

# Postal Service controversy of OWCP claims



Assistant to the President for Workers' Compensation  
Kevin Card

**A**n injured letter carrier filed a claim for a traumatic injury suffered while delivering mail. OWCP denied the claim based upon the Postal Service's controversy letter, which argued the claimant had finished their tour before the time of the claimed injury. The carrier's shop steward investigated the denial and found the carrier supervisor had changed the clock rings to make it look like the letter carrier was not working at the time of injury.

Subsequent investigations of other employees' clock rings led to postal inspectors walking the postmaster and supervisors off the workroom floor. The shop steward's investigation had revealed that clock rings had been changed for multiple employees over a longer period. Were it not for the injured worker speaking up, the practice may have continued.

**It's important that every injured worker understand** the Postal Service's obligations when filing a claim for a workplace injury. The Federal Employee Compensation Act (FECA) is intended to make the claims process non-adversarial. All parties—the claimant, the employing agency and OWCP—are supposed to develop the facts of the claim so an accurate decision can be provided in a timely manner.

In specific instances, the Postal Service may controvert the entitlement of COP for a traumatic injury. Controversy is specific to traumatic injury claims (CA-1), where the employee requests Continuation of Pay (COP). The rules for controversy are found in the U.S. Code of Federal Regulations, Section 10.220:

## When is an employer not required to pay COP?

An employer shall continue the regular pay of an eligible employee without a break in time for up to 45 calendar days, except when, and only when:

- (a) The disability was not caused by a traumatic injury;
- (b) The employee is not a citizen of the United States or Canada;
- (c) No written claim was filed within 30 days from the date of injury;
- (d) The injury was not reported until after employment has been terminated;
- (e) The injury occurred off the employing agency's premises and was otherwise not within the performance of official duties;
- (f) The injury was caused by the employee's willful misconduct, intent to injure or kill himself or herself or another person, or was proximately caused by intoxication by alcohol or illegal drugs; or
- (g) Work did not stop until more than 45 days following the injury.

The final determination on entitlement to COP always rests with OWCP.

To controvert a claim, the Postal Service must follow OWCP guidelines. It must submit a statement to OWCP that

specifically describes the factual allegation or argument with which it disagrees. In the case above, the agency would have needed to argue that the claimant was off the clock and not in the performance of duty when the injury occurred.

The Postal Service also would need to provide evidence or argument to support its position, including supporting documentation such as witness statements, medical reports or records.

Controversy of a claim is a serious matter. Postal regulations require the agency to provide the injured worker with a copy of the controversy letter so the claimant can respond.<sup>1</sup> This does not always happen. In many instances, an injured worker is expecting to get paid COP, only to find a zero paycheck on payday.

**An injured worker can take steps to prevent this from happening.** The CA-1 is a four-page document. Page 1 is for the injured worker to fill out. Injured workers should never let a manager fill out page 1, as it provides the factual information regarding the date, place and time an injury occurred.

Page 1 also is where the injured worker indicates the cause of the injury—what happened and why, and the nature of the injury (what body part was injured). Discrepancies between what is written on the CA-1 and subsequent medical reports can delay claim acceptance and provide a cause for controversy.

Page 2 of the CA-1 is the supervisor's report. Question 36 of the supervisor's report asks if the employing agency controverts continuation of pay and, if so, to state the reason in detail. The supervisor's instructions on page 3 specifically state: "If the employing agency controverts COP, the employee should be notified and the reason for controversy explained to him or her."

An injured worker is entitled to the agency's reason for controversy and also the completed copy of the CA-1.<sup>2</sup> The injured worker should receive a copy of the completed CA-1 the day they file the claim so if controversy is claimed they can quickly reply. In addition to the completed CA-1, injured workers should also submit a 3971 leave request for COP.

In some post offices, CA-1s are routinely controverted. This prevents simple injuries from being quickly adjudicated and prevents the injured worker from getting their injuries treated and returning to work. Injured workers need to be vigilant in demanding copies of completed CA-1s and swiftly responding to management's controversy arguments.

1. ELM 545.75.e

2. ELM 544.12