



ULIASE & ULIASE

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By Russell Uliase

FEDERAL WORKERS' COMPENSATION AN OVERVIEW



PART 1

If you are employed by the federal government, or work for a contractor or subcontractor of the federal government, what are your rights to compensation when you have been [injured in the workplace](#)? Can you seek benefits under state workers' compensation laws? If not, where do you go for financial remuneration while you cannot work? This blog post provides an overview of the process for obtaining workers' compensation benefits when you are a federal employee.

The Statutes

Though there are a number of federal statutes that provide mechanisms for federal employees to seek benefits when they have been hurt on the job. The Longshore and Harbor Workers' Compensation Act is available to dock workers and maritime workers, and the Defense Base Act covers individuals working as civilians on military installations or for defense industry contractors.

Most federal workers' compensation benefits are recoverable, however, under the Federal Employee Compensation Act (FECA). FECA, like its state counterparts, generally provides the exclusive remedy for most injured federal workers. Similar to state workers' compensation statutes, FECA only applies to injuries suffered on the job. Federal workers' compensation claims are handled by the Office of Workers' Compensation Programs (OWCP), an agency of the Division of Federal Employees' Compensation within the Department of Labor.

Who Qualifies for Federal Workers' Compensation?

FECA covers nearly all civilian employees of the federal government, from seasonal or part-time workers to full-time employees. You may even qualify for workers' compensation benefits if you are a contract employee of a government agency, such as the Environmental Protection Agency or the Federal Aviation Administration. Whenever there is a question as to whether or not you qualify as a federal employee under the statute, the OWCP will make the determination.

What Types of Injuries are Covered?

FECA allows benefits for injury or for occupational illness. Your injuries can result from a single accident or event, or may be the result of repetitive stress or motion.

What Benefits Can You Receive?

FECA differs dramatically from most state laws regarding benefits paid. You are entitled to have your medical expenses reimbursed or paid. However, with respect to compensation for lost wages, you must file a request a continuation of pay (COP), which will provide wages for up to 45 days, but only if you have suffered an injury (not available for occupational diseases). You can also use vacation or sick time, or take leave without pay.

If your injury will prevent you from working for more than 45 days, you can file a claim for compensation for your lost wages.



PART 2

If you have been injured as a civilian employee of the U.S. government, you may have a right to compensation for lost wages under the Federal Employee Compensation Act (FECA). In addition to medical expenses, which are customarily paid automatically upon reporting your injury, you may also seek benefits for lost wages if you are unable to work for more than 45 days.

Additional Benefits under FECA

Like most state workers' compensation statutes, FECA allows you to seek temporary total disability benefits. These benefits are designed to cover lost wages when you cannot work at all because of a work-related injury. You may also be entitled to a schedule award, which is a fixed benefit based on the permanent loss of use of a body part, such as a finger, toe, arm or leg. If you are able to go back to work, but still need medical care, you can seek benefits for any wages lost due to travel or treatment.

Your Rights to Medical Care under FECA

FECA allows you to choose your own treating physician, provided your doctor qualifies under the terms of the statute. You may generally choose to visit an osteopathic physician or a medical doctor, at your discretion.

All workers' compensation claims under FECA are administered by the Office of Workers' Compensation Programs (OWCP). If your employer disputes your medical condition, or if OWCP needs additional information to make a determination, you may be required to:

1. Submit to an examination by a doctor on staff or under contract with the OWCP district office where you filed your claim
2. Have a second opinion from a medical specialist
3. Have your claim settled by a "referee medical specialist" if your doctor and OWCP's physician have provided different, but compelling, opinions.

FECA sets no cap on the amount of medical expenses reimbursed, nor on the amount of time for which you can receive medical benefits.

The background of the entire page is a solid blue color. Overlaid on this background are numerous question marks of varying sizes and shades of blue, creating a pattern that suggests inquiry and questions.

FAQS

This information is general in nature and can vary depending on circumstances. The information contained on this eBook should not be relied upon as legal advice.

Legal advice cannot be given without full consideration of all relevant information relating to a website's visitor's individual situation. Nothing contained herein should be construed to establish a lawyer-client relationship. A consultation with a lawyer is strongly recommended.



I got hurt on the job, why isn't my claim approved?

When you first get hurt you are involved in an adjudication process with the OWCP. You must prove your case. You cannot rely on your agency or just your union to help. The OWCP requires specific factual and medical evidence before they will accept your claim. Uliase & Uliase can help prove your case.



How do I get medical treatment for my injury?

You may choose your own doctor, but make certain that the doctor is willing to work with the OWCP. Do not go to a doctor or a medical provider that is recommended by your agency.



What kind of initial claim should I file for my work injury?

If you had an accident or an event at work that caused an injury, you should file form CA-1 immediately. If your injury occurred over a longer period of time (greater than one (1) work day) then you should file form CA-2 for an occupational disease. This can sometimes be confusing and proper medical support and legal advice is vital.



My supervisor refuses to accept my claim form or tells me that I may get fired because I filed a claim. What do I do?

It is illegal for your agency to refuse to file a claim, discourage a filing of a claim or threaten job loss. You should immediately contact your union or local enforcement agency to complain or file a grievance.



What is a recurrence?

A schedule award is a payment for a permanent partial impairment to specific body parts. Once you have reached maximum medical improvement (MMI) and are no longer in receipt of compensation for wage loss, you qualify for this benefit. There is no deadline to file for a schedule award.



After I got hurt, how do I get paid?

If you file form CA-1 (traumatic injury claim) within 30 days of your injury, you are automatically entitled to 45 calendar days of pay if you provide medical evidence for your absence because of your work injury. If you file form CA-2 (occupational disease claim) you must file form CA-7 every two weeks to get paid. Remember that you will not get paid until your claim is approved.



I have an approved claim and my supervisor told me that they have light work for me and I must report to work immediately or be disciplined. What should I do?

If your doctor provides you with work restrictions that prevent you from performing your regular work, you should wait for a written job offer from your agency that meets your doctor's restrictions. If the Department of Labor determines that the written job offer is suitable, you must then return to work or risk the penalties of section 8106 of the FECA.



My doctor has recommended surgery. Should I use my health plan?

We strongly recommend that you wait for the OWCP to approve your surgery. If the surgery is denied by the OWCP, then you are free to use your health plan.



I have an accepted claim and have to go out of work because that injury has worsened. My supervisor insists that I file a CA-2A (recurrence form) Is that correct?

It may be, but it is also possible that you should file a new claim for traumatic injury or occupational disease, depending on the circumstances.



Can I receive a schedule award for my back and/or neck injury?

No, schedule awards cannot be paid for back and neck injuries. Schedule award benefits may be available if a neck or back injury results in permanent partial impairment to the arms or legs.



I have a written job offer but my employer is insisting that I perform duties beyond what my offer says. What should I do?

You should NEVER do activities beyond your job offer that violate medical restrictions. If you refuse and your employer sends you home, you can file for compensation.



While I am on workers' compensation, can I be placed under surveillance?

Yes, you may be placed under surveillance. You should never perform activities that are beyond your doctor's restrictions.



Are my compensation benefits for federal wage loss and schedule award subject to federal income tax?

No.



Can I be reimbursed for travel expenses and out of pocket expenses related to my work injury?

Yes.



Can I receive a schedule award and my compensation for wage loss at the same time?

No.



What is a schedule award?

A schedule award is a payment for a permanent partial impairment to specific body parts. Once you have reached maximum medical improvement (MMI) and are no longer in receipt of compensation for wage loss, you qualify for this benefit. There is no deadline to file for a schedule award.



I was working a second job and/or earning overtime before my work injury. Can I get credit in my compensation check?

Under the FECA you are unable to receive compensation for a second job or overtime. Under the LHWCA, you are able to obtain credit for income from other jobs and/or overtime in your compensation check.



How much is my compensation check?

Under the FECA, you receive 2/3 of your pay unless you are married and live with your spouse or have a qualifying dependent child. In that event, you will receive 75% of your pay. Under the LHWCA, you will receive 2/3 of your pay.



What is the difference between OWCP and OPM benefits?

OWCP benefits are considered temporary and payable while you are recovering from your work injury. They are not considered a retirement benefit and efforts will be made either to reduce or terminate those benefits over time. OPM benefits are paid for regular retirement or disability retirement. A disability retirement claim can be made through OPM when your medical conditions (physical and/or psychological) prevent you from performing your regular work and your agency is unable to accommodate you. These benefits are meant to be a permanent retirement from your federal employment. OPM benefits are generally less than the OWCP benefits and are taxable.



Can I work while receiving OPM benefits?

You are able to work while receiving a disability retirement benefit from OPM, but your earnings are limited to 80% of the base pay of the federal position that you were working when you retired.



Can I work while receiving my compensation benefit?

You're obligated to seek suitable work once your condition improves or you are able to do so. However, if you perform any service, then you must report that immediately to the OWCP. This includes minor income. Failure to do so can result in criminal prosecution.



Should I use my sick or annual leave for a work injury?

Generally we recommend that you go on Leave Without Pay (LWOP) because, if you use sick and annual leave and want it credited back, you must go through a process to buy it back once your claim and absence are accepted. In certain cases you can't buy back leave for time lost after your claim has been accepted. If you choose LWOP and your claim and absence are accepted, you will generally receive compensation retroactive to the day you left work. However, there are many factors to be considered in this decision.



My work injury was caused by a third party. Should I sue the third party?

You are obligated to bring a third party claim since a government/insurance carrier has an interest in its proceeds and is entitled to be reimbursed for the benefits paid to you. You should obtain an appropriate lawyer to represent you on a third party claim. Remember, states have limitations on the time available to sue the third party, and you should seek legal council immediately.



What are the time limits on filing my compensation claim?

You should always file your traumatic injury claim immediately following your work injury and make certain that your supervisor completes his portion of the form. Under the FECA, you have 30 days to file CA-1 form in order to receive continuation of pay. However, you have three (3) years to file a CA-1 form following your injury. With regard to a CA-2 form, you have three (3) years to file the claim from the date that you were made aware or have reason to be aware that your medical condition is work related.



The OWCP claims examiner and/or my injury compensation specialist tells me that my case is (closed), what do I do?

Essentially, once your claim is accepted it is never closed during your life time unless your benefits are terminated or modified through a formal determination by the OWCP. Cases are administratively shut down if there is no activity for 180 days. Generally, you need up to date medical evidence in a form of a narrative report to restart your claim.



Can I receive my OWCP and my OPM benefit at the same time?

No.



Can I receive my schedule award and my OPM benefit at the same time?

Yes.





ABOUT ULIASSE & ULIASSE

The attorneys at Uliase & Uliase represent injured employees from all federal agencies at all stages of the injury claim process. Our firm is one of few in the country that focus exclusively on federal workers' compensation claims, and we have been helping people for over three decades. We're a dedicated, family-owned business with a unique and narrow focus.

How We Can Help

We help federal workers recover compensation for any type of injury sustained on the job, including neck or back injuries; knee, wrist, shoulder and joint injuries, repetitive stress injury, hand and foot damage, and aggravation of preexisting conditions. If you have been injured at work, you are entitled to certain benefits.



We assist you in getting your federal workers compensation claim approved, making certain that you are paid for the eligible time that you have missed, getting approval for medical treatments required, assisting you with returning to work to a job that you can tolerate, vocational rehab and much more. Also, at the appropriate time, we will assist you in getting a schedule award, which pays you for the fact that you have a permanent accepted work injury to a body part that will never be the same again.

Our attorneys also assist federal employees who have medical conditions and retire with federal disability retirement benefits.

To learn more about the full scope of our practice, visit us online at
<http://www.uliaselaw.com>

CONTACT ULIASE & ULIASE

For an appointment with a federal worker injury lawyer, contact our [office online](#) or call us at **(856) 310-9002**. We are open weekdays between 9 a.m. and 5 p.m. Even if we don't take your case, we will only charge a \$35 consultation fee. We waive the fee for certain union members.

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