

# EEOC to monitor USPS job offers



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**L**ast month's column on the Equal Employment Opportunity Commission (EEOC) decision regarding the Postal Service's National Reassessment Process (NRP) highlighted findings that the Postal Service had violated the rights of more than 130,000 postal employees. The commission's decision directed the Postal Service to notify members of the class action of their entitlement to individual relief. To reach out to letter carriers who were included in the class action, NALC sent letters to all current and former NALC members subjected to NRP.

In addition to ordering the Postal Service to notify injured workers harmed by NRP, USPS also was required to post a notice of the decision in every postal facility—in both print and electronic formats—within 30 calendar days of the date of the decision, March 9. The notice is to remain posted for 60 consecutive days. The EEOC ordered the Postal Service to take reasonable steps to ensure that the notices are not altered, defaced or covered by any other material.

The commission's decision also requires that the Postal Service take the following steps to ensure future compliance with EEOC regulations:

- Take meaningful and effective actions to ensure that discrimination against qualified individuals with disabilities, particularly injured-on-duty employees who are currently working in, who apply for, or who are being evaluated for limited-duty and rehabilitation positions, does not continue.
- Monitor these measures for at least five years to ensure that their implementation produces tangible results. The Postal Service must report these measures to the EEOC and include results in its annual report for the next five years. The measures in question include the following: All officials, managers and employees who are responsible for finding adequate work for employees injured on duty will be given at least eight hours of training annually on Postal Service responsibilities to provide reasonable accommodations to qualified individuals with disabilities under the Rehabilitation Act. This training must include a segment on the relationship between the agency's obligations under the Rehabilitation Act and under the Federal Employee Compensation Act, as explained in EEOC enforcement guidance titled *Workers' Compensation and the ADA*, EEOC Notice No. 915.002 (Sept. 3, 1996). This can be found at [eoc.gov/policy/docs/workcomp.html](http://eoc.gov/policy/docs/workcomp.html). The training must also include a segment on ensuring that employees' medical information, including Form CA-17s and other relevant documents, remain confidential at all times.

- Make certain that, in whatever process USPS uses to find adequate work for injured-on-duty employees, such employees are notified at the beginning of and throughout that process that if they meet the statutory requirements of the Rehabilitation Act, they have the right to request a reasonable accommodation, and explain the procedures for doing so as they are set forth in *EL-307*.
- Notify employees that the process of finding adequate work necessarily entails that compensation specialists and other personnel may need access to their confidential medical information, and that the confidentiality of such medical documentation will be maintained at all times.
- Ensure that information pertaining to reasonable accommodations and confidentiality of medical documentation is included in any printed and electronic materials pertinent to the process of finding adequate work for injured-on-duty employees.

**The EEOC's new requirements are mandatory and provide** compensably injured workers an avenue to enforce Postal Service obligations when requesting limited-duty assignments.

When a compensably injured worker is returning to work, a correctly completed CA-17 normally provides the relevant information the Postal Service needs to make a suitable job offer. Unfortunately, many postal officials seem ignorant about how to properly design a job offer within the injured worker's medical restrictions.

The EEOC decision requires employees responsible for finding work for compensably injured employees to receive eight hours of training annually. The training records of postal employees who formulate job offers should be requested, to ensure compliance with the EEOC decision.

Postal Service regulations found in the *Employee and Labor Relations Manual* (ELM) section 546.142, and the *EL-505 Workers' Compensation Handbook* require the agency to make every effort toward assigning the injured worker to limited duty consistent with the employee's medically defined work limitations. Enforcing ELM and EL-505 regulations in conjunction with the EEOC's new requirements provides injured workers a valuable tool in the return-to-work process.

**Despite the EEOC's new requirements, it is possible that** injured workers may be offered jobs that exceed their medical limitations. Such workers risk termination of their Office of Workers' Compensation Program (OWCP) benefits by refusing the job. Memorandum of Understanding M-01120 allows a partially recovered employee to accept a job "under protest" and pursue a grievance concerning the assignment. Injured workers and contract enforcers should cite the EEOC decision when grieving whether a limited-duty or rehabilitation position is consistent with their medical restrictions.