

Workers' Compensation for Federal Employees : Federal Employees Compensation Act (FECA)

YOUR LEGAL RIGHTS

1. What is the Federal Employees Compensation Act (FECA)?

FECA is the federal law that applies to federal employees with work-related injuries or illnesses. The Act is administered by the U.S. Department of Labor, Office of Workers Compensation Programs (OWCP). FECA requires that compensation benefits be provided to injured federal employees. These benefits include medical expenses, compensation for wage loss, and payment to dependents of employees who die from work-related injuries or diseases. For partially disabled employees returning to work, FECA provides vocational rehabilitation (training for a different job).

2. Am I covered by this Act?

If you are a civil officer or employee in any branch of the Government of the United States, including an officer or employee of an agency completely owned by the United States you are covered by this Act. Special legislation provides coverage to Peace Corps and VISTA volunteers; Federal petit or grand jurors; volunteer members of the Civil Air Patrol; Reserve Officer Training Corps Cadets; Job Corps, Neighborhood Youth Corps, and Youth Conservation Corps enrollees; and non-Federal law enforcement officers under certain circumstances involving crimes against the United States. Employees that do not fall into these categories should contact their state workers' compensation board.

3. Are all work-related injuries covered by this Act?

All kinds of injuries and diseases caused by employment are covered if they occur in the performance of duty (injuries during meal and rest breaks that occur on the worksite are also covered). Benefits will not be given if injury or death is purposefully caused by the injured employee, or by the intoxication of the injured employee.

4. What forms are used to report injuries and diseases?

Different forms are used depending on whether the employee suffers from a "traumatic injury" or an "occupational disease." (The difference between these two forms of injury/illness are explained in the next section.)

To report a **traumatic injury** employees use Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation."

To report an **occupational disease** employees use Form CA-2, "Notice of Occupational Disease and Claim for Compensation."

Form CA-1 should be filed with the federal employer within 30 days of the injury, and Form CA-2 should be filed with the federal employer within 30 days of the date the employee realized the disease or illness was caused or made worse by the employment. The forms may be obtained from the employer or from OWCP. The employer is expected to submit the completed form to OWCP within 10 workdays.

5. What is the difference between a “Traumatic Injury” and an “Occupational Disease or Illness”?

Whether an injury is considered a “traumatic injury” or an “occupational disease or illness” can affect the employee’s benefits, including continuation of pay.

A **traumatic injury** is a wound or other condition of the body caused by external force, including stress or strain. The injury must occur at a specific time and place, and it must affect a specific member or function of the body. The injury must be caused by a specific event or incident, or a series of events or incidents, within a single day or work shift. An example of a traumatic injury would be falling from scaffolding while working on a job.

An **occupational disease or illness** is a condition caused by the work environment over a period longer than one workday or shift. The condition may result from infection, repeated stress or strain, or repeated exposure to toxins, poisons, fumes or other continuing conditions of the work environment. An example of an occupational disease would be repetitive stress injury resulting from typing on the same computer over a long period of time.

The length of exposure, not the cause of the injury or the medical condition which results, determines whether an injury is traumatic or occupational. For instance, if an employee is exposed to toxic fumes for one day, the incident is considered a traumatic injury. If the employee is exposed to toxic fumes for two or more days, the incident is considered an occupational disease.

6. What benefits am I entitled to?

Wages

Wage loss is generally compensated at the rate of 66.67%, but if an employee has dependents, the income replacement is increased to 75%. An employee is eligible for up to 45 days full pay for **traumatic injuries**. Employees with **occupational disease** claims are not eligible to receive continuation of pay.

Medical

If the employee requires medical treatment because of a work-related traumatic injury, the supervisor should complete the front of Form CA-16, "Authorization for Examination and/or Treatment," within four hours of the request. In an emergency, where there is no time to complete the form, the employer may authorize medical treatment by telephone and then forward Form CA-16 to the medical facility within 48 hours. Retroactive issuance of Form CA-16 is not allowed under any other circumstance. An employer may refuse to issue a CA-16 if more than a week has passed since the injury.

If the employee requires medical treatment because of a work-related occupational illness, he or she should obtain care directly from a physician, preferably from a specialist in the indicated field. If OWCP accepts the claim, it will pay for medical treatment required by the condition(s) accepted, including treatment received before acceptance. Form CA-16 may not be used to authorize treatment for occupational disease or illness except in very unusual situations. An employer may issue a CA-16 for an occupational disease or illness ONLY after obtaining approval from OWCP. The name and title of the individual granting such approval must be shown on Form CA-16.

Vocational Rehabilitation

Vocational rehabilitation counselors under contract to OWCP provide services such as counseling and guidance, vocational testing, training programs, and placement help. These services are available to employees who are partially disabled and cannot return to their usual work. Each service is provided for a specified period of time. For instance, placement services may be provided for up to 90 days. OWCP approves training programs if placement efforts with the Federal employer have not been successful and training would greatly help the employee's earning ability. OWCP provides training only to those employees who need it to return to suitable work.

A program may include classroom training, on-the-job training, or both. The costs may include tuition, books and supplies, and maintenance up to \$200 a month. Employees are expected to cooperate with vocational rehabilitation efforts. If an employee refuses to take part in the early stages of vocational rehabilitation (such as interviews, counseling, testing, and work evaluations), OWCP assumes that vocational rehabilitation would have resulted in return to work with no loss of wage-earning capacity, unless there is evidence to the contrary. Thus, OWCP reduces compensation to zero.

If an employee refuses to take part in the later stages of vocational rehabilitation, after suitable work has been identified, OWCP assumes that the employee would have been able to earn the wages of the identified job once the rehabilitation program has been finished. If this happens, compensation is reduced to reflect the employee's probable earnings in the identified job.

7. How do I get these benefits?

In addition to filing the appropriate forms, the injured employee must obtain a “reasoned” medical opinion from a physician, which can be the employee’s personal physician that links the employee’s work to the injury. The employee must then submit the medical opinion to the OWCP and it will decide if the employee is entitled to benefits.

8. What if I am not happy with the OWCP’s decision?

Employees have two options to appeal an unfavorable decision from the OWCP. If new evidence arises after the OWCP made its decision, the employee may ask for reconsideration by the OWCP district office within one year of the original decision. Within 30 days of the OWCP’s decision and after a reconsideration request has been denied, an employee may ask for an oral hearing or a review of the record by an OWCP hearing representative. If neither of the above options work, an employee may appeal to the Employee’s Compensation Appeals Board, which has the power to change OWCP decisions. This appeal must be made within 90 days and no new evidence may be presented.

For more detailed information about FECA and OWCP visit http://nt5.scbbs.com/cgi-bin/om_isapi.dll?clientID=516517&infobase=q-and-a.nfo&softpage=PL_frame.

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, the Legal Aid Society - Employment Law Center cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your legal rights in your situation.

For further information about your employment rights, please call:

The Workers’ Rights Clinic

415-864-8208 (SF Bay Area) or **866-864-8208** (Toll Free in CA)

The Workers’ Rights Clinic is a project of The Legal Aid Society - Employment Law Center (LAS-ELC). The LAS-ELC is a non-profit organization focusing on the employment-related legal rights of low-income workers and providing free legal information on a wide range of employment-related problems.