

The evolution of federal workers' compensation



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The January Compensation article explored the early development of federal workers' compensation law. After years of debate in society and Congress, federal employees were finally protected in 1916, when the Compensation Act became law. The Act became the foundation for the workers' compensation system letter carriers depend on today.

As with any law, the rights we have now took many years to fully develop. In the 1916 Act, compensation for injured workers came from an annual

appropriation by Congress. There was no incentive for federal agencies for injury prevention as the cost of injuries did not affect their budgets.

The administration for the Act was given to a presidentially appointed, three-member commission. Federal agencies felt free to interpret the Act's meaning as they pleased until the commission ruled otherwise. As one may imagine, some agencies attempted to interpret the law to their own benefit.

For instance, the Post Office Department required city letter carriers to sign a waiver for rights to compensation for injuries incurred while performing their duties on bicycles. The commission found the waivers illegal, and awarded compensation to a letter carrier who had signed the waiver and was subsequently injured while using his bicycle in connection with his work duties.

The Act required all injured federal employees to be treated by doctors working in Public Health Service hospitals, military and Indian Health Service facilities. Where such facilities weren't available, the commission designated certain hospitals as treatment centers. Choice of our treating physicians, something we now take for granted, would take decades to arrive.

The Act had other deficiencies the commission struggled to reconcile. For instance, serious injuries resulting in permanent impairment, including amputations, were not compensable by law. Vigorous debate continued as to how injured federal workers should be compensated for their injuries.

Significant reforms addressing the Act's inequities took decades to get through the legislative process.

Amendments in 1949 changed the Compensation Act to the Federal Employees' Compensation Act (FECA). The Act had provided compensation of 66-2/3 or 75 percent of the injured workers' income, but capped compensation at \$116 per month. Then-NALC Secretary Jerome Keating argued for compensation to be paid on a percentage basis with no upper cap, rather than an absolute amount.

The 1949 amendment increased the cap to \$525 per month and included schedule awards for permanent dis-

abilities, attendants for workers enrolled in vocational rehabilitation, and it made FECA the exclusive remedy for on-the-job injuries. The 1949 amendment also established the Employees' Compensation Appeals Board as a final arbiter of appeals for compensation claims.

In 1960, FECA was further amended and a chargeback program was initiated. FECA benefits were no longer taken from an annual appropriation; instead, agencies would be charged for the cost of FECA benefits paid each year. This was intended to incentivize accident prevention programs to save agency expenses. However, not every agency viewed the added chargeback costs as a reason to provide a safer workplace.

The NALC argued that, due to the costs of the chargeback program, Post Office officials encouraged injured workers to use their sick and annual leave in lieu of FECA benefits.

In 1966, Congress finally addressed the inequities in the cap on benefits. The minimum and maximum benefits levels were tied to the GS-2 and GS-15 salary schedules. Congress also adopted a cost-of-living component tied to the Consumer Price Index.

However, FECA continued to have inequities when it came to how claimants would be compensated while claims were being adjudicated. Waiting weeks or months for a claim to be accepted placed a financial burden on the injured worker, and it effectively discouraged injured workers from filing claims.

That changed in 1974, when Congress amended FECA and created "Continuation of Pay" for the first 45 days of disability. The 1974 amendments also released claimants to see their physician of choice, created civil service retention rights for injured workers, and credited time on compensation toward years of service and other benefits.

The 1974 changes caused an increase in new claims that the Department of Labor struggled to process. There was, and some would say still are, not enough claims examiners to properly handle claims in a timely manner. In 1980, NALC President Vincent R. Sombrotto testified that "improved case management" was needed. Sombrotto advocated "rapid initial adjudication and prompt payment of benefits." According to the Department of Labor, claims examiners generally meet OWCP's goals for the timely processing of claims.

As with every other postal issue, decisions regarding the future of FECA are guided by those who control the power on Capitol Hill. Congress continues to debate changes to FECA that could adversely affect injured workers. While the NALC continues to fight against detrimental changes to FECA, the best protection for injured workers is electing a worker-friendly Congress.