefits but who have not been placed on OWCP's periodic roll even if they do not meet the above requirements, provided the employee is on the employing agency's rolls. In this situation OWCP deducts the premiums from compensation payments.

**66. May an employee change health benefit plans at any time?**

An employee may reduce his/her coverage at any time within the same plan, or may change options within the same plan at any time if marital or family status changes. However, changing from one plan to another is possible only during open season, which is held once a year, usually in November. Individuals receiving compensation payments receive notification of open season and instructions for reporting changes.

**67. What happens if an injured employee cancels health benefits while receiving compensation? Is it possible to re-enroll?**

If the injured employee cancels his/her health benefits while receiving compensation, there is no entitlement to re-enroll until the employee returns to work or is re-employed with another Federal agency. However, if after re-enrollment the injured employee sustains a recurrence of the injury or sustains a new injury, the eligibility requirements shown above in Question 65 would have to be met.

**68. Are eligible surviving family members entitled to coverage under a deceased employee's health benefits plan while receiving OWCP death benefits?**

Yes, if the following requirements are met:

- a. Decedent was enrolled in plan for self and family at the time of death;
- a. At least one of the covered family members is entitled to receive compensation as a surviving beneficiary under the FECA; and

- c. Decedent was either enrolled in a health benefits plan at first opportunity; or
- d. Decedent was enrolled in a health plan for five consecutive years.

**69. Are deductions made from compensation for basic Government life insurance?**

No. Employees continue to be protected by basic government life insurance coverage, without cost, as long as FECA benefits are paid and the employee is unable to resume usual employment due to the employment-related injury. However, if a compensation recipient elects Post-Retirement Basic Life Withholdings, OWCP is responsible for deducting premiums when advised to do so by the Office of Personnel Management.

**70. Are deductions made for optional life insurance coverage?**

Yes, if one of the following requirements is met:

- a. The employee was enrolled in optional life insurance at first opportunity; or
- b. The employee was enrolled in optional life insurance for five consecutive years prior to the date leave without pay began.

**71. Who should be contacted concerning specific questions regarding payment of benefits for regular or optional life insurance?**

Employees should contact the Office of Personnel Management at 1900 E Street, N. W., Washington, D. C. 20415.

**72. Are compensation payments subject to federal income tax?**

Not at the present time. FECA beneficiaries should refer annually to instructions provided by the Internal Revenue Service.

**73. Is there any limit on the total amount of compensation payable?**

No, but the maximum payment per month cannot exceed three-fourths of the highest rate of basic pay provided for Grade GS-15.

**74. Are night differential, hazard, premium, holiday, and Sunday pay, in addition to overtime, included in the pay rate used for compensation purposes?**

All are included in determining the pay rate on which compensation is based except overtime pay, which is excluded by law.

**75. If an employee's salary increases while he or she is receiving compensation (due to a within grade increase or promotion), will the compensation reflect the increase?**

Salary increases taking effect during a period in which compensation is being paid will not increase the amount of compensation.

**76. Is the amount of compensation increased as the cost of living rises?**

Yes. In general, if a claimant has been entitled to compensation for more than a year, the law provides for increases based upon the rise in the cost of living. These increases are made automatically in all eligible cases once each year on March 1.

**77. Are there any burial expenses payable if an employee dies as the result of a work injury?**

Burial expenses up to \$800 are payable. If the Veterans Administration (VA) also pays a burial allowance, the VA allowance must be deducted. If the employee dies away from his/her area of residence, the cost of transporting the body to the place of burial will be paid in full. In addition, a \$200 allowance will be paid in consideration of the expense of terminating the deceased employee's status as a federal employee.

**78. Is a spouse entitled to any benefits if an employee dies as a result of an employment-related injury or disease?**

Yes. If no children are eligible, an employee's spouse will receive monthly compensation at the rate of 50 percent of the deceased employee's salary.

**79. Will both a spouse and children be entitled to compensation benefits if an employee dies as the result of an employment-related injury or disease?**

Yes. If children are entitled, a spouse will receive monthly compensation at the rate of 45 percent of the decedent's salary. An additional 15 percent is payable for each child up to a total of 75 percent of the salary. Total monthly compensation for all dependents cannot exceed 75 percent of the monthly salary.

**80. If there is no widow or widower, what is the compensation rate for children?**

Compensation for the first child is 40 percent and each additional child is entitled to 15 percent of the employee's salary, up to a maximum of 75 percent, payable on a share and share alike basis.

**81. Is a surviving spouse's compensation terminated upon remarriage?**

If the remarriage occurs at age 60 or later, compensation will continue. If the remarriage occurs prior to age 60, compensation terminates, but the surviving spouse will be paid a lump sum equal to 24 times the monthly compensation.

**82. For how long are children entitled to FECA benefits?**

Compensation for a child ceases when the child marries or reaches age 18. It can be continued, however, after age 18, provided the child is a full-time student, unmarried, under age 23, and has not completed four years of education beyond high school; or is incapable of self-support because of physical or mental disability.

**83. In addition to a surviving spouse and children, are other dependents entitled to death benefits?**

Yes. Compensation can be paid on behalf of dependent parents, grandparents, brothers, sisters, and grandchildren at various percentages specified by the FECA, according to the degree of dependence.

**84. If, as a result of an on-the-job injury, an employee returns to work at a lower rate of pay, is the employee entitled to compensation?**

Yes. The employee can receive compensation for the loss of earning capacity resulting from the injury. The compensation rate is two-thirds (without dependents) or three-fourths (with dependents) of the loss of earning capacity.

**85. How is the wage-earning capacity of a partially disabled employee determined?**

The employee's actual earnings, if any, may be used if they fairly and reasonably represent the individual's wage-earning capacity. If they do not or, if the employee has no actual earnings, the OWCP must determine such earning capacity. This must be done taking into consideration the nature of the injury, the degree of impairment, the employee's age and employment qualifications, the availability of suitable employment, and any other factors that may affect the capacity to earn wages.

**86. If, after returning to duty, an employee must again stop work to seek medical care, can he or she receive compensation for any loss of wages?**

Yes. An employee can receive compensation for wage loss sustained while obtaining medical care for an employment related injury.

**87. If an employee suffers a permanent injury that prevents a return to usual work, does OWCP assist in obtaining reemployment?**

Yes. The primary emphasis of the vocational rehabilitation program is to assist the partially disabled employee in returning to work with the previous employer. This can be accomplished through providing such services as counseling and guidance, vocational assessment, and training and placement assistance. Using these services, OWCP can identify employment objectives that can be achieved despite continued disability.

**88. How does a partially disabled employee find out about vocational rehabilitation services available under the FECA?**

Questions concerning rehabilitation should be directed to the Rehabilitation Specialist in the OWCP district office handling the injured employee's claim,

**89. What if the partially disabled employee does not want to participate in a rehabilitation program?**

If an injured employee refuses to participate in the early stages of rehabilitation (i.e., interviews, counseling, testing, and work evaluations), OWCP will, in the absence of evidence to the contrary, assume rehabilitation would have resulted in return to work with no loss of earning capacity. Thus, compensation would be reduced to zero.

**90. What will happen to the employee's compensation while he or she is in a rehabilitation program?**

Compensation for total disability will continue during an OWCP approved program of placement with the previous employer, placement with a new employer or training.

**91. Under what circumstances can compensation be terminated or suspended?**

a. Compensation will be terminated if medical evidence is submitted which indicates that the employee no longer has residual limitations from the accepted condition and can return to the former job without limitations.

b. Compensation will be terminated if the previous employer makes a suitable job offer that is refused by the employee, and the cause for refusal is not considered reasonable. OWCP will determine the suitability of the job offer and refusal.

c. Compensation can be suspended if the employee does not cooperate with a specific directive from OWCP (such as a request to report for medical examination).

d. Compensation can be suspended for failure of the employee to respond within 30 days to a request for information on employment/earnings, dependents, or dual benefits.

e. Compensation can be suspended for failure of a beneficiary in a death case to respond to a request for information on continuing entitlement, including student status.

Where response is subsequently received, reinstatement of benefits is retroactive to date of suspension, if appropriate.

**92. What is considered a suitable job offer from a previous employer?**

OWCP works with Federal agencies to bring their partially disabled employees back to work. When an agency wants to rehire an employee, OWCP requires it to present a written job offer to the employee that includes a description of the proposed job and the working conditions (i.e., job title, hours, pay, specific job duties, physical requirements of the work, etc.). OWCP also receives a copy of the job offer, and determines if the job is suitable and reasonable. If it is within the employee's ability to perform, and within limitations from the accepted condition based on current medical information, the job offer is probably suitable.

**93. Is a partially disabled employee required to take a lower paying job?**

In some cases it is necessary to consider employment at a salary lower than what the employee believes to be appropriate. Where a loss of wages results from the employment-related condition, however, the employee will be compensated for two-thirds or three-fourths of the difference, depending on whether the employee has dependents (see Question 59).

**94. When does OWCP approve training programs?**

Such programs are approved if placement efforts with the previous employer have not been successful and the employee would earn significantly less with another employer without training. Training costs, including tuition, books and supplies, and maintenance up to \$200.00 a month may be authorized by the Rehabilitation Specialist, when these costs are not covered by another source. Training programs are provided under the FECA only for permanently disabled employees who require these services to return to suitable employment.

**95. If an employee returns to work with the previous employer or another Federal agency, will that employee be returned to the Civil Service Retirement System (CSRS) or be placed in the Federal Employees' Retirement System (FERS)?**

Employees, who were covered by the Civil Service Retirement System when they stopped work and are then re-employed by the United States government, would retain entitlement to CSRS, and would be given an opportunity to transfer to FERS within six months after reemployment. If the initial employment began on or after January 1, 1984, the employee has coverage only under FERS.

**96. Does an injured employee have civil service retention rights when injured on the job?**

Yes. Federal employees who have fully or partially recovered from employment-related injuries have certain job retention rights. These rights are provided by the FECA, and are administered by the Office of Personnel Management. It insures that federal employees who are injured on the job and who have received or are receiving compensation will incur no loss of benefits that they would have received but for the injury or disease when they return to federal employment. An employee, who recovers within one year from the date compensation begins, has mandatory restoration rights to the old position or its equivalent, regardless of whether he or she is still on the agency rolls. For those employees whose disability extends beyond one year, the employing agency is to grant priority consideration provided application for reappointment is made within 30 days of the date compensation ceases.

**97. Is an employee obligated to seek work after total disability ceases if he or she has a permanent partial disability?**

Yes. The FECA provides that such an employee must actively seek suitable work as soon as he or she is able to do so. If the employee refuses to do so, or refuses or neglects to work after such work is offered or found, he or she is not entitled to compensation.

**98. If, as the result of employment, an employee suffers permanent disability involving loss of or loss of use of a function, member, or organ of the body (such as an arm, foot, or lung), or loss of vision or hearing, is he or she entitled to compensation for impairment, in addition to compensation for wage loss?**

The FECA provides a schedule of payments for the loss or loss of use of specified members, functions and organs of the body. A list of schedule members is shown below in Question 102. The schedule award is paid when the medical evidence establishes that the schedule part of the body has reached maximum medical improvement. It is paid on the same basis that wage loss compensation is paid, i.e., at two-thirds or three-fourths of the employee's pay rate.

**99. Can schedule award payments be made while an employee is working?**

Yes. Payment is made for a specified number of weeks even if the individual returns to regular work at full pay. Schedule awards may also be paid while an employee is receiving sick or annual leave pay, drawing civil service retirement benefits, working for private industry, or is self-employed. They may not be paid, however, while an employee is receiving compensation benefits for wage loss for the same injury.

**100. Can a schedule award be paid on the basis of permanent impairment of the brain, heart, or back?**

No. These parts of the body are specifically excluded from schedule award consideration under 5 U.S.C. 8101 (20). Compensation is paid, however, for wage loss resulting from such impairment.

**101. What happens if an employee suffers disfigurement as a result of a work injury?**

In cases where an employee suffers injury to the face, neck, or head, and disfigurement results, the FECA provides for payment of an award of compensation not to exceed \$3500.00 if the disfigurement will likely be a handicap in securing or maintaining employment. Such awards are considered for seriously disfiguring scars and deformities.

**102. Specifically, what is the schedule of payments for permanent impairment of the various extremities, organs and body functions?**

Compensation is provided for specified periods of time for the permanent loss, or loss of use, of certain parts and functions of the body. Partial loss or loss of use of these parts and functions is compensated on a proportional basis. The following table shows the number of weeks payable for each schedule member if the loss or loss of use is total.

<b>Anatomical Member</b>	<b>Maximum Number of Weeks of Compensation</b>
Arm	312
Leg	288
Hand	244
Foot	205
Eye	160
Thumb	75
First Finger	46
Great Toe	38
Second Finger	30
Third Finger	25
Toe (other than great toe)	16

Fourth Finger	15
Complete loss of hearing (one ear)	52
Complete loss of hearing (both ears)	200
Breast	52
Kidney	156
Larynx	160
Lung	156
Penis	205
Testicle	52
Tongue	160

Compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is the same as for loss of the eye. The degree of loss of vision or hearing is determined without regard to correction; that is, improvements obtainable with use of eyeglasses and hearing aids are not considered in establishing the percentage of impairment.

Where injury-related loss of earning capacity persists after the schedule award ends, compensation may be continued for loss of earning capacity.

**103. If an employee is seriously injured at work and must terminate all employment, should the employee file for workers' compensation or apply for benefits under other retirement acts, such as the Civil Service Retirement System, the Federal Employees' Retirement System, Foreign Service or Central Intelligence Agency disability and retirement programs?**

The employee should immediately file for all applicable benefits to ascertain the amount of entitlement under each law. If entitled to more than one, the individual will then have to elect whichever benefit is more advantageous. When such an election is made, it may be changed at any time.

**104. Does the same apply to a beneficiary who is entitled to survivor's benefits resulting from an employment-related death?**

Yes. The beneficiary should also elect the benefit that he or she wishes to receive, and such election, once made, may also be changed.

**105. Should an employee who is receiving benefits from OWCP on a regular basis for a serious employment-related injury withdraw the amount of money paid into his/her civil service retirement account or Federal Employees' Retirement System account on the theory that OWCP benefits will never stop?**

No. First, if the employee has a spouse, the spouse would be deprived of civil service survivor's benefits if the employee dies from causes other than condition(s) resulting from the employment-related injury. The FECA provides survivors benefits only when the employee's death is related to the job-related injury. Second, the employee may want to elect civil service benefits if his/her medical situation improves and he/she is no longer entitled to benefits or is no longer considered totally disabled, thereby causing OWCP to reduce compensation benefits to reflect the employee's wage earning capacity that may reduce compensation payments to a level below OPM benefits.

**106. Must an employee elect between civil service retirement and all monetary benefits payable under FECA?**

A schedule award is the only monetary compensation that an employee may receive under FECA while receiving a retirement annuity for the same period from OPM. An employee must make an election between the annuity and monetary compensation in all other instances.

**107. Should an employee initially elect OPM benefits in order to receive the lump-sum payment under the alternative annuity option, then change the election to benefits under the FECA to receive the (usually) higher monthly compensation payments?**

As noted in Question 106 above, concerning dual benefits, an individual cannot receive monetary benefits from both OPM and OWCP at the same time (except for schedule awards). The lump-sum payment made under the alternative annuity option (equal to the employee's contribution) is considered a dual benefit that would have to be repaid to OPM before any FECA benefits could be paid to the individual. Such repayment would be made either directly by the individual, or through payment of all FECA benefits to OPM until the balance of the lump sum were repaid. For example, if an individual opted first for OPM benefits, received a lump-sum of \$50,000, then decided instead to take FECA benefits that equaled \$1,000 every four weeks, he or she would have to repay the \$50,000 directly to OPM, or FECA benefits would be paid to OPM for 200 weeks (almost four years) until the amount of the lump sum were repaid.

**108. Does this dual benefit prohibition also apply to the lump-sum death benefit available to the survivors of an employee covered by FERS?**

Yes. The lump-sum death benefit (equal to 50 percent of the employee's annual salary plus \$15,000) would have to be repaid by the survivor (or absorbed from FECA benefits) before any FECA benefits would be paid to the survivor.

**109. Must an employee, who elects civil service retirement benefits pay for medical treatment that may be required as a result of the job-related injury?**

No. The cost of all medical treatment required for the effects of the injury may be paid by OWCP even though the employee elects civil service retirement benefits.

**110. Can an employee obtain vocational rehabilitation under FECA while receiving civil service retirement benefits?**

No. An employee is entitled to vocational rehabilitation under the FECA if (a) the employee sustained a permanent job-related disability that has resulted in an employment handicap for the usual work, and (b) the employee is receiving compensation from OWCP.

**111. Is an award for a service-connected disability from the Veterans Administration (VA) payable concurrently with FECA benefits?**

Beneficiaries who receive compensation from the VA may also be required to elect between the benefits paid by that agency and those paid by OWCP. Such an election is required when the disability or death resulted from an injury sustained in civilian federal employment and the VA has held that it was caused by military service, or when the VA increases a service-connected disability award due to an injury sustained in federal civilian employment. In the latter case the election involves only the increase in VA benefits due to disability incurred during civilian employment. No election is required between OWCP benefits and those granted by the VA for strictly non-service related disability or for a pension.

**112. Can dependents receive a non-service-connected award (pension) from the VA concurrently with compensation from OWCP if an employee dies due to a work-related injury?**

Yes. It is not necessary to elect between compensation from OWCP and a pension from the VA. An election is necessary between compensation and all other types of VA benefits, if benefits payable by both agencies are based on the same disability or death.

**113. Can children receive benefits under FECA concurrently with VA benefits?**

If children are entitled to both VA educational and FECA benefits because of the injury or death of an employee, an election will have to be made unless the VA educational award is designated as a pension.

**114. Is retirement or retainer pay for military service payable concurrently with FECA compensation?**

Yes. For all periods of compensation entitlement beginning September 7, 1974, an employee may receive compensation concurrently with military retired pay, retirement pay, retainer pay or equivalent pay for service in the armed forces or other uniformed services. The appropriate Military Finance Center should be contacted for advice as to whether retirement/retainer pay will be reduced because the employee is receiving compensation.

**115. Are FECA benefits payable concurrently with Social Security Administration (SSA) benefits?**

An employee may receive concurrent SSA payments and OWCP benefits, but the SSA may, in certain instances, reduce its payments. The SSA should be contacted regarding its procedures in this matter. The Social Security Amendments of 1983 provide full SSA benefits rather than Civil Service Retirement System benefits to federal employees hired on and after January 1, 1984. Therefore, federal employees who are covered by SSA would be required to make an election between FECA benefits and SSA benefits.

**116. Are the proceeds of a disability or death insurance policy payable concurrently with FECA compensation?**

Yes. Concurrent receipt of compensation benefits and private insurance benefits for disability or death is not prohibited under FECA.

**117. Is an employee entitled to compensation if the job-related injury is caused by some party other than the United States government?**

Yes, but when an injury is sustained under such circumstances the claimant may be required to prosecute a claim against the third party or to assign the cause of action to the United States government. An employee (or the beneficiary, in the event of death) who refuses to do so loses the right to compensation.

**118. Is an employee permitted to make a personal settlement of a third party claim?**

Yes. The employee can engage an attorney or may present a claim directly to the responsible party or insurance company. Since the federal government is entitled to reimbursement for compensation payments and medical expense, the employee should inform OWCP of all developments and recoveries in connection with a third party action. No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or a designee the proceeds of such settlement without first satisfying or assuring satisfaction of the interest of the United States government.

**119. How is money or property distributed following a third party recovery?**

The FECA specifies how the third party recovery shall be distributed. First, the costs of the settlement including a reasonable attorney's fee, if a fee was paid, is deducted from the total sum recovered as damages. The injured employee retains one-fifth of the net. From the remaining four-fifths, a refund must be made to OWCP for the cost of all compensation benefits paid on account of the injury, less an amount equivalent to a reasonable attorney's fee proportionate to the refund made to the United States government. Any surplus remaining is retained by the injured employee and credited against future compensation benefits. OWCP will resume payment of compensation benefits and medical bills only after the employee has submitted claims that equal the amount of money remaining.

**120. If an employee or the survivors disagree with a final determination of OWCP, what recourse is available?**

OWCP includes a description of the available appeal rights with each formal decision. According to the appeal rights provided, the employee may:

a. Request an oral hearing before an OWCP representative. Such a request must be made in writing, within 30 days of the date of the decision, as determined by the postmark of his or her letter. The employee will be given the opportunity to present oral testimony and written evidence in further support of his or her claim. The hearing will be held at a location in the employee's area, and the employee may be represented at the hearing by any person authorized by him or her, in writing.

b. Request review of the written record by a hearing representative appointed by the Director of OWCP. This examination must be requested within 30 days of the date of the decision. The employee will not be asked to attend or give oral testimony, but may submit additional written evidence.

c. Requests for oral hearing or review of the written record should be addressed to Branch of Hearings and Review, Office of Workers' Compensation Programs, P. O. Box 37117, Washington, DC 20013-7117. A request for a hearing (written or oral) must be made before any request for reconsideration by the district office. The employee will have the right to request reconsideration or appeal if he or she disagrees with the hearing representative's decision.

d. Request, in writing, that OWCP reconsider its decision. Such a request must be made within one year of the date of the decision, clearly state the grounds upon which reconsideration is being requested, and be accompanied by additional evidence not previously submitted, such as medical reports, or a legal argument not previously made. The request for reconsideration should be sent to the appropriate district office.

e. A request for reconsideration will not be considered if it is filed more than one year after the date of the decision that is being disputed (effective for any decision issued on or after June 1, 1987). This one year time limit does not apply to a request for reconsideration after June 1, 1987, based on a decision issued prior to June 1, 1987, which placed no time limit on the right to request reconsideration. However, when the decision on this reconsideration is issued, the employee's right to further reconsideration is limited to one year from the date of the decision.

f. If the employee believes that all available evidence has been submitted, he or she has the right to appeal to the Employees' Compensation Appeals Board (ECAB) for review of the decision. Review by the ECAB is limited to the evidence of record; no new evidence may be submitted. The request should be made within 90 days of the date of the decision and should be addressed to Employees' Compensation Appeals Board, 300 Reporters' Building, 7th and D Streets, SW, Washington, DC 20210. The ECAB may waive the time for filing up to one year if good cause is shown for the delay and the application is made within one year from the date of the OWCP decision.

g. The ECAB is a separate entity in the U. S. Department of Labor that is authorized to consider and make final determinations on appeals from decisions made by OWCP.

**121. If a claimant disagrees with the decision of OWCP or the ECAB, can review be obtained through a state or federal court system?**

No. An employee's exclusive remedy lies within the appeal structure described above.

**122. May an attorney represent a claimant before the ECAB?**

Yes. A claimant may be represented by an attorney or by any other person authorized by the claimant. The ECAB must approve any fee for such representation.

**123. Who approves the amount of the fee charged for representing a claimant before OWCP?**

The OWCP will approve a fee based on an itemized statement submitted by the representative showing the work done. OWCP does not honor contingency fee agreements, and a claimant should not pay any fee prior to approval by OWCP (except when paid into an escrow account pending OWCP's fee approval).

**124. Will the OWCP pay the cost of legal services in the event the claimant obtains representation?**

No. The OWCP can neither direct the payment of nor assist in the collection of legal fees. These matters must be resolved by the claimant and the representative.

**125. If an employee sustains a job-related injury and also suffers damage to personal property, such as clothing, can the employee be paid for such loss?**

Except for prosthetic devices or appliances, the FECA contains no provision for reimbursement for loss of personal property. The employee may claim reimbursement for personal property from his or her employing agency under the Military and Civilian Personal Property Act of 1964, 31 U.S.C. 240.

**126. Are compensation payments subject to claims by creditors?**

The FECA specifically provides that assignment of a claim for compensation is void and all compensation payments are exempt from the claims of creditors. Disability compensation payments are, however, subject to garnishment for alimony and child support payments if the legal process is served in accordance with state law and workers' compensation payments are garnishable for those purposes under the law of the state where the process is issued.

**127. How much does compensation coverage cost a federal employee?**

No salary deductions are made for compensation coverage under the FECA. Coverage is extended if the person qualifies as an employee of the federal government and if the injury falls within the purview of the Act.

**128. What is the penalty for filing a false claim?**

Federal law (18 U.S.C. 1920) provides: "Whoever makes, in an affidavit or report required by section 8106 of title 5 in a claim for compensation under subchapter I of chapter 81 of title 5, a statement knowing it to be false, is guilty of perjury and shall be fined not more than \$10,000 or imprisoned not more than five years, or both," (or \$10,000 and ten years for conspiracy to commit fraud).

**129. What recourse does an employee have if his or her supervisor refuses to accept a notice of injury or claim for compensation?**

OWCP should be notified of such refusal. Federal law also provides in 18 U.S.C. 1922 that: "Whoever, being an officer or employee of the United States charged with the responsibility for making the reports of the immediate superior specified by Section 8120 of Title 5, willfully fails, neglects, or refuses to make any of the reports, or knowingly files a false report, or induces, compels, or directs an injured employee to forego filing of any claim for compensation or other benefits provided under Subchapter I of Chapter 81 of Title 5 or any extension or application thereof, or willfully retains any notice, report, claim, or paper which is required to be filed under that subchapter or any extension of application thereof, or regulations prescribed thereunder, shall be fined not more than \$500 or imprisoned not more than one year, or both."

