SUBCHAPTER 810

INJURY COMPENSATION
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SUBCHAPTER 810

INJURY COMPENSATION

References: (a) Section 552a, 5545, 5546, 8101, 8105, 8106, 8107, 8112, 8115, 8119, 8122, 8124, 8128, 8129, 8131, 8133, 8134, 8140, 8147, 8148, 8149, 8344, and 8468 of title 5, United States Code
(b) DoD Directive 1400.25, "DoD Civilian Personnel Management System," November 25, 1996
(c) DoD Instruction 6055.1, "DoD Occupational Safety and Health Program," August 19, 1998
(d) Title 20, Code of Federal Regulations, current edition
(e) through (r), see enclosure 1

SC810.1. PURPOSE

This Subchapter implements DoD policy, prescribes procedures, and delegates authority on implementing the DoD injury compensation program under the "Federal Employees' Compensation Act" (FECA), Section 8101 of title 5, United States Code (U.S.C.) (reference (a)), which provides benefits to civilian employees of the Federal Government for disability due to personal injury, disease, or death arising from or within the scope of their employment.

SC810.2. POLICY

It is DoD policy under reference (b) to:

SC810.2.1. Ensure that DoD employees are entitled to a safe and healthful work environment that complies with the DoD safety and health policies identified in reference (c); and,

SC810.2.2. Provide prompt medical attention and full assistance in claiming just compensation for injuries or occupational illnesses incurred in the performance of their duties. Supervisors and managers shall:

SC810.2.2.1. Create a culture of safety consciousness;

SC810.2.2.2. Make every effort through light duty programs and reemployment

SC810.2.2.3. Ensure that all involved in the program, including private sector medical personnel, are aware of these programs; and,

SC810.2.2.4. Investigate and take appropriate action on fraud and abuse in the program.

SC810.3. AUTHORITY AND RESPONSIBILITY

SC810.3.1. Authorities Cited

SC810.3.1.1. Statutory Authorities. The DoD Injury Compensation Program is based on FECA and the rules and regulations of the U.S. Department of Labor Office of Workers' Compensation Programs under 20 CFR (reference (d)). Claim forms referred to herein are covered by the Privacy Act of 1974 (reference (a)). Records are authorized by FECA.

SC810.3.1.2. The Federal Employees' Compensation Act (FECA), as amended. FECA provides monetary compensation, medical care and assistance (attendant allowances), vocational rehabilitation, and reemployment rights to Federal employees who sustain disabling injuries as a result of their Federal employment. FECA also provides for a fixed payment for the deceased employee's funeral expenses and for compensation benefits to qualified survivors of the decedent in cases of employment-related death. In 1974, FECA was amended, increasing benefits and significantly changing the law by adding provisions such as continuation of pay (COP) and claimant's choice of physician.

SC810.3.1.3. Federal Employees' Compensation Program Financing. FECA program is financed by the Employees' Compensation Fund, which consists of funds appropriated by Congress directly, or indirectly, through a chargeback to the various agencies. Each year, the Secretary of Labor furnishes a statement to each DoD Component of payments made from the Fund. These costs are charged back to each DoD Component. The DoD Components include FECA costs in their budget requests and use the resulting sums to reimburse the Fund for these charges.

SC810.3.1.4. Department of Labor (DOL) Involvement. In 1908, President Theodore Roosevelt signed legislation to provide workers' compensation for certain Federal employees in unusually hazardous jobs. The scope of the law was very restricted and its benefits were quite limited. However, it was the first workers' compensation law to pass the constitutionality test of the United States Supreme Court. FECA, enacted in 1916, superseded the 1908 statute. An independent quasi-judicial Employees' Compensation Commission was created to administer the law. In 1950, DOL assumed administrative responsibility for FECA. FECA is now administered by the Office of Workers' Compensation Programs (OWCP), Employment Standards Administration, U.S. Department of Labor.

SC810.3.1.5. DoD Involvement. As costs of workers' compensation benefits continue to grow, the need for a consolidated approach by all DoD Agencies to reduce costs and to improve program management has become necessary. Each Civilian Personnel Office /Human Resources Office (CPO/HRO) will designate a staff member as Injury Compensation Program Administrator (ICPA) to oversee the program, to coordinate the efforts of all involved management officials, and to ensure optimum effectiveness in program administration.

SC810.3.1.6. Basic FECA Requirements. To qualify for benefits, the employee or employee's survivors must establish that the injury or employee's death met the following requirements:

SC810.3.1.6.1. Time. For injuries and deaths which occurred before September 7, 1974, different provisions apply with respect to timeliness. ICPAs are to contact the supporting DoD liaison to obtain assistance before making a pre-September 7, 1974, timeliness determination. For injuries or deaths on or after September 7, 1974, reference (a) requires that a claim for compensation must be filed within 3 years of the injury or death. Even if the claim is not filed within 3 years, compensation may still be allowed if written notice of injury was given in 30 days or the immediate supervisor had actual knowledge of the injury or death within 30 days of occurrence.

SC810.3.1.6.2. Civil Employee. If the claim is timely filed, it must be determined whether the injured employee or deceased employee was an employee within the meaning of the law. It covers all civilian Federal employees, whether permanent or temporary, except for nonappropriated fund employees. Federal employees who are not citizens or residents of the United States or Canada are covered subject to certain special provisions governing their pay rates and computation of compensation payments. Determinations for other employees must be made on a case-by-case basis once a claim is filed.

SC810.3.1.6.3. Fact of Injury. It must be established whether the employee in fact sustained an injury or disease. Two factors are involved in this third determination. Did the employee actually experience the accident, event, or employment factor which is alleged to have occurred? Did the accident or employment factor result in an injury or disease?

SC810.3.1.6.4. Performance of Duty. If the first three criteria have been accepted, it must be determined whether the employee was engaged in the performance of duty when the injury occurred. The question of where and when the accident, event, or employment factor(s) leading to filing of a claim occurred must be studied.

SC810.3.1.6.5. Causal Relationship. After the four factors aforementioned are considered, causal relationship between the condition claimed and the injury or disease sustained is examined. This factor is based entirely on medical evidence provided by physicians who have examined and treated the employee. Sometimes the circumstances of a case raise the issues of willful misconduct, intention to bring about the injury or death of oneself or another, or intoxication. If any of these factors is established as the cause of the injury or death, benefits must be denied.

SC810.3.1.7. FECA Benefits. Employees may be eligible for six basic types of benefits under FECA: Medical benefits (including transportation expenses incurred); Continuation of Pay; Disability compensation; Schedule awards; Vocational rehabilitation; and, Death benefits that include allowable funeral benefits and survivor compensation. The program applies to any disability (temporary or permanent, partial or total) incurred as a result of a job-related disease or condition, as well as an on-the-job traumatic injury.

SC810.3.1.7.1. Medical Benefits. Payment may be made for any medical services needed for treatment or to counteract or minimize the effects of any condition, disease, or injury determined to be causally related to employment with the Federal Government. There is no limit on the extent of medical treatment payable, nor is there a time limit for which they are payable if the need for medical treatment can be substantiated and connected to the employment-related injury or disease. However, fee schedules do apply to many charges and balances from fee reductions cannot be collected from the employee. Payment will be made for first aid, medical treatment, hospitalization, physician's fees, drugs, appliances, or other supplies directed for use by a qualified physician. Bills must be submitted within 1 year of the date of service, one year beyond the calendar year in which the expense was incurred, or 1 year beyond the calendar year in which the claim was accepted, whichever is later, or they will not be paid. The employee may elect to be treated by a government physician (if available) or by a duly qualified physician of his or her choice who is not excluded. Although payment for preventative treatment is generally not provided, payment may be made for certain specified conditions even though such treatment is designed, in part, to prevent further injury. The specific conditions when payment may be made include: complications of preventative measures which are provided or sponsored by the agency, such as an adverse reaction to a prophylactic immunization; actual or probable exposure to a known contaminant due to an injury, thereby requiring disease specific measures against infection such as tetanus antitoxin or booster toxoid injections for puncture wounds; conversion of tuberculin reaction from negative to positive following exposure to tuberculosis in the performance of duty; and where injury to one eye has resulted in loss of vision, periodic examination of the uninjured eye to detect possible sympathetic involvement of the uninjured eye at an early stage. There shall be no charge for occupational health or OWCP care for DoD employees treated at Federal government medical facilities. However, DoD Components shall continue to bill, at the interagency rate, for OWCP care provided to non-DoD employees by a DoD medical treatment facility. The interagency rate charge shall be processed through the OWCP Revolving Fund.

SC810.3.1.7.2. COP. An employee who sustains a disabling, job-related traumatic injury is entitled, under certain circumstances, to COP for a period not to exceed 45 calendar

days pending OWCP's determination of the employee's claim for compensation under FECA. To qualify for COP, the traumatically injured employee or someone authorized to act on his or her behalf must file written notice of injury on a Form CA-1, "Federal Employees' Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation," within 30 calendar days after the date of injury. COP is not compensation for FECA purposes and is subject to all applicable taxes and payroll deductions. The injured employee or someone authorized to act on his or her behalf must provide written medical evidence to support the disability within 10 calendar days of submitting the CA-1. COP is not applicable for occupational illnesses and diseases claims. The employee must make a separate claim for monetary compensation on a Form CA-7, "Claim for Compensation on Account of Traumatic Injury or Occupational Disease," with Form CA-20, "Attending Physician's Report," if the disability exceeds 45 calendar days or results in any permanent disability.

SC810.3.1.7.3. Disability Compensation. Employees may be eligible for one or more of several types of wage loss compensation. Disability benefits are classified based on the nature and extent of disability incurred and are categorized as temporary total, temporary partial, permanent total, or permanent partial.

SC810.3.1.7.3.1. Compensation Rates. Generally, in cases of total disability, an employee is entitled to compensation equivalent to two-thirds of the weekly salary if there are no dependents, or three-fourths of the salary if there are one or more dependents (see glossary for definition of dependents). Compensation is tax free. In establishing a person's wage rate, the law recognizes certain additional amounts that may be included in salary, such as premium pay, night and Sunday differential, holiday pay, hazard pay, dirty work pay, quarters allowances and post differential for overseas employees. Overtime pay is not included except for administratively uncontrollable work covered under 5 U.S.C. 5545(c)(2) (reference (a)). Under reference (a) the maximum compensation rate may not exceed more than 75 percent of the monthly pay of the maximum rate of basic pay for GS-15 (excluding locality pay).

SC810.3.1.7.3.2. Duration of Compensation. Compensation payments for total disability may continue as long as the disability continues and suitable modified work is not available; in some instances, for the lifetime of the employee. As with medical care, there is no total dollar maximum or time limitation.

SC810.3.1.7.3.3. Loss of Wage-Earning Capability (LWEC). When an injured person suffers a wage loss because of disability that is less than total, compensation may be paid for this partial loss of wages or wage-earning capacity. Provisions of reference (a) govern the determination of wage-earning capacity. When a claimant has completed 60 days of employment in a suitably modified, formally classified position, the agency should complete a LWEC worksheet and request that a formal LWEC rating be issued. If the position carries a pay rate less than that of the date of injury, compensation will be payable for a loss of wage earning capacity. Such a formal rating can be changed only under very limited circumstances.

SC810.3.1.7.4. Schedule Awards. Reference (a) also provides for payment of compensation for permanent loss or loss of use (either partial or total) of certain internal and external organs; members or functions of the body such as arms, legs, hands, feet, fingers, toes,

eyes; or loss of hearing or loss of vision. Each extremity or function has been rated for a specific number of weeks of compensation that can be paid in addition to full salary. If a serious disfigurement of the head, face, or neck results from a job-related injury, an award may also be made for such disfigurement, not to exceed $3,500. Multiple schedule awards may be paid concurrently for different body parts or paid concurrently with the Office of Personnel Management (OPM) retirement benefits. Employees can receive schedule award payments concurrently while receiving severance pay for involuntary separation from their employment. Schedule awards can be paid even if the employee returns to work. However, employees cannot receive wage loss compensation and schedule award benefits concurrently for the same injury.

SC810.3.1.7.5. Vocational Rehabilitation. If the injured employee suffers a vocational handicap due to the injury and cannot resume usual employment, OWCP-directed vocational rehabilitation may be arranged to assist in training for work that the employee can do. The cost for rehabilitation is paid from the Employees' Compensation Fund and charged back to the DoD Component. Rehabilitation service is supervised by OWCP, but is usually provided in cooperation with state and private rehabilitation agencies. In addition to the cost of rehabilitation, an employee may qualify for a monthly allowance of up to $200 necessary for his or her personal maintenance. Employees are also entitled to collect total disability payments during their rehabilitation period. When the rehabilitation program is completed, the claimant is expected to actively seek employment. Vocational rehabilitation is not confined to formal retraining. It includes the employment efforts of vocational rehabilitation counselors and compensation specialists. An offer of a position (employment or reemployment) for which an injured employee is medically qualified is usually the more expedient and less costly method of rehabilitation.

SC810.3.1.7.6. Death Benefits. If the employee's death was due to the job-related injury, dependents are entitled to the following benefits:

SC810.3.1.7.6.1. Widow or Widower and No Eligible Child. The widow or widower is eligible for 50 percent of the deceased employee's regular pay.

SC810.3.1.7.6.2. Widow or Widower with Eligible Children. The widow or widower is eligible for 45 percent of the deceased employee's regular pay, plus an additional 15 percent for each child , to a maximum not to exceed 75 percent of the deceased employee's regular pay.

SC810.3.1.7.6.3. Eligible Children and No Widow or Widower. An orphaned child is eligible for 40 percent of the deceased employee's regular pay, plus 15 percent for each additional orphan , not to exceed 75 percent of the deceased employee's regular pay. Benefits are divided among the children, share and share alike.

SC810.3.1.7.6.4. Surviving Legal Dependents. If a deceased employee leaves no widow, widower, or child, benefits are paid to the surviving legal dependents of this employee as specified in reference (a).

SC810.3.1.7.6.5. Remarriage or Death. Widows and widowers receive benefits until death, or remarriage, if they are under age 55. If a widow or widower under age 55 remarries, a lump-sum payment equal to 24 times the monthly compensation he or she is receiving at the time of remarriage is made. If the widow or widower is age 55 or older, compensation continues as long as he or she lives, regardless of remarriage.

SC810.3.1.7.6.6. Orphaned Children. Orphaned children receive benefits until they die, marry, or reach the age of 18. If a surviving child pursues higher education on a full-time basis (generally 12 semester hours) payments will continue until he or she has completed four years of study beyond the high school level or until he or she is 23 years of age. Payment will not extend beyond the semester or enrollment period in which the surviving child reaches 23 or completes his or her fourth year of higher education, whichever occurs first.

SC810.3.1.7.6.7. Funeral Expenses. Up to $800 is paid for a deceased employee's funeral expenses. If the employee dies away from home, the cost of transporting the body to the place of burial will be paid in full. Also, an additional sum of $200 is paid to the personal representative of the decedent for reimbursement of the expense of terminating the deceased employee’s Federal employment status.

SC810.3.1.7.6.7.1. NOTE: Reference (f) authorizes a death gratuity payment when a civilian employee dies from a traumatic injury sustained in the line of duty on or after August 2, 1990 (November 8, 1996, "Death Gratuity Payment" memorandum, (reference (g)). This gratuity is payable by the DoD Component, and is payable only when OWCP has approved the death claim. The $10,000 death gratuity (reference (f)) is payable minus the $200 payable under reference (a) and the $800 payable under reference (a) by OWCP.

SC810.3.1.8. Third-Party Liability. When the circumstances of the employment-related injury or illness create a legal liability on a third party other than an employee or activity of the Federal Government, the government has a subrogation interest (that is, the right to recover any payment it makes should the claimant collect money from another source). The injured employee or survivor is required by reference (a) to pursue such recovery or assign the right to recover to OWCP. Failure to do so can result in a loss of all benefits.

SC810.3.1.9. Hearings and Appeals. If an employee (or an employee's survivors) disagree with a final determination of the OWCP, either may request a reconsideration or review. The employee or survivor has the right to a hearing before the OWCP. Further, he or she has the right to appeal any decision to the Employees' Compensation Appeals Board (ECAB), a separate entity in the DOL. The time limits for filing such requests for hearings or appeals vary, and are strictly enforced.

SC810.3.1.10. Exclusiveness of Remedy. Except for third party rights, FECA is the sole legal avenue by which a Federal employee (or survivors) may recover damages due to an injury or death that is causally related to Federal employment, as noted in reference (a). FECA is the exclusive remedy; therefore, employees may not sue the U.S. Government for damages on their own.

SC810.3.1.11. Penalties for Employees and Supervisors

SC810.3.1.11.1. An employee who knowingly makes or knowingly certifies to any false statement, misrepresentation, concealment of fact, or any other act of fraud with respect to a claim under FECA, or who knowingly accepts compensation to which that person is not entitled, is subject to criminal prosecution and may, under appropriate U.S. Criminal Code (18 U.S.C. 287 and 1001 (reference (h)), be punished by a fine of not more than $10,000 or imprisonment of not more than 5 years, or both.

SC810.3.1.11.2. Any employee, beneficiary, official superior, representative, or other person who, with respect to a claim under FECA, enters into any agreement, combination, or conspiracy to defraud the United States by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim is subject to criminal prosecution and may, under appropriate U.S. Criminal Code provisions (reference (h)), be punished by a fine of not more than $10,000 or imprisonment for not more than ten years, or both.

SC810.3.1.11.3. Any beneficiary who pleads guilty to or is found guilty on Federal or State criminal charges of defrauding the Federal Government in connection with a claim for benefits will have his or her benefits terminated effective the date the guilty plea is accepted or a verdict of guilty is returned after trial, for any injury occurring on or before the date of such plea or verdict.

SC810.3.1.11.4. Any beneficiary who is incarcerated in a State or Federal jail, prison, penal institution, or other correctional facility due to a State or Federal felony conviction forfeits all right to compensation during the period of incarceration, and right to benefits is not restored after such incarceration ends, although payment of compensation benefits may resume. Eligible dependents will receive compensation at a reduced rate during the period of incarceration, according to the percentages laid out in reference (a).

SC810.3.1.11.5. Any claimant convicted of fraud related to FECA claims on or after October 1993 will lose entitlement to FECA benefits under reference (a).

SC810.3.1.11.6. Any claimant convicted of a felony and imprisoned as a result to claims under FECA will have benefits suspended effective date of imprisonment in accordance with reference (a).

SC810.3.1.11.7. An officer or employee of the Federal Government responsible for making reports (such as an "official superior") who willfully fails, neglects, or refuses to make a report of injury or files a false report may be fined not more than $500, be imprisoned not more than 1 year, or receive both penalties.

SC810.3.1.11.8. A partially disabled employee who refuses to seek suitable work or refuses to accept work after it is offered is not entitled to any compensation except for medical benefits.

SC810.3.1.11.9. If an employee refuses to submit to or obstructs an examination by a Federal medical officer or by a qualified private physician as required by OWCP, the employee's right to compensation under FECA will be suspended until the refusal or obstruction ceases. The action of the employee's representative is considered to be the action of the employee for the purposes of this section. The period of refusal or obstruction will be deducted from the period for which compensation is payable to the employee.

SC810.3.1.11.10. An individual who, without good cause, fails to undergo vocational rehabilitation, when directed by DOL, may have his or her compensation reduced.

SC810.3.1.11.11. An employee who fails to make an affidavit about his or her employment (including unremunerated work performed in furtherance of a business) when required, or knowingly omits or understates any part of his or her earnings, forfeits his or her right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited, under reference (a), if already paid, will be recovered by a deduction from additional compensation payable, if any, or otherwise recovered under reference (a) unless recovery is waived.

SC810.3.1.11.12. An employee who refuses to assign or prosecute an action in his or her own name against a third party when required is not entitled to compensation.

SC810.3.2. DoD Responsibilities

SC810.3.2.1. The Department of Defense sets policy for injury compensation. The program is administered by the Civilian Personnel Management Service (CPMS). CPMS is responsible for:

SC810.3.2.1.1. Providing operational guidance, advice, and assistance concerning injury compensation matters.

SC810.3.2.1.2. Developing, enhancing, and maintaining a standard enterprise-wide civilian HR system for injury compensation program management (June 13, 2003 "Injury Compensation Program Administration" memorandum, reference (i)) that:

SC810.3.2.1.2.1. Uses standardized processes and procedures to streamline operations and ensure data integrity.

SC810.3.2.1.2.2. Contains appropriate safeguards for the protection of sensitive medical, personnel, and payroll data.

SC810.3.2.1.3. Reviewing and approving in advance any plans from DoD Components to incorporate workers' compensation data elements into new or existing automated reporting systems (reference (i)).

SC810.3.2.2. Supporting DoD liaisons are in or near the 12 OWCP district offices. They:

SC810.3.2.2.1. Establish and nurture a good working relationship with DOL;

SC810.3.2.2.2. Provide assistance and guidance to serviced activities, as needed;

SC810.3.2.2.3. Serve as central point of contact between serviced activities and the OWCP district offices, and other concerned offices;

SC810.3.2.2.4. Review OWCP case files for accuracy, legitimacy, medical evidence, reemployment potential and questionable case status;

SC810.3.2.2.5. Conduct staff assistance visits to activities within assigned districts;

SC810.3.2.2.6. Assist in the training of ICPAs;

SC810.3.2.2.7. Provide assistance in activity reemployment efforts by reviewing job offers and advocating approval by DOL;

SC810.3.2.2.8. Attempt to resolve disagreements between DOL and serviced activities informally;

SC810.3.2.2.9. Participate in installation FECA meetings;

SC810.3.2.2.10. Receive and execute all chargeback corrections from DoD Installations; and,

SC810.3.2.2.11. Coordinate and arrange for all district office file review visits by ICPAs.

SC810.3.3. Organizations One Level Above Installation Level (i.e., MACOMS (Army), Major Claimants (Navy), MAJCOMs (Air Force)) and Comparable Organizations. Organizations that have a directorate of civilian personnel or human resources assigned must ensure that the injury compensation program is effectively administered in CPOs/HROs. A staff member is designated as the ICPA. Headquarters level ICPAs monitor numbers and types of injuries and associated costs (including COP). The ICPA coordinates with higher headquarters' level safety and medical offices for technical advice and assistance in improving work environments and developing cost containment initiatives.

SC810.3.4. The Activity Commander ensures:

SC810.3.4.1. The CPO/HRO, as well as the appropriate regional service center, has a staff member designated as the ICPA;

SC810.3.4.2. Management responsibilities under the commander's authority are timely fulfilled with delays held to a minimum;

SC810.3.4.3. Employees are advised of their rights and responsibilities under the Injury Compensation Program and that compensation claim forms are made available to employees;

SC810.3.4.4. Maximum effort is made to keep injured employees on the job and that light duty positions are made available;

SC810.3.4.5. Maximum effort is made to restructure positions for employees who have been permanently or partially disabled because of a job-related injury or illness. The "reasonable accommodation" (see glossary for definition) provisions of 29 CFR 1614 (reference (j)) apply to the Injury Compensation Program; and,

SC810.3.4.6. The FECA Working Group meets periodically (usually quarterly) to analyze FECA costs, trends, plans, etc., and develop cost containment initiatives. FECA Working Groups shall consist of management, safety, personnel, medical and investigative services staffs. FECA Working Groups are mandatory.

SC810.3.5. Activity Medical Service

SC810.3.5.1. Medical Officers. Medical officers review all reported cases of occupational illness and take or recommend action. Upon the ICPA's request, they:

SC810.3.5.1.1. Provide medical information to be sent to OWCP to support or to controvert a claim for an occupational illness or work-related injury.

SC810.3.5.1.2. Communicate with the employee's personal physician, in writing, to clarify medical evidence when ICPA's attempts fail;

SC810.3.5.1.3. Conduct a medical review of controversial and complex cases;

SC810.3.5.1.4. With the treating physician's recommendations, participate with the CPO/HRO in returning employees to duty as soon as medically feasible;

SC810.3.5.1.5. Assist the ICPA in informing the local medical community of FECA program and problems being experienced;

SC810.3.5.1.6. Review, evaluate, and recommend light-duty assignments and make recommendations on employee placements involving work limitations;

SC810.3.5.1.7. Advise the attending physician, in writing, that the medical facility may give supportive treatment such as physical therapy, under his or her direction (arrangements should be made with the concurrence of the employee and attending physician); and,

SC810.3.5.1.8. Provide a representative to actively participate in the activity FECA Working Group.

SC810.3.5.2. Occupational Health Officials (Industrial Hygiene, Public Health, Epidemiology, etc.) shall:

SC810.3.5.2.1. Receive notice that an occupational disease or illness claim has been filed. This notice must not compromise the protection of sensitive medical, personnel, or payroll data;

SC810.3.5.2.2. Provide workplace exposure monitoring and epidemiology data appropriate for investigation;

SC810.3.5.2.3. Advise workplace managers and supervisors of the result of the exposure monitoring, and recommended workplace practices to control worker exposure (i.e. process changes, material substitution, engineering controls, personal protective equipment, administrative controls, and worker training); and,

SC810.3.5.2.4. Provide a representative to actively participate in the activity FECA Working Group.

SC810.3.6. Activity Safety Offices shall:

SC810.3.6.1. Investigate all reported job-related injuries and prepare required reports.

SC810.3.6.2. When requested by the ICPA, provide information to be sent to OWCP to support or to controvert a claim for compensation;

SC810.3.6.3. Provide a representative to actively participate in the activity FECA Working Group;

SC810.3.6.4. Provide safety training, as required; and,

SC810.3.6.5. In conjunction with the CPO/HRO, identify positions/duties for light duty assignments.

SC810.3.7. Activity Investigative Service. Investigative personnel assigned to the activity shall:

SC810.3.7.1. When requested by the ICPA through appropriate channels, conduct an investigation of the specified claim to determine and document evidence of fraud;

SC810.3.7.2. Provide a written report of findings of the investigation through appropriate channels to the ICPA; and,

SC810.3.7.3. Provide a representative to actively participate in the activity FECA Working Group.

SC810.3.8. First-Line Supervisors. First-line supervisors shall:

SC810.3.8.1. Enforce safety and health regulations.

SC810.3.8.2. Ensure that the location and telephone number of emergency medical facilities are made known at the work site;

SC810.3.8.3. Ensure that employees know when and how to report occupational injuries and illnesses.

SC810.3.8.4. Obtain training in, and have a good understanding of, the Electronic Data Interchange (EDI) application when filing claims for injuries and illnesses under FECA (July 23, 2003, "Injury Compensation Automated Data Systems" memorandum, reference (k)).

SC810.3.8.5. Ensure that employees know they have the freedom to choose a treating physician (see SC810.3.11.10), and send injured employees for medical treatment when a traumatic injury is reported. If an employee refuses treatment, document the facts of the situation as reported and investigate as necessary;

SC810.3.8.6. Ensure COP is reported accurately and completely for time and attendance purposes;

SC810.3.8.7. In conjunction with the CPO/HRO's staffing employment division, identify positions or duties to make light duty offers;

SC810.3.8.8. Ensure doctors are notified in writing of possible duty accommodations;

SC810.3.8.9. Report all injuries and illnesses promptly to the ICPA;

SC810.3.8.10. Promptly complete injury compensation forms and send them to the ICPA;

SC810.3.8.11. Report injuries and illnesses as required by governing safety regulations;

SC810.3.8.12. Make decisions regarding whether to controvert COP based on information available;

SC810.3.8.13. Maintain continued personal contact with the injured employee as the disability warrants; and,

SC810.3.8.14. Enforce safety regulations and the wearing of required protective equipment and clothing and take appropriate disciplinary action against employees for failure to comply.

SC810.3.9. Civilian Employees. Civilian employees shall:

SC810.3.9.1. Promptly and accurately report all job-related injuries or illnesses to their supervisors, unless prevented from doing so by the severity of the injury. If an employee is unable to report an injury or illness, anyone, such as a friend, relative, co-worker, or supervisor may report for the employee. Employees on TDY should report job-related injuries or illnesses to their servicing CPO/HRO by the best available means. If that is impossible, they may report them to the nearest DoD CPO/HRO;

SC810.3.9.2. Observe all safety instructions, procedures, and regulations to include the proper use of personal protective equipment and clothing;

SC810.3.9.3. Report for medical examination or treatment as described by established procedures or as directed by their supervisors;

SC810.3.9.4. Advise the treating physician of light duty programs;

SC810.3.9.5. Advise supervisor when they are medically released for light duty;

SC810.3.9.6. Provide medical documentation as soon as possible, but no later than 10 working days, or COP may be discontinued;

SC810.3.9.7. Return to regular or light duty as soon as medically feasible; and,

SC810.3.9.8. Participate in vocational and job related training designed to provide suitable alternate employment when job-connected injury or illness precludes return to previous type of work.

SC810.3.10. Injury Compensation Program Administrator (ICPA). The ICPA serves as the focal point in all aspects of the program, coordinating efforts of safety officials, occupational health officials, medical officials, supervisors and other management officials, and local labor representatives, as appropriate. To ensure optimum effectiveness in the administration of the program, it is imperative that the ICPA maintain a professional and cooperative relationship in his or her contacts with the OWCP district offices, supporting DoD liaisons, activity personnel and the injured worker. The ICPA shall:

SC810.3.10.1. Provide training and operational guidance to supervisors and employees concerning their responsibilities within the injury compensation program;

SC810.3.10.2. Ensure that Form CA-10 (poster), "What a Federal Employee Should Do When Injured at Work" (figure 810-1) is posted at the work site;

SC810.3.10.3. Maintain a working knowledge of the Electronic Data Interchange (EDI) application, ensure that supervisors are trained in, and have a good understanding of the application, and utilize EDI when filing claims for injuries and illnesses under FECA (reference (k)).

SC810.3.10.4. When notified about a job-related injury or illness or an actual or potential claim, give prompt help to the supervisor and the employee. The ICPA shall ensure that pertinent forms are properly and timely completed. (The ICPA is not responsible for the accuracy of information provided and entered on forms by the employee, supervisor, or witnesses, but must obtain clarification of conflicting or confusing statements.) NOTE: The ICPA has the final responsibility for the technical adequacy of all documents sent to OWCP;

SC810.3.10.5. Upon receipt of a Form CA-1 or Form CA-2, check the form for completeness. If there is any doubt about the information shown on the form, the ICPA will resolve the matter before further processing. The electronic version of Forms CA-1 and CA-2 contain an Authorization for Release of Information. If necessary, the ICPA can require the employee to sign and date an Authorization for Release of Information. A sample is at figure 810-2. Because there is a short-time limit (10 working days or less) on processing injury compensation forms, any necessary action should be taken on a priority basis.

SC810.3.10.6. When appropriate, the ICPA will request that safety or medical services furnish, in writing, a report on the claim and include this information with the claim when sending it to OWCP. If this would cause an undue delay, this information can be sent to OWCP at a later date. Both safety and medical services officials may, of their own volition, initiate letters or other documents to accompany claims. After determining that all forms are correct and reflect the correct chargeback account code, the ICPA sends them to OWCP.

SC810.3.10.7. If the injury results in no medical expense and no lost time, the Form CA-1 or Form CA-2 is permanently filed in the Employee Medical File (EMF) and no copy is sent to the OWCP. The ICPA should send notification to the activity safety office that a traumatic injury or occupational disease or illness claim has been filed. This notice must not compromise the protection of sensitive medical, personnel, and payroll data.

SC810.3.10.8. In prolonged COP cases, the ICPA will ensure that a Form CA-7 is completed and sent to the OWCP, no later than five calendar days before the COP period expires (if the claimant wishes to file for compensation).

SC810.3.10.9. When the injured employee is absent from duty, the supervisor, ICPA, and medical officials estimate the earliest date that the employee should be reasonably able to return to full-time or part-time light or regular duty based on medical evidence deemed appropriate by OWCP. On that date, if the employee has not returned, and the employee has not provided medical evidence to support continued absence, the supervisor contacts the employee to learn the reason. The ICPA shall contact the attending physician in writing to inquire about restrictions and estimated return to light duty and/or the servicing OWCP office for an expected date of return to duty. If the employee is still not able to return to duty, a new estimated return date is established, and the procedure is repeated until the employee is returned to duty. It is important for physicians to understand that supervisors can and will accommodate restrictions imposed by medical officials;

SC810.3.10.10. Assist supervisors and employees in all aspects of the Injury Compensation Program, including, electronic and paper forms completion and case follow-up with the OWCP;

SC810.3.10.11. Maintain adequate records to administer the program and reconstruct claim files, if necessary. A copy of all documents sent to OWCP should be retained in the activity claims file;

SC810.3.10.12. Monitor COP days to ensure they do not extend beyond the 45-calendar day period;

SC810.3.10.13. Periodically, compare COP payments in the civilian pay activity with the claim status shown in the ICPA's records to assure accuracy;

SC810.3.10.14. Establish procedures to ensure that all claims (CA forms) and related documents are processed to or through the office of the ICPA;

SC810.3.10.15. If light duty is a possibility, ensure that job requirements and environmental conditions are made known to physicians when injured or ill employees or former employees are scheduled for examinations;

SC810.3.10.16. Notify OWCP and furnish documentation of any pre-existing medical condition that might be useful in adjudicating a claim;

SC810.3.10.17. Refer suspected fraud cases through channels to the proper military investigative authority, DOL Inspector General (IG), or other investigative services. Contact the supporting DoD liaison for any needed assistance;

SC810.3.10.18. Notify the selective placement coordinator of employees requiring placement assistance;

SC810.3.10.19. Coordinate with the activity legal office on claims that appear to involve third-party liability;

SC810.3.10.20. Ensure that an ample supply of required forms is maintained and available to employees and supervisors, as needed;

SC810.3.10.21. If an employee dies as the result of a job-related injury, immediately notify OWCP, by telephone, fax, or telegraph, and send a completed Form CA-6, “Official Supervisor's Report of Employee's Death,” to OWCP within 30 calendar days from the date death occurred;

SC810.3.10.22. Attend pre-scheduled meetings of the Occupational Safety and Health Council or other similar activity. The ICPA must be prepared to discuss the Injury Compensation Program;

SC810.3.10.23. Annually, initiate requests for review of selected long-term claim files and request current medical reports from the supporting DoD liaison to:

SC810.3.10.23.1. Ensure that claimants receive compensation benefits for which they are entitled; and,

SC810.3.10.23.2. Identify claimants who can return to work. Those claimants who have been formally determined by OWCP as having no wage-earning capacity or reemployment potential for the indefinite future are identified by OWCP as a PN status case. PN claimants are required by OWCP to furnish medical documentation of continued disability once every three years; therefore, copies of medical reports for these claimants should be requested on a three-year basis instead of an annual basis. Claimants receiving payments for loss of wage-earning capacity are required to furnish medical documentation every two years. Note: OWCP makes PN status determinations. It is inappropriate and costly for agencies to request OWCP to change the pay status of a case to PN without a sound and clearly defined basis. All such requests must be sent with accompanying justification to the supporting DoD liaison who will assist with agency requests;

SC810.3.10.24. Maintain a file of names of physicians who have been excluded from payment under FECA. (The OWCP makes this determination and provides the list.) The ICPA shall ensure that activity officials who issue Form CA-16 are kept informed of the names and changes on that list;

SC810.3.10.25. Work with rehabilitation counselors and the activity staffing function on reemployment referrals and work with OWCP-directed field nurses on return to duty under the Nurse Intervention Program;

SC810.3.10.26. Verify claimant information received from OWCP in the "Defense Injury & Unemployment Compensation System (DIUCS)"(see paragraph SC810.4.5.2), electronic notifications through EDI, and on Form CA-801, "Acknowledgment of Receipt of Claim." Immediately ask OWCP to correct erroneous information. All erroneous chargeback code corrections should be requested through the supporting DoD liaison.

SC810.3.10.27. Verify program reporting information and certify the accuracy of all charges and chargeback codes received from OWCP using "Defense Injury & Unemployment Compensation System (DIUCS)" reports (see paragraph SC810.4.5.2), and the "Defense Portal Analysis Center (DefPAC)." Immediately request that supporting DoD liaisons coordinate the correction of erroneous data with OWCP.

SC810.3.10.28. Certify the accuracy of all charges and chargeback codes on the DOL Quarterly Chargeback Billing Lists and report any errors to the supporting DoD liaison. (Detailed instructions for correcting erroneous data is further explained in paragraph SC810.12., "The Injury Compensation Chargeback System.");

SC810.3.10.29. Serve as a chairperson or as an active participant in the activity FECA Working Group; and,

SC810.3.10.30. Contact the supporting DoD liaisons for assistance with unique and unusual problematic issues.

SC810.3.11. Providing Counsel and Assistance. One of the primary functions of the ICPA is to provide counsel and assistance to injured employees as well as to supervisors. When an employee sustains a job-related injury or illness, explain to the employee the basic benefits provided under FECA and the following:

SC810.3.11.1. Entitlement to compensation for injuries or illnesses sustained in the performance of duty: 66-2/3 percent of basic salary for employees without dependents; 75 percent for employees with dependents;

SC810.3.11.2. The importance of providing written notice of injury and timely submission of forms and related documentation;

SC810.3.11.3. Entitlement to COP for a traumatic injury up to a maximum of 45 calendar days. If the injury extends or is expected to extend beyond the 45-day COP period, the employee should be informed of the proper procedure to claim wage loss (Form CA-7). Explain the 3-day waiting period (see glossary for definition);

SC810.3.11.4. The difference between use of sick and annual leave versus COP for Form CA-1, item 15; who approves COP and how COP days are counted. If COP is disallowed by OWCP, explain that money paid is considered a debt and is subject to recovery;

SC810.3.11.5. The difference between benefits under workers' compensation and Federal disability retirement, if eligible (see figure 810-3);

SC810.3.11.6. For employees separating from employment, the consequence of withdrawing retirement contributions. Provide the employee a copy of the notice to individuals with funds in the civil service retirement system (figure 810-4);

SC810.3.11.7. Adjudication of claims by the Department of Labor, OWCP. The employing activity acts only as an intermediary in gathering information pertinent to the claim and submitting it to OWCP. Decisions made by OWCP can be appealed by the employee;

SC810.3.11.8. Leave buyback procedures when an employee does not wish to immediately file for compensation, the claim has been approved by OWCP, and the COP period has expired or there is no entitlement to COP. If applicable, explain the 3-day waiting period;

SC810.3.11.9. The penalties provisions as detailed in paragraph SC810.3.1.11, ”Penalties for Employees and Supervisors”;

SC810.3.11.10. An employee has the right to select his or her own physician, as long as the physician is located within 25 miles of the employee's place of employment or residence and is not on the list of excluded medical providers. However, if the employee wants to change the

physician, after the initial selection has been made, written justification must be provided and prior approval obtained from OWCP;

SC810.3.11.11. The importance (requirement) that OWCP authorization is needed before extensive tests, hospitalization, or surgery;

SC810.3.11.12. Procedures for filing for medical and travel expenses; and,

SC810.3.11.13. Death benefits to survivors in fatality cases.

SC810.4. CLAIMS AND RECORD MANAGEMENT

SC810.4.1. Handling and Controlling Claims

SC810.4.1.1. General Information. For proper injury case management, it is essential to closely monitor the completion and control of claims and establish an administrative system that accurately reflects the status of all claims at all times. This section provides procedures for handling a claim once an injury or illness is reported.

SC810.4.1.1.1. The supervisor notifies the ICPA/CPO/HRO immediately or as soon as possible after an injury has been reported.

SC810.4.1.1.2. The supervisor works with the employee to file the claim form through the EDI application, which forwards all claim forms to the ICPA on completion. The ICPA is responsible for processing all injury or occupational illness or disease forms and submitting the claim form to the appropriate OWCP district office in the most expeditious manner.

SC810.4.1.1.3. Injury compensation personnel properly monitor claims to ensure that employees' rights are protected, that appropriate management options are timely exercised, and that workers' compensation costs are effectively controlled.

SC810.4.1.2. Advising Employees of Program Benefits. The DOL provides publications for agencies to use in telling their employees about the compensation program and how they may obtain benefits.

SC810.4.1.2.1. CA-11, "When Injured at Work." This is a pamphlet issued by the DOL that provides facts about compensation for civilian employees of the Federal Government. The CPO/HRO issues a CA-11 to each employee at the time of appointment (see figure 810-5).

SC810.4.1.2. Occurrence of Injury. When notified that an injury, occupational illness or disease, or a recurrence of a documented injury has occurred, the employee's immediate supervisor should take time to discuss with the employee the nature of the injury, how, when,

and where the injury or recurrence occurred and obtain the names and statements of any witnesses. Also, refer to paragraph SC810.13., below, for information about injuries sustained under special circumstances.

SC810.4.1.3. Authorizing Medical Examination and Treatment for Traumatic Injuries

SC810.4.1.3.1. If an employee requests medical care, the supervisor should:

SC810.4.1.3.1.1. Advise the employee that he or she has the initial choice of physician;

SC810.4.1.3.1.2. Prepare and issue Form CA-17, "Duty Status Report;" and,

SC810.4.1.3.1.3. Offer to refer the employee to the activity medical services, if available, for examination and recording of the injury in the employee's medical record. Referral to the activity medical services is not mandatory on the employee's part, nor shall it be construed as the initial choice of the attending physician.

SC810.4.1.3.2. The supervisor, or activity medical services, or activity hospital/clinic or ICPA (as required locally):

SC810.4.1.3.2.1. Makes an appointment with the physician of the employee's choice;

SC810.4.1.3.2.2. Informs the employee that he or she should make another choice if the physician is not available or is excluded from payment under FECA.

SC810.4.1.3.2.3. Issues Form CA-16, "Authorization for Examination and/or Treatment," to a physician willing to provide treatment. Informs the employee that a change of physician requires prior OWCP approval or referral by his or her attending physician. The injured employee should receive the Form CA-16 within four hours of request.

SC810.4.1.3.2.3.1. If an employee has reported an injury several days after the fact, or did not request medical treatment within 24 hours, the supervisor may still authorize medical care using form CA-16. The supervisor may, however, refuse to issue a CA-16 if more than a week has passed since the injury on the basis that the need for immediate treatment would normally have become apparent in that period of time;

SC810.4.1.3.2.4. Instructs the employee to contact the supervisor immediately after examination and treatment; and,

SC810.4.1.3.2.5. Informs the employee that it is the employee's responsibility to provide medical evidence as to his or her duty status and to advise the physician of the fact that light duty is available should the employee be physically able to perform such duty.

SC810.4.1.3.3. The employee should:

SC810.4.1.3.3.1. Advise the supervisor or activity physician of his or her choice of physician (who may be an activity medical officer);

SC810.4.1.3.3.2. Choose a physician who is eligible and willing to give timely examination and treatment, if initial choice of the physician is not available to give examination or is on the excluded list;

SC810.4.1.3.3.3. Inform the physician of the availability of light duty, if the employee has been informed that light duty is available; and,

SC810.4.1.3.3.4. Notify the supervisor of duty status immediately following treatment and regularly after that.

SC810.4.1.4. Filing the Claim

SC810.4.1.4.1. The supervisor will ensure the completeness and, to the extent possible, accuracy of each claim prepared before submitting it to the ICPA.

SC810.4.1.4.2. Immediately on notification that an injury has occurred, the immediate supervisor should investigate the claim. The ICPA/CPO/HRO or safety office should also investigate, if necessary. The investigation should either substantiate the claim or show doubt about the validity of the claim. Some sources and expertise available during the investigation are:

SC810.4.1.4.2.1. Injured employee;

SC810.4.1.4.2.2. Witnesses (or others in the area who heard, saw, or have knowledge);

SC810.4.1.4.2.3. Immediate supervisor;

SC810.4.1.4.2.4. Treating physician;

SC810.4.1.4.2.5. Safety staff;

SC810.4.1.4.2.6. Employee's injury compensation case file(s);

SC810.4.1.4.2.7. Official Personnel Folder; or,

SC810.4.1.4.2.8. Activity physician and employee's medical file.

SC810.4.1.4.2.8.1. NOTE: If review of the medical records shows evidence to dispute the claim or shows that the injury may have only caused an aggravation of a preexisting condition, such evidence or a memo signed by the activity physician to include the

name of doctors and hospitals where the employee was treated is sent to the ICPA for forwarding to OWCP.

SC810.4.1.4.3. Based on the results of the investigation, the supervisor shall decide whether to controvert the claim. If the supervisor is confident that there is no basis for controversion, he or she shall immediately print and submit the claim and all supporting documentation to the ICPA/CPO/HRO for forwarding to OWCP. If the investigation reveals that there are questionable circumstances surrounding the claim, the supervisor contacts the ICPA.

SC810.4.1.4.4. The ICPA develops a controversion package in accordance with SC810.7., "Controversion of Claims," and if possible, forwards it with the claim to the OWCP. The supervisor notifies the employee verbally or in writing that the claim has been controverted. Either a copy of the notice or a memorandum for record should state that the employee was notified of the controversion.

SC810.4.1.4.4.1 If it is decided that either the traumatic injury or occupational disease claim, or any portion of it should be challenged, the ICPA shall enter the reasons in Block 35 of either the CA-1 or CA-2 claim form..

SC810.4.1.4.4.2. If it is decided that the entitlement to all or a portion of COP resulting from a traumatic injury claim should be controverted, the ICPA shall enter the reasons for controversion in Block 36 of the CA-1 claim form.

SC810.4.1.4.5. In either a challenged or controverted case, the ICPA must ensure that any supporting documentation, such as signed witnesses' statements, investigative reports, and photographs, are forwarded to OWCP once a claim number is assigned on the case.

SC810.4.1.4.6. The supervisor shall notify the employee verbally or in writing that the claim has been controverted. Either a copy of the notice or a memorandum for record should state that the employee was notified of the controversion.

SC810.4.2. Completing OWCP Forms

SC810.4.2.1. Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation." Use this form for traumatic injury cases only. A traumatic injury is defined as "a wound or other condition of the body caused by external force, including stress or strain." 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. (See glossary for definition of traumatic injury.) The Form CA-1 provides official notice to the employee's supervisor and to OWCP that a traumatic injury has occurred. (Figure 810-6 contains a sample Form CA-1, an information sheet, and instructions for completing the form.)

SC810.4.2.1.1. Time Requirement. The employee should complete and submit the Form CA-1 as soon as possible after the injury, but no later than 30 days after the date of injury.

To be eligible for COP, the employee must file the Form CA-1 within 30 days from the date of injury. Statutory time requirements for other FECA benefits will be met if the Form CA-1 is filed no later than three years after the injury. NOTE: Someone acting in the employee's behalf (that is, a co-worker, a relative, or the supervisor) may complete the Form CA-1.

SC810.4.2.1.2. General Procedures

SC810.4.2.1.2.1. The employee's CPO/HRO, supervisor, or activity's medical service provides the employee with a Form CA-1, or provides access to the electronic CA-1 form through the EDI Application.

SC810.4.2.1.2.2. The employee completes items 1 through 15. The CPO/HRO, supervisor, or activity's medical service should complete items 17 through 38 on the Form CA-1, print the completed form, sign the completed form, and request that the employee sign the completed form.

SC810.4.2.1.2.3. If the employee is eligible for COP, but elects annual or sick leave, the supervisor or ICPA explains COP to the employee.

SC810.4.2.1.2.4. The supervisor gives the employee or the employee's representative a signed receipt.

SC810.4.2.1.2.5. The supervisor forwards the Form CA-1 to the ICPA.

SC810.4.2.1.3. Forwarding to the OWCP. The ICPA receives electronic notification of the completed form and reviews the Form CA-1 for accuracy and completeness. The ICPA must code the appropriate items on the form.

SC810.4.2.1.3.1. If the employee has lost time from work or incurred medical expenses, the ICPA prints a hard-copy of the completed form, approves, and submits the electronic form to OWCP within ten working days from the date of first notice. The ICPA files one copy of the CA-1 in the EMF and one copy in the working folder for this claim. The ICPA shall send notification to the agency Safety Officer that an injury has been claimed.

SC810.4.2.1.3.2. If the employee does not lose time from work and has no medical expenses, the ICPA files the original Form CA-1 in the EMF and sends notification to the agency Safety Officer that an injury has been claimed.

SC810.4.2.1.3.3. If the employee later seeks medical treatment, loses time from work, or both, the ICPA will retrieve the claim from the EDI application, correctly recode the claim, print, approve, and then submit Form CA-1 to OWCP.

SC810.4.2.2. Form CA-2, "Notice of Occupational Disease and Claim for Compensation." The Form CA-2 provides official notice to an employee's supervisor and OWCP of an occupational illness or disease caused or aggravated by factors of employment. (Figure 810-7 contains a sample of a completed Form CA-2 and an information sheet.

(Instructions for completing the Form CA-2 are at figure 810-8)). Besides submitting this form, the employee must furnish a narrative statement and supporting documentation - explaining how the ailment is related to the work environment (see SC810.5 below).

SC810.4.2.2.1. Time Requirement. The injured employee or someone acting on his or her behalf should complete and submit the Form CA-2 to the official supervisor. Statutory time requirements will be met if the Form CA-2 is filed no later than three years after the date the employee first became aware, or if the employer had prior knowledge of the illness or disease. It should be emphasized that the employee has the responsibility to provide all the necessary documentation as outlined in item 2 under "Instructions for Completing Employee's Portion of the Form CA-2," before submitting it to the official supervisor. NOTE: Occupational disease cases are not eligible for COP.

SC810.4.2.2.2. General Procedures

SC810.4.2.2.2.1. The employee's supervisor helps the employee in obtaining the Form CA-2 and appropriate checklists.

SC810.4.2.2.2.2. The employee completes items 1 through 18. The CPO/HRO, supervisor, or activity's medical service should complete items 19 through 35 on the Form CA-2; print the completed form,, and request that the employee sign the completed form . NOTE: Someone acting on the employee's behalf; that is, supervisor, coworker, or relative may complete Form CA-2 if the employee is unable to do so.

SC810.4.2.2.2.3. The supervisor gives the employee or the employee's representative a signed receipt.

SC810.4.2.2.2.4. The supervisor submits the Form CA-2 to the ICPA.

SC810.4.2.2.3. Forwarding Form CA-2 to OWCP. On receiving electronic notification of a completed Form CA-2, the ICPA should review all entries for completeness and accuracy of information. The ICPA should ensure that the additional information required by the Form CA-2 instructions and Occupational Disease Checklist is included. If the employee did not submit the required statements and medical reports, the ICPA should emphasize to the employee that failure to do so will either jeopardize the claim or delay OWCP's adjudication process. If the employee insists on submitting the Form CA-2 without supporting documentation, the ICPA should approve and submit the CA-2 to OWCP, noting in Block 35 of the form that the employee was advised to submit supporting documentation.

SC810.4.2.3. Form CA-2a, "Federal Employee's Notice of Recurrence of Disability and Claim for Continuation of Pay/Compensation"

SC810.4.2.3.1. Purpose. Form CA-2a (see figure 810-9 for sample form and instructions) reports a recurrence of an earlier disability. An employee is considered to have a recurrence when, after having returned to work, he or she is again disabled and stops work because of the original injury or occupational disease. (A new period of disability is not a

recurrence if it is caused by a condition that results from a new incident or injury even to the same portion of the body previously injured, or from a new exposure to the cause of a previously suffered occupational disease.) NOTE: The ICPA may help the employee and supervisor in filing a recurrence claim.

SC810.4.2.3.2. General Procedure

SC810.4.2.3.2.1. The employee notifies the supervisor of the recurrence.

SC810.4.2.3.2.2. The employee completes Form CA-2a, Part A. If the employee is no longer employed with the Federal Government, the employee should complete Part C.

SC810.4.2.3.2.3. The supervisor completes Part B.

SC810.4.2.3.2.4. The supervisor forwards the Form CA-2a to the ICPA.

SC810.4.2.3.2.5. The ICPA forwards the Form CA-2a (and controversion package, if appropriate) and related documentation to the OWCP.

SC810.4.2.4. Form CA-5, "Claim for Compensation by Widow, Widower, and/or Children"

SC810.4.2.4.1. Purpose. Form CA-5 (see figure 810-10 for sample form and instructions) serves as official notice to OWCP of surviving widow's, widower's, or children's claim for compensation due to an employee's death, which resulted from job-related injury or illness.

SC810.4.2.4.2. Time Requirement

SC810.4.2.4.2.1. If possible, the ICPA forwards Form CA-5 to OWCP within 30 days of the death, but no later than three years after the death.

SC810.4.2.4.2.2. If death resulted from an injury for which a disability claim was timely filed, there is no time restriction on submission of the Form CA-5.

SC810.4.2.4.3. General Procedure

SC810.4.2.4.3.1. The ICPA provides a Form CA-5 (all items on the Form CA-5 are self-explanatory).

SC810.4.2.4.3.2. The widow, widower, child or children, or child's or children's guardian completes the Form CA-5.

SC810.4.2.4.3.3. If death resulted from an injury or illness previously reported to OWCP, the ICPA enters the OWCP file number on the upper right corner of the Form CA-5.

SC810.4.2.4.3.4. The ICPA obtains a certified copy of the death certificate and a copy of the autopsy report (if available) to forward to OWCP.

SC810.4.2.5. Form CA-5b, "Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren"

SC810.4.2.5.1. Purpose. Form CA-5b (see figure 810-11 for form and instructions) serves as official notice of eligible dependent's (parents, brothers, sisters, grandparents, or grandchildren) claim for compensation due to employee's death, which resulted from job-related injury or illness.

SC810.4.2.5.2. Time Requirement. Claim must be filed within three years following date of death.

SC810.4.2.5.3. General Procedure

SC810.4.2.5.3.1. The ICPA provides a separate Form CA-5b to each claimant.

SC810.4.2.5.3.2. Each claimant completes a Form CA-5b (instructions are on the back of the form) and returns it to the ICPA.

SC810.4.2.5.3.3. If death resulted from an injury or illness previously reported to OWCP, the ICPA enters the OWCP file number on the upper right corner of Form CA-5b. NOTE: A separate form is required for each person claiming benefits.

SC810.4.2.6. Form CA-6, "Official Superior's Report of Employee's Death"

SC810.4.2.6.1. Purpose. Form CA-6 (see figure 810-12 for sample form and instructions) serves as official notice of an employee's job-related death.

SC810.4.2.6.2. General Procedure

SC810.4.2.6.2.1. In case of an employee's job-related death, the supervisor must immediately notify the ICPA and the Safety Office. The ICPA, in turn, will immediately notify OWCP and the supporting DoD liaison by telephone, priority message, or facsimile message. NOTE: Expedience is required so that the OWCP medical advisor can advise if an autopsy will be required.

SC810.4.2.6.2.2. In all death cases, the ICPA will help supervisors in completing the Form CA-6.

SC810.4.2.6.2.3. After a thorough investigation by the Safety Office of the circumstances surrounding the death, the supervisor completes the Form CA-6 and returns it to the ICPA.

SC810.4.2.6.2.4. If death resulted from an injury or illness previously reported to OWCP, the ICPA enters the OWCP file number in the upper right corner of the Form CA-6.

SC810.4.2.6.2.5. The ICPA reviews the form for completeness and submits it to OWCP immediately. (Any missing information should be obtained in the quickest way possible.)

SC810.4.2.7. Form CA-7, "Claim for Compensation on Account of Traumatic Injury or Occupational Disease, with Attached Form CA-20, Attending Physician's Report"

SC810.4.2.7.1. Purpose

SC810.4.2.7.1.1. Form CA-7 (see figure 810-13, figure 810-14, 810-15, and 810-16 for sample forms and instructions) is used to claim compensation for wages or time lost due to a traumatic injury or occupational disease. OWCP must have Form CA-1 or CA-2 on file to process the Form CA-7. If Form CA-1 or CA-2 was not previously submitted, it should accompany the Form CA-7 to OWCP.

SC810.4.2.7.1.2. Form CA-7 is also used to initiate a claim for a schedule award or leave buy-back.

SC810.4.2.7.2. General Procedure

SC810.4.2.7.2.1. The ICPA provides the employee with a Form CA-7 with attached Form CA-20, "Attending Physician's Report." In traumatic cases, if the medical evidence shows that disability will extend past the COP period, the ICPA provides a Form CA-7 to the employee with instructions to return it to the supervisor or to the ICPA ten days before COP expires. The ICPA should send Form CA-7 to OWCP by the 40th day of COP to avoid interruption of the employee's pay. In occupational disease cases, the supervisor should forward Form CA-7 to the ICPA within ten calendar days from the date pay stops. The ICPA should forward to OWCP as soon as possible, but no later than five workdays after its receipt from the employee. When filing Form CA-7 for continuing periods of disability, the claimant should complete the form at two-week intervals until he or she returns to full-time duty or OWCP places him or her on the periodic rolls. NOTE: The ICPA should send the Form CA-7 to OWCP as soon as possible, but no more than five working days after receipt from the employee.

SC810.4.2.7.2.2. The employee or someone acting on the employee's behalf completes Part A (items 1 through 20) of the form.

SC810.4.2.7.2.3. The supervisor completes Part B (items 20 through 38).

SC810.4.2.7.2.4. The employee takes the Form CA-20 to the attending physician and requests the completed form be returned to the ICPA.

SC810.4.2.7.2.5. The ICPA reviews the Form CA-7 for completeness and accuracy and sends it to OWCP with the following attachments:

SC810.4.2.7.2.5.1. Copy of the position description for the job held on the date of injury and a copy of the SF 50, "Notification of Personnel Action," in effect on the date of injury;

SC810.4.2.7.2.5.2. Physical requirements (SF 78, "Certificate of Medical Examination"), for the job held on the date of injury;

SC810.4.2.7.2.5.3. Copy of most recent "Application for Federal Employment," from the Official Personnel File (OPF) (the Form CA-7 should be promptly forwarded to OWCP even if the attachments have to be sent later).

SC810.4.2.7.2.6. The ICPA makes periodic follow-ups with OWCP until a decision has been rendered.

SC810.4.2.8. Form CA-16, "Authorization for Examination, and/or Treatment"

SC810.4.2.8.1. Purpose. Form CA-16 (form contains instructions) is used to authorize an employee who claims a traumatic injury to obtain examination or treatment at a medical source of his or her choice. Such a medical source may be: any duly qualified local physician, surgeon, osteopath, and, within the scope of their specialty, a podiatrist, dentist, clinical psychologist, optometrist, and (within certain limitations) a chiropractor. Form CA-16 will not be issued to providers who are excluded or suspended from participation in the FECA program. An excluded physician may be reimbursed only for services rendered in a medical emergency. NOTE: In emergencies, the employee will be sent to the nearest available physician or hospital. The physician who provides the emergency treatment is not usually considered the employee's initial choice of physician. In emergency cases, it is not necessary to take time to fill out the appropriate forms; however, these forms must be submitted within 48 hours following first examination or treatment. Form A-16 should never be issued without a specific medical provider indicated; without the date of issue and signature of the activity representative entered; or, once the urgent need for immediate treatment has passed.

SC810.4.2.8.2. OWCP Approval. Form CA-16 is issued in traumatic cases only. Issuance of a Form CA-16 can obligate the Department of Defense for the cost of medical treatment for a 60-day period from the date of issuance. If there is doubt that the injury is job-related, block 6.B.2. should be checked. Only one CA-16 should be issued for an injury. It may not be issued for an occupational claim (Form CA-2) without prior approval from OWCP. Form CA-16 should rarely be issued in cases of recurrence. It may not be issued if more than six months has elapsed since the employee last returned to work. Form CA-16 is not used to authorize a change of physician after the initial choice is exercised by the employee. Form CA-16 should not be used to authorize medical testing for an employee who has merely been exposed to a workplace hazard, unless the employee has sustained an identifiable injury or medical condition as a result of that exposure.

SC810.4.2.8.3. General Procedure. The supervisor or the activity medical facility completes Part A (items 1 through 13) and gives the original to the employee. The employee

should receive Form CA-16 within four hours of request. NOTE: "Light Duty is Available" may be shown on the Form CA-16 provided to the physician or by a letter attached to the Form CA-16 informing the physician of light duty (see figure 810-17). Physicians must be informed of possible accommodations provided for injured employees.

SC810.4.2.8.3.1. The employee gives the original to the physician or treating medical facility.

SC810.4.2.8.3.2. The attending physician completes Part B (items 14 through 38) of the Form CA-16.

SC810.4.2.8.3.3. On receiving the completed original Form CA-16 from the attending physician, the ICPA forwards it to OWCP.

SC810.4.2.9. Form CA-17, "Duty Status Report"

SC810.4.2.9.1. Purpose. Form CA-17 (see figure 810-18 for sample form and instructions) is used in disabling injury cases to provide the supervisor and OWCP with a brief interim medical statement concerning the employee's ability to return to full or light duty (figures 810-19, 810-20, and 810-21 contain sample letters that can be used to transmit the Form CA-17 to the treating physician).

SC810.4.2.9.2. General Procedure

SC810.4.2.9.2.1. The issuing official completes Part A, items 1 through 7.

SC810.4.2.9.2.2. The employee gives the Form CA-17 to the attending physician.

SC810.4.2.9.2.3. The attending physician completes Part B of the Form CA-17 (items 8 through 20).

SC810.4.2.9.2.4. If the physician completes the Form CA-17 immediately, the employee may return it to the supervisor. NOTE: "Light duty is available" may be entered on the Form CA-17.

SC810.4.2.9.2.5. Upon receipt of the Form CA-17 from the attending physician, the supervisor or activity physician determines whether the employee can return to full duty or to a light-duty assignment.

SC810.4.2.9.2.6. The ICPA should forward the original Form CA-17 to OWCP and retain a copy with the compensation case file.

SC810.4.3. Duty Status Determination

SC810.4.3.1. General Guidance. The claimant or treating physician should return medical evidence to the supervisor or ICPA immediately after examination or at the start of the

employee's next scheduled work shift so the employee's duty status can be decided. Upon determination of status, the employee will be:

SC810.4.3.1.1. Returned to full duty;

SC810.4.3.1.2. Assigned to, or continued in a light duty status;

SC810.4.3.1.3. Placed in a COP status; or,

SC810.4.3.1.4. Placed in a sick leave, annual leave, or leave without pay (LWOP-OWCP) status as elected by the employee.

SC810.4.3.2. Light Duty. Light duty is provided to an employee who has sustained a job-related injury and has physical limitations identified by the treating or activity physician. However, the light-duty assignment should be within the limitations imposed by the treating physician. When an employee has partially overcome a compensable disability, it is DoD policy that supervisors make every effort to assign the employee to light duty within his or her medically-defined work limitations.

SC810.4.3.2.1. In determining light-duty assignments, the supervisor considers:

SC810.4.3.2.1.1. The employee's medically-defined work limitations;

SC810.4.3.2.1.2. The employee's job skills;

SC810.4.3.2.1.3. The work organization to which the employee is regularly assigned; and,

SC810.4.3.2.1.4. The hours that the employee regularly works.

SC810.4.3.2.2. Supervisors may verbally make light-duty offers, but should follow up in writing within two business days of the verbal job offer. Copies of the job offer should be sent or faxed to the treating physician. The offer should include a description of the duties to be performed, the specific physical requirements of the position and any special demands of the workload or unusual working conditions, the organizational and geographical location of the job, the date on which the job will first be available, the date by which a response to the job offer is required, and pay rate information for the offered job. The employer should send a complete copy of any job offer to OWCP when it is sent to the employee.

SC810.4.3.3. LWOP Documentation. The supervisor is responsible for submitting an SF-52, “Request for Personnel Action,” when an employee is on LWOP for 80 continuous hours or more and is expected to receive compensation benefits. The Nature of Action code should be entered as 460 (LWOP/OWCP), and the authority code must read Q3K. The remarks section should read, “The employee is expected to be paid under 5 U.S.C. 81.” If DOL subsequently denies the claim, the authority code must then be corrected to reflect LWOP only and the authority code must read DAM rather than Q3K. The supervisor, on the employee’s return to

duty (RTD), should immediately notify both OWCP and the ICPA, and should submit an RTD Form SF-52 to the ICPA. The RTD SF-52 should be reviewed by the ICPA and submitted immediately along with a cover letter verifying the employee's RTD to OWCP to ensure that compensation has been terminated (OPM "Guide to Processing Personnel Actions," reference (l)).

SC810.4.3.4. Obtaining the Status of the Claim. The ICPA obtains information from OWCP, such as current medical information, Work Capacity Evaluation Form (OWCP-5), and rehabilitation information by telephone or written request.

SC810.4.4. Injury Compensation Records

SC810.4.4.1. Access and Disclosure Guidelines. All records related to an employee's injury or illness are sensitive. The ICPA should protect them from unauthorized access and disclosure; limit access to these records to those individuals with an authorized need to know; use caution when releasing medical reports; and under no circumstance, release a psychiatric report. If in doubt, the ICPA should contact OWCP or the supporting DoD liaison for guidance.

SC810.4.4.1.1. NOTE: It is mandatory that the employee specify in writing the name of the individual designated to act as his or her representative.

SC810.4.4.2. Injury Compensation Case Files

SC810.4.4.2.1. Case Files. The ICPA prepares and maintains an injury compensation case file for each injury or illness for which compensation is claimed. As a minimum, the case file is to consist of copies of OWCP forms, relevant medical information supplied by physicians, claim-related correspondence, and other sensitive information that specifically relates to the injury or illness. NOTE: Case files should be secured in locked cabinets or otherwise secured as required by the Privacy Act. All records are official records of OWCP and are covered by the government wide Privacy Act system of records titled DOL/GOVT-1.

SC810.4.4.2.1.1 Claim Numbers. Upon electronic notification from CPMS that OWCP acknowledges receipt of the claim and assigns the claim number, the ICPA shall verify ownership of the case and chargeback code and, if there are discrepancies, the ICPA shall notify OWCP district office immediately. The ICPA shall also annotate all appropriate documents with the claim number in the upper right-hand portion of the document before forwarding to OWCP.

SC810.4.4.2.1.2. File Setup. The ICPA shall:

SC810.4.4.2.1.2.1. Upon receipt of a Form CA-1 or Form CA-2 requiring submission to OWCP, prepare a working folder.

SC810.4.4.2.1.2.2. Make sure labels have the minimum of the following information:

SC810.4.4.2.1.2.2.1. Name;

SC810.4.4.2.1.2.2.2. Social Security Number;

SC810.4.4.2.1.2.2.3. Date of Injury; and

SC810.4.4.2.1.2.2.4. OWCP claim number (when received).

SC810.4.4.2.1.2.3. Arrange documents chronologically, from bottom to top, with a copy of the claim form (CA-1 or CA-2) on the bottom. Ensure all memos, notes, and records of telephone calls contained in the case file are dated and signed.

SC810.4.4.2.1.2.4. Arrange file folders alphabetically.

SC810.4.4.2.1.2.5. Maintain a separate folder for each injury or illness.

SC810.4.4.2.1.2.6. File recurrences (Form CA-2a) with the original injury file folder.

SC810.4.4.2.1.2.7. If an employee is transferred to a different agency or servicing CPO/HRO, forward his or her file folder to the new servicing activity. (A skeleton file may be retained at the losing CPO/HRO, if desired.)

SC810.4.4.2.1.2.8 Maintain two separate sets of files: one for active compensation cases and one for inactive cases.

SC810.4.4.2.1.2.9. Retain the injury file folders as follows:

SC810.4.4.2.1.2.9.1. No lost time/ No medical expense – 90 days after the claim was submitted, retain the CA form as an inactive file at the agency or an agency document storage facility.

SC810.4.4.2.1.2.9.2. First Aid – One year after the date of the last medical appointment or treatment, retain the CA form and medical reports as an inactive file at the agency or an agency document storage facility.

SC810.4.4.2.1.2.9.3. Medical Expenses Only - Two years after the date of the last appointment or medical treatment, retain the CA form (including employee, supervisor, and witness statements), claim acceptance/denial letter, any appeal decisions, claims for recurrence, decisions on claims for recurrence, and the most recent medical report contained in the file detailing the claimant's ability to work. Keep these documents as an inactive file at the agency or an agency document storage facility. Purge all other non-pertinent documents such as transmittal letters and bills from the file.

SC810.4.4.2.1.2.9.4. Medical Expenses and COP - Two years after the date of the last appointment or treatment retain the CA form (including employee, supervisor,

and witness statements), claim acceptance/denial letter, any appeal decisions, claims for recurrence, decisions on claims for recurrence and the most recent medical report contained in the file detailing the claimant's ability to work. Keep these documents as an inactive file at the agency or an agency document storage facility. Purge all other non-pertinent documents such as transmittal letters and bills from the file.

SC810.4.4.2.1.2.9.5. Medical Expenses, COP and Compensation –Four years after the latter of the last medical appointment or treatment, termination of compensation, or expiration of appeal deadlines retain the CA form (including employee, supervisor, and witness statements), claim acceptance/denial letter, any appeal decisions, initial CA-7 submitted to OWCP, claims for recurrence, decision on claims for recurrence, awards of compensation for impairment, and the most recent medical report contained in the file detailing the claimant's ability to work. Keep these documents as an inactive file at the agency or an agency document storage facility. Purge all other non-pertinent documents such as transmittal letters and bills from the file.

SC810.4.4.2.1.2.9.6. All active and inactive records are governed under the disclosure provisions of DOL/GOVT-1, Office of Workers Compensation Programs, Federal Employees' Compensation Act File.

SC810.4.4.3. Defense Injury/Unemployment Compensation System (DIUCS) The Defense Injury and Unemployment Compensation System (DIUCS) and its related components is the foundation of the standard enterprise-wide civilian HR system for injury compensation program management. DIUCS is a valuable web-enabled tool designed to provide comprehensive, detailed information; a more efficient method of filing initial injury claims; and a more efficient method of record keeping, thus providing more time for the ICPA to effectively manage his or her program. DIUCS contains the following modules:

SC810.4.4.3.1. Individual Case Records. The DIUCS provides secure, detailed information about individual workers' compensation claims. Data is immediately available to answer queries about personnel matters, salary information at time of injury, OWCP information such as claim number, status, latest medical bill payments or compensation disbursement information.

SC810.4.4.3.2. Electronic Data Interchange (EDI). EDI enables DoD Components to file workers' compensation claims securely through electronic transmission with OWCP. The EDI provides web-enabled CA-1 and CA-2 claim forms that are accessible to supervisors and employees for completion and forwarding to the local ICPA. Electronic notification alerts the ICPA to a claim requiring processing. Through a secure link, the ICPA may review, code, and transmit a claim to OWCP. Within 48 hours, EDI electronically notifies the ICPA of a claim number assignment at the OWCP district office.

SC810.4.4.3.3. Reports. In addition to pre-constructed or "canned" reports, the ICPA can use the DIUCS report function to design and create a master log or unique activity reports. Log and reports should begin and end with the DOL billing year (July 1 through June 30). If the

DIUCS is not available, the ICPA must maintain a master record by manual methods or any other reliable data system.

SC810.4.5. Program Management Tools

SC810.4.5.1. Defense Portal Analysis Center (DefPAC). The DefPAC is the enterprise-wide injury compensation reporting system that provides a virtual library of workers' compensation information, as well as an aggregate, corporate-level data reporting tool for workers' compensation statistics. DefPAC is a secure, web-enabled system that provides 'one-stop' access to all references, system applications, training modules, and statistical data reports necessary to understand the workers' compensation program and is accessible by all organizational levels in each DoD Component.

SC810.5. OCCUPATIONAL ILLNESS OR DISEASE CLAIMS AND REQUIRED AGENCY DOCUMENTATION

SC810.5.1. General Information on Documentation

SC810.5.1.1. Purpose of Documentation

SC810.5.1.1.1. Provide compensation personnel with a general knowledge of complexities involved and the importance of obtaining and submitting required documentation to support or controvert an employee's claim.

SC810.5.1.1.2. Ensure that the ICPA involves all appropriate functions in submitting proper activity documentation, whether it supports or contradicts the employee's allegations.

SC810.5.1.2. Activity Responsibility. Occupational illness or disease cases require special effort and extensive documentation. ICPAs should use all resources available in acquiring information. Normally, this will include medical records and opinions, co-worker statements, information obtained from the official personnel folder and activity medical records, documentation from the occupational health and safety officers, and information regarding the feasibility and availability of alternate employment.

SC810.5.1.2.1. It is important that the ICPA ensures that the evidence submitted in occupational illness or disease cases is clear, concise, and factual, and includes all required documentation. As appropriate, the supervisor, occupational health official, audiologist, safety and medical officers, and other interested parties submit their respective portions of the documentation to the ICPA for review and forwarding to OWCP.

SC810.5.1.2.2. The ICPA should review all evidence before submitting it to OWCP, taking whatever actions are necessary to clarify contradictory or vague statements and obtain additional information. In unusual cases, this process may require requesting assistance from the CPO/HRO to resolve questionable issues. In some cases, it may be beneficial to coordinate the cover letter to OWCP with the functional offices involved.

SC810.5.2. Categories of Illnesses

SC810.5.2.1. Hearing Loss. (Types, Causes, Prevention) Supervisors and compensation personnel should have some basic knowledge of the possible causes of hearing loss and be extremely conscientious in ensuring that documentation is complete and factual. (See figures 810-22, "Hearing Loss Checklist" and 810-23 for sample hearing loss case. Also refer to figure 810-24 for sample supervisor's/employee's questionnaires and figure 810-25 for sample work history and occupational noise exposure form.) Types of hearing loss fall into several categories.

SC810.5.2.1.1. Sensorineural hearing loss generally occurs in the inner ear and can be caused by exposure to hazardous noise levels. The latter may consist of intermittent or continuous exposure to steady state, impulse noise, or both. In most cases, however, noise-induced hearing loss will not occur if proper hearing protection devices are well-fitted and used when an employee is exposed to hazardous noise levels. Sensorineural noise-induced hearing loss is permanent. Neither medicine nor surgery can reverse this condition. Unprotected exposure to hazardous noise levels of 85 dBA for 8 hours per day may cause permanent decrease in the auditory threshold of hearing sensitivity. A significant auditory threshold shift is defined as a decrease of 20 dB or more at any test frequency for either ear. This type of hearing loss generally occurs in the high frequencies particularly at 4000 Hz. A noise-induced hearing loss will result in the employee's inability to understand speech. In severe cases, a hearing aid may be of some benefit.

SC810.5.2.1.1.1. Hazardous noise is defined as: (1) exposure equal to more than 85 decibels when measured on the dBA scale for 8 hours in a 24-hour period or its equivalent exposure at higher levels for shorter times, or (2) impulse or impact noise that is more than a peak sound pressure of 140 dB. Noise-induced hearing damage primarily depends on the intensity and duration of the noise. As sound intensity goes up, duration of exposure must go down. A few individuals are more susceptible to hearing damage than the normal population; therefore, noise-induced loss can be identified only through routine audio-metric monitoring.

SC810.5.2.1.1.2. Not all exposure to hazardous noise is produced at the worksite, nor is it limited to employment. For example, loud noises, such as those produced by chainsaws, snowmobiles, motor boats, motorcycles, firearms, lawnmowers, home carpentry equipment (saws, drills, or other), and automotive equipment can also cause or contribute to noise-induced hearing loss.

SC810.5.2.1.1.3. Many hearing loss claims filed by employees do reveal some exposure to noise levels well above 85 dBA. In these cases, the duration of the exposure determines the probability of impairment. For instance, exposure to a dynamometer (105 dBA) used in a vehicle maintenance shop for about 45 minutes per week should not cause a noise-induced hearing loss, even without the use of hearing protectors (muffs or plugs). Normally, employees assigned to a hazardous noise area are not constantly subjected to hazardous noise. The flight line, for example, is designated a hazardous noise area, but actual exposure depends on aircraft activity and support equipment in use. Also, a carpentry shop designated as a noise

hazardous area may simply mean that equipment there can produce hazardous noise. If equipment is not in operation, there is obviously no exposure to hazardous noise.

SC810.5.2.1.1.4. Noise-induced hearing loss can be prevented by proper use of hearing protection. No occupations involving hazardous noise exposure have been identified for which there was no adequate protection or method for preventing personnel from being over exposed. 29 CFR 1910.95 (reference (m)), Occupational Safety and Health Administration, Labor, mandates that protection against the effects of noise exposure should be provided when the sound levels exceed those shown below for the period of time identified.

PERMISSIBLE NOISE EXPOSURE
As of July 1, 2003

Duration per day (in hours)	Sound level dBA Slow response
8	90
6	92
4	95
3	97
2	100
1.5	102
1	105
0.5	110
0.25 or less	115

SC810.5.2.1.2. Conductive hearing loss occurs in the outer or middle ear, or both, and can be caused by ear infection, sudden pressure changes, or blows to the head. Generally, conductive hearing loss is characterized by a perforated eardrum, fluid in the middle ear, or damage to the ossicles (middle ear bones), which would prevent sound from reaching the inner ear (cochlea). In most cases, this type of hearing loss is not occupationally related and can usually be corrected by medical and surgical methods. When not medically contraindicated, the use of amplification can be of significant benefit.

SC810.5.2.1.3. Non-organic behavior (exaggerated hearing loss), malingering (willful falsification of test results), or feigning may occur when an individual expects to gain financially from a hearing loss; expects other desired action such as being retained on an assignment; or desires reassignment to avoid unpleasant duty. Non-organic behavior is first suspected when the perceived hearing ability appears better than the audiometric test results indicate. Frequently invalid, unreliable, and inconsistent test results are obtained. Often the patient will display exaggerated attempts at lip reading and over-dramatization of his or her hearing difficulty. Advanced auditory tests, which do not require a voluntary patient response, are available for the audiologist to determine whether the test results are accurate, if a hearing loss is present, and the type and extent of disability.

SC810.5.2.2. Communicable Diseases. Communicable disease claims include those for infectious or contagious diseases caused by microorganisms or by parasites contracted from another person, a contaminated article, or insect or animal.

SC810.5.2.3. Dermatitis or Skin Diseases. Normally, dermatitis claims concern inflammations of the skin resulting from contact with substances of an irritant nature from such chemicals as dye, ink, solvent, detergent, or from plants (poison ivy, poison oak). (Checklist for skin disease claims is at figure 810-26.)

SC810.5.2.4. Silicosis, Asbestosis, and Chronic Bronchitis. Silicosis is caused by inhalation of particles of dust or stone, sand or flint containing silica (silicon dioxide). The mere inhalation of dust alone will not cause silicosis; the dust must contain silica. Asbestosis is caused by inhalation of asbestos particles or fibers. In these cases, it is essential that substantial exposure in the Federal employment be well established and the silica content of the dust be provided. Chronic bronchitis is a common condition that may be caused by exposure to chemical irritants, smoke or fumes, repeated attacks of acute bronchitis or bronchial asthma, prolonged inhalation of irritating vapors, dust or smoking tobacco. (See checklists in figure 810-27 for required documentation: CA-35C and CA-35F.)

SC810.5.2.5. Cardiovascular Diseases. There are several types of cardiovascular diseases, and claims may be made for any of them. Even in situations where the condition was clearly not caused by work, it may be alleged that factors of employment aggravated a condition or precipitated a period of disability. (See figure 810-28 for coronary/vascular condition checklist.) Some types of cardiovascular problems are:

SC810.5.2.5.1. Congestive Heart Failure - a general circulatory problem that occurs when the heart is unable to put out enough blood to meet the requirements of the body.

SC810.5.2.5.2. Arteriosclerotic Heart Disease (ASHD) - hardening and narrowing of the coronary arteries resulting in the heart not receiving the oxygen it needs. Characteristically, this is a degenerative change that occurs in middle or old age. It is more common in men than women.

SC810.5.2.5.2.1. Coronary insufficiency (occlusion) - a mild form of ASHD, also known as angina pectoris. The condition occurs due to an inadequate supply of blood and oxygen to the heart. These episodes are often precipitated by physical exertion or emotional stress.

SC810.5.2.5.2.2. Myocardial infarction - the more serious form of ASHD, in which part of the heart muscle is completely deprived of oxygen and dies.

SC810.5.2.5.3. Rheumatic heart disease - occurs because of rheumatic fever (usually in childhood), which causes damage to the valves of the heart.

SC810.5.2.5.4. Hypertensive heart disease - a defect present at birth.

SC810.5.2.5.5. Congenital heart disease - a defect present at birth.

SC810.5.2.5.5.1. NOTE: It is important for OWCP to be able to distinguish between a chronic underlying coronary artery disease or other heart disease, which may not be attributable to employment.

SC810.5.2.6. Psychotic and Neurotic Disorders. Emotional disorders can cause disability; an employee may file a claim based on an emotional disorder if the stress and/or strain are related to the work environment. Normally, the work environment is not the sole cause of an emotional disorder, which usually results from a combination of additional factors including genetic history and home environment. It is especially important for OWCP to receive factual evidence concerning the employee's medical history and work and home environment (CA-35G, Psychiatric Checklist at figure 810-29).

SC810.5.2.7. Low Back Strain. Most claims for back strains are alleged to have occurred because of traumatic injury rather than because of general working conditions and thus fall under that category rather than an occupational illness. The back is prone to progressive deterioration associated with aging. A back condition may also be due to an injury having no relation to the work, faulty posture, a congenital condition or a disease process. ICPAs should carefully review low back strain claims based on traumatic injury and if the situation warrants, obtain and provide the same information to OWCP as for occupational illness claims.

SC810.5.2.8. Radiation and Similar High Energy Injuries. These claims can include, injuries involving X-rays, radioisotopes and radio nuclides, radar, microwaves, radio frequencies, alpha and beta particles, gamma rays, high energy neutrons, and laser beams. These claims are handled by District 09.

SC810.5.2.9. Other Occupational Illness or Disease. The activity obtains and reviews all pertinent documentation, including the evidence required in figures 810-30 and 810-31, and forwards to OWCP (CA-35H and CA-35A). NOTE: In most traumatic injury cases, the required documentation required is far less extensive; but, the ICPA should carefully review each claim. When evidence is required from the employing activity for occupational illness and it is relevant to a traumatic injury claim, the ICPA should obtain and forward it to OWCP.

SC810.5.3. Claims Filed by Claimants After Federal Employment Has Been Terminated

SC810.5.3.1. Initial Action Required. Often a claim for compensation because of a job-related illness or disease is not filed until some time after an employee has been separated from the employment rolls. When the ICPA receives such claims or a request from OWCP for employing activity documentation, it is important that as much information and documentation as possible concerning the employee's Federal employment and medical records, and any non-Federal employment or activity, be obtained and provided to OWCP. Upon receipt of a claim or OWCP request, the ICPA should:

SC810.5.3.1.1. Complete SF-127, "Request for Official Personnel Folder (OPF) (Separated Employees)" and send it to the National Personnel Records Center (NPRC), 111 Winnebago Street, St. Louis, MO 63118.

SC810.5.3.1.2. Complete SF-184, "Request for Employee Medical Folder," for employees separated after August 1984. For employees separated before September 1984, complete OF-11, "Reference Request - Federal Records Center."

SC810.5.3.2. Follow-Up Actions. The ICPA should:

SC810.5.3.2.1. Review the OPF, medical records, and DIUCS to extract as much information as possible to determine a possible employing activity position regarding the claimant's allegations.

SC810.5.3.2.2. If the claimant had remained at the same employing office during the period of employment alleged to have caused the illness or disease (and the installation is still in existence), obtain documentation as would be available if the claimant were still employed.

SC810.5.3.2.3. If the installation or organization is no longer in existence and exposure monitoring or other data has been destroyed or otherwise not available, request assistance from the DoD servicing liaison.

SC810.5.3.2.4. A sample letter to OWCP showing types of information that an employing activity can provide is at figure 810-32.

SC810.5.3.2.4.1. NOTE: The claimant's signature and date in blocks 15 and 18 of the current Forms CA-1 and 2, respectively, satisfy the requirements of any local regulation for written consent to release of medical information to OWCP to process a claim in which a person's medical history is relevant.

SC810.6. CONTINUATION OF PAY AND ACCOUNTING PROCEDURES

SC810.6.1. Continuation of Pay (COP)

SC810.6.1.1. Coverage. This Section provides the ICPA and supervisor with specific timekeeping and accounting guidelines. Accurate input of time and attendance is necessary in tracking injury compensation costs.

SC810.6.1.2. COP Applicability. COP applies only to employees suffering traumatic injuries. Persons disabled because of occupational illnesses (those illnesses that are the result of continued exposure to a condition of the work environment) do not receive COP; they are only eligible for injury compensation benefits from the OWCP, and/or may use sick or annual leave or LWOP, as appropriate.

SC810.6.1.3. COP - the 45-Calendar Day Period. COP is the continuation of an injured employee's regular pay for up to 45 calendar days with no charge to sick or annual leave. COP

is charged in full days only and includes weekends and holidays. COP is paid by the employing activity and contributes directly to the cost of doing business in lost production time.

SC810.6.1.3.1. Computation. The 45 days begin according to the appropriate one of the three rules provided below:

SC810.6.1.3.1.1. If the injury occurs before the start of the employee's scheduled tour of duty, the first day charged to COP is the date of injury.

SC810.6.1.3.1.1.1. EXAMPLE: An employee whose tour begins at 9:00 A.M. is injured while entering the building at 8:50 A.M. on Tuesday. Tuesday would be the first day of COP.

SC810.6.1.3.1.2. If the injury occurs during the employee's scheduled tour of duty and immediate time loss results, the first day charged to COP is the first calendar day after the date of injury.

SC810.6.1.3.1.2.1. EXAMPLE: An employee whose tour begins at 9:00 A.M. has a disabling on-the-job injury at 10:45 A.M. on Tuesday. The employee cannot return to duty for five days. Wednesday would be the first day of COP.

SC810.6.1.3.1.3. When the time loss is not immediate, the first day charged to COP is the first day of lost time following the date of injury.

SC810.6.1.3.1.3.1. EXAMPLE: An employee is injured at 2:00 P.M. on Tuesday, is examined at the activity hospital, and returns to duty after the examination. At 10:00 A.M. on Thursday, the employee returns to the activity hospital for a follow-up. In this case, Thursday would be the first day of COP.

SC810.6.1.3.2. Continuation-of-Pay Limitation

SC810.6.1.3.2.1. COP is calculated for each injury. One COP period is not added to another.

SC810.6.1.3.2.2. COP can be received only if the initial disability begins within 45 calendar days of the occurrence of the injury. In recurrence cases, COP is allowed if:

SC810.6.1.3.2.2.1. The initial claim had been previously approved or is pending OWCP adjudication; and,

SC810.6.1.3.2.2.2. The 45-day calendar days were not all used during the initial period of disability; and,

SC810.6.1.3.2.2.3. The recurrence is within 45 calendar days, beginning from the date the employee first returned to work following the first period of work stoppage.

SC810.6.1.3.3. Partial Days Lost. If the employee stops work for only a portion of the day or shift, such day or shift shall be considered as 1 calendar day for purposes of counting 45 days. However, while such a day is considered one calendar day for counting purposes, the employee is NOT entitled to COP for the entire day or shift unless the physician advises (in writing) the employee to stay at home for the rest of the day. For example, if an employee who has returned to work uses 3 hours to receive physical therapy for the effects of the injury, the employee is entitled to only three hours of COP for that day or shift even though one full calendar day will be charged against the 45-day limit. If the employee is absent for all or any portion of the remaining five hours (assuming an 8-hour workday or shift), such absence is covered by leave - annual or sick leave, LWOP, or AWOL, as appropriate. Any absence during that day or shift beyond the time needed to travel to and from the therapy location and to obtain the physical therapy, cannot be charged to COP.

SC810.6.2. Authorization and Certification of COP

SC810.6.2.1. Recurrence of a Job-Related Traumatic Injury

SC810.6.2.1.1. An employee who suffers a recurrence of a job-related traumatic injury may elect to receive COP (if eligible), charge the absence to sick or annual leave, or take LWOP and file for injury compensation benefits from OWCP. COP is available as an option only:

SC810.6.2.1.1.1. If the 45 calendar days were not all used during the initial period of work stoppage; and,

SC810.6.2.1.1.2. If the recurrence is within 45 calendar days of the date that the employee first returned to work.

SC810.6.2.1.1.2.1. NOTE: If the recurrence occurs more than 45 calendar days after the employee returned to work following the initial work stoppage, COP may not be continued, even if some portion of the 45 days remains unused. In this case, the employee is entitled only to sick or annual leave or OWCP compensation.

SC810.6.2.1.2. The phrase, "first returned to work" means the first return to any work, including part-time work. The first day of COP must be taken within 45 calendar days from the date of injury. The following example illustrates when the 45-day period begins from the date the employee "first returned to work" following the initial disability.

SC810.6.2.1.2.1. EXAMPLE: The employee is injured on January 2 and is totally disabled for 2 days. On January 5 the employee reports to work and works a full day. The employee does not lose any time from work again due to the injury until February 8; is off work February 8, 9, and 10; and receives COP for those three days. The employee returns to work on February 11 and does not lose any further time from work due to the injury until March 20; but on March 20, 21, and 22 again loses time from work due to the disability. The employee would not be entitled to COP for time lost in March as it was more than 45 calendar days since the first return to work, which was January 5.

SC810.6.2.1.2.2. Once begun, COP is continued (if the 45-day period has not been expended) for the entire period of continuous disability, even though it extends beyond the 45 calendar-day period. However, all entitlement to COP for the injury ends after the first return to work thereafter (beyond the 45-day period).

SC810.6.2.2. Authorization and Supporting Evidence. When an employee sustains an on-the-job traumatic injury, COP should be authorized pending receipt of the CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation," and medical evidence. If the agency does not receive the completed CA-1 and prima facie medical documentation within 10 calendar days from the date the employee claims COP or the disability begins, whichever is later, COP shall be discontinued and the employee shall have his or her time charged to sick or annual leave or LWOP. (A completed CA-1 must be received within 30 days from the date of injury for the employee to be authorized COP.)

SC810.6.2.3. Certification of COP. A physician's statement is necessary for all periods of absence due to an on-the-job injury. The treating physician should provide rationalized medical evidence supporting the treatment provided and any period of disability causally related to the on-the-job injury. If the physician does not provide medical evidence, it may result in OWCP's denial of COP and be subject to recovery.

SC810.6.2.4. Computing Employee's Pay for COP. COP is an employee's regular pay. It is the employee's current weekly earnings excluding Sunday premium and overtime pay 5 USC 5546 (reference (n)). NOTE: Firefighters and certain other employees are eligible to receive overtime when in receipt of COP (5 CFR Part 551) (reference (o)).

SC810.6.2.4.1. An employee (full-time or part-time) receives COP for the number of hours (excluding overtime) he or she would have worked if he or she had not been injured.

SC810.6.2.4.2. Intermittent, WAE (when actually employed) or part-time employees, either permanent or temporary, who do not work each week of the year (or period of appointment), receives COP in an amount equal to the average weekly number of paid hours that the employee has worked during the previous 52 weeks (excluding overtime). The weekly pay rate equals the average of the employee's weekly earnings during the 1 year before the injury. It is the total earnings divided by the number of weeks worked (partial weeks worked are counted as whole weeks). The annual earnings used for this computation must not be less than 150 times the average daily wage earned within 1 year before the date of injury (the daily wage is the hourly rate times eight). (Refer to figure 810-33 for worksheet used to compute intermittent, WAE, or part-time employee's COP.)

SC810.6.2.4.3. Normally, employees who would have been eligible to receive night differential or any other additional pay, excluding overtime or Sunday premium pay, will continue to receive these premiums while in COP status. However, a 1987 court decision requires firefighters to have overtime included in their COP. For computation information regarding firefighter pay-rates, please make reference to 5 CFR Part 550, Subpart M (reference (p)).

SC810.6.2.4.4. Employees normally entitled to holiday pay and a holiday falls within the 45-day COP period, the holiday will be counted against the 45 days.

SC810.6.2.4.5. Particular attention to the physician's report is required when charging COP on Saturdays, Sundays, and other non-workdays.

SC810.6.2.4.5.1. EXAMPLE: If the employee has a disabling on-the-job injury on Wednesday and the physician's statement says the employee cannot return to duty until the following Monday, Saturday and Sunday would be counted in this case.

SC810.6.2.4.6. Any within-grade increases or promotions the employee receives are included in COP, since COP is replacement of the employee's normal salary.

SC810.6.2.5. Election of Annual or Sick Leave. If an employee elects sick or annual leave instead of COP, he or she should be advised that such leave during the 45-day entitlement cannot be paid back by compensation and that this time counts against the 45 days of COP.

SC810.6.2.6. Election Changed Within the 45-Day Period. An employee who first elected sick or annual leave on the Form CA-1 may change that election to COP for the entire COP period.

SC810.6.2.6.1. EXAMPLE: An employee had an on-the job injury on June 20 and was totally disabled. The first day of COP would have been June 21, but the employee elected to use sick leave instead. Sick leave was charged from June 21 through 28 and the employee decided to use COP rather than sick leave. A written request was submitted on June 28, so COP would be charged starting June 21. However, the employee must request the change to COP within 1 year of the date the leave was used or the date the claim was approved, whichever is later.

SC810.6.2.7. First Aid Examination and Treatment for On-the-Job Injury or Illness. When management refers an employee to a medical unit (either on-site or off-site) due to illness or injury, all time spent waiting for and receiving medical attention on the workday on which the illness or injury occurs (that would otherwise have been worked, excluding overtime) is credited as work time. The supervisor so notes and initials the employee's timecard. This does not imply that an employee whose treatment extends beyond his or her scheduled tour of duty is to be credited for that time. An employee will be credited only for the number of regular hours he or she was scheduled to work that day (applicable to injuries that occur after the work shift has begun).

SC810.6.2.8. COP Beyond Separation (General). COP may not be interrupted as part of a disciplinary action unless a preliminary notice was issued to the employee before the date of injury and the action becomes final or otherwise takes effect during the COP period. The ICPA must ensure that documentation is made available and that the preliminary notice was issued before the date of injury. COP is provided only through the date that the proposed action becomes final. If a disabling injury occurs just before the end of a temporary appointment and

the employee was formally advised of the final date of the appointment before the injury, COP would be provided only through the date of termination. Where such notice was not issued before the date of injury, the agency will continue to pay COP. Formal notice of termination affects COP only; therefore Form CA-7 should be completed promptly and forwarded to OWCP, with the original CA-1 and other documentation.

SC810.6.2.9. Pay Adjustments and Recovery of Overpayments

SC810.6.2.9.1. Occasionally, OWCP may determine that an employee is not entitled to all or part of a period of COP that has already been given. The ICPA and claimant will be notified of such a decision and COP should be recovered accordingly.

SC810.6.2.9.2. Upon receipt of the initial OWCP decision, the ICPA advises the employee, the employee's supervisor, and the civilian payroll activity that a corrected time and attendance document or data entry is needed to change COP to sick or annual leave, or LWOP, as elected by the employee. If LWOP is elected, the overpayment will be recouped by the payroll activity. An SF-52 will be submitted to document LWOP in excess of 80 hours when LWOP is taken for the purposes of receiving compensation benefits.

SC810.6.2.9.3. Supervisors should submit an adjusted time and attendance document or input corrected data to the payroll activity to recover COP hours.

SC810.6.2.9.4. When the COP adjustment has been processed, a letter should be sent to OWCP showing that the COP has been recovered.

SC810.6.2.9.5. COP is not considered compensation, therefore, the cost of time charged to COP cannot be recouped in third party recovery cases.

SC810.6.2.10. Light Duty Chargeable to the COP Period

SC810.6.2.10.1. Normally, an employee performing light duty because of an on-the-job injury is not charged COP. However, COP is charged if an employee has been assigned light duty by an official personnel action (SF-50) and pay loss results.

SC810.6.2.10.1.1. NOTE: The employee must be furnished with documentation of the personnel action before the effective date of the action.

SC810.6.2.10.2. When an employee is detailed to a work schedule entailing loss of night differential pay earned before the injury, COP days will be charged, even though the employee is working. The cost of COP is calculated as the difference between the employee's normal pay and pay earned in the detail position.

SC810.7. CONTROVERSION OF CLAIMS

SC810.7.1. "Controvert" means to dispute, challenge, or deny the validity of the claim. For cases where entitlement to COP is not a consideration, the term controvert and challenge are used interchangeably.

SC810.7.2. General Guidelines

SC810.7.2.1. Purpose of Controversion. The FECA provides for the controversion of an employee's claim for COP and compensation when there is reason to believe that the employee is not entitled to certain benefits under the law. It is the responsibility of all supervisors and ICPAs to dispute any injury compensation claim or element of that claim for which there is credible evidence of fraud, abuse, honest misjudgment by the employee, or any other circumstances that constitutes doubt as to the employee's entitlement to one or all benefits under FECA.

SC810.7.2.2. Questionable Cases. In questionable cases, consult the supporting DoD liaison for an opinion on whether to withhold COP pending further developments in the case. For example, a temporary employee reports an injury sustained after having received notice of termination and there are no witnesses.

SC810.7.3. Types of Controversions

SC810.7.3.1. Controversion of the Entire Claim. The entire claim should be controverted when there is reason to believe that the claimant is not entitled to the benefits he or she is claiming. These types of cases include fraudulent claims, honest misjudgment by the claimant as to job relatedness, injuries caused by willful misconduct and injuries proximately caused by intoxication.

SC810.7.3.2. Partial Controversion. Any portion of a claim may be controverted when there is evidence to substantiate that the employee is not entitled to certain benefits under FECA. For example, an employee sustains a laceration to the right leg and the treating physician states that the employee is totally disabled for two days, but the employee takes off four days. Although it is a legitimate injury, two days of COP should be controverted, unless the claimant provides further evidence to justify the additional time.

SC810.7.3.3. Controversion with Termination or Denial of COP

SC810.7.3.3.1. The FECA provides that the employing activity may controvert and terminate or withhold COP on the basis of information submitted by the employee or secured on investigation, if the claim falls into one of the following nine categories:

SC810.7.3.3.1.1. Disability results from an occupational disease or illness (see sample letter at figure 810-34);

SC810.7.3.3.1.2. Employee is excluded by reference (a);

SC810.7.3.3.1.3. Employee is not a citizen or a resident of the United States or Canada;

SC810.7.3.3.1.4. Injury did not occur at the employing activity and the employee was not involved in official off-premises duties;

SC810.7.3.3.1.5. Injury was caused by the employee's willful misconduct, intent to cause injury or death of self or another person, or was caused by the employee's intoxication;

SC810.7.3.3.1.6. Claimant did not report injury on Form CA-1 within 30 calendar days following the injury (see sample letter at figure 810-35);

SC810.7.3.3.1.7. Work stoppage first occurred 45 calendar days or more following the injury (see sample letter at figure 810-36);

SC810.7.3.3.1.8. Employee initially reported the injury after employment was terminated (see sample letter at figure 810-37); or,

SC810.7.3.3.1.9. Employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, Youth Conservation Corps, Work Study Programs, or other similar groups. There is no entitlement to COP for these individuals; however, they may be entitled to compensation.

SC810.7.3.3.2. These nine provisions are also listed in the instructions attached to the Form CA-1. These provisions should be reviewed carefully. It should be noted that OWCP makes the final determination and can overturn the activity's controversion of termination of COP.

SC810.7.3.4. Termination of COP. Once COP has started, it may be stopped only if:

SC810.7.3.4.1. Medical evidence is not received supporting the disability within 10 calendar days after the claim is filed by the employee;

SC810.7.3.4.2. The attending physician has found that the employee is no longer disabled for the job held at the time of injury;

SC810.7.3.4.3. The attending physician advises that the employee is partially disabled and then the employee refuses a suitable written offer of light duty or fails to respond to such offer within 5 working days;

SC810.7.3.4.4. The employee’s term of employment expires, provided the date of termination of employment was established before the date of injury;

SC810.7.3.4.5. A preliminary notice of disciplinary action was issued to the employee before the date of injury and takes effect during the COP period.

SC810.7.3.4.6. The OWCP advises the agency to terminate COP; and,

SC810.7.3.4.7. COP has been paid for 45 calendar days.

SC810.7.3.4.8. The employee returns to work with no loss of pay.

SC810.7.3.5. Controversion Without Termination or Denial of COP. If the conditions listed in SC810.7.2.3.1. above do not apply, it may still be appropriate to controvert COP. However, the agency must pay COP to the claimant until notified otherwise by DOL.

SC810.7.3.5.1. Reasons for controverting a claim that do not allow termination of COP are:

SC810.7.3.5.1.1. Facts of injury are questionable;

SC810.7.3.5.1.2. Medical evidence does not establish causal relationship;

SC810.7.3.5.1.3. Preexisting medical conditions if there is no medical evidence to explain how the injury affected the condition;

SC810.7.3.5.1.4. The results of claimant's fitness-for-duty examination conflict with the treating physician's medical report;

SC810.7.3.5.1.5. An employee delays reporting the injury (but still files within the 30-day time limit);

SC810.7.3.5.1.6. The claimant sustains a disabling injury after being refused leave;

SC810.7.3.5.1.7. The claim lacks substantiating medical evidence;

SC810.7.3.5.1.8. Diagnosis is not compatible with injury (see sample letter at figure 810-38);

SC810.7.3.5.1.9. Injury was not caused by employment factors (see sample controversion letter at figure 810-39).

SC810.7.3.5.2. The FECA provides for controversion of traumatic injury, but does not specifically address occupational or recurrence claims. In these cases, it is the responsibility of the claimant to provide evidence that his or her condition is causally related to factors of employment. Although controversion, per se, does not apply in cases of occupational disease or recurrences, the activity can still question the validity or job-relatedness of a claim. Documentation is basically the same as for a controversion package; however, the claimant must submit a statement with the claim and the supervisor must comment on the accuracy of the statement. This gives the supervisor an opportunity to either substantiate or refute the information given (see figure 810-40 for sample letter disputing an employee's claim).

SC810.7.4. The Employee's Burden of Proof. There are five basic criteria that OWCP considers in adjudicating a claim. Where the employee's evidence fails to meet any of the five requirements, the examiner will try to obtain clarification of significant discrepancies and any additional information necessary to reach a decision. It is the responsibility of the supervisor or ICPA to controvert the claim if any of the following basic requirements are not established:

SC810.7.4.1. Time Limitations

SC810.7.4.1.1. Claimant should file a notice of traumatic injury or occupational disease claim for compensation within the time limits specified below. (These time limits apply only to injuries and deaths that occurred on or after September 7, 1974.)

SC810.7.4.1.2. Reference (a) states that the claimant should file an original claim for compensation for disability or death within 3 years after the occurrence of the injury or death. Even if the claimant does not file within 3 years, compensation may be allowed if:

SC810.7.4.1.2.1. The immediate superior had actual knowledge (including verbal notification) of the injury or death within 30 days after occurrence; or,

SC810.7.4.1.2.2. The claimant gave written notice of injury or death within 30 days as specified in reference (a).

SC810.7.4.1.3. Reference (a) also provides that filing a disability claim because of injury will satisfy the time requirements for a death claim based on the same injury. This section further provides that failure of any individual to comply with the three-year time requirement may be excused by the OWCP on the grounds that notice of injury or death could not be given because of exceptional circumstances;

SC810.7.4.2. Civil Employee. The injured employee or decedent must be or have been a Federal employee;

SC810.7.4.3. Fact of Injury. The employee or decedent must have sustained an injury as defined in FECA;

SC810.7.4.4. Performance of Duty. The injury or death must have resulted from an incident or circumstance occurring while the employee was performing official duties; or,

SC810.7.4.5. Causal Relationship. The injury, disability, or death must have been caused by conditions of employment. The causal relationship may be either direct or by precipitation, aggravation, or acceleration of a preexisting or underlying condition.

SC810.7.5. The Controversion Package. The content and validity of a controversion package are the determining factors in OWCP's decision to uphold or deny a controversion. Therefore, it is of the utmost importance to prepare this package with care after thoroughly investigating the circumstances surrounding the claim. It is also important to mark the appropriate controversion block on the Form CA-1. The package should include a cover letter

with documented evidence attached. The ICPA maintains a copy of the entire controversion package in the employee's claim file. A copy of the cover letter should be sent to the supporting DoD liaison for recording purposes.

SC810.7.5.1. The Cover Letter. The cover letter is the first document the OWCP claims examiner sees and it summarizes the reason for controversion. All letters should be simple and tied to the FECA statute. Construct the letter to include:

SC810.7.5.1.1. Introduction. The introductory paragraph should contain a reference to the claimant, the claim number (if assigned), the nature of the claim, and a statement that the claim or identified portion of the claim is being controverted;

SC810.7.5.1.2. Presentation of Evidence. The body of the cover letter presents the actual evidence or reference to the evidence that supports the controversion. The body consists of two types of information:

SC810.7.5.1.2.1. Reference to the attachment; and,

SC810.7.5.1.2.2. Factual information not supported by attachment.

SC810.7.5.1.3. The Summary. The final paragraph should contain a concise summary of the justification for the controversion and the action needed by the claims examiner; that is, the cover letter should:

SC810.7.5.1.3.1. Describe what is being controverted and why;

SC810.7.5.1.3.2. Support the agency’s position; and,

SC810.7.5.1.3.3. State requested action.

SC810.7.5.2. Attachments or Enclosures. The agency should support controversions with factual evidence and present that evidence as attachments. Refer to the attachments in the cover letter and arrange them in an orderly sequence.

SC810.7.5.2.1. Examples of Attachments:

SC810.7.5.2.1.1. Witness statements;

SC810.7.5.2.1.2. Supervisor's statements;

SC810.7.5.2.1.3. Medical evidence;

SC810.7.5.2.1.4. Diagrams, maps, or both;

SC810.7.5.2.1.5. Photographs;

SC810.7.5.2.1.6. Time and attendance records;

SC810.7.5.2.1.7. Other documents obtained during the investigation; and,

SC810.7.5.2.1.8. Investigative reports (if available).

SC810.7.5.2.2. Importance of Attachments. Because the attachments make up the bulk of the evidence needed for controversion, their accuracy and completeness are vital. Documents refuting a claim or portion of a claim will weigh heavily on the adjudication of the case as long as they are relevant, accurate, and objective.

SC810.8. PAY RATES USED FOR COMPENSATION AND OTHER PAY RELATED ISSUES

SC810.8.1. Compensation Pay Rate

SC810.8.1.1. Compensation Pay Rate Explained. The pay rate used by OWCP for computing compensation is the highest rate on any of the following dates:

SC810.8.1.1.1. Date of injury;

SC810.8.1.1.2. Date of recurrence; or,

SC810.8.1.1.3. Date disability began. This date applies for illness/disease claims.

SC810.8.1.2. How to Determine Pay Rates

SC810.8.1.2.1. Date of Injury Pay Rate. The date-of-injury pay rate is the rate used in most claims. The hourly rate should be provided if the employee is paid on this basis. OWCP will multiply the hourly rate times 2087 and divide by 52. The annual pay rate should be used if employee is paid on an annual basis. If an annual rate is used, OWCP will divide this amount by 52, in accordance with the "FECA Procedure Manual," (reference (q)).

SC810.8.1.2.2. Date Disability Began Pay Rate. This is the pay rate used when the employee did not stop work on or immediately following the date of injury and the disability began later. The date-disability-began pay rate is compared to the date-of-injury pay rate and the greater of the two is used.

SC810.8.1.2.3. Date of Recurrence Pay Rate. In order for an employee to receive the recurrence pay rate, the recurrence must begin more than six months after the employee had resumed regular full-time employment with the government. The six months begin after the employee has lost time other than the date of injury. The employment with the government during the required six months need not have been continuous. The 6-month requirement applies only to the first recurrence of disability and is not a requirement to subsequent recurrences.

SC810.8.1.3. Temporary Employees. In certain situations, temporary employees are not entitled to compensation at the same rate as full-time, permanent employees. If an employee's appointment was for less than one year, the ICPA must submit the additional information to OWCP as follows:

SC810.8.1.3.1. How long was the appointment, including extensions? Submit copies of all applicable SF-50s.

SC810.8.1.3.2. Had the employee established the ability to work full time? Submit a copy of an "Application for Employment."

SC810.8.1.3.3. What were the annual earnings of a similar employee (another 90-day appointee, NOT a full-time permanent employee)?

SC810.8.1.4. Computation of Compensation for Intermittent and Temporary Employees. Normally, OWCP bases compensation on the employee's weekly pay at the time of injury. However, if the employee was on an intermittent or temporary job that would not have afforded employment for a whole year, OWCP may use a different formula to compute the weekly pay rate. In these cases, the average annual earnings used as the basis for compensation will not be less than 150 times the employee's average daily wage earned in the particular employment during the year immediately preceding the injury. (EXAMPLE: An employee earning $7.32 per hour - $7.32 per hour X 8 hours = $58.56 (per day) X 150 = $8,784.00 (per annum) divided by 52 weeks = a weekly pay rate of $168.92.)

SC810.8.1.5. Firefighters and Employees Who Work Other than a 40-Hour Workweek. For firefighters (and other employees) who work other than a 40-hour workweek, it is critically important that OWCP be specifically advised of: (1) the actual number of hours in the workweek, listing regular and overtime hours separately; and, (2) the basic pay rate, the overtime pay rate, and percentage of premium pay. The ICPA must include a statement about whether the provided pay rate includes or does not include the premium pay. For firefighters who work 72 hours per week, overtime is paid for 19 hours. The overtime pay is included in the pay rate used for compensation purposes (reference (o)). The formula for computing premium and overtime pay is included in figure 810-41. The ICPA should complete the worksheet and forward a copy with the claim to OWCP.

SC810.8.1.6. Cost of Living Increases. The FECA provides for increases based on the Consumer Price Index (CPI) to claimants who have been receiving compensation for more than a year. CPI increases apply only if the claimant received compensation before March of the previous year. Figure 810-42 contains all the CPI adjustments granted since 1966 and can be used in determining if the amount of compensation paid to the claimant and charged back to the activity is reasonably correct.

SC810.8.1.7. Loss of Wage-Earning Capacity. When an employee has a partial loss of wages, OWCP will compute the compensation based on the "Shadrick" formula as it reflects the principles declared by the Employees' Compensation Appeals Board (ECAB) in the case of Albert C. Shadrick, 5 ECAB 376. In that decision, the ECAB found that reference (a) does not

say that compensation is to be based on the difference between the employee's earnings at the time of injury and whatever variable dollar income the employee may have in the future. Instead, it is to be based on the loss of capacity to earn wages. The ECAB went on to say, "Although capacity to earn and not wages received is the proper test under the law, an employee's actual wages may constitute compelling evidence of his capacity to earn and in a proper case may be used as a yardstick in determining an injured employee's diminished earning capacity." However, in applying this yardstick, the Appeals Board found that "... wages received 2, 5, or 10 years after an employee has sustained an injury and during which period changes in business conditions have caused wages to double due to a business boom or to be cut in half due to a depression cannot be used as a conclusive factor in determining a claimant's diminished wage-earning capacity after he has been injured." The Appeals Board concluded that "Actual dollar earnings received several years after injury may be used to determine wage-earning capacity only after they have been converted into terms of actual dollar earnings received at the time of the injury."

SC810.8.1.7.1. Mathematically, this principle is represented by the "Shadrick" formula as shown in figure 810-43. When the job held at the injury included additional elements of pay that would be reflected in the pay rate for compensation purposes, such as night differential, such additional pay must be reflected in the current pay for the same job. This is done by increasing the current base pay by the same percentage as the original base pay was increased by the additional pay elements.

SC810.8.2. Preventing Overpayment Occurrences. To prevent overpayments, the ICPA should:

SC810.8.2.1. Submit a copy of the SF-50 reflecting the salary on the date of injury with the initial CA-7;

SC810.8.2.2. Highlight part-time or intermittent employment on Forms CA-1, CA-2, or CA-7;

SC810.8.2.3. Avoid completing the employee's portion of Form CA-7. If there is fraud, the government does not have a case if the form was not completed by the claimant;

SC810.8.2.4. Review the award letters on schedule awards and compensation payments to insure that the correct pay rates were used; and,

SC810.8.2.5. Review leave buy-back cases and verify that the CPIs are not given if the pay rate was not in effect for one year as of March 1 on the following year.

SC810.8.3. Leave Buy-Back Procedures

SC810.8.3.1. Criteria for Leave Buy-Back. If an injured Federal employee elects to use sick or annual leave during a period of disability, the employee may (with agency approval) claim compensation for the period of disability and “buy back” the leave used. Compensation for leave repurchase is computed in the same way as compensation for temporary total disability.

Since leave is paid at 100 percent of the usual wage rate, while compensation is paid at either 66 2/3 percent or 75 percent of the employee's usual pay rate, the employee must refund to the agency the difference between the compensation entitlement and the total amount of leave paid by the agency. The employee's leave record must be changed to leave-without-pay (LWOP) for compensation to be paid. Since leave is not earned during a period when an employee is in a LWOP status, the repurchase of leave may result in a reduction of earned leave. Buy back of leave is subject to agency concurrence and availability of official leave records (any sick or annual leave used during the 45 day COP period cannot be used for leave-buy-back purposes unless the employee was not entitled to COP). Before leave buy-back procedures begin, the following criteria must be met:

SC810.8.3.1.1. OWCP has approved the employee's claim for compensation benefits.

SC810.8.3.1.2. The employee used sick or annual leave due to the disability.

SC810.8.3.1.3. The claim for leave buy-back is submitted within one year of the date the leave was used or the claim was accepted, whichever is later. (This would assure leave records and medical documentation are available to support disability for the period claimed.)

SC810.8.3.1.4. Requests for leave buy-back shall be submitted for a minimum of ten hours of leave unless no further claims are anticipated. Medical documentation must be provided for all dates claimed.

SC810.8.3.2. How to Process Leave Buy-Back Requests. The following are procedures to use when an employee buys back leave:

SC810.8.3.2.1. When an employee advises his or her immediate supervisor or other designated official of intention to file a leave buy-back claim, the employee should complete a CA-7 for the dates claimed. When more than one continuous period of leave is claimed, the employee should complete a CA-7a, "Time Analysis Form," (figure 810-44) following the instructions (figure 810-45).

SC810.8.3.2.2. The employee completes the forms and returns them to the supervisor or designated official. After completing the agency's portion, the supervisor or other official forwards the form to the ICPA.

SC810.8.3.2.3. The ICPA reviews the CA forms and reviews and CA-7a for accuracy of hours shown, verifying the hours against payroll records. The ICPA should contact the employing agency's payroll department to obtain the total repayment amount for all hours claimed. The determination as to which hours are actually compensable will remain an OWCP function, based on review of the medical evidence on file.

SC810.8.3.2.4. The ICPA estimates the FECA entitlement using CA-7b, "Leave Buy-Back (LBB) Worksheet/Certification and Election" (figure 810-46). Part II of the CA-7b will be completed by DFAS. The completed worksheet will show the total repurchase amount,

the estimated amount OWCP will pay if all hours are approved, and the balance which the employee will be required to pay to the employing agency.

SC810.8.3.2.5. The ICPA returns the CA-7b to the employee. The employee reviews the figures provided and determines whether to pursue the leave buy-back request.

SC810.8.3.2.5.1. If the employee decides not to pursue the request, he or she will check the "No" box on the CA-7b, sign the form, and return it to the ICPA. The employing agency will retain the claim rather than forwarding it to OWCP.

SC810.8.3.2.5.2. If the employee decides to pursue the request, he or she will check the "Yes" block on the CA-7B, sign the form, and return it to the ICPA. The ICPA will also sign the form and forward the complete package, consisting of the CA-7, CA-7a (if applicable), and the CA-7b, along with any medical documentation submitted by the employee, to OWCP.

SC810.8.3.2.6. The FECA District Office will review the estimate of FECA entitlement shown on the CA-7b. If there are no discrepancies greater than ten percent (reference q)), the leave repurchase request will be processed like a regular compensation payment.

SC810.8.3.2.6.1. NOTE: The employee is not required to repay the employing agency until compensation has been approved by OWCP.

SC810.8.3.2.7. After leave buy-back has been approved and paid, the ICPA should determine whether the leave was used but a tax return has not been filed for that year. If so, the employee should be advised to request an adjusted W-2 from Payroll.

Figure 810-47 illustrates a leave buy-back flow chart outlining the process.

SC810.8.3.3. Impact on Leave Forfeiture and Leave Earnings. If annual leave is to be recredited to the employee's account and it exceeds the maximum permissible carryover balance, the excess amount is subject to forfeiture. Since the leave previously used must be converted to LWOP for "buy back" purposes, leave earned during the buy-back period is nullified. In addition, the employee will no longer be entitled to pay received for any holiday that was included within the period of LWOP and each increment of 80 hours LWOP results in a corresponding loss of leave accruals.

SC810.8.3.4. Debt Collection. Title 29 Code of Federal Regulations, Part 20, Subpart D, "Federal Claims Collection" (reference (r)) authorizes agencies of the Federal Government to refer debts to private collection agencies for collection and to assess interest, penalties, and administrative costs.

SC810.8.4. Projecting Lifetime Compensation Costs. Reemployment of injured workers is one of the most effective means of reducing program costs. Providing managers and supervisors with realistic potential lifetime costs (potential liability to the Department of Defense) can be

effective in gaining their support in the return to duty of injured employees. Figure 810-48, with accompanying instructions and tables (figure 810-49), can be used to determine these costs.

SC810.9. RETENTION, REEMPLOYMENT, AND REHABILITATION

SC810.9.1. General Guidance. This section tells how to keep an injured employee actively employed and how to help an employee who has partially recovered from a job-related injury to overcome his or her disability and return to work as early as possible. (The term "employee" as used in this section includes individuals receiving FECA benefits who have been separated from DoD rolls.) The intent is not only to provide the injured employee with productive employment, but also to reduce or eliminate the DoD compensation costs. A single employee retained in an active employment status or returned to duty can result in a lifetime savings to the Department of Defense of hundreds of thousands of dollars and depending on age, over one million. Management and civilian personnel should make every effort to place the injured employee in a position appropriate to his or her medical limitations. A common characteristic of successful programs is the recognition of the need to involve all participants in the process, i.e., classification, affirmative employment, employee relations, manpower, and medical services.

SC810.9.2. Early Case Management Actions. OWCP uses the services of registered nurses to decrease the extent and duration of disability by improving medical management in cases where projected length of disability is uncertain. The nurses meet with injured employees, treating physicians, and employing agency representatives to address questions about medical care, treatment plans, return to work dates, descriptions of work limitations, and availability of light duty jobs. Usually, nurses are assigned to claimants with injuries such as back sprain/strain, neck or shoulder sprain/strain, knee injuries, and carpal tunnel syndrome after the 45-day COP period has ended and a Form CA-7 has been filed with OWCP. However, the ICPA may request nurse intervention services when they believe the services would be beneficial in the medical management of long-term cases. A contract nurse:

SC810.9.2.1. Communicates directly with injured workers and their families to explain and monitor medical treatment and progress;

SC810.9.2.2. As needed, identifies and pursues more active treatment or more active participation by the injured worker;

SC810.9.2.3. As requested by the claims examiner, obtains concrete work limitations;

SC810.9.2.4. Arranges for on-site visits to the work place;

SC810.9.2.5. Communicates directly with the treating physician about light duty opportunities and other issues; and,

SC810.9.2.6. Initiates return to work programs with the employee, agency and treating physician. ICPAs should promptly submit all claim forms and related material to OWCP to ensure timely assignment of cases to the Nurse Intervention Program.

SC810.9.3. Actions Required Before or When Employees Are Separating from the Employment Rolls. If an employee has sustained a job-related injury or occupational illness and is receiving any FECA benefits, or is in the process of filing or may file a claim later (as in the case of a hearing loss), the following actions are mandatory by the agency.

SC810.9.3.1. When the employee is filing for disability retirement, the agency must:

SC810.9.3.1.1. Make every effort to place the employee in a position compatible with the physical limitations resulting from the injury or illness and any preexisting conditions. The position can be any available permanent full-time or part-time (if the employee is unable to work full-time) job, which the employee can perform regardless of the grade or rate of pay;

SC810.9.3.1.2. Send a letter to the employee's physician explaining the differences between the Workers' Compensation Program and the Civil Service Retirement System (CSRS) or Federal Employees' Retirement System (FERS). Make sure the letter contains a request for the physician to provide information regarding the employee's current work limitations and restrictions. Refer to the sample letter in figure 810-50 for this purpose;

SC810.9.3.1.3. Document all actions taken to place the employee based on his or her physical restrictions and to meet the "reasonable accommodations" obligations. (See glossary for definition of reasonable accommodation.);

SC810.9.3.1.4. Identify a position and offer it in writing to the employee. Make sure the offer includes a description of the duties to be performed, the specific physical requirements, any special workload demands or unusual working conditions, the pay rate, the organization and geographical location, the hours of work, the date when the job will be available, and date of expected response. (Refer to figure 810-51 for sample job offer letter.); and,

SC810.9.3.1.5. Have the employee accept or decline in writing. If the employee declines, include the reasons for declining and a statement that he or she understands that declining may affect entitlement to FECA benefits and OPM disability retirement.

SC810.9.3.2. When an employee voluntarily resigns or applies for optional retirement, the agency must:

SC810.9.3.2.1. Obtain a copy of the employee's current position description, including the precise physical requirements; and a signed statement from the supervisor concerning the employee's past performance, the continued availability of the position, and the expected continued performance of the employee were he or she to remain on the job;

SC810.9.3.2.2. Obtain a copy of the employee's SF-52 showing the signed statement of the employee's reason for resigning; and,

SC810.9.3.2.3. Maintain a copy of the above documentation, in addition to a copy of the separation SF-50 in the working case file and forward copies to OWCP.

SC810.9.3.3. If the employee's separation results from other reasons such as reduction-in-force, functional transfer, failure to qualify during the probationary period, failure to meet the requirements of the Veterans Re-Adjustment Act (VRA), or disciplinary actions not related to on-the-job injury or illness, as applicable, the agency must:

SC810.9.3.3.1. Obtain a copy of the employee's current position description, including the precise physical requirements, the salary of the position, and a signed statement from the supervisor concerning the employee's past performance, and the expected continued performance of the employee had it not been for the reduction-in-force;

SC810.9.3.3.2. Provide a statement concerning the entitlement to relocation expenses, if functional transfer is involved;

SC810.9.3.3.3. Obtain documentation (including disciplinary actions) concerning the reasons unrelated to the on-the-job injury or illness that caused the action;

SC810.9.3.3.4. If the employee was offered and declined a functional transfer, obtain a copy of the position description including the precise physical requirements, the salary, and a signed statement from the employee showing that he or she understands his or her nonacceptance may negate any entitlement to compensation payments in accordance with reference (a); and,

SC810.9.3.3.5. Maintain a copy of the above documentation, in addition to a copy of the separation SF-50 in the working case file and forward copies to OWCP.

SC810.9.4. Reemployment Actions

SC810.9.4.1. Exception to Hiring Freezes. By direction of the Secretary of Defense, heads of DoD Components have authority to exempt claimants from hiring freezes. Reemployment of claimants makes sound economical sense by eliminating or reducing nonproductive expenditures (compensation payments) and, in turn, receiving services for expended dollars.

SC810.9.4.2. Reemployment Efforts

SC810.9.4.2.1. The OWCP Rehabilitation Specialist (RS) has the responsibility to review and screen all compensation case files to determine if an injured worker can be considered for reemployment. The RS bases his or her determination on the results of a current medical evaluation and an interview with the employee. If the RS decides that the injured worker is a potential candidate for reemployment, he or she may refer the injured worker to a private counselor for possible vocational rehabilitation. The RS also sends a copy of the referral letter to the claimant's previous employer for possible placement.

SC810.9.4.2.2. Although the OWCP has the primary responsibility of making referrals to the employing agencies, the CPO/HRO, physicians, management, supporting DoD liaison, or the injured employee may initiate reemployment efforts. For instance, the ICPA

should carefully screen the case files of employees listed on the chargeback report to determine if there are potential rehabilitation or reemployment candidates receiving compensation.

SC810.9.4.2.2.1. If, after careful review of the case file, it appears a claimant can perform some type of work in a limited capacity, the ICPA should immediately send a letter (see sample letter at figure 810-47) to the employee requesting that he or she complete an "Application for Federal Employment." The ICPA should coordinate this letter with the appropriate affirmative employment specialist.

SC810.9.4.2.2.2. When a separated employee has relocated outside the commuting area, the activity should investigate possible employment opportunities in his or her current area. If a suitable offer for employment in a Federal position cannot be made in the former employee's current location, OWCP may pay reasonable and necessary relocation expenses. These expenses are later charged back to the DoD Components.

SC810.9.4.2.2.3. Assisted reemployment may be appropriate if a suitable position in private industry or in another Federal agency is identified in the former employee's current area. This OWCP project provides for three years of partial reimbursement of salaries to employers, other than the original employer, who reemploy disabled workers receiving FECA compensation.

SC810.9.4.2.2.4. Telework shall be considered an appropriate alternative to traditional placement in the work locale.

SC810.9.4.2.2.5. If assistance is needed in placing the employee or former employee, the ICPA should request the supporting DoD liaison or the OWCP RS to review the case file to evaluate the possibility of an official referral. NOTE: In the reemployment process, it is not always necessary to have OWCP rehabilitation involved.

SC810.9.4.3. Preparing for Appointment

SC810.9.4.3.1. As soon as the ICPA, liaison, or RS initiates a reemployment referral action, the employment specialist should request and review the employee's OPF and medical records to identify all positions for which the employee qualifies.

SC810.9.4.3.2. Based on the "Application for Employment," the employment specialist should search all current and anticipated vacancies for possible placement. Where accommodations are necessary (based on the employee's partial disability), managers should consider creating a position meeting the employee's medical limitations.

SC810.9.4.3.3. The employment specialist should contact organizations where placement is anticipated and provide the OWCP Form 5, "Work Capacity Evaluation," the qualifications statement, and any other pertinent information regarding the employee's work capability. The employment specialist should advise the organization that an overstrength position may be requested for this special placement through the Pipeline Reemployment Program.

SC810.9.4.3.4. If a position description is needed, the supervisor and classification specialist should develop one (using the Factor Evaluation System format) accommodating the employee's physical and environmental limitations. If the current position description is modified, a detailed position review should be attached as an addendum describing the physical and environmental demands of the position in relation to the limitations set forth on the OWCP Form 5. Staffing personnel will clear placement priorities before the action.

SC810.9.4.3.5. The activity (or nearest) medical officer will review the OWCP medical evaluation, the OWCP Form 5, any preexisting medical condition, and any medical condition that may have developed after the employment injury to make a recommendation regarding employability. The CPO/HRO should evaluate the referral, documented medical limitations, and the medical officer's recommendations, and decide whether to make a job offer. If the CPO/HRO requires updated medical information to determine whether a position is within the employee's medical limitations, the request should precede the offer of employment. It should include the same information about the duties and physical requirements of the position as would be included in the offer of employment.

SC810.9.4.3.6. The CPO/HRO has the option of obtaining the attending physician's approval before making the official job offer. The ICPA should transmit the following to the employee's attending physician for approval:

SC810.9.4.3.6.1. A description of the position being offered clearly defining the specific duties and the specific physical requirements (SF-78).

SC810.9.4.3.6.2. If possible, a brief cover letter signed by a DoD Component medical officer or the CPO/HRO.

SC810.9.4.4. Restoration Rights. Restoration rights apply to all employees, except those serving under a time-limited appointment. When an employee has been separated from the agency rolls due to disability from a job related injury, the following applies:

SC810.9.4.4.1. Rights For Those Fully Recovered Within One Year:

SC810.9.4.4.1.1. A disabled employee has mandatory restoration rights for a period of one year from the date compensation begins. The one-year period begins the date compensation is payable. The 45-day period of COP is excluded since this is not considered "compensation." Also excluded is any period of sick or annual leave the employee elects to take; and,

SC810.9.4.4.1.2. The employee shall be restored immediately and unconditionally to the former position or, with the employee's concurrence, to an equivalent position in the commuting area in which the employee was formerly employed;

SC810.9.4.4.2. Rights For Those Fully Recovered After One Year: An employee, who takes longer than one year to recover and who has been separated from work because of

injury or occupational disease, is entitled to priority consideration for the former position or an equivalent one if the employee applies for restoration within 30 days of the date compensation ceases or 30 days from the resolution of an appeal for continued compensation;

SC810.9.4.4.3. Physically Disqualified. An employee who is physically disqualified for the position previously held or an equivalent position, is entitled, within one year of the date compensation begins, to be placed in a position for which he or she is qualified that most closely approximates the seniority, status, and pay to which the employee would otherwise have been entitled, consistent with the circumstances in each case. After one year, the employee is entitled to the rights accorded employees who fully or partially recover, as applicable;

SC810.9.4.4.4. Partially Recovered. A partially recovered employee has no right to restoration. However, every effort shall be made to place the employee in an appropriate position in the commuting area. This shall include re-engineering the former position, if feasible, or placing the employee in any other position he or she is able to perform; and,

SC810.9.4.4.5. Status Upon Restoration. An employee who is restored following a compensable injury or disease is treated as though he or she had never left; however, an employee does not earn sick and annual leave while off the rolls or in a non-pay status. The entire period the employee was receiving COP or compensation is creditable for purposes of rights and benefits based on length of service, including within-grade increases, career tenure, and completion of probationary period.

SC810.9.5. The Official Position Offer

SC810.9.5.1. Position Availability. When making an offer of employment, the CPO/HRO must ensure that the offered position shall be available during the period required for OWCP to advise the employee of suitability and to allow for the employee to respond. An employee might refuse a job offer initially, but accept the offer after receiving a letter from OWCP.

SC810.9.5.1.1. If the job is not available at the time the employee accepts the offer, OWCP will find that suitable work was not available and benefits will continue.

SC810.9.5.1.2. The success of efforts to return employees to gainful employment while providing procedural due process requires close cooperation among the activity, supporting DoD liaison, and OWCP. Early notification of job offers and complete information about the physical and other requirements of the job will aid OWCP in making its decisions.

SC810.9.5.2. Meeting the Test of Suitability. To meet the test of suitability under FECA, the job offered must be within the physical capabilities of the employee. Generally, when an employee can work four or more hours a day and the position offered is for less than four hours, OWCP shall find the position unsuitable because less than four hours a day is regarded as sheltered employment and is reserved for the severely disabled. In these instances, OWCP encourages the employer to consider whether it can provide longer hours to the employee or

place the employee in another position. Other instances in which OWCP will find a light duty job offer to be unsuitable include:

SC810.9.5.2.1. Permanent seasonal employment. Generally unsuitable unless the claimant was a career seasonal or temporary employee when injured. In locations where year-round jobs are scarce, however, a seasonal position may be considered suitable for an employee who previously held a year-round job. In either case, the job must reasonably represent the claimant's WEC.

SC810.9.5.2.2. A temporary job. Unsuitable unless the claimant was a temporary employee when injured and the temporary job reasonably represents the claimant's WEC. Even if these conditions are met, according to reference (q), a job which will terminate in less than 90 days will be considered unsuitable.

SC8109.5.2.3. If medical reports in the claimant’s file document a condition which has arisen since the compensable injury, and this condition disables the claimant from the offered job, the job will be considered unsuitable (even if the subsequently-acquired condition is not work-related).

SC810.9.5.3. Employment Offer

SC810.9.5.3.1. The offer of employment should contain:

SC810.9.5.3.1.1. A description of the duties to be performed. (A copy of a position description may be attached, but the duties of the position must be described in narrative form within the job offer letter, title, series, grade, step, rate, and salary of the position);

SC810.9.5.3.1.2. The specific physical requirements of the position, tour of duty, hours of work, or both, and any special workload demands or unusual working conditions;

SC810.9.5.3.1.3. The date the job will be available and the expected term of the position (at least 90 days);

SC810.9.5.3.1.4. The organizational and geographical location of the job;

SC810.9.5.3.1.5. The date by which a response to the job offer is needed (the suggested time period is 15 days);

SC810.9.5.3.1.6. If applicable, information regarding loss of wage earning capacity benefits;

SC810.9.5.3.1.7. A statement that the job will remain available until OWCP makes a formal determination that the job offer is valid; and,

SC810.9.5.3.1.8. The attending physician's approval of the physical requirements for the claimant.

SC810.9.5.3.2. Sometimes it is not possible to offer an employee a job at his or her current grade level or the last grade held before being separated from the agency rolls. If the individual is reemployed at a lower grade or pay level than previously held, OWCP will make up the difference by determining and paying loss of wage-earning capacity (LWEC) benefits. This cost is charged back to the agency. It should be noted that pay retention tends to disguise the actual cost of work injuries. When the pay LWEC is paid by the OWCP, the costs associated with the injury are clearly identifiable.

SC810.9.5.3.3. The notice to the employee about the job offer should not include a request for election of OPM benefits if the employee decides not to accept the job offer. OWCP shall not consider the employee to have made an informed election of benefits unless the OWCP advises the employee that the job is suitable and the consequences of a refusal without reasonable cause. OWCP will offer an election between OPM and OWCP benefits (see figure 810-51, Sample Letter and Acceptance or Declination Statement).

SC810.9.5.3.4. The ICPA should send complete copies of the letter offering employment to the OWCP claims examiner, the supporting DoD liaison, and if appropriate, the rehabilitation specialist, at the time the offer is made.

SC810.9.5.3.5. On receipt of the job offer, with the duties and physical requirements specified in it, the OWCP district office will evaluate the position to determine whether it is suitable, medically and otherwise. If the job offer is suitable, OWCP will advise the claimant and afford him or her 30 days to submit any evidence to the contrary or reasons for refusing the job. OWCP shall provide this advice even if the CPO/HRO has informed the claimant of his or her responsibilities and of the sanctions that may be imposed. OWCP will transmit a copy of the job offer with the duties and physical requirements to the employee.

SC810.9.5.3.6. If OWCP determines the job offer is not suitable, OWCP shall notify the CPO/HRO and provide assistance in identifying other accommodations to make the job offer suitable.

SC810.9.5.4. Job Offer Acceptance. If the employee accepts the job offer, the CPO/HRO notifies OWCP as soon as possible of the return-to-duty date. Benefits will be terminated or adjusted as of the date of return to duty. To avoid overpayments of compensation, the ICPA notifies OWCP of the employee's return to work by telephone, and submits a copy of the appointment SF-50.

SC810.9.5.5. Job Offer Refusal. If a former employee declines a valid job offer, the CPO/HRO must send a copy of the employee's declination with the reasons for declining to OWCP. If the employee refuses to sign a declination, the ICPA must document this information in a letter and forward it to OWCP. If the employee refuses the offer, but provides reasons to support the refusal, OWCP shall evaluate the reasons given and decide whether the refusal is valid.

SC810.9.5.5.1. If the reasons are not valid, OWCP shall send another letter to the claimant providing 15 more days to accept the offer and issue a warning that the compensation order to terminate benefits (except for medical expenses) will follow. The claimant's benefits will not be terminated until the additional 15 days have passed.

SC810.9.5.5.2. If OWCP cannot determine whether the former employee's reason for refusal is justifiable without further investigation of the issues, OWCP will ask the claimant for clarifying information and set a 30-day deadline. The OWCP will take no action until it receives a response from the claimant or the OWCP 30-day notice period has expired. If the employee does not respond to OWCP's letter, OWCP will issue a compensation order to terminate benefits under reference (a) on the basis that the employee refused suitable work.

SC810.9.5.5.3. If reasons for refusal are valid, OWCP shall advise the CPO/HRO and continue compensation at a level commensurate with the degree of disability.

SC810.9.6. Retirement Credit For Time Spent in Receipt Of OWCP Benefits

SC810.9.6.1. Retirement Credit Explained. When a current or former employee returns to Federal employment, different provisions apply in crediting the time spent while receiving OWCP benefits toward retirement. The following categories explain when the time is creditable and the requirements to be met for the credit. (OPM Operating Manual, Section 102.A.3. of the CSRS and FERS Handbook for Personnel and Payroll Offices (reference (s)).

SC810.9.6.1.1. Employee in a LWOP Status. An employee who is in a leave-without-pay status while in receipt of FECA benefits will receive full credit for the LWOP period in the computation of annuity and for high-3 average salary purposes. LWOP while in receipt of FECA benefits is not subject to the limitation of six months' credit in each calendar year, as is other LWOP. The "one-out-of-two provision" does not apply when an employee is in a LWOP Status. (See note in SC810.9.6.1.2.1. below)

SC810.9.6.1.2. Separated Employee. This category applies to a former employee whose optional, disability, or discontinued service retirement has not been approved. When a separated employee (other than an annuitant) returns to Federal service, that portion of the period of separation during which the employee receives FECA benefits is deemed to be a period of LWOP and is fully creditable for computation and high-3 average salary purposes. The official personnel folder will be reconstructed for the periods of time separated, documenting all pay adjustments and step increases as if the employee had been on the agency rolls.

SC810.9.6.1.2.1. NOTE: No period of separation, even one in which the employee received FECA benefits, may be credited in meeting the requirement that a CSRS employee complete one year of covered service in the two-year period immediately preceding a non-disability retirement. THE "ONE-OUT-OF-TWO" REQUIREMENT DOES NOT APPLY UNDER FERS.

SC810.9.6.1.3. Disability Annuitant Under Age 60. This category applies to an individual who has filed an application for retirement with OPM and who is entitled to an

annuity whether or not an annuity has ever been received. This person would be considered an annuitant. The reemployment status of a disability annuitant is determined by the continuing nature of his or her disability annuity. A reemployed disability annuitant can receive service credit for the time spent on OWCP's rolls if he or she:

SC810.9.6.1.3.1. Subsequently returns to work in a position with retirement coverage;

SC810.9.6.1.3.2. Is found by OPM to be either:

SC810.9.6.1.3.2.1. Recovered from disability; or,

SC810.9.6.1.3.2.2. Restored to earning capacity; and,

SC810.9.6.1.3.3. Establishes a new entitlement to annuity.

SC810.9.6.1.3.3.1. EXAMPLE: A disability annuitant who retired from a GS-9 full-time position is awarded OWCP benefits. Later, the annuitant is reemployed in a permanent, full-time GS-9 position, and the OWCP benefits are terminated. OPM finds the reemployed annuitant recovered from his or disability three months after reemployment. Ten months later (sufficient time for a CSRS employee to meet the one-year-out-of-two requirement), if the employee met the age and years of service eligibility, he or she would be eligible for retirement. The period of separation spent in receipt of OWCP benefits is creditable in determining entitlement to the benefit.

SC810.9.6.1.4. Disability Annuitant Age 60 or Over. A disability annuitant, age 60 or over, may be found recovered only on his or her own request. However, an annuitant's request cannot form the sole basis for a recovery finding. There must also be evidence of medical recovery or equivalent employment.

SC810.9.6.1.5. Not Found Recovered/Restored by OPM

SC810.9.6.1.5.1. Disability Annuitant. If the disability annuitant/OWCP recipient is not found by OPM to be recovered or restored, he or she is treated differently when reemployed. In these instances, the reemployment service is governed by the provisions of the law covering reemployed annuitants. Thus, the period of separation during which the individual received OWCP benefits (instead of a disability annuity) is not creditable unless he or she is reemployed for five continuous full-time years (or the part-time equivalent) and elects a redetermined annuity. To qualify for a redetermined annuity, an annuitant must actually serve the equivalent of five years of full-time service. This entitles the annuitant to recomputation of his or her annuity, as of the date of the later separation, crediting all prior service. If the annuitant is not employed for the equivalent of 5 years of full-time continuous service, he or she would be eligible for a supplemental annuity. To qualify for this, an annuitant must actually serve the equivalent of one year full-time, continuous service in the reemployed position.

SC810.9.6.1.5.2. Part-time service is prorated. This would entitle the individual to an additional sum of money, added on to the original annuity, proportionate to, and giving credit for only the actual time served. No credit is given for the period in receipt of OWCP benefits for a supplemental annuity. A non-recovered disability annuitant must earn a redetermined annuity to credit post-retirement time spent on the rolls of OWCP.

SC810.9.6.1.5.1.1 NOTE: Upon receipt of verification of an annuitant's reemployment, OPM reviews the records to determine the effect, if any, on the individual's continuing eligibility for benefits based on disability. However, continued payment from OWCP for loss of wage-earning capacity is prima facie evidence that the person is not recovered. In such cases, OPM will not make a finding of recovery unless there is contravening medical evidence.

SC810.9.6.1.5.2. Non-Disability Annuitant. The reemployment status of a non-disability annuitant is determined by the provisions of reference (e).

SC810.9.6.1.5.2.1. If the individual's right to an annuity continues during reemployment, the individual cannot credit a period of separation during which he or she received OWCP benefits unless he or she is reemployed for five continuous full-time years (or the part-time equivalent) and elects a redetermined annuity.

SC810.9.6.1.5.2.2. If the individual's right to annuity ceases on reemployment in a covered position, the period of separation during which he or she received OWCP benefits is not creditable unless he or she establishes a new annuity right based on reemployment service. (Under CSRS, this would require that the employee meet the "one-out-of-two" requirement.)

SC810.9.6.2. OPM Notification Upon Reemployment. OPM should be notified immediately when an annuitant is reemployed.

SC810.10. FRAUD AND ABUSE

SC810.10.1. Fraud and Abuse Explained. This section provides injury compensation personnel with general criteria to apply in identifying and documenting suspected fraud and abuse in the FECA Program. This section also establishes a uniform procedure for referring suspected claims to the DOL Inspector General (IG) and/or other investigative services.

SC810.10.1.1. Fraud and Abuse Program Objectives

SC810.10.1.1.1. Reduce compensation costs resulting from fraudulent and abusive claims.

SC810.10.1.1.2. Assist ICPAs in obtaining evidence regarding employees who may be defrauding or abusing the FECA.

SC810.10.1.1.3. Properly document and follow through with appropriate action. Such actions may include:

SC810.10.1.1.3.1. Disciplinary action;

SC810.10.1.1.3.2. Advising OWCP for administrative action;

SC810.10.1.1.3.3. Referral to DOLIG or other investigative services; and,

SC810.10.1.1.3.4. Appropriate prosecution in the criminal court system.

SC810.10.1.2. Fraud and Abuse Defined

SC810.10.1.2.1. Fraud. The intentional deceptive act, or series of acts, committed by an individual with the specific intent to cause the Department of Defense or OWCP to grant benefits under FECA that would not normally be provided. Example: Faking an injury, concealing the fact that an injury occurred off duty, failing to report other employment, etc.

SC810.10.1.2.2. Abuse. Excessive, extravagant, or wrongful use of FECA in a manner contrary to its legal intent to acquire additional benefits for personal gain. Example: Prolonging the length of recovery period caused by a job-related injury.

SC810.10.1.2.2.1. NOTE: Although the terms "fraud" and "abuse" are related, they are not interchangeable. Any time employees apply for, or receive, FECA benefits to which they are not entitled, they may be abusing FECA. It may be because the employees have an ignorance of the law and its provisions or because they believe that they are genuinely entitled to those benefits. When employees knowingly apply for FECA benefits they know they are not entitled to, they are committing fraud. The key difference between fraud and abuse is intent. Abuse may not always be fraud, but fraud is always abuse.

SC810.10.2. Detecting Fraud and Abuse Claims

SC810.10.2.1. Fraud and Abuse Indicators and Warning Signals. In processing or reviewing a compensation claim file, several warning signals or indicators of fraud or abuse can be found. The existence of these signals or indicators does not prove fraud or abuse. They do indicate, however, that the facts surrounding a particular claim merit further inquiry or investigation. (This list is illustrative and not inclusive. Refer to Figure 810-52.) Several warning signals or indicators of fraud or abuse have been identified and are listed below:

SC810.10.2.1.1. Employee regularly participates in physically demanding activities (sports, farming, military reserve duty, etc.);

SC810.10.2.1.2. Medical treatment or documented diagnosis is not consistent with the nature of the claimed injury;

SC810.10.2.1.3. Employee changes physicians for unexplained or irrational reasons;

SC810.10.2.1.4. Employee has secondary employment (injury may have been caused by the secondary employment);

SC810.10.2.1.5. Injury occurs at start of duty Monday, end of duty Friday, or immediately before or after scheduled leave or a holiday;

SC810.10.2.1.6. Injury occurs after notification or announcement of functional transfer, reduction-in-force or base closure;

SC810.10.2.1.7. Injury occurs near termination of temporary employee tenure;

SC810.10.2.1.8. Injury occurs after a leave request is denied (obtain a copy of the SF-71, "Application for Leave," or a signed statement from the supervisor or person denying the leave request);

SC810.10.2.1.9. Employee has a history of leave abuse (obtain copies of payroll leave and attendance records);

SC810.10.2.1.10. Employee has a history of personal or financial problems;

SC810.10.2.1.11. Employee fails to identify witnesses although the injury occurred in an area where it should have been observed;

SC810.10.2.1.12. Witnesses provide incriminating statements;

SC810.10.2.1.13. Employee falsifies or alters forms;

SC810.10.2.1.14. Injury occurs during the first pay period of employment;

SC810.10.2.1.15. Injury occurs when disciplinary action is pending;

SC810.10.2.1.16. Payments were made to physicians without medical reports to substantiate the payments as related to the accepted injury;

SC810.10.2.1.17. Filing of claim is not timely and employee is not sure of data such as date and time of injury. Compare statements of employee, supervisor, witnesses, and treating physician;

SC810.10.2.1.18. Employee changes description of how injury occurred;

SC810.10.2.1.19. Employee has concealed information regarding a previous injury, physical condition, or a medical problem;

SC810.10.2.1.20. Stated disability is inconsistent with the requirements for total disability (look for sprains, cuts, back injuries, and repeated injuries);

SC810.10.2.1.21. Chargeback bill or case file shows little or no medical payments during the billing period, yet employee is on long-term compensation.

SC810.10.3. Actions and Procedures when Fraud or Abuse is Suspected

SC810.10.3.1. Identify Suspect Claims. In suspect cases, appropriate officials (a joint effort of the immediate supervisor, safety specialist, and ICPA) should answer the questions in Figure 810-52 and then determine the proper course of action. Officials should closely scrutinize the claim for possible referral to the agency's investigative service such as Office of Special Investigation, Naval Criminal Investigative Service, or others. Officials should refer only those claims for further action for which there is strong probable cause to believe fraud or abuse is present.

SC810.10.3.2. Procedures for Referral to DoD Component Investigative Services

SC810.10.3.2.1. When the ICPA determines that a claim requires internal investigation, he or she prepares a letter for the installation or activity commander's signature (the appropriate requesting authority for investigative services), has it signed, and forwards it to the DoD Component investigative service. The ICPA will retain a copy of the referral request, with any documented evidence, in a separate jacket or file folder (THESE DOCUMENTS WILL NOT BE MAINTAINED IN THE CASE FILE). The request should contain the basis for referral and copies of any relevant documents.

SC810.10.3.2.2. The investigative service shall furnish an original report to the installation or activity commander. Normally, the security police force will be the focal point for receiving, controlling and routing reports of investigation to action offices (commander, base legal, etc.). The ICPA will coordinate with security police to assure access to the reports.

SC810.10.3.2.3. In cases in which preliminary review indicates that additional investigation would be unproductive, the investigative services refer the matter back to the ICPA for any administrative action deemed appropriate. The case may be resubmitted for investigation if changes in the material facts surface.

SC810.10.3.2.4. The ICPA maintains contact with the security police force concerning injury compensation investigations and, at least at quarterly intervals, requests the status of FECA claims under investigation.

SC810.10.3.3. Advising OWCP of the Investigation (or Referral). The ICPA should forward the normal claims package to OWCP within the specified time limits. He or she should not delay it because fraud or abuse is suspected and the claim is being referred to or is already under investigation by the investigative services.

SC810.10.3.3.1. In some cases, the preliminary investigation may eliminate suspicions and prove the claim to be legitimate. It is not necessary to routinely advise OWCP of a referral of a claim for investigation.

SC810.10.3.3.2. If it becomes necessary to advise OWCP that a claim is under investigation, the ICPA should do so by separate letter. The letter to OWCP should include a statement such as: "This letter and other information about the agency investigation must be kept in a separate jacket or file folder separate and apart from the claimant's OWCP case file."

SC810.10.3.3.3. The ICPA should ensure that installation records concerning investigations are kept in a locked cabinet or safe, separate and apart from the employees' case files.

SC810.11. THIRD-PARTY LIABILITY

SC810.11.1. General Third-Party Liability Information

SC810.11.1.1. Purpose. This section deals with on-the-job injuries to DoD employees caused by persons or organizations other than the United States and its agencies.

SC810.11.1.2. Objectives of Pursuing Third-Party Claims. The DoD objectives are to ensure that all third-party claims are properly identified before submitting them to OWCP and to ensure that all government funds paid for a job-related injury caused by a third party are recovered to the maximum extent possible.

SC810.11.1.3. Background on the Government Subrogation Interest

SC810.11.1.3.1. When the circumstances of the employment-related injury create a legal liability on a third party other than an employee or activity of the Federal Government to pay damages, the Government has a subrogation interest (that is, the right to recover any payments it makes should the claimant collect money or other property in satisfaction of that liability because of a suit or settlement from another source). There are some situations when a Federal employee may be considered a liable third party. For example:

SC810.11.1.3.1.1. Two employees are involved in an altercation while on duty, causing injury to one employee, but the altercation was in no way connected with the performance of duty,

SC810.11.1.3.1.2. While in the performance of duty, an employee’s personal auto hits and injures another employee while the latter is driving a car, riding a bicycle, or walking on the activity’s premises, or off premises and engaged in the performance of duty.

SC810.11.1.3.2. Third-party claims include injuries caused by individuals and products. For example, if a piece of office furniture, such as a chair, is defective and causes an injury, the manufacturer may be sued. The ICPA or the supervisor should include any information regarding possible third-party claims when submitting claims materials, including the name and address of the third party (person or manufacturer).

SC810.11.1.3.3. While an action or suit is pending against the third party, OWCP shall provide the full range of medical and compensation benefits authorized by FECA. The employee (or dependents in the case of a fatal injury) may retain 20 percent of the net recovery (the total sum minus the settlement costs) of any third-party settlement. The Government is entitled to any remaining portion to offset the costs of the FECA entitlement. If the amount of FECA benefits paid is greater than the Government's portion of the recovery, the entire remainder is paid directly to OWCP and then credited to the agency through the chargeback system. A surplus exists if the amount of FECA benefits paid is less than the Government's portion of the recovery. Although the employee may keep this surplus, he or she will not be entitled to further FECA benefits until the surplus amount is absorbed. OWCP will resume payment of compensation benefits and medical bills only after the employee has submitted claims equaling the amount of the surplus. (Refer to figure 810-53 for a sample recovery statement and instructions used by OWCP personnel.)

SC810.11.1.3.4. An employee who sustains a job-related injury cannot recover damages from the United States for the effects of injury through FECA. An employee who refuses to prosecute an action in his or her own name against the responsible third party, after being asked to do so by DOL, may be denied compensation.

SC810.11.2. Third-Party Claim

SC810.11.2.1. Identify the Third-Party Claim. Upon receipt of Forms CA-1 or CA-2, the ICPA should review it to decide if a third party was involved. If so, the ICPA should determine whether the third party might be legally responsible for the injury. Examples where a third party may be liable include:

SC810.11.2.1.1. Motor vehicle or aircraft accidents;

SC810.11.2.1.2. Accidents involving tripping, slipping, and falling on sidewalks, steps of non-Federal property (or property leased by the Federal Government);

SC810.11.2.1.3. Accidents involving defective machinery, tools and equipment (includes office-type equipment);

SC810.11.2.1.4. Exposure to asbestos;

SC810.11.2.1.5. Negligence by a contractor or manufacturer.

SC810.11.2.2. Actions Required. After identifying a potential third-party claim, the ICPA:

SC810.11.2.2.1. Determines if the employee's supervisor, safety office, security police, local police, or any other organization investigated the incident. If so, obtains a copy of the report and the investigative file;

SC810.11.2.2.2. Includes the following items:

SC810.11.2.2.2.1. A detailed written statement by the injured employee concerning the circumstances of the incident. Also, include statements from witnesses or other persons who may have pertinent information;

SC810.11.2.2.2.2. The name, address, and telephone number of the third party; and,

SC810.11.2.2.2.3. A detailed description of the place where the incident occurred (including a diagram) and all the circumstances concerning the incident;

SC810.11.2.2.3. Upon obtaining the above information, sends the original to OWCP with a copy to the activity's legal representative and to the cognizant supporting DoD liaison; and,

SC810.11.2.2.4. Monitors the progress of DOL's action and obtains periodic status reports from OWCP until the case is closed. Cases closed without payment from the third party (or the employee) should be reported to the servicing liaison.

SC810.11.2.3. Prohibitions in Third-Party Cases

SC810.11.2.3.1. Prohibition Contained in FECA. Reference (d) states in part: "No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or his designee the proceeds of such suit or settlement without first satisfying or assuring satisfaction of the interest of the United States."

SC810.11.2.3.2. Advising the Employee. The ICPA should advise the employee that he or she should initiate action to recover damages from the responsible party and that FECA prohibits him or her from accepting the proceeds of a settlement without first satisfying the interest of the United States. Before reaching a settlement, the employee or the employee's representative should contact OWCP. If the claimant does not wish to initiate action to recover the damages, he or she should be encouraged to assign the right to DOL to recover damages.

SC810.11.2.4. Referral to Activity Legal Department

SC810.11.2.4.1. When to Refer. If there is an indication that neither the employee nor DOL intends to pursue the third-party aspect of the case, the ICPA should refer the following information to the activity's legal department:

SC810.11.2.4.1.1. Name of the employee;

SC810.11.2.4.1.2. Social Security Number;

SC810.11.2.4.1.3. Date and circumstances of injury;

SC810.11.2.4.1.4. Address of employee;

SC810.11.2.4.1.5. Name and address of third party; and,

SC810.11.2.4.1.6. Dollar amount of expenditures for medical bills, compensation, etc.

SC810.11.2.4.2. Questions to be Resolved. The CPO/HRO should request a response to answer the following questions:

SC810.11.2.4.2.1. Is the third-party liable?

SC810.11.2.4.2.2. Does the activity's legal department agree with the intention not to pursue the third-party aspect?

SC810.11.2.4.2.3. If the answer to SC810.11.2.3.2.2. above is negative, what action can be or should be taken to protect the DoD's interest?

SC810.11.2.4.3. Continuation of Pay (COP). COP is not considered compensation; therefore, the cost of COP cannot be recouped in a third-party claim.

SC810.12. THE INJURY COMPENSATION CHARGEBACK SYSTEM

SC810.12.1. Itemized Chargeback Listings. The purpose of this section is to provide general information about the DOL chargeback system, coding procedures, the Defense Injury/Unem-ployment Compensation System (DIUCS), and the Defense Portal Analysis Center (DefPAC). The letters provide guidance for use by ICPAs in validating and verifying the billing lists and monthly statements.

SC810.12.2. The DOL Chargeback System

SC810.12.2.1. The Chargeback System Explained. The Chargeback System is the way costs of compensation for work-related injuries and deaths are assigned to employing agencies at the end of the fiscal accounting period, which runs from July to June for chargeback purposes. OWCP furnishes CPMS with a transmittal of payments made for that agency's injured employees. (The term "employee" includes individuals receiving FECA benefits who have been separated from DoD rolls.) CPMS is responsible for loading this transmittal into the DIUCS system, presenting this data to DoD Components in a usable format, providing coding information and assigning chargeback codes to DoD Components.

SC810.12.2.2. Chargeback Codes

SC810.12.2.2.1. The chargeback code consists of six characters (four numeric and two alpha). The numeric characters designate the branch of service incurring the charges. The two letter alpha characters designate the servicing CPO/HRO (or reporting office). It is crucial

that ICPAs ensure the six character code is annotated on Forms CA-1, Block 17; CA-2, Block 19; and CA-6, Block 6, before sending to OWCP.

SC810.12.2.2.2. The DoD Components will also identify installations or activities with a Unit Identification Code (UIC) and will place this information in the OSHA site code block on Form CA-1, CA-2, etc. EDI will not accept a 9-character entry for the OSHA site code. Therefore leading zeros must be added to any entry with less than nine characters.

SC810.12.2.2.3. Correcting the Chargeback Code. To prevent incorrect chargeback codes from appearing on the quarterly chargeback bills, ICPAs should identify coding errors and request corrections as quickly as possible to OWCP through the district liaison (figure 810-54).

SC810.12.2.2.3.1. The first opportunity to identify an incorrectly assigned chargeback code occurs on reviewing the Agency Query System, or DIUCS application once electronic notification is received. ICPAs should immediately review these systems and promptly report (in writing) any errors to the DoD servicing liaison who will effect the correction with the OWCP. If the CPO/HRO does not come forward at this time, OWCP will assume the chargeback code is correct and bill any costs associated with the case to that activity's account. No additional documentation is required if OWCP is immediately notified of the error. If the ICPA fails to find or report the error within 60 calendar days, additional documentation is required to support the request for a change.

SC810.12.2.2.3.2. If an error appears on the quarterly chargeback report, either in DIUCS or DefPAC, and the ICPA can identify the owning activity, the ICPA should confirm ownership with the claimant's employing activity's ICPA. A written request for correction should be forwarded to the supporting DoD liaison with an information copy sent to the owning activity ICPA. The letter should contain a statement that ownership identification had been coordinated with the owning activity ICPA. Disagreements that cannot be resolved will be referred to the supporting DoD liaison for resolution. Disagreements that cannot be resolved with the supporting DoD liaison's assistance will be referred, in writing, to CPMS, Injury Compensation and Unemployment Compensation (ICUC) Division.

SC810.12.2.2.3.3. ICPAs should make every effort to establish the proper chargeback for disputed claims. It may be necessary to send an inquiry to the Federal Records Center and/or request the supporting DoD liaison to review the case file at the OWCP district office (see figure 810-55 for sample request).

SC810.12.2.2.3.4. When possible, the ICPA should include the full six character code (four numeric and two alpha) for all changes within the Department of Defense and for changes to other Federal agencies. Requests for changes outside an agency should include proper documentation. For example, include a copy of the SF-50 showing who the claimant worked for at the time of the injury. While there is no need to provide supporting documentation to OWCP when requesting a code change from one activity to another within a DoD Component, activities should ensure that any disagreements in code changes have been resolved within the DoD Component according to paragraph (2) above, before requesting OWCP to make a change.

SC810.12.2.2.3.5. If the evidence establishes that the case belongs to another agency, the OWCP district office will send a copy of the Form CA-1 or Form CA-2 and other appropriate documentation to that agency. If the activity disputes ownership of the case, it will have 60 calendar days to provide evidence before the code is changed.

SC810.12.2.2.4. DoD Injury/Unemployment Compensation System (DIUCS)

SC810.12.2.2.4.1. Provides a standardized and automated approach to managing employee injury and unemployment compensation claims throughout the Department of Defense. The system consists of a centralized database of key personnel, payroll, and DOL case management and payment information about each individual claim filed by DoD employees. Access to the system is through an on-line, menu-driven, graphical user interface providing quick and easy availability of the information stored in the central database. DIUCS consists of a software application known as the Injury Compensation (IC) module. The user can determine the status of a particular claim filed with DOL, identify the number of claims and types of injuries filed, determine what medical payments and compensation have been paid, identify erroneous claims, dual payments and overpayments, produce standard reports, and reconcile DOL chargeback billings.

SC810.12.2.2.4.2. DIUCS gives the user quick and easy access to data through screen and report features using menu bars, icons, buttons, scroll bars, dialogue boxes, status lines, and pop-up windows. The graphical user interface selected for the DIUCS is designed to minimize data entry and provide sufficient on-screen information to make it unnecessary to rely on a printed operational manual for direction or information. Multiple screens are used to display information in a standardized format. Screens can be moved, resized, overlaid and viewed simultaneously. The user creates cases or retrieves information by entering a social security number, date of injury or claim number. System security is maintained through a series of logins, passwords and assignment of access levels. The DIUCS will be maintained in CPOs/HROs and secured at all times.

SC810.12.2.3. DOL Chargeback Billing List

SC810.12.2.3.1. The Chargeback Bill Explained. The headquarters office of DOL prepares the chargeback listings. The listings are issued to the activity quarterly and are cumulative for the chargeback fiscal year i.e., July 1 through June 30. The lists include all disbursements or recovery transactions made in the expense period, e.g., the FY93/94 or March 1994 list includes all transactions from July 1, 1993 to March 31, 1994. The fourth quarter listing covers all cases and represents the detail backup to the "chargeback bills" rendered for the full fiscal year. The interim quarterly reports (or listings) provide early notification of cases and payments, allowing early verification and correction before the final bills are issued. NOTE: Not all the DoD Component ICPAs routinely receive this report, but rely on the DoD Component-specific reports to track costs.

SC810.12.2.3.2. Command Verification and Validation of Cases Listed on the Chargeback Bill. Upon receiving a chargeback bill (see figure 810-56), the Command ICPA

shall review for accuracy. If a case appears to contain errors, the reporting CPO/HRO is contacted for further information.

SC810.12.2.3.3. Validating the Payments Charged Against the Claim. Figure 810-56 lists 15 claimants. A review of the employee case files and queries to the DIUCS reflects the following:

SC810.12.2.3.3.1. Employee A does not send medical bills through the CPO/HRO but expenses appear to be reasonable. Compensation payments are correct;

SC810.12.2.3.3.2. Employee B's medical expenses were submitted through the CPO/HRO and agree with the ICPA's records. However, the claimant has had no dependents after the death of his spouse in May 1993, and it does not appear the rate of compensation has been adjusted to 66 and 2/3 percent. The ICPA had assisted the claimant in preparing notification to OWCP of the death of his spouse. An overpayment exists; therefore, the ICPA must request correction by OWCP, or request supporting DoD liaison assistance in obtaining the change;

SC810.12.2.3.3.3. The new claims indicated by asterisks are compared to those claims in the DIUCS, and all are employees of the activity with the exception of Employee C. A check with civilian personnel records does not show that she is a current or past employee of DASC; however, a further search discloses she is an employee of DeCA serviced by the DASC CPO/HRO. A check of the compensation file indicates an erroneous chargeback code was entered on the Form CA-1. A letter requesting correction is sent to OWCP, via the supporting DoD liaison; or,

SC810.12.2.3.3.4. All of the medical expenses indicated on the chargeback billing list agree with the ICPA's records except those for Employee D who had surgery for her back condition in June. The ICPA forwarded the hospital bills to OWCP but they were not processed by the end of the quarter. A query in DIUCS shows the bills were paid in July and will be reflected on the next chargeback listing.

SC810.12.2.4. FECA Monthly Statement, Table 2

SC810.12.2.4.1. The Monthly Statement Table 2 Explained. The Monthly Statements are produced by the DOL and provided to CPMS via electronic transmission for verification and audit. They are used by Federal Agencies and the Occupational Safety and Health Agency (OSHA), Office of Federal Agency Programs, to measure rates and injury trends. As new cases are assigned numbers, they are included in the "Table 2" statement as new injuries (or "case creates"). They are then counted against the activity or installation as reportable injuries. Coding errors distort the number of reportable injuries which activities must investigate and report under OSHA reporting requirements and may count against activity goals to reduce the number of new injuries, the number of paid cases, and annual chargeback costs.

SC810.12.2.4.2. Verifying and Auditing of Cases Listed. ICPAs should ensure that the monthly report in DIUCS is reviewed for erroneous chargeback codes and other errors using:

SC810.12.2.4.2.1. Guidance provided in sections SC810.12.2.3.2. and SC810.12.2.3.3. above for verifying and validating the DOL chargeback bill;

SC810.12.2.4.2.2. Figure 810-57, "Sample FECA Monthly Statement with Explanation";

SC810.12.2.4.2.3. Figure 810-58, "List of Occupational Codes" (these apply only to injuries before 1986);

SC810.12.2.4.2.4. Figure 810-59, "Nature of Injury Codes";

SC810.12.2.4.2.5. Figure 810-60 "Anatomical Location of Injury Codes";

SC810.12.2.4.2.6. Figure 810-61, "Extent of Injury Codes"; and,

SC810.12.2.4.2.7. Figure 810-62, "Fatal Indicator Codes."

SC810.12.2.5. Getting the Errors Corrected. Once the ICPA identifies a chargeback coding or cost error, it is his or her responsibility to take immediate action to ensure that it is corrected; and, as applicable, refer to the supporting DoD liaison. As an example, an agency (Agency A) has through April 30 after the end of the last DOL fiscal year (June 30) to transfer costs to another agency (Agency B). Agency A will receive one year's credit for the transferred cases and Agency B will be charged for these transferred cases. The Department of Labor will transfer the costs for the previous year only in cases of inter-Component coding errors (e.g., Army to Navy). DOL will not make adjustments to the previous year's chargeback bill for intra-Component coding errors (e.g., Army Corps of Engineers to Army Material Command). Requests made for transfer of costs after April 30 will not be honored that year. Therefore, it is critical that chargeback adjustments be made expeditiously. Sample letters requesting "correction of errors or changes" are at figures 810-54 and 810-55.

SC810.12.2.5.1. NOTE: The Injury Compensation Program expense period runs from July 1 through June 30. Before August 15 of each year, the DOL must provide each agency a statement showing the total cost of benefits made by the DOL for employees or individuals under the jurisdiction of the agency for the preceding expense period. In accordance with reference (a), the data in these statements are to be used by the agency to budget for the next calendar year (EXAMPLE: Injury Compensation costs incurred during the period July 1, 1994, through June 30, 1995, will be budgeted for and paid with FY 97 funds). Payments are due to the DOL within 30 days of fiscal year budget's enactment.

SC810.13. MISCELLANEOUS PROVISIONS

SC810.13.1. Hearings and Review

SC810.13.1.1. Rights to Hearing. Reference (a) provides that if a claimant is not satisfied with OWCP's formal decision, he or she is entitled to a hearing with an OWCP representative if:

SC810.13.1.1.1. A reconsideration has not already been requested; or,

SC810.13.1.1.2. The request for the hearing is made within 30 calendar days after the date the decision is issued.

SC810.13.1.2. Notice of Hearing. The OWCP Branch of Hearings and Review shall notify the claimant and the servicing activity of the hearing, including the date, time, and place. The notice shall include a statement noting whether an employing agency representative will attend the hearing, and a questionnaire for the ICPA to complete and return to the OWCP.

SC810.13.1.3. Role and Responsibility of the ICPA

SC810.13.1.3.1. After receiving notice of the hearing, the ICPA should review each case to decide whether attendance at the hearing is necessary.

SC810.13.1.3.2. If attendance of a representative is warranted, the representative should become thoroughly familiar with the facts and issues involved in the case; review all information related to the case and any other matters pending, such as grievance, arbitration, and Merit System Protection Board actions; and be prepared to testify at the hearing. However, the primary role of the representative is that of an observer without the right to question the claimant or make any argument. The OWCP hearing representative may make a specific request for the employing agency representative to give oral testimony based on the claimant's evidence. The claimant or his or her representative may also cross-examine the employing agency's representative.

SC810.13.1.3.3. If the scheduled OWCP hearing appears to involve a question of legal interpretation of FECA or related legal matter, the employing agency representative should contact the activity's legal services office for assistance or participation at the hearing.

SC810.13.1.4. Transcript of Hearing

SC810.13.1.4.1. OWCP will provide a copy of the hearing transcript when the ICPA makes an official request for one. The ICPA may obtain a copy of the transcript by completing the questionnaire attached to the hearing notice or by written request at the hearing.

SC810.13.1.4.2. Upon receipt of the transcript, the ICPA should review the transcript and provide any additional evidence or comments within the 20-day period allowed by DOL (reference (q)).

SC810.13.2. FECA Coverage Under Special Performance of Duty Circumstances

SC810.13.2.1. Recreational Injuries

SC810.13.2.1.1. Recreational Injuries Sustained in the Performance of Duty. In general, there are two types of recreation -- formal and informal. Recreational injuries are determined on a case-by-case basis.

SC810.13.2.1.1.1. Formal recreation refers to an organized activity for which an employee is paid or is required to perform as part of training or assigned duties. To be eligible for coverage, the employee must show that the employer materially and clearly benefited from the activity; the employer materially contributed to the activity through donating space, money, or work time; or the employer encouraged participation in the activity.

SC810.13.2.1.1.2. Informal recreation can be illustrated by a group of employees who, while on their lunch hour and on the premises, play catch with a ball or a Frisbee. Coverage ordinarily exists under such informal on-premise circumstances; however, informal recreation off the premises is usually not covered.

SC810.13.2.1.2. Other Recreational Injuries. In some cases, other recreational injuries may be covered. The ICPA should provide answers to applicable questions listed below and any other available pertinent information with the employee's Form CA-1 or Form CA-2.

SC810.13.2.1.2.1. Was the employee's participation voluntary?

SC810.13.2.1.2.2. Was he or she paid for participating?

SC810.13.2.1.2.3. Was the employee ever excused from work to play or practice during scheduled work hours?

SC810.13.2.1.2.4. If the employee refused to participate, would the employee be penalized with respect to security of employment, advancement, or other personnel matters?

SC810.13.2.1.2.5. Was the recreational activity designed for the welfare, convenience, pleasure, or morale of the employee, or to meet a specific need of the employer?

SC810.13.2.1.2.6. What benefit did the employer accrue from the employee's participation?

SC810.13.2.1.2.7. Was the employee encouraged to join the activity? By whom? How?

SC810.13.2.1.2.8. Did the employee's participation in the activity violate any rules or regulations of the employer? If so, these should be explained including the manner in which the rule or regulation was enforced.

SC810.13.2.1.2.9. Did the injury occur during the employee's regular working hours? If no, explain.

SC810.13.2.1.2.10. What leadership, equipment, or facilities did the employer provide for the activity?

SC810.13.2.1.2.11. Was the recreational activity officially sanctioned or sponsored by the employer?

SC810.13.2.1.2.12. What type of funds were used to pay for uniforms and equipment?

SC810.13.2.1.2.13. What control did the employer have over the activity or organization or funds sponsoring the recreational activity?

SC810.13.2.2. Idiopathic Falls

SC810.13.2.2.1. Idiopathic Falls Explained. An idiopathic fall is a fall caused by a personal and nonoccupational disease or illness of the employee, such as a heart attack, fainting spell, or epileptic seizure, which is not work-related. The supervisor and ICPA should give special attention to these cases. Injuries caused by such conditions are not covered by FECA, unless there is some intervening employment-related cause. Examples of coverage include:

SC810.13.2.2.1.1. When falling to floor, the employee hit the corner of a desk causing a head injury; or,

SC810.13.2.2.1.2. A firefighter suffered a heart attack and fell to the floor while rescuing an individual from a burning building.

SC810.13.2.2.2. Special Evidence Required. In these type cases, the ICPA obtains appropriate evidence from the employee, the supervisor, witnesses, and all attending physicians. The evidence should show clearly whether the employee fell to the supporting surface (floor); or whether some special condition, hazard or working condition, or factor of employment contributed to or intervened as a cause of the injury. If some factor of the workplace intervened or contributed to the injury resulting from the fall, the employee has coverage for the results of the injury, but not for the idiopathic condition that caused the fall.

SC810.13.2.2.3. Idiopathic Falls Versus Unexplained Falls. A distinction should be made between idiopathic falls and those that are merely unexplained. If a fall cannot be shown to have been caused by an idiopathic condition, but is simply unexplained, it is compensable under FECA if it occurred in the performance of duty.

SC810.13.2.3. FECA Coverage While in Official Travel Status. When an employee is on a temporary duty assignment away from his or her regular place of employment, he or she is covered by FECA 24 hours a day with respect to any injury that results from activities essential

or incidental to the temporary assignment including securing meals and using lodging facilities. However, when the employee deviates from the normal incidents of his or her trip and engages in activities, personal or otherwise, which are not reasonably incidental to the duties of the temporary assignment, the employee ceases to be under the protection of FECA and any injury occurring during these deviations is not compensable.

EXAMPLES: Employee A on travel status finishes a meeting, returns to the hotel, and hurts her knee while playing basketball with co-workers. An injury such as this would probably not be covered under FECA. Employee B, in travel status, falls in the hotel shower, and is injured; the injury would be covered under FECA. Employee C injured on a sightseeing trip in the city to which she was assigned, would not be covered. Employee D, on a 14-day assignment to another state, travels 150 miles to visit his mother during the weekend. En route, he is severely injured in a car accident. A claim would be denied in this instance because the employee was not engaged in normal activity in the locality indicated by travel orders.

SC810.13.2.4. Consequential and Intervening Injuries

SC810.13.2.4.1. Consequential and Intervening Injuries Explained. Under certain circumstances, an injury occurring outside performance of duty may affect the compensability of an already accepted injury. A consequential injury is one that occurs because of weakness or impairment caused by a work-related injury and it may affect the same part of the body as the original injury or a different area altogether. For instance, a claimant with an accepted knee injury may fall at home because the weakened knee has buckled. This incident will constitute a consequential injury whether the affected part of the body is the knee or another area, such as the back or arm;. or a claimant with an injured eye may compensate for loss of functioning by overuse of the other eye that may result in a consequential injury. An injury occurring outside the performance of duty to the same part of the body originally injured is termed an intervening injury if compensation is claimed following the second injury. It must be decided whether the disability is attributable to the second injury alone, or whether the effects of the first injury still contribute to the disability. Unless the second injury breaks the chain of causation between the original injury and the disability claimed, the disability will be considered related to the original incident.

SC810.13.2.4.2. Evidence Required. The employee should explain the details of the second injury and give reasons for believing that second injury is connected to the first. He or she must furnish a medical report on the second injury that includes an opinion concerning the relationship between the two injuries.

SC810.13.3. Coverage for Reserve Officers Training Corps (ROTC) Members. ROTC members are covered under reference (a). Expenses incurred are not billed back to the activity, but paid by separate appropriations to the Fund.

SC810.13.3.1. Conditions of Coverage. ROTC members are:

SC810.13.3.1.1. Not covered 24 hours a day;

SC810.13.3.1.2. Not entitled to Continuation of Pay;

SC810.13.3.1.3. Covered because of an injury incurred in the line of duty and only if it is the proximate result of the performance of military training or travel to or from the training;

SC810.13.3.1.4. Covered only during prescribed field training exercise (cadets must actually be participating); and,

SC810.13.3.1.5. Are not covered if injuries occur during nontraining exercises (e.g., recreational time).

SC810.13.3.2. Responsibility of the Military Official. Normally, the military official in charge of the ROTC members is responsible for processing claims and counseling cadets. The military official:

SC810.13.3.2.1. Provides a line-of-duty determination citing appropriate statutory authority in support of the determination.

SC810.13.3.2.2. Normally, would not issue a Form CA-16; however, he or she may issue the form. NOTE: Since issuance of the Form CA-16 obligates the government, the military official should issue the Form CA-16 only when he or she believes the injury was in the performance of duty.

SC810.13.3.2.3. In cases where the military official's opinion shows that the injury was not in the performance of duty, he or she informs the cadet of the cadet's right to file a claim; and,

SC810.13.3.2.4. Informs the cadet that the claim would normally be disallowed by OWCP; and,

SC810.13.3.2.4.1. Filing a claim could cause undue delay in receiving benefits from his or her health insurance carrier; and,

SC810.13.3.2.4.2. Health insurance carriers will not pay benefits until they receive official denial of the claim from OWCP, which normally takes over three months. (This could cause financial hardship for the cadet since medical providers will expect payment promptly.)

SC810.13.3.3. Special Processing Required. All claims filed by Reserve Officer Training Corp (ROTC) cadets are adjudicated by the Office of Special Claims and are subject to review by the Secretary of Labor. The military official should:

SC810.13.3.3.1. Send claims filed with OWCP by ROTC cadets to: Office of Workers' Compensation Programs, Special Claims – ROTC Case, Room 851, 1240 E. Ninth St, Cleveland, OH 44199; and,

SC810.13.3.3.2. Send Forms CA-1 with no medical expenses and no lost time to the appropriate file custodian at the college or university the cadet is attending for filing as a permanent record in the cadet's official military personnel records.

SC810.13.4. Federal Employees' Health Benefits (FEHB)

SC810.13.4.1. Federal Health Benefits Explained. Enrollment of employees, as well as their surviving beneficiaries, continues when they enter on the OWCP compensation rolls, provided they meet the requirements.

SC810.13.4.2. Requirements Employees Must Meet to Continue Enrollment. If a compensation recipient is covered under the Federal Employees' Health Benefits Program at the time of injury, the health benefits coverage will continue as long as compensation is payable. Temporary Continuation of Coverage (TCC) of Health Benefits Insurance is not available to employees who have an entitlement to compensation benefits. Further, it is not available to employees who lose their coverage because their compensation terminates.

SC810.13.4.3. Determination of Eligibility. If the employee appears eligible to continue enrollment, show the enrollment code and the ending date of the pay period in which deductions were last made on the Form CA-7. If the employee is not eligible to continue enrollment, note on the Form CA-7 that the employee is "Not eligible to continue health benefits."

SC810.13.4.4. Transferring Enrollments to OWCP

SC810.13.4.4.1. Enrollments are transferred to OWCP when one of the following events occurs:

SC810.13.4.4.1.1. OWCP requests the transfer;

SC810.13.4.4.1.2. Ten months of leave without pay have elapsed without OWCP having requested transfer; or,

SC810.13.4.4.1.3. The employee separates before OWCP requests the transfer (see figures 810-63 and 810-64 for Sample Transfer Letters).

SC810.13.4.4.2. A copy of the transfer of health benefits must be forwarded to the servicing payroll office for their files.

SC810.13.4.5. Withholdings and Contributions by OWCP

SC810.13.4.5.1. OWCP makes withholdings and contributions regardless of whether the enrollment is transferred to OWCP.

SC810.13.4.5.2. Withholdings and contributions begin the date compensation begins or the date following the date the employing agency's withholdings and contributions ended, whichever is later. EXCEPTION: OWCP does not make withholdings and contributions when

the employee receives compensation for fewer than 29 days. In such a case, the employee is responsible for paying his or her share of the enrollment cost and the employing agency is responsible for paying its share.

SC810.13.4.6. Transferring the Enrollment Back to the Agency

SC810.13.4.6.1. The enrollment of a claimant who was transferred to OWCP is transferred back to the employing agency when the employee returns to full-time duty and pay status (provided, of course, that the claimant is eligible for continued coverage as an employee).

SC810.13.4.6.2. If the claimant is not eligible for continued coverage as an employee, either OWCP or the employing agency must terminate the enrollment.

SC810.13.4.6.3. If the claimant returns to duty part-time, the enrollment continues with OWCP as long as compensation payments continue. NOTE: In this case, the individual is receiving both compensation and salary.

SC810.13.4.7. Reporting Enrollment to OWCP

SC810.13.4.7.1. When reporting the compensable injury or illness on OWCP Form CA-7, the ICPA must indicate whether the employee was enrolled on the date pay stopped. If the employee was enrolled, the enrollment code and the ending date of the pay period in which insurance withholdings were last made must be shown.

SC810.13.4.7.2. If OWCP determines that the employee will be receiving compensation for at least six months, OWCP normally requests the employing agency to transfer the enrollment to OWCP.

SC810.13.4.7.3. If the employee is separated before the employing office receives OWCP's request to transfer the enrollment, the ICPA must check with OWCP to determine the status of the compensation claim. If the compensation is to continue beyond the date of separation, transfer the enrollment to OWCP as explained in paragraph SC810.13.4.4.

SC810.13.4.7.4. If an employee makes any permissible change in enrollment before the employing office receives OWCP's request to transfer, the ICPA must notify OWCP by letter of the change and its effective date as soon as the change is received.

SC810.13.4.7.5. If the employee is separated after the enrollment is transferred to OWCP, the ICPA must notify OWCP by letter of the separation so that OWCP will know how to dispose of the enrollment if compensation payments end.

SC810.13.4.8. Transferring the Enrollment When Requested by OWCP

SC810.13.4.8.1. The ICPA will make the transfer by attaching all SF-2809s, SF-2810s, and any related health benefits documentation to the request form and returning it to OWCP (see Figure 810-63.)

SC810.13.4.8.2. The ICPA should keep a copy of the request form in the employee's OPF to show that OWCP has the health benefits documentation.

SC810.13.4.8.3. It is not necessary for the employing agency to complete an SF-2810 transferring the enrollment out. However, when OWCP receives the health benefits documentation, it must complete an SF-2810 transferring the enrollment in to OWCP.

SC810.13.4.9. Transferring the Enrollment When Not Requested by OWCP

SC810.13.4.9.1. If the employee is being separated or the employee has been in nonpay status for 10 months and OWCP has not requested that the enrollment be transferred, the ICPA must check with the OWCP to determine the status of the OWCP claim.

SC810.13.4.9.2. If compensation will continue beyond the date of separation or beyond the 365th day of continuous nonpay status, the ICPA must transfer the enrollment to OWCP by sending all SF-2809s and SF-2810s and any other health benefits documentation in the employee's OPF to OWCP by letter (see figure 810-64).

SC810.13.4.9.3. It is not necessary for the ICPA to complete an SF-2810 transferring the enrollment out. However, when OWCP receives the documentation, it must complete an SF-2810 transferring the enrollment in to OWCP.

SC810.13.4.10. When Compensation Ends and the Employee Returns to Duty

SC810.13.4.10.1. OWCP transfers the enrollment back to the employing agency by letter transmitting the health benefits documentation and giving the date compensation ended.

SC810.13.4.10.2. If the employee's appointment makes him or her eligible for continued coverage, the ICPA completes an SF-2810 transferring the enrollment to the agency. The effective date of the transfer is the day after compensation terminated.

SC810.13.4.10.3. If the employee's appointment does not make him or her eligible for continued coverage, the ICPA completes an SF-2810 terminating the enrollment effective with the date compensation ended. A copy of OWCP's letter transferring the enrollment back to the employing agency must be attached to the carrier copy of the SF-2810.

SC810.13.4.10.4. When an employee returns to duty on a part-time basis and compensation payments continue, OWCP keeps the enrollment and continues to make withholdings and contributions for the employee.

SC810.13.4.11. When Compensation Ends but Employee Does Not Return to Duty

SC810.13.4.11.1. If compensation ends, but the employee does not return to pay status, the employee's coverage continues for 365 days after the date compensation terminates.

SC810.13.4.11.2. If the enrollment had been transferred to OWCP, OWCP must transfer the enrollment back to the agency, and the ICPA must complete an SF-2810 transferring the enrollment in.

SC810.13.4.11.3. The employee and the agency are responsible for paying the amount of the withholdings and contributions, just as they are for any other employee in nonpay status.

SC810.13.4.12. When Employee Returns to Duty Before Compensation Ends

SC810.13.4.12.1. If an employee returns to duty on a full-time basis before OWCP terminates the compensation payments, the ICPA must notify OWCP by telephone and immediately send a follow-up letter verifying the beginning and ending dates of the pay period in which the employee returns to work. In the remarks section, show the beginning and ending dates of the pay period in which the employee returns to work.

SC810.13.4.12.2. OWCP will discontinue withholdings and contributions with the beginning date of the pay period in which the employee returns to full-time duty and pay status.

SC810.13.4.12.3. The employing agency must resume withholdings and contributions effective with the first pay period in which the employee returns to pay status.

SC810.13.4.12.4. If the enrollment has been transferred to OWCP, OWCP must transfer it back to the agency as described in paragraph SC810.13.4.10. above.

SC810.13.4.13. Employee Elects Retirement

SC810.13.4.13.1. If an employee whose enrollment has been transferred to OWCP elects to retire and receive an annuity instead of compensation, the retirement system will ask OWCP to transfer the enrollment to itself.

SC810.13.4.13.2. If the employee is still being carried on the agency rolls in a nonpay status, the employing agency must note on the “Individual Retirement Record” (SF-2806 or SF-3100) under “Remarks,” “Health benefits enrollment transferred to OWCP,” and send the form to the retirement system as usual.

SC810.13.4.14. Procedures for Survivors. The enrollment of a deceased employee continues for the surviving family members if the deceased employee was enrolled for self and family at the time of death and at least one of the covered family members must receive compensation as a surviving beneficiary under the Federal Employees’ Compensation law.

SC810.13.4.15. If the Enrollment Was Not Transferred to OWCP

SC810.13.4.15.1. If an enrolled employee dies and the enrollment has not been transferred to OWCP, the employing agency must determine whether there is a surviving family member who appears eligible to continue the enrollment.

SC810.13.4.15.2. If there appears to be no eligible survivor, the agency terminates the enrollment.

SC810.13.4.15.3. If a survivor appears eligible for continued coverage, the agency sends the health benefits documentation to the retirement system in the same way as for any other death-in-service case. If the survivor elects to receive compensation rather than survivor benefits, the retirement system will transfer the enrollment to OWCP.

SC810.13.4.16. If the Enrollment Was Transferred to OWCP

SC810.13.4.16.1. If an enrolled employee dies and the enrollment has been transferred to OWCP, the employing agency must note on the employee's Individual Retirement Record (SF-2806 or SF-3100) in "Remarks" "Health benefits transferred to OWCP," and send the form to the retirement system as usual.

SC810.13.4.16.2. OWCP determines whether there are survivors who are eligible and who want to continue the enrollment. If the survivors elect to continue to receive compensation, OWCP continues or terminates the enrollment as appropriate. If the survivors elect to receive survivor benefits instead of compensation, OWCP transfers the enrollment to the retirement system.

SC810.13.5. Federal Employees' Group Life Insurance (FEGLI)

SC810.13.5.1. When an Employee is on Continuation of Pay (COP). No action needs to be taken on FEGLI; coverage, withholding, and contributions continue.

SC810.13.5.2. When an Employee is on Leave Without Pay (LWOP). Withholdings for basic life insurance, Accidental Death and Dismemberment (AD&D), and optional life insurance begin as soon as the employee begins receiving compensation, even if it is within the first 12 months of nonpay status. The only exception occurs when an employee receives compensation for fewer than 29 days. In such cases, OWCP makes no withholdings or contributions; the employee and agency share the cost of enrollment. Form CA-7 is used to notify OWCP of optional insurance coverage and changes in basic pay that occur so that premium withholdings can be adjusted.

SC810.13.5.3. When an Employee Returns to a Light Duty Job. Enrollment is transferred back to the employing agency. If the employee has a loss of wages due to the partial disability, premiums will be based on the amount earned in the light duty position rather than the salary at the time of injury.

SC81013.5.4. When FEGLI Coverage Must Terminate. When FEGLI coverage as an employee must terminate because of completion of 12-months nonpay status and the employee is:

SC810.13.5.4.1. Not eligible to, or does not wish to, continue coverage as a claimant, the employing office terminates the enrollment in the same manner as any other employee in a nonpay status. To be eligible to continue FEGLI coverage after separation or 12 months of nonpay status, the employee must have been enrolled since his or her first opportunity or for five years immediately preceding the start of compensation; or,

SC810.13.5.4.2. Be eligible and wishes to continue basic and optional coverage as a claimant, the employing office would:

SC810.13.5.4.2.1. Provide the employee a SF-2819, "Notice of Conversion Privilege";

SC810.13.5.4.2.2. Complete a SF-2821, "Agency Certification of Insurance Status";

SC810.13.5.4.2.3. Have the employee complete a SF-2818, "Continuation of Life Insurance Coverage as a Retiree or Compensationer"; and,

SC810.13.5.4.2.4. Attach SF-2818, all designations of beneficiary, and all life insurance elections to SF-2821 (Part 1) and send to OPM.

SC810.13.6. Transfer of Function

SC810.13.6.1. Transfer of Function Explained. If an agency or instrumentality (or part or function thereof) is transferred to another agency or instrumentality, the cost of compensation benefits and other expenses paid on account of the injury or death of employees of the transferred function is assumed by the gaining agency. The losing agency coordinates the transfer of function with the gaining agency.

SC810.13.6.2. Notifying OWCP of the Transfer. In order that costs be appropriately charged to the gaining agency or instrumentality, OWCP must be advised of the transfer of function and of the cases to be transferred to the gaining activity.

SC810.13.6.2.1. The notification letter must contain the following information:

SC810.13.6.2.1.1. Effective date of the transfer;

SC810.13.6.2.1.2. Losing and gaining activity identified by name;

SC810.13.6.2.1.3. Losing chargeback code (six characters) and gaining chargeback code;

SC810.13.6.2.1.4. Address for the new servicing CPO/HRO;

SC810.13.6.2.1.5. Name and telephone number of a point of contact at losing and gaining activities;

SC810.13.6.2.1.6. Listing of claims to be transferred which includes case number, name, social security number, and date of injury.

SC810.13.6.2.2. An information copy of the notification and listing should be provided to the gaining activity.

SC810.13.6.2.3. The appropriate supporting DoD liaisons will effect the changes in chargeback codes at the district office(s). Refer to figure 810-54 for sample letter notifying the liaison of transfer of function and claims.

SC810.13.6.3. Official Notification to the Gaining Activity. After OWCP has received the transfer of function information from the supporting DoD liaison, it will provide the names of the claimants affected by the transfer of function to the gaining activity. The gaining activity has 60 days to raise issues of case ownership.

SC810.13.6.4. When Charges are Included in Chargeback Billing. Charges to the gaining activity's chargeback account include all costs incurred during the OWCP billing period (July 1 through June 30) in which the transfer took place. This includes transfers effective on the last day of the billing period, June 30.

SC810.13.6.5. Transfer of Activity Case Files. The gaining activity must have comprehensive case records of the transferred claimants to exercise effective case management. Before shipping the case files to the gaining agency, the losing activity should screen case files to assure information critical to good case management is in the file.

SC810.13.6.6. Restoration Rights When Function is Transferred. If an employee is out of work due to compensable injury, and his or her function is transferred to another agency to which the employee would have been transferred had he or she been present, the employee has restoration rights to the gaining agency. The losing agency should notify the employee of the transfer and the location at which to apply for restoration. If the employee would not have been transferred with the function, he or she has restoration rights to the former agency.

SC810.13.6.7. Management of Closed Installation Injury Cases. Each DoD Component or DoD Component’s major command will assign the injury cases of a closed installation to a successor CPO/HRO within the same component.

SC810.13.6.7.1. The designated successor manager should be located, whenever possible, in the same OWCP District Office as the closed installation. Typically, case files, injury case management resources, and, depending on DoD Component FECA bill payment policy, the dollars required to pay for the end of the chargeback year costs associated with the cases will be transferred to the successor manager.

SC810.13.6.7.2. Exceptions to SC810.13.6.7.1. may be made when fiscally and managerially appropriate. The supporting DoD liaison will be informed of any such exception.

SC810.13.7. Reduction in Force (RIF) Situations

SC810.13.7.1. Impact of RIF on Employees on the Compensation Rolls. An employee who is on the compensation rolls is subject to reduction in force just like other agency employees and is entitled to whatever rights he or she would have to another job had the injury not occurred. Separation by RIF or for cause while on compensation terminates entitlement to credit for the subsequent period the employee continues to receive compensation and also means the individual has no restoration rights.

SC810.13.7.2. Impact of RIF on Reemployed Claimants. Reemployed claimants sometimes face removal from employment due to a RIF or the closing of an installation. The status of such employees with respect to receipt of further compensation benefits differs according to whether a formal LWEC determination has been made.

SC810.13.7.2.1. When a formal LWEC has been determined and a Form CA-1048 or CA-1047 has been issued by OWCP, the claimant has the burden, with respect to any subsequent loss of earnings, to show that one of the accepted reasons for modifying an LWEC applies. These reasons are:

SC810.13.7.2.1.1. The original LWEC rating was in error;

SC810.13.7.2.1.2. The employee's medical condition has changed; or,

SC810.13.7.2.1.3. The employee has been vocationally rehabilitated, either through vocational training or self-rehabilitation, and his or her wage-earning capacity has increased as a result. Therefore, the status of an employee with an established wage-earning capacity who is removed because of a RIF does not change regarding receipt of FECA benefits.

SC810.13.7.2.2. When no formal finding concerning wage-earning capacity has been made, and the claimant has worked in the position for at least 60 days, OWCP may consider a retroactive LWEC determination. This is true even though the claimant is a Federal employee, since general availability of the job need not be considered for a position actually held.

SC810.13.7.2.3. If a retroactive LWEC determination cannot be made:

SC810.13.7.2.3.1. The claimant files a Form CA-7 and is reinstated to temporary total disability until a second opinion medical examination establishes if there is a continuing injury-related disability.

SC810.13.7.2.3.2. If no continuing injury-related disability is established, compensation is terminated.

SC810.13.7.2.3.3. If injury-related disability is established, the claimant is placed on the periodic roll and if appropriate, referred to rehabilitation services. The claimant receives compensation on the basis of temporary total disability until his or her wage-earning capacity can be determined.

SC810.13.8. Voluntary Separation Incentive Program (VSIP)

SC810.13.8.1. In instances where an employing agency has offered separation pay ("buyout"), compensation must be suspended until such time that the number of weeks of compensation is equal to the total gross sum of the VSIP payment.

EXAMPLE: The amount of the VSIP is $25,000. If 70 weeks of compensation is equal to $25,000, the employee does not have entitlement to compensation for 70 weeks.

SC810.13.8.2. The combination of compensation pay and separation pay constitutes dual benefits; the two cannot be received concurrently. It is MANDATORY that when an employee receiving compensation benefits applies and is approved for a "buyout," the ICPA forwards a copy of the SF-50 to the supporting DoD liaison and to the OWCP district office, indicating the amount of the "buyout" and effective date of separation.

ENCLOSURE 1

REFERENCES, continued

(e) Title 5, United States Code, Section 5545, 8344, and 8468
(f) Section 651 of Public Law 104-208, September 30, 1996
(g) Deputy Assistant Secretary of Defense/Civilian Personnel Policy Memorandum, dated November 8, 1996, Subject: Death Gratuity Payment, which is hereby canceled
(h) Title 18, United States Code, Section 286, 287, and 1001
(i) Under Secretary of Defense Memorandum, "Injury Compensation Program Administration," Dr. David S. C. Chu, June 13, 2003, which is hereby canceled
(j) Title 29, Code of Federal Regulations, Part 1614, "Federal Sector Equal Employment Opportunity," current edition
(k) Under Secretary of Defense Memorandum, "Injury Compensation Automated Data Systems," Dr. David S. C. Chu, July 23, 2003, which is hereby canceled
(l) OPM "Guide to Processing Personnel Actions," December 31, 1998
(m) Title 29, Code of Federal Regulations, Section 1910.95, "Occupational Noise Exposure," current edition
(n) Section 5546 of title 5, United States Code
(o) Title 5, Code of Federal Regulations, Part 551, "Pay Admin- istration Under the Fair Labor Standards Act," current edition
(p) Title 5, Code of Federal Regulations, Part 550, Subpart M, "Pay Administration (General)," current edition
(q) "FECA Procedure Manual," April 1995
(r) Title 29 Code of Federal Regulations, Part 20, Subpart D, "Federal Claims Collection," current edition
(s) OPM Operating Manual, Section 102 of the Civil Service Retirement System and Federal Employees Retirement System Handbook for Personnel and Payroll Offices, April 1998

LIST OF FIGURES

Each figure described in the text of this document is available through the use of "hotlinks" displayed throughout the Manual. Hotlinks in this Manual are identified as follows, "figure 810-#." For example, "figure 810-1" is located on page 18, and represents Form CA-10, "What A Federal Employee Should Do When Injured At Work." You may view documents represented by hotlinks by placing the computer cursor over the hotlink and "clicking" on it with your mouse's left button.