



**NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
NSA/CSS POLICY MANUAL 4-16C
SPECIAL COMPENSATION**




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**CHAPTER 2
COMPENSATION FOR DISABILITY AND DEATH**

PURPOSE AND SCOPE

In accordance with 5 United States Code (U.S.C.), Chapter 81, “Compensation for Work Injury” ([Reference a](#)), this policy manual chapter covers the Federal Employees' Compensation Act (FECA) ([Reference b](#)) that provides compensation benefits to civilian employees (hereafter referred to as “employees”) associated with a work-related injury or disease. It also covers the compensation benefits paid to dependents of employees whose work-related injury or disease causes their death.

This chapter applies to NSA/CSS (hereafter referred to as the “Agency”) employees except non-appropriated fund employees.


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This chapter supersedes Policy Management Manual 384, "Compensation For Disability and Death," dated April 1999 and Human Resources Administrative Letter 1-1999, "Office of Workers' Compensation Programs: Benefits for War-Risk Hazards," dated 16 April 1999. OPI: Occupational Health Case Management Services (ME41), 963-6780.

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POLICY

1. FECA ([Reference b](#)) is administered by the Office of Workers' Compensation Program (OWCP), United States Department of Labor. In accordance with the law, the United States shall pay compensation for the disability or death of an employee resulting from a personal injury sustained while in the performance of his or her duty, unless the injury or death is:

- a. Caused by willful misconduct of the employee;
- b. Caused by the employee's intention to bring about the injury or death to oneself or another; or
- c. Caused by the intoxication of the employee.

2. Disability or death from a [war-risk hazard](#) or during or as a result of capture, detention, or other restraint by a hostile force or individual, suffered by an employee working outside of the continental United States or in Alaska or in the areas and installations in the Republic of Panama (made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements) is deemed to have resulted from personal injury sustained while in the performance of his or her duty, whether or not the employee was engaged in the course of employment when the disability or disability resulting in death occurred or when he or she was taken by the hostile force or individual. This does not apply to an employee:

- a. Whose residence is at or in the vicinity of the place of his or her employment and who was living there solely because of the exigencies of his or her employment, unless he was injured or taken while engaged in the course of employment; or
- b. Who is a prisoner of war or a protected employee under the Geneva Conventions of 1949 and is detained or utilized by the United States.

3. A claim for compensation for disability or death must be filed within 3 years after the injury or death or within 3 years after the employee was made aware that their injury is causally related to his or her employment. For minors, the time limitations do not begin until the employee reaches the age of 21 or has a legal representative. For those mentally incompetent, the time limitations do not begin until the employee has a legal representative.

4. The right to submit a claim to the OWCP for consideration will not be denied to any employee or survivor (e.g., widow or widower, child or children), nor will an attempt be made by a supervisor or other official within the Agency to adjudicate claims or prevent an employee from filing of a claim.

5. Compensation for Disability.

a. If the disability is total (i.e., where the employee is prevented from performing any work at all on account of the injury or condition), the United States shall pay the employee during the disability monthly monetary compensation equal to $66 \frac{2}{3}$ percent of his or her monthly pay in accordance with Section 8105 of [Reference a](#). The loss, or loss of use, of a member or function of the body or involving disfigurement indicates permanent total disability.

b. If the disability is partial (i.e., where the employee is unable to perform work at full physical capacity), the United States shall pay the employee during the disability $66 \frac{2}{3}$ percent of the difference between his or her pre-disability monthly earnings and his or her monthly earning capacity after the beginning of the partial disability in accordance with Section 8106 of [Reference a](#).

c. The compensation schedule is set in accordance with Section 8107(c) of [Reference a](#).

d. The period of compensation payable under [paragraph 5.b.](#), is reduced by the period of compensation paid or payable under the schedule for an earlier injury if:

1) Compensation in both cases is for disability of the same member or function or different parts of the same member or function or for disfigurement; and

2) The OWCP finds that compensation payable for the later disability in whole or in part would duplicate the compensation payable for the pre-existing disability.

6. Medical Expenses and Care.

a. An employee who is injured while in the performance of duty shall be furnished medical services to treat or counteract or minimize the effects of any condition that is causally related to the sustained injury.

b. The employee may initially select a licensed [physician](#) in a private practice or a government facility, such as medical offices or hospitals of the Armed Forces and the Department of Veteran's Affairs, to provide the medical services that are considered necessary to cure, relieve, reduce the degree or period of disability, or aid in lessening the amount of the monthly compensation.

c. Medical services must be provided by an authorized provider otherwise the employee will be liable for payment of bills for the services received.

d. Expenses authorized and approved by the OWCP shall be paid from the Employees' Compensation Fund.

e. Except for referral from the attending physician, any change in the treating physician must be authorized by OWCP. Otherwise, OWCP will not be liable for the new expenses.

7. Vocational Rehabilitation.

a. Employees who are deemed permanently disabled can be provided vocational rehabilitation services in order to assist them in returning to gainful employment consistent with their physical, emotional, and educational abilities.

b. An employee in an approved vocational program may be paid an allowance not to exceed \$200 per month. The employee is also entitled to compensation at the rate for total disability during the rehabilitation efforts.

c. When the employee returns to work, the compensation will be reduced if the new job pays less than the previous one. If upon reemployment the salary is the same or higher than the job held at the time of injury, compensation benefits will be terminated.

8. Compensation for Death.

a. The survivors of an Agency employee, whose death is causally related to his or her employment, are entitled to benefits in the form of compensation payments (compensation equal to a percentage of the monthly pay of the deceased employee as shown in the table below), funeral and burial expenses (not to exceed \$800), transportation expenses for the remains (if death occurred outside the United States ([References c and d](#))), and payment for termination of deceased's status as a Federal employee.

Payment	Percentage of deceased employee's salary
To the widow or widower, if there is no child	50%
To the widow or widower, if there is a child	45% and an additional 15% for each child not to exceed a total of 75% for the widow or widower and children
To the children, if there is no widow or widower	40% for one child and 15% for each additional child not to exceed a total of 75% divided among the children share and share alike
To the parents, if there is no widow, widower, or child	a) 25% if one parent was wholly dependent on the employee at the time of death and the other was not dependent to any extent; b) 20% to each if both were wholly dependent;

	or c) a proportionate amount in the discretion of the OWCP if one or both were partially dependent.
To the brothers, sisters, grandparents, and grandchildren, if there is there is no widow, widower, child, or dependent parent	a) 20% if one was wholly dependent on the employee at the time of death; b) 30% if more than one was wholly dependent, divided among the dependents share and share alike; or c) 10% if no one was wholly dependent but one or more is partially dependent, divided among the dependents share and share alike.
To the survivors, if there is more than one	The total payment will not exceed 75% when added to the total percentages
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b. The compensation payable under [paragraph 8.](#), is paid from the time of death until:

- 1) A widow or widower dies or remarries before reaching age 55;
- 2) A child, a brother, a sister, or a grandchild dies, marries, or becomes 18 years of age, or if over the age of 18 and incapable of self-support becomes capable of self-support; or
- 3) A parent or grandparent dies, marries, or ceases to be dependent.

9. For both disability and death claims, the pay rate used to compute compensation payments is the one in effect on the date of injury, date of recurrence of injury, or date the disability began, whichever is higher. The pay rate for compensation purposes may change over the life of the claim, as specified in Sections 8108 and 8113 of [Reference a](#). The salary used to compute compensation is not affected by general increases in the rate paid for the employee's grade and step. The pay is also not affected by any promotion or raise the employee might have received but for the injury.

a. Included in the salary are night differential, Sunday pay, holiday pay, and hazard/environmental pay. Overtime is not included in the salary.

b. The monthly compensation rate for disability may not exceed 75% of the monthly salary of a GS15 Step 10 employee and may not be less than 75% of the monthly salary of a GS2 Step 1 employee or the amount of monthly salary for the disabled employee, whichever is less.

c. The monthly compensation rate for death may not exceed 75% of the monthly salary of a GS15 Step 10 employee and may not be less than 75% of the monthly salary of a GS2 Step 1 employee. Compensation may not exceed the deceased's salary except when the excess is created by cost-of-living increases.

d. March 1 of every year the increase in cost-of-living for the preceding year is determined. If compensation was payable on account of disability or death for at least 1 year prior to March 1, a cost-of-living increase is applied to the benefits. Compensation after the adjustment shall be paid to the nearest dollar.

e. Dual Benefits-FECA prohibits payment of compensation and certain other Federal benefits at the same time. This prohibition does not prevent an employee from filing for benefits from more than one government program at the same time. If more than one benefit is approved the rules governing dual benefits are invoked.

f. Lump Sum-FECA provides for periodic payment of compensation in order to ensure that beneficiaries have a continuing source of income to offset wage loss. Lump sum payments may be considered if the monthly payment is less than \$50 a month; if the beneficiary is or is about to become a non-resident of the United States; or if OWCP determines that it is in the beneficiary's best interest.

10. Benefits.

a. The OWCP will make deductions for Federal Employees' Health Benefits coverage for employees or beneficiaries who are entitled to continue their enrollment. Deductions cannot be made for a period less than 14 days and compensation must be paid for at least 28 days in order for deductions to be made.

1) Eligibility to continue enrollment.

a) Disability. An employee may continue enrollment if the employee was enrolled or covered as a family in a health benefits plan during the 5 years of service immediately preceding the start of the compensation; during all service since their first opportunity to enroll; or continuously for the full period or periods of service beginning with the enrollment which became effective not later than 31 December 1964.

b) Death. A beneficiary may continue enrollment if the three conditions in [paragraph 10.a.](#) were met and in addition the deceased employee was enrolled for self and family at the time of death and at least one covered family member is receiving compensation from OWCP.

2) If the employee or beneficiary will likely receive compensation benefits from OWCP for more than 6 months, a transfer will be requested by the Agency.

If the employee returns to work, the enrollment will be transferred back to the Agency. If compensation is terminated or if the employee elects annuity from the Office of Personnel Management (OPM) over the benefits from OWCP, OWCP will transfer enrollment to OPM.

b. Employees continue to be protected by basic Federal Employees' Group Life Insurance (FEGLI) as long as they had been enrolled for at least 5 consecutive years of service immediately preceding the disability, or the full period or periods of service for which the insurance was available, if less than 5 years. FEGLI is continued at no cost to the employee as long as the employee is unable to resume usual employment due to the disability. However, if the employee elects Post-Retirement Basic Life withholdings, OWCP is responsible for deducting premiums when advised to do so by OPM.

11. Continuation of Pay (COP).

a. Employees are authorized to continue receiving their regular pay for up to 45 days due to disability and/or medical treatment following an injury. COP is not considered compensation for disability or death and is therefore subject to income tax, retirement, and other deductions.

b. Employees on COP are entitled to receive any special pay normally received, such as night differential, Sunday pay, holiday pay, and hazard/environmental pay. Overtime pay is not authorized.

c. After the entitlement is exhausted, the employee may apply for compensation or use leave. If the employee uses sick or annual leave and later is approved for compensation, he or she can request leave buy back through the Agency's [Workers Compensation Office \(ME41\)](#). Reinstatement of leave is subject to approval and, if approved, the employee must pay the Agency the difference between the leave pay based on 100% of their salary and the disability compensation,

d. The Agency can stop paying COP if the employee does not provide medical evidence of a disabling injury within 10 work days; the physician has found the employee to be partially disabled or able to return to work and the employee refuses suitable work; or OWCP sends notice to the Agency that COP should be terminated.

12. The time during which the employee received compensation under this policy is considered creditable for within-grade increases, retention purposes, and other rights and services based upon length of service.

13. Restoration Rights

a. In accordance with 5 C.F.R., 353.301, "Restoration Rights" ([Reference e](#)), an employee who fully recovers from compensable injury within 1 year of the date the

eligibility for compensation began (or from the time compensable disability recurs if the recurrence begins after the employee resumes regular employment) is entitled to be restored immediately and unconditionally to his or her former position or an equivalent position.

1) The basic entitlement is to the former or equivalent position in the local commuting area the employee left. If a vacancy does not exist, the employee is entitled to displace an employee occupying a position under a temporary appointment. If there is no such position in the local commuting area, the Agency must offer the employee a position in another location.

2) A fully recovered employee is expected to return to work immediately upon cessation of compensation.

b. The Agency must make every effort possible to restore the employee, who has partially recovered and is able to return to light duty, in the local commuting area. A partially recovered employee is expected to seek reemployment as soon as he or she is able. If the employee fully recovers, the entitlements in paragraph 13.a apply.

c. An employee who has been deemed physically disqualified from the former or equivalent position due to injury, is entitled to be placed in another position to which they are qualified for and which provides them the same status and pay, or to the nearest approximation thereof. This right applies for a period of 1 year from the date eligibility for compensation begins. After 1 year, the employee is entitled to the rights described in paragraph 13.a or paragraph 13.b, depending on whether they have fully or partially recovered, respectively.

d. An employee who separated because of compensable injury and whose full recovery takes longer than 1 year from the date the eligibility for compensation began (or from the time compensable disability recurs if the recurrence begins after the employee resumes regular employment) is entitled to priority consideration for restoration to the position he or she left or an equivalent position provided that he or she applies for reappointment within 30 days of the cessation of compensation. If the employee cannot be placed in the former commuting area, he or she is entitled to priority consideration for an equivalent position elsewhere in the Agency.

14. In accordance with 20 C.F.R., 10.16, "What criminal and civil penalties may be imposed in connection with a claim under the FECA" (Reference f):

a. A number of statutory provisions make it a crime to file a false or fraudulent claim or statement with the Government in connection with a claim under FECA, or to wrongfully impede a FECA claim (References g, h, i and j). Furthermore, a civil action to recover benefits paid erroneously under FECA may be maintained under the False

Claims ACT ([References k and l](#)). Enforcement of such provisions that may apply to claims under the FECA is within the jurisdiction of the Department of Justice.

b. In addition, under the Program Fraud Civil Remedies Act of 1986 (PFCRA) administrative proceedings may be initiated to impose civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted or presented, false, fictitious or fraudulent statements to OWCP in connection with a claim under the FECA ([Reference m](#)). The Department of Labor's regulations implementing the PFCRA are found in [Reference n](#).

PROCEDURES

15. For procedures on how to file a claim and returning to duty after an injury, refer to the [Workers Compensation](#) website.

16. Compensation claims are approved or denied by OWCP and once a claim is filed the employee is responsible for maintaining contact with the Department of Labor. Employees can visit www.dol.gov/owcp on the external web for additional information about the program.

RESPONSIBILITIES

17. Occupational Health Case Management Services (ME41) shall:

- a. Process the paperwork associated with an on-the-job injury;
- b. Work with the Office of the Inspector General to investigate possible fraud cases;
- c. Work with the Employee Relations office to reassign employees who cannot continue in their regular position due to an on-the-job injury; and
- d. Educate the work force to help reduce costs and make a safer work environment.

18. Employee Relations (MR) shall work with the Occupational Health Case Management Services office to reassign employees who cannot continue in their regular position due to an on-the-job injury.

REFERENCES

19. References:

- a. 5 U.S.C., Chapter 81, "Compensation for Work Injuries."

b. 20 Code of Federal Regulations (C.F.R.), Chapter I, Subchapter B, “Federal Employees Compensation Act.”

c. 5 U.S.C., 5742, “Transportation of remains, dependents, and effects; death occurring away from official station or abroad.”

d. 50 U.S.C., 3616, “Transportation of remains for certain employees.”

e. 5 C.F.R., 353.301, “Restoration rights.”

f. 20 C.F.R., 10.16, “What criminal and civil penalties may be imposed in connection with a claim under the FECA.”

g. 18 U.S.C., 287, “False, fictitious or fraudulent claims.”

h. 18 U.S.C., 1001, “Statements or entries generally.”

i. 18 U.S.C., 1920, “False statement or fraud to obtain Federal employees’ compensation.”

j. 18 U.S.C., 1922, “False or withheld report concerning Federal employees’ compensation.”

k. 31 U.S.C., 3729, “False claims.”

l. 31 U.S.C., 3730, “Civil actions for false claims.”

m. 31 U.S.C., Chapter 38, 3801-3812, “Administrative Remedies for False Claims and Statements.”

n. 29 C.F.R., Part 22, “Program Fraud Civil Remedies Act of 1986.”

DEFINITIONS

20. Equivalent Position – One that is virtually identical to the employee’s former position in terms of pay, benefits, and working conditions, including privileges, prerequisites, and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority. (Source: 29 C.F.R., 825.215)

21. Physician – This includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. Chiropractors are included only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct subluxation as demonstrated by x-ray to exist and subject to regulation by the Secretary of Labor

([Reference a](#)). It does not include those whose licenses to practice medicine have been suspended or revoked or who have been excluded from payment under the FECA ([Reference b](#)).

22. Temporary – An appointment made initially for 1 year or less to meet a short-term surge or other short-duration mission requirements. (Source: [Corporate Glossary](#))

23. War-Risk Hazard – A hazard arising during a war for which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin occurring in the country in which an individual to whom this policy chapter applies is serving ([Reference a](#)).