

3 FAH-1 H-3630 COMPENSATION FOR INJURY, DISABILITY, OR DEATH

*(TL:POH-094; 08-20-2003)
(Office of Origin: DIR)*

3 FAH-1 H-3631 GENERAL PROVISIONS

3 FAH-1 H-3631.1 Legal Authority

*(TL:POH-2; 04-07-1995)
(State Only)
(Applies to Foreign Service and Civil Service Employees)*

The following instructions implement 5 U.S.C. 8101 - 8150, the Federal Employees' Compensation Act (FECA). The complete text of 5 U.S.C. 8101 - 8150 can be found in CA-810, Compensation For Injury, Disability, or Death, issued by the U.S. Department of Labor.

3 FAH-1 H-3631.2 Definition

*(TL:POH-2; 04-07-1995)
(State Only)
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5 U.S.C. 8101 contains definitions of most used terms in this chapter.

3 FAH-1 H-3631.3 Background

*(TL:POH-2; 04-07-1995)
(State Only)
(Applies to Foreign Service and Civil Service Employees)*

- a. It is important that employees be fully aware of the substantial financial benefits available to them under 5 U.S.C. 8101 - 8150, administered by the Department of Labor, Office of Workers' Compensation Programs (OWCP). Compensation is authorized for disability or death resulting from personal injuries sustained in the performance of duty, including disease (hereinafter referred to as injury), proximately caused by the

employment except where injury or death is caused by the willful misconduct of the employee or by the employee's intention to bring about the injury or death of self or of another, or when intoxication is the proximate cause of injury or death.

- b. All Department of State employees who sustain a work-related injury or illness are strongly encouraged to file for Workers' Compensation benefits regardless of other medical coverage available.
 - (1) Federal Employee Health Benefits (FEHB) plans are not liable for medical and hospital costs or services related to work-connected injury or illness. FEHB plans only apply to medical expenses not deemed compensable under FECA.
 - (2) In the case of Foreign Service employees, eligibility for Foreign Service Act medical coverage expires on the employee's separation from the Foreign Service except as provided in section 3 FAM 1900. OWCP coverage applies for the duration of the disability, as long as the job-incurred nature of the disability has been properly established. In addition, OWCP compensates all federal employees for lost pay during periods of leave without pay as a result of job-incurred disability. This benefit is not available under the medical coverage of the Foreign Service Act.

3 FAH-1 H-3632 ELIGIBILITY

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. All civilian employees of the Government of the United States, including civil service, foreign service, foreign nationals and personal services contractors overseas are covered under the provision of 5 U.S.C. 8101 - 8150. Certain dependents are entitled to survivor benefits.
- b. In order to establish eligibility for compensation benefits, the injured employee, or someone acting in the employee's behalf, should, within 48 hours, notify the employee's immediate supervisor in writing of the injury. Normally, compensation claims for disability are to be made within 30 days after the injury. However, if a valid reason exists, they maybe made within 3 years. Even if a claim is not filed within three years, compensation may still be allowed if written notice of injury was given within 30 days or the employee's immediate supervisor had actual knowledge of the injury or death within 30 days after occurrence. Compensation claims for death benefits must be made within one year of death. Separation from government service does not nullify or adversely

affect any claim submitted to OWCP.

- c. The fact that a disabling condition arises during a period of service is not sufficient basis for payment of compensation benefits or medical expenses. Any claim for compensation must establish that the injury is causally related to the employment and must be supported by competent medical evidence. The burden of proof in such instances rests upon the employee, or someone acting in the employee's behalf, or in the case of death, the eligible claimant.

3 FAH-1 H-3633 FORMS USED

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

| | |
|------------|---|
| CA-1 | Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation |
| CA-2 | Notice of Occupational Disease and Claim for Compensation |
| CA-3 | Report for Termination of Disability and/or Payment |
| CA-5 | Claim for Compensation by Widow, Widower and/or Children |
| CA-7/20 | Claim for Compensation on Account of Traumatic Injury with CA-20, Attending Physician's Report |
| CA-8 | Claim for Continuing Compensation on Account of Disability with CA-20a, Attending Physician's Supplemental Report |
| OWCP-1500a | Health Insurance Claim Form (medical billing form for FECA applicants) |

3 FAH-1 H-3634 BENEFITS FOR EMPLOYEES

3 FAH-1 H-3634.1 Medical Services and Other Related Benefits

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. An employee is entitled to medical coverage for the effects of any injury provided that OWCP accepts that the injury was sustained in the performance of duty. An employee may receive authorized treatment from:
 - (1) A Government medical facility;
 - (2) A private physician if a Government medical facility is not available; or
 - (3) If overseas, a medical facility designated by an appropriate management official (in accordance with section 3 FAM 1900).
- b. For emergency first aid treatment, any duly qualified physician may be used.
- c. For an injury sustained by an employee while in the performance of duty, regardless of whether disability has arisen, payments will be made for reasonable medical, surgical and hospital services, supplies and appliances upon recommendation of physician, and upkeep thereon upon request of the injured employee. Payments may be made for necessary transportation and other expenses incident to the securing of such services, appliances and supplies.
- d. If there is a recurrence of disability or illness more than six months after final action on a case by OWCP, in order to receive further treatment at Government expenses, the employee must apply to the OWCP to obtain authorization for treatment. This may be done by letter, telegram, or telephone call. In the event of such recurrence, the employee should also submit form CA-2a.

3 FAH-1 H-3634.2 Financial Benefits

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a.. Computation of Compensation: Any loss of pay or wage-earning capacity due to disability from a work injury entitles an employee to monetary compensation. If the employee dies, the eligible dependent(s), as

described in 5 U.S.C. 8133, is entitled to compensation.

- b. Leave Status of Employee: The injured employee may elect to use annual or sick leave, or to go on leave without pay and make an immediate claim for compensation.
- c. Commencement and Duration of Payments: Compensation for loss of pay due to total disability begins only after the employee's pay stops. Compensation based on a scheduled award or for partial disability may be paid although the employee is working.
- d. Transportation Expenses: Transportation expenses incident to securing treatment may be reimbursed under the provisions of 5 U.S.C. 8103(a)(3).

3 FAH-1 H-3634.3 Degree of Disability

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The determination as to the degree of disability will be made under the provisions of the Federal Employees Compensation Act, administered by the Department of Labor.

3 FAH-1 H-3634.4 Compensation and Reports in Case of Death

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Compensation and death benefits will be paid as prescribed in 5 U.S.C. 8133 and 8134.
- b. When an employee dies as a result of on-the-job injury, an eligible dependent or the dependent's authorized representative must file a claim for compensation and death benefits with OWCP within one year after death by submission of form CA-5, along with certified copies of other documents required by that form. The original itemized burial bills must also be submitted.
- c. If the deceased was a veteran of the United States military or naval services, information should also be provided concerning the organization, period of service, service number, and Veterans Administration claim number, if known.

3 FAH-1 H-3635 EMPLOYEE RESPONSIBILITY

3 FAH-1 H-3635.1 Reporting Job-Incurred Illness or Injury

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

An employee who has suffered a job-incurred illness or injury is to report to his/her own immediate supervisor, who will assist the employee in obtaining emergency medical treatment, if required, and in the preparation of the formal written notice of injury. Even minor injuries are to be reported as they can result at a later date in more serious illnesses.

3 FAH-1 H-3635.2 Filing Notice of Injury

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. The injured employee or someone acting on the employee's behalf should submit a form CA-1 to the employee's immediate supervisor within 48 hours of injury or beginning of illness for transmission to the OWCP (see section 3 FAH-1 H-3636.5). This is the basis for adjudicating any claim, which is presented later to OWCP. For reasonable cause, the Secretary of Labor may accept a notice of injury filed later than 48 hours after injury, if the notice is filed within three years and a reasonable explanation for the delay is given.
- b. When the injury or illness occurs while the employee is in official travel status, a copy of the employee's travel authorization and a statement signed by both employee and immediate supervisor should be submitted with form CA-1. The statement should show the points between which the employee was traveling when injured, purpose of trip, time and place where the employee last performed official duty, time and place where the employee would next have performed official duty if the employee had not been injured, and full explanation for any deviation from the authorized or direct route of travel.

3 FAH-1 H-3635.3 Filing of Claim for Compensation

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. When an employee has a specific claim for partial or total disability compensation, the employee submits a completed form CA-7 to the employee's immediate supervisor for transmission to OWCP. The form CA-7 should be filed with OWCP 14 days after pay stops, or when disability terminates if the pay loss is less than 14 days. Form CA-7 should be completed by the injured employee and immediate supervisor. The form CA-20 (which is attached to the form CA-7) should be filled out by the employee's physician.
- b. The employee should submit itemized bills for claim reimbursement for authorized medical expense on SF-1012, Travel Voucher, to claim reimbursement for travel expenses incurred incident to treatment.

3 FAH-1 H-3635.4 Claim for Continued Compensation

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The employee is to submit form CA-8 (see section 3 FAH-1 H-3636.5), which is a claim for continued compensation, at the close of each pay period to OWCP, or until the employee is notified by OWCP that further submission is no longer necessary.

3 FAH-1 H-3636 AGENCY RESPONSIBILITY

(TL:POH-094; 08-20-2003)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Immediate supervisors and other administrative personnel are responsible for assuring that:

- (1) Required emergency treatment is provided to the injured employee;
- (2) The injured employee is aware of his/her full rights under 5 U.S.C. 8101 - 8150 and the procedures to obtain benefits;
- (3) Supervisors understand and carry out their responsibilities under these regulations; and
- (4) An adequate supply of OWCP forms is available.

Normally the bureau Executive Office, or, if overseas, the personnel or

management officer is responsible for carrying out these functions. However, if a Department of State facility is not serviced by an on-site personnel or management officer these functions are the responsibility of the officer-in-charge.

3 FAH-1 H-3636.1 Report of Injury

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. The immediate supervisor of an injured employee is responsible for investigating the cause of injury to the employee, and is required to submit a written report (CA-1) (see section H-3636.5) to OWCP when the injury is likely to:
 - (1) Result in a medical claim against OWCP;
 - (2) Result in disability for work beyond the day of injury;
 - (3) Require prolonged treatment;
 - (4) Result in future disability; and
 - (5) Result in permanent disability.
- b. If any witnesses were present at the time of injury, the immediate supervisor should obtain signed statements from them. These statements should be noted on the first page of form CA-1.

3 FAH-1 H-3636.2 Report of Termination of Disability

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

If total or partial disability terminates and the employee returns to work, or if death occurs, the immediate supervisor is to complete the appropriate section of form CA-3 in duplicate (see section H-3636.5). Form CA-3 need not be completed if the employee's return to duty has been reported on CA-1.

3 FAH-1 H-3636.3 Claims for Compensation

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. If the injury results in a claim for compensation by the employee, the immediate supervisor, or other appropriate officer completes the "Official Supervisor Report" on form CA-1 and the "Statement of Official Superior" on form CA-7. In each instance, the person completing the form is required to insure that the agency or the overseas establishment are clearly identified by completing the agency address block and inserting the appropriate agency code on the form CA-1.
- b. The following is a list of appropriate agency codes used to identify Department of State claims:

| Domestic Offices | Code |
|--|-------------|
| AF | 1308 |
| ARA | 1324 |
| EAP | 1306 |
| EUR | 1305 |
| NEA | 1307 |
| A | 1302 |
| CA | 1311 |
| CIP | 1326 |
| DS | 1315 |
| EB | 1310 |
| FMP | 1349 |
| FSI | 1314 |
| H | 1327 |
| HA | 1328 |
| INM | 1329 |
| INR | 1312 |
| IO | 1309 |
| L | 1349 |
| M | 1301 |
| MED | 1330 |
| OES | 1332 |
| OIG | 1303 |
| PA | 1313 |
| PER | 1302 |
| PM | 1333 |
| RP | 1334 |
| S | 1300 |
| S/EEOCR | 1302 |
| The Agency Code for all overseas claims is 1314. | |

3 FAH-1 H-3636.4 Maintenance and Disposition of Records on Injury or Illness

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Domestically the Workers' Compensation Coordinator located in each bureau's Executive Office is responsible for forwarding all forms and medical reports to the Department of Labor. Overseas this function is performed by the administrative/personnel officer at post.
- b. Whenever forms are transmitted to the Department of Labor's Office of Workers' Compensation, the bureau or post retains a copy of all documents for the statutory period (3 years), for possible reference in connection with a claim.

3 FAH-1 H-3636.5 Transmission of Documents to the Office of Workers' Compensation

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Forms are sent directly to:

Office of Workers' Compensation (OWCP)
800 North Capitol St, N.W., Room 800
Department of Labor
Washington, DC 20211

In addition, copies of all OWCP forms must be sent to:

PER/ER/EPD
Room 431, SA-6
Department of State
Washington, DC 20522-0602

- b. The Workers' Compensation Coordinator located in each bureau's Executive Office and the administrative/personnel officer at post is responsible for reviewing the forms to ensure that they are properly completed and that the agency address is completed with the correct agency code.

Note: In addition to the form CA-1, accident reporting and investigations must be performed in accordance with section 6 FAM 617. All occupational

injuries/illnesses must also be reported on form DS-1663, Supervisor's Report of Accident, to the Safety Office, A/OPR/SHEM, Room 1042, SA-1.

3 FAH-1 H-3637 RESPONSIBILITY OF HEALTH UNIT

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

If no hospitalization is necessary, treatment of employees by the Health Unit or, if overseas, the Embassy Health Unit or other overseas medical facility is authorized. If hospitalization is required, the bureau Executive Office may authorize treatment by completing form CA-16, Authorization for Examination and/or Treatment. If appropriate, a CA-16 should be authorized within four hours after employee's request or 48 hours after emergency treatment. Overseas, if hospitalization is needed, post may initiate a request for authorization in accordance with section 3 FAM 1900 .

3 FAH-1 H-3638 LIABILITY

3 FAH-1 H-3638.1 Claims Against the U.S. Government

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

An employee of the U.S. Government who suffers a work-connected disability has no right of action against the Government for the effects of injury other than the benefits the employee may receive under the provisions of 5 U.S.C. 8101 - 8150. It is the employee's sole recourse for compensation. This does not, however, prevent the employee from electing to receive a disability annuity, if eligible, under the Civil Service and Foreign Service Retirement systems. The employee may also be eligible for benefits from more than one agency; the employee should contact the OWCP and determine whether receipt of benefits from more than one may be prohibited by law. The employee should obtain information through the bureau Executive Office or post Personnel/Administrative Office as to the extent of benefits. An employee may receive any benefits allowed from private insurance concurrently with OWCP benefits.

3 FAH-1 H-3638.2 Injury Caused by a Third Party

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

If injury is caused to an employee by a third party under circumstances causing legal liability of such persons for damages, OWCP can require the employee to assign to the Government right of action against such persons or rights to prosecute the third party. If damages recovered are in excess of benefits paid by OWCP, the excess is retained by the employee.

3 FAH-1 H-3639 REQUEST FOR RECONSIDERATION OR APPEAL

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Employees dissatisfied with the decision of the OWCP may request reconsideration, or appeal the final decision of the OWCP as follows:

3 FAH-1 H-3639.1 Reconsideration

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Requests for reconsideration must be made within 1 year of the date of the contested decision. New evidence may also be submitted with a request for reconsideration.

3 FAH-1 H-3639.2 Appeal

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. A claimant may ask the Department of Labor's Employee Compensation Appeals Board (ECAB) to review final decision made by OWCP. To file an appeal, the claimant should write to:

Employees' Compensation Appeals Board
200 Constitution Avenue, Room N-4411
U.S. Department of Labor

Washington, DC 20210

- b. No new evidence may be filed with an appeal, since the ECAB review is based solely on the case record before OWCP when the decision is made.
- c. If the claimant resides in the continental United States or Canada, the appeal request for review must be submitted within 90 days of the OWCP final determination. If the claimant resides elsewhere, the request for review must be submitted within six months of the final OWCP determination.

3 FAH-1 H-3639.3 Case Status Inquiries

(TL:POH-2; 04-07-1995)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Domestically, the Workers' Compensation contact located in bureau Executive Offices may follow-up on behalf of the employee in regards to inquiries on the status of their claim. Overseas, the administrative/personnel officers may follow-up with the Department of Labor on behalf of both American employees and Foreign Service Nationals.
- b. In the event administrative/personnel officers are unable to contact the examiner assigned to a specific case they are instructed to work with the Workers' Compensation coordinator located in the Executive Office of their geographic bureau. The five regional bureaus are responsible for follow-up on case inquires in the event that the post is unable to obtain information from the Department of Labor's Office of Workers' Compensation Program.
- c. Posts wishing to cable the Department of Labor should caption their telegrams in the following manner:

"From Department of State, please pass to the Department of Labor."