

Getting the COP you're entitled to



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Card**

The winter of 2014 will be remembered for record cold and snow across the country. In the Midwest, winter weather posed hazards unknown to many letter carriers. On one day in particular, Jan. 6, serious cases of frostbite were reported in numerous locations as letter carriers worked in sub-zero temperatures. It's a credit to every letter carrier who endured this winter and continued to provide service to our customers. The Postal Service would not exist without you.

Unfortunately, the record cold and snow led to many job-related injuries. While Postal Service Headquarters distributed information on how to deal with the cold, the volume of injuries

appeared to overwhelm managers. Delays in workers' compensation claim processing left injured workers without pay as managers failed to enter the right information into the payroll system, causing further harm to the injured.

Local branches should have zero tolerance for these delays. The timely filing of grievances is a necessary tool to ensure that management recognizes the importance of handling injury claims promptly and correctly.

OWCP defines a traumatic injury as "a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected."

On the employee portion of the CA-1, Claim for Traumatic Injury, workers must choose between continuation of pay (COP) and using sick or annual leave. To be eligible for COP, a worker must have a job-related traumatic injury, file a CA-1 within 30 days of the date of injury, and begin losing time from work due to the injury within 45 days. In most cases, selecting COP makes the most sense.

Most on-the-job injuries are resolved within a relatively short period of time. When amending the Federal Employees' Compensation Act (FECA) in 1974, Congress created COP to prevent employees' income loss while their claim was being adjudicated. COP acts as a financial bridge so injured workers can heal and get back to work with minimal complications, providing savings to both the workers and the Postal Service.

When postal managers improperly delay COP, they flout the law.

The Office of Workers' Compensation (OWCP) has the exclusive authority to determine questions of entitlement and all other issues relating to COP. It is important to note that while OWCP decisions cannot be grieved, Postal Service violations of contractual and regulatory obligations can and should be.

Postal managers have the responsibility to provide COP, and if they fail to do so when there is entitlement, they are in violation of *ELM* 543.41, Continuation of Regular Pay:

For most employees who sustain a traumatic injury, FECA provides that the employer must continue the employee's regular pay during any periods of resulting disability up to a maximum of 45 calendar days.

Injured workers need to be mindful of their own responsibilities in the OWCP claims process. Injured workers should submit 3971 leave slips requesting COP for time loss due to their traumatic injury. Additionally, injury-related medical information supporting disability, including work limitations, must be submitted by the employee to the Postal Service within 10 days of the traumatic injury. Absent receipt of that medical information by the 10th day following the injury, the Postal Service can stop COP. However, where medical evidence is later provided, COP must be reinstated retroactive to the date it was stopped.

To remain eligible for COP, the injured worker must keep the Postal Service informed of his or her work restrictions. *ELM* 546.142 defines management's responsibility to provide limited duty to injured employees:

When an employee has partially overcome a compensable disability, the Postal Service must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitations...

The Postal Service has the right to controvert or challenge a claim within clearly defined limits. However, the Postal Service has a legal obligation to inform the injured worker of a decision to controvert COP and the basis for doing so. See 20 CFR 10.211(c). Postal regulations require that such notice be in writing. See *EL* 505, Section 8.15. Injured workers need to respond swiftly to any notice of controvert or challenge to prevent the delay of COP.

If management fails to properly enter COP and charges an injured worker's sick or annual leave, the injured worker can require management to change the leave to COP. To accomplish this, the injured worker must make a written request to the postmaster within one year of the date the leave was used or the date of the written approval of the claim by OWCP (if written approval is issued), whichever is later. See 20 CFR 10.206 and *ELM* 543.42(c).