

OWCP Grievance Guide



Assistant to the President
for Workers' Compensation
Kevin Card

NALC workers' compensation specialists and national business agent (NBA) offices field more than a thousand on-the-job injury calls every week. The calls fall broadly into two categories: letter carriers having difficulties in negotiating the claim-filing process and letter carriers having problems with the Postal Service's handling of their claims. Many calls involve both categories.

Letter carriers suffering on-the-job injuries are protected by the Federal

Employees' Compensation Act (FECA). The FECA established the Office of Workers' Compensation Programs (OWCP).

The FECA was intended to protect federal employees by providing compensation when they suffer job-related injury or illness. The law places the burden on the injured worker to prove that the injury is work related. While the OWCP claims process is designed to operate efficiently and to result in fair, accurate decisions, the procedures required to meet that burden often are complex and difficult to navigate.

The FECA requires that postal management process claims in accordance with both federal and postal regulations. Letter carriers know that many legitimate claims are challenged by management or become unnecessarily complicated due to management mistakes in handling claims.

NALC members can call their NBA's office for many answers to claim-filing problems. For more complex issues, the NBA's office can refer the call to a regional workers' compensation assistant (RWCA). RWCA's assist letter carriers with denied claims and those with accepted claims who need additional assistance for special reasons. Non-members of the NALC are not entitled to RWCA assistance on OWCP claims, as this is a member-only benefit.

Postal management is obligated by the National Agreement, its own regulations, and the FECA to follow certain procedures when employees report on-the-job injuries. Many of the calls we get are due to postal supervisors not understanding their responsibility in assisting injured workers in OWCP claim procedures.

OWCP decisions are not grievable. When it comes to helping injured workers pursue on-the-job injury claims with OWCP, NALC shop stewards and local representatives have no right to time on the clock.

However, Postal Service violations of OWCP, postal regulations and the contract are grievable. When it comes to grieving management's violations relating to on-the-job injuries, shop stewards do have the right to

time on the clock. And they have an obligation to fairly represent all letter carriers, not just NALC members.

Most supervisors don't understand the difference between OWCP decisions and Postal Service violations related to OWCP matters. They often are coached to argue that such violations are not grievable and not arbitrable. They may tell union representatives that OWCP is the only agency that can provide a remedy for such violations.

For example, OWCP has the sole authority to authorize continuation of pay (COP). OWCP procedures require that the Postal Service pay COP for the first 10 days after the claim is filed when the worker suffers a traumatic injury, files a CA-1 claim within 30 days of the injury and begins losing time within 45 days of the injury. Many postal supervisors refuse to pay COP until authorization is received from OWCP. That is a violation of OWCP as well as postal procedures and should be grieved.

Stewards should be ready for management's non-grievable arguments and be prepared to argue that violations of the law, the contract and postal regulations are grievable.

NALC now has an OWCP Grievance Guide that is available on the Members Only section of the NALC website, nalc.org. The guide is intended to provide shop stewards and contract enforcers with the necessary tools and references to hold postal management accountable in complying with the laws and regulations governing on-the-job injuries.

The guide covers common violations of USPS and OWCP regulations and has NALC grievance starters for each of those violations. The grievance starters have citations for each violation and a HIPAA release form, as well as information and steward's time requests.

Proving violations of USPS and OWCP regulations are very straightforward. FECA regulations are mirrored in section 540 of the Postal Service *Employee and Labor Management (ELM)* handbook.

Some branches have been aggressive in filing grievances for OWCP-related violations. One branch has been enforcing postal non-compliance in providing COP. An arbitrator recently awarded two letter carriers from that branch \$5,000 each due to the Postal Service's continued non-payment of COP. There likely are many COP-related grievances around the country that could be filed.

Many of the common postal violations can be avoided when injured letter carriers register and file claims electronically via the OWCP's Employees' Compensation Operations & Management Portal (ECOMP). You can register and file claims from your home computer, tablet or cell phone.

The *OWCP Grievance Guide* has advice on how to register in ECOMP. Check it out.