



American Postal Workers Union, AFL-CIO

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From the Office of Susan M. Carney
Human Relations Director

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Re: Eight State Conference

OWCP Update

ECAB Decision on LWEC- On March 10, 2009, the Appeals Board issued a decision (Docket No. 08-1286) addressing the payment of wage loss compensation after a formal lost wage-earning capacity (LWEC) determination has taken place. A formal LWEC cannot be modified unless the medical condition has materially worsened, there has been substantial financial rehabilitation, or the original LWEC determination was in error. However, ECAB ruled that even if the claimant has been determined to have a disability caused by the failure of the employer to provide medically suitable employment; such payment would not be considered a "modification" of the formal LWEC. Therefore, none of the three elements required for LWEC modification would have to be demonstrated.

Appeals- The Code of Federal regulations relating to ECAB (20 CFR Part 501) has some changes which became effective on October 20, 2008:

- **ECAB-** The principle change is an extension of the time limits for appeal to ECAB from 90 days to 180 days. It can be extended up to one year if the appellant demonstrates "compelling circumstances", i.e., "circumstances beyond appellant's control".
- **Oral Argument-** The other change of some significance is that a request for oral argument will no longer be automatically approved. The appellant (or rep) must request oral argument specifying the issues to be argued and providing a statement supporting the need to appear in person before ECAB.

COLA- There will be no March 1, 2009, CPI OWCP COLA adjustments. For FECA, the base month for comparison is December, and from Dec., 2007 to Dec., 2008, the CPI decreased from 0.5%. Therefore, there will be no COLA increase to OWCP compensation. Some of our members may get confused when they hear that there was a 2.9% increase to the pay scales of federal employees. Obviously, that does not apply to Postal Service employees or to their previously established OWCP compensation payments.

AMA Guide- The Division of Federal Employees compensation has informed us that a new 6th edition of the AMA "Guides" has been published. OWCP will formally "convert" to the new "Guide", effective May 1, 2009.

Death Gratuity- Amendment to the Federal Employees' Compensation Act, 5 U.S.C. § 8102a creates a death gratuity paying up to \$100,000 to the survivors of a federal employee who dies

of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation. This provision became effective on January 28, 2008, and OWCP is currently drafting regulations implementing the amendment. This one-time death gratuity is to be disbursed to the survivors of the employee in a specific, and somewhat complicated, order of precedence set forth in the statute. It is important to note that these beneficiary stipulations are unique to the new provision, and no existing DOL rules or guidelines cover these circumstances. The statute also provides the employee the opportunity to change the order of precedence in regard to certain survivors, as well as, to designate up to 50 percent of the benefit to any person. Since the death gratuity is now in effect, DOL believes that it is imperative that potentially affected federal employees be provided the opportunity to exercise the designation option for any death gratuity that unfortunately may be payable. Therefore, OWCP has created a form, copy of which is available on the DFEC web page, to be used by employees to designate the distribution of the death gratuity, should one be payable.

Provider Search- A new feature called Provider Search is being offered to help claimants generate a custom list of providers by entering criteria that describes what they are looking for. When searching the database the search may include the program name, provider type, specialty, provider name, city, state, and zip code. You can access the new web feature on the ACS web portal web page by connecting through DFEC>e-tools.

New Billing Requirements for OWCP Programs- Providers (excluding Pharmacy) must bill with their ACS OWCP provider number in box 33 of OWCP-1500 or box 51 of OWCP-04. If the number is not on the form, your bill will be returned.

Interactive Voice Response System- FECA users can access the Interactive Voice Response System (IVRS) to utilize bill status inquiry, claimant eligibility inquiry, and medical authorization inquiry functionality 24 hours a day. To access IVRS system, please dial (866) 335-8319 and select option '1' from the main menu.

COP Bulletin- is still pending. See attached training information. Changes to the law were signed into effect on December 20, 2006 by President Bush.

USPS Timeliness Rating- The DOL reports that for the 1st Quarter of the Fiscal Year 2009 the USPS has a 94.8% timeliness rating [within 14 calendar days (10 work days) of first receipt] for CA1 and CA2 submissions (11,917) compared to all other Government agencies whose cumulative average timeliness rating is just 76.8% on a total 16,311 CA1 and CA2 forms submitted.