

***Implementing Guidance for Workers'
Compensation under Federal Employees'
Compensation Act (FECA)***



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Chapter 1 – General

1-1. Policy

Army leaders will ensure workplaces are safe, healthy, and focused on a culture of compliance within the environment. When employees are permanently or partially disabled because of job-related injuries or illnesses, Army leaders will make maximum effort to return them to work, to include restructuring positions to accommodate them.

1-2. Purpose

a. This guidance is issued by the Office of the Assistant G-1 for Civilian Personnel. It is intended to assist Army leaders and Civilian Personnel Advisory Centers (CPAC) to implement the Federal Employees' Compensation Act (FECA), Department of Defense Instruction (DoDI) 1400.25-V810, and current Army policy (see Appendix H). This guidance will remain in effect until superseded by updated guidance and/or Army Regulation.

b. This guidance does not cover Non-Appropriated Fund (NAF) employees. NAF employees' workplace illnesses and injuries are covered by a different federal law and procedures. This guidance does not cover contractor employees. Contractor illnesses and injuries are not covered by federal procedures. They are covered by the Workers' Compensation procedures of the state where the injury or illness occurred.

1-3. Explanation of Abbreviations and Terms

Abbreviations and terms used in this guidance and related to Workers' Compensation are defined in the Glossary.

Chapter 2 – Authorities

2-1. Statutory and Regulatory Authorities

a. The federal Workers' Compensation Program is based on the FECA, as amended, 5 USC 8101 et seq. The Workers' Compensation Program is often referred to as "FECA" from the name of the legislation or as "OWCP" from the section of the U.S. Department of Labor (DOL) that oversees the program. The term "injury compensation" also is sometimes used. This Army guidance uses the term "Workers' Compensation".

b. The DOL Office of Workers' Compensation Program (OWCP) is responsible for implementing the FECA, in accordance with 20 CFR Chapter I, parts 1, 10 and 25. The OWCP is the final authority on the Workers' Compensation Program for all federal agencies.

c. Department of Defense (DoD) guidance is found in DoDI 1400.25-V810.

2-2. Overview of the Federal Employees' Compensation Act (FECA)

a. FECA provides a multitude of benefits and payments for work-related injury or illness: medical care, including prescriptions, physician and hospital bills; physical, occupational, and psychological therapy; transportation or travel expenses for these appointments; and the cost of vocational counseling and rehabilitation. Durable medical equipment such as hearing aids and implantable devices such as artificial joints are covered. In some severe cases, a medical attendant or modifications to the claimant's home or automobile to adapt it for disabled use may be authorized. FECA also provides fixed payments for a deceased employee's funeral expenses and lifetime payments to qualified survivors of the deceased in cases of employment-related death. FECA also provides a lump-sum payment for the permanent loss or impairment of a body part if the loss or damage was connected with federal employment.

b. FECA provides salary replacement ("compensation"), on a lifetime basis if necessary, while an injured or ill employee is not able to work. If an injured or ill employee is unable to return to the job held when injured and returns to work at a lower-paying job, FECA makes up the difference in salary between the old job and the new job. Unlike private-sector Workers' Compensation coverage, in the FECA there is no cap on either medical costs or compensation costs.

c. The cost of all these benefits is paid at the time of occurrence by the DOL, which by law administers the FECA program for all federal agencies. At the end of each year, the DOL bills each federal agency in a "chargeback" bill. Each federal agency pays its chargeback bill within 30 days of the enactment of the appropriation for the relevant fiscal year, and payment of that bill may not be reduced or deferred, according to 5 USC 8147(b).

2-3. Hierarchy of the FECA program

a. Department of Labor (DOL). The DOL OWCP administers the FECA program. The Army can challenge claims and address concerns, but OWCP is the final decision-making authority in all aspects of the program, including whether to accept or deny claims.

b. Department of Defense (DoD). The Defense Civilian Personnel Advisory Service (DCPAS) Injury Compensation and Unemployment Compensation (ICUC) Division provides assistance to all components and provides computer software for filing and researching FECA claims. Additionally, the ICUC Division employs DoD Injury Compensation Liaisons located around the U.S. who provide training and in-depth case research services (called DoD Liaisons in this document).

Chapter 3 – Roles and Responsibilities within Army

3-1. Headquarters, Department of Army

a. Appoint a Program Manager (referred to as Army Program Manager in this document) to oversee policy, represent Army at meetings and conferences, and serve as the point of contact on complex questions. The Army Program Manager also serves as the

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point of contact for the DOL Protecting Our Workers and Ensuring Reemployment (POWER) Initiative.

b. Provide reports and statistical information on a regular, recurring, and ad hoc basis, establish reporting requirements and deadlines for Workers' Compensation functions, and coordinate program needs with Army Commands, other DoD components, DoD headquarters, and the DOL.

c. Provide assistance to Injury Compensation Program Administrator (ICPAs) when issues are raised such as nonresponsiveness of DOL OWCP Claims Examiners or DoD Liaisons.

3-2. Commands

Appoint a Command Coordinator who will work with installations/garrisons, districts, and other subordinate organizations¹ to create opportunities for returning long-term claimants to productivity. The Command Coordinator is responsible for presenting information on the Command's Workers' Compensation Program (for instance cases cost, etc.) to Command leadership. The Command Coordinator will also request Command-wide Workers' Compensation information and data through the Civilian Human Resources Agency (CHRA) Operations Program Manager rather than requesting directly from the local ICPAs.

3-3. CHRA Headquarters

a. Appoint an Operations Program Manager. The Operations Program Manager oversees the day-to-day operational aspects of the program and interfaces with the ICPAs at the CPACs on normal daily functions and with Command Coordinators when issues are elevated. The Operations Program Manager also provides training on Workers' Compensation for CPAC Chiefs and new Army ICPAs, and annually reviews each ICPA's program.

b. Provide annual report of results of "Requested Placement" efforts to Army Program Manager by 31 January for previous calendar year.

c. Review and forward documents to the Army Program Manager pertaining to transfer of cases between organizations due to Transfer of Function or Closure.

d. Obtain and disseminate a deceased employee list from Army Benefits Center-Civilian (ABC-C) on a quarterly basis and disseminate to ICPAs in order to match the chargeback report cycle.

¹ Note: The term "organization" will be used throughout this document to refer to an installation, garrison, district, or other organizational unit with responsibility for planning and implementing a Workers' Compensation program.

3-4. Commanders and Directors

a. Ensure compliance with DoDI 1400.25-V810, Appendix H, and this guidance; and that assigned organization has a viable and compliant program to manage Workers' Compensation.

b. Establish and chair, or participate in, the local FECA Working Group (FWG) that meets quarterly to analyze Workers' Compensation costs, trends, plans, etc., and develop cost containment and Return-To-Work (RTW) initiatives as described in Chapter 10. FWGs are mandated by DoDI 1400.25-V810 (see Appendix H). The Garrison Commander (or District Commander at USACE locations) will serve as chair and will invite the Mission Commander, and the Commanders or directors of tenant organizations or their designees, unless a separate meeting is held, such as in the case of a large military hospital on post which could hold its own meeting.

c. Emphasize the importance of a safe working environment in all aspects of the organization.

d. Ensure that employees are advised of their rights and responsibilities under the Workers' Compensation Program and are aware that claims cannot be filed directly with OWCP but only with the local ICPA.

e. Ensure that all injuries are immediately reported to the ICPA.

f. Fully support the RTW program and the use of the Pipeline Reemployment Program (see Chapter 5), as well as the DoD Computer/Electronic Accommodations Program (CAP) (see Glossary).

g. Create a culture which promotes accountability, establishes appropriate internal controls and minimizes fraud. Train supervisors and employees to be on the lookout for fraud; and to ensure roles and responsibilities are clear, claims are handled efficiently, and medical treatment is monitored. Provide a safe, anonymous way for an employee to report suspected abuse, such as a hotline, and support investigations for suspected fraud.

h. Review the chargeback claims list received from the ICPA with the understanding that it contains confidential information subject to the Privacy Act, 5 USC 552a. Names of claimants must not be discussed in any open forum.

3-5. Supervisors and Managers

a. Work in partnership with the ICPA on all claims of illness or injury.

b. Attend training on the supervisor's role in FECA law, what to do when an injury occurs, how to begin the claims process, and the importance of returning a claimant to productivity. Supervisors should receive initial training soon after becoming new supervisors and participate in refresher training as appropriate.

c. Obtain training in, and have a good understanding of, the Electronic Data Interchange (EDI) application (<http://www.cpms.osd.mil/icuc/EDI.aspx>) in order to file injury/illness claims for employees.

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- d. Enforce safety and health regulations. Enforce the use of required Personal Protective Equipment (PPE). In coordination with the CPAC and the servicing labor counselor, document infractions and take disciplinary action, if appropriate, against employees who fail to follow safety instructions or use PPE provided, even if a Workers' Compensation claim has been filed.
- e. Ensure that the location and telephone number of emergency medical facilities are made known at the work site.
- f. Ensure that employees know when and how to report occupational injuries and illnesses.
- g. Send injured employees for medical treatment when a traumatic injury is reported. If an employee refuses all medical treatment, document the refusal and the facts of the situation in a memo for the supervisor's file, and investigate as necessary.
- h. Report all injuries and illnesses immediately by telephone or email to the ICPA and local Safety Officer.
- i. Promptly assist the employee in completing injury compensation forms, normally through EDI (<http://www.cpms.osd.mil/icuc/EDI.aspx>), and send them to the ICPA.
- j. Ensure Continuation of Pay (COP) and Leave Without Pay (LWOP) are reported accurately and completely for time and attendance purposes. Day of Injury is recorded on timecards as LU and subsequent COP days as LT. If COP is exhausted, timecards for LWOP are marked with the code KD.
- k. Make decisions regarding whether to controvert COP or to challenge the claim, partially or entirely (see paragraph 4-4). Partner with the ICPA in constructing the challenge or controversion within timeframes established by OWCP.
- l. Maintain continued personal contact with the injured employee until employee returns to productivity. Contact should be weekly during the COP period and bi-monthly during the LWOP period. Long term claimants should be contacted at least yearly.
- m. Attend and participate in quarterly FWG meetings when an employee has filed an injury or occupational illness claim, to discuss the cause and plans to remediate the situation (see Chapter 10).
- n. Partner with CPAC representative and consult with the servicing labor counselor, to modify injured employee's Position Description (PD), make light duty offers, or create new positions, as appropriate.
- o. Consult with the Equal Employment Opportunity (EEO) Disability Program Manager or equivalent and with the servicing labor counselor to determine whether an employee's work related injuries trigger protections under the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), Pub. L. 110-325, 42 USC 12101, et seq. The fact that an employee is awarded Workers' Compensation benefits, or is assigned a Workers' Compensation disability rating, does not automatically establish that the person has a disability for ADAAA purposes. It is possible, however, for an injured employee to meet both standards. The supervisor, therefore, must consider work-related injuries and requests to modify duties on a case by case basis to know if an injured employee is also

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protected by the ADAAA.

p. Fully support the RTW program, the use of the Pipeline Reemployment Program (see Chapter 5), and the DoD CAP.

3-6. Safety Officer

- a. Participate in the activity FWG meeting (see Chapter 10).
- b. Provide safety training as required.
- c. Investigate all reported job-related injuries/illnesses immediately and prepare required reports.
- d. Provide requested information to the ICPA to support FECA program administration.
- e. Collect and analyze accident and injury data to identify trends, manage risks, prevent recurrence, and assist in reducing civilian workplace injuries and illnesses.

3-7. CPAC Chief

- a. Select an employee to serve as the ICPA to oversee, coordinate, manage, and ensure optimum effectiveness in program administration for the serviced civilian population.
- b. Assist and support ICPA as necessary. Ensure the ICPA is assigned to a PD that adequately reflects the level of responsibilities and receives appropriate training and time to perform the duties. Appoint and train an alternate ICPA to cover when primary ICPA is unavailable.
- c. Attend and participate in quarterly FWG meetings (see Chapter 10) and the annual program review conducted by CHRA (Chapter 11).
- d. Make every effort to place a FECA claimant from another organization or component who has moved into the commuting area.
- e. Ensure there is adequate locked storage space for Workers' Compensation files as they contain sensitive medical information.
- f. Ensure that Workers' Compensation training is provided to all new supervisors soon after assuming their positions and that refresher training is offered periodically.
- g. Fully support the RTW, the Pipeline Reemployment, and the Requested Placement Programs, as well as the CAP (see Chapter 5).
- h. Refer cases of suspected fraud to the appropriate investigating authorities (see Chapter 13).

3-8. ICPA

a. Serve as the manager for Workers' Compensation for the serviced organizations, supporting the Commander or Director in carrying out the required functions for an effective Workers' Compensation program.

b. Serve as an advisor for injured or ill employees and verify entitlements are provided as needed. Follow processes in this guide to ensure accurate and timely case management.

c. Coordinate, participate in, and arrange quarterly FWG meetings. See additional information in Chapter 10.

d. File correct injury and illness compensation claim documents with OWCP within 14 calendar days (10 working days) of notice. Manage all claims to contain costs and monitor recovery of employees for RTW IAW Chapter 4.

e. Fully support RTW, Pipeline Reemployment (see Chapter 5), DoD CAP and the Requested Placement Programs.

f. Provide quarterly updates to the CHRA Operations Program Manager on employees returned to work within the past calendar year. In addition, provide the chargeback claim lists for each organization to the Commander or Director quarterly.

g. Refer suspected fraud cases through channels to the proper on-post investigative authority, DOL Inspector General (IG), or other investigative services (see Chapter 13).

h. Coordinate with the claims examiner and activity legal office on claims that appear to involve third party liability.

i. Contact long term claimants by letter or phone call at least once a year, whether they remain on Army rolls or not (template at Appendix F). Document the results in the hard copy file.

j. Review the chargeback list at the end of each quarter to verify that all claimants are properly aligned with the appropriate CPAC and the appropriate Command is charged, and to compare the list against the deceased employees list. 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. Notify CHRA HQ of errors or questionable charges. ICPAs at Army Materiel Command depots are required to separate their claimants into Army Working Capital Fund (AWCF) and non-Working Capital Fund lists at the end of the chargeback year in order to facilitate correct payment. ICPAs at U.S. Army Corps of Engineers (USACE) activities must separate their claimants by military or civil works appropriated fund positions.

k. Work with rehabilitation counselors and the CPAC Staffing Specialist on reemployment referrals and work with OWCP-directed field nurses on return to duty under the Nurse Intervention Program.

l. On a monthly basis, review a sample of medical bills using the Agency Query System (AQS) to verify appropriate charges. The ICPA should focus on high cost claims or other suspected irregularities, and review for such anomalies as mis-match between the

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DOL accepted condition and the diagnosis code; or medical transportation with no associated treatment charges/denial of charges for associated treatment. If there are any questionable charges, the ICPA should immediately notify the DoD Liaison.

m. If there is a problem with a DCPAS liaison not responding within 30 days of a request, the ICPA should send a request for assistance with supporting documentation such as copies of emails to the Army Program Manager, with a copy to the Operations Program Manager. The Army Program Manager will address the issue with the liaison supervisor at DCPAS.

n. If there is a problem with non-responsiveness of an Office of Workers' Compensation claims examiner, after 30 days of effort and working with the DCPAS Liaison, the ICPA should write a letter to the OWCP District Director, enclosing documentation of efforts the ICPA has already made. If the District Director does not respond within 30 days, the ICPA should again send a request for assistance to the Army Program Manager with a copy to the Operations Program Manager.

3-9. Military Treatment Facility (MTF) Physician

a. Participate, or provide a representative to participate, in the activity FWG meeting (see Chapter 10).

b. Conduct a medical review of controversial/complex cases, if requested by ICPA.

c. Communicate with employee's physician, in writing, to clarify medical evidence when ICPA's attempts fail or assistance is needed to identify work limitations and restrictions.

d. Review, evaluate, and recommend light-duty assignments and make recommendations for employee placements involving work limitations. For RTW evaluations based on medical release by private physicians, resolve any differences of opinion with the private physician before disallowing an employee's attempt to RTW.

e. Provide medical information and updates to the ICPA to be sent to OWCP to support or challenge a claim for an occupational illness or work-related injury, as needed.

f. Assist ICPA in informing local medical community of FECA program requirements and resolving any problems being experienced, if necessary.

3-10. Occupational and Industrial Health Representatives

a. Provide a representative to actively participate in the activity FWG meetings (see Chapter 10).

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

c. Provide workplace exposure monitoring and epidemiology data appropriate for investigation for ICPA to send to OWCP to support or challenge a claim.

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d. Advise workplace managers and supervisors of the results of exposure monitoring, and recommend workplace practices to control worker exposure (i.e., process changes, material substitution, engineering controls, Personal Protective Equipment (PPE), administrative controls, and employee training).

3-11. Investigative Representative

a. Provide a representative to actively participate in the activity FWG meetings (see Chapter 10).

b. When requested by the ICPA, conduct an investigation of a specified claim to determine and document evidence of alleged fraud (see Chapter 13).

3-12. Civilian Employees

a. Adhere to all safety instructions, policies, procedures, and regulations to include the proper use of PPE.

b. Promptly and accurately report all job-related injuries or illnesses to the supervisor, unless prevented from doing so by severity of the injury. If 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 supervisor by the best available means.

c. Report for medical examinations or treatments as described by established procedures or as directed by the treating physicians. An employee has the right to select his or her own physician, as long as the physician is located within a 50 mile radius of the employee's place of employment or residence. (Remote locations are exempted from 50 mile radius. There may be exceptions to the 50 mile radius, if approved by OWCP.)

d. Provide medical documentation as soon as possible, but no later than 10 calendar days after the date of the injury, or COP will be discontinued. (Note that COP is applicable only in cases of injury, not occupational illness.)

e. Advise the treating physician of light duty positions available and/or offered.

f. Advise supervisor and ICPA when medically released for light duty.

g. Return to regular or light duty as soon as medically feasible.

h. Participate in vocational and job-related training designed to provide suitable alternate employment when job-related injury or illness precludes the employee's return to his or her previous type of work.

i. Work in partnership with the ICPA, furnishing updates when any change to the claim or medical condition occurs.

j. Keep supervisor informed of duty status.

Chapter 4 – Claims

4-1. FECA Entitlements and Benefits

a. Claimants must meet all five of the following basic requirements to qualify for FECA entitlements:

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 after September 7, 1974, 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 within 30 days or the immediate supervisor had actual knowledge of the injury or death within 30 days of the occurrence.

2. **Civil employee.** If the claim is timely filed, it must then be determined whether the injured or deceased employee was an “employee” within the meaning of the law. Specifically, FECA covers all U.S. civilian employees, whether permanent, term, or temporary, except for non-appropriated fund employees. Federal employees who are not citizens or residents of the U.S. or Canada are covered subject to certain provisions governing their pay rates and computation of compensation payments. Determinations for other employees must be handled on a case-by-case basis once the claim is filed.

3. **Fact of Injury.** It must be established that the employee sustained an injury or illness/disease that resulted in this claim. Two factors are involved in this determination. Did the employee experience the accident, event, or employment factor(s) which is alleged to have occurred? Did the accident or employment factor(s) result in an injury or illness/disease?

4. **Performance of Duty.** If the first three criteria have been accepted, it must be established that the employee sustained an injury or disease while engaged in the performance of duty when the injury or disease occurred. The question of where and when the accident, event, or employment factor(s) leading to filing a claim must be studied. (Note that having an incident occur while at work does not automatically make it in performance of duty or caused by federal employment.) An employee is normally considered in performance of duty during established working hours, plus 30 minutes ahead of starting time and 30 minutes after scheduled ending time, unless on overtime. In general, an injury must occur on the “industrial premises” which is land or buildings owned, controlled, or maintained by the government. However, there are exceptions noted in section 4-3.I. below.

5. **Causal Relationship.** After the four aforementioned factors are considered, causal relationship between the condition claimed and the injury or disease sustained is examined. This factor is based on medical evidence provided by physicians who have examined and treated the employee. Sometimes the circumstances of a case raise the issue 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 by OWCP.

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b. **Benefits.** Employees may be eligible for six basic types of benefits under FECA: Medical benefits (including transportation expenses incurred); Continuation of Pay (see Glossary); Disability compensation; Schedule awards (see Glossary); Vocational rehabilitation; and, Death benefits that include allowable funeral benefits and survivor compensation. If injury-related disability is established, the claimant is placed on the Periodic Roll (PR) (see Glossary) and if appropriate, referred to rehabilitation services.

c. **Eligibility.** The eligibility of an employee for continued compensation may be affected by the following:

1. If an employee, or appointed representative, refuses to submit to or obstructs an examination by a federal medical officer or qualified private physician as required by OWCP, the employee's right to compensation under FECA may be suspended by OWCP until the refusal or obstruction ceases.

2. An employee who refuses to seek or accept suitable work after it is offered may have compensation benefits terminated by OWCP.

3. An employee who, without good cause, fails to undergo vocational rehabilitation, when directed by DOL, may have his or her compensation reduced or terminated.

4. Each year OWCP mails each claimant a CA-1032 form (Employment and Earnings Affidavit Statement). The form asks what income the claimant had and what his/her activities were in the past year (including volunteer work and unremunerated work performed in furtherance of a business). If the claimant fails to complete the affidavit or knowingly omits or understates any part of his or her earnings, he/she forfeits his or her right to compensation with respect to any period for which the CA-1032 was required.

5. Any claimant convicted of fraud related to FECA claims will lose entitlement to FECA benefits. Claimant must be convicted of FECA fraud or sign a plea agreement admitting fraud in order to have benefits stopped; simply being charged or indicted with FECA fraud will not stop benefits.

6. 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 rights to compensation during the period of incarceration. Claimant must truthfully report his/her incarceration on the CA-1032 report annually. Right to benefits can be restored after incarceration ends upon successful request of the claimant, unless incarceration was due to FECA fraud. Eligible dependents will receive compensation during the period of incarceration, unless incarceration was due to FECA fraud.

7. A widow or widower receives benefits until death or remarriage unless he or she is under age 55, in which case a lump-sum may be paid to the beneficiary and future payments will be terminated. If remarriage occurs when the beneficiary is over age 55, benefits continue for the rest of the beneficiary's life.

4-2. Medical Care

Employees have the right to be treated at an MTF if one is available in the local area; however, employees have the option to choose their own treating physician. Neither examination nor treatment at the MTF can be required.

4-3. Claims Process

a. All claims of injuries or illnesses must be filed through the ICPA or the designated alternate ICPA using EDI, unless the claimant does not appear in the Defense Civilian Personnel Data System (DCPDS), such as a very new employee or a retiree (in these cases use a hard copy form). The ICPA must submit new claims to OWCP (using a CA-1 for traumatic injury (Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/ Compensation) or CA-2 (Notice of Occupational Disease and Claim for Compensation) for an occupational disease or illness) within 14 calendar days of receipt of the claim form by the supervisor in order to be considered timely. The ICPA should also send a copy of the SF-50 in effect on the date of injury, and any subsequent SF-50s to OWCP at U.S. Department of Labor, Central Mailroom, P.O. Box 8300, London, KY 40742-8300. Statistics on timely filing are tracked by OWCP for each organization and Command.

b. Medical documentation must be signed by a physician. Chiropractors are not physicians for the purpose of OWCP claims except in cases of spinal subluxation documented by X-rays. Also note that nurse practitioners and physician's assistants (known as PA's) are not recognized as physicians by OWCP.

c. The ICPA should inform the claimant at the time the claim is filed that the ICPA has two simultaneous duties: to provide assistance in seeing that all benefits due the claimant are properly received, and ensuring that claims are legitimate and the Army is properly billed. The ICPA should ask the employee to sign an authorization for release of information at the time the claim is filed (Appendix C).

d. The ICPA will forward the Occupational Safety and Health Administration Form 301 (Injury and Illness Incident Report) to the appropriate Safety Office immediately through EDI to inform the office that a traumatic injury or occupational disease or illness claim has been filed. If the Safety Office does not have access to EDI, the ICPA must send notification separately. This notice must not compromise the protection of sensitive medical, personnel, and payroll data.

e. The ICPA should provide prompt assistance to the supervisor and employee to ensure that pertinent forms are properly completed in a timely manner. The ICPA is responsible for the accuracy and completeness of information submitted to OWCP, as well as timeliness of filing.

f. If a claim goes beyond the 45 day COP period, a CA-7 form (Claim for Compensation) with supporting medical documentation must be filed by the claimant via the ICPA to continue compensation. The CA-7 should be filed at least 7 days prior to the expiration of COP. When a claimant returns to work, the ICPA will file a CA-3 form (Report of Termination of Disability and/or Payment) to document it as well as inform the claims examiner. These forms can now be submitted electronically to OWCP through the Agency Query System (AQS).

g. The ICPA *may* issue a CA-16 form (Authorization for Examination and/or Treatment) to assure payment for emergency medical treatment outside the installation. A CA-16 form may be issued only on injury claims. A CA-16 should not be issued for treatment at the installation MTF. The ICPA is not required to issue a Form CA-16 if notification of the emergency treatment occurs more than one week after the occurrence of

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the claimed injury. CA-16 forms are close-hold and may be issued by the ICPA, the supervisor, or the medical clinic; however, any CA-16 issued must be reported to the ICPA. If treatment is provided under a CA-16, and the claim is later denied, the organization still pays the medical costs through the chargeback system.

h. The ICPA submits the CA-6 form, Official Supervisor's Report of Employee's Death, to document the work-related death of an employee to OWCP as soon as the death is known. The ICPA may challenge issuance of a CA-6 if there is doubt that the death is work-related.

i. If an employee cannot return to work the next work day after a report of an illness or injury, the ICPA should call the employee at home to demonstrate genuine concern for the employee's well-being and to emphasize that the Army needs the employee back as part of the team. At this time, the ICPA should also:

1. Discuss with the injured employee the FECA process and his/her rights and responsibilities.

2. Inform the employee that it is essential to send the ICPA medical documentation to support the time off from work. The medical documentation must contain a diagnosis, a treatment plan, and a projected date when the employee can return to work. The initial documentation must be received no later than ten calendar days after the injury. If the ICPA doesn't receive the documentation within ten calendar days, by law, COP must be discontinued and sick, annual, or leave without pay charged.

3. Notify the employee that he/she should receive a letter from the DOL either accepting or denying the claim. The acceptance letter will give a medical code number, which tells the doctor what the "accepted conditions" are. The ICPA should ensure the employee understands that the doctor must have a copy of this letter so that the doctor's office can bill correctly and be paid promptly.

j. If COP is applicable, track the number of days used and inform the supervisor and timekeeper of the limits and requirements of COP. Day of Injury is recorded on timecards as LU and subsequent COP days as LT. If COP is exhausted, timecards for LWOP are marked with the code KD, unless the employee elects to use leave. ICPA should receive a report from the local Installation Customer Service Representative of COP used for each pay period and compare to time off required by treating physician. If time off does not match, the claimant must either produce another doctor's note for the additional time off or charge to sick, annual leave or LWOP.

k. Inform the DoD Liaison throughout the claims process of status changes and provide copies of job offer acceptances or declinations and Position Descriptions (PD) to OWCP.

l. File the claim but consider whether a challenge is appropriate (see paragraph 4-4 below) when injuries under special circumstances occur, such as noted below. The DOD Liaison should be asked to review the challenge.

1. An employee on official travel, with travel orders, is considered to be in Performance of Duty from the time travel begins until travel ends, provided the activity is reasonably related to the official travel. Going to meals, sleeping, and bathing are reasonably related to official travel. Slipping in the hotel shower at midnight would be reasonably related; drowning while scuba diving would not be related unless scuba diving

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was part of the purpose of the trip. Deviations from official travel, such as a side trip to visit a relative, would not be in Performance of Duty.

2. An employee injured while traveling to or attending a local meeting, without travel orders, would be in Performance of Duty provided the employee's supervisor authorized attendance at the event.

3. An employee sent on an informal work-related errand by a supervisor is in Performance of Duty, as long as the employee has taken a direct route to fulfill the errand. An example would be an employee being asked to pick up a plaque for a retirement ceremony. Travel orders are not required.

4. An employee injured or made ill by participation in a Command or organization function such as "Organization Day," office picnic or intramural team event may be considered on duty. Some factors to consider are: Was the employee in pay status when the event occurred? Were employees required to attend or participate? Did the Command or organization officially sanction the event such as paying for team uniforms or providing transportation?

5. An employee injured in an organization gym or fitness center must also be in pay status when the injury occurred for it to be covered by Workers' Compensation. An employee performing non-required physical activity before or after work would not be covered.

4-4. Controverting COP or Challenging Claims

a. The ICPA is responsible for challenging all suspicious claims. Upon receiving a CA-1 or CA-2 for a new claim, the ICPA will contact the first-line supervisor and verify there are no doubts that the claim is work-related and is Army's responsibility. In cases of doubt, the ICPA will work with the supervisor and DoD Liaison to construct the written challenge. The challenge may be signed by either the supervisor or by the ICPA. When authenticating a suspicious claim in EDI, check the "no" in block 28 of a CA-1 or Block 35 of a CA-2 and indicate that the claim will be challenged or COP controverted, in whole or in part, and that documentation will follow. (Note definitions in Glossary of controversion and challenge.)

b. The ICPA will always submit the claim immediately, never holding the claim while waiting for supporting documentation. The ICPA should work with the supervisor to assemble the facts, and send the draft challenge to the DoD Liaison for review. If the supervisor is reluctant to challenge a claim but the ICPA has strong evidence, then the ICPA should challenge the claim independently. As soon as a claim number has been assigned and within 20 calendar days of the receipt of the notice of injury or illness, the ICPA will send the challenge or controversion letter, if appropriate, along with all the supporting documentation to the U.S. Department of Labor, Central Mailroom, P.O. Box 8300, London, KY 40742-8300 and copy furnish the DoD Liaison. The claim number must be written at the top of every page of the supporting documentation. The challenge should include, if possible, supporting documentation such as signed witness statements, a police report, pictures of the work area, copy of the employee's timecard, or a map of the installation boundaries if the incident occurred off post. There is no particular form or format to challenge a case but the challenge must include documented facts, not mere opinions about the employee. Being a poor performer is no barrier to a FECA claim. Alternate methods of submitting documentation for new claims, including challenges or controversions, are to fax

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to 202-343-5570, or utilize the document upload function in the new DOL software system called Web-Enabled Electronic document Submission (WEEDS). All of these methods are equally acceptable.

c. When a claim is being challenged, COP must still be paid while the claim is being adjudicated by OWCP except in cases where COP is withheld as noted below:

1. The disability is the result of an occupational illness or disease. Only traumatic injuries qualify for COP;
2. Employee is a volunteer serving without pay or with nominal pay;
3. Employee is not a citizen or resident of the U.S. or Canada;
4. Injury occurred off the agency premises and employee was not engaged in official off-premises duties;
5. Employee caused the injury by willful misconduct, intoxication, or intent to bring about his own injury or death or that of another person;
6. Injury was not reported on a CA-1 within 30 days following the injury;
7. Work stoppage first occurred more than 45 days after the injury date;
8. Injury was reported after employment ended;
9. Employee is in the Civil Air Patrol, the Job Corps, Youth Conservation Corps, or another program covered by special legislation; or
10. The employee does not provide sufficient medical documentation within ten calendar days after the claim is submitted. (COP should be stopped and regular leave charged, even if it appears the rest of the claim is legitimate.)

Chapter 5 – RTW Efforts

5-1. General

a. The most important effort in Workers' Compensation cases is to take care of the injured employee so that he/she recovers and can return to work.

b. Long-term claimants on the PR receive a check every month that is charged back to Army; bringing a long-term claimant back to productivity takes precedence over hiring any new employee, unless otherwise provided by law. Note that a RTW job offer for a Workers' Compensation claimant does not have to clear the Priority Placement Program.

c. IAW DoDI 1400.25-V810, Enclosure 2, paragraph 4e, the "reasonable accommodation" (see Glossary for definition) provisions of 29 CFR Part 1614, Federal Sector Equal Employment Opportunity, apply to the Workers' Compensation Program.

d. Every Commander and Director should ensure that his/her organization makes

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every reasonable accommodation to return an injured or disabled employee to productivity, including modifying a current position/PD to fit the abilities and physical restrictions of a claimant.

e. On a quarterly basis, the ICPA should provide the FWG Chairperson and the Command Coordinator a report on all RTW efforts, the cost avoidance figures associated with placements, and all decisions which result in no placements.

f. As available, the DOL's Nurse Intervention Program should be used as a tool in the effort to return employees to work.

g. The ICPA will ensure that all cases where the claimants are known to have been medically released are reviewed by the FECA Working Group and placements identified where possible. By the end of the first month of each quarter, each ICPA will report to the CHRA Operations Program Manager the number of known medically released claimants as well as the number of those who returned to work in the previous quarter. The Operations Program Manager will review the submissions and advise ICPAs of any needed adjustments.

5-2. Pipeline Program.

a. The DoD Pipeline Reemployment Program is an extremely valuable tool for returning employees to work after job-related injuries or illnesses. It provides overhire authority and civilian pay authority for up to 365 days to be used to reemploy partially recovered employees. The program assists organizations by minimizing the use of replacement and training costs associated with having an employee on the Workers' Compensation rolls. Any case on the current POWER Initiative (see Chapter 11) list at the time of Pipeline adjudication is eligible for Pipeline so long as the offered position is to an FTE other than the FTE occupied on the date of injury. By accepting Pipeline funding to a permanent position for an injured worker, the Army is agreeing to integrate the injured worker into a locally funded position during the Pipeline funding period, or after Pipeline funding has been exhausted. The locally funded position must be within the claimant's work restrictions. Other requirements exist; additional information is contained in the DoD Pipeline Reemployment Program Guide dated October 2011 (<http://cpol.army.mil/library/benefits/docs/DoD-PipelineProgramGuide.pdf>).

b. ICPAs will ensure that the use of the Pipeline Program is fully integrated into the local Workers' Compensation RTW efforts. By the tenth calendar day of each month, each ICPA will report to the CHRA Operations Program Manager the reasons for not using the Pipeline Program for any RTW in the previous month. The Operations Program Manager will review the submissions and advise ICPAs of any needed adjustments.

5-3. Return to Official Position.

If the injured employee is well enough to return to the official position of record, he/she must provide the treating physician's release to the supervisor and ICPA. As soon as the employee returns, the ICPA should notify OWCP by telephone and also submit a CA-3 form electronically through the AQS system, and inform the DoD Liaison.

5-4. Return to Light Duty or Alternate Position.

a. CPACs and supervisors work jointly to review vacancies for possible placement of injured workers, or to restructure positions for their placement prior to announcement. This includes the use of modified duty to return the injured employee to work as early as possible. The CPAC will provide a written recommendation on the placement which will include the position title, series, grade, PD, qualifications assessment, and a statement outlining the cost avoidance to the government for returning the employee to duty. After a position has been offered to a claimant, supervisors will keep the position offered open until the employee reports for work, or until OWCP has issued a final decision on suitability.

b. CPACs should offer claimants the opportunity to provide an updated resume for job placement, but it is not a requirement. Claimants may refuse to submit a resume. In such cases, a decision is made on the claimant's experience and job skills based on information in official records (e.g., Official Personnel Folder).

c. If a light duty position is available, the ICPA will send a letter (see Appendix G) to the treating physician stating that Army will modify the employee's position, or another position, for light duty based on the specific limits imposed by the employee's injury. The correspondence will include a copy of the PD and specify duties, physical requirements of the duties, and environmental conditions. The correspondence will solicit the treating physician's recommended modifications to the duties and physical requirements of those duties based upon the specific limitations imposed by the employee's injury. If the physician doesn't respond, the ICPA will mail a CA-17 (Duty Status Report) or CA-20 (Attending Physician's Report) as appropriate. If CA-17 or CA-20 is not returned within 20 calendar days, the ICPA will review the medical statement with the MTF physician and ask the MTF physician to communicate with the treating physician in regard to what restrictions and time off work he/she would advise.

d. Prior to making a light duty offer, the ICPA will forward the final RTW PD, job requirements, and environmental conditions to the DoD Liaison before making a RTW job offer to ensure the job offer contains all information required by OWCP. The ICPA will consult the DoD Liaison about the content of the job offer letter.

e. An informal job offer may be made over the telephone but must be followed up with a formal, written offer that includes the PD and a template for the employee to reply back with a decision. The job offer should state all modification and accommodations offered, such as disabled parking place near the building, elevator, voice-activated computer software, amplified telephone, flexible work schedule, or other job-related accommodations, as appropriate and documented in the medical restrictions for the claimant. The tenure of the position offered must match the tenure of the employee at the time of injury (i.e., a permanent employee must receive a permanent job offer). Term and Temporary employees should still be offered positions even if the original appointment is expired. The length of the position offered should match the time remaining on original appointment at the time of injury but the offer must be for at least 90 days. The tenure and time must be stated in the job offer letter. Use organization letterhead. Send a duplicate copy to OWCP.

f. If the claimant declines or fails to respond, the ICPA will take the following actions under the following conditions:

1. If the employee responds negatively, immediately send the response to OWCP and copy furnish the DoD Liaison.

(a) If the employee indicates he/she will retire, continue with the job offer process. It is essential that voluntary or disability retirement must not stop this process

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and that every retiring claimant declines a job offer before retirement is processed. Without this declination in the files at OWCP, a retiree can "flip" from OPM retirement back to FECA compensation – and the organization will be billed for the money that OPM expended on the retiree.

(b) If the employee responds negatively and submits a letter from the treating physician that states he/she cannot do any work, consult the MTF physician. If the MTF physician does not agree or needs more information, ask him/her to send a letter to the treating physician asking for "clarification" of the employee's restrictions. If the MTF physician considers the treating physician's reply to the MTF physician as reasonable, then wait for the specified recovery time to expire. Afterwards, write the treating physician again for the current restrictions. If there is no medical community at the installation, seek help by consulting the Army Program Manager.

2. If the employee does not respond within the specified time (usually 15 days), notify OWCP and copy furnish the DoD Liaison since failure to respond is handled as a declination. Include a copy of the PD and the job offer letter.

3. If OWCP rules the job offer as suitable, OWCP will notify the claimant by letter that the claimant must accept or be terminated.

4. If OWCP finds the job offer unsuitable, the claimant remains on the chargeback rolls. There is no limit to the number of job offers that can be made, as long as the specified response time is allowed to expire for each one.

g. If the claimant accepts the position:

1. The ICPA will process the RTW action in DCPDS if the claimant is beyond the COP period or has moved to a different position or grade. The ICPA will also take steps to obtain DCPAS Pipeline funding to pay for the first year's salary where applicable.

2. The ICPA, CPAC advisors, EEO official, and first-line supervisor will work together to ensure a smooth return to work for the injured worker on the first day back to work. The servicing Labor Counselor will be available to provide legal advice as needed. Ensure accommodations such as a disabled parking place, any special equipment needed is readily available, and the work offered is what the returning employee will be doing. Verify the supervisor fully understands and cooperates with the medical restrictions and for the specified length of time the restrictions will be in place.

h. If an employee, or appointed representative, refuses to submit to or obstructs an examination required by OWCP, the employee's right to compensation under FECA may be suspended by OWCP until the refusal or obstruction ceases.

5-5. Long Term Claimants

a. If the claimant has been off work for 90 days or longer, the ICPA will perform a quarterly review of the employee's most current medical restrictions. If they are outdated under OWCP regulations the ICPA will request current medical reports from the DoD Liaison. If medical evidence or medical restrictions shows the claimant is capable of performing some type of work the ICPA will follow steps in paragraph 5-3 above. If the treating physician continues to submit "totally disabled" statements that are always the same, with

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no date of probable recovery, the ICPA will work through the DoD Liaison to request a Second Opinion on employability. If the Second Opinion supports return to work, the ICPA will follow the steps in paragraph 5-3 to locate a position that is vocationally and medically suitable for the claimant.

b. The ICPA should make every effort to stay in touch with the claimant and the claimant's supervisor, the treating physician, and the claims examiner. Contact should be weekly during the COP period and bi-monthly during the LWOP period. Long term claimants should be contacted at least yearly. All possible avenues for RTW should be explored, such as telework, modification of a position to fit the claimant's limitations, or using workplace modifications that are available free of charge under the DoD CAP (see Glossary). The ICPA should write or fax the treating physician for current medical information or obtain this information from OWCP via the DoD Liaison. The template at Appendix F may be used to make it easy for the claimant to respond. If there is no reply within three weeks, the ICPA should telephone the claimant. If the letter is returned by the post office as undeliverable, the ICPA should notify the DoD Liaison and the claims examiner as the claimant may have moved, gone into a nursing home, or even passed away.

c. If a claimant has been previously separated from Army rolls and has moved out of the commuting area, efforts should be made to locate a suitable position in the commuting area of the employee's new home. If this is not possible and a job offer is made to a position at the former duty station, permanent change of station expenses must be included in the job offer. (Note that the organization may elect to pay these expenses, or may elect to have OWCP pay them. If OWCP pays, they will be included in the single bill paid by Army at the end of the chargeback year.) The ICPA should advise a separated claimant to file for disability retirement within one year of separation to preserve his or her survivor's rights should the employee's later death be unrelated to the accepted OWCP condition. Also the ICPA should emphasize that the claimant should not withdraw accumulated retirement contributions because of the possibility at some time that DOL will remove the employee from the Workers' Compensation rolls.

5-6. Requested Placement

In certain cases, CHRA may make a written request to a CPAC to coordinate with the FWG to make a job offer to a claimant (see Appendix L). The request may concern either:

- a claimant whose case is already managed by the organization

OR

- a claimant who was injured at a different organization and has now moved into the commuting area.

Such a request will be made only after careful review of the claimant's file. If the CPAC refuses the request, the CPAC chief must reply in writing to the Chief, Human Resources Programs Division at CHRA within 15 calendar days, with a copy to the CHRA Regional Director, documenting reasons supporting the refusal.

Chapter 6 – Records Management

6-1. File maintenance

a. Once a claim is accepted by the DOL, the official claim file is kept at the DOL, OWCP district office. All records are official records of OWCP and are covered by the government wide Privacy Act system of records titled DOL/GOVT-1.

b. The ICPA prepares and maintains an injury compensation case file for each injury or illness for which compensation is claimed, as soon as the notification of injury or illness is received. As a minimum, the case file must include 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. The hard-copy file will contain a copy of the CA-1 or CA-2 form submitted electronically but this copy should be signed by the claimant. The hard-copy file will include the Master Cover Sheet template (see Appendix B) on the left hand side of the file. The signed authorization to release medical information (see Appendix C) should be included as well as a copy of the initial letter to the physician the claimant has chosen to use (see Appendix D) and summary notes of any telephone conversations or relevant emails. The ICPA should send a copy of the SF-50 in effect on the date of injury to OWCP and keep a copy of the SF-50 in effect on the date of injury and any subsequent SF-50s in the file.

c. Case files should be secured in locked cabinets or otherwise secured as required by the Privacy Act. All records related to an employee's injury or illnesses 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.

d. When the ICPA notifies the activity Safety Office that a traumatic injury or occupational disease or illness claim has been filed, the notice must not compromise the protection of sensitive medical, personnel, and payroll data.

e. The ICPA should ensure there is a hard copy file for every case on the chargeback list. If there is no file, the DoD Liaison can assist in creating a file by copying items from the DOL file. If the case comes to the ICPA by a Transfer of Function or similar action, it is the ICPA's responsibility to obtain the incoming files or request that assistance from the DoD Liaison.

6-2. Release of Records

IAW the FECA circular from OWCP, (63 Federal Register 56752, (October 22, 1998)): "It is not permissible to use or release FECA documents in personnel matters without first obtaining the claimant's written consent." However "any records collected by an agency as part of a safety, criminal, or personnel investigation conducted pursuant to other statutory or regulatory authority would not be covered by DOL/GOVT-1". The use, release, and or disclosure of these records, would be controlled by the investigating agency. These records should be placed in folders specifically designated as covered by other systems of records.

6-3. Destruction of Records

The hard copy forms that require a claimant's signature (CA-1 and CA-2) must be retained indefinitely. However, once a claim has been closed by OWCP for more than two years, the supporting documentation can be purged and destroyed.

6-4. Access to Workers' Compensation Records Systems

Some of the information – but not all – in the official OWCP file is accessible to the ICPA through two software applications, DIUCS and AQS. Access to both of these software applications must be requested from the DCPAS ICUC Division and is currently restricted to the ICPA and assistant or alternate ICPA at each CPAC, and to the Army and Operations Program Managers. Requests for information from individual records contained in DIUCS and access to AQS must be submitted in writing through the ICPA to DCPAS for evaluation to ensure compliance with Executive Order 12196, and OWCP, DOL and DoD guidance with regard to release of Privacy Act information.

Chapter 7 – Death in Service Processing

7-1. In the event of death, regardless of cause

When informed of the death of any employee, from any cause, the CPAC should ask the caller for the employee's name, date of death, and next of kin information (name, address and telephone number). The CPAC should report the death to the Army Benefits Center-Civilian (ABC-C) using the electronic death reporting data sheet located at www.abc.army.mil under the HR Professionals section and email the data sheet to usarmy.riley.chra.mbx.in-svc-death-reporting@mail.mil (see Appendix I). The CPAC should then create a Request for Personnel Action for death to start the process. This will route to the ABC-C and trigger the release of several benefits, such as Unpaid Compensation, Federal Government Life Insurance if employee was enrolled, Thrift Savings Plan if employee was enrolled, and Survivor benefits under Civil Service Retirement System or Federal Employees Retirement System.

7-2. Work-related death

If it appears the cause of death was work-related, the ICPA will continue with these steps:

- a. Confer carefully with the Safety Officer, the employee's supervisor, and DoD Liaison to come to a consensus regarding whether the death appears to be work-related. Local law enforcement may also be involved. Before filing for FECA death benefits, be certain the death was CAUSED by or RELATED to federal employment. Note that simply having the death occur on federal property does not automatically mean it was caused by employment. For example, having a fatal heart attack while at work doesn't automatically mean it was caused by employment. If there is any doubt, the ICPA can challenge the claim.

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b. If the survivor wishes to file a death claim under FECA, the ICPA should do so, even if it appears the death was not work-related. In such cases, the ICPA should challenge the case. The ICPA will make a determination regarding the organization's position regarding whether or not the death was caused by or related to federal employment, but do not delay filing a death claim waiting for this determination. If there is doubt, the ICPA will indicate this on the forms. OWCP makes all decisions on accepting a death as work-related but the ICPA must give all available information so that OWCP can make an informed decision.

c. If the death appears to be caused by employment and thus requires a FECA claim, the ICPA must ensure the following forms are completed:

1. CA-6 (Official Superior's Report of Employee's Death).
2. CA-5 (Claim for Compensation by Widow, Widower, and/or Children) if applicable.
3. CA-5b (Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren) which applies only if one or more of these were partially or totally dependent on the deceased employee.

Note that every death form submitted requires its own official death certificate. A photocopy is not acceptable.

CA-1 or CA-2 forms are not needed for a death case, if the death was immediate.

7-3. Death Gratuities

a. First step:

OWCP pays \$800 towards funeral expenses and \$200 to the "Personal Representative" or executor of the deceased employee's estate. A receipt for funeral/cremation expenses must be submitted. This must be accompanied by an official death certificate. Once the Personal Representative or Executor listed in the deceased's will has been approved or is otherwise designated by the state, that official designation should be sent to OWCP. Depending on the state, attaining designation as Executor or Personal Representative may take a few days or even a few months. Survivors should be referred to the cognizant Clerk of Court, Probate Division, for questions related to wills and estates.

b. Second step:

Army pays \$10,000 to the deceased employee's estate if the death is caused by a traumatic job-related injury. HOWEVER, the \$800 and \$200 (total \$1,000) mentioned in Step 1 is SUBTRACTED from the \$10,000 so the amount of money disbursed is actually only \$9,000. To trigger the \$9,000 payment, the ICPA should send the Army Program Manager an official death certificate, a copy of the Letter Testamentary or Letter of Administration provided by the deceased's executor or personal representative, and a memorandum request from the CPAC, to include the line of accounting from the Command where the deceased employee worked. The memorandum must be signed by the CPAC Chief. Once the memorandum is signed, scan or fax the signed memorandum to the Army Program Manager for Workers' Compensation. Note that the \$9,000 benefit is forwarded to the Executor or Personal Representative.

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c. Third Step:

If the deceased employee died because of performance of duty in Iraq or Afghanistan only, one year's salary is given to spouse or children, or if neither, to a dependent parent. This one year's salary is paid by Department of Army. Send the form in Appendix K to the Army Program Manager for Workers' Compensation to get this benefit paid. Currently this benefit is set to expire on 9/30/2013 unless it is extended. If the parent(s) are NOT dependent and there is no spouse or children, the one year's salary is not paid.

d. Fourth step:

The U.S. will pay up to \$100,000 if an employee dies on or after 2 August, 1990 as a result of any "contingency by an armed force" anywhere in the world that is designated as a Contingency. This usually goes to the next of kin but the employee can designate anyone, such as a friend, fiancée, or other relative, to receive up to 100% by completing a "Designation of a Recipient of the Death Gratuity Payment under Section 1105 of Public Law 110-181" (5 USC 8102) (Appendix J) before deployment. In the Army, the unnumbered version of this form will no longer be used – the CA-40 at Appendix J is the only authorized form for this purpose. An employee desiring to designate one or more beneficiaries of a death gratuity payable under this provision should complete and sign a copy of this form, retain a copy, and give the original to his or her employer to be maintained in the employee's official personnel file, or a related system of records, in case it should be needed in the future.

The \$100,000 is off set (reduced) by any other gratuity received, including the \$1,000, the \$10,000, and the one year's salary if applicable. Since the \$100,000 death benefit will be reduced or eliminated if the year's salary or the \$10,000 gratuity are paid, and neither the year's salary nor the \$10,000 gratuity are paid by OWCP, it is therefore critical that OWCP be notified before they make any payment under this provision, so as to prevent a potential overpayment. Forms CA-41 (Claim for Survivor Benefits Under the Federal Employees' Compensation Act Section 8102a Death Gratuity) and CA-42 (Official Notice of Employees' Death for Purposes of FECA Section 8102a Death Gratuity) are filed to claim this benefit. This \$100,000 is paid by OWCP and then is charged back to Department of Army the following year, the same way as other OWCP benefits are.

Chapter 8 – Third Party Claims

8-1. Definition

Third party claims are those where the injury or illness was caused by a private individual or private commercial establishment or company. If an employee is injured or made ill under these circumstances, the employee can still file a FECA claim – BUT must also file a third party claim, so that Army can recover the expenses that OWCP has already paid out. The ICPA should carefully review each claim to see if possible third party liability is involved – for example, the employee is hit by a personally owned vehicle (POV) while on post or on TDY, employee is attending a meeting off-post and slips on spilled coffee at the meeting site, employee is using equipment which suddenly fails, causing injury, etc. The rules about being work-related still apply: the event must be work-related, and have happened on-post, on TDY, or while sent on an errand by the supervisor.

8-2. If a third party situation is suspected or found

The ICPA and supervisor should review every new claim. If third party involvement is found, evidence such as witness statements, police report, diagrams or maps should be sent to OWCP with a memo explaining the situation and the contact information for the third party. A copy of the memo and supporting documentation should go to the DoD Liaison and to the organization's legal office. The employee is still entitled to Worker's Compensation but has the duty to file a claim against the POV insurance company or owner of the commercial establishment or company. The employee must be informed that if he receives a settlement, he/she is entitled to keep 20% of the net recovery and the government is entitled to the remaining portion to offset what has been paid out in medical bills and compensation on behalf of the employee. If the dollar amount of the recovery exceeds what the government has paid out, then the employee is entitled to the balance.

Occasionally a claimant may receive a settlement directly and not inform the ICPA or OWCP, thinking he or she is entitled to keep the entire amount. The ICPA and claimant's supervisor should contact the servicing legal office for advice and assistance in the event they learn the claimant has received a direct settlement.

8-3. If the employee is found at fault

If the employee is later found at fault in causing the incident, then there is no settlement. OWCP should be notified of the decision.

Chapter 9 – Transfer of FECA Cases

9-1. Transfer Rules

a. Title 5, U.S. Code, Chapter 81, subchapter 8147 (b) says, "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 agency or instrumentality (or part or function) shall be included in the costs of the receiving agency or instrumentality". If the agency or a portion of its function transfers, then the FECA cases, both case management and cost, transfer to the receiving organization. This applies in cases of base closure, transfer by Joint Basing, Transfer of Function of a portion of the organization, or realignment of the servicing CPAC.

b. Claims and files for Army Reserve Command employees in units that are closing or being realigned will remain the responsibility of the Army Reserve Command. If any National Guard individuals on Workers' Compensation rolls are affected, their claims and files will remain the responsibility of their National Guard State Headquarters ICPA.

c. Army will continue to reimburse the DOL through the Defense Finance and Accounting Service (DFAS) as is currently done. There will be no change to the existing billing process.

9-2. Instructions for Transfer

a. For transfers between existing organizations or activities whether by BRAC, Transfer of Function, Joint Basing, or realignment of the CPAC, the following procedures will be followed: the losing ICPA will send a list of specific cases to be transferred to the Operations Program Manager. This list must contain the claim number; the name of the employee; the current four-digit numeric chargeback code and two-digit alpha code for the claim; and the chargeback code (which will normally not change) and new alpha code. The Operations Program Manager will review and forward this list to the Army Program Manager, who will forward through DCPAS to OWCP for updating.

b. When an organization is closing or being re-aligned, CHRA will designate the gaining location and notify the selected organization that it will become the receiving location for all Workers' Compensation cases from the organization. In designating the gaining location, CHRA will take into consideration the following: (1) the location where the organization was re-aligned based on a BRAC or other authorized decision, (2) the proximity in location between the organization affected by BRAC or other authorized decision and the gaining location, and (3) the associated workload. Any Army Materiel Command (AMC) case currently being paid by the Army Working Capital Fund (AWCF) should be sent to the nearest AMC AWCF-funded organization, and the receiving AWCF organization will absorb the cost. The gaining ICPA will be responsible for case management, including death cases and the placement/RTW efforts related to inherited compensation claimants. The losing ICPA will send a list of specific cases to be transferred with the same information as described in 9-2a above to the Operations Program Manager and the same process will be followed for updating the systems.

c. The ICPA and the CPAC Chief at the losing organization should communicate with their counterparts at the receiving organization. The two organizations together will decide how, and by what method, the losing activity will move their Workers' Compensation files to the receiving activity. This will enable the receiving activity to prepare in regard to providing proper storage and workload. All files will be included, even closed cases because of the possibility of recurrence claims. Files should be sorted by their case status to assist the receiving activity in quickly identifying cases that require immediate attention. Active case files should be forwarded first, PR files shipped next, and closed/deceased/retired files shipped last. Any case currently being paid by the AWCF should be flagged by the losing ICPA as an AWCF-funded case. The CPAC Chief of the closing/re-aligning activity is ultimately responsible for ensuring that all files have been moved. All movement of case files will be by a traceable method.

d. No later than 30 days prior to the organization closing date or transfer date, all files should be boxed and transported to the ICPA at the gaining organization. A shipping list will be inside each box, listing claimant's name, claim number, and status of all claims contained in that box. These words will be added to the shipping list: *"You are advised that as the primary recipient of this product, you are responsible for the safeguarding and maintenance of the data in accordance with the Privacy Act, 5 USC 552a as it applies to those records covered under the System of Records DOL/GOVT-1."* A copy of all shipping lists will be sent to the Operations Program Manager. If the ICPA is separating more than 30 days before the actual closing or realignment date, this process will be completed before his/her departure. The gaining ICPA will verify that all listed files are received and immediately notify the sending ICPA or CPAC Chief, and CHRA HQ, of any discrepancies. CHRA HQ will provide notification of shipments and any discrepancies to the Army Program Manager.

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e. Any claims established within 30 days of transfer or closure will be moved in the same process described above. The first 30 days of any claim are the most crucial, and these new claims must receive priority.

f. The losing ICPA will send a letter to all claimants to notify them of the gaining ICPA's contact information (name, address, phone number, and e-mail) prior to the files being shipped. A copy of the letter to the claimant will be placed in each case file.

g. If the ICPA departs the losing CPAC at any time in the process, and the decision is made not to fill the vacated position, any new claims will be sent to the gaining activity. This will ensure continuity by having the claim managed from the start by the same ICPA office.

h. Claims will retain the claim number assigned by the DOL. Chargeback numeric codes will also remain unchanged. However, the two-digit alpha code (DOL CPO code) that identifies the CPAC handling the claim will change to that of the receiving organization. It is the responsibility of the gaining ICPA to work with the Operations Program Manager to ensure that all DOL CPO codes are changed at DOL. If the ICPA is given a claim that comes under a four-digit numeric code that has not been part of his/her access block previously, the ICPA needs to work with the DOD Liaison to get access expanded to include that four-digit code.

i. The losing organization will provide the quarterly chargeback reports from the previous year to the gaining organization.

Chapter 10 – FECA Working Group (FWG)

10-1. Purpose and Structure

a. An FWG shall be established and meet at least quarterly in accordance with DODI 1400.24-V810, Enclosure 2, paragraph 4f and Joint Memorandum, Assistant Secretary of the Army (ASA) (Installations and Environment) and the ASA (Manpower and Reserve Affairs), March 1, 2007, subject: Reductions in Civilian Occupational Injuries and Illnesses and Workers' Compensation Program Costs (see Appendix H). Instructions for the FWG are at Appendix E.

b. The FWG will analyze costs, trends, and plans, and develop cost containment initiatives. It will also assist in RTW efforts for civilians affected by job-related injuries and illnesses.

c. The Garrison Commander (or District Commander at USACE locations) will serve as chair and will invite the Mission Commander, and the Commanders or Directors of tenant organizations or their designees, unless a separate meeting is held, such as in the case of a large military hospital on post which could hold its own meeting.

d. At a minimum, the FWG shall also include supervisors of employees injured since the previous FWG meeting, Garrison or District Safety Officer, and tenant Safety Officers, and if any; occupational health representative, industrial health representative, physician from Garrison medical community, investigative service representative, legal office

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representative, as well as the EEO Office's Disability Program Manager or equivalent; CPAC Chief; the ICPA; three management representatives appointed by the commander; and as appropriate, labor union representatives. Additionally, the local health and wellness representative could be an optional invitee. An FWG attendee will be appointed as recording Secretary to take minutes at each meeting and ensure decisions of the FWG are carried out (this must not be the ICPA). Minutes shall be recorded on the template at Appendix A and sent to the Operations Program Manager, with a duplicate copy to the Army Program Manager, on a quarterly basis.

e. The ICPA is responsible for the logistics of setting up the meeting, ensuring that calendars of the mandated participants are cleared, and the agenda is sent in advance. Notice of the meeting is sent to participants jointly by the CPAC chief and ICPA.

10-2. Deliberations

a. The ICPA will brief any updated information about program status such as current costs, trends, and issues. This will include metrics on the number of new cases, the number of RTW job offers made and accepted, the number of long-term cases still unresolved, the dollar costs for both medical and compensation, and the number of investigations in progress, all compared to the previous quarter.

b. The ICPA will also select claimants for FWG discussion regarding possible RTW job offers, starting with review of the Quarterly Chargeback Report. Other reports may be used, provided personally identifiable information (PII) is sanitized/deleted, for example, name, home address, social security number, and any other information which could be used to identify specific claimants. Claimants will be identified as employee A, employee B, or similar labels to conceal identity and sensitive medical information at all times. The ICPA will look for cases where the claimant appears to be re-employable and the medical costs are small, researching the files for information on medical restrictions, job skills, and education. The ICPA will identify cases for discussion on where the organization could use the remaining skills of the individual or where on-the-job-training could be arranged. Upon request from another organization, the FWG may consider for job placement a long-term claimant who belongs to another organization for chargeback purposes but has moved into the local commuting area. The goal of the deliberations sections of the FWG is to establish where a job offer can be made to each of the selected cases, so that the ICPA and Staffing can proceed with a formal job offer.

c. Each first-line supervisor who had an employee injured which resulted in one or more lost production days during the previous quarter will also report on the causes of the injury, lessons learned, and efforts to prevent a similar future incident.

Chapter 11 – Assessment of Programs

11-1. POWER Initiative

a. On July 19, 2010, the President established the POWER Initiative, and committed the Administration to improving workplace safety and the health of federal employees (Appendix M). POWER establishes seven critical areas of emphasis and goals, listed below.

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Army is being measured on its success in these seven emphasis areas.

Goal 1. To reduce total injury and illness case rates.

Goal 2. To reduce lost time injury and illness case rates.

Goal 3. To analyze lost time injury and illness data.

Goal 4. To increase timely filing of Workers' Compensation notice of injury or illness forms.

Goal 5. To increase timely filing of wage-loss claims.

Goal 6. To reduce lost production day rates (days lost due to workplace injury or illness per 100 FTE).

Goal 7. To increase return-to-work outcomes.

b. Each quarter, the Army Program Manager will send statistics on costs to the Operations Program Manager and to each Command Coordinator. Command Coordinators should inform their leadership and use the information to improve Command performance.

c. Annually the Operations Program Manager will forward statistics listed in bullets one through eight below to each ICPA, and schedule a telephone review of each program. Participants include the CPAC chief, the ICPA, the Operations Program Manager, and the assigned DoD Liaison, along with the cognizant Command Coordinator. The Army Program Manager will assist in preparation of a list of possible problem areas or cases to be considered and will participate whenever needed. The purpose is to highlight achievements, discuss any barriers or problems, and consult with the DoD Liaison on specific cases for RTW potential. The discussion will also cover cost of the program, number of new cases, number of successful RTW actions, challenges to suspicious claims and results, efforts on training supervisors, any specific problem cases, results of quarterly review of chargeback reports, and minutes from the FECA Working Group.

1. Total FECA program cost for most recent chargeback year, subdivided into medical, compensation, and death costs. These figures will be contrasted with the previous year's figures and the percentage of increase or decrease noted.

2. Number of new claims in the most recent year, contrasted with new claims in the previous year, and the percentage of increase or decrease.

3. Total number of cases.

4. Total number of lost time cases.

5. Lost Production Days, most recent year compared to previous year.

6. Timely filing of new claims. Army's goal is that 100% of all new claims reach OWCP within 14 days of the claim being given to the supervisor.

7. Timeliness of wage loss claims.

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8. Placement on the DoD Safety Oversight Council "Civilian Lost Time Top 40" list (see paragraph 11-2 below).

11-2. DoD Safety Oversight Council

a. Annually, DoD (through Department of Navy as the executive agent) publishes a list called the "Civilian Lost Time Top 40" that identifies the 40 DoD organizations with the highest lost day rates due to on the job accidents and illnesses.

b. Once on the Top 40 list, an organization remains there for a year although quarterly reports are issued to show progress. Army leadership maintains cognizance of and interest in organizations that are included in the Top 40. An organization can avoid being on the Top 40 by vigilance in preventing injuries and illness, and when injuries and illnesses do occur, by bringing workers back to productivity expeditiously (see Chapter 6).

c. To access the report and other related data, go to <https://fr2.ffc.navy.mil/sessions/new>. Directions for applying for a password to access the site are on the home page.

Chapter 12 – Payment of the FECA bill

12-1. Chargeback Codes

Every Army FECA claim is assigned to one of approximately 50 four-digit Chargeback Codes, each indicating a specific Army command. Any accepted FECA claim remains on the chargeback of the Command and the organization where the employee worked at the time of the injury, even if the employee later moves to another Command or another organization, or is no longer an Army employee. The four-digit Chargeback Code normally remains for the life of the claim. In BRAC or Joint Basing or in a mass transfer of employees, the CPO ID code (the 2-digit alpha code) may change but the four-digit code indicating the Command always remains the same. The only time a Chargeback Code could change would be when conclusive proof, such as records in an OPF, indicates the wrong Command code was used when the claim was filed. In those situations, cases may be transferred from one Command to another or from one organization to another. Even if an incorrect command code is discovered, there can be no transferring of money between commands after the current year.

12-2. Payments

Payment for Army bills is handled through DFAS. No bills are paid by organizations.

Chapter 13 – Fraud and Investigations

13-1. Reducing Fraud

a. All Army Commanders, supervisors, and employees have a responsibility to protect the Government's resources and ensure all reasonable efforts are made to reduce or eliminate fraud waste and abuse. The challenging of suspicious claims is Army's first line of defense against fraudulent claims.

b. Before submitting any new claim, the ICPA should telephone the supervisor of the employee claiming the injury or illness and ask if he/she has any doubts about the validity of the claim. Supervisors may be reluctant to write doubts on the CA-1 or CA-2 form which reports the injury, or may not realize they have the authority and responsibility to do so. If there are doubts on an injury, the ICPA should follow the instructions to controvert or challenge a claim in Chapter 4 of this guide.

c. Once a claim has been accepted by the DOL, it can no longer be "challenged" – but the claim can be investigated and in some cases the claim can be terminated or the claimant even prosecuted. If it can be proven that a claimant failed to report or understated income on the CA-1032 form, the DOL may terminate compensation. If a case is suspect, the ICPA should ask to view the CA-1032 form at the owning district office of the DoD Liaison. If the CA-1032 form shows zero income and the organization has proof the employee is working or operating a profitable business, then the ICPA should contact the claims examiner and the DoD Liaison.

d. Proof of exaggerated medical conditions, such as a newspaper article about the claimant receiving an award for taking Boy Scouts on a mountain climbing expedition when the doctor says the claimant is permanently and totally disabled, may also lead to termination. Investigators can be very helpful in researching this information.

e. The length of time a claimant has received Workers' Compensation benefits by itself will usually not cause an allegation to rise to the credible level standard (see "Credible Information" in the Glossary) required by CID to initiate an investigation.

f. If a claimant is indicted for Workers' Compensation fraud, compensation payments continue as before. Normally, compensation can be terminated only upon conviction for Workers' Compensation fraud. However, OWCP can terminate benefits administratively without a court conviction.

13-2. Responsibilities for Investigating Allegations of FECA Fraud

a. The DOL is the federal agency responsible for overall management of the FECA program; however the Army is responsible for managing Workers' Compensation claims by Army employees and works directly with DOL to ensure that injured employees receive the benefits they are entitled to. Because both DOL and the Army share responsibility in the administration of Workers' Compensation benefits for Army employees, the enforcement arms of each agency have the authority and responsibility to investigate allegations of Workers' Compensation fraud. The following Army and federal agencies are responsible for conducting investigations involving Workers' Compensation fraud.

b. IAW with AR 195-2 the Criminal Investigation Command (CID) is the sole agency within the Army responsible for the criminal investigation of felonies (offenses punishable by death or confinement for more than 1 year), and relevant felonies identified in federal,

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state, or foreign statutes. This includes allegations of Workers' Compensation fraud cases in excess of \$5,000.00.

c. The DOL's Office of Inspector General (OIG) is the enforcement arm of the DOL and is authorized to investigate fraud allegations associated with Workers' Compensation. The DOL OIG will normally work felony level fraud cases where the U.S. Attorney has expressed interest in prosecuting.

d. IAW with AR 190-45, AR 195-2 and AR 190-30, Military Police Investigators (MPI) or DA Police Detectives assigned to the Director of Emergency Services (DES)/Provost Marshal Office (PMO) are authorized to investigate misdemeanor crimes and felony crimes not otherwise investigated by CID. DES or PMO investigators can conduct Workers' Compensation fraud cases where the loss is below \$5,000.00 or where CID has declined to investigate the matter.

e. Some organizations have their own investigator on staff. Some commands such as USACE have established a written agreement with CID, which authorizes USACE to use dedicated fraud analysts to conduct preliminary inquiries concerning allegations of Workers' Compensation fraud. After the USACE analysts establish credible information that a felony crime may have been committed, the matter is referred to CID for continued investigation.

NOTE: In situations where a command or organization conducts their own inquiry, CID should be notified at the beginning of the inquiry and later provided a copy of the final report for review and to ensure the inquiry is properly documented in the Army law enforcement reporting systems.

f. An organization's ability to affect its chargeback for Workers' Compensation is directly related to the ability to conduct thorough, timely and accurate inquiries or investigation of claims that are suspicious or demonstrate indicators of waste, fraud or abuse. All allegations of Worker's Compensation fraud should be taken seriously and evaluated to determine if there is enough information to warrant an audit, inquiry or investigation.

g. Commanders and ICPAs are also authorized and encouraged to take proactive measures such as periodic audits of Workers' Compensation claims to revalidate that the employee is still entitled to receive Workers' Compensation.

h. All administrative investigations completed by organization FECA investigators/analysts that contain allegations of fraud will be reported to CID to determine if the information should be entered into the Army Criminal Investigation/Criminal Intelligence (ACI2) or Military Police Reporting System. Reporting the results of administrative FECA investigations to CID ensures the Army has a retrievable record of the employee's activity. This may also alert Army employers of former employees who resigned prior to having action taken.

13-3. Identifying fraud

a. Suspected fraud may come to the ICPA's attention in one of several ways:

1. A "tip" such as from a neighbor, ex-spouse, or co-worker, from a hot line or other means.

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2. The ICPA may notice something such as seeing the claimant working in a business or participating in sports when receiving compensation for being totally disabled.

3. An investigator may approach the ICPA with information about a questionable case. If an investigator approaches an ICPA about investigating a specific case, the ICPA will work cooperatively with the investigator, allowing access to files on the specific case as needed.

b. Tools that may be used to identify fraud, waste, and abuse are administrative investigations and audits.

1. Cases which do not appear to be subject to criminal prosecution but are supported by evidence of some administrative infraction of FECA standards are the primary focus of administrative investigations and audits. Administrative investigations and audits are specifically aimed at scrutinizing or challenging suspicious injury claims or obtaining a substantial change to an existing Workers' Compensation claim through DOL OWCP. Administrative investigations and audits should be considered during FWGs, and investigative agencies should be advised of the potential anomalies that the ICPA finds.

(a) Normally an audit is done when the commander or ICPA receives information that would indicate the claimant's current payment status is incorrect. Cases identified by supervisors at the outset of the claim or those identified in FWGs as being suspicious may be singled out for administrative investigation/audit if, as a preliminary matter, the case does not appear to be of a criminal nature.

(b) ICPAs will conduct initial reviews of individual case and chargeback data. Trend analysis may be used to determine specific types of injuries or other suspicious indicators which may indicate further review of a particular case or cases is necessary. Long term injuries with little or no current medical care, administrative records showing the command had legitimate cause to attempt to controvert COP or challenge a claim or any other credible information could lead to an organization conducting an administrative investigation or audit. A thorough review of claimant case files may serve to dispel any questions – or may serve to further predicate a full investigation of potentially suspicious activity in a claim.

2. Preliminary Inquiries may also be helpful in developing a case.

(a) Upon receipt of an allegation of fraud, waste and abuse concerning the FECA program, Commanders should evaluate the complaint to determine if there is credible information to believe a crime has occurred. If the initial allegations do not contain credible information to immediately warrant a criminal investigation, the commander should consult with his/her command or organization IG to determine if an IG investigation is warranted.

(b) If the IG declines to investigate the allegations, the Commander may conduct a preliminary inquiry or administrative investigation, make a reasonable effort to determine if there is any validity to the complaint, and attempt to resolve the complaint administratively. Investigations of this nature may be conducted under the provisions of AR 15-6. Organizations with dedicated FECA investigators and analysts may utilize those personnel to conduct administrative investigations or preliminary inquiries on behalf of the commander.

(c) If the administrative investigation identifies credible information that a crime has occurred, the investigation should be immediately referred to CID for

consideration.

13-4. Handling fraud allegations

If an allegation of fraud is received, the ICPA responsible for the case should take the following actions:

a. Conduct an administrative audit. The authority to conduct a preliminary inquiry, however, rests with the Commander, who should conduct one, if appropriate (see 13-3 above).

b. If the complaint rises to the level of credible information, the ICPA may recommend cases to the CPAC Chief for investigation. The CPAC Chief should contact the local CID office or organization law enforcement activity and report/refer the allegations by sending a signed memorandum to CID. If the employee is no longer in the local area the CPAC Chief will forward the memorandum to the Army Program Manager. The memo should contain information about the claimant to include name, address, social security number, FECA claim number, the reason(s) the ICPA suspect's fraud or abuse, and how this claim came to the ICPA's attention (hot line tip, newspaper article, review of long-term claims, etc.). Include the claim status, date of claimed injury, accepted conditions and supporting medical statements, any job offers previously made, and efforts to contact the claimant and the results. If an audit was conducted, a summary of the audit should also be provided. End by stating the "total loss to the government" which would be the amount of compensation already received plus future compensation as shown in DIUCS.

c. If the suspected loss to the Government exceeds \$5,000.00 CID may accept the case and investigate the allegations in concert with the DOL OIG. If CID declines to investigate a FECA fraud allegation, and the ICPA disagrees with this decision, the ICPA will notify the Army Program Manager for Workers' Compensation. The Army Program Manager will consult with the G-3 Investigative Operations Division of CID and attempt to resolve any disagreements about the necessity to initiate a formal investigation. The G-3 at CID, or designated representative, will be the final authority on whether a CID field element will conduct a criminal investigation.

d. CID will refer suspected losses below \$5,000.00 to the responsible law enforcement activity for investigation. If an organization investigator is available, the ICPA should work with him/her. NOTE: The Privacy Act (5 USC 552) provides exemptions to allow disclosure of information to investigators.

e. The ICPA should jointly review the employee's Workers' Compensation file with the investigator and provide any information or documents relevant to the investigation. The ICPA or Workers' Compensation investigator should then work in a collaborative manner to assist the criminal investigation to help substantiate or refute the allegations.

f. If CID initiates the investigation, the CID case agent or investigator will provide regular updates to the Commander and verbal updates to the ICPA as appropriate. The CID Agent or investigator will contact the DOL OIG Office to determine if they are interested in working a joint investigation.

g. If the allegations are substantiated, the investigating CID Agent will coordinate with the responsible federal, state or local prosecutor's office to determine if they are

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interested in taking criminal or civil action against the claimant. If the federal, state or county prosecutor's office agrees to take action, CID will continue the investigation. If the supporting federal, state, or local prosecutor declines to prosecute the case, the Special Agent in Charge of the investigating CID Office may opt to close the investigation.

h. If a prosecutor declines to take action on a credible or substantiated FECA fraud allegation, the ICPA should present the information to the OWCP Claims Examiner to determine if the FECA claimant's benefits should be reduced or terminated, if appropriate. Additionally, the claimant's supervisor, in concert with the ICPA, legal office, and CPAC should also review the facts of the case to determine if other administrative action (termination, suspension, etc) should be taken against the employee.

NOTE: The decision to prosecute a case will vary from one prosecutor to another as federal and state prosecutors have broad discretion on what cases they present in court for prosecution. The decision to prosecute is based on the dollar loss to the government, how strong the case is, how complex the case is, if the prosecutor has other priority cases, etc.

i. A CID Supervisor may also close an investigation early if he/she determines that other investigations warrant a higher priority. In those situations, CID may refer the investigation to the organization law enforcement activity or back to the responsible commander for further investigation. The commander may continue an administrative investigation of the allegations.

13-5. After Completion of an Investigation

After CID completes an investigation, CID will provide copies of the report to the Assistant United States Attorney, DOL OIG, the Commander or Director of the employee's organization, and others with an official need for the report. After receiving the final CID report, the organization (through the ICPA) should present its case to the DOL Claims Examiner to determine if the case can be closed administratively. The Commander or Director will be required to complete a Commander's Report of Action Taken (DA Form 4833) and return it to CID detailing the action taken against the identified subjects.

13-6. Access to FECA Information

If CID or the command/organization investigators initiate an official investigation concerning a possible Workers' Compensation fraud case, they are conducting this investigation on behalf of the Army and will notify the DOL OIG. As such, they are authorized access to data and information. This data includes but is not limited to all data pertaining to the Workers' Compensation claim in question, work history, previous claims, medical information related to the Workers' Compensation claim, etc. The ICPA or commander cannot limit or place boundaries on the data that an investigator has access to. Due to the complexities of Workers' Compensation fraud investigations, an investigator may not know what data is relevant to the investigation until he or she sees it and evaluates it. Data not relevant to the claimant or the allegations under investigation will not be included in the final investigation report and will be destroyed if not needed or protected IAW with the applicable regulations.

The authority for CID, MP and DA Police to access data on Army personnel resides in Paragraph 3-15, Army Regulation 195-2 (Criminal Investigations), which indicates that CID,

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Military Police Investigators, and DA Police have access to all Army records during the conduct of an authorized criminal investigation.

Glossary

Terms and Definitions either used in this document or related to the FECA program:

Agency Query System (AQS) – a data base controlled by the DOL, OWCP, which provides in-depth medical information on each individual case.

Aggravation – occurs when a pre-existing condition is made worse by a work-related event. The pre-existing condition does not have to be work-related.

Army Program Manager for Workers' Compensation - develops and communicates Army guidance, represents Army at meetings and conferences, and serves as the subject matter expert on complex questions. The Army Program Manager is ultimately responsible for the program within Army. The Army Program Manager is assigned to the Office of the Assistant G-1 for Civilian Personnel.

Attendant Allowance - additional money provided for an employee who has been so severely injured that he or she is unable to care for his or her own physical needs such as feeding, bathing, or dressing. Such services are to be rendered by a home health aide, licensed practical nurse, or similarly trained individual.

Chargeback (CB) - system of DOL billing DoD for payments related to the OWCP-approved claims and then the DoD charging those costs to the employing agency or as otherwise established by DoD chargeback policy. The chargeback year runs from 1 July to 30 June each year.

CHRA Operations Program Manager for Workers' Compensation – a CHRA employee assigned responsibility for day-to-day functioning of the FECA program and interface with ICPAs in CPACs.

Claimant - individual whose claim for entitlement to benefits under the FECA has been filed according to the provisions of FECA.

Claims Examiner - employee of the OWCP assigned to perform, and possessing special training and experience in, claims adjudication.

Compensation - benefits paid or payable under FECA, including money paid because of loss of wages, medical expenses, rehabilitation expenses, loss of use of major body functions, as well as death benefits to survivor(s).

Computer/Electronic Accommodations Program (CAP) - a centrally funded DOD program that provides assistive technology to allow DOD and federal employees with disabilities to access electronic and information technology.

Continuation of Pay (COP) - continuation of regular pay to a traumatically injured employee with no charge to sick or annual leave for the first 45 calendar days of disability. COP is subject to taxes and all other usual payroll deductions.

Controversion - formal administrative procedure through which DoD management presents evidence to OWCP to challenge an employee's claim for COP. Management may controvert claims for COP that clearly conflict with the provisions of the regulations, or if

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there is serious doubt as to the validity of the claim. Controversions must be thoroughly documented and submitted at the earliest date the facts are available. The term "controversion" is often used interchangeably with "**challenge**" although technically controversion means addressing reasons why COP should not be granted and **challenge** means to dispute the entire basis for the claim.

Credible Information – information disclosed or obtained that, considering the source and the circumstances, would lead a trained investigator to presume the facts are true.

Defense Injury/Unemployment Compensation System (DIUCS) - automated injury compensation database used by DoD injury compensation professionals to manage claims and validate costs. This system is controlled and managed by DCPAS (previously known as Civilian Personnel Management Service).

Disability under the ADAAA – (1) a physical or mental impairment that substantially limits a major life activity; (2) a record of having such impairment; or, (3) being regarded as having a disability. See 29 CFR 1630.2 (g).

Disability under the FECA – the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury. The disability may be partial or total. See 20 CFR 10.5 (f).

DoD Injury Compensation Liaisons -employees of the DCPAS who are co-located with OWCP district offices and provide technical assistance in the FECA program to all DoD serviced activities.

Electronic Data Interchange (EDI) – secure software program that allows DoD activities to complete CA-1 and CA-2 forms online and submit them via the internet to the ICPA, who in turn will forward them to OWCP.

Employees' Compensation Appeals Board (ECAB) – an entity separate from the OWCP that gives government employees a final appeal right after exhausting earlier appeals within OWCP. Note that FECA claims cannot be pursued further than ECAB and cannot be appealed to other state or federal courts.

Federal Employees' Compensation Act (FECA) - outlines statutory regulations for the Workers' Compensation program which is identified in 5 USC 8101 et seq as amended.

Fraud - an intentional deceptive act, or series of acts, committed by an individual with the specific intent to cause the DoD or OWCP to grant benefits under FECA which would normally not be granted.

Injury Compensation Program Administrator (ICPA) - individual designated by CPAC chief who oversees and is responsible for the Injury Compensation Program at a specific organization(s).

Leave Buy-Back - procedure whereby an employee may have leave restored to his or her account if it was initially used due to a job-related injury. It is necessary for the claimant to buy back the dollar difference between the value of the leave received and what it would have been if he was on FECA compensation at 75% or 66 2/3% reduction.

Light Duty - temporary or permanent assignment to productive duty of an employee who is partially disabled from a job-related injury or illness and is unable to perform regular duties.

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The employee's return to work must be recommended by appropriate medical authority and the assigned tasks must be fully consistent with the physical limitations specified by such medical authority.

Loss Of Wage Earning Capacity (LWEC) - compensation benefits paid at a reduced rate, based on an employee's ability to earn reduced wages due to a job-related partial disability.

Lost Production Days - any day, charged to either COP or to Leave Without Pay, due to a workplace injury or illness, during the first year after injury or illness. Lost Production Days are tracked carefully for each organization.

Occupational Disease or Illness - an illness or disease produced by: systemic infections, conditions or repeated stress or strain; exposure to toxins, poisons, or fumes; or other continued and repeated exposure to the work environment over a period greater than a single day or work shift. Persons suffering from occupational diseases are limited to injury compensation payments provided by FECA or to sick or annual leave, but never COP.

Office of Workers' Compensation Programs (OWCP) - the Office of the DOL that has overall responsibility for administration of FECA.

"Orphan cases" - cases still attached to an organization that has closed and thus has no active ICPA overseeing them. Recent efforts have moved most "orphan cases" under an active functioning CPAC.

OWCP district offices - there are currently twelve OWCP district offices, covering geographic regions of the USA and also overseas cases. Claims examiners are assigned to the district offices. The official Workers' Compensation file is located at the district office and usually contains information local files do not have. The DoD Liaisons can retrieve information from the district office files upon request.

Partial Disability - cases where an employee's injury or illness precludes return to position held at date of injury, but is not totally disabling for all work.

Periodic Roll - system used by OWCP whereby the U.S. Treasury pays prolonged disability cases and death cases each 28 days, automatically until advised otherwise by OWCP.

Physician's Assistant - a healthcare professional with special training in primary health care services, who works under the supervision of a physician. For purposes of FECA, an opinion rendered by a physician's assistant or a nurse is not acceptable medical evidence, unless countersigned by the physician.

Pipeline Reemployment Program - provides temporary funding and over-hire authority of positions established for employees and former employees in receipt of Workers' Compensation benefits. Requests for pipeline benefits are approved by the DCPAS.

Reasonable Accommodation - reasonable accommodation may include, but shall not be limited to: (1) making facilities readily accessible to and usable by disabled persons; and, (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, the provision of readers and interpreters, and other similar actions such as telework employment.

Recurrence - after returning to work, an injured employee is again disabled and stops

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work as a result of the original injury or occupational disease. A work stoppage is not a recurrence of disability 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(s) of a previously suffered occupational disease.

Schedule Award – a lump sum awarded to a claimant for specified periods of time for the loss or permanent impairment of certain members, organs, or functions of the body. The amount comes from a chart or “schedule” related to the severity of the loss. Schedule awards are payable even if a person is federally employed or receiving federal retirement benefits for the period of the award.

Third Party Claim – the responsibility for causing an accident or illness is a person or entity other than the federal government, for example a POV. Any damages received by the injured employee from a third party, such as an insurance company, must be reported to OWCP so the government can receive reimbursement for any Workers' Compensation benefits already paid out.

Vocational Rehabilitation - services and/or training provided to an injured employee who suffers from a vocational disability due to a work-related injury or illness and who cannot resume usual duties. The ICPA should work closely with the vocational rehabilitation plan to ensure the claimant returns to productivity upon completion of the training.