

Injured workers and third-party claims



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When an on-the-job injury is caused by a third party, such as an accident involving another vehicle, a dog bite or falling on a customer's slippery stairs, the Federal Employees' Compensation Act (FECA) mandates that injured workers must pursue the third party and attempt to recover damages. This is mandatory, not optional.

As letter carriers, we often build positive, long-term relationships with our customers, and workers may be reluctant to comply with the requirement of taking such a customer to court. However, the penalties for not doing so are substantial, including a termination of benefits and a mandate to reimburse OWCP for past medical expenses and wage-loss compensation paid.

When a FECA beneficiary refuses a request to either assign a claim or prosecute a claim in his or her own name, OWCP may determine that he or she has forfeited his or her right to all past or future compensation for the injury with respect to which the request is made. Alternatively, OWCP also may suspend the FECA beneficiary's compensation payments until he or she complies with the request.

When OWCP determines that an employee or other FECA beneficiary must take action against a third party, it will notify the employee or beneficiary in writing. At a minimum, FECA regulation 20 CFR 10.707 requires a beneficiary do the following:

1. Seek damages for the injury or death from the third party, either through an attorney or on his or her own behalf;
2. Either initiate a lawsuit within the appropriate statute of limitations period or obtain a written release of this obligation from OWCP or the Solicitor of Labor (SOL), unless recovery is possible through a negotiated settlement prior to filing suit;
3. Refuse to settle or dismiss the case for any amount less than the amount necessary to repay OWCP's refundable disbursements, without receiving permission from OWCP or SOL;
4. Provide periodic status updates and other relevant information in response to requests from OWCP or SOL;
5. Submit detailed information about the amount recovered and the costs of the suit on a Statement of Recovery form approved by the Office of Management and Budget (OMB);

6. Submit information regarding the names of all plaintiffs to the suit or settlement and their relationship to the injured employee, if not the same as the FECA beneficiary;
7. If any portion of the settlement or judgment was paid to more than one individual, advise whether it was indicated in the settlement or judgment the amount each individual is to receive, and if so, the percentage of the total award;
8. Advise whether any portion of the settlement or judgment was paid in more than one capacity, such as a joint payment to a husband and wife for personal injury and loss of consortium or a payment to a spouse representing both loss of consortium and wrongful death; and
9. Pay any required refund.

Any recovery must be reported to determine whether a portion of the recovery is required to be paid to the United States as reimbursement for the FECA benefits that have been paid because of that injury.

If a beneficiary consults an attorney and is informed that a suit for damages against a third party for the injury or death for which benefits are payable is unlikely to prevail or that the costs of such a suit are not justified by the potential recovery, he or she should request that OWCP or SOL release him or her from the obligation to proceed. This request should be in writing and provide evidence of the attorney's opinion. If OWCP or SOL agrees, the beneficiary will not be required to take further action against the third party.

Letter carriers may be contacted by numerous law firms anxious to be their representative after a serious accident. Injured workers must notify such attorneys working on their behalf of the Department of Labor regulations regarding such a claim.

In 1980, a memorandum of agreement between the United States Postal Service (USPS) and OWCP authorized USPS to administer the third-party aspect of FECA claims for its employees. In April 2013, OWCP terminated the memorandum of agreement with USPS.

As a result, USPS no longer has any responsibility for FECA third-party matters. Since July 1, 2013, all third-party matters are handled by the Department of Labor's Office of the Solicitor, Federal Employees' and Energy Workers' Compensation Division (SOL-FEEWC).

Injured letter carriers with a question regarding a FECA third-party claim should direct their question to SOL-FEEWC by calling 202-693-5320 or faxing a letter to the attention of the FECA Subrogation Unit to 202-693-5360.

Injured NALC members with OWCP claim issues should contact their shop steward, branch OWCP specialist or national business agent's office for help.