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Department of Defense
DIRECTIVE

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NUMBER 1438.3



ASD (FM&P)

SUBJECT: DoD Injury Compensation Program

Reference: (a) Title 5, United States Code, Section 8101 et seq.
(Federal Employees' Compensation Act)
(b) DoD Instruction 6055.1, "Department of Defense Occupational
Safety and Health Program," October 26, 1984

A. PURPOSE

This Directive establishes uniform DoD policies and procedures for implementing the DoD Injury Compensation Program in accordance with reference (a), which provides benefits to civilian employees of the Federal Government for disability due to personal injury, disease or death arising out of or within the scope of employment.

B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense (OSD), the Office of the DoD Inspector General (OIG, DoD) the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

C. DEFINITIONS

The terms used in this Directive are defined in enclosure 1.

D. POLICY

It is DoD policy that employees shall receive prompt medical attention and full assistance in claiming just compensation for injuries or occupational illnesses incurred in the performance of their duties. Action shall be taken to:

1. Provide a safe and healthful work environment for all employees through compliance with the DoD safety and health policies outlined in reference (b).
2. Create an attitude of safety consciousness in all supervisors and employees.
3. Reduce work place injuries and illnesses by complying with DoD Safety and Occupational Health Policy (reference (b)).
4. Increase awareness of the injury compensation program throughout the chain of command.
5. Ensure an adequate level of technical knowledge for supervisors and personnel engaged in program administration and claims processing.

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6. Engage in a positive working relationship with Department of Labor, Office of Workers' Compensation Programs district offices.

7. Ensure prompt and proper reports of accidents resulting in injuries or illnesses.

8. Ensure prompt and complete reporting of claims for on-the-job injuries and illnesses to the Department of Labor, Office of Workers' Compensation Programs, so that fair and equitable adjudication may be made.

9. Ensure accountability for injury compensation costs.

10. Ensure a meaningful claims tracking and feedback system for all costs, with timely reports to allow management action.

11. Ensure a program dedicated to returning injured workers to the job.

12. Ensure an education program for private sector physicians to inform them of DoD program efforts to return injured workers to the job.

13. Investigate fraud and abuse in the system, with prosecution when appropriate.

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Force Management and Personnel) (ASD (FM&P)) shall:

a. Establish policies and procedures and issue additional instructions to ensure uniformity among the DoD Components in administering the DoD Injury Compensation Program in accordance with the Federal Employees' Compensation Act (FECA) and related regulations.

b. Coordinate efforts with the DoL in conjunction with DoD's responsibilities under the FECA.

c. Provide reports relevant to the status of the program.

d. Set DoD-wide goals and objectives in relation to effective control of the program.

2. The Assistant Secretary of Defense (Comptroller) (ASD(C)) shall:

a. Establish policy to ensure accountability for injury compensation claims costs.

b. Establish policy to ensure that the claims tracking and feedback system provides for all costs.

3. Heads of DoD Components shall:

a. Issue internal policies and procedures consistent with this Directive.

b. Ensure that at employing activities there is command emphasis and motivation of management, supervisors, and workers, to curtail the human and financial losses of job-related illnesses and injuries, including allocation of sufficient claims coordinator staff resources to carry out day-to-day claims processing effectively. When appropriate, attention to safety issues on the part of managers and supervisors shall be highlighted in the performance evaluations.

c. Ensure that employing activities have established and implemented effective return-to-work programs which include, as a minimum, light and limited duty programs for injured employees as well as reemployment programs for long term claimants through rehabilitation and job restructuring.

d. Develop effective programs for moving an injured employee from the work place through appropriate medical evaluation to medical treatment. The use of DoD medical treatment facilities is highly encouraged if such treatment is within those facilities' capabilities and the employee is agreeable to such a selection.

e. Ensure that each employing activity has entered into a cooperative relationship with DoL Office of Workers' Compensation Programs district offices. When the volume of transactions warrants, employing activities shall assign full time claims coordinators to work closely with OWCP district offices. Goals of this cooperative relationship shall include:

(1) Instituting procedures sufficient to ensure that job-connected injury or illness claims are documented properly to support or controvert the applications for benefits.

(2) Instituting procedures for the early assessment of the medical condition of an injured employee who is receiving workers' compensation and determining his/her availability for return to work.

(3) Instituting procedures to assist OWCP in resolving conflicting medical statements.

(4) Increasing opportunities for return of employees by assignment of light work for temporarily disabled employees and by restructuring positions for partially disabled employees. In this connection, a strong commitment should be made to ensure in-depth and continuing communications between the employing activity and the injured employee's physician.

f. Obtain prosecution in instances of fraud or abuse in concert with the Department of Justice. Publicize this process as a deterrent to abuse.

g. Ensure that the quarterly computer list generated by OWCP, identifying injured employees added to the list during the previous quarter, is examined by employing activity FECA program administrators and staff in the personnel, medical, and safety offices. Attention should be directed to monitoring the list for accuracy, trend information, and indicators, if any, that corrective steps are needed on the part of the employing activity. OWCP district offices shall be advised of discrepancies. Followup with the OWCP districts shall be carried out to make certain that the needed corrections have been made.

h. Develop policies and procedures for charging back compensation costs to the lowest practical cost center within the agency.

i. Designate an individual as the Component FECA or Injury Compensation Program Administrator.

4. Heads of DoD Component Installations and Activities shall:

a. Ensure that employees are provided work sites that are safe and healthful.

b. Ensure that employee injury and illness claims receive prompt, responsive attention.

c. Ensure that every effort is made through viable light and limited duty programs and reemployment programs to restore fully recovered and partially recovered employees to duty.

d. Ensure, when the volume of transactions warrants, that a program exists for educating private sector physicians concerning installation return-to-work programs.

e. Ensure that DoL charge back billing information for the activity is reviewed for validity and for possible detection of fraud and abuse.

f. Ensure that claims files are maintained for as long as compensation and medical costs are being incurred and charged to the Department of Defense.

g. Designate an individual as the installation FECA or Injury Compensation Program Administrator.

h. Ensure that adequate medical facilities are available for emergency treatment and first aid to injured employees.

i. Require the use of base medical facilities for duty-status evaluations when suitable jobs are available.

j. Encourage the use of on-site medical facilities by injured employees for initial diagnoses.

k. Ensure that program administrators and supervisors receive sufficient training in FECA administration and requirements and OWCP policies and regulations.

5. The FECA Program Administrator shall:

a. Coordinate the various aspects of FECA program administration at the local level. He or she shall:

(1) Work closely with others who have program responsibility.

(2) Advise the installation head on the status of the program, including major problems and reasons for such problems.

b. Serve as the primary contact point between the installation managers/supervisors and OWCP district offices.

c. Coordinate, as necessary, with the Safety Office to assure that job related injuries or occupational illnesses have been reported and proper reports filed.

d. Publicize the injury compensation program throughout the serviced area so both employees and management are aware of their rights, benefits, and responsibilities.

e. Advise each supervisor and claimant of required actions and benefits that may pertain to the case.

f. Incorporate FECA training in supervisory training programs.

g. Assure complete and thorough documentation of the official superior position on the claim. Serve as the focal point and be responsible for assembling the various inputs of appropriate staff, e.g., safety, medical, and supervisor.

h. Review all claim forms and ensure that they are completed with all necessary information before forwarding them to OWCP.

i. See that actions are taken to meet the time requirements for processing claims.

j. Make sure that an ample supply of required forms is available to employees and supervisors.

k. Respond promptly to OWCP district office requests for additional or clarifying information.

l. Validate and review Department of Labor charge back billing information for the installation.

m. Maintain the compensation case file with all forms and information about the injured employee, including a case log.

n. Maintain data to respond to reports required by higher level management.

o. Make sure that job requirements and environmental conditions are made known to the physicians who examine or treat the employee.

p. Where warranted by caseload, keep private sector physicians informed about installation return-to-work efforts with the assistance of installation medical personnel.

q. Keep the selective placement coordinator, supervisors, managers, and installation head informed of cases pending so efforts may be made to return injured employees to duty as soon as possible. Placement actions may include temporary assignment to light duty, job restructuring, reassignment, change to lower grade and placement assistance outside the component.

r. Refer suspected fraud cases to the proper authority.

s. Coordinate with the legal office on claims that appear to involve third-party liability.

t. Forward to OWCP safety warnings issued by supervisors to employees not following safe work practices.

6. Heads of Local Safety Offices shall:

a. Have a vital interest in how injuries may point out unsafe or hazardous conditions. This applies whether or not the accident causing the injury is "reportable." If the safety office is not kept informed of accidents involving injuries, hazards resulting from unsafe practices or work environment probably will not be corrected. This will lead to future occurrences and increased injury compensation costs.

b. Compare Civilian Personnel Office (CPO) records of injuries which resulted in the filing of a DoL Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation" with injuries indicated in the safety program accident reporting data. As a minimum, this review of compensation data will:

(1) Provide a means of cross-checking data and analyzing reasons for differences.

(2) Ensure that accidents reported to the CPO on the CA-1 are reported to the safety office.

c. Compare CPO records of occupational diseases which resulted in the filing of DoL Form CA-2, "Federal Employee's Notice of Occupational Disease and Claim for Compensation" with those reported to the safety office.

d. At the supervisor's request, assist in investigating the circumstances surrounding an incident resulting in an injury compensation claim. At the request of the supervisor and/or the FECA Program Administrator, provide input to the employing agency investigation report.

7. Occupational Health Officials shall:

a. Share any information developed or received on injuries and occupational illnesses with both the safety officer and the FECA Program Administrator.

b. Develop responsive preventive medical programs to reduce the incidence of occupational illness and injury, disability, and compensation costs.

c. Review records of illnesses resulting in Form CA-2s being filed and compare with occupational health incident reports.

d. Assist in investigating circumstances surrounding the incidents and environmental conditions resulting in non-traumatic compensation claims. At the request of the supervisor and/or FECA Program Administrator, provide input to the employing agency investigation report.

e. Work with the FECA Program Administrator to develop programs for the evaluation of employee injuries, to treat injuries, and to return employees to work.

8. Supervisors shall:

a. Play a key role in administering FECA since the supervisor's statements concerning the job relatedness of a given injury or illness usually constitute the official position. Once reported as job related, a change is very difficult, even though added facts may tend to prove that the injury was not job related.

b. Report injuries and complete needed forms promptly, even when there is strong disagreement with the employee's position. Unreasonable delay may be grounds for legal or disciplinary action.

(1) The first thing the supervisor must do is obtain medical treatment for the employee and then report the injury to the Safety Office and submit the applicable OWCP forms to the FECA Program Administrator. Employees shall be encouraged to use on-site medical facilities for initial treatment of injuries. DoL Form CA-16, "Request for Examination and/or Treatment" must be issued to the employee upon request.

(2) Next, the supervisor shall keep abreast of the disabled employee's status and work closely with the FECA Program Administrator to restore the employee to duty in a full or limited capacity, depending on the degree of recovery. To help accomplish the above and other related actions, the supervisor's responsibilities may be summarized as follows:

(a) Obtains or ensures medical treatment for all employees.

(b) Completes all accident investigation reports, where applicable, and forward them to the safety office for further processing.

(c) Completes the supervisor's portion of forms in relation to the type of injury and forwards these to the FECA Program Administrator. Drafts the official superior's position, e.g., work situation, witnesses' names and nature of injury, and submits it to the FECA Program Administrator.

(d) Provides payroll with documentation concerning the status of employees certifying sick or annual leave, continuation of pay, leave without pay, or absence without leave.

(e) Informs the FECA Program Administrator, medical officer, and the safety manager as soon as possible, but no later than 24 hours after becoming aware of the injury.

(f) Investigates unsupported extended absences beyond the physician return-to-work date.

(g) Informs the FECA Program Administrator the day the employee returns to duty and processes DoL Form CA-3, "Report of Termination of Disability and/or Payment."

(h) Gives the facility providing treatment the appropriate paperwork.

(i) Collects as many facts as possible about each case to controvert traumatic injury claims when one or more of the 9 OWCP criteria printed on the Form CA-1 are met; advises the employee of actions being taken, including reasons for controversion when applicable; discusses the matter with witnesses, higher level supervisors, medical and safety officials, and the FECA Program Administrator before completing DoL Forms CA-1 or CA-2.

(j) Attempts to restore fully recovered and partially recovered employees to duty, considering job restructuring to permit light duty placement. Develops and assists in restructuring jobs consistent with work limitations and medical advice to permit light or limited duty job placement.

(k) Attends training on FECA program administration, including update training.

(l) Advises the FECA Program Administrator of cases involving suspected fraud.

(m) Documents warnings given to employees for not following safe work practices for possible future controversion of claims. Takes disciplinary action when an employee fails to follow safe work practices, fails to use safety equipment, or fails to comply with hearing conservation program requirements.

9. Employees shall:

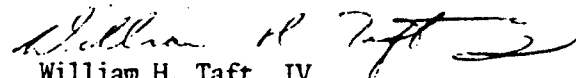
a. Observe all safety instructions, procedures and regulations including the proper use of personal protective equipment.

b. Report immediately all job-connected injuries or illnesses to their supervisor on the appropriate form.

c. Report for medical examination or treatment as prescribed by established procedures.

F. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) within 120 days.


William H. Taft, IV
Deputy Secretary of Defense

Enclosure - 1
Definitions

DEFINITIONS

1. Charge Back. System of billing DoD Components for payments related to OWCP-approved claims and then having them charged to the lowest practical cost center within the DoD Component having jurisdiction over the employee at the time of the injury or illness.
2. Claimant. An employee whose claim for entitlement to benefits under FECA has been filed in accordance with the provisions of the Act.
3. Claims Examiner. An employee of OWCP responsible for adjudication of claims.
4. Compensation. Benefits or compensation paid or payable under the FECA, including money paid because of loss of wages, medical expenses, rehabilitation expenses, and loss of use of major body functions; and death benefits to the survivor(s).
5. Continuation of Pay (COP). A continuation of regular pay with no charge to sick leave or annual leave for the first 45 calendar days of disability resulting from a job-related traumatic injury. COP is subject to taxes and all other usual payroll deductions.
6. Controversion. The formal administrative procedure through which DoD management presents evidence to OWCP to challenge an employee's claim for COP. Controversion only applies to traumatic injuries and COP.
7. Federal Employees' Compensation Act (FECA). Outlines the statutory regulations for the workers' compensation program that are identified in 5 U.S.C. 8101 et seq. (reference (a)) as amended in 1974.
8. Occupational Disease or Illness. An illness or disease produced by systemic infections, continued or repeated stress or strain, exposure to toxins, poisons, fumes, etc., or other continued and repeated exposure to the work environment over a period greater than a single day or work shift. For example, asbestosis or hearing loss caused by repeated exposure to the work environment. Persons suffering from occupational diseases are limited to injury compensation payments provided by the FECA or to sick or annual leave. Continuation of pay is not authorized for occupational disease or illness. No medical payments are provided until the claim is adjudicated and approved by OWCP.
9. Office of Workers' Compensation Program (OWCP). The office within DoL that has overall responsibility for the administration of FECA.
10. Periodic Roll. A system utilized by OWCP whereby the U.S. Treasury automatically pays prolonged disability cases and all death cases every 28 days until advised otherwise by OWCP.
11. Recurrence. A work stoppage that occurs after an employee has returned to work following a preceding period of disability and is the result of a spontaneous return of the symptoms of a previous injury or disease, without intervening cause.

12. Third Party Liability. Those instances in which an injury or illness suffered by a DoD employee is caused by a person not under the employ of the Department of Defense or any branch of the Federal Government.

13. Traumatic Injury. A wound or other condition of the body, including stress or strain, caused by an external force. It must be identifiable as to time and place of occurrence and member or function of the body affected. It must be caused by a specific event or incident, or series of events or incidents, within a single day or work shift. For example, a fractured leg caused by falling from a building would be a traumatic injury. Only traumatic injuries entitle employees to COP. Traumatic injuries include damage to or destruction of prosthetic devices or appliances. Eyeglasses and hearing aids are excepted, unless damaged or destroyed as a direct result of a job-related personal injury requiring medical services.