

540 Injury Compensation Program

541 Overview

541.1 Background

541.11 Law

Under the provisions of the Postal Reorganization Act, 39 U.S.C. 1005 (c), all employees of the United States Postal Service (USPS) are covered by the Federal Employees' Compensation Act (FECA), 5 U.S.C. Chapter 81.

541.12 Administration

FECA is administered by the Office of Workers' Compensation Programs (OWCP), United States Department of Labor. OWCP determines whether the employee, or a claimant acting on behalf of the employee, is entitled to benefits under FECA.

541.13 Coverage

541.131 Disability

FECA provides that employees who suffer job-related disabilities are entitled to:

- a. Continuation of regular pay for the period of the disability, up to a maximum of 45 calendar days, for a traumatic job-related injury (see 541.2f).
- b. Compensation for wages lost as a result of job-related injury or illness.
- c. Medical care for disability due to:
 - (1) Personal injuries sustained while in the performance of duty.
 - (2) Diseases proximately caused, aggravated, or accelerated by postal employment.
- d. Vocational rehabilitation.

541.132 Death

Payment of some funeral and burial expenses, and compensation for the loss of wages, including allowances for dependents, are provided for an injury or illness resulting in an employee's death.

541.133 Schedule Awards

Compensation is provided for the permanent loss, or loss of use, of each of certain members, organs, and functions of the body.

541.14 Privacy Act

Injury compensation records are maintained by the USPS within the privacy system of records identified as USPS 120.098 (*OWCP Record Copies*). See 314 for a full explanation of injury compensation case files.

541.2 Definitions

Except where the content clearly indicates otherwise, the following definitions apply:

- a. *Benefits and compensation* refer to:
 - (1) Continuation of pay (COP), paid by the USPS. (COP is not considered compensation by the OWCP.)
 - (2) Money paid to claimants by the OWCP because of loss of wages or earning ability.
 - (3) Money paid in the form of schedule awards (e.g., loss of finger).
 - (4) Money paid as reimbursement for medical diagnostic and treatment services supplied under FECA.
 - (5) Money paid to survivors of employees whose death is job-related.
 - (6) Certain payments to individuals who are participating in an approved vocational rehabilitation program.
- b. *Claim* means an assertion, in writing, of an individual's entitlement to benefits under FECA. This claim must be submitted on a form as required by 542. Conditions are as follows:
 - (1) A claim may be filed for a traumatic injury, an occupational illness or disease, or death.
 - (2) A claim for injury may include reimbursement for the replacement or repair of medical braces, artificial limbs, and other prosthetic devices, and for such time lost while such devices or appliances are being replaced or repaired. However, a claim is not appropriate for the replacement or repair of eyeglasses and hearing aids except as provided in 541.2e.
- c. *Claimant* means an individual whose claim for benefits and/or compensation has been filed in accordance with FECA and the provisions of 542.
- d. *Official supervisor* means an individual who is responsible for the supervision, direction, or control of employees.
- e. *Injury* may be a traumatic injury (see 541.2f), or an occupational illness or disease (see 541.2g), and includes damage to or destruction of medical braces, artificial limbs, and other prosthetic devices. The term does not include the damage or destruction of eyeglasses and hearing aids, unless the damage or destruction is a direct result of a personal job-related injury requiring medical services.
- f. *Traumatic injury* means a wound or other condition of the body caused by external force, including stress or strain. The injury:
 - (1) Must be identifiable as to time and place of occurrence and member or function of the body affected.
 - (2) Must be caused by a specific event or incident, or series of events or incidents, within a single day or work shift.
 - (3) May also include damage to or destruction of prosthetic devices or appliances.

- g. *Occupational illness or disease* means an illness or disease produced by one of the following:
- (1) Systemic infections.
 - (2) Continued or repeated stress or strain.
 - (3) Exposure to toxins, poisons, fumes, etc.
 - (4) Other continued and repeated exposure to conditions of the work environment over a longer period of time than a single day or work shift.
- h. *Monthly pay* means the greatest of the following:
- (1) Monthly pay at the time of injury.
 - (2) Monthly pay at the time disability begins.
 - (3) Monthly pay at the time compensable disability recurs if the recurrence begins more than 6 months after the injured employee resumes full-time employment with the USPS or other government agency.
- i. *Physician* includes any surgeon, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, or osteopathic practitioner used within the scope of his or her practice as defined by state law. Exceptions are as follows:
- (1) Chiropractors are included only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct subluxation as demonstrated by X ray to exist.
 - (2) Naturopaths, faith healers, and other practitioners of the healing arts are not recognized as physicians within the meaning of FECA.
- j. *Medical officer* means a USPS medical officer, medical designee, or contract medical officer.
- k. *Forty-five-day continuation of pay* means 45 calendar days. If the employee has stopped working because of the disabling effects of a traumatic, job-related injury, the 45-day calendar period begins at the start of the employee's first full tour thereafter, or the first day following the disability, whichever occurs sooner. Continuation of pay can be received only if the disability begins within 90 days of the occurrence of the injury. Examples are as follows:
- (1) If an employee is called in ahead of the employee's scheduled tour, is injured during the call-in period, and is unable to continue to work due to the injury, the 45-calendar day period begins at the start of the scheduled tour.
 - (2) If an employee is injured during the scheduled tour and is unable to work due to the injury, the 45-calendar day period begins on the next calendar day.
 - (3) If an employee works only a portion of a day or tour (other than the day or tour when the injury occurred), that day or tour is counted as 1 calendar day toward the 45-day period.

- i. *Control officer* means the person who heads the control office and is one of the following:
- (1) The injury compensation supervisor or specialist if an injury compensation unit is available and staffed.
 - (2) The medical officer or senior medical person if a medical unit or health unit is available and staffed.
 - (3) An appropriate designated supervisor (full-time or collateral duty) if no injury compensation supervisor or specialist, medical unit, or health unit is available.
 - (4) An appropriate official, above the management level of the injured employee, who has been designated to administer injury claims.
- m. *Control point* means an office or individual designated by the installation head in those installations that do not have an injury compensation supervisor or specialist, medical unit, or a health unit. Control point personnel are trained to coordinate their efforts with the control office, which is usually located in the division or MSC to which the installation head reports.

541.3 Forms

Each installation head must maintain an adequate supply of the following basic forms, which are needed for recording and reporting injuries:

Form	Title
CA-1	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation
CA-2	Notice of Occupational Disease and Claim for Compensation
CA-2a	Notice of Federal Employee's Recurrence of Disability and Claim for Pay/Compensation
CA-3	Report of Termination of Disability and/or Payment
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	US Dept Labor Official Superior's Report of Employee's Death
CA-7/20	Claim for Compensation on Account of Traumatic Injury or Occupational Disease/Attending Physician's Report
CA-8/20a	Claim for Continuing Compensation on Account of Disability/Attending Physician's Supplemental Report
CA-10	What a Federal Employee Should Do When Injured at Work
CA-11	When Injured at Work
CA-13	Work Injury Benefits for Federal Employees
CA-16	Authorization for Examination and/or Treatment
CA-17	Duty Status Report

Form	Title
CA-35A	Evidence Required in Support of a Claim for Occupational Disease
CA-35B	Evidence Required in Support of a Claim for Work-Related Hearing Loss
CA-35C	Evidence Required in Support of a Claim for Asbestos-Related Illness
CA-35D	Evidence Required in Support of a Claim for Work-Related Coronary/Vascular Condition
CA-35E	Evidence Required in Support of a Claim for Work-Related Skin Disease
CA-35F	Evidence Required in Support of a Claim for Work-Related Pulmonary Illness (not asbestosis)
CA-35G	Evidence Required in Support of a Claim for Work-Related Psychiatric Illness
CA-35H	Evidence Required in Support of a Claim for Carpal Tunnel Syndrome
HCFA-1500	Health Insurance Claim Form
PS 2490	Medical Bill Certification For Job-Related Injuries
PS 2491	Medical Report — First Aid Injuries
PS 2556	Third Party Statement of Recovery
PS 2557	Employee's Third Party Recovery Statement
PS 2559	Third Party Claim — Information Request
PS 2560	Referral of Third Party Material
PS 2562	Injury Compensation Program — Notice of Potential Third Party Claim
PS 2572	Injury Compensation Data Collection
PS 2572A	Injury Claims Analysis — Update Worksheet
PS 2573	Request — OWCP Claim Status
PS 2577	Assignment of Claim to the USPS

542 **FECA Claim Requirements**

542.1 **Claims for Injury or Illness**

542.11 **Traumatic Injury**

542.111 **Notice**

The notice of traumatic injury is given on Form CA-1.

542.112 **Time Limit**

FECA requires that written notice of a traumatic injury be given within 30 calendar days from the date on which the injury occurred. Failure to give notice within this time period will result in a loss of entitlement to continuation of regular pay and may also result in a loss of compensation rights if the

claim for compensation is not filed within 3 years. In order to protect their own interests and to ensure an uninterrupted income, employees should give notice, or have someone give notice on their behalf, within 2 days after the traumatic injury occurs, or as soon as possible.

542.12 **Occupational Illness or Disease**

542.121 **Notice**

An employee, or a person acting on behalf of the employee, must give written notice of the disease or disability to the employee's official supervisor when the employee believes that such disease or disability is employment related. If, for any reason, it is impractical to give this notice to the employee's official supervisor, notice of the disease or disability is given to any official of the USPS or to the OWCP. The notice of disease or disability is given on Form CA-2.

542.122 **Time Limit**

FECA specifies that notice be given within 30 calendar days from the date on which the employee was first aware, or by the exercise of reasonable diligence should have been aware, of a possible connection between the disease or illness and the related factors or conditions of employment. Failure to give notice within this time period may result in a loss of compensation rights if the claim for compensation is not filed within 3 years. (Note that continuation of regular pay is not applicable in instances of occupational disability or disease.)

542.2 **Death Claims**

542.21 **Death From Traumatic Injury**

542.211 **Control Office Responsibilities**

If an employee dies as a result of a traumatic injury sustained while in performance of duty, the control office or point immediately reports the death to the OWCP by telephone call or telegram. As soon as possible, but no later than 10 working days after receipt of knowledge of death, the reporting official completes and sends to the OWCP a Form CA-6. A duplicate copy is forwarded to the regional director of Human Resources.

542.212 **Time Limit**

Failure on the part of the reporting official to give notice within the period specified in 542.211 may result in a loss of compensation rights by the deceased employee's survivor(s) if claim for compensation is not filed within 3 years.

542.22 **Death From Occupational Illness or Disease**

542.221 **Control Office Responsibilities**

In an employee dies as a result of an occupational disease, the control office or point immediately reports the death as prescribed in 542.211. If for any reason it is impracticable for the control office or point to report the employee's death due to an occupational illness or disease, the report may be made by any official of the USPS or any other person acting on behalf of

the deceased employee's survivor(s). A duplicate copy is forwarded to the regional director of Human Resources.

542.222 **Time Limit**

In all cases, notice must be given within 30 calendar days from the day of death. In the case of a death due to an occupational disease or disability, the 30-calendar-day period specified in this section does not apply until such time as the deceased employee's survivor(s) or official supervisor should, by the exercise of reasonable diligence, be aware that the employee's death was due to an employment-related occupational disease or disability. The failure to give notice within the specified time period may result in a loss of compensation rights if claim for compensation is not filed within 3 years.

543 **Implementing Medical Care**

543.1 **Initial Medical Examination and/or Treatment**

543.11 **General**

Initial medical examination and/or treatment must be authorized in accordance with the FECA provisions and applicable OWCP regulations and policies governing medical care. The injured employee may, however, in *nonemergency situations* be required to be examined by a postal medical officer or contract equivalent prior to obtaining initial medical treatment. In such instances:

- a. The examination must be performed promptly following the report of injury.
- b. Form CA-16, *Authorization for Examination and/or Treatment*, must be provided promptly following the report of injury, as specified in 545.21.
- c. The examination must in no way interfere with the employee's right to seek prompt examination and/or treatment from a physician of choice.

543.12 **Postal Medical Officer or Contract Equivalent**

A medical officer may provide initial medical treatment if:

- a. Employees accept such treatment of their own free will.
- b. Treatment complies with EL-806, *Health and Medical Service*, and with OWCP regulations and directives.

543.13 **First Aid Cases**

A first aid case is normally any work-related minor injury that receives immediate and one-time treatment by the postal medical officer, private physician, contract physician, or health unit nurse. However, two visits may be necessary when a second visit is a followup of a minor injury to confirm that the employee has fully recovered.

543.14 Emergency Treatment**543.141 Choice of Treatment**

An employee needing emergency treatment in addition to first aid must be sent to the nearest available physician or hospital or to a physician or hospital chosen by the employee or the employee's representative. The FECA guarantees the employee the right to a free choice of physician. The physician who provides emergency treatment is not considered the employee's initial choice of physician for followup medical treatments.

543.142 Prompt Treatment

When appropriate, a supervisor accompanies the employee to the doctor's office or hospital to make certain that the employee receives prompt medical treatment. Animal bites or eye injuries are always considered medical emergencies. In the event that there is doubt as to the emergent nature of the injury, it should be handled as an emergency.

543.2 Continuing Medical Treatment**543.21 Informing Employee**

An employee receiving first aid or medical treatment must be fully informed of rights under FECA.

543.22 General Procedures

543.221 If nonemergency treatment of an injury or illness is required, the injured or ill employee may be treated by a physician of the employee's choice.

543.222 When an employee does not select a physician, the employee is referred to the USPS medical unit, if available, for diagnosis and initial treatment. Referral to the USPS medical unit cannot be made if it would cause harmful delay. The medical officer who provides treatment is not considered the employee's initial choice of physician, and the employee may select a physician at any time.

543.223 In all other instances, including cases in which the employee declines treatment by the medical unit, the employee must be referred to a private physician or hospital of choice as provided by the FECA. In nonemergency situations, a postal supervisor is not authorized to accompany the employee to a medical facility or physician's office.

543.224 For continued payment of medical expenses by OWCP, a change of the employee's initial choice of physician is permitted only with OWCP approval.

543.23 Outside Treatment

If an employee does not elect to receive treatment at a USPS medical unit, the employee may select a physician or hospital within approximately 25 miles of his or her home or worksite. The physician who is selected by an employee should be contacted by telephone by the control office or point to determine if the physician is available and will accept the employee for treatment. If not, the employee must select another qualified physician or hospital.

543.3 Exclusive Medical Care

- 543.31 Medical unit or other USPS personnel must not interfere with the medical care prescribed by the employee's attending physician. Contact with a physician or physician's staff should be limited to inquiries regarding the medical condition of the employee or the employee's ability to return to full or limited duty.
- 543.32 Form CA-17 is sent to the treating physician or hospital for completion only when it is necessary to determine the employee's medical condition or the employee's ability to return to full or limited duty.
- 543.33 An employee is responsible for submitting or arranging for the submittal of prima facie medical evidence of a traumatic disabling injury to the control office or point within 10 working days after claiming continuation of pay. Prima facie medical evidence of a traumatic disabling injury is medical evidence that indicates the employee is disabled as a result of an employment injury and thus cannot perform the job held at the time of the injury. Control office or point personnel must ensure that injured employees are aware of this obligation. Under the provisions of CFR Section 10.204 (a) (1), the lack of receipt of such evidence by the employing office within that time frame may serve as sufficient reason for termination of continuation of pay, subject to reinstatement upon receipt of such evidence.
- 543.34 Upon authorization of medical care, the control office or point provides the employee with written notification of his or her obligation to return to work in either a regular or limited duty capacity.
- 543.35 The medical officer may also advise the attending physician that the USPS medical unit can give supportive treatment under the direction of the attending physician. Such arrangements for treatment must be made with the attending physician and with the concurrence of the employee.

543.4 Review of Medical Treatment

- 543.41 Questions concerning the duration or type of medical treatment must be referred to the medical officer for review.
- 543.42 The medical officer must refer to the OWCP district medical director, on a case-by-case basis, recommendations regarding:
- a. Refusal of the attending physician to permit the employee to accept therapy and other medical support at a USPS facility, if the USPS facility is adequately equipped and its use would be more convenient and expeditious.
 - b. Change of the attending physician.
 - c. Use of a medical consultant or specialist by OWCP to clarify medical opinion and/or resolve conflict.
 - d. Employee's achievement of maximum medical improvement.
 - e. Employee's fitness for full or limited duty.
- 543.43 The medical officer must furnish justification to OWCP for any recommendations made.

- 543.44 Any disagreement or delay regarding the recommendations or proposals made to the OWCP district medical director may be brought to the attention of the OWCP district director by the installation head.
- 543.45 Each medical officer must maintain a list of injured or ill employees on either COP or the rolls of the OWCP and keep currently informed of the treatment being given and the prognosis for recovery by interim reports from the treating physician or hospital. Limited duty and rehabilitation employees must also be monitored to assure job suitability and early return to regular duty.

544 Reporting Procedures

544.1 Immediate Supervisor

- 544.11 Immediately ensure appropriate medical care when an employee is injured by accident while in the performance of duty.
- 544.12 Provide the employee a Form CA-1 or a Form CA-2.
- 544.13 If the employee or the employee's representative is unable to complete the employee's portion of the CA-1 or 2 for any reason, such notice may be given by any person with knowledge of the injury on behalf of the injured employee. The supervisor completes the receipt attached to Form CA-1 or CA-2 and gives the receipt to the employee or the employee's representative.
- 544.14 In case of a traumatic injury, advise the employee that if the injury is disabling the employee has the right to do either of the following:
- a. To elect the continuation of regular pay for up to 45 calendar days.
 - b. To use annual or sick leave. An employee may subsequently request COP in lieu of previously requested sick and/or annual leave. However, such a request must be made within 1 year of the date the leave was used, or within 1 year of the date of the OWCP's approval of the claim, whichever is later.
- 544.15 Inform the employee whether continuation of regular pay will be controverted and whether or not pay will be interrupted.
- 544.16 Send the employee to the control office or point for completion of Forms CA-16 and CA-17.
- 544.17 Investigate all reported job-related injuries and/or illnesses:
- a. Complete the applicable portion of Form CA-1 or CA-2.
 - b. Forward the completed form to the control office or point which is responsible for mailing it to OWCP.

544.2 Employee

544.21 Form CA-1

- 544.211 An employee who suffers a disabling, job-related, traumatic injury, or any person acting on the employee's behalf, should provide a written report on

Form CA-1 to the employee's official supervisor. Form CA-1 indicates which of the following the employee elects to receive:

- a. Continuation of regular pay not to exceed 45 days and compensation for wage loss if disability continues beyond 45 days.
- b. Sick and/or annual leave.

544.212 Form CA-1 should be submitted within 2 working days of, but not more than 30 days from, the date on which the injury occurred in order for the employee to be entitled to continuation of pay. If the form is not filed within 30 days, the employee may not receive continuation of pay, but compensation may be substituted for continuation of pay (unless employee elects sick and/or annual leave).

544.22 **Form CA-2**

If the disability is attributed to an occupational disease or illness, Form CA-2 is submitted.

544.23 **Penalty for False Statement**

Any employee, supervisor, or representative who knowingly makes a false statement with respect to a claim under the FECA may be subject to a fine of not more than \$10,000 or 5 years in prison, or both.

544.24 **Penalty for False Claim**

Any employee, supervisor, or representative who, with respect to a claim under the FECA, enters into any agreement to obtain the payment or allowance of any false or fraudulent claim may be subject to a fine of not more than \$10,000 or 10 years in prison, or both.

544.25 **Penalty for Refusal to Process Claim**

Any employee or supervisor responsible for making reports in connection with an injury who willfully fails, neglects, or refuses to do so; induces, compels, or directs an injured employee to forego filing a claim; or willfully retains any notice, report, or paper required in connection with an injury may be subject to a fine of not more than \$500 or 1 year in prison, or both.

545 **Control Office or Point**

545.1 **Responsibility**

545.11 Injury compensation claims must always be administered by control offices at management levels above that of the injured employee. Designated control officer-employee relationships are as follows:

Employee	Control Level
a Craft Supervisor	Installation or Field Division
b Postmaster (Associate Office)	Field Division
c. PM (I & J), Division General Managers/Directors; Managers, Safety and Health Offices; and all full-time and collateral injury compensation personnel	Regional Director, Human Resources or designee
d RPMGs, Regional Directors	Headquarters

545.12 The division general manager/postmaster or head of a major postal installation establishes a control office to handle injury compensation. See 541.2(1) for instructions on designating a control officer.

545.13 At installations which do not have an injury compensation unit or a USPS medical or health unit, the installation head designates an appropriate supervisor (either full-time or collateral duty) as control point individual responsible for the injury compensation program.

545.14 Control officers ensure that control point personnel are properly trained to review cases. Do not, under any circumstances (or for any reason), delay reports or claim forms that are submitted to OWCP district offices.

545.2 Authorizing Examination and/or Treatment

545.21 Form CA-16

545.211 Form CA-16 is used for all traumatic injuries requiring medical attention except job-related first aid injuries when initial medical care is provided by either a postal medical officer or a contract equivalent and the employee voluntarily accepts this care. Form CA-16 may be used for disease or illness only with the prior approval of the OWCP.

545.212 In cases where Form CA-16 is used, the designated postal official must promptly authorize medical treatment by issuing the employee a properly executed Form CA-16 within 4 hours.

545.213 In emergency situations, verbal authorization can be given by the designated postal official and the Form CA-16 issued within 48 hours.

545.214 The attending physician is required to submit the completed Form CA-16 and all medical reports to the OWCP district office. In order to receive a copy of the physician's report, the control office or point may either (1) request a copy of the report from the OWCP district office or (2) provide two copies of Form CA-16 to the attending physician when the employee is initially sent for examination and/or treatment and request that one of the copies be returned to the control office or point.

545.22 Source of Instructions

In cases of disease or illness, the control office or point contacts the OWCP district office for instructions.

545.23 Authorization for Medical Care

- 545.231 Upon authorization of medical care, the control office or point advises the employee, in writing, of the obligation to return to work as soon as possible, and gives the employee a completed Form CA-16.
- 545.232 If the USPS has specific alternative positions available, the employee must do the following:
- a. Furnish the attending physician the description of such alternative positions provided by the USPS.
 - b. Inquire whether and when the employee will be able to perform such duties.
 - c. Furnish the USPS with a copy of the physician's response.
- 545.233 If the USPS is willing to accommodate the limitations imposed by the injury, the employee must:
- a. So advise the attending physician.
 - b. Request that the physician specify the limitations imposed by the injury.
 - c. Immediately advise the USPS of those limitations and restrictions.

545.24 Emergency Treatment in Addition to First Aid

In most instances an injured employee has enough time to contact the immediate supervisor and receive either verbal or written authorization to obtain emergency treatment from a physician of the employee's choice. If emergency treatment is essential and securing authorization would be impractical, an employee may obtain emergency treatment without such authorization. Control office or points must issue Form CA-16 with 48 hours.

545.25 Recurrence of Disability

- 545.251 If an employee suffers a recurrence of disability from an injury for which OWCP has approved the initial claim, and the employee is again unable to work, the control office or point promptly completes Form CA-2A.
- 545.252 If, after having been discharged from medical treatment, an injured employee again has symptoms or disability under circumstances from which it may reasonably be inferred that the symptoms or disability are due to an injury previously recognized as compensable by the OWCP, the control office or point authorizes the required medical care by use of Form CA-16.
- 545.253 Form CA-16 must not be used by the control office or point if more than 6 months have elapsed since the employee last returned to work. In any case where there may be doubt that the symptoms or disability are the result of the injury, the control office or point should contact OWCP and request instructions.
- 545.254 If the recurrence happens 6 months or more after the employee returns to duty following the original injury, a statement from the employee must accompany Form CA-2A. The employee's statement must:
- a. Describe the employee's duties upon return to work.
 - b. State whether the employee had any other injuries or illnesses.

- c. Give a general description of the employee's physical condition during the intervening period.
- d. Explain why the employee believes the present condition is related to the original injury.

545.255 An employee who suffers a recurrence of a job-related disability may elect to receive continuation of regular pay (if eligible) or charge the absence to sick or annual leave, or take leave without pay and file for injury compensation benefits from OWCP. Continuation of regular pay is available as an option only under the following conditions:

- a. If the 45 calendar days were not all used during the initial period of disability.
- b. If the recurrence is within 90 days of the date the employee first returns to work following the initial period of disability. If the recurrence occurs more than 90 days after the employee returns to work following the initial disability, regular pay may not be continued, even if some portion of the 45 days remains unused. In this case, the employee is entitled only to sick or annual leave or to OWCP compensation.

545.3 **Time Limit**

The control office or point submits to the appropriate OWCP district office within 10 working days after it is received from the employee:

- a. Completed Form CA-1 or CA-2.
- b. Any other information or documents that have some bearing on the claim.

545.4 **Exceptions**

545.41 Form CA-1 or CA-2 is completed in every injury or occupational disease case when the employee desires either FECA benefits or to record the injury. The OWCP revised Forms CA-1 and CA-2 in March 1986 to accommodate coding requirements established by the Occupational Safety and Health Administration (OSHA) to better determine where and how occupational injuries and illnesses are occurring. The USPS is required to code specific data requested on these forms prior to submitting them to the OWCP. However, completed forms are not sent to OWCP unless the injury or disease is likely to result in any of the following:

- a. A medical charge against the OWCP.
- b. Disability for work or assignment to limited duty beyond the day or shift the injury occurred.
- c. Prolonged treatment (i.e., more than two instances of medical examination and/or treatment).
- d. Future disability.
- e. Permanent impairment.
- f. Continuation of pay.

545.42 If none of the above conditions is evident, Form CA-1 or CA-2 must be filed in the injured employee's official personnel folder instead of being sent to the OWCP.

545.43 A copy of any forms and correspondence related to claims which are submitted by PCES executives must be sent to the Office of PCES at Headquarters.

545.5 **Controversion**

545.51 **With Termination of Pay**

On the basis of information submitted by the employee or secured by independent investigation, the USPS controverts a claim and terminate continuation of pay only if:

- a. The disability is a result of an occupational disease or illness as defined in 541.2. (The employee may apply for compensation or take annual or sick leave, but the employee is not entitled to continuation of regular pay for an occupational disease or illness under FECA.)
- b. The injury occurred off of USPS premises when the employee was not engaged in official duties.
- c. The injury was caused or proximately caused by one of the following:
 - (1) The employee's willful misconduct.
 - (2) The employee's intent to bring about injury or death to self or another person.
 - (3) The employee's intoxication by alcohol or illegal drugs.
- d. The first absence caused by the injury occurred 90 days or more after the injury.
- e. The employee failed to make an initial report of the injury until after employment was terminated.
- f. The injury was not reported on Form CA-1 within 30 days following the injury.

545.52 **Without Termination of Pay**

545.521 Continuation of pay is not to be interrupted as part of a disciplinary action, nor is it to be terminated as a result of a disciplinary action that terminates employment, unless final written notice of termination for cause was issued to the employee prior to the date of injury.

545.522 In cases where casuals or other employees with specific terms of employment are injured, COP is awarded only through the end of their appointment; e.g., if a casual employee is hired for 89 days and becomes injured on the 85th day, then COP is covered only through the 89th day; or, if an employee is hired for an appointment not to exceed 89 days and the appointment is changed to 60 days because of lack of work prior to the date that the injury occurred, then COP is awarded through the 60th day.

Note: If an employee is terminated as per 545.521 or 545.522, such an employee may file for compensation effective the date of termination.

545.523 In all other cases where controversion is proper, the control office or point must controvert the claim. However, pay must be continued if continuation of pay is applicable and applied for unless the claim falls within one of the grounds for termination of pay in 545.51.

545.53 **Control Office Procedures**

545.531 When a claim is controverted, the control office or point must ensure that the CA-1 is properly completed and that the controversion package is adequately documented. Each case must be tailored to the facts; avoid form letters and repetitive formats. Transmit all controversion packages to the OWCP district office by a cover letter with detailed information on the reasons for the controversion.

545.532 If a written explanation of the disagreement or controversion is not submitted, OWCP may accept as factual the employee's report of injury.

545.533 The control office or point is authorized to furnish an employee, or the employee's beneficiary or representative, with a copy of any notice of injury, claim form, or other document pertaining to that employee or his or her beneficiary that has been completed and submitted to the OWCP district office.

545.54 **Form CA-1 Instructions**

545.541 Before the controversion package is submitted, the CA-1 should be carefully reviewed for completeness and accuracy. Item 35 on the CA-1 should be clearly marked and a full explanation for the basis of the controversion provided.

545.542 If additional information in support of the controversion is to be sent at a later date under a separate cover, this must be stated in the cover letter and in Item 35 on the CA-1 before the package is submitted to the OWCP district office.

545.543 Form CA-1 must not be delayed pending the collection of data to support a controversion. The Form CA-1 is promptly sent to the OWCP office with a notation on the CA-1 and a cover letter advising that the claim is being controverted and that information to support the controversion is forthcoming.

545.544 Proper identification of controverted claims is essential to permit the OWCP offices to give these claims priority in processing and to avoid the possibility of substantial, erroneous payments of regular pay which would have to be recovered from the employee.

545.545 Proceedings conducted with respect to claims filed under the FECA are nonadversary in character. Accordingly:

- a. The USPS does not have the right to actively participate in the claims adjudication process. However, the USPS may investigate the circumstances surrounding an injury to an employee and the extent of the disability (e.g., the USPS may investigate an employee's activities where it appears the employee who is alleging total disability may be performing other employment or the employee may be engaging in activities that would indicate less than total disability).

- b. The USPS has the responsibility to submit to the OWCP, at any time, all relevant and probative factual and medical evidence in its possession or evidence that it may acquire through investigation or other means. The OWCP considers and acts upon all evidence submitted by the USPS and informs the claimant, the claimant's representative, and the USPS of such action.
- c. In those instances where the USPS contests a claim at the time of the initial submission and the claim is subsequently approved, the OWCP must notify the USPS of the rationale for approving the claim.

545.55 **Controversion Denied by OWCP**

If a controversion is denied by OWCP, the control office or point may submit a copy of the CA-1 and all other relevant documents to the director of Human Resources, or designee, for review and any necessary resubmission, if warranted. Cases that are not resolved to the satisfaction of field management may be forwarded to the field division general manager/postmaster with a recommendation for further action.

545.56 **Forty-Five Day Continuation of Pay**

The employee's regular pay is continued for up to 45 calendar days except in these cases:

- a. The controversion is upheld by OWCP and the installation is notified.
- b. The treating physician notifies the control office or point that the employee is no longer disabled.

545.6 **Return to Work**

545.61 **Interim Medical Reports**

Form CA-17 is used by the control office or point to obtain a medical report concerning an employee's duty status.

545.62 **Limited Duty Capability**

Form CA-17 is used. This form:

- a. Enables the USPS to provide the attending physician of an employee injured on duty with a brief summary of that employee's normal work duties.
- b. Provides a checklist of other duties to permit the attending physician to indicate to the USPS what types of duties an injured employee may safely perform, with what limitations. The immediate supervisor completes Part A of Form CA-17 before it is issued to the attending physician for completion. Particular attention should be given to Item 8, Description of Regular Work.
- c. Is used to facilitate an injured employee's return to suitable employment. The control office or point may correspond with the employee's physician, either in writing or by telephone, concerning the employee's work limitations and restrictions imposed by the effects of the injury and possible job assignments. The control office or point must

document any change in duty status authorized by the attending physician via telephone. Upon receiving such authorization, the control office or point must immediately submit a revised Form CA-17 to the treating physician to document the employee's change in duty status. The control office or point concurrently sends to the OWCP district office and the employee a copy of any such correspondence as well as a copy of the physician's response, once received. A postal medical officer or contract physician equivalent, a postal nurse, or control office or point personnel may call the employee's attending physician for additional information or clarification.

545.63 **Employee's Refusal to Return to Work**

If during a 45-day continuation of pay period the attending physician indicates that the employee is able to return to work, including limited duty assignments, and the employee refuses to do so, the employee's continuation of pay is terminated and OWCP is notified of this action immediately by use of Form CA-3.

545.64 **Overpayment Determination**

In the event of an overpayment, the OWCP determines the period of absence from the job that resulted in the overpayment in the course of adjudication of the claim. The control office or point and the employee are notified of the period of disability that is approved by OWCP.

545.7 **Long-Term Disability**

545.71 **Proper Forms**

545.711 If medical evidence shows that disability resulting from a traumatic injury is expected to continue beyond 45 days and compensation is desired after the expiration of the 45-day period, the employee and the control office or point personnel complete a Form CA-7. The employee completes the front side of the Form CA-7 and the control office or point completes the reserve side. The completed form is then filed with the OWCP district office not less than 5 working days before the termination of the 45 days.

545.712 If the disability is a result of an occupational disease or illness, a Form CA-7 is completed and submitted to OWCP not more than 5 days after the period claimed.

545.713 In instances of either traumatic injury of occupational disease or illness, subsequent claims are made on a Form CA-8/20A, Claim for Continuing Compensation on Account of Disability and Attending Physician's Supplemental Report. This form is provided to claim compensation for additional periods of time after Form CA-7 is submitted to the OWCP. Employees are responsible for submitting the CA-8. Without receipt of such a claim, the OWCP has no knowledge of a continuing wage loss. Therefore, while disability continues:

- a. The employee submits a claim using Form CA-8 every two weeks until the employee is otherwise instructed by the OWCP.

- b. The employee completes and signs the face of the form and the control office or point completes the reverse side.
- c. The employee is responsible for submitting or arranging for the submission of medical evidence in support of the claim. Form CA-20a is attached for this purpose.
- d. The control office or point forwards the completed Form CA-8 and any other accompanying medical reports to the OWCP within 5 working days upon receipt from the employee.

545.72 **Waiting Period**

The employee is advised that there is a waiting period of 3 calendar days before OWCP compensation begins. The 3-day waiting period may not be satisfied by using sick or annual leave; the employee must be in a nonpay status. This 3-day waiting period does not apply if the disability extends beyond 14 calendar days. Examples include the following:

- a. In the case of an occupational disease or illness, compensation is not payable for the first 3 days of disability, unless the disability extends beyond 14 calendar days.
- b. In the case of traumatic injury, the 3-day waiting period begins immediately after the end of the 45-day continuation of pay period. Again, the waiting period does not apply if the disability continues for more than 14 calendar days after the expiration of the 45-day continuation of pay period.

545.73 **Employees' Rights**

As stated in 544.14, an employee may elect to have regular pay continued for up to 45 calendar days or to use annual leave or sick leave. The control office or point ensures that the employee is informed of the following:

- a. *Continuation of Pay.* A traumatically injured employee may request continuation of regular pay for the first 45 calendar days of disability. Such pay is subject to taxes and all other usual payroll deductions. If an employee elects continuation of regular pay and the claim is subsequently denied, the employee may treat the days for which regular continuation of pay was received as sick or annual leave, if such leave is available. An employee may file a request for waiver of claim for erroneous payment (see ELM 437).
- b. *Sick or Annual Leave*
 - (1) The use of annual or sick leave does not extend the 45-calendar-day continuation of pay, which begins with the first period of time lost after the day or shift of injury.
 - (2) Leave is limited to the amount that the employee has accrued.
 - (3) An employee may subsequently request continuation of pay in lieu of previously requested sick and/or annual leave. However, such a request must be made within 1 year of the date that leave is used, or within 1 year of the date OWCP approves the claim, whichever is later.

- (4) An employee who elects to use sick or annual leave during the 45-day period in which continuation of regular pay is available is not entitled to buy back that leave with later compensation payments.
- (5) Pay that is attributable to the leave period is subject to taxes and other usual payroll deductions.
- (6) An employee may use sick or annual leave after the 45-day regular pay continuation period expires, or during a period of disability due to an occupational illness. In such cases, the employee may be entitled to buy back the leave with compensation payments (see 512.923). However, only employees who are on the rolls of the USPS may buy back leave. Employees on the rolls must be advised, in writing, by the control office or point, following their return to duty, that the buyback must be initiated within 1 year of the return, or within 1 year of the date OWCP approved the claim, whichever is later. Employees who are being separated because of disability or other reasons must be advised, in writing, prior to separation that they cannot buy back leave after they are off the rolls.

545.8 **Third Party Liability**

545.81 **Purpose**

This section instructs control office or point personnel on how to collect damages from a third party who is responsible for causing an injury to a postal employee who receives benefits under the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101-50, as a result of that injury.

545.82 **Background**

545.821 The FECA provides that if the injury or death (which is compensable under the Act) is caused by a third party, the United States Department of Labor (DOL) may require an employee receiving benefits under FECA to do one of the following:

- a. Assign to the United States any right of action he or she may have to force the third party to pay damages or assign any right the employee may have to share in money received in satisfaction of a liability claim.
- b. Prosecute the action in his or her own name.

545.822 Any employee who refuses to assign right of action to the United States or prosecute an action in his or her own name when required to do so by the Secretary of Labor may be denied compensation by DOL.

545.823 The Agreement between the director of the OWCP, the DOL, and the USPS provides that to more efficiently and effectively accomplish the stated purpose of the FECA, OWCP agrees that the Postal Service may administratively pursue collection of damages from the third party who is responsible for the injury sustained by a Postal Service employee in all cases of traumatic injury except in any of the following cases:

- a. When the injury results in the death of the employee.

- b. When the injury occurs outside of the United States or Canada.
- c. When the third party is a common carrier.
- d. When malpractice or product liability is involved.
- e. When injuries are sustained by more than one employee in the same incident (group injuries).

545.83 **Definitions and Use of Terms**

The definitions in this section apply to 545.8 only and do not change the terms of the Act, the regulations of the Department of Labor, or other sections of the ELM.

- a. *The Act and FECA* mean the Federal Employees' Compensation Act, 5 U.S.C. 8101, *et seq.*
- b. *Assignment* means a written agreement whereby the employee or beneficiary transfers his or her right to recover damages from a third party to the USPS and such offer is accepted by the USPS.
- c. *Beneficiary* means an individual who is entitled to a benefit under the Act.
- d. *Benefits and compensation* mean benefits paid or payable because of loss of wages or ability to earn wages, money paid in the form of scheduled compensation, medical diagnostic and treatment services supplied pursuant to the Act, money paid because of death, and certain payments to individuals who are participating in an approved vocational rehabilitation program.
- e. *Claim* means an assertion in writing of an individual's entitlement to benefits under or pursuant to the Act.
- f. *Claimant* means an individual whose claim for entitlement to benefits under the Act has been filed.
- g. *Control officer* means the person who heads the control office and is one of the following:
 - (1) The injury compensation supervisor or specialist if an injury compensation unit is available and staffed.
 - (2) An appropriate designated supervisor if no injury compensation supervisor or specialist is available.
- h. *Control point supervisor* means an individual designated by the installation head in those installations that do not have an injury compensation supervisor or specialist.
- i. *Department or DOL* means the United States Department of Labor.
- j. *Employee* means any employee of the United States Postal Service, or a beneficiary.
- k. *Injury or traumatic injury* means a wound or other condition of the body caused by external force including stress or strain. The injury must be identifiable as to time and place of occurrence and member or function of the body affected and be caused by a specific event or incident, or series of events or incidents, within a single day or work shift.

- l. *Legal liability* means a determination that a third party is responsible for the payment of money damages to an injured employee.
- m. *Negligence* means the failure of a third party to act as an ordinary prudent person would act under the same or similar circumstances and such failure is the proximate cause of an injury to an employee.
- n. *OWCP* means the Office of Workers' Compensation Programs, Employment Standards Administration, of the Department of Labor.
- o. *Prosecute* means any action taken to recover damages from the third party.
- p. *Serious injury* means a personal injury which results in death, dismemberment, significant disfigurement, a fracture, or permanent loss of use of a body organ, member function, or system.
- q. *Third party* means a person or organization, other than the United States and its agencies, who is believed to be responsible for injury to a postal employee while in the performance of employment.
- r. *Tort* means a wrongful act committed by a third party which is done intentionally or negligently and which causes injury to an employee.

545.84 **Responsibility**

The division general manager/postmaster or head of a major postal installation establishes a control office to carry out the responsibilities outlined in these instructions. At installations that do not have an injury compensation unit, the installation head designates an appropriate supervisor as the control point individual responsible for carrying out these instructions. Control officers must ensure that control point personnel are properly trained to carry out the responsibility of making third party recoveries.

545.85 **Third Party Recovery Action**

545.851 **Traumatic Injury**

Upon receipt of Form CA-1, the control officer or control point supervisor reviews the form to determine if a third party is involved in the injury to the employee and whether the third party could be responsible for the injury.

545.852 **Occupational Illness or Disease**

Third party cases for which a claim is filed on Form CA-2 must be identified and forwarded to DOL. DOL continues to be responsible for third party recoveries in these cases. The control officer or control point supervisor monitors the progress of the DOL action and obtains periodic status reports until these cases are closed.

545.853 **Potential Third Party Injuries**

Although a third party recovery case can arise from many circumstances in which a third party's act or failure to act results in the injury or death of an employee, the most common circumstances are, but are not limited to, these:

- a. Automobile accidents.
- b. Animal attacks.

- c. Tripping, slipping, and falling on sidewalks, steps, and other portions of nonfederal property.
- d. Defective machinery, automobiles, and equipment.
- e. Physical attacks and other assaults.
- f. Defects in leased postal premises.

545.854 Investigation

When a possible third party recovery case is identified, the control officer or control point supervisor should coordinate an investigation of the incident, doing the following:

- a. If possible, obtain a detailed, written statement from:
 - (1) The injured employee, if the Form CA-1 is not sufficient to determine third party liability or otherwise inadequate.
 - (2) Any witness to the incident.
 - (3) Any other person who may be acquainted with the facts or is identified as having pertinent information.
- b. Obtain the name, address, and telephone number of the third party.
- c. Obtain a detailed description of the place where the incident occurred, and all the circumstances concerning the incident.
- d. If an investigation of the incident was previously made by the local police, USPS Vehicle Services, USPS safety personnel, Inspection Service, or any other organization, obtain a copy of the reports and the investigative file.
- e. Consult Handbook M-19, *Accident Investigation — Tort Claims*, for information and procedures regarding investigative techniques and guides.

545.855 Notification

In all cases when it appears that a third party recovery is a possibility, a completed Form 2562, *Injury Compensation Program — Notice of Potential Third Party Claim* (Exhibit 545.855), should be obtained from the injured employee. If the claim has already been submitted to OWCP, a copy of the completed form should be forwarded to that office with the employee's claim for benefits as soon as possible after it is received from the employee (see 545.41 for submission of claims to OWCP). Do not delay the submission of the claim to OWCP pending receipt of third party information. When the DOL is responsible for making the third party recovery (see 545.823), no action to recover should be taken by the control officer.

545.855

Employee Benefits
Injury Compensation Program

Exhibit 545.855 (p. 1)

Form 2562, Injury Compensation Program — Notice of Potential Third Party Claim

		Injury Compensation Program - Notice of Potential Third Party Claim		1. Date
A. Employee Information				
2. Name		3. Home Address (Include Apt. Number & ZIP + 4)		
4. Social Security Number				
5. Title		6. Home Phone (Include Area Code)		
7. Office of Employment		8. Contact Point at Employing Office (Name & Phone Number)		
B. Injury Information				
1. Date & Location of Injury		2. OWCP File Number		
3. Brief Description of Injury				
4. Name & Address of Attending Physician (Include Suite Number)				
5. Name & Address of Attorney Representing Employee (Include Suite Number)				
6. Wage Records, Medical Records, and Other Pertinent Information May Be Released to My Attorney.				
<input type="checkbox"/> Yes		<input type="checkbox"/> No		
C. Third Party Information				
1. Name		2. Address (Include Apt. Number and ZIP + 4)		
3. Does the Employee or Beneficiary(ies) Intend to Take Action Against the Third Party? (If "No", Explain Why Not)				
<input type="checkbox"/> Yes		<input type="checkbox"/> No		
4. Name & Address of Insurance Company (Include Suite Number)		5. Name & Address of Law Enforcement Agency Notified		
Prepared By (Printed Name & Signature)		Date Signed		
PS Form 2562 , December 1988				

Exhibit 545.855 (p. 2)

Form 2562, Injury Compensation Program — Notice of Potential Third Party Claim

-
1. Complete this form whenever a third party (individual) is involved in an incident where a postal employee has applied for compensation benefits.
 2. A third party may be involved directly, as in a vehicle accident, or indirectly, as in designing or manufacturing an unsafe or defective machine.
 3. The employee or employee's beneficiaries are encouraged to seek recovery from a third party that they believe is responsible for the employee's work related injury. An injured employee or employee's beneficiaries who, when required by OWCP, fail to take action against a third party may become ineligible for injury compensation.
-

The Federal Employees' Compensation Act, as amended (5 USC 8101, et seq.), is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor. In accordance with this responsibility, the office collects and maintains personal information on claimants and their immediate families. The information will be used to determine eligibility for and the amount of benefits payable under the Act. The information may be used by other agencies or persons in handling matters relating, directly or indirectly, to the subject matter of the claim, so long as such agencies or persons have received the consent of the individual claimant, or have complied with the provisions of 20 CFR 10. In addition, this information may be disclosed to an appropriate law enforcement agency for investigative or prosecutive purposes, to a congressional office at your request, to OMB for review of private relief legislation, to a labor organization as required by the NLRA, and where pertinent, in a legal proceeding to which the Postal Service is a party. Failure to provide the information requested may delay the adjudication process, or result in an unfavorable decision or a reduced level of benefits (disclosure of your social security number is voluntary; the failure to disclose such number will not result in the denial of any right, benefit or privilege to which you may be entitled).

545.856 DOL Responsibility

In all cases in which DOL is responsible for making a recovery, the control officer or control point supervisor monitors the progress of the Department of Labor's action and obtains periodic status reports until the case is closed. Any such cases which are closed without a payment from the third party are referred to the manager of Safety and Health Services.

545.857 USPS Responsibility

When a third party collection responsibility has been assumed by the Postal Service, the control officer or control point supervisor forwards copies of all letters issued together with other pertinent third party claim documents to the OWCP district office. The control officer or control point supervisor should then proceed as follows when the employee is represented by an attorney:

- a. If the answer to the question on Form 2562, *Does the employee or beneficiary(ies) intend to take action against the third party?* is Yes, and the Form 2562 or other information shows that the employee is represented by an attorney, forward the following to the employee's attorney:
 - (1) Sample letter A, *Notice to Attorney of Government's Lien* (Exhibit 545.857a), with the papers and forms referred to in that letter.
 - (2) Sample letter B, *Request for Status and Transmittal of Information* (Exhibit 545.857b).
- b. If a response to sample letter A is not received within 90 days after mailing, try to obtain a status report on the progress of the case by contacting directly the attorney who is representing the postal employee. Status reports from the postal employee's attorney should be obtained as frequently as is considered necessary by the control officer or control point supervisor. If no reply is received from the attorney within 90 days after any request for a status report has been made, send a followup letter to the attorney. If there is no response after 15 days, contact the employee regarding status of cases. If recovery still has not been made, do one of the following:
 - (1) Send case to the manager of Safety & Health Services for further action.
 - (2) Monitor progress if case is still in process of recovery.
- c. Upon receipt of notification from the postal employee's attorney that the case has been terminated:
 - (1) By payment of damage to the employee, obtain settlement sheet, Form 2556, *Third Party Statement of Recovery* (Exhibit 545.857c), and payment due the Postal Service. Verify the accuracy of Form 2556 and forward settlement sheet in accordance with section 545.873 of these procedures.
 - (2) Without payment of any damage to the Postal Service, verify the nature of termination and either close the file or attempt to obtain a voluntary assignment if the case appears to have merit.

Exhibit 545.857a

Sample Letter A, Notice to Attorney of Government's Lien[date][name][street][city, state, ZIP]File Number:
Employee:
Date of Injury:Dear [name]:

We have been advised that you have been retained to represent the above-named employee with respect to the third party damage claim arising from the above-referenced injury. Copies of the reports contained in our file are enclosed for your information. If OWCP disbursements have been made in this case, you will also find a statement showing the disbursements made to date. Also enclosed is Form 2556, *Statement of Recovery*, for your use. Upon request, we will furnish you an updated statement of disbursements, or copies of additional reports.

If you have any questions concerning the third party aspect of this case, or the obligations and responsibilities to protect the government's lien imposed by Sections 8131 and 8132 of Title 5, United States Code, please contact [name] at [telephone no.].

Sincerely,

[signature][title][telephone no.]

Enclosures

cc: District Office, OWCP

545.857

Employee Benefits
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Exhibit 545.857b

Sample Letter B, Request for Status and Transmittal of Information[*__date__*][*__name__*][*__street__*][*__city, state, ZIP__*]File Number:
Employee:
Date of Injury:Dear [*__name__*]:

We will appreciate a report concerning the present status of this third party damage claim. If possible, advise the date that you expect the matter to be concluded.

We are enclosing copies of additional reports from our file which may be of assistance to you.

There is attached a statement of the disbursements made to the employee.

Sincerely,

[*__signature__*][*__title__*][*__telephone no.__*]

Attachment

cc: District Office, OWCP

545.857

Employee Benefits
Injury Compensation Program

Exhibit 545.857c (p. 2)

Form 2556, Third Party Statement of Recovery**Instructions**

(Disbursement must be made in accordance with 5 U.S.C. 8132. Also, provide the employee with a copy of this form.)

NOTE: *Shaded area for USPS Use Only.*

Property Damage, (line 2): A reasonable amount for clothing or other personal belongings damaged or destroyed in an accident may be deducted. These amounts must be itemized. If an automobile or other vehicle is damaged or destroyed, then more tangible evidence of such damage is required. The year, make, model, and Blue Book value of the vehicle must be furnished. A copy of the repair bill will suffice if the vehicle was not totally destroyed.

Attorney's Fee, (line 4): Deduct the attorney's fee in line 4 from the balance shown in line 3. The attorney's fee as a percentage of line 3 must also be shown.

Court Costs, (line 6): These consist of such items as filing fees, witness fees, actual costs of collection, or any payments to physicians for expert testimony as opposed to payment for treatment. *(Payment for medical treatment comes under line 10 and/or 12.)* All items must be itemized.

20% Guarantee, (line 8): This amount is turned over to the claimant and is not subject to any deductions.

Public Health Service, (line 10): Refund made to a Federal medical facility for medical treatment is deductible under line 10. The claim of the Federal medical facility is separate and apart from the claim of the OWCP.

Medical Expense Paid By Claimant, (line 12): This consists of any medical expenses paid by the claimant other than those paid by OWCP or by an insurance carrier. It does not include items paid by the claimant for which the claimant was subsequently reimbursed by the OWCP or by an insurance carrier. Itemize all items submitted for credits and deduction in line 12 or attach copies of paid bills. A lump sum amount will not be accepted for credit.

Government Allowance for Attorney's Fee, (line 15): The Government contributes a portion of its refund to the claimant as an attorney fee. This fee is based upon the OWCP's disbursements, or other amount as shown in line 14.

Amount to Be Refunded, (line 16): This represents the amount to be refunded to the Government for OWCP disbursements. Refund check must be made payable to the OWCP.

Surplus, (line 17): This surplus, which is retained by the claimant, is the amount against which the OWCP will credit any future compensation payments or additional medical expenses payable on account of the same injury or death.

545.858 **Employee Not Represented by Attorney**

The control officer or control point supervisor should proceed as follows:

- a. If the answer to the question on the Form 2562, *Does the employee or beneficiary(ies) intend to take action against the third party?* is *Yes*, and the Form 2562 or other information shows that the employee desires to pursue the recovery him or herself and is not represented by an attorney, furnish the employee sample letter C, *Notice to Employee of Government's Lien* (Exhibit 545.858a), and mail sample letter D, *Notice to Third Party of Government's Lien* (Exhibit 545.858b), to the third party insurer.
- b. At least every 60 days after the date sample letter C is given the employee, check with the employee to determine the status of the case.
- c. If a recovery has not been made within 6 months after the accident, or if prior to that time there is information that the action on the claim has been terminated, contact the employee for status of recovery action. If the employee has decided not to pursue or has been unsuccessful in the recovery attempt, proceed in accordance with 545.859d of these procedures.
- d. When a recovery statement (see Form 2557, *Employee's Third Party Recovery Statement*, Exhibit 545.858c) is received from the employee, review it for accuracy, take the necessary action to correct any errors, and forward the recovery statement together with the payment, in accordance with 545.873 of these procedures.

545.858

Employee Benefits
Injury Compensation Program

Exhibit 545.858a

Sample Letter C, Notice to Employee of Government's Lien

[__date__]

Notice to Employee of Government's Lien

[__name__]

[__street__]

[__city, state, ZIP__]

File Number:

Date of Injury:

Dear [__name__]:

Our records show that you have presented or you intend to present a claim for damages against a third party apparently responsible for your injury.

The Federal Employees' Compensation Act provides that the United States must be reimbursed out of any third party recovery for any disbursements made to you or on your behalf by the United States. Therefore, you should include as damages in your claim the disbursements indicated on the attached Form 2557, *Employee's Third Party Recovery Statement*, and any other disbursements that you received or that were made in your behalf. If you receive additional treatment, compensation, or continuation of pay, contact this office for an up-to-date statement of disbursements before settling your claim.

This office must be notified of any recovery you obtain. Completion and submission of the attached form will serve as notification of a recovery obtained without the services of an attorney. It will also enable you to determine the amount of any refund you must pay to the Postal Service.

If you should retain the services of an attorney to assist you in your third party claim, please advise this office immediately and provide the attorney's name and complete address.

If you wish to discuss this matter or desire us to assist you, please contact [__name__] at [__telephone no.__].

Sincerely,

[__signature__]

[__title__]

[__telephone no.__]

Attachment

cc: District Office, OWCP

Exhibit 545.858b

Sample Letter D, Notice to Third Party of Government's Lien[*date*][*name*][*street*][*city, state, ZIP*]File Number:
Employee:
Date of Injury:
Your Insured:
Policy Number:Dear [*name*]:

We have been informed that the postal employee named above has made a claim for damages as a result of an incident involving you (your insured) that occurred on the date shown.

The injury occurred in the performance of federal employment and comes under the Federal Employees' Compensation Act (5 U.S.C. 8101 et seq.). Section 8132 of Title 5 of the United States Code requires that the Government must be reimbursed for payments made to or on behalf of a beneficiary out of the recovery made from a third party. This section also states, "No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or his (or her) designee the proceeds of such suit or settlement without first satisfying or assuring satisfaction of the interest of the United States."

Because of the Government's financial interest in the outcome of this case, please request a statement from this office of the Government's disbursements before distributing any proceeds in settlement of this case.

Sincerely,

[*signature*][*title*][*telephone no.*]

cc: District Office, OWCP

Exhibit 545.858c

Form 2557, Employee's Third Party Recovery Statement

	<h2 style="margin: 0;">Employee's Third-Party Recovery Statement</h2>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">File No.</td> </tr> </table>	File No.
File No.			
Claimant	Date of Injury/Death	MSC	Finance No.

When a Third-Party Settlement Is Made Without an Attorney

1. Contact this office for the amount of disbursements.
2. If you were examined or treated at a Federal medical facility, contact that facility for the value of its service. If service was rendered by the U.S. Public Health Service, the Regional Counsel of the Department of Health and Human Services should be contacted.
3. Complete the recovery statement below and return it to this office. Enclose a check or money order for the amount appearing in item 3, below, made payable to "Office of Workers' Compensation Programs (OWCP)."

The law provides that the United States must be reimbursed out of any third-party recovery for any disbursements made by the Government. The term "disbursement" includes compensation, medical bills and transportation expenses. If there were disbursements requiring a refund, you are still entitled to a minimum amount of the recovery irrespective of any liens of the Government (*see item 2c below*).

1. Total recovery	\$ _____
2. Less:	
a. Personal property damage	\$ _____
b. Balance (<i>item 1 less item 2a</i>)	\$ _____
c. Minimum guarantee (<i>20 percent of item 2b - to be retained by you</i>)	\$ _____
d. Medical expenses paid by you for which you have not received reimbursement from OWCP or an insurance carrier (<i>attach itemization</i>)	\$ _____
e. Adjusted balance (<i>item 2b less items c and d</i>)	\$ _____
3. OWCP disbursements or item 2e, whichever is less	\$ _____
4. Surplus (<i>line 2e less item 3</i>)	\$ _____

Following submission of this statement, you will be advised further concerning your compensation status.

Date of Judgment or Release	Signature	Date
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The Federal Employee's Compensation Act, as amended (5 USC 8101, et seq.) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor. In accordance with this responsibility, the office collects and maintains personal information on claimants and their immediate families. The information will be used to determine eligibility for and the amount of benefits payable under the Act. The Postal Service uses the information in handling matters relating, directly or indirectly, to the subject matter of the claim in accordance with provisions of 20 CFR 10. In addition, this information may be disclosed to an appropriate law enforcement agency for investigative or prosecutive purposes, to a congressional office at your request, to OMB for review of private relief legislation, to a labor organization as required by the NLRA, and where pertinent, in a legal proceeding to which the Postal Service is a party. Failure to provide the information requested may delay the adjudication process, or result in an unfavorable decision or a reduced level of benefits, (however, disclosure of the social security number is voluntary and will not cause such delays; its only purposes are to enable the Postal Service to account for program costs and to verify the dollar amount of payments due the Department of Labor).

PS Form **2557**, July 1986 *(Copy to Employer)*

545.859 **Employee Not Pursuing Third Party Action**

The control officer or control point supervisor should proceed as follows:

- a. If the answer to the question on Form 2562, *Does the employee or beneficiary(ies) intend to take action against the third party?* is *No*, or the employee is undecided, or it is unclear what action the employee contemplates, furnish the employee with sample letter E, *Request for Information from Employee and Notice of Government's Lien* (Exhibit 545.859a), and Form 2559, *Third Party Claim — Information Request* (Exhibit 545.859b).
- b. If Form 2559 is not received within 15 days, contact the employee directly or through the employee's supervisor to determine what action the employee intends to take against the third party.
- c. If the employee advises that he or she will seek recovery against the third party, proceed in accordance with 545.857 or 545.858, as appropriate.
- d. If the employee indicates that he or she will not seek recovery against the third party, or is unable to decide what action he or she will take, ask whether the employee will agree to assign his or her claim against the third party to the Postal Service by signing Form 2577, *Assignment of Claim to the USPS* (Exhibit 545.859c). If the employee declines to make the assignment, refrain from saying or doing anything to the employee which could be regarded as pressuring or coercing the employee to agreeing to the assignment. Point out that the Postal Service is not ordering or directing the employee to either sue or assign the claim, but advise the employee of the following information:
 - (1) By assigning a claim to the Postal Service, the employee will enable the Postal Service to attempt to shift the financial liability for the employee's injury from the Postal Service to the true wrongdoer, i.e., the third party.
 - (2) The ultimate recovery which the employee will realize for the injury cannot possibly be reduced by the employee's agreement to the assignment. An employee is entitled to a minimum of 20 percent of the net recovery after the expense of the recovery (attorney's fees, property damage, and court costs only) have been deducted. In addition, any surplus amount realized in the third party action which exceeds the amount of the employee's compensation payments and the expense of realization or collection, will be paid to the employee.
 - (3) DOL is authorized to require an assignment of the claim and to terminate an employee's compensation payments if he or she refuses to pursue or assign what appears to be a valid third party claim.
- e. If the employee continues to refuse to pursue or assign his or her claim, then refer the file to the manager of Safety & Health Services. Use Form 2560 (Exhibit 545.859e) to transmit the file. Take no further action to obtain an assignment after the file is referred.

545.859

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- f. Upon receipt of an assignment of the employee's claim on Form 2577, send sample letter F, *Notice of Assignment of Postal Employee's Claim, and Request for Settlement* (Exhibit 545.859f), to the third party and to his or her insurer, if known.
- g. When a reply to sample letter F is received, attempt to negotiate a settlement of the government's and the employee's claim (see 545.87, Settlement of Claims).
- h. Contact the manager of Safety & Health Services if it is felt that assistance is necessary.

Exhibit 545.859a

Sample Letter E, Request for Information from Employee and Notice of Government's Lien

[_date_]

[_name_]

[_street_]

[_city, state, ZIP_]

File Number:

Date of Injury:

Dear [_name_]:

Our records show that on the above date you sustained an injury under circumstances which may place liability for damages upon a party other than the United States.

Under the provisions of Section 8131 of Title 5, United States Code, the Secretary of Labor can and will require a workers' compensation beneficiary to prosecute an action for damages in his or her own name when injury or death occurs under circumstances which indicate legal liability to pay damages on a party other than the Government. When damages are recovered from such a party, the beneficiary must, out of the damages recovered, reimburse the United States for any payments made to the beneficiary or on the beneficiary's behalf. Nevertheless, in all cases you will be entitled to a minimum of 20% of the net recovery.

For our records, a statement is required from you as to whether you have presented a claim for damages as a result of this injury against anyone other than the Postal Service or the Office of Workers' Compensation Programs (OWCP). It is requested that you answer the questions on the enclosed Form 2559, *Third Party Claim-Information Request*, and promptly return it to this office.

If you have initiated a third party action, you should contact us for a statement of any OWCP disbursements made to you or on your behalf before you make a final settlement. These disbursements must be repaid from any recovery you make from the third party (the person or persons responsible for the injury).

If you wish to discuss this matter or desire to assist you, please contact [_name_] at [_telephone no._].

Sincerely,

[_signature_]

[_title_]

[_telephone no._]

Enclosure

cc: District Office, OWCP

545.859

Employee Benefits
Injury Compensation Program

Exhibit 545.859b
Form 2559, Third Party Claim — Information Request



Third Party Claim - Information Request

Section 8131 of Title 5, United States Code, provides that when damages are recovered the United States shall be reimbursed for payments if made on account of the injury.

1. Have you presented a claim or instituted suit for damages against any person or persons apparently responsible for your injury? Yes No
(If yes, give the third party's name and address and the name and address of the insurance carrier, if known.)

Third Party's Name and Address

Insurance Carrier's Name and Address

2. Have you retained an attorney with regard to a possible action against any person or persons apparently responsible for your injury? Yes No
(If yes, give the attorney's name.)

3. If you have not filed a claim for damages, state your reasons, in full detail, for not doing so.

4. Have damages been recovered? Yes No *(If yes, please furnish the following information:)*

- a. Total amount recovered \$ _____
- b. Personal property damage, if any \$ _____
- c. Medical expenses paid by you personally *(Do not include those paid or reimbursed by OWCP or an insurance carrier.) (Attach itemization.)* \$ _____
- d. Attorney's fee, if any \$ _____

Date of Judgment or Release	5. Signature	Date
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The Federal Employee's Compensation Act, as amended (5 USC 8101, et seq.) is administered by the Office of Workers' Compensation Program of the U.S. Department of Labor. In accordance with this responsibility, the office collects and maintains personal information on claimants and their immediate families. The information will be used to determine eligibility for and the amount of benefits payable under the Act. The Postal Service uses the information in handling matters relating, directly or indirectly, to the subject matter of the claim in accordance with the provisions of 20 CFR 10. In addition, this information may be disclosed to an appropriate law enforcement agency for investigative or prosecutive purposes, to a congressional office at your request, to OMB for review of private relief legislation, to a labor organization as required by the NLRA, and where pertinent, in a legal proceeding to which the Postal Service is a party. Failure to provide the information requested may delay the adjudication process, or result in an unfavorable decision or a reduced level of benefits; however, disclosure of the social security number is voluntary and will not cause such delays; its only purposes are to enable the Postal Service to account for program costs and to verify the dollar amount of payments due the Department of Labor.

PS Form 2559, February 1981

Exhibit 545.859c
Form 2577, Assignment of Claim to the USPS



Assignment of Claim to the USPS

As a result of my applying for and receiving benefits under the provisions of the Federal Employees' Compensation Act (5 U.S.C. 8101-50), and because I do not wish to prosecute an action in my own name to recover damages, I (name) _____, of (address) _____, City of _____, County of _____, State of _____, hereby voluntarily assign to the United States Postal Service all of my right, title and interest in any claim, demand, or cause of action which I may have against (name of third party) _____, or any other person, as a result of an injury I sustained on (date) _____, at (location) _____, while in the performance of my duties as an employee of the United States Postal Service.

I understand that in the event of recovery of damages by the United States Postal Service under this assignment, I am entitled to one-fifth of the net amount of recovery after expenses thereof have been deducted and to any surplus remaining as provided by Section 8131 of the Federal Employees' Compensation Act.

I understand that I have the right to pursue an action to recover damages by myself or by an attorney of my own choice, but I hereby am assigning that right to the United States Postal Service. Upon acceptance of this assignment, the United States Postal Service shall have full and complete authority to take whatever action on this claim it considers appropriate., and may institute legal action, settle or compromise the claim or any suit, or decline to institute suit, or to take any other action. In the event the United States Postal Service declines to institute suit, or to take other action, it shall have the right to cancel this assignment and thereby reassign the claim back to me.

I hereby authorize the United States Postal Service to furnish all records, medical and other reports, statements made by myself and other papers relating to my injury to the parties against whom claim is made, their representative, and insurance companies for the purpose of effectuating a settlement of the assigned claim.

IN WITNESS WHEREOF, I have signed this assignment this _____ day of _____, 19 _____.

(Signature)

Recognizing that it is within the discretion of the United States Postal Service to accept or to refuse to accept this Assignment of Claim, and pursuant to the authority granted by 39 C.F.R. 224.2(b) (1) (i) and other Postal Regulations, I hereby accept the above assignment.

Dated _____

(Signature)

(Title)

Privacy Act Statement

Collection of this information is authorized by 39 USC 401. The purpose for which the information is to be used is to assign a third-party damage claim to the USPS. As a routine use, this information may be disclosed to OWCP and a third-party representative. Completion of this form is voluntary; however, if you do not complete this form, the USPS can not pursue your claim or prosecute an action on your behalf.

PS Form 2577, September 1988 (Previous Editions Unusable)

545.859

Employee Benefits
Injury Compensation Program

Exhibit 545.859e

Form 2560, Referral of Third Party Material

		Referral of Third Party Material	
To:		From:	
Case No.	Date Submitted	Date Claimant Rtd. to Work	Employee's Name
Attached Are the Following Documents:			
1. CA Forms (Front and Back)			
<input type="checkbox"/> CA-1	<input type="checkbox"/> CA-4	<input type="checkbox"/> Other (<i>Identify</i>):	
<input type="checkbox"/> CA-2	<input type="checkbox"/> CA-5		
<input type="checkbox"/> CA-3	<input type="checkbox"/> CA-7		
2. Witness Statements and Accident Reports			
<input type="checkbox"/> Reverse of CA-1 or CA-2	<input type="checkbox"/> Other (<i>Identify</i>):		
3. Medical Reports			
<input type="checkbox"/> CA-16 (<i>Reverse</i>)	<input type="checkbox"/> Other (<i>Identify</i>):		
<input type="checkbox"/> CA-20			
<input type="checkbox"/> CA-20A			
4. Correspondence From:			
<input type="checkbox"/> Attorney Dated: _____	<input type="checkbox"/> Other (<i>Identify</i>):		
<input type="checkbox"/> Claimant Dated: _____			
5. Award of Compensation			
<input type="checkbox"/> CA-1048	<input type="checkbox"/> CA-181	<input type="checkbox"/> Other (<i>Identify</i>):	
<input type="checkbox"/> CA-1049			
<input type="checkbox"/> CA-180			
6. Settlement			
<input type="checkbox"/> Claimant's Recovery Statement	<input type="checkbox"/> Settlement Has Been Made in This Case. Attached Is a Copy of:		
<input type="checkbox"/> Recovery Letter 1			
PS Form 2560, November 1987			

Exhibit 545.859f

Sample Letter F, Notice of Assignment of Postal Employee's Claim and Request for Settlement

[__ date __]

[__ name __]

[__ street __]

[__ city, state, ZIP __]

RE: Accident on [__ date __]

Dear [__ name __]:

On [__ date __], a postal employee, [__ name __], was injured as a result of [__ description of incident __].

Pursuant to the provisions of the Federal Employees' Compensation Act, our employee has filed for benefits and has assigned [__ his __] [__ her __] personal injury claim to the Postal Service; a copy of that assignment, Form 2577, *Assignment of Claim to USPS*, is attached.

We request that you, your insurance carrier, or your attorney contact this office to discuss settlement of this matter.

Sincerely,

[__ signature __]

[__ title __]

[__ telephone no. __]

Attachment

cc: DOL

545.86 Release of Information

- 545.861 All records, medical and other reports, statements of witnesses, and other papers relating to the injury or death of an employee or other person entitled to compensation or benefits under the Act are sensitive in nature, and no employee of the Postal Service may disclose information from or pertaining to the records to any person except as directed in these instructions. Upon the employee's death, records lose much of their sensitivity; i.e., the Privacy Act no longer applies to them. Release of records on deceased employees should be guided by the USPS release of information guidelines. See *Administrative Support Manual (ASM)* 352.
- 545.862 If (a) an employee, or (b) in the case of death, an employee's beneficiary, or (c) the authorized representative of an employee or beneficiary requests information from the Postal Service in connection with a third party recovery case, refer the request to the control officer or control point supervisor, who permits the requester to examine the records of the case.
- 545.863 When the control officer or control point supervisor, based upon consultation with the medical officer, determines that release of medical reports directly to the employee clearly is not in the best interest of the employee, the control officer or control point supervisor should release the information to the employee's personal physician only upon receipt of written authorization from the employee.
- 545.864 In honoring requests, the control officer or control point supervisor discloses only that information which is germane to the request and the third party action.
- 545.865 Information requested for use in third party recovery cases by persons who are interested in third party action other than the employee or other legal representative may be released only upon written authorization of the employee or of the authorized representative. Direct all such requests to the control officer or the control point supervisor.
- 545.866 Any employee of the Postal Service who is served with a demand by federal or state courts, or other administrative bodies, for records or information relating to third party recovery matters must promptly, and without awaiting appearance before the court or other authority, contact the manager of Safety & Health Services, and/or regional counsel for instructions concerning the response to the demand.

545.87 Settlement of Claims**545.871 Employee Pursuing Collection of Damages From Third Party**

The Postal Service, with certain adjustments, is entitled to collect from the proceeds paid to an employee by a third party the amount of compensation and medical and related expenses paid by DOL on behalf of the employee. Therefore, when information is received that a third party recovery is imminent, the control officer or control point supervisor contacts DOL for an up-to-date statement of all disbursements made by DOL and advises the employee or the employee's attorney of those disbursements if settlement has not been made. If settlement has already been made, Form 2556, *Third*

Party Statement of Recovery, should be reviewed to see that the total disbursements made by DOL have been accurately computed.

545.872 **Employee Not Pursuing Third Party Recovery**

When the postal employee has indicated that he or she does not wish to pursue a recovery from a third party and has been requested to and has signed Form 2577, *Assignment of Claim to the USPS*, the Postal Service, with certain adjustments, is entitled to recover from the third party or his or her insurer the compensation and medical and related expenses paid by DOL on behalf of the employee. In addition, the Postal Service is entitled to collect on behalf of the employee those damages to which the employee may be entitled. Such damages may consist of payment for pain and suffering sustained by the employee, any damage to the employee's personal property, and out-of-pocket expense not covered by FECA benefits. Upon recovery, the employee is be provided with a copy of Form 2556, which indicates the employee's total entitlement. Further, the control officer or the control point supervisor should ensure that the OWCP district office is provided with copies of all documents pertaining to the recovery.

545.873 **Disbursement of Recovered Third Party Funds**

When a settlement is made, the control officer or control point supervisor makes disbursement of the funds as follows:

- a. When the third party check includes OWCP payments only, send check and Form 2556 or 2557, as applicable, directly to the OWCP unless the check is made payable to the Postal Service. If this is the case, deposit the check and issue a Treasury check or no-fee money order to the OWCP.
- b. When the third party check includes OWCP payments and the employee's share, payments issued in installments, COP that has been collected in error, or checks made payable to the postmaster, the following procedures apply:
 - (1) Deposit the check or monies in the postmaster's trust account.
 - (2) Request a receipt Form 3544, *Post Office Receipt for Money*. Include the employee's name and OWCP claim number on the receipt.
 - (3) Forward a memorandum (see Exhibit 545.873 — Sample letter G) to the accounting office advising them of the proper disbursement to be made along with Form 2556 or 2557, whichever is applicable.
 - (4) Have the accounting office issue a no-fee money order or Treasury check which includes the employee's name and OWCP claim number to the appropriate parties, i.e., OWCP and postal employee.
- c. For installment payments made by the third party, disbursement should be issued at periodic intervals (3 or 6 months) to the postal employee until the total expected monies from the third party are collected.

545.873

Employee Benefits
Injury Compensation ProgramExhibit 545.873
Sample Letter G[*date*]DISBURSING OFFICER
[*applicable accounting office*]

SUBJECT: Recovery Disbursements — Third Party Settlement

The enclosed check or money order in the amount of \$ [*amount*] represents settlement of a third party claim for:Name:
SSN:
OWCP Case No.:

These funds are forwarded for disposition (see attached Form 2556 or 2557 for amount of total recovery).

1. Amount due OWCP \$ [*amount*]Send check to:
U.S. Department of Labor
[*applicable district office*]2. Amount due employee \$ [*amount*]Send check to:
[*employee's name*]
c/o Injury Compensation Office[*signature*]
Injury Compensation Supervisor or Specialist

545.874 Settlement Verification

The control officer or control point supervisor furnishes the manager of Safety & Health Services a copy of the Form 2556 or Form 2557 on all recoveries made.

545.875 Control Point Supervisor Requirements

All efforts on the part of control point supervisors concerning these instructions, to include case closure, settlement, or assistance, must be coordinated with the assigned control office.

545.876 Recovery Assistance

When the control office desires any advice on matters relating to the settlement of a third party recovery case or other legal matters, the appropriate manager of Safety & Health Services or regional counsel should be contacted.

545.877 Delegation of Authority

The following are authorized to accept voluntary assignment of an employee's claim against a third party and sign a release on behalf of the Postal Service when requested by the third party or insurance carrier:

- a. Manager of Injury Compensation Branch.
- b. Manager of Safety & Health Services.
- c. Control officer.
- d. Control point supervisor.
- e. Regional counsel.
- f. Assistant general counsel of Claims Division.

545.88 Third Party Recovery Action**545.881 General**

FECA provides that an employee who is required to appear as a party or witness in the prosecution of a third party court action is in an active duty status while so engaged (5 U.S.C. 8131 (a)(2)). Therefore, when an employee assigns a third party claim to the Postal Service and appears in court as a witness, or when an employee prosecutes a third party claim in his or her own name and appears in court as a party, such an employee is compensated for the court appearance as provided in 545.882.

545.882 Compensation for Court Appearances

- a. A postal employee who appears as a witness in a third party action which has been assigned to the Postal Service is in an official duty status for the time spent in court (ELM 516.41) and for the time spent traveling between the court and the employee's work site. However, any time spent traveling between an employee's residence and the court is considered commuting time and, therefore, is not compensable.
- b. An employee who prosecutes a third party action in his or her own name is *not* in an official duty status as that term is defined in ELM 516.41. However, in order to implement the FECA provision requiring compensation of such an employee, the Postal Service compensates that employee *as if the employee were in an official duty status*.

545.883

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Accordingly, such an employee is compensated to the same extent as that explained in section 545.882 (a) for the time spent in court and for the time spent traveling between the court and the employee's worksite. However, as further explained in 545.882 (a), any time spent traveling between the employee's residence and the court is considered commuting time and is not compensable.

545.883 **Documentation of Court Appearances**

An employee who is prosecuting a third party action in his or her own name and who appears in court must document the time required to appear in court on the memorandum, *Third Party Court Appearance Sheet* (see Exhibit 545.883). The employee is considered in an active duty status; therefore, a Form 3971 is not required. Rather, the hours on the time card for third party appearances are recorded as *work only* — and not as court leave or any other type leave. The completed memorandum is to be returned to the area compensation specialist or other designated official, as appropriate.

545.884

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Injury Compensation Program**545.884 Case Preparation**

An employee who is prosecuting a third party action in his or her own name is *not* treated as if in an official duty status for the time spent developing the case. Any time used for this purpose within the employee's regular work schedule is charged to annual leave or leave without pay (LWOP).

545.9 Extended Leave Cases**545.91 General**

An employee who suffers job-related injury or illness for which OWCP compensation is being received should be granted leave without pay because of injury on duty (LWOP/IOD) for an initial period of up to 1 year from the date OWCP compensation begins.

545.92 Extensions

If the employee is unable to return to work at the end of the 1 year period on LWOP/IOD, the LWOP/IOD may be extended for successive additional periods of up to 6 months. Extensions are granted only if it appears that the employee is likely to return to work within the period of the extension.

545.93 Separations

If it is not likely that the employee will be able to return to work at the end of 1 year of LWOP/IOD or during the authorized extended period, the employee may be separated. Before any employee who is on the rolls of the OWCP can be separated, the postal official must submit a comprehensive report to the director of the Office of Safety & Health at Headquarters with appropriate recommendations and all the documentation needed to support the recommendations. The employee must be retained on the rolls of the Postal Service pending a decision.

545.94 Deciding Appropriate Action

In considering the action to take in matters involving extended leave, the installation head sends Form 2573, *Request — OWCP Claim Status*, in duplicate, to the appropriate OWCP district office; and, upon receiving a completed Form 2573 from OWCP, does one of the following:

- a. Extends LWOP/IOD for an additional period, at the end of which an additional determination must be made.
- b. Authorizes a fitness-for-duty examination by a medical officer as provided in 547.31, 547.32, and 547.33, if OWCP does not respond within a maximum of 60 days or if OWCP's response does not explain the situation.
- c. Requests permission to terminate LWOP/IOD as required in 545.93 and, after receiving permission from the director of Office of Safety & Health at Headquarters, does so as follows:
 - (1) If the employee is covered under the Civil Service Retirement System (CSRS) and has 5 or more years of creditable civilian service, inform the employee of retirement rights. Allow the

- employee 14 calendar days to file a retirement application under the CSRS.
- (2) If the employee is covered under the Federal Employees Retirement System (FERS) and has 18 months or more of creditable civilian service, inform the employee of retirement rights. Allow the employee 14 calendar days to file a retirement application under FERS.
 - (3) If the employee does not file a retirement application within the 14-day period, terminate LWOP/IOD and take action to separate the employee as described in 365 and 568.
 - (4) If the employee is covered under the CSRS and has less than 5 years creditable civilian service, terminate LWOP/IOD and take action to separate the employee as described in 365.
 - (5) If the employee is covered under FERS and has less than 18 months creditable civilian service, terminate LWOP/IOD and take action to separate the employee as described in 365.

546 **Reemployment or Reassignment of Employees Injured on Duty**

546.1 **Law**

546.11 **General**

The USPS has legal responsibilities to employees with job-related disabilities under 5 U.S.C. 8151 and the Office of Personnel Management's (OPM) regulations as outlined below.

546.12 **Disability Fully Overcome Within One Year**

546.121 **Obligation**

When an employee fully overcomes the injury or disability within 1 year after the commencement of compensation payments from OWCP, or after compensable disability recurs, the USPS must give an employee the right to resume employment in the former or an equivalent position.

546.122 **Rights and Benefits**

Upon reemployment, all rights and benefits that an employee would have had or acquired in the former position had there been no injury or disability must be restored.

546.13 **Disability Fully Overcome After More Than One Year**

546.131 **Obligation**

When a current or former employee fully overcomes the injury or disability more than 1 year after compensation begins, the USPS must give the current or former employee priority consideration for reemployment or reassignment into the former position or an equivalent one. The names of all former employees who fully recover from their compensable disabilities more than 1

year after compensation begins must be entered on a reemployment list in two groups:

- a. Group one includes all those former employees who are entitled to 10-point veteran preference. They must be considered for employment before persons in group two.
- b. Group two includes all other former employees who fully recover from their compensable disabilities in more than 1 year. They must be considered before other sources of recruitment, such as transfers from other agencies, reinstatements, or appointments from hiring registers.

546.132 **Rights and Benefits**

Rights and Benefits are the same as those outlined in 546.122.

546.14 **Disability Partially Overcome**

546.141 **Obligation**

When an employee has partially overcome the injury or disability, the USPS has the following obligation:

- a. *Current Employees.* When an employee has partially overcome a compensable disability, the USPS must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerance (see 546.611). In assigning such limited duty, the USPS should minimize any adverse or disruptive impact on the employee. The following considerations must be made in effecting such limited duty assignments:
 - (1) To the extent that there is adequate work available within the employee's work limitation tolerances, within the employee's craft, in the work facility to which the employee is regularly assigned, and during the hours when the employee regularly works, that work constitutes the limited duty to which the employee is assigned.
 - (2) If adequate duties are not available within the employee's work limitation tolerances in the craft and work facility to which the employee is regularly assigned within the employee's regular hours of duty, other work may be assigned within that facility.
 - (3) If adequate work is not available at the facility within the employee's regular hours of duty, work outside the employee's regular schedule may be assigned as limited duty. However, all reasonable efforts must be made to assign the employee to limited duty within the employee's craft and to keep the hours of limited duty as close as possible to the employee's regular schedule.
 - (4) An employee may be assigned limited duty outside of the work facility to which the employee is normally assigned only if there is not adequate work available within the employee's work limitation tolerances at the employee's facility. In such instances, every effort must be made to assign the employee to work within the employee's craft within the employee's regular schedule and as

near as possible to the regular work facility to which the employee is normally assigned.

- b. *Former Employees.* When a former employee has partially recovered from a compensable injury or disability, the USPS must make every effort toward reemployment consistent with medically defined work limitation tolerances. Such an employee may be returned to any position for which he or she is qualified, including a lower grade position than that which the employee held when compensation began.

546.142 **Rights and Benefits Upon Partial Recovery**

- a. *Seniority.* Former employees who are reemployed into bargaining unit positions or current career employees who are reassigned into such positions are credited with seniority in accordance with the collective bargaining agreements covering the position to which they are assigned.
- b. *Probationary Period.* Reemployed individuals who have completed their probationary periods, or would have completed their probationary periods but for their compensable injuries, are not required to serve a new probationary period.
- c. *Leave Credit.* For purposes of computing leave rate accrual, former employees who were eligible to accrue leave under ELM 510 are credited upon reemployment with the total time compensation was received from the OWCP.
- d. *Retirement.* Former employees who were covered by the Civil Service Retirement Act (see ELM 560) are credited with the time spent on the OWCP compensation in computing retirement credit.
- e. *Salary Determination.* The following salary restoration criteria must be met (**Note:** The term grade/step, as used below, means grade/salary for individuals in a nonstep salary schedule):
 - (1) *Reemployment to the Former Grade/Step.* Those individuals who are reemployed into a position with the same grade/step as held at the time of injury or disability receive the current salary for that grade and the step that the individual would have acquired had there been no injury or disability.
 - (2) *Reemployment to a Higher Grade.* Those individuals who are reemployed to a position with a grade higher than that of the position held at the time of injury or disability are placed in the higher grade at the current salary for the grade/step which the individual would have acquired had there been no injury or disability. If that salary is between steps in the higher grade, the individual's salary is increased to the next higher step.
 - (3) *Reemployment to a Lower Grade/Step:*
 - (a) *Salary Below Maximum of Lower Grade.* The individual is placed in any higher step in the lower grade that is less than one full step above the current salary for the grade/step that the individual would have acquired had there been no injury or disability.

- (b) **Salary Above Maximum of Lower Grade.** In those cases where the current salary for the grade that the individual would have acquired had there been no injury or disability exceeds the maximum salary of the lower grade position, the employee is afforded a saved rate at the higher grade/step salary. These saved-rate provisions apply for an indefinite period and are subject to the rules of the salary schedule to which assigned for the following employees:
 - (i) Former career employees who are being reemployed under 546.142.
 - (ii) Limited duty career employees.
 - (iii) Current career employees who have accepted a job offer and are reassigned to a lower grade due to a job-related injury.
- (4) ***Reemployment to a Position in a Different Salary Schedule.*** When an individual is reemployed to a position in a salary schedule that is different from the schedule under which the employee was paid at the time of injury or disability, once reemployed, the individual is treated under the rules applicable to the salary schedule to which reemployed:
 - (a) The individual is reemployed at the grade appropriate for the position to which reemployed.
 - (b) The individual is placed in any higher step in the new grade that is less than one full step above the current salary for the grade/step that the individual would have acquired had there been no injury or disability.
 - (c) If reemployment is a nonstep schedule, the individual is placed at a salary plus any salary increases the individual would have acquired had there been no injury or disability. Bargaining unit merit salary increases are based on the most recent performance rating prior to the injury or disability.
 - (d) If the current salary for the grade that the individual would have acquired had there been no injury or disability exceeds the maximum salary of the new grade, the individual is given a saved rate. These saved-rate provisions apply for an indefinite period and are subject to the rules of the salary schedule to which assigned.
- (5) ***Reemployment to a Former Position Under Different Salary Schedule.*** If the position held at the time of injury or disability is no longer under the same salary schedule, the current salary for the former grade/step is determined by:
 - (a) The manager of Corporate Personnel Operations for Headquarters and Headquarters field unit positions.
 - (b) The area Human Resources manager for area positions.
 - (c) The district Human Resources manager for other field positions

- (6) *Step Increases.* Upon reemployment, the partially recovered and permanently partially disabled individuals are assigned a new waiting period for step or merit increases. The date assigned is based on the effective date for the most recent step, merit, or equivalent increase the individual would have acquired had there been no injury or disability.

546.143 **Relocation Consideration**

- a. *Scope.* When a former employee now partially recovered is receiving OWCP compensation and is being considered for reemployment, but has permanently relocated to a new geographic area since the time of his or her compensable injury, every effort must be made to reemploy the individual at a postal facility within the area of his or her present place of residence. Any offer to reemploy in a different location can be considered only after all reasonable attempts have been made to rehire within the area of the employee's present place of residence.
- b. *Expenses.* If an employee accepts a reemployment offer but would incur relocation expenses as a result of this acceptance, any expenses that the OWCP determines reasonable and necessary may be paid by the OWCP from the Employees' Compensation Fund.

546.2 **Collective Bargaining Agreements**

546.21 **Compliance**

Reemployment or reassignment under this section must be in compliance with applicable collective bargaining agreements. Individuals so reemployed or reassigned must receive all appropriate rights and protection under the newly applicable collective bargaining agreement.

546.22 **Contractual Considerations**

546.221 **Scope**

Collective bargaining agreement provisions for filling job vacancies and giving promotions and provisions relating to retreat rights due to reassignment must be complied with before an offer of reemployment or reassignment is made to a current or former postal employee on the OWCP rolls for more than 1 year.

546.222 **Reemployment or Reassignment**

A partially recovered current or former employee reassigned or reemployed to a different craft to provide appropriate work must be assigned to accommodate the employee's job-related medical restrictions. Such assignment may be to a residual vacancy or to a position uniquely created to fit those restrictions; however, such assignment may not impair seniority rights of PTF employees. Minimum qualification requirements, including written examinations, may be waived in individual cases for former or current employees injured on duty and being considered for reemployment or reassignment. When there is evidence (including that submitted by the medical officer) that the employee can be expected to perform satisfactorily in

the position within 90 days after assignment, a waiver may be granted by one of the following:

- a. The vice president of Human Resources for Headquarters and Headquarters field unit positions.
- b. An area Human Resources manager for area positions.
- c. A district Human Resources manager for other field positions

546.23 **Types of Appointments**

Types of appointments available include the following:

- a. A current or former full-time career employee may be reemployed or reassigned to a full-time career position if his or her job-related medical condition permits.
- b. A current or former part-time flexible career employee may be reassigned or reemployed to a part-time flexible career position.
- c. A current or former noncareer employee may be reassigned or reemployed to the position held previously or, upon satisfactory demonstration of the ability to meet the job requirements and in accordance with the appropriate collective bargaining agreement, may be reassigned or reemployed to another noncareer position or noncompetitively converted to a career position (NOA 501).

546.3 **Restoration Rights**

OPM is responsible for implementing the regulations contained in 5 U.S.C. 8151. These regulations are codified in 5 CFR Part 353. In accordance with 5 U.S.C. 8151(a), an individual injured or disabled on duty who resumes employment with the USPS is to be credited with the time during which compensation was received for purposes of certain rights and benefits based upon length of service.

546.4 **Employee Appeal Rights**

Current or former employees who believe they did not receive the proper consideration for restoration, or were improperly restored, may appeal to the Merit Systems Protection Board under the entitlements set forth in Title 5 CFR, Part 353.

546.5 **Retirement Considerations**

546.51 **Status**

Pursuant to the Civil Service Retirement Act, a former employee who applies for and receives Civil Service disability retirement status ceases to be an annuitant upon reemployment and restoration of that individual's wage earning capacity. If wage earning capacity is not restored, the individual, although reemployed, remains in Civil Service annuitant status with no retirement deductions withheld from salary. For instance, a former full-time distribution clerk with Civil Service annuity status partially recovers from a compensable job-related injury and is reemployed. However, medical restrictions limit work to 20 hours per week. In this case, wage earning

capacity has not been restored because the employee is unable to earn wages equivalent to wages of the position held at the time of injury or disability. Therefore, the Office of Personnel Management (OPM) does not terminate the Civil Service annuitant status. As the employee remains a Civil Service annuitant, retirement deductions must not be withheld from salary.

546.52 **Reinstatement of Eligibility**

546.521 **Restored Disability Retirement Status**

If an annuitant reemployed under the procedures in this section is later found unable to perform successfully in the new position due to the original compensable injury or disability, and is again separated, the employee is entitled to the restoration of disability retirement status under the Civil Service Retirement Act.

546.522 **New Disability Retirement Status**

If an employee becomes disabled for the position due to a new injury or disability after entry into that position, the employee has the right to apply for a new Civil Service disability retirement status.

546.53 **Refunded Retirement Deductions**

A former employee who has withdrawn retirement deductions based on previous employment may redeposit the amount refunded, plus interest, after reemployment to a position from which retirement deductions are withheld.

546.54 **Notification**

Upon reemployment of a disability annuitant (or in advance, if possible), the appointing officer must notify the Office of Personnel Management. The notification must include the individual's name, Social Security number, date of birth, Civil Service Annuity claim number (CSA-Civil Service Account), date of reemployment, and indication of whether retirement deductions are to be made from the salary for the position to which reemployed. Form 2485, *Medical Examination and Assessment*, must be attached. The notification should be sent to

ADJUDICATION DIVISION
RETIREMENT AND INSURANCE GROUP
OFFICE OF PERSONNEL MANAGEMENT
1900 E ST NW RM 3305
WASHINGTON DC 20415-0001.

546.6 **Reemployment Procedures**

546.61 **OWCP Referrals**

OWCP makes referrals of current and former postal employees who may be candidates for reemployment.

546.611 **Work Limitation Tolerances**

The individual's physician of record, or other physician selected by the individual or OWCP, must furnish OWCP with a definitive medical summary, clearly documenting the medical limitations that will have to be accommodated.

546.612

546.612 OWCP Evaluation

The OWCP district medical director evaluates the work limitation tolerances submitted by the physician of record and, upon concurrence, refers them to the USPS for consideration.

546.62 USPS Medical Review**546.621 Reemployment Physical Examination**

- a. The medical officer evaluates fully all medical records referred to the USPS from the OWCP district offices.
- b. A complete physical examination paid for by the USPS is required by the appointing officer. The result of the physical examination is documented on Form 2485, *Medical Examination and Assessment*, and on Form 2489, *Identification of Physical/Mental Disability*.
- c. The medical officer makes a statement of concurrence with the OWCP-documented medical limitations or further restricts the former employee's work limitation tolerances. The medical officer can in no way liberalize the medical limitations tendered by the OWCP district offices.

546.622 Special Considerations

- a. An individual who is referred for reemployment consideration by OWCP may have some degree of concurrent disability that is not caused by or related to the original job injury or disability. The medical officer should examine for any concurrent medical condition that might prevent the individual from performing the duties of the position for which the individual is being considered.
- b. The medical officer should carefully evaluate all concurrent disabilities and include their potential impact in the recommendation for reemployment sent to the appointing official.
- c. All former employees now permanently and partially disabled have some type of residual handicap. The medical officer who conducts the physical examination is responsible for assigning the correct handicap code as defined in Handbook EL-301, *Guidelines for Processing Personnel Actions*.

546.63 Offer of Appointment**546.631 Evaluation**

Upon receipt and evaluation of the OWCP referral containing documented medical limitations and evaluation of the medical officer's recommendations, the appointing official determines if a reemployment offer can be made.

546.632 Interview

During the preemployment interview, the appointing official must ensure that the individual receives the following information:

- a. In-depth analysis of medical limitations and the individual's responsibility to work within the prescribed work limitation tolerances.
- b. If applicable, the status of injury compensation and disability retirement benefits and future eligibility.

- c. A full explanation of all restoration rights and benefits (see 546.3).
- d. Full particulars regarding the position including title, duties, grade, salary, location of work assignment, and all other information required in a preemployment interview. See Handbook EL-311, *Personnel Operations*.
- e. Instructions for completion and submission of any required employment forms.

546.633 **Processing Personnel Actions**

The appointing official completes Form 50-B, *Request for Personnel Action (Processing Copy for New Hires Only)*, for the reemployment of former employees or the return to duty of current employees. The nature of action and element codes must be supplied before the form is forwarded to the Employee and Labor Relations Information Center. See Handbook EL-301, *Guidelines for Processing Personnel Actions*, and *Postal Bulletin 21685*, (8-11-88).

546.64 **Employee's Refusal of Job Offer**

When a current or former employee is offered suitable employment or reemployment by the USPS (i.e., employment or reemployment that the OWCP has deemed suitable), that individual is obligated to return to such employment. However, if the current or former employee refuses an offer of suitable employment or reemployment, the appointing official must do the following:

- a. Offer the individual an opportunity to sign a declination of employment.
- b. Advise the individual that the effect of such a refusal may result in the termination or reduction of compensation benefits by the Department of Labor.
- c. Notify the OWCP district office by telephone of the declination and the reasons given.
- d. Within 2 working days, forward a full written summary of the current or former employee's interview including the signed declination and medical evaluations or other pertinent information to the OWCP district office. The OWCP is then responsible for notifying the Office of Personnel Management when the individual's disability retirement status is to be evaluated.

546.65 **Management's Refusal to Reemploy**

The appointing official may not be able to accommodate the former employee for medical reasons or other considerations. If the former employee will not be reemployed, the appointing officer must:

- a. Notify the district manager or postmaster with written justification stating specific reasons for refusal to reemploy. If the district manager or postmaster agrees with the appointing officer's refusal to reemploy, then he or she must seek final concurrence from the manager of Safety and Risk Management at Headquarters through the area office.

- b. With the final concurrence, notify the employee in writing of that fact, including a paragraph informing the individual of the right to appeal to the Merit Systems Protection Board, and send a copy to the OWCP.

547 **Return to Duty**

547.1 **Therapy Obligations**

The installation head must ensure that an employee reports for scheduled therapy treatment. The employee must be advised that failure to keep appointments with a physician or hospital is a form of absenteeism. Control office or point personnel must report failures to keep appointments to the OWCP district office.

547.2 **Medical Reports**

547.21 **Capability**

Progress reports received from the attending physician may show the employee is capable of some work during convalescence or after medical treatment has been completed.

547.22 **Availability for Limited Duty**

If not, the control office or point personnel must submit a Form CA-17 to the attending physician or the OWCP to request information concerning the employee's availability for limited duty.

547.23 **Appropriate Assignment**

If the attending physician submits a medical report, Form CA-17, indicating that the employee is medically capable of performing some of the normal duties for a limited number of hours, or other work of a different nature than the employee's former assignment, the installation head must make every reasonable effort to place the employee in an appropriate assignment.

547.3 **Fitness-for-Duty Determination**

547.31 **Determining Fitness**

The fact that an injured or ill employee is scheduled for a series of treatments or appointments with a physician or hospital does not, by itself, establish that the employee is not fit for duty in the interim. Control personnel may recommend to the installation head, upon medical justification, that any employee being treated by a physician or hospital be required to report to a USPS medical unit (or contract equivalent) for a fitness-for-duty examination. An installation head or director of Human Resources is authorized to approve a fitness-for-duty examination.

547.32 **Examination Report**

This physical examination may include the parts of the anatomy being treated provided the examination in no way disturbs or interferes with the treatment

regimen. The results of this examination must be brought to the attention of the OWCP district office for consideration.

547.33 **Physician Report Questions**

If the medical officer questions the medical procedures and/or determination of the employee's attending physician, no administrative action may be taken to change the employee's compensation or employment status until the medical issue is settled.

547.34 **Resolving Determination**

The following procedures apply only to fitness-for-duty determinations incident to an on-the-job injury or illness. Fitness-for-duty determinations for other purposes are not covered by this instruction.

- a. The physician or hospital must, for each visit of the employee, make a professional statement, using Form CA-17, showing that the employee is one of the following:
 - (1) Fit for duty.
 - (2) Fit for limited duty, with the work tolerance limitations due to the injury indicated.
 - (3) Not fit for duty, with an expected return-to-duty date indicated.
- b. If the physician or hospital is unable to predict an employee's fitness for duty on either a short-term or long-term basis, the control office or point supervisor may request information from the OWCP by sending Form 2573, *Request — OWCP Claim Status*, in duplicate, to the OWCP district office. If OWCP does not respond within a maximum of 60 days, or if the OWCP response does not explain the situation, a fitness-for-duty examination may be recommended to the installation head as provided in 547.31, 547.32, and 547.33. However, a fitness-for-duty examination can be initiated at any time to determine the duty status of the injured employee.
- c. If the results of the fitness-for-duty examination disagree with the findings of the attending physician, the matter, along with justification for the USPS position, is referred by the control office or point supervisor to the OWCP district director for resolution.
- d. A fitness-for-duty determination is not limited to the employee's regular duties but should be based on whether the employing installation has any temporary alternative duties available that the employee may safely perform.