

# What to do if you're injured on the job

**T**he work that letter carriers do is dangerous. Driving and delivery duties can result in accidents that cause traumatic injuries such as muscle and tendon sprains, broken bones and torn ligaments, or even more serious outcomes. Repetitive tasks performed over extended periods of time can cause occupational injuries like carpal tunnel syndrome, tendinitis, “tennis elbow” and other overuse syndromes.

Fortunately, a law exists that protects postal employees who suffer on-the-job injuries by providing certain benefits to them. The law applies to all postal employees, career and non-

career, permanent and temporary—including city carrier assistants (CCAs). However, the law comes with an associated bureaucracy and complex system of regulations that can be frustrating to navigate, particularly when the injury is hard to diagnose, has long-term effects or causes significant disability from work.

This can be eased by a basic understanding of the law, as well as by assistance from NALC—which can help members file on-the-job injury claims, deal with the complexities that often arise, and appeal adverse decisions. This assistance is one of the benefits of membership in the union.

The Federal Employees' Compensation Act (FECA), enacted in 1916, protects carriers and provides benefits such as full payment of medical expenses, travel expenses to medical appointments, partial payment of lost wages, and compensation for permanent impairments to certain body parts and functions. It authorizes the Department of Labor (DOL) to establish regulations and administer the law. DOL created a sub-department—the Office of Workers' Compensation Programs (OWCP)—to administer the program and decide all issues regarding on-the-job injury claims.



OWCP has sole authority to decide all questions regarding the claimed injury. OWCP determines whether an injury is work-related, whether wage-loss compensation is payable, whether surgery is authorized, and all related issues. The Postal Service has *no authority* to decide whether an injury is job-related, what benefits are payable, or any other adjudication-related issue.

OWCP differentiates between traumatic and occupational injuries based on the duration of the causing factors. When an injury is caused by work factors that occur at one point in time (for instance, a fall down stairs) or during the course of one workday or shift, it is a traumatic injury, and a Form CA-1 is used to report it. When an injury is caused by work factors that occur over a course of more than one workday or shift (for instance, carpal tunnel syndrome and other repetitive-use syndromes), it is an occupational injury (or illness) and a Form CA-2 is used to report it.

Injured letter carriers can now file claims electronically via OWCP's ECOMP web portal. ECOMP allows employees to electronically file claim forms, compensation forms, track the status of forms or documents submitted through ECOMP, and electronically upload and submit documents to existing OWCP claim files. You can register and file claims from your home computer, tablet or cell phone. NALC recommends using ECOMP for all claim filing and document submissions, as this provides the claimant with a digital receipt. To begin the electronic claim filing process, go to the ECOMP website, [ecomp.dol.gov](http://ecomp.dol.gov).

One vital OWCP principle to remember is that claimants have the burden

of proof. That means the injured carrier has the burden of proving all elements of a claim: that a diagnosed condition exists, that work factors caused the condition, that the identified work factors actually took place, and so on.

To prove a diagnosed condition exists, OWCP requires that a claimant provide a written report from a physician that includes a diagnosis. The diagnosis cannot be from a physician's assistant (PA), nurse practitioner (NP) or similar medical professional. Written diagnoses that are not signed by a recognized doctor will not meet a claimant's burden of proof. Many claims are denied because the only report of diagnosis is signed by a PA or NP. OWCP will accept a report from a PA or NP if it is co-signed by a doctor.

OWCP also requires that the claimant provide a written opinion from a physician that identifies the specific work factors the physician believes caused the diagnosed injury and gives a detailed explanation of why the physician holds that opinion.

To meet the burden of proof to show that work factors caused the reported injury, OWCP requirements generally differ depending on whether the injury was traumatic or occupational. In traumatic injuries (CA-1), evidence that work factors actually took place is often readily apparent. For instance, if a traumatic injury is caused in a vehicle accident, police reports or Postal Service forms will show that the incident occurred. If a traumatic injury is caused by a slip and fall, there often are direct witnesses. Even when there are no witnesses, traumatic injury claims in most cases do not present problems regarding the burden to

prove that work factors caused the injury.

On the other hand, occupational injuries (CA-2) always require a specific procedure to prove that work factors triggered the occupational injury. In every claim of occupational injury, the injured worker must write a description of the work duties he or she believes caused the injury. The written description must then be provided to the attending physician and to the worker's supervisor. The attending physician must read the description and then write a report stating that he or she has read the description and is providing an opinion about whether those identified work factors caused the injury. The supervisor must advise OWCP whether the Postal Service agrees that the identified work factors took place.

The description of work factors written by the injured employee is a critical element in every occupational injury (CA-2) claim. The written description should be factual and concise. It should avoid the use of postal terms that non-postal personnel may be unfamiliar with. Estimations of weights, repetitions, durations, etc., never should be exaggerated. The written description of work factors in occupational injury claims will constitute one of the foundations of the claim, and it is important that it be done accurately. It is generally a good idea to seek assistance from your branch OWCP specialist or national business agent's office in writing the description of work factors.

The FECA places the burden of proof on the injured worker, but it also places requirements on the employing agencies, including the Postal Service. For instance, when an employee submits a

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CA-1 or CA-2 to a supervisor, the FECA requires that the supervisor sign the receipt portion of the form and provide it to the employee. It then requires that the employer complete the agency portion, provide a complete copy of all pages of the form to the employee and submit the completed form to OWCP within 10 working days.

OWCP regulations require that the injured worker claim wage-loss compensation by submitting OWCP Form CA-7 through the employing agency—in this case, the Postal Service. The regulations require that the Postal Service certify the correct pay rate and then forward the CA-7 to OWCP within five working days of receipt from the employee. If the Postal Service loses or misplaces the CA-7 and the employee does not make it known that he or she submitted one, OWCP will not pay wage-loss compensation because it will not be aware that the employee is claiming wage-loss compensation. If the Postal Service delays forwarding the CA-7 to OWCP, payment to the employee also will be delayed because OWCP cannot process wage-loss compensation until it receives a CA-7. Workers who are registered in ECOMP can file a CA-7 electronically and eliminate any delays.

These and other employer requirements are in place to protect injured workers. Postal Service failures to comply with them can result in denied and delayed OWCP claims. Therefore, it is important to make your local union representative aware that you have suffered an on-the-job injury so the union may challenge any failures or errors by the Postal Service relating to on-the-job injury claims.

Since OWCP bills the Postal Service for all of the money OWCP spends paying medical bills, on wage-loss

compensation, etc., the Postal Service has a distinct interest in minimizing the number of claims that are accepted by OWCP as work-related, and in minimizing the payments that are made when claims are accepted. This interest sometimes results in a lack of training for supervisors about OWCP requirements or low prioritization of processing OWCP claim forms.

Another important thing to remember is that adverse decisions by OWCP can be challenged only through OWCP's own internal appeals procedures. When OWCP denies a claim, it is required to provide a formal written decision explaining the reason for the denial and providing notice of appeal rights.

OWCP has three avenues of appeal when it denies a claim. Only one appeal route can be pursued at a time. The time limits, as well as the rules regarding evidence and related matters, differ for each of the appeal routes. The choice of which appeal route to pursue will depend on the specific facts of the case, and the reasons given by OWCP when it denied the claim.

Successfully navigating the OWCP appeal procedures can be challenging. NALC members who receive formal denials of OWCP claims should seek assistance from their branch OWCP specialist or national business agent's (NBA) office. NALC members do not need to pay lawyers or orga-

nizations to assist them with their claims. OWCP benefits belong to the injured worker, not to an outside lawyer or organization. If your OWCP claim becomes overly complex, your NBA may refer you to one of NALC's regional workers' compensation assistants (RWCAs). RWCAs are fellow letter carriers who have expertise relating to the FECA and the claims process. RWCAs are available to assist members free of charge.

"The work that letter carriers do is physically demanding and objectively dangerous," NALC President Fredric Rolando said. "Sometimes they suffer on-the-job injuries. When they do, the FECA is intended to protect them from many of the adverse financial consequences.

"In too many cases, however, the intent of the FECA is frustrated because the letter carrier is not familiar with the rules for reporting and proving the claimed injury, or because the Postal Service fails to comply with its obligations regarding the injury," he added. "NALC members can avoid that unhappy situation by being familiar with OWCP's rules and by relying on their branch or national business agent for assistance."

For more information on FECA, ECOMP and additional resources related to on-the-job injuries, members should visit [nalc.org/workplace-issues/injured-on-the-job](http://nalc.org/workplace-issues/injured-on-the-job). **PR**

### Penalty Overtime Exclusion

As referenced in Article 8, Sections 4 and 5, of the USPS-NALC and USPS-APWU national agreements, the December period (during which penalty overtime regulations are not applicable) consists of four consecutive service weeks. This year, the December period begins Pay Period 25-20—Week 2 (Nov. 28, 2020)—and ends Pay Period 01-21—Week 1 (Dec. 25, 2020).