

WORKERS' COMPENSATION PROGRAM MANAGEMENT

- 1. REASON FOR ISSUE:** This Veterans Health Administration (VHA) directive establishes VHA policy and defines procedures for managing the VHA Workers' Compensation Program (WCP) at all levels of the organization.
- 2. SUMMARY OF MAJOR CHANGES:** This revised directive sets forth policy, roles, and responsibilities for implementing, managing and evaluating the VHA WCP. This VHA directive is a new issuance defining mandatory procedures for managing the VHA WCP at all levels of the organization. Compliance with this directive is required by VHA Central Office, Districts, Veterans Integrated Service Networks (VISN), program offices and VHA facilities.
- 3. RELATED ISSUES:** VA Directive 5810 and VHA Handbook 1609.01.
- 4. RESPONSIBLE OFFICE:** The VHA Occupational Health Services (10P4Z) is responsible for the content of this directive. Questions may be addressed to the VHA National WCP Office at 202-461-1041.
- 5. RESCISSIONS:** None.
- 6. RECERTIFICATION:** This VHA directive is scheduled for recertification on or before the last working day of November 2021. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

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WORKERS' COMPENSATION PROGRAM MANAGEMENT

1. PURPOSE

This Veterans Health Administration (VHA) directive establishes policy for managing the VHA Workers' Compensation Program (WCP) and shall be used in conjunction with VA Directive 5810, Managing Workers' Compensation Cases and Costs. This directive establishes core administrative and technical requirements for VHA WCP at VHA Central Office, the Veterans Integrated Service Networks (VISN), program offices and VA medical facilities to standardize the roles, responsibilities and processes of managing and administering workers' compensation (WC) claims. Implementing the requirements set forth in this directive establishes a uniform program across the administration, standardizes the quality of customer service provided to our injured workers and builds confidence in the VHA WCP as a trusted source for fair, effective medical and administrative case management. **AUTHORITY:** Title 38 United States Code (U.S.C.) §§ 501, 703(c), 1725, 1729, 1784, 1785, 7301(b); 5 U.S.C. § 8101 *et seq.*; 29 U.S.C. § 654; 20 CFR Part 10.

2. BACKGROUND

a. The Federal Employees' Compensation Act (FECA), as amended (5 U.S.C. 8101-8193) provides for the payment of WC benefits to civilian officers and employees of all branches of the Government of the United States (U.S.). Regulations in 20 Code of Federal Regulations (CFR) Parts 10 and 25 describe the rules for filing, processing and paying claims for benefits under FECA. Part 10 sets forth the regulations governing the administration of all claims filed under FECA. Its provisions are intended to assist persons seeking compensation benefits under FECA, as well as personnel in the various Federal agencies who process claims filed under FECA or who perform administrative functions with respect to FECA.

(1) FECA provides compensation benefits to civilian employees of the U.S. for disability because of personal injury or disease sustained while in the performance of duty. FECA also provides for the payment of benefits to dependents if a work-related injury or disease causes an employee's death.

(2) FECA is remedial in nature and proceedings under it are non-adversarial. Under 5 USC 8116, FECA is the exclusive remedy for federal workers' work-related injuries, illnesses, or death.

(3) The responsibility for administering FECA, except for 5 U.S.C. 8149 as it pertains to the Employees' Compensation Appeals Board (ECAB), is delegated to the Director of the Office of Workers' Compensation Programs (OWCP) of the U.S. Department of Labor (DOL). OWCP has delegated the Division of Federal Employees' Compensation (DFEC) to conduct operations of FECA.

(4) VA Directive 5810, Managing Workers' Compensation Cases and Costs, provides authority for VHA to maintain a management infrastructure to achieve WCP implementation.

(5) VHA Directive 1609, VHA Workers' Compensation Program, sets forth policy for a VHA National, VISN, program office and facility WCP to ensure that employees who experience work-related injuries and illnesses clearly understand their rights and responsibilities in applying for and receiving all FECA benefits to which they are entitled and to ensure program integrity through financial and operational oversight.

3. DEFINITIONS

a. **Consequential Injury.** An injury or illness caused by weakness or impairment to a secondary part of the injured worker's body resulting from the primary work related injury.

b. **Contest.** The actions taken by the employing agency to notify OWCP when there is disagreement with any aspect of the injured worker's report of injury. The employing agency submits a written statement to OWCP that specifically describes the factual allegation or argument with which it disagrees and provides evidence or argument to support its position. This is also known within the VA as a "challenge" or "dispute".

c. **Continuation of Pay.** An employer paid benefit to continue regular pay with no charge to sick leave or annual leave for up to a maximum of 45-calendar days of disability related to a traumatic injury. Continuation of Pay (COP) is subject to income tax, retirement and other deductions.

d. **Controversion.** The formal process when an employing agency presents evidence to OWCP to question one or more periods of an injured worker's entitlement to COP.

e. **Document Control Number.** A tracking number assigned by the Employee Compensation Operations and Management Portal (ECOMP) to documents electronically uploaded to a WC case file at OWCP.

f. **First Aid Injury.** When an injured worker is examined or treated at VHA Employee Occupational Health or by medical providers under contract to the agency, during working hours and beyond the Date of Injury (DOI). In addition, when an injured worker requires two or more visits to a medical facility for examination; or for treatment during non-duty hours beyond the DOI—as long as no leave or COP is charged and no medical expense is incurred.

g. **Fraud.** The intentional deceptive act or series of acts, committed by an individual with the intent to cause the VA or OWCP to grant benefits that would not normally be provided under FECA.

h. **Full Time Employee Equivalent.** A classified position, at any grade level, authorized by the Office of the Under Secretary for Health, via a signed organizational chart. Full Time Employee Equivalent (FTEE) calculations are based on the employee's normal duty hours as entered into the timekeeping system and do not reflect actual hours worked.

- i. **Injured Worker.** A current or former employee or volunteer of VA who has claimed WC benefits under the FECA for a traumatic injury or occupational illness. For purposes of this directive, injured worker also includes any individual, attorney, or attorney group, as a representative appointed in writing by the injured worker and approved by OWCP.
- j. **Light Duty Assignment.** Work duties offered by the supervisor verbally and followed-up in writing, to an injured worker when the appropriate physician imposes temporary medical restrictions. These are also described as “Transitional Duty Assignment”, “Limited Duty Assignment”, or “Modified Duty Assignment” within VA.
- k. **Maximum Medical Improvement.** When an injured worker reaches a state where his or her condition cannot be improved any further or when a treatment plateau in a person’s healing process is reached. It can mean that the injured worker has fully recovered from the injury or that the injured worker’s medical condition has stabilized to the point that no major medical or emotional change is expected in the injured workers’ condition. This may also be referred to as “Permanent and Stationary” (P&S) in parts of the United States.
- l. **Occupational Illness.** A condition produced by the work environment over a period longer than a single workday or shift.
- m. **Permanent Job Offer.** A classified and graded position offered to an injured worker who has reached Maximum Medical Improvement (MMI) and where the employee is no longer capable of performing the job held on the DOI.
- n. **Prima Facie Evidence.** Reliable, probative and substantial evidence provided to OWCP to support entitlement to coverage under FECA as outlined in 20 CFR 10.115.
- o. **Recurrence.** A work stoppage caused by a spontaneous return of symptoms without intervening cause, an increase of disability due to a consequential injury, or a need of additional medical treatment after release from treatment for the work related injury.
- p. **Representative.** An individual or law firm properly authorized by a claimant in writing to act for the claimant in connection with a claim or proceeding under FECA.
- q. **Subrogation.** The obligation of a FECA beneficiary to prosecute an action against a third party when required by OWCP or the DOL Office of Solicitor (SOL) and the obligation of a FECA beneficiary to report any recovery from a third party and to make the required refund because of such recovery.
- r. **Traumatic Injury.** A condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition is caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.

4. POLICY

It is VHA policy that the VHA WCP must be managed at all levels of the organization in accordance with the Federal Employees' Compensation Act (FECA) and in alignment with VA Directive 5810, Managing Workers' Compensation Cases and Costs, and this Directive.

5. RESPONSIBILITIES

a. **Deputy Under Secretary for Health for Policy and Services.** The Deputy Under Secretary for Health for Policy and Services is responsible for:

(1) Providing the necessary staffing to develop and implement policy, planning, training, and oversight compliance of the VHA National WCP.

(2) Providing the necessary funds and resources to implement and maintain sufficient staffing, training, and resources in support of the VHA National WCP.

b. **Deputy Under Secretary for Health for Operations and Management.** The Deputy Under Secretary for Health for Operations and Management is responsible for:

(1) Enforcing compliance with applicable laws, regulations, policies, and guidance for the VHA WCP with management VISN, program offices, and facilities.

(2) Collaborating with the VHA National WCP Manager to develop performance measures and goals that are meaningful to both Occupational Safety and Health (OSH) and WCP as a means to ensure consistency in communication to internal and external customers.

(3) Approving and distributing communications developed by the VHA National WCP Office to VISNs, program offices and facilities about regulation and policy interpretations, procedural guidance, oversight and compliance findings, performance measures and data requests.

(4) Providing OSH representation on VHA National WCP committees to ensure collaboration between WCP and OSH.

c. **Chief Consultant, Occupational Health Services.** The Chief Consultant, Occupational Health Services is responsible for:

(1) Providing leadership and oversight of the development, implementation, operation, administration, and evaluation of the VHA National WCP policies and guidance.

(2) Allocating necessary funds to implement and maintain sufficient staffing, training, and resources in support of the VHA National WCP.

d. **WCP Manager, VHA National WCP.** The WCP Manager, VHA National WCP Manager is responsible for:

(1) Developing policies, procedures, and guidance for the VHA WCP. Evaluating the VHA WCP and reporting, as necessary, the status of compliance with laws, regulations, policies, and procedures through the Deputy Under Secretary for Health for Operations and Management.

(2) Counseling and advising the VISN and program office WCP coordinators on administrative and technical laws, regulations, policies, and procedures.

(3) Implementing and maintaining a Change Control Board to review supplemental local policy submitted for approval by VISNs, program offices and facility management and making a determination whether the supplemental policy may be implemented locally.

(4) Administering a standardized program throughout WCP offices that support the requirements of this Directive.

(5) Developing and implementing methods of communication on matters involving compliance, policy, procedures, special initiatives, news releases, and performance measures.

(6) Ensuring that current systems, tools, and technologies are used by VHA in order to manage WC case files and evaluate WCP performance measures; and researching new tools and technologies that may improve case management and data integrity.

(7) Planning, conceptualizing, implementing, funding, and accomplishing new initiatives, special projects or studies regarding WC issues.

(8) Developing and submitting annual budget plans to the Chief Consultant, Occupational Health Group, including any travel expenses required to support the responsibilities in policy, planning, training, new initiatives, special projects, oversight and compliance for the WCP.

(9) Evaluating tools and technology, developing functional requirements, and coordinating the delivery of tools and technology to support the program.

(10) Maintaining the VHA WCP SharePoint and WCP distribution lists.

(11) Developing, implementing, and tracking performance measures; compiling and dispatching data reports for use by appropriate stakeholders to evaluate the effectiveness of the WCP nationally, at VISNs, program offices and facilities.

(12) Identifying appropriate measures, methodologies, time parameters, and communication methods to ensure stakeholders are apprised of the level of program effectiveness and operational efficiency.

(13) Serving as liaison between various program stakeholders, which may include but is not limited to VA Central Office, VISNs, program offices, VA medical facility Directors and OWCP, to relay program data as relevant to the individual stakeholder.

(14) Evaluating quality indicators within the WCP and identifying training needs for improvement of program measures.

e. **Directors, VISN and Program Offices.** The Directors, VISN and program offices are responsible for:

(1) Ensuring that appropriate staffing, budget, and resources are available to implement and oversee the WCPs at the VISN, program offices and facilities.

(2) Evaluating facility WCPs to determine whether it may be more effective to establish a centralized program network for managing the WCP for all facilities within the VISN or program office. When a centralized program is implemented, the Director's responsibilities include those outlined in paragraph 3.g of this directive.

(3) In a non-centralized program, appointing or competitively placing a VISN or program office WCP coordinator to support the VHA National WCP Office with evaluating WCP compliance at facility WCPs. Ensuring that alternate coverage for the VISN or program office WCP coordinator is available during absences and communicating such coverage to the VHA National WCP Manager.

(4) In a centralized program, competitively placing a VISN or program office WCP Supervisor to manage the VISN or program office WCP and who also serves as the VISN WCP coordinator. Competitively placing WCP personnel to manage WCP processes for all facilities within the VISN or program office.

(5) Ensuring regulations, policies, procedures, goals, objectives, and strategies relative to the WCP are carried out across the VISN or program office.

(6) Providing technical guidance to the facilities and ensuring that metrics are established at the VISN or program office level to evaluate the program.

(7) Collaborating with VHA WCP stakeholders to validate program performance measures related to key aspects of case management and fiscal liability.

(8) Ensuring that suspected fraud, waste, and abuse within the WCP are referred to the VA Office of Inspector General (OIG) and appropriate officials.

f. **VISN or Program Office WCP Coordinators.** The VISN or Program Office WCP coordinators are responsible for:

(1) Providing oversight and compliance enforcement through site visits, quality assurance initiatives and case file review activities; documenting outcomes and follow up with facility WCP personnel to ensure corrective actions are implemented.

(2) Reviewing performance measures within the VISN or program office and collaborating with facility WCP personnel to develop action plans to address WCP areas where improvement is needed.

(3) Providing WCP personnel with professional guidance, education, training, and new staff orientation to ensure compliance with laws, regulations, and policies.

(4) Participating as a member in stakeholder meetings including the VHA Workers' Compensation Advisory Group and VISN or Program Office OSH meetings.

(5) Demonstrating leadership and management skills within the VISN or program office and providing technical expertise about FECA and VHA WCP requirements, performance measures, tools, and initiatives.

(6) Performing quality case review and regular on-site consultation with WCP personnel within the VISN or program office on complex administrative cases, congressional correspondence, and other written program responses.

(7) Developing a professional working relationship with the OWCP District Offices that administer FECA within the VISN or program office; establishing quarterly visits to discuss complex cases identified by facility WCP personnel; and obtaining case file information not available electronically.

(8) Serving as a member of interview panels for facility WCP hiring and recommending training for professional development of program office and facility WCP personnel.

(9) In a centralized program, managing the WCP for all facilities within the VISN or program office, and supervising the work of the assigned WCP personnel.

g. Directors, VA Medical Facility (or VISN Directors in a Centralized Program).
The Directors, VHA medical facility (or VISN Directors in a Centralized Program) are responsible for:

(1) Ensuring that authorized WCP positions are sufficiently staffed, trained, and provided with necessary resources and adequate funding in order to effectively manage the facility WCP.

(2) Ensuring regulations, policies, procedures, goals, objectives, and strategies relative to the WCP are implemented at the facility; and that locally developed WCP policy complies with FECA laws and regulations, and VA and VHA policy.

(3) Communicating to facility employees a commitment to the effective management of the facility WCP; ensuring that all employees are informed of their rights and responsibilities under FECA during new employee orientation and at claim initiation; and by ensuring that information about FECA and the local WCP policy is readily available throughout the facility.

(4) Ensuring all supervisors are trained and held accountable for their roles and responsibilities with respect to the local WCP.

(5) Establishing a local light duty assignment policy and standard operating procedures to ensure injured workers return to productive duty as soon as medically able.

(6) Determining if providing medical services to injured workers in the Employee Occupational Health (EOH) beyond emergency diagnosis and first treatment would interfere with the ability to provide treatment or service to Veterans; and establishing written policy to inform employees of their option to elect, or not elect EOH as a provider of choice.

(7) Ensuring that fiscal processes are in place to appropriately bill OWCP for services provided to injured workers by EOH, beyond emergency diagnosis and first treatment, or VA Primary Care physicians at the current cost-based inter-agency rate prescribed in the Federal Register.

(8) Evaluating facility WCP performance measures and establishing metrics at the facility level to improve the program.

(9) Ensuring that suspected fraud, waste, and abuse within the WCP are referred to the VA OIG and appropriate officials, when necessary.

(10) Ensuring that Public Key Infrastructure (PKI) encryption is available and that WCP personnel are using PKI to transmit protected data through electronic messaging; and that WCP personnel receives and understands VA Privacy and Information Security Awareness training; and signs the Rules of Behavior.

(11) Ensuring that WCP personnel has appropriate secure office space containing locked file cabinets and dedicated computer equipment (to include printer, fax, and scanner) due to the sensitive and confidential nature of the program.

h. **Facility Finance Officer and Payroll Staff.** The Facility Finance Officer and Payroll Staff are responsible for:

(1) Authorizing access to payroll information related to employees' injury leave to the WCP personnel.

(2) COP or other injury-related leave only when authorized by the WCP personnel; and correcting time and leave records to document leave as requested by the employee when COP is rescinded.

(3) Providing a detailed injury-related leave report to the WCP personnel each pay period to validate that COP leave authorizations are paid appropriately.

(4) Providing timely pay rate and premium pay data to the WCP personnel, when requested, so that claims for compensation are submitted to and processed by OWCP within regulatory timeframes.

(5) Ensuring that the leave balance of an injured worker is re-credited accordingly as a result of an approved claim for leave buy back and providing notification of any overpayment or indebtedness.

(6) Ensuring proper coding and processing of bills for in-house medical services provided to injured employees is in compliance with OWCP's billing contractor and are submitted within the month charges were incurred; monitoring bills to determine payment or rejection status for reconciliation; and correcting any rejected bills and re-submitting to OWCP for payment.

i. **Facility EOH Clinicians.** The Facility EOH clinicians are responsible for:

(1) Documenting each work injury visit in the employee health record and ensuring that each injury examination progress note is signed or co-signed by a qualified physician, as defined in 5 U.S.C. 8101, within 24 hours of the visit.

(2) Ensuring that each medical report complies with regulatory requirements.

(3) Referring injured workers who elect treatment from EOH for appropriate treatment and consultations to affiliated network providers, when available.

(4) Obtaining required authorizations for specific services from OWCP prior to treatment.

j. **Facility WCP Personnel or VISN WCP Personnel In a Centralized Program.**

The Facility WCP personnel or VISN WCP personnel in a Centralized Program are responsible for:

(1) Ensuring privacy of WCP records by maintaining and disclosing information in accordance with DOL/GOVT-1, the procedures outlined in this directive.

(2) Requesting the appropriate level of access to program tools and technology required to manage the facility WCP.

(3) Establishing a case file management system and standard case folder structure to ensure consistency in case file documentation and records retention for the WCP.

(4) Implementing the claim initiation process, providing guidance and counsel to every injured worker; performing initial case management and continually evaluating and managing active WC case files throughout the life of an injured worker's claim.

(5) Calculating, tracking, evaluating, authorizing, and monitoring an injured workers' leave usage; providing guidance and counseling on leave options; ensuring necessary personnel actions are taken and working collaboratively with the injured worker,

supervisor, timekeeper, payroll and OWCP to effectively manage WCP leave and compensation.

(6) Evaluating work capacity documentation and ensuring necessary personnel actions, job duties, light duty work assignments and when appropriate, permanent job offer processes are completed.

(7) Notifying coding specialists when an injured worker elects EOH, or their assigned VA Primary Care provider, for treatment and collaborating with EOH and coding and billing offices to ensure they have the necessary information to bill OWCP at the inter-agency rate.

(8) Evaluating WC case files and elected medical providers against the VA OIG Characteristics for Potential Fraud checklist and collaborating with the VISN WCP coordinator to make referrals to the appropriate programs.

(9) Documenting all communications, decision-making processes, evaluations and data reviews in WC case files and forwarding information to OWCP for inclusion in the official case file.

(10) Reviewing and analyzing WCP performance metrics and cost reports to identify program areas requiring improvement and taking action to improve cost containment for the WCP.

k. **Service Chiefs, Managers, and Supervisors.** The Service Chiefs, Managers, and Supervisor are responsible for:

(1) Working to minimize risk of work-related injury or illness by conducting periodic inspections of all work areas used by staff to identify potential hazards and addressing concerns related to work place safety issues as soon as possible.

(2) When emergency care is required, advising the injured worker of the right to emergency diagnosis and first treatment by the VHA EOH, or by a private physician or hospital of choice; ensuring that the appropriate healthcare personnel are notified; obtaining the name and address of the physician elected as the provider of choice and providing that information to WCP personnel once emergency treatment is secured.

(3) Notifying the WCP personnel immediately, or as soon as possible, after an employee reports an injury or illness.

(4) Investigating the possible causes of the reported injury or illness; documenting the investigation on VA Form 2162, *Report of Accident* or equivalent electronic record and recommending abatement strategies in coordination with the facility Safety Office.

(5) Providing guidance and counseling to injured employees regarding entitlements, rights, and responsibilities when filing a claim for benefits under FECA.

(6) Providing the injured worker with instruction on how to complete DOL Form CA-1, *Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation (CA-1)*, or DOL Form CA-2, *Notice of Occupational Disease and Claim for Compensation in the official System of Record (CA-2)*.

(7) Completing, printing, and obtaining original signatures on the employing agency section of forms CA-1 and CA-2 within 3-business days of receipt and forwarding the claim to the WCP Office.

(8) Informing the injured worker to advise the physician of the availability of light duty and that VA will accommodate most restrictions; and completing DOL Form CA-17, *Duty Status Report (CA-17)*, Side A with physical requirements of the position held by the employee at date of injury.

(9) Identifying and offering light duty work assignments to injured workers who have medical restrictions, as soon as restrictions are received.

(10) Providing the injured worker with the appropriate medical forms for all visits to the elected provider, or any referral providers, prior to each scheduled appointment.

(11) Immediately notifying the WCP Office when an injured worker loses time from work that is related to a WCP injury or illness; and ensuring that COP entitlement and authorization is determined by the WCP personnel before posting or certifying time.

(12) Forwarding all work status notes, medical documentation, and completed Forms CA-7 received from the injured worker to the WCP office no later than 2-business days from date of receipt.

(13) In cases of death, notifying the WCP personnel, safety and facility leadership immediately of the death, and coordinating with safety personnel, local law enforcement personnel, or other investigative agencies, when appropriate, to conduct a thorough investigation of the circumstances surrounding the employee's death.

I. **Injured Workers.** Injured workers are responsible for:

(1) Reporting to the supervisor any work-related incidents, that may have caused an injury or illness, immediately but no later than the end of the work shift in which the injury occurred or the illness was first realized.

(2) Filing DOL Form CA-1 or CA-2 within 3 years from the date of injury to claim benefits under FECA. In cases of traumatic injury, filing DOL Form CA-1 within 30 days from the date of injury to maintain entitlement to Continuation of Pay.

(3) Making an election between COP and sick and/or annual leave for injury related absences. An injured worker who initially elects to use leave has the right to change to an election of COP within 1 year of the date the leave was used or the date of written approval of the claim by OWCP, whichever is later.

(4) Following local leave policy and procedures for requesting any combination of sick leave, annual leave, leave without pay (LWOP), or Family and Medical Leave Act (FMLA), when absence occurs due to a work injury or illness.

(5) Providing medical evidence, which on its face value supports duty status immediately upon return from a medical appointment.

(6) Notifying the elected treating provider that light duty work assignments are available.

(7) Returning to work when medically authorized.

(8) Submitting DOL Form CA-7, Claim for Compensation and DOL CA-7a, Time Analysis Form and DOL CA-7b, Leave Buy Back (LBB) Worksheet/Certification and Election, when applicable, to request a leave buy back within 1 year from OWCP's approval of the claim, unless it is administratively determined that the injured worker was prevented from exercising this option because of the disability.

6. GENERAL PROVISIONS

a. **Medical Care.** If the claim is accepted as compensable under FECA, the injured employee is entitled to medical services. Medical services include examinations, treatments and related services such as hospitalization, medications, appliances, supplies and transportation, as prescribed or recommended by qualified physicians that in the opinion of OWCP are likely to cure, give relief, or reduce the degree or the period of disability. Medical care is provided as long as authorized by OWCP.

b. **Attendant Allowance.** Under 5 U.S.C. 8111, an amount payable up to \$1500 per month when the service of an attendant is necessary because the employee is totally blind, or has lost the use of both hands or both feet, or is paralyzed and unable to walk, or because of other disability resulting from the injury requires constant attendance.

c. **Continuation of Pay.** An employee's regular pay may be continued by the facility for up to 45-calendar days of wage loss because of disability and medical treatment following a traumatic injury. COP ensures that the employee's income is not interrupted while the claim is being adjudicated. It also provides VHA with a period of up to 45 calendar days to return an injured employee back to productive duty without the injured employee having to file a CA-7, *Claim for Compensation*. COP is not considered compensation and is therefore subject to income tax, retirement and other deductions. After entitlement to COP is exhausted, the employee may apply for compensation or use leave.

d. **Compensation for Wage Loss.** In cases of disability determined by OWCP, an employee is entitled to compensation at the rate of 66 and two-thirds percent of the employee's established pay if there are no dependents or 75 percent of their pay if there are one or more dependents. Pay may include additional amounts over their base salary, such as premium pay; night and Sunday differential; and Holiday pay.

Compensation payments for total disability may continue as long as the disability continues.

e. **Cost of Living Adjustments.** Compensation benefits are increased by the applicable Consumer Price Index effective March 1 each year for all beneficiaries who have been in receipt of benefits for more than 1 year prior to that date.

f. **Compensation for Loss of Wage Earning Capacity.** When an injured worker suffers a wage loss because of a disability that is less than total, compensation may be paid for loss of wages or Compensation for Loss of Wage Earning Capacity (LWEC). Facility WCP personnel may request that an LWEC determination be made by the OWCP claims examiner (CE). Sufficient medical evidence must indicate that an individual who is receiving compensation has attained MMI, is unable to return to the position held at the time of injury (or to earn equivalent wages) and is not totally disabled for all gainful employment. If an injured worker demonstrates that assigned work duties can be performed, or OWCP determines that the employee can perform the duties of a job paying less than the DOI position and the job is deemed suitable by OWCP, compensation will be payable based on the LWEC determination.

g. **Vocational Rehabilitation.** When an injured worker has permanent limitations and cannot return to the DOI position, vocational rehabilitation services may be provided to assist in returning the worker to a suitable job. Rehabilitation services are carried out by OWCP with the assistance of state or private rehabilitation agencies. When vocational rehabilitation is under way, OWCP may provide a monthly maintenance allowance not to exceed \$200 in addition to compensation for wage loss.

h. **Schedule Award.** Compensation is provided for permanent loss or loss of use (either partial or total) of certain internal organs, members, or functions of body parts such as arms, legs, hands, feet, fingers, toes, or eyes and loss of hearing or loss of vision. Schedule awards may vary for different body parts. Each extremity is rated for a specific number of weeks for compensation. If a serious disfigurement of the head, face, or neck results from a job-related injury, a schedule award may also be made for such disfigurement.

i. **Death Benefits.** In the event of death arising out of employment, FECA provides for funeral and burial expenses. If the employee dies away from his or her place of residence, these expenses will include the cost of transporting the body to the place of burial. In addition, a \$200 allowance will be paid to the personal representative of the decedent for administrative costs of terminating employee status with the Federal government. Survivors are entitled to benefits in the form of compensation payments.

j. **Death Gratuity.** Under 5 U.S.C. 8102(a), the U.S. is authorized to pay up to \$100,000 to the survivors of a Federal employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation.

PROGRAM ADMINISTRATION

This section addresses program oversight, administration, customer support expectations and communication methods within the Veterans Health Administration (VHA) Workers' Compensation Program (WCP).

1. PROGRAM OVERSIGHT

a. The VHA National WCP Office is responsible for the oversight and compliance of the VHA WCP to ensure that the Veterans Integrated Service Network (VISN), program office and facility Management understand program requirements and reports to stakeholders, as necessary, the status of compliance with laws, regulations, policies and procedures through the Deputy Under Secretary for Health for Operations and Management.

b. VISN or program office WCP coordinators are responsible for supporting the VHA National WCP Office in providing oversight and compliance enforcement to facility WCP personnel.

2. ADMINISTRATION

a. OWCP Agency Code Assignment.

(1) WCP Personnel request Office of Workers' Compensation Programs (OWCP) Agency Codes from the VHA National WCP through the Veterans Integrated Service Network (VISN) or program office WCP coordinator.

(2) OWCP assigns at least one four-digit OWCP Agency Code to each facility WCP office so that costs paid by OWCP to, or on behalf of, the injured worker are charged back to the appropriate facility (i.e., 4000, 4010).

(3) The facility WCP is assigned a standard two-character suffix of "00" along with the four-digit OWCP Agency Code (i.e., 4000 00, 4010 00). When there is a need to separate costs by service, such as by appropriation, service, or geographic boundary; facility WCP personnel request an individual two-character suffix that is added to the four-digit OWCP Agency Code. (i.e., 4000AB, 4000AC)

(a) In all cases, the facility WCP personnel are responsible for ensuring that the correspondence address and point of contact information is accurate at OWCP. To make changes, facility WCP personnel notify the VHA National WCP Office, through the VISN or program office WCP coordinator, to ensure that OWCP National Office updates their records.

(b) Facility WCP personnel assign appropriate OWCP Agency Codes to each workers' compensation (WC) case during the claim initiation process and validates the accuracy of the assigned OWCP Agency Codes upon first review of the Agency Query System (AQS) record after transmitting to OWCP for processing.

b. WCP Staffing List.

(1) The VHA National WCP Office maintains a staffing list of all VHA WCP personnel used as a distribution list for communications and to evaluate staffing levels against approved staffing allocation models. This list also serves as a networking tool for WCP personnel.

(2) WCP personnel ensure that the WCP Staffing List is up to date and that correspondence information such as addresses, phone numbers and email addresses are accurate.

(3) VISN or program office WCP coordinators periodically review the WCP Staffing List for accuracy and assist WCP personnel when changes are necessary.

c. WCP Distribution Lists.

(1) The VHA National WCP Office creates and reviews distribution lists on a quarterly basis. Distribution lists align with each specific stakeholder group to control information based on a 'need to know.'

(2) The VHA National WCP Office maintains the VHAWCGROUP distribution email list in Microsoft Outlook and updates the email list monthly. Information released to this group includes program communications and other information requiring immediate release to all VHA WCP personnel.

d. Case File Management.

(1) WCP personnel are responsible for managing all WC claims filed by injured workers within the duty stations serviced; including claims from injured workers within a duty station that are on temporary duty (TDY) in another location at the time of the injury, illness, or death. The following are exceptions:

(2) WCP personnel must not manage their own WC claims. The VISN or program office WCP coordinator manages or assigns another facility WCP to manage the claim. When reassigning, the VISN or program office WCP coordinator must take into consideration that tools and technology may limit other facility WCP from accessing WC case file information.

(3) VHA employees who are injured while on a detail assignment documented on Form SF-52, Request for Personnel Action, and outside of the regular duty station must file their WC claim with the facility WCP office responsible for managing WC claims for the assigned duty station. WCP personnel use the OWCP Agency Code and suffix for the assigned duty station.

e. **Staffing Titles.** WCP personnel use official position titles in signage or emails, (e.g., John Doe, Employee Benefits Specialist). The use of the acronym "OWCP" in signage or emails (e.g., Jane Doe, OWCP Specialist, or VA medical facility OWCP

Office) is not permitted because it lends to the perception that WCP personnel is acting on behalf of the U.S. Department of Labor (DOL) OWCP.

3. CUSTOMER SUPPORT

a. **Internal Customer Support.** WCP personnel follow a three-tier customer support process when questions arise regarding interpretation of law, policy, guidance and processes; or when issues related to supporting tools and technology exist. WCP personnel must first research the matters using the communication methods provided by the VHA National WCP Office and VISN or program office WCP coordinators before making a request for assistance. WCP personnel responds to customer support issues in writing to the originator, with copies to all WCP personnel involved in the customer support process. For matters of importance to a wider WCP community, WCP personnel send a copy of the response to the VISN or program office WCP coordinators for inclusion in program communications to all WCP personnel.

(1) **Tier 1 Support.** WCP personnel make requests for assistance to the VISN or program office WCP coordinator. The VISN or program office WCP coordinator evaluates the request and attempts to resolve the question using available reference materials.

(2) **Tier 2 Support.** When the VISN or program office WCP coordinator cannot resolve the request for assistance, the WCP coordinator escalates the request to the VHA National WCP Office for resolution. The VHA National WCP Office evaluates the VISN or program office WCP coordinator's research and attempts to resolve the request for assistance.

(3) **Tier 3 Support.** The VHA National WCP Manager escalates the request to VA Human Resources and Administration (HR&A), Occupational Safety and Health (OSH), WCP Manager when assistance is required in obtaining resolution.

b. **External Customer Support.** When requesting customer support from OWCP, the following protocol is used:

(1) WCP personnel contact the OWCP District Office Phone Bank when making telephone inquiries about a WC case to increase the likelihood that the telephone contact is documented and a response is received. WCP personnel provide intake staff members with enough information to assist the OWCP Claims Examiner (CE) with the request and follows up with written Reports of Contact providing more detailed information. WCP personnel upload the Report of Contact into the Employee Compensation Operations & Management Portal (ECOMP) so that the CE has the Report of Contact available when responding to the request.

(2) Written requests for assistance must be clear, concise and factual. When requesting case file information, WCP personnel describes the purpose for the request and the intended use of the information. WCP personnel upload the written request to ECOMP. If OWCP does not respond within 30-calendar days, WCP personnel make a

second request for the information. If the second request is unanswered within 30-calendar days, WCP personnel may contact the VISN or program office WCP coordinator for assistance in escalating the issue with the OWCP District Office.

4. COMMUNICATIONS

a. **WCP Stakeholder Communications.** VHA National WCP Office develops WCP stakeholder communications based on the appropriate 'need to know.' The VHA National WCP Office determines the level of data included in communications in collaboration with stakeholder groups, such as the VISN or program office Directors, Human Resource Officers (HRO) and WCP coordinators.

b. **Information for Immediate Release.** The VHA National WCP Manager forwards information for immediate release to applicable stakeholders through appropriate communication methods, including Deputy Under Secretary for Health Operations and Management memoranda, as determined by stakeholder's role within VHA WCP. A copy of the communication is sent via email to the VISN or program office WCP coordinator.

c. **The VHA National WCP Office.** The VHA National WCP Office maintains an electronic media repository to provide program support and access to other WCP laws, regulations, policies, procedures, references, tools and templates.

STAFFING, BUDGET, RESOURCES, AND TRAINING

Staffing, budget, resources and training shall be made available to effectively implement, manage and provide oversight of the Veterans Health Administration (VHA) Workers' Compensation Program (WCP). This section addresses the minimum requirements for staffing, budget, resources and training required to effectively implement, manage and provide oversight of the VHA WCP.

1. STAFFING

a. **Occupational Health Services.** The Occupational Health Services provides necessary staffing to perform policy, planning, training and oversight compliance of the VHA National WCP.

b. **VHA National WCP Office.** The VHA National WCP Office provides policy, planning, training, oversight and compliance of VHA National WCP and is responsible for ensuring that Veterans Integrated Service Network (VISN) or program office and facility management understand program requirements and report, as necessary, the status of compliance with this directive.

c. **VISN or Program Office Director (or designee).** The VISN or program office Director (or designee) evaluates facility WCPs to determine whether it may be more effective to establish a centralized program for managing the WCP for all facilities within the VISN or program office. When a centralized program is implemented, the Director's responsibilities include those titled facility Directors (or Designees), in this directive.

d. **VISN or Program Office Director.** The VISN or program office Director provides the appropriate level of oversight so that staffing, budget and resources are available to implement and oversee the WCPs at the VISN or program office and facilities.

(1) In a non-centralized program, appointment or competitive placement of a VISN or program office WCP coordinator to support the VHA National WCP Office with evaluating WCP compliance at facility WCPs and that alternate coverage for the VISN or program office WCP coordinator is available during absences and communicating such coverage to the VHA National WCP Manager.

(2) In a centralized program, competitive placement of a VISN or program office WCP Supervisor to manage the VISN or program office WCP who also serves as the VISN or program office WCP coordinator and sufficient WCP personnel to manage the WCP for all facilities within the VISN or program office.

(3) Assign alternate personnel to cover the VISN or program office WCP coordinator work during absences and communicate such coverage to the VHA National WCP Manager and facility WCP personnel.

e. **The Facility Director.** The facility Director allocates sufficient staff, resources and budget to implement an effective facility WCP. The facility Director is responsible for the following:

(1) Staffing the local WCP office in accordance with the Human Resources Delivery Model (HRDM) 2010, or a subsequent Human Resources Delivery Model, approved by the Under Secretary for Health.

(2) Identifying WCP backup staff members to provide coverage for periods of absence of primary WCP personnel in a facility that requires no more than one WCP personnel to support the program.

f. **VISN, Program Office and Facility Directors.** VISN, program office and facility Directors may alternatively allocate staff members in support of VISN or program office and facility WCP who are responsible for other duties outside of WCP (collateral duty); however, WCP duties must account for at least 50 percent of the collateral duty employee's time. Collateral duty employees will count as 0.50 WCP Full-Time Employee Equivalent (FTEE) when measured against the most current staffing allocation model.

2. BUDGETING

a. **Occupational Health Services.** The Occupational Health Services is responsible for allocating funds necessary to implement and maintain sufficient staffing, training and resources in support of the VHA National WCP.

b. **The VHA National WCP Office.** The VHA National WCP Office is responsible for preparing and submitting an annual budget to Occupational Health Services, including any travel expenses required to support their responsibilities in policy, planning, training and oversight and compliance for the WCP.

c. **VISN, Program Office and Facility Directors.** VISN, program office and facility Directors are responsible for allocating funds necessary to implement and maintain sufficient staffing, training and to procure resources necessary to support the VISN and facility WCPs.

d. **VISN or Program Office WCP Coordinators.** VISN or program office WCP coordinators are responsible for preparing and submitting an annual budget to the assigned manager, including any travel expenses required to support their roles in training, OWCP District Office visits, oversight and compliance site visits to facility WCPs and other activities in support of their duties as VISN or program office WCP.

e. **Local WCP personnel.** Local WCP personnel are responsible for preparing and submitting an annual request for funding to the assigned manager, including any travel expenses to visit the OWCP District Office, attend training and procure office supplies and equipment and other resources to efficiently manage the WCP.

3. RESOURCES

a. To effectively manage the WCP and protect Personally Identifiable Information (PII) and Personal Health Information (PHI), the WCP office must be organized in a manner that centralizes the processing of administrative paperwork.

b. Private, secured offices are optimal to protect Privacy Act information, particularly during guidance and counseling sessions or telephone conversations with injured workers.

c. When private offices are not available, the facility must have at least one dedicated conference area within close proximity to the WCP office to allow for privacy while interviewing injured workers or preparing and discussing individual compensation cases.

d. Where possible, it is optimal to locate WCP offices in close proximity to the Employee Occupational Health (EOH) Unit to ensure that injured workers can obtain emergency diagnosis and first treatment from EOH when elected, receive guidance and counseling by WCP personnel; and process WC claim forms expeditiously.

e. Documents and data related to a workers' compensation (WC) case file, including VHA copies, are part of the Office of Workers' Compensation Programs, Federal Employees' Compensation Act File (DOL/GOVT-1) system of records and are not VA records.

f. The WCP must have a dedicated fax machine to mitigate the risk of improper disclosure of protected records to employees without an official "need to know."

g. Only authorized personnel may access WC case files. Computer security safeguards must be in place to protect electronically stored WCP data and locked locations must be available for paper WC case files. To minimize the risk of access by unauthorized personnel, WC case files should be stored in secure locations (e.g., restricted file shares, locked cabinets) that are limited to only WCP data and restricted to WCP personnel. File storage must be of a sufficient size to store all active case files in accordance with VHA Records Control Schedule, Section II, Item 05-29, *Personal Injury Files*.

h. Each WCP personnel must have use of dedicated office equipment such as computers, printers and telephones. Scanners, document shredders and sensitive bins must be made available and located either in or within close proximity to the WCP office.

i. Case file folders and general office supplies sufficient to meet the requirements of the WCP must be made available as needed.

4. TRAINING

a. WCP personnel are responsible for attending required and supplemental training within the specified timeframes. VA and VHA sponsored training may include modules in the VA Talent Management System (TMS); VA approved e-learning or virtual training systems, face-to-face training sessions or other emerging training formats.

b. VISN, program office and facility WCP personnel must make every effort to attend VA and VHA National WCP planned conference calls using interactive electronic media.

c. Facility Directors are responsible for ensuring that all employees are informed of their rights and responsibilities under Federal Employees' Compensation Act (FECA) during new hire orientation and at claim initiation; and for ensuring that information about FECA and the local WCP policy is posted in locations where notices to employees are customarily posted.

d. Facility Directors are responsible for ensuring that all supervisors are trained and held accountable for their roles and responsibilities in the WCP.

PRIVACY AND SECURITY OF DATA

Confidentiality and security of Veterans Health Administration (VHA) Workers' Compensation Program (WCP) documentation and data shall comply with Federal regulations and be released in accordance with the routine use of the applicable System of Record Notices. Department of Veterans Affairs (VA) and VHA Central Office authorized and approved electronic tools and technology shall be used in the management and oversight of the WCP. This section addresses the minimum requirements that a local WCP must implement to ensure proper handling of records kept to reflect the status of all WCP claims and to ensure compliance with the Privacy Act and, if applicable, the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Rules.

1. OVERVIEW

a. **The Privacy Act, 1974.** The Privacy Act, 1974, imposes certain obligations and responsibilities concerning the creation, maintenance, use and disclosure of records pertaining to individuals, including WCP records related to government employees and contractors.

b. **Office of Workers' Compensation Programs, Federal Employees' Compensation Act File.** Office of Workers' Compensation Programs, Federal Employees' Compensation Act File (DOL/GOVT-1) is the system of records for Federal Employees' Compensation Act (FECA) claims. Office of Workers' Compensation Programs (OWCP) is the owner of all records in this system of records.

c. **Office of Workers' Compensation Programs.** OWCP authorizes access for Federal agency WCP personnel to WCP records through the DOL/GOVT-1 system of records. Copies of workers' compensation (WC) case information and original claims bearing original signature maintained by local WCP personnel are protected under DOL/GOVT-1 and may only be disclosed if authorized by a routine use in this system or another Privacy Act exception.

d. **Health Insurance Portability and Accountability Act Privacy and Security Rules.** HIPAA Privacy and Security Rules generally do not apply to WCP records owned by OWCP and maintained by VHA. A covered entity, such as VHA or another health care provider, may disclose protected health information regarding an individual to the extent necessary to comply with FECA. However, if protected health information covers both a work-related condition and a concurrent condition, the health care provider should redact any medical information not related to the WC case unless the injured worker authorizes its release.

2. ACCESS TO PROTECTED RECORDS

a. OWCP and VA authorize WCP personnel to access protected information in electronic systems covered by one or more systems of records.

(1) OWCP authorizes access to systems within DOL/GOVT-1, such as the Agency Query System (AQS), Affiliated Contract Services (ACS) Medical Bill Portal and the Employee Compensation Operations and Management Portal (ECOMP) to assist in administratively managing WC cases.

(2) VA authorizes access to the Workers' Compensation Occupational Safety and Health/Management Information System (WCOSH/MIS).

b. The facility Director (or designee) approves access for local WCP personnel to obtain protected information in the following systems:

(1) Human Resources Management Information Systems at a level sufficient to review an injured worker's employment status, pay status including grade, step and salary; and employee benefits such as Federal Employee Health Benefits (FEHB), Federal Employees' Group Life Insurance (FEGLI) and retirement systems in order to validate and appropriately manage administrative aspects of a WC case.

(2) Personnel and Accounting Pay System at a level sufficient to access reports to support administrative case management activities such as processing of initial WCP claims, authorizing and reconciling Continuation of Pay (COP), confirming hours or days away from work, completing U.S. Department of Labor (DOL) Form CA-7, Claim for Compensation and verifying hours of work and return to work begin dates.

c. WCP personnel are not authorized access to the Computerized Patient Record System (CPRS) to support administrative case management activities. Access to CPRS poses a risk to the health information of other VHA employees and Veterans, which may present potential disclosure of non-work related medical documentation. WCP personnel request health information related to a WC case by writing to the physician of record or by requesting it through OWCP.

3. PROGRAM RECORDS

a. WCP personnel maintain the following three types of program records:

(1) **Case files.** WCP personnel prepare a case file for each new WC claim they receive. These files consist of all relevant WC claim forms, medical documentation, correspondence and any other pertinent information necessary to manage a WC case.

(2) **Claim status records.** WCP personnel obtain or create and reconcile reports that relate to the status of claims (e.g., Chargeback and Return to Work reports, Potential Characteristics of Fraud checklists, etc.) These records contain information that identifies individual injured workers.

(3) **Program administration and general office records.** These records relate to the general administration and internal operations of the facility WCP (i.e., directives, summarized injury trend analyses, aggregate data reports, etc.). These records must

not contain Personally Identifiable Information (PII) or Personal Health Information (PHI).

b. Reports are available through the OWCP, VA and VHA systems. WCP personnel must use approved technologies to perform case management and evaluate the WCP. WCP personnel may only create and maintain manual or electronic reports outside of these systems when no availability exists to capture data in the existing systems. The development of local databases, (e.g., Microsoft Access) as a means to circumvent the use of OWCP, VA and VHA systems is prohibited.

c. WCP personnel must protect WC files and claim status records when not in use. WCP personnel are required to adhere to DOL/GOVT-1 Routine Use provisions as well as VA Privacy and Information System Awareness practices to protect WC case files and case status reports.

(1) **Privacy Screens.** WCP personnel must use privacy screens on computer monitors where it is likely that unauthorized personnel may be able to view protected data.

(2) **WCP Data.** WCP data must not be left unattended and must be saved to a secure network drive or maintained in a locked file cabinet or desk drawer when not in use by WCP personnel.

d. WCP personnel must safeguard protected data during storage and when sharing with entities having an official need to know. Individual or groups of documents, however sent, that contain protected information and are sent to VA personnel must be accompanied by a notice sheet containing language that explains the penalties for violations of the Privacy Act and, if applicable, the HIPAA Privacy and Security Rules.

(1) **Shared network drive.** WCP personnel ensures that any electronic case file or claim status record is protected with a strong electronic password only known by WCP personnel with a need to know.

(2) **Electronic mail.** WCP personnel must ensure that Public Key Infrastructure (PKI) encryption is placed on email communications and recipients who do not have trusted certificates do not receive protected case file or claim status record information by email.

(a) Subject lines of electronic mail should not include PII or PHI.

(b) Documents contained in electronic email sent without PKI must contain a strong electronic password. The sender must provide authorized recipients with passwords in a separate email message with a blank subject line.

(c) Interoffice mail. WCP personnel must consider whether it is just as efficient to hand-deliver protected information to an authorized recipient within the local facility instead of using interoffice mail. When the use of interoffice mail is necessary, WCP

personnel ensure that the notice sheet is included as a cover sheet to the protected document within the interoffice envelope.

(d) Regular mail. When it is necessary to mail case files or claim status records to an authorized recipient, WCP personnel must comply with Directive 6609, *Mailing of Sensitive Personal Information*, and ensure protection of the information during the delivery process. Each shipped case folder must include a notice sheet. Each box prepared for shipment must include a shipping manifest. WCP personnel must maintain a copy of the shipping manifest in the WCP office. The sender must use a delivery service that provides shipment tracking to maintain a chain of custody. A signature of receipt must be required at time of delivery. It is unacceptable for the delivery service to deliver without signature or to deliver to Post Office Boxes as it results in a break in the chain of custody.

e. WCP personnel must use and protect WC information in accordance with the routine uses and safeguard provisions in the applicable systems of records.

(1) OWCP Systems of Record. WCP personnel ensure that data reviewed, printed and maintained from OWCP systems is protected from unauthorized disclosure and is only used for official business and in accordance with DOL/GOVT-1.

(2) WCOSH/MIS, or Other VA/VHA Systems of Record. WCP personnel ensure that data reviewed, printed and maintained from WCOSH/MIS or other VA/VHA systems is protected from unauthorized disclosure and is only used for official business and in accordance with the applicable systems of records.

FILE MANAGEMENT

This section establishes minimum requirements for workers' compensation (WC) case file management necessary to facilitate efficiency and ensure that successive Workers' Compensation Program (WCP) personnel can navigate the files, and that Veterans Health Administration (VHA) National WCP personnel and Veteran Integrated Service Network (VISN) or program office WCP coordinators can evaluate case management activities utilizing a consistent evaluation approach. Variations on this direction should be minimal.

1. CASE FILE DOCUMENTATION STANDARDS

WCP personnel agree upon and use one standard folder type for all cases managed by the WCP. Facility WCP personnel should consult with the VISN or program office WCP coordinator before making this decision to determine whether there is already a standard folder type required by the VISN or program office for greater standardization.

a. WCP personnel maintain case file folders in two-, four-, or six-part folders. The WC case file setup must be consistent with case file standards implemented by the VHA National WCP Office. WCP personnel must document, in writing, any deviation from the VHA case file setup and must ensure that all documentation required in a case file is present.

b. WCP personnel place the required documents into sectioned partitions within the WC case file. This allows for a quick review of the file by those with authorization.

c. WCP personnel fasten documentation into WC case file folder in reverse chronological order—with most recent documentation on top. WCP personnel should make every effort to minimize duplication of documents contained in the WC case file.

2. CASE FILE CREATION

WCP personnel prepare a separate folder for each new injury or illness reportable to the Office of Workers' Compensation Programs (OWCP). WC case files are created in a manner so that they may be reused.

a. WC case files are labeled with the following minimum information:

- (1) Employee Last Name.
- (2) Employee First Name.
- (3) OWCP Claim Number.
- (4) Date of Injury (DOI).

b. WC case files are stored alphabetically in file cabinets according to injured workers' last name, first name and DOI.

c. For traumatic injury cases incurring lost time or where medical expense is incurred or expected, WCP personnel transmit the claim electronically or by fax to OWCP and maintain the U.S. Department of Labor (DOL) Form CA-1, *Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation*, bearing original signature in the WC case file.

d. For traumatic injury cases where the employee is examined or treated at the Employee Occupational Health (EOH) or by medical providers under contract to the agency and emergency diagnosis and first treatment occurs during working hours beyond the DOI, WCP personnel check "First Aid" on Item 39, *Filing Instructions* on DOL Form CA-1. WCP personnel transmit the claim electronically or by fax to OWCP and maintain the form bearing original signatures in the WC case file. First aid injuries also include those requiring two or more visits to a medical facility for examination or treatment during non-duty hours beyond the DOI, as long as no leave or Continuation of Pay (COP) is charged and no medical expense is incurred.

e. When the employee obtains no medical care, or obtains only agency-sponsored care on the DOI and no time loss is charged to either leave or COP, WCP personnel check "No Lost Time/No Medical Expense Incurred or Expected" in Item 39, *Filing Instructions* on DOL Form CA-1. WCP personnel forward the form bearing original signatures to EOH for inclusion in the Employees' Medical File (EMF).

(1) WCP personnel may retain DOL Form CA-1 in the WCP office for a period no greater than 60-calendar days before forwarding to the EMF. This expedites processing of these claims to OWCP if the filing requirements change.

(2) When the disposition changes on DOL Form CA-1, located in the EMF, the WCP requests the original form from the custodian of the EMF, transmits the electronic claim to OWCP and creates a WC case file.

f. For occupational illnesses cases, WCP personnel transmit the claim electronically or by fax to OWCP and maintain the DOL Form CA-2, *Notice of Occupational Disease and Claim for Compensation*, bearing original signatures in the WC case file.

g. For recurrences of an injury or illness, WCP personnel forward DOL Form CA-2a, *Notice of Recurrence*, by fax to OWCP and maintain a copy of the claim form in the WC case file for the original injury or illness.

3. COMBINED CASES AT OWCP

When an injured worker sustains more than one injury, it may be necessary for OWCP to combine two or more injury records into one WC case folder and assign a "master number."

a. When OWCP combines two or more of an injured worker's claims, WCP personnel process actions on the claims as one case under the master case file and identify the subsidiary claims by the master case OWCP file number.

b. WCP personnel annotate the subsidiary files and keep the claim files together. There are various means to accomplish this, depending on the size of the individual files and available material.

4. FILING SYSTEM

WCP personnel establish a filing system consistent with the file management standards implemented by the VHA National WCP Office.

a. All WC case file cabinets must be lockable and located in, or within a close proximity to the WCP office.

b. Before procuring additional file space, WCP personnel ensure that WC case files closed by OWCP for more than 3 years are processed and destroyed in accordance with Records Maintenance instructions.

5. RECORDS MAINTENANCE

Records maintenance is necessary to ensure that WCP personnel are maintaining WC cases in accordance with applicable Records Control Schedules. In order to ensure efficient case management, the following periodic records maintenance is required to optimize storage space and meet records retention requirements:

a. **Annually.**

(1) Except for the original claim forms, OWCP considers all documents in a claim file to be “copies” of the official case file maintained by OWCP.

(2) WCP personnel retain all WC case file copies until 3 calendar years after OWCP has closed a case (i.e., case status of C1, C2, C3, C4, C5, or CL).

(3) WCP personnel identify WC case files closed for 3 calendar years using Agency Query System (AQS) or subsequent OWCP system.

(a) Prior to destruction of cases, WCP personnel remove all initiating forms bearing original signatures (e.g., DOL Forms CA-1 or CA-2 and CA-7) from case files slated for destruction and staple them together.

(b) WCP personnel place the initiating claim forms bearing original signatures in an expandable folder or labeled binder in alphabetical order by injured worker last name, first name and date of injury.

(c) WCP personnel must retain the original initiating claim forms bearing original signatures securely in a retrievable manner in the WCP office for 15 years after OWCP has closed a case and destroyed thereafter in accordance with the Office of Workers' Compensation Programs, Federal Employees' Compensation Act File (DOL/GOVT-1).

(4) WCP personnel arrange to have the remaining case file documentation from the case files destroyed.

(5) In rare instances, a WC case file scheduled for destruction may warrant longer retention period. Typical candidates for longer retention would include cases with a clear likelihood of a schedule award not yet claimed by the injured worker, or cases where experience shows that there may be long-term residuals requiring medical intervention in the future.

b. Semi-annually.

(1) WCP personnel review all WC case files as part of ongoing case management efforts no less than once every 6 months.

(2) WC case files closed by OWCP are identified and a closure and purge date are annotated on the case file. The WC case file is moved to the storage location for cases closed less than 3 years.

(3) For WC case files that remain open at OWCP, WCP personnel determine whether there is a need for a case status change by OWCP and make a written request to the OWCP District Office to request the change, when appropriate.

(4) For all remaining open WC case files, WCP personnel review the WC case file for ongoing claims management activities. WCP personnel document the actions taken to resolve a case, as well as future actions planned to continue management of the case.

CLAIM INITIATION PROCESS

Technical review, analysis and collaboration among internal and external stakeholders shall be completed to ensure accurate processing of claims. Guidance and counsel shall be provided to employees, managers and supervisors regarding their rights, responsibilities and requirements under the Federal Employees' Compensation Act (FECA) immediately following the first report of work-related injury or illness. This section addresses case and medical management activities performed by Workers' Compensation Program (WCP) personnel to ensure appropriate processing of claims and initial case management.

1. OVERVIEW

a. Employees are required to report to their supervisor any incident that caused an injury or illness to occur. However, the injured worker is not required to file a WC claim form immediately, or at all. Veterans Health Administration (VHA) Management must not require, prohibit or impede an injured worker from filing a workers' compensation (WC) claim.

b. The Office of Workers' Compensation Programs (OWCP) does not generally consider the Department of Veterans Affairs (VA) Form 2162, *Report of Accident*, or the equivalent electronic incident report, a written notice of injury or illness for purposes of claiming benefits under FECA.

(1) VA supervisors and safety officers use VA Form 2162, or the equivalent electronic incident report to document incident investigations and to identify hazards and corrective actions to prevent future injuries or illnesses from occurring.

(2) It is the responsibility of the supervisor and safety staff members to investigate and document incident investigations.

(3) VHA supervisors and managers must not require an injured worker to complete VA Form 2162, or the equivalent incident report as a condition of filing a claim for FECA benefits. When an official reporting system requires an incident report to be initiated, the Supervisor must initiate that record prior to the end of the work shift on the date that an employee reports an injury or illness.

c. To claim benefits under the FECA, an injured worker who sustains a work-related traumatic injury or occupational disease must give notice in writing on U.S. Department of Labor (DOL) Form CA-1 or DOL Form CA-2.

d. WCP personnel counsel injured workers regarding the OWCP definitions for traumatic injuries and occupational illnesses and explain the types of claim forms and how each is used based on the incident reported.

e. The injured worker has a right to choose the claim form to file for FECA benefits (i.e., DOL Form CA-1 or DOL Form CA-2).

f. WCP personnel or supervisor advise the injured worker of the obligation to return to work as soon as possible and that detailed return to work capacity reports are required by the treating or referral physician after each medical appointment in all cases where medical restrictions exist or where hospital treatment or prolonged care is required.

g. WCP personnel continue to offer assistance throughout the claim process and provide guidance to injured workers regarding decisions made by the OWCP.

2. INFORMING EMPLOYEES OF RIGHTS AND RESPONSIBILITIES

(a) WCP personnel advise employees during new employee orientation to report injuries and illnesses immediately so that the employees interests are protected and to ensure prompt medical care and uninterrupted income.

(b) Supervisors and managers regularly advise employees of their responsibilities during periodic shift briefings or meetings.

(c) WCP personnel ensure that employee rights and responsibilities, along with local WCP policy for reporting injuries are posted in media available to staff (i.e., bulletin boards, VISN or facility intranet sites and/or Share Point sites).

(d) WCP personnel provide guidance and counseling to an injured worker as soon as an injury or illness is reported and for as long as the WC case is considered open by OWCP.

(e) WCP personnel ensure that the injured worker understands the role of a designated representative and that the injured worker may authorize, in writing, any individual to represent him or her in a claim under the FECA, unless that individual's service as a representative would violate any applicable provision of law.

3. EMERGENCY TREATMENT

a. An injured worker may obtain emergency treatment without prior authorization when emergency treatment is required and securing authorization for medical treatment would hinder necessary medical attention.

b. In cases of emergency care, the supervisor:

(1) Advises the injured worker of the right to emergency diagnosis and first treatment by the VHA Employee Occupational Health (EOH) or a private physician or hospital of choice.

(2) Ensures that the appropriate personnel are notified to provide medical care to the injured worker.

(3) Obtains the name and address of the physician elected as the provider of choice and provides the information to WCP personnel once emergency treatment is secured.

(4) Prepares Side A of DOL Form CA-17, *Duty Status Report* and provides the completed form to the injured worker.

(5) When there is not sufficient time to advise the employee of all rights and responsibilities, advises the employee of the following, if medically able to do so:

(a) Submits DOL Form CA-17 or equivalent duty status report and other documentation to the supervisor or WCP personnel after examination (or at the start of the employee's next scheduled work shift), so that the employee's duty status may be determined.

b. Informs the treating physician of the availability of light duty and requests the physician to provide any limitations imposed by the injury.

c. Completes the electronic or paper DOL Form CA-1 within 48 hours, if possible.

(6) If there is not sufficient time to complete appropriate paperwork, arranges to do it after medical care has been provided.

(7) Initiates notification of injury in the electronic system.

c. Upon notification of emergency care and treating physician information, WCP personnel do the following:

(1) Provides verbal authorization for medical examination and treatment to the provider of choice within 4 hours of the injury and follows up with a completed DOL Form CA-16, *Authorization for Examination And/Or Treatment*, within 48 hours, but no later than one week, after the date of injury once DOL Form CA-1 is completed by the injured worker.

(2) Notifies the provider of choice of VHA policy on light duty assignment availability.

(3) Follows up with supervisor to ensure that a completed DOL Form CA-17 is provided to the injured worker. If not, works with the supervisor to complete Side A of the DOL Form CA-17 and submits the completed form to the injured worker's provider of choice.

4. NON-EMERGENCY TREATMENT

The supervisor notifies WCP personnel immediately or as soon as possible, after a report of injury or illness to begin appropriate claim initiation actions.

5. REPORTS OF TRAUMATIC INJURY

a. The supervisor or WCP personnel provide the injured worker with instruction on how to complete the electronic DOL Form CA-1 in the official System of Records. An employee may elect to file DOL Form CA-1 electronically or in paper format.

b. The injured worker who elects to file a claim for traumatic injury does the following on DOL Form CA-1:

(1) Elects COP, annual and/or sick leave on DOL Form CA-1 in the event that time loss occurs from the job-related injury.

(2) Completes, signs and dates the employee section of DOL Form CA-1.

(3) Provides supporting medical documentation (i.e., DOL Form CA-17 or equivalent duty status report) to the supervisor and WCP personnel. If the employee submits medical information to the supervisor after completing the DOL Form CA-1, the supervisor forwards that information to WCP personnel for submission with the DOL Form CA-1, or with the case number, to OWCP.

(a) The injured worker is responsible for submitting prima facie medical evidence of disability to the supervisor or WCP personnel no later than 10-calendar days after submission of DOL Form CA-1.

(b) WCP personnel terminate COP and controvert entitlement to periods of COP with OWCP when sufficient documentation of disability is not received within 10-calendar days. The WCP personnel provide the injured worker with a copy of the controversion letter.

c. The supervisor does the following upon receiving notification of a completed DOL Form CA-1 from the injured worker:

(1) Reviews the employee's narrative statements for accuracy based on the incident investigation.

(2) Documents discrepancies on DOL Form CA-1 and provides factual and objective information to WCP personnel when there is a reason to contest employee statements.

(3) Completes, signs and dates the agency section of DOL Form CA-1 within 3-business days from receipt of the claim form.

(4) If filed electronically, prints DOL Form CA-1 from System of Record and obtains the original signature of the employee.

(5) Signs and dates the printed electronic DOL Form CA-1 in ink.

(6) Completes, signs and dates the *Receipt of Notice of Injury*, attached to the DOL Form CA-1 and provides a copy to the injured worker.

(7) Forwards the original DOL Form CA-1 bearing original signatures to WCP personnel within 3-business days of receipt of DOL Form CA-1 from injured worker.

d. **WCP personnel do the following:**

- (1) Monitor the electronic System of Records daily to determine the status of pending claim forms requiring review and processing.
- (2) Notify the supervisor when the agency portion of a claim form is not completed within 3-business days.
- (3) Communicate with injured workers who have initiated a DOL Form CA-1 to provide guidance and counseling regarding entitlements, rights and responsibilities when applying for FECA benefits for a traumatic injury.
- (4) Review DOL Forms CA-1 electronically signed by both the injured worker and the supervisor for completeness and accuracy and assist the employee in correcting any deficiencies found.
- (5) Obtain original signatures from the injured worker and supervisor, if not already provided; or inform the supervisor to obtain and forward original signatures to the WCP office.
- (6) Inform the employee when any period of COP is controverted and if pay will be terminated in accordance with regulation. Send a copy of the written controversion letter to the injured worker as follow up.
- (7) Explain to the employee his or her responsibility to submit prima facie medical evidence of disability within 10-calendar days of submission of DOL Form CA-1.

6. REPORTS OF OCCUPATIONAL ILLNESS

a. The supervisor or WCP personnel informs an employee who elects to file a DOL CA-2 the following:

- (1) COP is not authorized or payable in cases of occupational illness. The injured worker must request any combination of annual, sick leave and leave without pay (LWOP) for periods of disability.
- (2) Compensation benefits (i.e., payment for lost wages, payment of medical expenditures, etc.) are contingent upon OWCP's adjudication and acceptance of the claim. If accepted, compensation is not payable for the first 3-calendar days of total disability unless the disability extends beyond 14-calendar days.
- (3) If OWCP accepts the claim, the injured worker may complete DOL Form CA-7 to claim compensation for any period of LWOP used to cover period(s) of disability due to the illness. DOL Form CA-7a, *Time Analysis Form* and/or DOL Form CA-7b, *Leave Buy Back (LBB) Worksheet/Certification and Election*, may be required to buy back annual or sick leave that was used to cover period(s) of disability prior to adjudication.
- (4) Use of DOL Form CA-16 is not authorized without prior approval from OWCP.

b. The supervisor or WCP personnel provides the injured worker with instruction for completing the electronic DOL Form CA-2 in the official reporting system. An employee may elect to file a DOL Form CA-2 in paper format.

c. The supervisor or WCP personnel provides the injured worker with two copies of the appropriate DOL Form CA-35(A-H), *Evidence in Support of Occupational Illness*, for the type of illness being claimed.

d. The employee who elects to file a claim for an occupational illness does the following:

(1) Completes and electronically signs and dates the employee section of DOL Form CA-2.

(2) Provides supporting documentation required on the "From Employee" section of the appropriate DOL Form CA-35 (A-H) checklist.

(3) Chooses any combination of sick leave, annual leave, or LWOP; pending the OWCP adjudication of the claim when unable to work because of the claimed illness.

(4) Contacts WCP personnel for guidance and compensation information.

(7) The Supervisor or manager does the following upon receiving notification of a completed DOL Form CA-2 from the employee:

(8) Reviews DOL Form CA-2 for completeness and accuracy. If incomplete, contacts the employee for the missing information and assists the employee in correcting any deficiencies found.

(9) Completes the agency section of DOL Form CA-2 and provides electronic signature within 3- business days from receipt of the claim form.

f. Reviews the employee's narrative statements for accuracy based on the incident investigation.

(1) Documents discrepancies on the DOL Form CA-2 and provides factual and objective information to WCP personnel when there is a reason to contest the employee statements.

(2) Prints DOL Form CA-2 from electronic system and obtains the original signature of the employee and date signed, when possible.

(3) Signs and dates the printed DOL Form CA-2 in ink.

(4) Completes the *Notice of Receipt of Occupational Disease or Illness*, attached to DOL Form CA-2 and gives a copy to the injured worker.

(5) Forwards the original DOL Form CA-2 bearing original signatures to WCP personnel within 3-business days.

(6) Obtains supporting documentation required on the "From Employing Agency" section of the appropriate DOL Form CA-35, *Evidence Required in Support of a Claim for Occupational Disease*, checklist and sends to WCP personnel, along with information provided by the employee.

g. WCP personnel do the following:

(1) Monitor the electronic system daily to determine the status of pending claim forms requiring review and processing.

(2) Notify the supervisor when the agency portion of a claim form is not completed within three business days.

(3) Communicate with injured worker who initiated DOL Form CA-2 to provide guidance and counseling regarding entitlements, rights and responsibilities when applying for FECA benefits for an occupational illness.

(4) Review DOL Forms CA-2 electronically signed by both the injured worker and the supervisor for completeness and accuracy and assist the employee or supervisor in correcting any deficiencies found.

(5) Obtain original signatures from the injured worker and supervisor, if not already provided; or inform the supervisor to obtain and forward original signatures to the WCP office.

(6) Evaluate DOL Form CA-2 and supporting documentation against the appropriate DOL Form CA-35 checklist to ensure that the employee and the supervisor have provided all necessary documentation. When information is missing, WCP personnel make a request to the employee, supervisor, or appropriate office for the missing information.

7. CLAIMS FOR RECURRENCE OF INJURY OR ILLNESS

a. The term "recurrence" defines a spontaneous return or increase of disability without an intervening cause, due to a consequential injury, or for additional medical care after release from treatment for the work-related injury. WCP personnel must differentiate a true recurrence of disability from a disability caused by a new injury or illness, to follow the appropriate procedures.

b. A current employee who reports a recurrence of injury or illness, where the original injury occurred at another facility or Federal agency, can initiate DOL Form CA-2a, *Notice of Recurrence*, at the current work facility.

c. WCP personnel notify the employee that the elected provider of choice from the original injury should provide treatment for the recurrence of injury.

(1) An injured worker cannot elect VHA EOH as a provider of choice for a recurrence of injury until OWCP formally accepts the claim as being work-related.

(2) Any change in elected provider from the original injury or illness requires the injured worker to request a change of physician in writing to OWCP.

d. WCP personnel ensure that DOL Form CA-2a and all documentation submitted to OWCP contain the same OWCP Agency Code and OWCP case number as the original claim.

e. Supervisors and WCP personnel communicate with an injured worker to ascertain whether there is an “intervening cause” that may signal the occurrence of a new injury and whether that intervening cause occurred on or off duty.

(1) When the injury or illness appears to be new, WCP personnel provide the injured worker with the appropriate DOL Form (e.g., DOL Form CA-1 or DOL Form CA-2) and provide guidance and counsel in completion of the form.

(2) When a recurrence of injury or illness is consequential or intervening and results in lost time, WCP personnel provide the injured worker with DOL Form CA-2a and DOL CA-7.

f. The supervisor or WCP personnel provide guidance and counseling to injured employees regarding entitlements, rights and responsibilities when filing a recurrence of injury or illness.

g. The injured worker does the following:

(1) Completes Part A of the DOL Form CA-2a.

(2) Provides a narrative statement explaining the circumstances surrounding the current disability or medical condition and describes the connection between the current condition and job duties to the earlier injury or occupational disease or illness.

(3) Completes Part C of DOL Form CA-2a when the claimant is not employed by a Federal agency at the time of recurrence. In this case, the WCP sends the DOL Form CA-2a directly to OWCP.

(4) Elects COP (if entitled and the 45-calendar days have not been used and 45-calendar days have not elapsed since first return to duty), annual, or sick leave pending adjudication of the recurrence claim. WCP personnel can determine if remaining days of COP are available by reviewing the COP tracking sheet in the WC case file.

h. The supervisor or manager does the following:

(1) Reviews the employee’s narrative statements for accuracy based on the incident investigation.

(2) Documents discrepancies on DOL Form CA-2a and provides factual and objective information to WCP personnel when there is a reason to contest the employee statements.

(3) Completes the agency section of DOL Form CA-2a.

(4) Signs the original DOL Form CA-2a in ink.

(5) Forwards the original Form CA-2a containing original signatures and supporting documentation to WCP personnel within three business days.

8. DEATH CLAIMS

FECA provides for the payment of monetary compensation to specified survivors of an employee whose death is the result of an employment-related injury or illness and for payment of certain funeral and burial expenses.

a. Notification and Investigation.

(1) A supervisor or WCP personnel receiving notice of an employee's death immediately notifies the following individuals if available:

(a) Facility Human Resources Officer

(b) Designated VISN or program office WCP Coordinator

(c) Appropriate OWCP District Office

(2) The supervisor coordinates with safety personnel, local law enforcement personnel, or other investigative agencies, when appropriate to conduct a thorough investigation of the circumstances surrounding the employee's death.

(3) The supervisor or WCP personnel make any necessary medical contacts, such as to a hospital emergency room or coroner's office and secures necessary reports.

(4) WCP personnel prepare written notification on DOL Form CA-6, *Official Superior's Report of Employee's Death*, and submit it to the OWCP as soon as possible, but no later than 10-business days after receiving knowledge of a death by traumatic injury; or within 30-calendar days after knowing, by the exercise of reasonable diligence, that the employee's death was due to an employment-related occupational illness.

b. Guidance and Counsel to Employee's Family

(1) WCP personnel ensure that the family is contacted in accordance with the facility's established protocol. WCP personnel should be prepared to provide guidance and counsel to the employee's family in the following ways:

(2) Describe the differences between Office of Personnel Management (OPM) and OWCP benefits and coordinate a meeting with the appropriate Human Resources Management Service (HRMS) personnel for further explanation of OPM entitlements.

(3) Assist with the completion of appropriate FECA claim forms based on the relationship of the family member claiming benefits.

(a) DOL Form CA-5, *Claim for Compensation by Widow, Widower and/or Children*

(b) DOL Form CA-5b, *Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren.*

(4) When the investigation reveals a basis to contest the claim, WCP personnel prepare a written statement and submit supporting evidence to OWCP along with DOL Form CA-5 and/or DOL Form CA-5b.

(5) When the employee's survivors are entitled to benefits, WCP personnel periodically review the case to ensure that the legal period of entitlement continues.

INITIAL CASE MANAGEMENT

Workers' compensation cases of current or former Veterans Health Administration (VHA)-serviced employees shall be routinely monitored both medically and administratively until closed by the Office of Workers' Compensation Programs (OWCP).

1. AUTHORIZING MEDICAL TREATMENT

a. DOL Form CA-16, *Authorization for Examination And/Or Treatment* is the DOL form that authorizes initial examination and/or medical treatment at OWCP expense. It is used when the injured worker:

(1) Files a DOL Form CA-1 and elects a private physician as their provider of choice within 1 week from the Date of Injury (DOI) for traumatic injuries requiring medical attention.

(2) Files a DOL Form CA-1, elects the VHA Employee Occupational Health (EOH) as their provider of choice for continued medical treatment beyond emergency diagnosis and first treatment; and the third visit is less than 1 week after the DOI.

b. DOL Form CA-16 should not be used to authorize medical treatment:

(1) When initial medical treatment occurs more than 1 week from the DOI.

(2) For first-aid injuries when medical care is provided by a VHA EOH for emergency diagnosis and first treatment only.

(3) That otherwise requires pre-authorization from OWCP, such as surgery, home exercise equipment, gym memberships, or work hardening programs.

(4) Following the submission of a DOL Form CA-2a.

(5) Following the submission of DOL Form CA-2, unless OWCP gives WCP approval to issue the form.

c. WCP personnel do not have authority to agree to extensions of treatment periods greater than 60-calendar days. WCP personnel advise employees or medical providers who seek such authorization to contact OWCP in writing to make this request.

d. WCP personnel do not have authority to issue a DOL Form CA-16 as a means to authorize a change of physician after the injured worker makes an initial choice of physician. WCP personnel inform the employee that a written request to OWCP and approval from OWCP is required to change treating physicians, other than a referral from the elected provider.

2. SCHEDULING INITIAL MEDICAL TREATMENT

a. The injured worker has a right to elect a provider of choice. The provider must meet the requirements under Federal Employees' Compensation Act (FECA). The choice is solely the responsibility of the injured worker. WCP personnel, EOH staff members, supervisors or managers must not influence this decision.

b. When the injured worker verbally identifies a physician of choice, the supervisor or WCP personnel ask the injured worker to contact the selected physician to determine if the physician is available and if the physician will accept the injured worker for treatment.

c. If the medical provider is not available, or will not accept the injured worker for treatment, the injured worker should be encouraged to select another qualified physician or hospital in order to obtain prompt medical care.

d. WCP personnel provide the injured worker with an election of physician letter for completion and signature.

e. The injured worker is responsible for documenting a choice of physician on the letter, signing and dating the letter.

f. WCP personnel provide a copy of the completed and signed form to the employee, forward a copy to OWCP and maintain the original letter in the WC case file.

g. The supervisor or WCP personnel inform the injured worker of the obligation to advise the physician of the availability of light duty, letting the physician know that VHA will accommodate most restrictions.

3. DOCUMENTING MEDICAL TREATMENT

a. The supervisor or WCP personnel complete the agency portion of DOL Form CA-17 or equivalent duty status report and provide a copy to the injured worker. When the supervisor completes Side A of DOL Form CA-17, a copy is sent to WCP personnel prior to the injured workers' medical appointment.

b. WCP personnel complete the agency portion of DOL Form CA-16 when appropriate and forward DOL Forms CA-16 and DOL CA-17 to the treating physician by fax or email.

c. The injured worker provides documentation to the supervisor or WCP personnel of the physician's determination of duty status following the examination and treatment.

d. When the injured worker is capable of returning to work following initial examination and treatment, the supervisor and WCP personnel review available medical documentation and determine appropriate duty status. The supervisor and WCP personnel must make every effort to keep the injured worker at work during this process.

4. EVALUATING INITIAL MEDICAL EVIDENCE

a. When an injured worker has medical restrictions imposed by a treating physician during the initial medical visit, the supervisor must make every effort toward identifying and offering a light duty assignment.

(1) WCP personnel work with the injured worker's supervisor to identify light duties within the medical restrictions provided.

(2) When the supervisor delays in communicating light duties, WCP personnel notify the Service Chief of the delay and the cost to the facility of not providing suitable work.

(3) The WCP personnel notify the facility Human Resources Officer (HRO) for approval to request suitable work outside of the injured workers' service when the Service Chief delays in obtaining suitable duties from the supervisor.

b. The supervisor makes an offer of a light duty assignment, either verbally or in writing, to the injured worker immediately upon identification of job duties. In the case of a verbal offer, WCP personnel assist the supervisor with creating a written light duty assignment offer that contains all information required by OWCP no later than 2-business days from the verbal offer.

c. The employee may either accept or refuse the light duty assignment.

(1) When the employee accepts the light duty assignment, WCP personnel continue to monitor the medical documentation and modify the light duty assignment as necessary until the injured worker returns to full duty.

(2) When the injured worker refuses the light duty assignment, WCP personnel controvert entitlement to Continuation of Pay (COP) beyond the date that the light duty assignment was made available, in writing, to OWCP based on the refusal of work when medically able to perform such work. When OWCP makes a formal decision that COP is not payable, WCP personnel notify the employee, supervisor, payroll and timekeeper to stop COP. COP is recouped when OWCP determines that the injured worker is not entitled to periods of COP already paid.

5. EVALUATING THE FIVE ELEMENTS OF A CLAIM

a. There are 5 conditions of coverage that the injured worker is responsible for proving before a WC claim can be accepted by OWCP. It is the responsibility of the injured worker to ensure the following 5 conditions of coverage are met:

(1) The claim was filed within the time limits specified by FECA;

(2) The injured worker was, at the time of injury, an employee of the United States as defined in 5 U.S.C. 8101(1);

(3) The fact that an injury, disease, or death occurred;

(4) The injury, disease, or death occurred while the injured worker was in the performance of duty; and

(5) The medical condition for which an injured worker claims compensation or medical benefits is causally related to the claimed injury, disease or death.

b. WCP personnel evaluate each new claim received, the corresponding Department of Veterans Affairs (VA) Form 2162, or equivalent electronic incident report; and other investigative material to determine whether the injured worker has met the burden of proof for the 5 conditions of coverage needed to support a claim.

c. When any of the 5 conditions of coverage are not met, WCP personnel prepare a written statement to notify OWCP of the deficiencies. The WCP personnel must support the statement with factual and objective evidence.

d. WCP personnel may use the initial transmission of the WC claim form to point out to OWCP that the injured worker has not met one or more of the conditions of coverage, but must follow up with a written statement and supporting evidence to OWCP within 30-calendar days from the date a claim is filed.

(1) Written statements must be clear, concise, factual and objective to maintain the integrity of the contest and to remain non-adversarial.

(2) WCP personnel reference laws, regulations, Employees' Compensation Appeals Board (ECAB) decisions and policies as a part of the contest package; and ensure that cited ECAB references are relevant to the case and consider similarity of circumstances when determining the applicability of an ECAB decisions.

6. COMPLETING AND FORWARDING CLAIM INFORMATION

a. **Claim Review.** WCP personnel review every completed claim form to ensure accuracy and that the injured worker and supervisor provided all required information. When incomplete, WCP personnel contact the employee or the employee's supervisor for the missing information.

(1) Under no circumstances may WCP personnel revise any information submitted by the injured worker or by his or her representative.

(2) When the injured worker wishes to make a change to the Employee portion of the electronic claim record, the injured worker must print and sign the revised claim form that shows the changes.

(3) WCP personnel or supervisor making changes on the Supervisor portion of the electronic claim record must initial those changes on the original signed claim form.

b. **Leave Election.** For traumatic injuries, WCP personnel determine whether the employee has elected COP, sick and/or annual leave on the DOL Form CA-1.

(1) When the employee chooses sick and/or annual leave, WCP personnel provide guidance and counsel to the injured worker of the right to convert sick or annual leave to COP within 1 year of the election. Any sick or annual leave days used because of the traumatic injury counts toward the 45-calendar day entitlement period for COP.

(2) When the employee elects COP, follow procedures outlined in Appendix I, *Leave and Compensation Management*, in this directive.

c. **Filing Instructions.** The WCP personnel must evaluate the disposition of each WC claim to determine whether it is necessary to transmit the claim form to OWCP or maintain the claim form in the Employee's Medical Folder.

(1) For traumatic injuries, WCP personnel evaluate all claim file information and determine the most appropriate filing instructions (Item 39) for every DOL Form CA-1. WCP personnel obtain necessary medical evidence/treatment records to ensure that the claim is transmitted using the correct filing status.

(a) When the injured worker does not lose time from work and medical treatment is not received beyond emergency diagnosis and first treatment at the EOH, indicate "No lost time, no medical expenses incurred or expected" in the filing instructions and send the original claim form to the Employee Medical Folder (EMF).

(b) When the injured worker does not lose time from work, but medical expense is incurred, or expected, indicate "No lost time, medical expenses incurred or expected" in the filing instructions and transmit the claim in enough time to be received by OWCP by the 10th business day from the date a supervisor receives a completed claim form from the injured worker.

(c) When the injured worker loses time covered by annual and/or sick leave, leave without pay (LWOP), or COP, indicate, "Lost time covered by leave, LWOP, or COP" in the filing instructions and transmit the claim in enough time to be received by OWCP by the 10th business day from the date a supervisor receives a completed claim form from the injured worker.

(d) When the injured worker seeks treatment at the EOH or by medical providers under contract to the agency and emergency diagnosis and first treatment occurs during working hours beyond the DOI, WCP personnel check "First Aid" and transmits the claim electronically or by fax in enough time to be received by OWCP by the 10th business day from the date a supervisor receives a completed claim form from the injured worker. First aid injuries also include those requiring two or more visits to a medical facility for examination or treatment during non-duty hours beyond the DOI, as long as no leave or COP is charged and medical expense is not incurred.

(2) For occupational illnesses, WCP personnel transmit the completed DOL Form CA-2 to OWCP. OWCP must adjudicate and accept these cases before any medical expense may be paid, or lost time can be attributable to an occupational illness claim.

d. Case Transmittal.

(1) WCP personnel obtain original signatures and dates from the injured worker and the supervisor in addition to the electronic signatures required in the system before transmitting a claim electronically to OWCP. WCP personnel must keep original signature forms that are transmitted electronically to OWCP in the WCP office as part of an Interagency Service Agreement with OWCP for a period of 15 years from date OWCP closes the case.

(2) WCP personnel adhere to regulatory timeframes for forwarding DOL Forms CA-1 and CA-2 so that they are received at OWCP by the 10th business day from the date a supervisor receives a completed claim form from the injured worker.

(3) When an injured worker elects to file a manual claim form, WCP personnel complete the electronic claim form in the VA or VHA approved system. WCP personnel carefully enter information into the electronic claim form exactly as written on the manual claim form. WCP personnel transmit WCP claim records subject to forwarding to OWCP so that the data is received at OWCP by the 10th business day from the date a supervisor receives a completed claim form from the injured worker.

(4) WCP personnel fax DOL Forms CA-1 and CA-2 to OWCP only on rare occasions when instructed by OWCP. Examples of rare occasions include when an employee incurs two injuries within the same workday, when a claim is rejected through electronic transmittal and re-transmittal will cause a claim to be considered untimely filed, as a contingency plan when the electronic system is inoperable, or when a new employee has not yet been added to the Human Resources system.

(5) WCP personnel do not delay the submission of a WC claim to OWCP pending receipt of supportive and requested documentation.

e. Case File Documentation

(1) When an OWCP case number is established, WCP personnel place the case number on supporting documents and submit them to OWCP electronically or by mail within 5- business days from receipt of documentation. When transmitting supporting documents electronically, WCP personnel record the Document Control Number on the original document.

(2) WCP personnel retain original or copies of all submitted documents in the WC case file.

ONGOING CASE MANAGEMENT

Workers' Compensation Program (WCP) personnel shall manage workers' (WC) cases of current or former Veterans Health Administration (VHA)-serviced injured workers until closed by Office of Workers' Compensation Programs (OWCP).

1. OVERVIEW

a. VHA monitors the injured worker's medical progress and duty status by obtaining periodic medical reports from the injured worker, physician, or OWCP Claims Examiner (CE).

b. The injured worker must maintain contact with the WCP personnel and supervisor until a case is closed by OWCP.

c. If the employee is not fit for duty, close coordination is instrumental in facilitating a return to work status as early as medically possible.

2. GUIDANCE AND COUNSEL TO INJURED WORKERS

a. WCP personnel inform the injured worker that the elected provider must, for each visit, make a professional statement showing that the employee is one of the following:

- (1) Fit for full duty, full-time (return to Date of Injury (DOI) job without restriction).
- (2) Fit for full duty, part-time (hourly limitations indicated).
- (3) Fit for light duty, full-time (physical limitations indicated).
- (4) Fit for light duty, part-time (physical and hourly limitations indicated).
- (5) Not fit for any duty (less than sedentary-usually complete bed rest required).

b. WCP personnel instruct the employee to advise the elected physician that light duty assignments, including sedentary work, are available to keep the employee productive.

c. The supervisor or WCP personnel provide the employee with the appropriate duty status forms for all visits to the elected provider, or any referral providers, prior to each scheduled appointment. WCP personnel may also send appropriate duty status forms directly to the treating physician through facsimile, electronic messaging or by mail.

3. MONITOR CASES FOR WORK CAPACITY

a. WCP personnel monitor the medical progress and duty status of all injured workers by obtaining periodic medical reports to determine duty status; or in cases of continued light duty, to obtain clarification of medical work restrictions imposed to assist the injured worker in progressing to full duties of the DOI position.

b. WCP personnel closely review supporting medical documentation provided by the injured worker, supervisor, or physician to determine when the injured worker can return to work.

c. WCP personnel research diagnosed conditions against medical disability guidelines to determine the estimated duration of disability for the claimed condition.

d. WCP personnel evaluate the medical evidence and take appropriate actions as noted below:

(1) Medical findings indicate the injured worker is capable of returning to either full or light duty.

(a) When able to perform full duty, WCP personnel notify the supervisor of the release to full duty. The supervisor instructs the injured worker to return to the position held on the DOI.

(b) When able to perform light duty, WCP personnel notify the supervisor of the injured workers' medical limitations. The supervisor identifies job duties and verbally offers suitable work to the injured worker. The supervisor and WCP personnel collaborate to develop and offer a written light duty assignment to the injured worker within 2-business days.

(c) When the injured worker is already on a light duty assignment, WCP personnel determine if the duty status report indicates an increase or decrease in restrictions. WCP personnel notify the supervisor to modify the light duty assignment accordingly and reoffer to the injured worker.

(2) The cited period of disability is consistent with the diagnosis and nature of injury.

(3) Information provided in Block 8 of Department of Labor (DOL) Form CA-17 is consistent with Side A Block 5.

(a) Physicians may sometimes indicate that the injured worker is unable to return to work, but the listed restrictions may indicate an ability to perform sedentary or light tasks.

(b) When documentation received from the treating physician is conflicting, WCP personnel contact the treating physician's office staff, in writing, for clarification of work capacity.

e. When a treating physician's prognosis and recovery timeframe differ from those in the medical disability guidelines, WCP personnel may request clarification of the disability status in writing from the treating physician. WCP personnel must send a copy of the request to the injured worker and OWCP, and place a copy in the WC case file.

f. When the injured worker does not submit a duty status report after a medical appointment, WCP personnel make a request to the supervisor and injured worker to obtain duty status.

(1) WCP personnel may contact the treating physician's office, in writing, to obtain an updated DOL Form CA-17 or equivalent status report when an injured worker does not respond to the WCP personnel requests. The WCP personnel should also notify the injured worker's supervisor of the injured worker's non-response in a timely manner and that the injured worker is not meeting a Federal Employees' Compensation Act (FECA) obligation.

(2) When attempts to obtain medical evidence from a treating physician are unanswered, WCP personnel communicate attempts to obtain work capacity to the OWCP CE for intervention.

g. WCP personnel may initiate a request for an Agency Medical Examination through the Human Resources Management Service (HRMS) in order to obtain evidence of a realistic medical prognosis and treatment plan.

h. WCP personnel must document all case management actions in the WC case file and appropriate systems.

4. CONTACT WITH MEDICAL PROVIDERS

a. **Medical Provider Staff Contact.** WCP personnel may contact the treating physician's office personnel by facsimile or electronic messaging when clarification of duty status is needed following the initial examination.

(1) WCP personnel document all contact with the office personnel in the workers' compensation (WC) case file.

(2) WCP personnel initiate light duty assignment actions based on written information received from these contacts, when appropriate.

b. **Treating Physician Contact:** WCP personnel may only contact the treating physician in writing and only when additional information is needed because of inconsistencies relative to the diagnosis and the employee's duty status, or if there are incomplete medical reports.

(1) WCP personnel must not interfere with medical care prescribed by the injured worker's attending physician. Inquiries are limited to information regarding the work-related medical condition of the employee, or the employee's ability to return to full or light duty.

(2) WCP personnel must be clear and concise when communicating with treating physicians in writing; presenting facts, remaining objective and asking only pertinent questions regarding the accepted conditions and duty status of the injured worker.

(3) WCP personnel send copies of all written correspondence to the injured worker and to the OWCP district office and forward copies of the physician's response to both, when received.

c. Consulting VHA Employee Occupational Health for Assistance in WCP Case Management. WCP personnel may contact the VHA Employee Occupational Health (EOH) to review medical reports from a treating physician when a clinical opinion as to whether the medical documentation is factual, well rationalized and sound. WCP personnel must redact any Personally Identifiable Information (PII) from the report and any Personal Health Information (PHI) that does not pertain to the work-related conditions.

d. OWCP Field Nurse (Nurse) Contacts.

(1) The primary focus of the OWCP Field Nurse is to facilitate recovery and return to work through direct intervention with the claimants, treating physicians and WCP personnel.

(2) WCP personnel may request the services of a nurse at any time, in writing, to the OWCP CE when one or more of the following occurs in a traumatic injury case:

(a) Medical evidence does not state a return to work date.

(b) Return to work date identified by the treating physician is unrealistic or extended without clear medical reasoning.

(c) DOL Form CA-17 or equivalent status report indicates partial disability, but does not identify work restrictions.

(3) WCP personnel should not make a request to the OWCP CE for continuing nurse intervention on occupational illness cases. A request for vocational rehabilitation services may be more appropriate in most occupational illness cases.

(4) When the OWCP CE assigns a nurse, WCP personnel do the following:

(a) Communicates with the nurse in all phases of the intervention and as needed after there has been a return to work.

(b) Coordinates access to the work site when requested by the nurse to perform a job site visit to determine the extent (if any) a job may be modified to accommodate work restrictions.

(c) Collaborates with the nurse to ensure that the physical demands of the light duty assignment or permanent job offer are in keeping with any restrictions imposed by the physician.

(d) Schedules a return to work meeting with the injured worker and supervisor to review work restrictions, at the request of the nurse, to ensure that there are no

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significant barriers to return to work and verify that the return to work occurs on or near the expected date.

LONG TERM CASE MANAGEMENT

Long-term case management shall be performed on all open workers' compensation (WC) Cases that the Office of Workers' Compensation Programs (OWCP) has little expectation that a change in current medical condition and/or work capacity exists.

1. PERIODIC ROLL CASES

a. When medical evidence supports temporary total disability, OWCP may assign the case to a Periodic Roll status. Periodic Roll statuses include:

(1) PR—Payment on Periodic Rolls with some potential for reemployment

(2) PN—Periodic Roll with No Re-Employment Potential

(3) PW—Periodic Roll with Loss of Wage Earning Capacity due to actual work being performed or based on positions available in local commuting area

(4) OP—Periodic Roll with Overpayment declared by OWCP

b. Injured workers placed on Periodic Rolls are not required to submit a U.S. Department of Labor (DOL) Form CA-7. Instead, they receive automatic payment of compensation every 28-calendar days (13 times per year).

c. Injured workers who receive compensation in a Periodic Roll status for greater than 1 consecutive year may receive a cost of living increase based on the Consumer Price Index for Urban Wage Earners as calculated at the end of each calendar year.

2. CASE MONITORING

a. DOL Form CA-1032, *Request for Information on Earnings, Dual Benefits, Dependents and Third Party Settlement*. When an injured worker remains on the Periodic Roll for more than 1 year, OWCP will issue DOL Form CA-1032 during the birth month, requesting the injured worker to provide information in support of continued entitlement to compensation. The injured worker has 30-calendar days to complete and return the DOL Form CA-1032 form and return it to OWCP.

(1) Workers' Compensation Program (WCP) personnel request a copy of the current DOL Form CA-1032 from OWCP 30-calendar days after the birth month of the injured worker and indicate that information contained on the form is necessary to determine return to work capacity.

(2) OWCP may honor the request for a copy of DOL Form CA-1032; however, because OWCP does not consider the CA-1032 to be a substantive report as noted in Division of Federal Employees' Compensation (DFEC) Procedure Manual 2-300(4)(d) and OWCP is not obligated to provide a copy to the agency.

b. **Reviewing Change in Status.** WCP personnel review the detailed chargeback reports quarterly and collaborate with Human Resources Management System (HRMS) and finance periodically to identify any employee status changes (e.g., marriage, death, divorce, minor children reaching maturity) that may affect entitlement to, or level of, compensation paid to the injured worker.

c. **Monitoring for Updated Medical Reports.** OWCP requests medical updates and work capacity from the injured worker or physician when the case is due for periodic review. Periodic reviews are conducted by OWCP during the injured worker's birth month as follows:

(1) PR case status—Reviewed by OWCP every year or more frequently when there is active medical treatment or recovery from surgery.

(2) PW case status—Reviewed every 2 years.

(3) PN case status—Reviewed every 3 years.

(4) WCP personnel set a reminder to request a copy of an updated medical narrative and work capacity in writing from OWCP 30-calendar days after the injured worker's birth month during the appropriate year of review.

(5) WCP personnel review the OWCP case file electronically to obtain updated medical evidence. Once OWCP authorizes access to the electronic case file, WCP personnel review the most recent medical report for any potential work capacity and place the documents into the WC case file.

(a) When electronic review is not available, WCP personnel prepare a letter of request to include a statement that the information is required in order to prepare an appropriate job offer or to continue to facilitate suitable work.

(b) WCP personnel may mail or electronically transmit the letter to OWCP. When electronically transmitted, WCP personnel document the Document Control Number (DCN) on the printed copy of the letter and place it in the WC case file.

(6) When an updated medical report indicates work capacity of 4 hours or more, or 2 hours with gradual increase to at least 4 hours or more, WCP personnel follow the processes in Appendix J of this directive to identify duties and develop a light duty assignment or a permanent job offer.

3. SEPARATION FROM EMPLOYMENT

a. At the time when OWCP places an injured worker in a Periodic Roll status, WCP personnel review the case to determine the amount of time that the injured worker has been in a leave without pay (LWOP) status. WCP personnel set a reminder to review when 10 months of consecutive LWOP has accrued.

b. WCP personnel coordinate with HRMS to send a letter to the injured worker after 10 months on LWOP apprising the injured worker of the agency's right to review continued employment after 1 year in an LWOP status unless the injured worker's physician can provide a medical opinion that the injured worker has some work capacity within 6 to 8 months.

c. WCP personnel communicate with HRMS and Employee/Labor Relations (ELR) whether or not the injured worker's physician indicates work capacity within 6-8 months so that a determination may be made to separate an injured worker from the agency rolls after 365 days in an LWOP status.

d. HRMS or ELR may determine that it is appropriate to separate the injured worker from the agency rolls, or to remain on the agency rolls based on the potential for a return to work in the future. In such cases where an injured worker is no longer on the Agency rolls, compensation and WCP case management requirements will continue.

4. MEDICAL CARE AFTER SEPARATION FROM EMPLOYMENT

a. An injured worker who is a former VHA employee may continue to be eligible for medical care covered by OWCP. However, the former employee is no longer entitled to receive medical care from the VHA Employee Occupational Health (EOH) unit. WCP personnel notify EOH, in writing that the injured worker is no longer entitled to medical care at VHA EOH.

b. WCP personnel advise the former employee that a physician of choice outside of the VHA EOH must be elected and that the injured worker must make a written request to OWCP for change in treating physician.

c. WCP personnel will provide OWCP with a copy of written notification informing the injured worker that care through the VHA EOH is no longer possible because of their separation from employment.

5. VOCATIONAL REHABILITATION SERVICES

a. When medical evidence indicates that a current or former injured worker has reached maximum medical improvement (MMI) and has some work capacity, OWCP will make every reasonable effort to arrange for re-employment, taking into consideration:

- (1) The effects of the work-related condition;
- (2) Any condition(s) pre-existing the injury; and
- (3) Any medical condition(s) arising after the compensable injury.

b. The vocational rehabilitation process is solely under the control of OWCP; however, VHA pays all associated costs through the Chargeback Process, in addition to continued compensation paid to the injured worker.

c. OWCP has the authority to provide vocational rehabilitation services when the injured worker cannot return to the job held at the time of injury.

d. OWCP directed vocational rehabilitation is the last alternative for job placement. It is generally more advantageous to the injured worker and the agency to identify a suitable position within the agency and make a permanent job offer.

e. When the facility is unable to provide a suitable job or is unable to re-employ the injured worker for any reason, WCP personnel make a request for approval from the Veteran Integrated Service Network (VISN) or program office WCP coordinator to request vocational rehabilitation services from OWCP.

(1) Objective documentation supporting why the facility cannot offer duties to the injured worker in any service within the employing facility should accompany the request.

(2) The VISN or program office WCP coordinator reviews the request and supporting documents, determines whether to approve or deny the request and prepares a summary recommendation for the VISN or program office Human Resource Officer (HRO). The VISN or program office HRO will make the final decision to approve or deny the request and notifies the facility HRO of the decision.

(a) For approved requests, the facility WCP prepares a written request for vocational rehabilitation services to OWCP and attaches a copy of the VISN or program office HRO approval.

(b) For denied requests, WCP personnel collaborate with facility management to develop and offer a permanent job offer for the injured worker.

(3) OWCP Claims Examiners (CEs) may also initiate vocational rehabilitation for an injured worker when facility WCP personnel do not provide a written job offer.

6. IDENTIFYING DUAL BENEFITS

a. Federal Employees' Compensation Act (FECA) prohibits payment of compensation and certain other federal benefits at the same time; however, it does not prevent an individual from filing for benefits from more than one Government program at a time. Receipt of benefits from other Federal agencies, separation incentives, or buyouts may require an election of benefits or an offset. Only when both benefits are approved, will the rules governing dual benefits be invoked.

b. OWCP is responsible for determining whether an injured worker qualifies for, or is receiving benefits from, another Federal agency; and whether that benefit constitutes a prohibited dual benefit and requires an election, or if it is an exception which will not affect the injured worker's compensation entitlement.

c. The VISN or program office WCP coordinators and WCP personnel must understand the benefits that an injured worker may receive from other Federal agencies

(e.g., separation incentives and buyouts) that may require an injured worker to make an election of one of those benefits.

d. WCP personnel inform the injured worker of potentially prohibited dual benefits under FECA and notify the injured worker of the obligation to inform OWCP of any circumstance where dual benefits may exist.

e. WCP personnel request the electronic case file from OWCP to obtain the most recent DOL Form CA-1032. WCP personnel reviews the most recent DOL Form CA-1032 for a Civil Service Claim Identification Number beginning with "CSA", the age of an injured worker and any documented work capacity and place it into the WC case file.

(1) When the electronic case file is not available, WCP personnel prepare a letter of request to include a statement that the information is required in order to verify chargeback billing, prepare an appropriate job offer or to continue to facilitate suitable work.

(2) WCP personnel mail or transmit the letter electronically to OWCP. When transmitting electronically, WCP personnel document the DCN on the printed copy of the letter and place it in the WC case file.

f. WCP personnel notify OWCP in writing when a potential dual benefit is identified, so that the OWCP CE may investigate the issue.

7. THIRD PARTY LIABILITY

a. When an employee's injury or death within the performance of duty occurs under circumstances creating a legal liability, wholly or partially, on some person or party other than the United States Government, OWCP may require the injured worker (or survivor in the case of death) to pursue a third-party claim.

b. The DOL Office of the Solicitor of Labor (SOL) has authority to administer the subrogation aspects of certain FECA claims for OWCP. Either OWCP or SOL can require a FECA beneficiary to assign his or her claim for damages to the United States or to prosecute the claim in his or her own name.

c. The potential for third-party liability exists in a variety of situations. The following are examples:

(1) Injuries occurring off government premises (e.g., workers who slip on the homeowner's steps when providing home healthcare, or who are involved in a motor vehicle accident) or on government premises (e.g., a worker injured when falling over equipment left in a hallway by a contractor) may have third-party potential.

(2) Injuries resulting from use of equipment or a substance that causes injury due to faulty manufacture, or because it is inherently harmful, may place a liability on the manufacturer or vendor.

d. OWCP does not generally consider incidents involving a patient or another employee that cause injury to a worker to have potential for third-party liability.

e. The VISN or program office WCP coordinators and WCP personnel must understand the OWCP processes with respect to third-party aspects of a WC case.

f. WCP personnel evaluate each claim to determine whether a third party may have liability in the injury or illness and annotates the possible third party in the appropriate location on the original DOL Form CA-1 or DOL Form CA-2 before transmitting the claim form to OWCP for processing.

g. When a supervisor or WCP personnel identify a potential third party after transmitting the initiating claim to OWCP, WCP personnel send written correspondence to OWCP indicating the name and address of the potential third party for inclusion in the case file.

h. Within 30-calendar days from receipt of the OWCP form letter, *Notice of Third Party Rights and Obligations*, WCP personnel coordinate with supervisors and safety officers to obtain any requested VHA information. Examples include accident or police reports, names and addresses of witnesses, statements of witnesses, diagrams and photographs, investigative reports and other similar information that may be helpful in handling the third party aspects of the case.

i. OWCP notifies the injured worker or beneficiary in writing when action is necessary against a third party. At a minimum, the injured worker is responsible for the actions outlined in 20 CFR 10.707. When the injured worker or beneficiary refuses a request to either assign a claim or prosecute a claim, OWCP may determine that the injured worker has forfeited rights to all past and future compensation.

j. As a cost management activity, WCP personnel periodically review case information for potential third party claim awards, settlements, OWCP cost recovery and credits applied to the facility Chargeback.

8. APPEAL RIGHTS

a. OWCP provides injured workers with appeal rights with each notice of decision, should the claimant or survivor disagree with the formal decision, as an opportunity to present evidence in further support of the claim. These rights include hearings, reconsideration and review by the Employees' Compensation Appeals Board (ECAB).

b. Injured workers may request appeals in any order, except that a hearing may not be held after the OWCP District Office reconsiders the case. OWCP does not limit the number of times an injured worker may request reconsideration or submit additional evidence.

c. A claimant is entitled to a hearing before an OWCP Office representative after a final decision and before applying for reconsideration.

(1) The injured worker requests a hearing, in writing, within 30-calendar days of the date of the district office's decision and mails the request directly to the Branch of Hearings and Review (H&R) in Washington, DC.

(2) A claimant is entitled to a pre-recoupment hearing following a preliminary determination that an overpayment of compensation has occurred. However, the claimant is not entitled to a hearing after a final decision concerning the issuance of an overpayment.

(3) H&R within DFEC processes applications for hearings.

(4) When a hearing is scheduled, WCP personnel make every effort to attend, either in person or telephonically.

(a) WCP personnel attend primarily as observers and may not participate in the hearing unless the claimant or the Hearing Representative specifically requests them to do so.

(b) H&R records and transcribes the testimony provided at the hearing. The transcript is the official record of the hearing. H&R provides the claimant and WCP personnel with a copy of the transcript.

(5) WCP personnel review the written transcript upon receipt. When appropriate, a written response is prepared and submitted to H&R with additional documents believed relevant to the issue in question within 20-calendar days.

(a) WCP personnel concurrently forward a copy of the response and supporting documents to the injured worker, who will have 20-calendar days from the date sent to review and comment.

(b) WCP personnel indicate in correspondence to H&R that a copy of the response and the date that the response was forwarded to the injured worker.

d. **Review of Written Record.** In place of an oral hearing, a claimant is entitled to a review of the written record (subsequently referred to as "review") by an H&R representative. Such review will not involve oral testimony or attendance by the claimant, but the claimant may submit any written evidence or argument deemed relevant.

(1) WCP personnel ensure that H&R receives a valid correspondence address to obtain a copy of the hearing transcript.

(2) WCP personnel receive a copy of the claimant's request for review of the written record from H&R, along with any pertinent factual documentation submitted.

(3) OWCP has sole responsibility for evaluating medical evidence; therefore, H&R does not consider medical evidence "pertinent" for review and comment by WCP personnel.

(4) WCP personnel review the request and pertinent documentation. When appropriate, a written response is prepared and submitted to H&R with additional documents believed relevant and material to the issue in question within 20-calendar days.

(a) WCP personnel concurrently forward a copy of the response and supporting documents to the injured worker, who will have 20-calendar days from the date sent to comment.

(b) WCP personnel indicate in correspondence to H&R that a copy of the response and the date that the response was forwarded to the injured worker.

(5) **Reconsideration.** A claimant may apply for reconsideration of a final decision to the OWCP District Office within 1 year of the date of the contested decision.

(a) The claimant must request reconsideration in a signed and dated written document accompanied by relevant new evidence or argument not considered previously.

(b) The request should also identify the decision and the specific issue(s) for which reconsideration is requested.

e. **Review by ECAB.** A claimant who resides within the United States or Canada must file application for review by the Board within 180 calendar days following the date of OWCP's final decision.

9. OWCP DIRECTOR REVIEW OF AWARD

VHA cannot formally appeal decisions made by OWCP; however, the OWCP District Director may review an award for or against payment of compensation at any time.

a. When there is objection to a formal decision made by OWCP, WCP personnel prepare a written request for review of award and forward, along with supporting documentation, to the WCP VISN or program office Coordinator for review and determination on the validity of the request.

b. When it is determined that the objection is appropriate, the VISN or program office WCP coordinator forwards the written request to the OWCP District Director for review.

c. The VHA National WCP Office provides guidance and support to the VISN or program office WCP coordinator during the evaluation and determination process when necessary.

LEAVE AND COMPENSATION MANAGEMENT

Requests for Continuation of Pay (COP), or annual and sick leave used in lieu of COP shall be evaluated, authorized, approved and tracked for appropriate payment. Requests for compensation for periods of leave without pay (LWOP) or leave buy-back (LBB) shall be processed accurately and in accordance with applicable time requirements. Leave related to workers' compensation (WC) claims and Office of Workers' Compensation Programs (OWCP) compensation payments shall be monitored and evaluated for accuracy of payment and discrepancies; and addressed expeditiously.

1. CONTINUATION OF PAY (COP)

a. For injured workers who sustain a traumatic injury, Federal Employees' Compensation Act (FECA) provides that the employer continue the injured worker's regular pay during any periods of disability and/or medical treatment, because of the injury, up to a maximum of 45-calendar days.

b. COP avoids an interruption of pay while claims are pending review and adjudication by OWCP.

c. Injured workers must follow local leave policy and procedures requesting any combination of COP, sick and annual leave or LWOP during the period of COP entitlement.

d. While COP is employer-paid leave, OWCP has final authority for determining entitlement to COP.

2. TRACKING ENTITLEMENT TO COP

a. WCP personnel calculate entitlement periods, evaluate medical evidence to determine eligibility, authorize posting of COP, track days used and expiration of entitlement to COP in the WC case file and request recoupment of COP from finance when instructed by OWCP.

b. WCP personnel track COP days beginning on the calendar day following the first full day or shift the injured worker is absent from work; or beginning on the Date of Injury (DOI) when the injury occurs before the injured worker's regular tour of duty.

c. WCP personnel track calendar days until the injured worker returns to work full time, or uses 45-calendar days, whichever is later.

d. When an injured worker elects to use sick and/or annual Leave instead of COP, WCP personnel track personal leave days used towards the period of COP entitlement.

3. ISSUING COP

a. The injured worker is responsible for submitting initial medical evidence that supports disability from work within 10-calendar days of DOI.

(1) When the injured worker does not provide prima facie medical evidence within 10-calendar days after the DOI, WCP personnel will notify the injured worker of COP stoppage and controversion.

(2) WCP personnel may authorize COP, retroactively, after receiving sufficient medical evidence signed and dated by the physician prior to, or on the first date of disability.

b. The employee submits the Department of Labor (DOL) Form CA-17 or equivalent status report to the supervisor or WCP personnel immediately following any subsequent medical appointment. WCP personnel review these reports to determine if it is sufficient to support entitlement to COP.

c. WCP personnel authorize COP via memorandum or encrypted email message to the Payroll Office, supervisor, timekeeper and injured worker when medical documentation is sufficient. WCP personnel place a copy of the memorandum or encrypted email message in the WC case file.

d. WCP personnel document any portion of a day where COP, or other leave used in lieu of COP, as a full day on the COP tracking sheet included in the WC case file.

e. WCP personnel notify the injured worker of the date entitlement to COP will end by the 30th day of the COP period and provide the injured worker DOL Form CA-7 and DOL Form CA-7a if applicable, for completion and submittal to the WCP office.

f. The Payroll Office ensures payment of appropriate regular pay during the COP period upon receiving authorization from WCP personnel.

4. CONTROVERTING COP

a. WCP personnel evaluate the case file and medical documentation to determine whether entitlement to COP exists.

(1) WCP personnel may withhold authorization of COP if any of the seven conditions exist as stated in 20 CFR 10.220, *When is an employer not required to pay COP?*

(2) WCP personnel may stop COP when any of the conditions exist as stated in 20 CFR 10.222, *When may an employer terminate COP which has already begun?*

b. WCP personnel sends a memorandum or encrypted email to the Payroll Office, supervisor, timekeeper and injured worker when COP is not authorized; and places a copy of the memorandum or encrypted email in the WC case file.

c. WCP personnel controvert entitlement to any portion of COP and request a formal decision of entitlement to COP, in writing, from OWCP. WCP personnel send a copy of the controversion letter to the injured worker and place a copy in the WC case file.

5. VALIDATING COP

a. WCP personnel reconcile COP each pay period to ensure that timekeeping and payroll recorded and paid authorized periods of COP accurately.

b. If WCP personnel identify a discrepancy, they must notify the Payroll Office, supervisor, timekeeper and injured worker of the discrepancy and request adjustment to the timekeeping record.

6. SICK LEAVE AND/OR ANNUAL LEAVE DURING COP ENTITLEMENT PERIOD

a. An injured worker may request to convert an initial election of sick and/or annual leave to COP in writing within 1 year from the date of leave usage or the date of OWCP written approval of the claim, whichever is later.

b. WCP personnel evaluate the request to ensure that it meets the timeframes and authorize conversion of sick and/or annual leave to COP via memorandum to the Payroll Office, supervisor, timekeeper and injured worker.

7. ADJUSTING PAY WHEN INJURED WORKER IS NOT ENTITLED TO COP

a. Upon receiving notice that OWCP has disallowed a period of COP already paid, WCP personnel send a memorandum or encrypted email to the Payroll Office, supervisor, timekeeper and injured worker to recoup COP and charge sick and/or annual leave or LWOP accordingly as requested by the injured worker.

(1) The injured worker has 5-business days to make an election of either sick or annual leave to cover disallowed periods of paid COP. If the injured worker does not elect a new leave category in the time allotted, the supervisor and timekeeper revert to annual, sick leave, or LWOP requested by the injured worker in the original leave requests.

(2) The timekeeper adjusts time and leave records for supervisor certification based on the injured worker's election.

b. OWCP may direct suspension of an injured worker's entitlement to COP when the injured worker refuses or obstructs a medical examination directed by OWCP, until the refusal or obstruction ceases.

(1) The injured worker forfeits COP already paid or payable for the period of suspension.

(2) If already paid, the injured worker must elect a combination of the employee's annual, sick leave or LWOP to replace COP paid during a period of suspension.

c. In all cases, WCP personnel validate rescission of COP by pay period and cumulative quarterly COP reports received from the Payroll Office.

8. LEAVE FOR RECURRENCE OF DISABILITY

a. When an injured worker recovers from disability and returns to work, but then becomes disabled again or experiences a consequential injury and stops work, WCP personnel provide the injured worker DOL Form CA-2a.

b. WCP personnel authorize COP when medical evidence supports disability, the injured worker stops work within 45-calendar days of the time the injured worker first returned to work following the initial period of disability and COP was not paid for the entire 45-calendar days.

c. WCP personnel request that Payroll recoups COP if OWCP provides a formal decision denying the claim for recurrence or disallowance of COP.

9. COMPENSATION FROM OWCP

a. Compensation from OWCP is payable when an injured worker loses pay because of partial or total disability. Compensation is not payable for periods in which the injured worker is entitled to COP.

b. Injured workers must follow local leave policy and procedures requesting any combination of sick and annual leave or LWOP during the period of time when OWCP is adjudicating the claim.

c. Claim for Compensation Procedures.

(1) WCP personnel counsel the injured worker that they may not be entitled to compensation for the first 3 days of temporary disability, unless temporary disability exceeds 14 business days. Compensation for lost time from work to attend medical appointments is not considered disability from work; therefore, does not require a waiting period.

(2) The injured worker completes, signs and dates the employee portion of DOL Form CA-7, and DOL Form CA-7a if lost time is intermittent, and submits the form(s) to WCP personnel with medical evidence which establishes disability from work for the work-related injury or condition.

(a) The submitted DOL Form CA-7, and DOL Form CA-7a if applicable, must contain an original signature of the injured worker.

(b) WCP personnel counsel the injured worker to complete a claim for compensation when a minimum of 10 hours is owed, unless it is the final claim.

(3) WCP personnel review DOL Form CA-7, and DOL Form CA7a if applicable, for completion in its entirety. WCP personnel return any incomplete form to the injured worker. The injured worker corrects the information, re-signs and dates the form.

(4) WCP personnel complete the agency portion of DOL Form CA-7 and electronically submit it to OWCP for receipt no later than 5-business days from the date of the injured worker's signature.

(5) WCP personnel evaluate medical evidence to determine if it is sufficient and submit written correspondence to OWCP addressing any deficiencies identified.

10. LEAVE BUY BACK

a. WCP personnel counsels an injured worker, who uses sick and/or annual leave pending adjudication of an OWCP claim, on the procedures and timeframes for buying back injury-related leave.

b. The injured worker must request a LBB within 1 year from OWCP approval of the claim, unless it is administratively determined that the injured worker was prevented from exercising this option because of the disability. In such case, the injured worker may exercise the option within 1 year of the time it is determined that the injured worker has sufficiently recovered from the disability to enable the injured worker to make a reasoned decision.

c. VHA permits one LBB for initial filing of each DOL Form CA-1, CA-2 and CA-2a and only for leave used while the claim is pending adjudication by OWCP. Once OWCP has accepted the claim the injured worker is encouraged to request LWOP and file DOL Form CA-7 every two weeks, to coincide with official pay periods, to receive compensation for lost wages.

d. The injured worker who wishes to initiate a LBB contacts WCP personnel for guidance about the LBB process. WCP personnel counsel the injured worker on the following aspects of a LBB:

(1) Non-entitlement to compensation for the first 3 days of temporary disability, unless temporary disability exceeds 14 business days;

(2) Time limitations for submitting a request to buy back leave;

(3) Possible tax implications for filing for LBB in a post-year for previous year leave. WCP personnel are not tax experts and for additional information related to tax implications of a LBB, the injured worker may want to seek guidance from a tax expert;

(4) Leave carry-over limitations that may disadvantage the injured worker;

(5) Completion of LBB process prior to voluntary separation or retirement from agency rolls; and

(6) Leave will only be restored to the injured employees records when all monies due are paid in full.

e. The injured worker completes, signs and dates DOL Form CA-7a delineating the days, hours, type of leave and the reason for leave use. The injured worker submits the completed form to the WCP Office with medical documentation supporting each date and period of absence requested. The DOL Form CA-7a must contain an original signature of the injured worker.

f. WCP personnel review the completed DOL Form CA-7a and verify that the claimed periods of leave correspond to the time and leave records and medical evidence exists to support each date and time period claimed.

g. WCP personnel will complete the following sections of DOL Form CA-7b:

- (1) Parts A – D;
- (2) Section I.A–Dates and Weekly Base Pay Rates;
- (3) Section I.D.7–Compensation Rate;
- (4) Section I.E.8–Total Hours Claimed on CA-7a;
- (5) Section I.F.9–Total Hours Worked Per Week; and
- (6) Section II–Employing Agency Address for Check.

h. WCP personnel provide a copy of DOL Form CA-7a to the Payroll Office and request completion of DOL Form CA-7b.

i. Upon receipt of the completed DOL Form CA-7b from the Payroll Office, WCP personnel verify the injured worker's final time and leave records to ensure no changes were made between the time DOL Form CA-7a was submitted and the time the DOL Form CA-7b is received from the Payroll Office.

j. WCP personnel meet with the injured worker to discuss the estimated monies due to the agency before leave can be re-credited and about potential leave accrual reductions that will result from correcting the time and attendance records to LWOP.

(1) When the injured worker elects to repurchase leave, the injured worker completes Section III of DOL Form CA-7b. The WCP Office provides the injured worker with DOL Form CA-7 to complete, sign and date. When completed, WCP personnel electronically transmit DOL Form CA-7 to OWCP, upload DOL Forms CA-7a and CA-7b to the OWCP case file, and place the original documents related to the LBB in the WC case file.

(2) When the injured worker elects not to repurchase leave the LBB process stops. The injured worker completes Section III, Employee Claim, of DOL Form CA-7b. WCP

personnel place DOL Forms CA-7a and CA-7b in the WC case file. The injured worker may elect to proceed with the LBB later, as long as it is within 1 year after OWCP approved the case.

k. Upon receipt of the compensation payment from OWCP, the Payroll Office will send a letter to the injured worker indicating any monies due and repayment options.

(1) The injured worker contacts the Payroll Office to repay the amount in full or to establish a payment plan for the balance owed to the Agency.

(2) The Payroll Office will ensure the time and leave records reflect LWOP and re-credit the leave only after all monies due is received.

l. WCP personnel follow up with the Payroll Office until the LBB is processed in full then initiates or requests completion of Form SF-52, *Request for Personnel Action*, to document any consecutive 80 hours or more of LWOP, and return to duty, in the Official Personnel File (OPF).

(1) The injured worker may elect to stop the LBB process after submitting a LBB request to OWCP by making a request, in writing, to the WCP personnel. WCP personnel notify the Payroll Office to return any payments received to OWCP, notify OWCP that the injured worker cancelled the LBB process and place the written requests in the WC case file.

(2) WCP personnel must counsel the injured worker prior to initiating the LBB about completing the process before removal or retirement from the agency. When an injured worker does not submit a LBB to OWCP prior to the effective date of separation from employment (i.e., resignation, retirement, disability retirement, removal, etc.), the agency process will cease and the request will not be submitted to OWCP.

11. RECORDING ABSENCES

a. **Recording Absences During Receipt of Compensation.** Time and leave records are documented as LWOP for any period of absence in which OWCP pays compensation.

b. **Recording Absences When an Occupational Illness Claim is Pending.** Employees must follow local leave policy and procedures requesting any combination of sick and annual leave or LWOP during the period of time when OWCP is adjudicating the claim.

c. **Timekeepers Posting COP.** Timekeepers post COP only when authorized by WCP personnel through memorandum or encrypted email; otherwise, post appropriate leave categories in accordance with an approved request for leave.

d. **Supervisors Certifying Timecards.** Supervisors certify the accuracy of posted leave on timecards; ensuring that any posted COP was previously authorized.

e. **Documentation of Work-Related LWOP.** WCP personnel initiate or request completion of Form SF 52, *Request for Personnel Action*, to document LWOP in excess of 80 continuous hours in the OPF as OWCP related; and document in the WC case file when Form SF 50, *Notification of Personnel Action*, is complete.

12. DOCUMENTING RETURN TO DUTY

a. WCP personnel initiate or request completion of Form SF 52 to document return to duty in the OPF and place a copy of the SF 52 and SF 50 in the WC case file.

b. WCP personnel electronically submit DOL Form CA-3, *Report of Work Status*, to OWCP each time a claimant stops work, reduces their work hours or returns to work following a work-related injury.

RETURN TO WORK MANAGEMENT

Title 5 United States Code (U.S.C.) 8106 requires that suitable work shall be made available to employees who incur work-related injury as soon as medical documentation demonstrates an ability to perform any type of work. A written job offer shall be made and the employee's physical capabilities shall be monitored with an ultimate goal of returning the employee to the date of injury position. Every effort shall be made to make suitable return to work offers to current or former employees with accepted workers' compensation claims when medical evidence indicates permanent restrictions and maximum medical improvement (MMI) is reached. This section addresses management of return-to-work activities using light duty work assignments for injured workers who have temporary medical restrictions resulting from a work-related injury or illness and permanent job offers when the injured worker reaches MMI and cannot fulfill the requirements of the date-of-injury position.

1. OVERVIEW

a. Early return to the injured worker's regular job held on the date of injury is the ultimate objective of the Workers' Compensation Program (WCP). Effective utilization and management of light duty work assignments and permanent job offers benefits the injured worker as well as the Veterans Health Administration (VHA). These assignments permit injured workers to work within their medically prescribed physical restrictions. Employees who work in light duty assignments retain the discipline of going to work every day, continue their contribution to the VHA mission and remain productive workers.

b. A light duty work assignment allows an injured worker to return to productive duty within temporary limitations resulting from the job-related injury. Temporary restrictions are based on a medical report that Office of Workers' Compensation Programs (OWCP) has deemed to hold the weight of medical evidence. WCP personnel modify light duty work assignments when the injured worker's medical limitations increase or decrease until a return to full duty can occur.

c. A permanent job offer allows an injured worker to return to a permanent, classified position description (PD), scope of practice (SP) or functional statement (FS) when a medical report that OWCP has deemed to hold the weight of medical evidence indicates MMI and identifies permanent restrictions.

d. Light duty work assignments and permanent job offers are an integral part of WCP administration and, if managed effectively, make significant contributions to cost containment and control initiatives.

2. LIGHT DUTY WORK ASSIGNMENTS

a. **Local Light Duty Policy.** The facility Director establishes a local light duty assignment policy and standard procedures that accomplish the following:

(1) Requires all partially disabled injured workers to report duty status to their regular supervisor or WCP personnel.

(2) Direct supervisors and service chiefs to find appropriate job duties for injured employees within the work limitations imposed by the treating physician and notifies WCP personnel upon identification of duties.

b. **Identifying Job Duties.** When medical documentation indicates the injured worker is capable of performing a light duty assignment, WCP personnel do the following:

(1) WCP personnel review the work restrictions with the supervisor and service chief to identify tasks, determine the frequency and duration of physical tasks, and define the physical requirements of each task.

(2) When the supervisor or service chief is unable to find suitable light duties for an injured employee within his or her assigned service, WCP personnel will document the reasons for the inability to provide suitable work in the WC case file and then broaden the search by working outside the injured worker's service to find suitable duties.

c. **Offering a Light Duty Assignment.**

(1) WCP personnel coordinate with the supervisor or service chief to offer a light duty assignment in writing. The written offer must include the following information:

(a) Description of the duties to be performed;

(b) The specific physical requirements of the position and any special demands of the workload or unusual working conditions;

(c) The organizational and geographical location of the light duty assignment;

(d) The name and contact information of the injured worker's supervisor or manager;

(e) The date on which the assignment will first be available;

(f) Work schedule (including telework);

(g) Pay rate (salary) information; and

(h) The date by which the injured worker must respond to the light duty assignment. In most cases, this will be the same day that the offer is made, or the next scheduled work day.

(2) When the employee is at the work site and has not lost time beyond the Date of Injury (DOI) the supervisor extends the offer to the injured worker verbally and follows up with a written light duty assignment within 2-business days.

(3) When the employee is not currently at the work site, the supervisor extends the offer to the injured worker by telephone and follows up with a written light duty assignment within 2-business days.

d. Light Duty Assignment Acceptance, Refusal or Protest.

(1) Employee Acceptance of Light Duty Assignment: When the light duty assignment offer is accepted, WCP personnel do the following:

(a) Submit the light duty assignment offer along with the employee's written acceptance to OWCP;

(b) Follow up with the supervisor and injured worker to confirm that the return to duty has occurred; and

(c) Electronically complete and transmit DOL Form CA-3 to OWCP if the employee is returning to the light duty assignment from a period of disability. Place a copy of the completed CA-3 in the workers' compensation (WC) case file.

(2) Employee Declination of Light Duty Assignment: When the light duty assignment offer is declined or a response is not received by the injured worker in the timeframe specified on the light duty assignment offer, WCP personnel do the following:

(a) Submit the light duty assignment offer and declination with a cover letter to OWCP to request due process and suitability determination.

1. During the entitlement period for Continuation of Pay (COP), controvert periods of COP that the employee may request because of the refusal of the assignment.

2. During periods where no entitlement to COP exists, annotate on the injured workers' completed DOL Form CA-7 that the offer was declined or that the injured worker did not respond to the assignment offer, which constitutes refusal of the position.

(b) Monitors the case to ensure that OWCP renders a decision on the controversion or payment of compensation and take appropriate action to terminate or reduce the compensation or COP, if applicable.

e. Monitoring Light Duty Assignments.

(1) WCP personnel and supervisors notify the injured worker of their responsibility to provide updated duty status reports immediately after each medical appointment while in a light duty assignment.

(2) WCP personnel track and monitor the duration of the light duty status and follow-up on updated duty status reports immediately after each scheduled medical appointment. When the injured worker does not have another medical appointment scheduled, WCP personnel request updated duty status as appropriate for the injured worker's accepted condition.

(3) WCP personnel review medical documentation against the most recent light duty assignment offer to determine if restrictions have increased or decreased and reissue a light duty assignment offer when restrictions change.

(4) WCP personnel may write to the treating physician to obtain additional information regarding the prognosis and estimated duration of disability when the period of light duty appears to be excessive for the nature or type of injury, or if medical documentation lacks supporting rationale. WCP personnel send copies of written correspondence to the injured worker and OWCP.

3. PERMANENT JOB OFFERS

a. Identifying a Permanent Job.

(1) WCP personnel proceed to identify a permanent job offer when OWCP determines that the weight of medical evidence confirms the injured worker is permanently partially disabled because of a job-related injury and capable of performing restricted duties.

(a) WCP personnel maintain close contact with the supervisor, service chief and human resources personnel to identify a suitable permanent job.

(b) For injured workers who are on the VHA employment rolls, a light duty assignment may be identified and offered as an interim until a valid, classified position is identified and available for offer.

(2) WCP personnel notify the Human Resources Officer (HRO) (or designee) when an injured worker has permanent restrictions and is able to return to a permanent position within those restrictions. WCP personnel and HRO determine which of the following categories would best meet the needs of a permanent job offer. WCP personnel and the HRO (or designee) should minimize adverse or disruptive influence on the injured worker, when possible.

(a) Employee's current position. When the injured worker is a current employee and is capable of performing the core duties of the position held on the DOI with only minor modification, assignment to the current position with modifications may be feasible.

(b) Reassignment to an existing position. When the injured worker is a current employee and can no longer perform the core duties of the position held on the DOI, but is capable of performing the core duties of another authorized position for which the injured worker is qualified, reassignment to the existing position may be feasible.

(c) Created Position Description (PD), Scope of Practice (SP) or Functional Statement (FS). When a current or former employee's restrictions prohibit accommodation as described in the categories above, WCP personnel and the HRO (or designee) identifies and combines individual tasks to develop a PD, SP, or FS

consistent with the injured worker's medical restrictions. These tasks are usually sub-functions and may be from multiple positions.

b. Creating a Permanent Job Offer.

(1) When a suitable assignment has been identified, WCP personnel develop a concise permanent job offer that is clear and readily understandable. A standard PD, SP, or FS with annotations to reflect the accommodations may be used only when an employee's work restrictions are so minor that they can be accommodated in a current position, or reassignment to an existing position.

(2) The job duties are offered in writing and include the following information:

(a) A description of the duties to be performed;

(b) The specific physical requirements of the position and any special demands of the workload or unusual working conditions;

(c) The organizational and geographical location of the job;

(d) The date on which the job will first be available;

(e) The claimant's work schedule (including telework);

(f) The supervisor to which the injured worker reports;

(g) Pay rate (salary) information;

(h) The date by which a response to the job offer is required;

(i) A description of Merit Systems Protection Board appeal rights;

(j) The possible consequences of refusing or not responding to the job offer; and

(k) A space designated for the employee's acceptance or refusal and comments.

(3) When the job offer requires the injured worker to perform duties at a site outside of the claimant's residential area, WCP personnel first canvass for suitable employment in the claimant's residential area and document the results of this research in the job offer.

(4) When the job offer is not within the commuting area of the injured worker, WCP personnel must send a copy of the job description to OWCP before making the job offer so that entitlement to payment of relocation expenses can be determined. When the Claims Examiner (CE) makes a determination regarding relocation expenses, WCP personnel include the OWCP decision regarding relocation in the job offer.

(5) When medical evidence substantiates that a gradual return to work is necessary, WCP personnel must specify the dates of the increased hours in the job offer and commensurate with the claimant's prescribed restrictions.

c. Medical Review of Job Offers.

(1) WCP personnel request that the treating physician or the ruling medical authority identified by OWCP reviews the job offer and provides an opinion about whether the identified duties comply with the employee's medical restrictions.

(a) When the ruling authority is the injured worker's treating physician, WCP personnel contact the treating physician directly, in writing, to request concurrence and approval. WCP personnel sends a copy of the request to the employee and OWCP.

(b) When the ruling authority is a physician contracted by OWCP, WCP personnel contact the OWCP CE in writing to obtain review from the contracted physician.

(2) If the reviewing physician determines that modifications are necessary on the job offer, WCP personnel coordinate with the HRO (or designee) to make the necessary changes before offering the job to the injured worker.

d. Job Offer Guidance and Counseling. WCP personnel coordinate with the appropriate facility programs and schedule a job offer meeting or teleconference with the injured worker to ensure that the injured worker receives the following guidance and counsel:

(1) Review of the medical limitations and the injured worker's responsibility to perform the duties of the offered position within the prescribed work restrictions; and answer any questions concerning the detailed description of the job offer, including title, grade, salary, duties, work location and tour of duty.

(2) When applicable, discuss that the physician reviewed the job offer and provide the physician's name.

(3) Explain any restoration rights and benefits to which the injured worker may be entitled.

(4) Describe the status of and future eligibility for FECA benefits and disability retirement benefits.

(5) Provide instructions for completion and submission of any required employment forms.

e. Making a Permanent Job Offer. WCP personnel provide the employee with a written job offer package that includes the following:

(1) The job offer letter, signed by the facility Director's designee, which provides the injured worker with 2 weeks to respond to the job offer;

(2) The classified PD, SP, or FS;

(3) A summary of the job-offer guidance and counseling session, if held prior to offering the position;

(4) WCP personnel send a copy of the job offer package to the OWCP CE.

f. **Permanent Job Offer Acceptance, Refusal or Protest.**

(1) **Acceptance of Offer.** Upon receipt of the injured worker's acceptance of the permanent job offer, WCP personnel forward a copy of the worker's acceptance to the following individuals or programs and coordinate the return-to-work processes:

(a) **Human Resources Management Service.** The Human Resources Management Service (HRMS) servicing the facility has the administrative responsibility to complete all standard personnel forms including those required for health benefits insurance, life insurance and retirement. HRMS ensures that the Office of Personnel Management (OPM) is notified of the reemployment of a previously approved disability annuitant, even in cases where it was waived in lieu of OWCP benefits. WCP personnel forward the letter, a copy of the accepted job offer and a completed Form SF-52, when available, to initiate the necessary paperwork.

(b) **Manager or Supervisor at the Identified Work Site.** The supervisor contacts the returning individual advising where, when and to whom to report. The injured worker or WCP personnel advise the manager or supervisor of any change in the work status or work restrictions.

(c) **OWCP Claims Examiner.** The report-to-duty letter should accompany a copy of the employee's written acceptance of the permanent job offer.

(d) WCP personnel complete DOL Form CA-3 upon the employee's actual return to work.

(2) **Refusal or Protest of Offer.** When an injured worker refuses the job offer, or does not respond in the time specified on the written job offer, WCP personnel notify the OWCP CE, in writing, within 2-business days of the injured worker's refusal to accept the offered assignment. WCP personnel complete the following:

(a) Ensure that the offered assignment remains available during the entire OWCP suitability determination process, which may result in a decision to terminate benefits. If for any reason, the offered assignment becomes unavailable before the conclusion of this process or OWCP deems the offered position invalid, the employee's entitlement to compensation payments will continue.

(b) Allow the employee to return to work if he or she accepts the job offer any time before the final OWCP suitability determination process.

(c) When an injured worker is working in a light duty assignment during the permanent job offer process and refuses or does not respond to a permanent job offer, WCP personnel prepare a letter for the signature of the HRO with a copy to the appropriate service chief, advising the injured worker of the following:

(d) The light duty assignment remains available to the injured worker until OWCP makes a suitability determination on the permanent job offer;

(e) The injured worker may still accept the permanent job offer, which will remain open until OWCP determines its suitability and gives due process; and

(f) Advise OWCP, in writing, that VHA offered a permanent job in good faith and that the injured worker refused or did not respond to that offer. Provide the injured worker with a copy of the written correspondence and place a copy in the WC case file.

g. OWCP Suitability Determination Process.

(1) OWCP has the sole authority to determine if a permanent job offer is suitable. FECA requires that OWCP provide the injured worker with another opportunity to accept a suitable offer. The facility must keep the offered position available until OWCP makes a final decision.

(2) When an injured worker refuses a permanent job offer, WCP personnel ensure that OWCP has a complete job offer package and makes a request, in writing, for a suitability determination on the permanent job offer. WCP personnel must ensure that the following is made available to the OWCP CE:

(a) A summary letter of the actions taken;

(b) Written job offer with injured worker's reasons for refusal, or indicate non-response;

(c) Classified PD, SP, or FS; and

(d) Supporting medical documentation.

(3) When the OWCP CE determines that the offered job is suitable, the CE notifies the injured worker in writing of the decision and provides 30-calendar days from the date of the notification to accept the employment.

(a) The injured worker has the opportunity to demonstrate that the refusal was reasonable or justified.

(b) When the injured worker does not provide good cause for refusing the offered job, the OWCP CE provides notice of proposed termination in a 30-calendar day and subsequent 15-calendar day notice before terminating the injured worker's entitlement to FECA benefits.

(c) If the employee still refuses the permanent job offer after due process has been provided and benefits have been terminated through formal decision; WCP personnel notify the service chief, supervisor and injured worker that any light duty assignment in place for the injured worker is terminated.

(d) WCP personnel or supervisor refers the injured worker to HRMS to discuss other options that may be available to the employee under different benefit programs.

(4) When the OWCP CE determines that the offered job was not suitable, WCP personnel coordinate with HRMS, the service chief and supervisor to make the necessary revisions and reoffer the job. OWCP considers modification to a position previously deemed unsuitable to be a new job offer and, if refused, the employee will again be entitled to full due process.

h. Loss of Wage-Earning Capacity (LWEC).

(1) The OWCP CE determines the injured worker's LWEC entitlement. The LWEC may entitle the injured worker to compensation for the difference between the injured worker's capacity to earn wages and the current wages of the job held at time of injury.

(2) Actual Earnings. When an injured worker who has reached MMI returns to alternative employment within VHA, or with another employer, and has demonstrated the ability to maintain the position for a period greater than 60-calendar days. WCP personnel make a written request to the OWCP CE to determine whether the actual earnings in the alternative employment during the first 60 days in service fairly and reasonably represent the employee's wage-earning capacity.

(a) WCP personnel provide OWCP with current pay rate information for the alternative employment, when known; and for the position held at the DOI, as soon as possible, but no later than 5-business days from a request by the OWCP CE.

(b) When the OWCP CE determines that earnings fairly and reasonably represent the injured employee's wage-earning capacity, a formal LWEC decision is prepared and sent to the injured worker and to the WCP office. WCP personnel communicate with the injured worker to help answer any questions about the formal decision.

(3) Constructed Earnings. When rehabilitation efforts by the injured worker or through vocational rehabilitation do not succeed, the injured worker's wage-earning capacity may be determined based on a minimum of two positions deemed suitable but not actually held.

(a) The nature of injury, degree of impairment, usual employment, age, qualifications of employment and availability of suitable employment in the commuting area are all factors in this decision.

(b) OWCP vocational rehabilitation Specialists and OWCP CEs perform most of the work to determine whether a constructed LWEC is appropriate. WCP personnel provide requested information to OWCP within 2-business days of the request for information.

IN-HOUSE MEDICAL CARE AND BILLING

Collaborative relationships shall be developed to ensure that appropriate in-house medical treatment billing occurs in medical centers that elect to offer in-house care as an option to injured workers. This section establishes minimum requirements for in-house treatment and appropriate billing to the Office of Workers' Compensation Programs (OWCP) for services rendered at the EOH when an injured worker elects Employee Occupational Health (EOH) or their assigned Department of Veterans Affairs (VA) Primary Care Physician and is treated by the Veterans Health Administration (VHA) as a Federal employee.

1. AUTHORIZING EOH AS A POTENTIAL TREATMENT PROVIDER

a. The facility Director (or designee) determines whether treatment of injured workers in the EOH beyond emergency diagnosis and first treatment would interfere with the provision of treatment or service to Veterans and establishes written policy to inform employees of their option to elect, or not elect EOH as a provider of choice. In addition to treatment, medical services may also include pharmacy prescription beyond the 3-calendar day supply limit for employees, off-the-shelf prosthetic items, CAT scans, MRIs and therapy treatments.

b. When authorization exists for EOH to treat injured workers beyond emergency diagnosis and first treatment, the facility Director ensures that fiscal processes are in place to bill OWCP for services at the current cost-based, inter-agency rates prescribed in Federal Register.

2. ELECTION OF EOH AS A PROVIDER OF CHOICE

a. For traumatic injuries filed on U.S. Department of Labor (DOL) Form CA-1, an injured worker may elect EOH as a provider of choice.

b. For occupational illnesses filed on DOL Form CA-2, an employee cannot elect EOH as a provider of choice. Once OWCP adjudicates and accepts an occupational illness, the injured worker may elect to change physicians to EOH by requesting the change in writing to OWCP.

c. For recurrences of injury or illness filed on DOL Form CA-2a, the employee cannot elect EOH as a provider of choice. Once OWCP adjudicates and accepts a recurrence of injury or illness, the injured worker may elect to change physicians to EOH by requesting the change in writing to OWCP.

d. The injured worker documents their choice of physician on the Election of Physician letter; signs and dates the letter and provides the completed letter to Workers' Compensation Program (WCP) personnel.

e. WCP personnel provide a copy of the signed Election of Physician letter to the injured worker (and EOH when elected) and forward a copy to OWCP. WCP personnel maintain the original signed copy in the WC case file.

f. When the employee elects EOH as the provider of choice, WCP personnel do the following:

(1) Issue DOL Form CA-16 when the injured employee files DOL Form CA-1 and a third appointment is scheduled with EOH within 1 week of the DOI.

(2) Notify EOH provider, coders and billers that an injured worker has elected EOH as the provider of choice. Encrypt, or password protect, the communication and include the case number, DOI and any accepted condition codes in the initial notification.

g. When the case number or accepted condition codes are not available at the initial notification, WCP personnel update coders and billers with this information to initiate billing using appropriate treatment suites.

h. When OWCP adjudicates and denies an employee's claim, WCP personnel notify the employee's supervisor, EOH, coders and billers.

3. RECONCILING BILL PAYMENTS

a. WCP personnel review medical payments for all WC cases at least quarterly to ensure that charges and payments are appropriate. When discrepancies are found in bills paid to the VA medical facility, WCP personnel notify the appropriate fiscal personnel of the discrepancy and request necessary corrections.

b. WCP personnel do not intervene in billing, electronic funds transfer, or payment issues for VA medical facility billing of in-house treatment, just as they do not intervene for private physician billing processes. Therefore, coders and billers reach out directly to the OWCP contracted medical payment services as a provider of service for resolution of outstanding payments.

FRAUD AND ABUSE MANAGEMENT

Workers' Compensation Program (WCP) case files shall be evaluated to determine if there is potential fraud or abuse. Referrals shall be made to the Department of Veterans Affairs (VA) Office of Inspector General (OIG) in accordance with OIG documented procedures. This section addresses the minimum requirements that WCP personnel must follow to evaluate WCP claims and medical providers for potential fraud and abuse indicators identified by the VA Office of Inspector General (VA OIG) and to make referral of cases where indicators suggest potential fraud or abuse of the Federal Employees' Compensation Act (FECA).

1. OVERVIEW

a. Identifying potential fraud and abuse within the WCP is essential to reducing unnecessary cost and minimizing the potential for future fraudulent activity. A structured process is necessary within WCP case management to evaluate for potential fraud and abuse.

b. FECA provides an essential employee benefit, entitling injured workers to compensation while they recover. However, VA OIG's effort in the WCP area have shown that a very small percentage of employees fraudulently submit WCP claims or, after establishment of a WCP claim, commit program fraud. WCP fraud occurs when someone knowingly and with intent to defraud, presents or causes to be presented, any written statement that is materially false and misleading to obtain some benefit or advantage.

c. The investigation of workers' compensation (WC) cases involving possible fraud and abuse comes under the jurisdiction of the VA OIG. The objective of the VA OIG is to assist WCP personnel in reducing compensation costs resulting from fraudulent claims and to gather information leading to the removal of dishonest employees and medical providers from the WCP.

2. PREVENTION EFFORTS

a. In an effort to prevent fraud, WCP personnel inform supervisors, managers and employees of their obligations under FECA and the penalties for false claims or withholding of claims.

b. WCP personnel coordinate the posting of the VA OIG Hotline poster prominently in public areas within the serviced facilities.

3. EVALUATION PROCESS

a. Veteran Integrated Service Network (VISN) or program office WCP coordinators and facility WCP personnel reference VAOIG Report No.: 9D2-G01-064, *Handbook for VA Facility Workers' Compensation Program (WCP) Case Management and Fraud Detection*, as a basis for evaluating WC cases for possible referral to VA OIG for fraud.

(1) To streamline fraud evaluation efforts, the VHA National WCP Office has developed the VA OIG Characteristics for Potential Fraud checklist to support facility WCPs.

(2) The checklist items are compiled from the referenced VA OIG report and make the process of identifying potential characteristics more efficient.

b. WCP personnel complete a separate checklist for each new case reviewed for potential characteristics of fraud and periodically throughout the life of a WC case to determine whether characteristics are present that may warrant referral to the VA OIG for further evaluation.

(1) Supervisors may provide information to support fraud evaluation; however, WCP personnel describe the need for information as being for case management purposes—not to evaluate potential fraud or abuse.

(2) Employees, customers, supervisors, managers, or visitors may provide tips; however, the evaluation of WC cases for potential fraud should be a confidential process and limited to only WCP personnel.

c. For those facilities that have the use of an independent investigator, WCP personnel consult with the VISN or program office WCP coordinator to determine whether a confidential referral to the investigator is appropriate to gather additional evidence prior to referring a case to VA OIG. When this occurs, WCP personnel indicate referral to the independent investigator on the checklist.

d. Completed checklists should not be included as part of the WC case file. All completed checklists are considered to be a work file and should be filed alphabetically by the injured workers last name and first name in a protected filing system. The filing system may be electronic or manual, but must be located within the WCP office.

e. When three or more of the checklist items are marked "Yes," based on objective evidence, the case may warrant referral to the VA OIG for further investigation. WCP personnel consult with the VISN or program office WCP coordinator to discuss cases where it is not clear whether a referral is necessary.

4. REFERRAL PROCESS

a. VISN or program office WCP coordinators and facility WCP personnel reference the VAOIG Report No.: 9D2-G01-002, *Protocol Package for Veterans Integrated Service Network (VISN) Workers' Compensation Program (WCP) Case Management and Fraud Detection*, when developing documentation for referral of a case to the VA OIG for further evaluation and disposition.

b. Upon completion of the review by WCP personnel, or the independent investigator, WCP personnel will consult with the VISN or program office WCP

coordinator to discuss the indicators that are present and review all evidence to determine next steps.

c. When is it determined that referral to VA OIG is necessary, WCP personnel contact the local OIG Field Office of Investigations for guidance on how to develop information needed in the case referral package.

d. When the referral package is complete, WCP personnel forward the package by encrypted email, with a copy to the VISN or program office WCP coordinator and the Veterans Health Administration National WCP Manager.

PERFORMANCE MANAGEMENT

1. Internal and external performance metrics are important tools to determine program effectiveness and operational efficiency and provide data to support analyses to improve efficiencies in program areas.
2. Measures focus on continuous process improvement methods and may incorporate cost, rate and/or indicators from special initiatives to address program compliance, special initiative outcomes and fiscal integrity. Metrics may be specific to a single year or based on performance trends within Veterans Health Administration (VHA) over several years.
3. Performance goals and outcomes assess program areas of compliance, case management activities and fiscal recovery; provide a basis for prioritizing oversight reviews, training and outreach; and to communicate successes within the program to stakeholders.
4. Oversight of standard operating procedures and processes taken to meet the program goals and objectives, in collaboration with all stakeholders, will be ongoing in order to monitor program effectiveness.
5. Data to support performance metrics is obtained from Office of Workers' Compensation Programs (OWCP) and VHA systems, and other data sources that may be blended to improve the stakeholder's ability to evaluate opportunities for improvement.
6. VHA National WCP Office ensures that a Change Control System is developed and implemented to evaluate requests for functional requirements, system corrections, reporting and other issues that may impact the VHA WCP tools and technologies to meet data integrity.