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SECTION B - ARS OCCUPATIONAL HEALTH MANAGEMENT FUNCTION

CHAPTER IV - ARS OCCUPATIONAL SAFETY AND HEALTH WORKERS'

INJURY/ILLNESS COMPENSATION PROGRAM

CHAPTER IV

ARS OCCUPATIONAL SAFETY AND HEALTH WORKERS'

INJURY/ILLNESS COMPENSATION PROGRAM

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CHAPTER IV - SECTION B

ARS OCCUPATIONAL SAFETY AND HEALTH WORKERS' COMPENSATION PROGRAM

A PURPOSE OF THE CHAPTER

Stated are benefits afforded employees under the FECA amended by Public Law 93-416 and the procedures necessary to comply with statutory provisions of the Act as administered by OWCP, DOL in 20 CFR 10 Workman's Compensation Program.

B APPLICABILITY

The contents of this chapter are applicable to all missions under the direction of the ARS Administrator whether accomplished by ARS personnel, cooperators, or contractors within ARS. Exceptions to the provisions of this MANUAL require Office of the Deputy Administrator, Administrative Management approval. Waivers must be documented and copies furnished to the next higher management level. In all instances, however, program coverage consistent with the intent of the pertinent provisions will be provided.

C ABBREVIATIONS

DOL - Department of Labor

FECA - Federal Employees' Compensation Act

FTS - Federal Telecommunications System

GS - General Schedule

OWCP - Office of Workers' Compensation Programs

SPO - Servicing Personnel Office

U.S.C. - United States Code

D FORMS

AB-1, Application for Review

CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation

CA-2, Federal Employee's Notice of Occupational Disease and Claim for Compensation

CA-2a, Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation

CA-3, Report of Termination of Disability and/or Payment

CA-4, Claim for Compensation on Account of Occupational Disease

CA-5, Claim for Compensation by Widow, Widower, and/or Children

CA-5b, Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren

CA-6, Official Superior's Report of Employee's Death

D FORMS (Continued)

CA-7, Claim for Compensation on Account of Traumatic Injury

CA-8, Claim for Continuing Compensation on Account of Disability

CA-16 Request for Examination and/or Treatment

CA-17, Duty Status Report

CA-20, Attending Physician's Report (Attached to CA-4 and CA-7.)

CA-20a, Attending Physician's Supplemental Report (Attached to CA-8.)

These forms are obtained through the U.S. Department of Agriculture; Central Supply, Landover, Maryland; or the Government Printing Office, Washington, D.C. If necessary, single copies of these forms may be obtained from the district OWCP office having jurisdiction.

The above list does not include all OWCP forms. However, it identifies the forms needed most often. Certain forms are available only upon request from the district OWCP office (i.e., CA-5 and CA-5b used by dependents for claiming compensation for death).

For instructions on completion of these forms, refer to Exhibit 1.

E BACKGROUND

The FECA provides compensation and medical care to Federal employees for disability due to injuries and illnesses sustained in the performance of their official duties. The FECA is also applicable to Federal employees while serving as Federal petit or grand jurors and certain other groups.

A Federal employee who is injured while in the performance of duty has no right to recover damages from the United States for the effects of the injury except through the FECA. The benefits provided by the Act constitute the exclusive remedy for work-related injuries and deaths.

By law, an employee and the immediate supervisor are responsible for completing all reports necessary to protect an injured employee's rights. Penalties are provided by law for failure to make required reports and for filing false reports. Supervisors are responsible for maintaining an adequate supply of the basic forms needed to properly record and report job-related injuries and illnesses. Refer to Exhibit 1 for instructions on completing the necessary forms. Supervisors are also responsible for advising injured

E BACKGROUND (Continued)

employees concerning advantages or disadvantages of electing continuation of pay, disability compensation, or leave.

F MEDICAL TREATMENT

1 First aid and medical care, including hospital care when needed, will be furnished at U.S. Government expense to employees injured while in the performance of official duties. Medical care is to be provided by any qualified local physician of the employee's choice. The employee has only the initial choice of a physician, and subsequent changes in physicians must be approved by the OWCP (see Exhibit 2 for the District Office nearest you).

2 The definition of physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. (Reimbursable services of a chiropractor are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist.)

3 Injured employees may be furnished transportation reasonably necessary to obtain proper medical services. Reimbursement for expenses incidental to obtaining such services, as well as for travel expenses of an attendant, may be allowed when the OWCP determines that such expenses were necessary.

G STATUTORY TIME REQUIREMENTS

1 Employees shall immediately notify their supervisor when injured on the job. Compensation may be denied if written notice of injury is not given to the supervisor within 30 calendar days or if the supervisor does not have actual knowledge of the injury.

2 Supervisors are required to keep a written report of all injuries to employees under their supervision, including first aid cases, and shall submit a written report of injury or occupational disease to the district office of the OWCP whenever it is likely to result in:

a Medical costs.

b Lost time beyond the date of occurrence.

G STATUTORY TIME REQUIREMENTS (Continued)

c Prolonged treatment.

d Future or permanent disability.

e A continuation of pay.

3 CA-1 or CA-2 are to be used for making reports covered in 2 above.

4 An injured employee is required to file a written claim for compensation within 3 years of the injury. The 3-year time limitation also applies to claims for compensation as a result of death or latent disability. A claim must be filed before compensation will be paid. Supervisors are responsible for providing their employees with the proper forms for filing compensation claims.

a CA-4 is used for claiming compensation due to an occupational disease.

b CA-7 is used for claiming compensation due to a traumatic injury.

5 Time limitations for claiming compensation do not begin to run against a minor until attaining age 21 or against an incompetent during the time of incompetence or until a legal representative is duly appointed.

H CONTINUATION OF PAY

1 Employees disabled by job-related traumatic injuries as defined below have a right to use annual or sick leave or to elect a continuation of pay not to exceed 45 calendar days. The following points must be remembered when discussing continuation of pay:

a The continuation of pay option is only available for disability due to traumatic injury not occupational disease.

b The 45 days are interpreted as calendar days.

c The 45-calendar-day period begins to run on the first full day or shift on which disability begins. The day of the injury is not charged against the 45 calendar days.

H CONTINUATION OF PAY (Continued)

d If the employee stops work following the day of injury for any fraction of a day, it is counted as a full day charged against the 45 calendar days.

e The continuation of pay is subject to taxes and all deductions usually withheld from the employee's pay.

f Continuation of pay is not considered as compensation under the FECA.

g Employees excluded from the continuation of pay provision of the FECA may be entitled to compensation beginning from the date of pay loss (see Section I below, COMPENSATION BENEFITS).

h In no event shall an employee's right to a continuation of pay be construed as requiring continuation of that person's employment beyond the date it would have terminated had the employee not been injured.

2 A job-related traumatic injury is a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable by time of occurrence and member or function of the body affected and be caused by a specific event or series within a single day or work shift.

3 Traumatic injuries are distinguished from occupational diseases or illnesses in that the latter are produced by continued and repeated exposure to conditions of work environment over a longer period of time (i.e., toxins, poisons, fumes, or vapors).

4 Traumatic injuries include damage or destruction to prosthetic devices or appliances, exclusive of eyeglasses and hearing aids unless the eyeglasses or hearing aids were damaged incidental to a personal injury requiring medical services.

5 When an employee sustains a job-related traumatic injury as defined above, the employee or someone acting in the employee's behalf must:

a Give a written report on CA-1 to the immediate supervisor within 2 working days of the injury.

H CONTINUATION OF PAY (Continued)

b Decide whether to request sick or annual leave or to request a continuation of regular pay.

c Request the attending physician (if applicable) to state the earliest date that the employee may return to work. (CA-17 is to be used for this purpose. The attending physician should be requested to return CA-17 to the employee's supervisor with a copy to the district office of the OWCP.)

d Decide whether to request sick leave, annual leave, or leave without pay, or to submit a claim for compensation when disability is expected to continue beyond the 45-calendar-day limit for continuation of pay. CA-7 must be completed and submitted to the appropriate district office of the OWCP within 5 working days following termination of the 45-calendar-day continuation of pay period. The employee and supervisor are responsible for completing CA-7 (see Section I below, COMPENSATION BENEFITS).

6 Upon receiving notice that an employee has sustained a job-related traumatic injury, ARS supervisors must:

a Promptly authorize medical care, if required, by issuing CA-16 to the injured employee. If emergency situations where issuance of CA-16 is not practical, oral authorization may be given to the attending physician by the supervisor. In such cases, CA-16 must be issued to the attending physician within 48 hours of the injury.

b Provide the employee with CA-1 for reporting the injury. Upon receipt of the completed CA-1 from the employee, return the "Receipt of Notice of Injury," provided on the CA-1, to the employee.

c Advise the employee of the right to elect a continuation of regular pay or to request annual or sick leave, if the injury is disabling.

d Inform the employee as to whether continuation of pay will be controverted (i.e., protested, disputed) and, if so, whether pay will be terminated and the basis for such action. (See 7 below for situations under which continuation of pay may be controverted and pay terminated.)

H CONTINUATION OF PAY (Continued)

e Promptly submit a fully completed CA-1, with all other pertinent information and documents, to the appropriate district office of the OWCP within 2 working days following receipt of the completed forms from the employee.

f If the employee's claim is controverted (whether or not pay is terminated), submit explanation of the controversion to the OWCP on the supervisor's portion of CA-1 or by separate narrative report.

g Make every attempt to advise the injured employee of the advantages and disadvantages of electing continuation of pay (i.e., continuation of pay is subject to taxes and payroll deductions; choosing not to use the continuation of pay provision may result in the employee being without income for an undetermined period of time while awaiting compensation or the onset of disability annuity).

7 ARS may, from information submitted by the employee or obtained upon investigation, controvert and stop the employee's pay only if the claim falls in one or more of the following categories:

a The disability is due to an occupational disease or illness.

b The employee's employment status for compensation is excluded by 5 USC 8101(1)(B) or (E) (i.e., persons rendering personal service to the United States who are generally not carried in regular, continuing pay status such as consultants, volunteers, or contract employees).

c The employee is not a citizen of the United States or Canada (i.e., a foreign national employed outside the United States or Canada).

d The injury occurred off ARS premises and the employee was not involved in official "off-premises" duties.

e The injury was caused by the employee's willful misconduct; the employee intended to bring about the injury or death of the employee or the injury or death of another person; or the employee's intoxication or under the influence of drugs was the proximate cause of the injury.

H CONTINUATION OF PAY (Continued)

f The injury was not reported on CA-1 within 30 calendar days of the injury.

g Work stoppage first occurred 6 months or more following the injury.

h The employee initially reported the injury after termination of employment.

i The employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, Youth Conservation Corps, Work-Study Programs, or other similar groups.

8 When persons subject to the above exclusions from continuation of pay are otherwise entitled to compensation, their entitlement to FECA compensation payments begins from the date of pay loss subject to other applicable FECA provisions.

NOTE: In all other cases the employee's claim may be controverted; however, the employee's regular pay will not be interrupted during the 45-calendar-day period unless the controversion is sustained by the OWCP, medical evidence is provided by the attending physician indicating that the employee is no longer disabled, or the 45-calendar-day period expires.

9 If an employee suffers a recurrence of disability due to a traumatic injury for which a continuation of pay was initially approved by the OWCP, the supervisor shall immediately complete CA-2a and submit it to the appropriate district office of the OWCP. If the recurrence occurs within 6 months of the employee's return to work from the initial disability, the employee may elect to use the remainder of the 45-calendar-day period not exhausted on the initial disability. If 6 months or more have elapsed since the employee's return to work from the initial disability, continuation of pay shall not be allowed even though the entire 45-calendar-day period was not exhausted. However, the employee may be eligible for compensation. Claims for compensation should be made using CA-7 or CA-8, as appropriate.

10 If the recurrence occurs within 6 months of the most recent prior medical treatment received, the supervisor shall authorize required medical treatment by issuing CA-16.

H CONTINUATION OF PAY (Continued)

Authorization for medical treatment for recurrence of disability occurring after 6 months or more have passed since the most recent prior medical treatment must be referred to the OWCP for approval.

I COMPENSATION BENEFITS

1 Compensation based on loss of wages is payable after the 45th day for traumatic injury cases. Compensation begins when the employee begins to lose pay if the injury causes permanent disability or if the pay loss exceeds 14 workdays. A 3-day waiting period will be observed in all disability cases lasting less than 14 workdays. Compensation will not be paid while the injured employee receives pay for leave. An employee may take sick or annual leave to avoid an interruption in income. If leave is taken and the claim for compensation is subsequently approved, the employee may arrange to buy back the leave used and have it credited to his/her account. For instructions on buying back leave, contact your SPO.

2 The maximum monthly rate of compensation may not exceed 75 percent of the monthly pay of the highest step for GS-15. The minimum monthly rate of compensation may not be less than 75 percent of the first step of GS-2, or, if the employee's actual pay is less than 75 percent of the first step of GS-2, the minimum amount of compensation would be the actual monthly rate of pay.

3 Compensation equals $66\frac{2}{3}$ percent of the employee's pay, or 75 percent when there are dependents. The employee may use sick or annual leave to cover all or part of the absence. Compensation will not be paid until the use of leave has ceased.

4 Compensation is payable until death unless the employee is medically or vocationally rehabilitated. Compensation equals $66\frac{2}{3}$ percent of the employee's pay, or 75 percent when there are dependents. Additional compensation not to exceed \$500 per month may be allowed when the services of an

attendant are required constantly. Examples of permanent total disability include loss, or loss of use of both arms, legs, feet, or eyes, or sight.

5 When unable to return to usual employment due to partial disability as a result of an accident, the injured employee may receive compensation, based on loss of wage earning capacity, at a rate of $66\frac{2}{3}$

I COMPENSATION BENEFITS (Continued)

percent, or 75 percent of pay if there are dependents. Such compensation is payable so long as there is a loss of wage earning capacity as determined by OWCP.

6 Compensation is payable for specified periods of time for the total or partial loss, or loss of use, of certain members, organs, and functions of the body. (Exclusions: brain, back, and heart.)

7 Compensation may equal $66\frac{2}{3}$ percent, or 75 percent of pay if there are dependents. Compensation may be paid for serious disfigurement of the face, head, or neck if it is likely to handicap a person in securing and maintaining employment. Compensation for loss of wage earning capacity may be paid after the scheduled award expires. (Contact your district office of the OWCP for information on scheduled awards.)

8 Vocational rehabilitation, job counseling, and placement assistance may be provided an injured employee who is unable to return to usual employment because of permanent disability. Additional compensation may be allowed when necessary for maintenance of the employee while in an approved training course. The employee will also be paid at the rate of total disability while enrolled in an OWCP-approved training course.

9 When there are no children, the employee's widow or widower may receive compensation equal to 50 percent of the employee's pay until death or remarriage. If remarriage occurs before the age of 60 the widow or widower will be paid a lump sum equal to 24 times the monthly compensation being paid on their behalf. If remarriage occurs after age 60, no lump sum will be paid and compensation shall be paid until the beneficiary's death.

10 When there are children, compensation for the widow or widower shall equal 45 percent of the employee's pay plus 15 percent for each child, not to exceed 75 percent of the employee's pay.

11 A child may receive compensation until reaching age 18 or until marriage, whichever comes first. A child incapable of self-support may receive compensation until capable of self-support.

I COMPENSATION BENEFITS (Continued)

12 If unmarried, a child who is a student at age 18 may continue to receive compensation until reaching age 23, or through 4 years of school beyond high school level. Compensation terminates upon marriage or death.

13 A limited sum may be paid for funeral and burial expenses. Costs of transporting remains may be paid if the employee lives in the United States and dies away from home, official duty station, or outside the United States. An additional sum may be paid to the decedent's personal representative as reimbursement for costs incident to terminating the decedent's status as a Federal employee.

14 As a general rule, a person may not receive compensation from OWCP while receiving a retirement or survivor annuity from the Office of Personnel Management. The beneficiary must decide which is the more advantageous. (For exceptions to this rule consult your SPO.)

15 An employee may receive compensation concurrently with military retirement pay, retainer pay, or equivalent pay for service in the armed forces or other uniformed services subject to the reduction of such pay according to 5 USC 5532(b).

J CASES INVOLVING THIRD-PARTY LIABILITY

1 The OWCP reserves the right to recover damages in any case of injury or death caused under circumstances creating a legal liability upon someone other than the United States.

2 Employees claiming compensation shall not attempt to settle a third-party claim arising out of an injury or death without first obtaining advice and approval from the Solicitor of Labor. (Contact the appropriate district office of the OWCP or the Associate Counsel for Employee's Compensation, Washington, DC 20210.) Supervisors are to advise claimants of this requirement.

K HEARINGS, RECONSIDERATION, AND APPEALS

1 An employee who is not satisfied with an OWCP decision may request a hearing before an OWCP representative. Such requests are to be made by the employee to the Director of OWCP within 30 calendar days of the decision. Write to: Director, Office of Workers' Compensation Programs, Washington, DC

K HEARINGS, RECONSIDERATION, AND APPEALS (Continued)

20211. At the hearing, to be held at a location convenient to both the employee and OWCP, the employee may present evidence in further support of a claim. OWCP will issue a new decision following the hearing. Employees should be advised of their responsibility to pursue such action directly with the OWCP, if they desire a hearing.

2 An employee can request OWCP to reconsider any determination by directing a written request for consideration to the Director of OWCP. Such requests must state clearly the grounds upon which it is based and present evidence not previously submitted (i.e., new medical reports and affidavits). There are no time limitations on filing a request for reconsideration and no special forms are required. Employees should be advised by supervisors to pursue requests for reconsideration directly with OWCP.

3 Employees may request the Employees' Compensation Appeals Board to review final OWCP decisions affecting them by filing a written appeal at the following address:

U.S. Department of Labor

Employees' Compensation Appeals Board

Washington, DC 20210

4 Form AB-1 is to be used for this purpose (contact the district office of the OWCP for this form). Appeals are to be filed within 90 calendar days of the final OWCP decision by claimants residing within the United States or Canada, and within 180 calendar days by claimants residing elsewhere.

5 The Board will render a decision based upon the case file and will not accept new evidence for consideration.

6 It is the employee's responsibility to pursue an appeal directly with the Employees' Compensation Appeals Board.

L EXHIBITS

1 Reporting Instructions

2 Office of Worker's Compensation Program District Office Addresses