

# Vocational rehabilitation



Assistant to the President  
for Workers' Compensation  
Kevin Card

**T**he Federal Employees' Compensation Act (FECA) requires injured workers to return to work as soon as they are medically able to do so. Most injured letter carriers return to work within a short period of time after receiving appropriate medical treatment and recovery time. However, some injuries take much longer to recover from.

Throughout the treatment and recovery process, injured workers are required to provide the Postal Service with a form CA-17, completed by their physician, indicating what medical limitations persist. Postal regulations found in *ELM*, Section 546.142 require that the Service make every effort to find suitable work consistent with injured workers' medical restrictions. In some cases, injured workers are given temporary, limited-duty assignments to work until they completely recover and can return to full duty.

When the injured worker cannot return to full duty, vocational rehabilitation by either the Postal Service or the Office of Workers' Compensation Programs (OWCP) may be initiated.

**In a perfect world, the Postal Service would find work** for most of its compensably injured employees within the agency, allowing injured workers to finish their postal careers and retire with full benefits. However, since the 2002 Postal Reorganization Plan, the Postal Service has reduced the number of limited-duty and permanent vocational-rehabilitation positions. The National Reassessment Process (NRP) was part of the effort at reducing these positions. As the NRP program was discontinued, the Postal Service has increased efforts to request that OWCP provide vocational rehabilitation services to injured workers.

OWCP vocational rehabilitation requires an injured worker to go through a process of evaluation, training and a job search for employment outside of the Postal Service. The statutory provisions for vocational rehabilitations are found in the implementing regulations of FECA, 20 CFR 10.

The services OWCP provides to help employees return to work are outlined in 20 CFR 10.518:

OWCP may, in its discretion, provide vocational rehabilitation services as authorized by 5 U.S.C. 8104. Vocational rehabilitation services may include vocational evaluation, testing, training, and placement services with either the original employer or a new employer, when the injured employee cannot return to the job held at the time of injury. These services also include functional capacity evaluations, which help to tailor individual rehabilitation programs to employees' physical reconditioning and behavioral modification needs, and help employees to meet the demands of current or potential jobs.

The actions OWCP will take if an employee refuses to undergo vocational rehabilitation are described in 20 CFR 10.519:

Under 5 U.S.C. 8104(a), OWCP may direct a permanently disabled employee to undergo vocational rehabilitation. To ensure that vocational rehabilitation services are available to all who might be entitled to benefit from them, an injured employee who has a loss of wage-earning capacity shall be presumed to be "permanently disabled," for purposes of this section only, unless and until the employee proves that the disability is not permanent. If an employee without good cause fails or refuses to apply for, undergo, participate in, or continue to participate in a vocational rehabilitation effort when so directed, OWCP will act as follows:

(a) Where a suitable job has been identified, OWCP will reduce the employee's future monetary compensation based on the amount which would likely have been his or her wage-earning capacity had he or she undergone vocational rehabilitation. OWCP will determine this amount in accordance with the job identified through the vocational rehabilitation planning process, which includes meetings with the OWCP nurse and the employer. The reduction will remain in effect until such time as the employee acts in good faith to comply with the direction of OWCP.

(b) Where a suitable job has not been identified, because the failure or refusal occurred in the early but necessary stages of a vocational rehabilitation effort (that is, interviews, testing, counseling, functional capacity evaluations, and work evaluations), OWCP cannot determine what would have been the employee's wage-earning capacity.

(c) Under the circumstances identified in paragraph (b) of this section, in the absence of evidence to the contrary, OWCP will assume that the vocational rehabilitation effort would have resulted in a return to work with no loss of wage-earning capacity, and OWCP will reduce the employee's monetary compensation accordingly (that is, to zero). This reduction will remain in effect until such time as the employee acts in good faith to comply with the direction of OWCP.

Referrals for OWCP vocational rehabilitation are often initiated by requests from the Postal Service. While OWCP provides wage-loss benefits to injured workers, those costs are charged back to the Postal Service every year, with a 4 percent to 5 percent handling fee. In fiscal year 2017, the total chargeback to the Postal Service was approximately \$1.4 billion.

The Postal Service can substantially reduce the yearly chargeback either by offering limited-duty or permanent vocational-rehabilitation positions, or by having OWCP initiate vocational rehabilitation. It is incumbent on every compensably injured worker to understand the seriousness of vocational rehabilitation referrals and the danger of non-compliance.

**In the next Compensation columns, we will explore the various aspects of vocational rehabilitation programs.**