

540 Injury Compensation Program

541 Overview

541.1 Background

541.11 Law

Under the provisions of the Postal Reorganization Act, 39 U.S.C. 1005 (c), all employees of the United States Postal Service are covered by the Federal Employees' Compensation Act (FECA), 5 U.S.C. 81.

541.12 Administration

FECA is administered by the Office of Workers' Compensation Programs (OWCP), United States Department of Labor. OWCP determines whether the employee, or a survivor of the employee, is entitled to benefits under FECA. The director of OWCP and his or her designees have the exclusive authority to administer, interpret, and enforce the provisions of the Act.

541.13 Coverage

541.131 Disability

FECA provides that employees who suffer job-related disabilities are entitled to:

- a. Continuation of pay (COP) for the period of the disability, up to a maximum of 45 calendar days, for a traumatic job-related injury (see 541.2d).
- b. Compensation for wages lost as a result of job-related injury or disease or illness.
- c. Medical care for disability due to:
 - (1) Personal injuries sustained while in the performance of duty.
 - (2) Diseases proximately caused, aggravated, or accelerated by postal employment.
- d. Vocational rehabilitation.

541.132 Death

FECA provides for payment of monetary compensation to specified survivors of an employee whose death results from a work-related injury or occupational disease or illness and payment of certain burial expenses subject to the provisions of 5 U.S.C. 8134.

541.133 Schedule Awards

Compensation is provided for the permanent loss, or loss of use, of each of certain members, organs, and functions of the body.

541.14 Privacy Act

Injury compensation records are maintained by the Postal Service within the privacy system of records identified as USPS 120.098 (*OWCP Record Copies*). (See 314 for a full explanation of injury compensation case files.)

541.2 Definitions

Except where the content clearly indicates otherwise, the following definitions apply:

- a. *Benefits or compensation* — any of the following:
 - (1) Money paid to claimants by OWCP because of loss of wages or earning ability.
 - (2) Money paid in the form of schedule awards (e.g., loss of finger).
 - (3) Money paid as reimbursement for medical diagnostic and treatment services supplied under FECA.
 - (4) Money paid as reimbursement for the replacement or repair of medical braces, artificial limbs, and other prosthetic devices, and for time lost while such devices or appliances are being replaced or repaired. However, a claim is not appropriate for the replacement or repair of eyeglasses and hearing aids except as provided in 541.2h.
 - (5) Money paid to specified survivors of employees whose death is job-related.
 - (6) Certain payments to individuals who are participating in an approved vocational rehabilitation program.
- b. *Claim* — an assertion, in writing, of an individual's entitlement to benefits under FECA. This claim must be submitted on a form as required by 542. A claim may be filed for a traumatic injury, an occupational disease or illness, or death.
- c. *Claimant* — an individual whose claim for benefits and/or compensation has been filed in accordance with FECA and the provisions of 542.
- d. *Continuation of pay (COP)* — continuation of the employee's regular pay for a period of 45 calendar days. The first COP day is the first day disability begins following the date of injury (except where the injury occurs before the beginning of the work day or shift, in which case the date of injury is charged to COP). COP can be received only if the disability begins within 45 days of the date of the injury or within 45 days from the date the employee first returns to work following the initial period of disability. Examples are as follows:
 - (1) If an employee is called in ahead of the employee's scheduled tour, is injured during the call-in period, and is unable to continue to work due to the injury, the 45-calendar-day period begins at the start of the scheduled tour.
 - (2) If an employee is injured during the scheduled tour and is unable to work due to the injury, the 45-calendar-day period begins on the next calendar day.
 - (3) If an employee works only a portion of a day or tour (other than the day or tour when the injury occurred), that day or tour is counted as 1 calendar day toward the 45-day period.

- e. *Control office* — a unit staffed with an Injury Compensation manager and human resources specialists responsible for injury compensation program administration.
- f. *Control officer* — the Injury Compensation manager who heads the control office and manages the administration of the injury compensation program within a performance cluster.
- g. *Control point* — an individual who is designated by the district manager and/or installation head to coordinate claim management activity with the control office and is one of the following:
 - (1) A human resources specialist if an injury compensation unit is available and staffed.
 - (2) The postal physician or occupational health nurse administrator if an occupational health services office is available and staffed.
 - (3) An appropriate designated supervisor (full-time or collateral duty).
- h. *Injury* — a traumatic injury (see 541.2r) or an occupational disease or illness (see 541.2j), including damage to or destruction of medical braces, artificial limbs, and other prosthetic devices. The term does not include the damage or destruction of eyeglasses and hearing aids, unless the damage or destruction is a direct result of a personal job-related injury requiring medical services.
- i. *Monthly pay* — the greatest of the following:
 - (1) Monthly pay at the time of injury.
 - (2) Monthly pay at the time disability begins.
 - (3) Monthly pay at the time compensable disability recurs if the recurrence begins more than 6 months after the injured employee resumes full-time employment with the Postal Service or other government agency.
- j. *Occupational disease or illness* — an illness or disease produced by one of the following:
 - (1) Systemic infections.
 - (2) Continued or repeated stress or strain.
 - (3) Exposure to toxins, poisons, fumes, etc.
 - (4) Other continued and repeated exposure to conditions of the work environment over a longer period of time than a single day or work shift.
- k. *Occupational health nurse administrator* — a career postal or contract occupational health nurse who, at the district level, is responsible for the oversight and management of the medical and occupational health services.
- l. *Official supervisor* — an individual who is responsible for the supervision, direction, or management of employees.

- m. *Physician* — any surgeon, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, or osteopathic practitioner used within the scope of his or her practice as defined by state law. Exceptions are as follows:
- (1) Chiropractors are included only to the extent that their reimbursable services are limited to treatment to correct a spinal subluxation as demonstrated by X ray to exist.
Note: “Subluxation as demonstrated by X ray to exist” must appear in the chiropractor’s report for OWCP to consider payment of a chiropractor’s bill. Also, a chiropractor may provide physical therapy under the direction of a physician.
 - (2) Clinical psychologists serve as physicians within the scope of practice as defined by state law. Unless the state law allows clinical psychologists to treat physical conditions, a clinical psychologist may not serve as a physician when a condition includes a physical component.
 - (3) *Naturopaths, faith healers, and other practitioners of the healing arts* are not recognized as physicians within the meaning of FECA.
- n. *OWCP* — the Office of Workers’ Compensation Programs, Employment Standards Administration, of the Department of Labor.
- o. *Postal physician* — a Postal Service physician, medical designee, or contract physician.
- p. *Recurrence of disability* — an employee’s inability to work, after return to work, that is caused by a spontaneous change in the employee’s medical condition and is related to a previous injury or illness without intervening injury or new exposure.
- q. *Recurrence of medical condition* — a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no work stoppage.
- r. *Traumatic injury* — a condition of the body caused by external force, including stress or strain. The injury:
- (1) Must be identifiable as to time and place of occurrence and member or function of the body affected.
 - (2) Must be caused by a specific event or incident, or series of events or incidents, within a single day or work shift.

541.3 **Forms**

Each installation head must maintain an adequate supply of the following basic forms, which are needed for recording and reporting injuries:

Form	Title
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-2a	Notice of Federal Employee's Recurrence of Disability and Claim for Pay/Compensation
CA-5	Claim for Compensation by Widow, Widower, and/or Children
CA-5b	Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren
CA-6	U.S. Department of Labor Official Superior's Report of Employee's Death
CA-7/20	Claim for Compensation on Account of Traumatic Injury or Occupational Disease/Attending Physician's Report
CA-7a	Time Analysis Form
CA-7b	Leave Buy-Back Worksheet/Certification Form
CA-10	What a Federal Employee Should Do When Injured at Work
CA-11	When Injured at Work
CA-16	Authorization for Examination and/or Treatment
CA-17	Duty Status Report
CA-35A	Evidence Required in Support of a Claim for Occupational Disease
CA-35B	Evidence Required in Support of a Claim for Work-Related Hearing Loss
CA-35C	Evidence Required in Support of a Claim for Asbestos-Related Illness
CA-35D	Evidence Required in Support of a Claim for Work-Related Coronary/Vascular Condition
CA-35E	Evidence Required in Support of a Claim for Work-Related Skin Disease
CA-35F	Evidence Required in Support of a Claim for Work-Related Pulmonary Illness (not asbestosis)
CA-35G	Evidence Required in Support of a Claim for Work-Related Psychiatric Illness
CA-35H	Evidence Required in Support of a Claim for Carpal Tunnel Syndrome
CA-915	Claimant Medical Reimbursement Form
HCFA-1500	Health Insurance Claim Form
Pub 71	Notice for Employees Requesting Leave for Conditions Covered by Family and Medical Leave Policies

Form	Title
PS 2488	Authorization for Medical Report
PS 2491	Medical Report — First Aid Injuries
PS 2556	Third Party Statement of Recovery
PS 2557	Employee's Third Party Recovery Statement
PS 2559	Third Party Claim — Information Request
PS 2560	Referral of Third Party Material
PS 2562	Injury Compensation Program — Notice of Potential Third Party Claim
PS 2573	Request — OWCP Claim Status
PS 2577	Assignment of Claim to the Postal Service

542 **FECA Claim Requirements**

542.1 **Employee Claims for Injury or Illness**

542.11 **Traumatic Injury**

542.111 **Notice**

The notice of traumatic injury is given on Form CA-1.

542.112 **Time Limit**

FECA requires that written notice of a traumatic injury be given by the employee, or person acting on behalf of the employee, within 3 years of the injury. However, failure to give notice on Form CA-1 within 30 calendar days from the date the injury occurred will result in a loss of entitlement to COP and may also result in a loss of compensation rights if the claim for compensation is not filed within 3 years. In order to protect their own interests and to ensure an uninterrupted income, employees should give notice or have someone give notice on their behalf, immediately after the traumatic injury occurs.

542.12 **Occupational Disease or Illness**

542.121 **Notice**

The notice of occupational disease or illness is given on Form CA-2.

542.122 **Time Limit**

FECA specifies that notice be given by the employee, or person acting on behalf of the employee, within 3 years of the onset of the condition. In cases of latent disability, the time for filing the claim does not begin to run until the employee has a compensable disability and is aware, or reasonably should be aware of the causal relationship between the disability and the employment. Failure to give notice within this time period may result in a loss of compensation rights. If the claim is not filed within 3 years, compensation may still be allowed if notice of injury was given within 30 days or the employer had actual knowledge of the injury or death within 30 days after

occurrence. This knowledge may be evidenced by written records or verbal notification.

Note: Continuation of regular pay is not applicable in instances of occupational disease or illness.

542.13 **Recurrence**

542.131 **Notice**

The notice of recurrence is given on Form CA-2a.

542.132 **Time Limit**

A specific time limit for giving the notice of recurrence is not specified by FECA. The recurrence should be reported by the employee if it causes the employee to lose time from work and incur a wage loss or if the employee experiences a renewed need for treatment after previously being released from care.

542.14 **Survivor Claim for Death Benefits**

542.141 **Claim**

A claim for compensation benefits by a survivor of an employee whose death was related to a job-related injury or illness is made on Form CA-5 or Form CA-5b by the survivors or person acting on behalf of the survivors. The form is given to the control office. The survivors may also submit the completed Form CA-5 or CA-5b directly to OWCP.

542.142 **Time Limit**

A claim for death benefits must be filed within 3 years of the death. The filing of a notice of injury or occupational disease will satisfy the time requirements for a death claim as a result of the same injury or disease. In the case of death due to latent disability, the time for filing does not begin until the survivors are aware, or reasonably should be aware, of the causal relationship between the death and factors of the employee's postal employment.

542.2 **Evidence Required**

542.21 **General**

Forms CA-1, CA-2, CA-2a, CA-5, and CA-5b describe the evidence required. The evidence submitted must be reliable, probative, and substantial. The employee is responsible for establishing that five requirements have been met for a claim to be accepted. The five requirements are:

- a. The claim was filed within the time limits specified by FECA.
- b. The injured person was, at the time of injury, an employee of the United States as defined in 5 U.S.C. 8101.
- c. The fact that an injury, disease, or death occurred.
- d. The injury, disease, or death occurred while the employee was in the performance of duty.
- e. The medical condition for which benefits are claimed is causally related to the claimed injury, disease, or death.

542.22 Medical Reports

The employee is responsible for submitting a medical report from the attending physician. (See 545.5 and 545.51 for requirements of medical reports and rules governing submission to OWCP.)

542.23 Disability

The employee must submit medical evidence to substantiate any claimed disability.

In COP cases, the employee must ensure the following:

- a. That medical evidence supporting disability resulting from the claimed traumatic injury, including a statement as to when the employee can return to his or her date-of-injury job, is provided to the control office or control point within 10 calendar days after the claim for COP is filed.
- b. That the treating physician specifies work limitations and provides them to the control office or control point and representatives of OWCP.

542.3 Penalties**542.31 Penalty for False Statement**

Any employee, supervisor, or representative who knowingly makes a false statement with respect to a claim under FECA may be subject to a fine of not more than \$10,000 or 5 years in prison, or both.

542.32 Penalty for False Claim

Any employee, supervisor, or representative who, with respect to a claim under FECA, enters into any agreement to obtain the payment or allowance of any false or fraudulent claim may be subject to a fine of not more than \$10,000 or 10 years in prison, or both.

542.33 Penalty for Refusal to Process Claim

Any employee or supervisor responsible for making reports in connection with an injury who willfully fails, neglects, or refuses to do so; induces, compels, or directs an injured employee to forego filing a claim; or willfully retains any notice, report, or paper required in connection with an injury may be subject to a fine of not more than \$500 or 1 year in prison, or both.

542.34 Loss of Benefits for Beneficiary Who Defrauds the Government

A beneficiary who pleads guilty or is found guilty of federal or state criminal charges of defrauding the federal government in connection with a claim for benefits is barred from entitlement to all future benefits for any injury occurring on or before the date of guilty plea or verdict. The effective date of termination of benefits is the date the guilty plea is accepted or the date a verdict of guilty is found after trial.

543 Employee Rights**543.1 Waiver of Compensation Rights**

No employer or other person may require an employee or other claimant to enter into any agreement, either before or after an injury or death, to waive his or her right to claim compensation under FECA. No waiver of compensation rights shall be valid.

543.2 Withdrawal of Claim

An employee may withdraw his or her claim (but not the notice of injury) by so requesting in writing to OWCP at any time before OWCP determines eligibility for benefits. Any COP granted to an employee after a claim is withdrawn must be charged to sick or annual leave or considered an overpayment of pay at the employee's option.

543.3 Medical Care

FECA guarantees the employee the right to an initial choice of physician. The employee is entitled to receive all medical services, appliances, or supplies that a qualified physician prescribes and OWCP determines necessary to treat the injury. For continued payment of medical expenses by OWCP, a change of the employee's initial choice of physician is permitted only with OWCP approval. Referrals for further examination, testing, or medical care by the physician designated on the Form CA-16 are covered. (See 545.4 for implementing medical care.)

543.4 Continuation of Regular Pay or Leave for Disabling Injuries

If the injury is disabling, an eligible employee may elect to have regular pay continued for up to 45 calendar days or to use annual leave or sick leave. (See 545.72 for explanation of eligibility for COP.)

543.41 Continuation of Regular Pay

For most employees who sustain a traumatic injury, FECA provides that the employer must continue the employee's regular pay during any periods of resulting disability up to a maximum of 45 calendar days (see 545.72 for explanation of eligibility for COP). Such pay is subject to taxes and all other usual payroll deductions. If an employee elects COP and the claim is subsequently denied, any COP granted to the employee must be charged to sick or annual leave or considered an overpayment of pay at the employee's option (see 437).

543.42 Sick or Annual Leave

The following provisions apply:

- a. The use of annual or sick leave does not extend the 45-calendar-day COP period, which begins with the first period of time lost after the day or shift of injury.
- b. Leave is limited to the amount that the employee has accrued.

- c. An employee may subsequently request COP in lieu of previously requested sick and/or annual leave, subject to leave carryover provisions. However, such a request must be made within 1 year of the date that leave is used, or within 1 year of the date OWCP approves the claim, whichever is later.
- d. An employee who elects to use sick or annual leave during the 45-day period in which COP is available is not entitled to buy back that leave with later compensation payments.
- e. Pay that is attributable to the leave period is subject to taxes and other usual payroll deductions.
- f. An employee may use sick or annual leave after the COP period expires or during a period of disability due to an occupational disease or illness. In such cases, the employee may be entitled to buy back the leave with compensation payments (see 512.923 and 545.84). The buy-back must be initiated within 1 year of the return, or within 1 year of the date OWCP approves the claim, whichever is later. Only employees who are on the rolls of the Postal Service may buy back leave.

544 Reporting Procedures

544.1 Responsibilities

544.11 Immediate Supervisor Responsibility

544.111 General

When a notice of traumatic injury or occupational disease is filed, the immediate supervisor is responsible for doing the following:

- a. Immediately ensuring that appropriate medical care is provided.
- b. Providing the employee a Form CA-1 or a Form CA-2.
- c. Completing the receipt attached to Form CA-1 or CA-2 and giving the receipt to the employee or the employee's representative.
- d. Investigating all reported job-related injuries and/or illnesses.
- e. Immediately notifying the control office or control point of an injury, disease, or illness.
- f. Prompt completion and forwarding of Form CA-1 or CA-2 to the control office or control point on the same day it is received from the employee.

544.112 Traumatic Injuries

In case of a traumatic injury, the supervisor must advise the employee of the following:

- a. The right to select a physician of choice.
- b. If the injury is disabling, the right to either of the following:
 - (1) To elect COP for up to 45 calendar days.
 - (2) To use annual or sick leave. An employee may subsequently request COP (subject to leave carryover provisions) in lieu of previously requested sick and/or annual leave, but such a request must be made within 1 year of the date the leave was used, or

within 1 year of the date of OWCP's approval of the claim, whichever is later.

544.12 **Control Office or Control Point Responsibility**

The control office or control point is responsible for completing Forms CA-16 and CA-17 (see 545.21 and 545.53). Control office and control point supervisors are responsible for reviewing all claims for accuracy and completeness and for forwarding claims and related documents to OWCP within prescribed FECA time frames. Control points at major postal installations may be given authority by the control office to manage and submit claims directly to OWCP. The control office or control point must advise the employee whether COP will be controverted and whether pay will be interrupted. The control office must provide the employee a copy of the completed CA-1 or CA-2 and all correspondence between the Postal Service and the treating physician.

544.2 **Criteria and Time Limits**

544.21 **Traumatic Injury and Occupational Disease or Illness**

544.211 **Report Criteria**

Completed forms are sent to OWCP when the injury or disease is likely to result in any of the following:

- a. A medical charge against OWCP.
- b. Disability for work or assignment to limited duty beyond the day or shift the injury occurs.
- c. The need for more than two appointments for medical examination and/or treatment on separate days resulting in time lost from work.
- d. Future disability.
- e. Permanent impairment.
- f. Continuation of pay.

Exceptions: If none of the above conditions is evident, Form CA-1 or Form CA-2 must be filed in the employee's medical folder instead of being sent to OWCP.

544.212 **Time Limit**

The control office or control point submits to the appropriate OWCP district office within 10 working days after it is received from the employee:

- a. Completed Form CA-1 or Form CA-2.
- b. Any other information or documents that have some bearing on the claim.

544.22 **Recurrence of Injury**

544.221 **Report Criteria**

A recurrence should be reported on Form CA-2a if it causes the employee to lose time from work and incur a wage loss, or if the employee experiences a renewed need for treatment after previously being released from care.

544.222 Time Limit

The notice of recurrence should be submitted promptly to OWCP.

544.23 Death**544.231 Report Criteria**

The notice of death is given on Form CA-6.

The control office must furnish Form CA-5 and/or Form CA-5b to all survivors who may have entitlement to compensation for death of an employee.

544.232 Time Limit

The control office immediately reports the death to OWCP by telephone call, telegram, facsimile (fax), or electronic mail. As soon as possible, but no later than 10 working days after receipt of knowledge of death, the reporting official completes and sends to OWCP a Form CA-6. Form CA-5 and Form CA-5b must be promptly forwarded to OWCP upon receipt.

544.24 PCES Claims

A copy of any forms and correspondence related to claims that are submitted by PCES executives must be sent to the manager of Corporate Personnel Management at Headquarters.

545 Control Office or Control Point Claim Management Responsibility**545.1 General****545.11 Claim Management Relationships**

Injury compensation claims must always be managed by control offices at management levels above that of the injured employee.

Designated control office and control point claim management relationships are as follows:

Employee	Control Office or Control Point Level
a. Craft supervisor	Installation or district
b. Postmaster (associate office)	District
c. PCES postmaster; district or plant manager; district Safety and Health manager; and all full-time and collateral injury compensation personnel	Area injury compensation analyst
d. Area vice president; area Human Resources manager; and area injury compensation analyst	Headquarters

545.12 Establishing Control Office and Control Points

The district manager establishes a control office to handle injury compensation program administration.

At installations where there is no injury compensation control office, the district manager or installation head designates an appropriate control point individuals responsible for coordination of injury compensation activities with the injury compensation control office. (See 541.2g for instructions on designating a control point.)

Control offices ensure that control point personnel are properly trained to review cases. Control point personnel must not, under any circumstances or for any reason, delay timely submission of reports or claim forms to the control office. Human resources specialists serving as control points at major installations may be given authority by the control office to manage and submit claims directly to OWCP.

545.2 Authorizing Examination and/or Treatment With Form CA-16**545.21 Traumatic Injury**

When an employee sustains a work-related traumatic injury that requires medical examination, medical treatment, or both, the control office or control point must authorize such examination and/or treatment by issuing a Form CA-16. Form CA-16 is used for all traumatic injuries requiring medical attention. The control office or control point must advise the employee of the right to an initial choice of physician (see 543.3). The control office or control point must promptly authorize medical treatment by issuing the employee a properly executed Form CA-16 within 4 hours of the claimed injury. If the control office or control point gives verbal authorization for care, Form CA-16 should be issued within 48 hours. The control office or control point is not required to issue a Form CA-16 more than one week after the occurrence of the claimed injury.

Exception: Issuance of Form CA-16 is not required for job-related first aid injuries where initial medical care is provided by either a postal physician or a contract physician and the employee voluntarily accepts this care (see 545.43).

545.22 Occupational Disease or Illness

In cases of occupational disease or illness, the control office or control point contacts OWCP district office for instructions if treatment authorization is requested by the employee.

545.23 Exposure to Workplace Hazards

Simple exposure to a workplace hazard, such as an infectious agent, does not necessarily constitute a work-related injury entitling an employee to medical treatment under FECA. The control office or control point should not use a Form CA-16 to authorize medical testing for an employee who has merely been exposed to a workplace hazard unless the employee has

sustained an identifiable injury or medical condition as a result of that exposure.

545.24 **Preventive Treatment**

FECA does not authorize payment for preventive measures such as vaccines and inoculations. However, OWCP can authorize treatment for the following conditions:

- a. Complications from preventive measures that are provided or sponsored by the agency, such as an adverse reaction to prophylactic immunization.
- b. Actual or probable exposure to a known contaminant due to an injury, thereby requiring disease-specific measures against infection. Examples include the provision of tetanus antitoxin or booster toxoid injections for puncture wounds; administration of rabies vaccine for a bite from a rabid or potentially rabid animal; or appropriate measures where exposure to human immunodeficiency virus (HIV) has occurred.
- c. Conversion of tuberculin reaction from negative to positive following exposure to tuberculosis in the performance of duty. In this situation, the appropriate therapy may be authorized.
- d. Where injury to one eye has resulted in loss of vision, periodic examination of the uninjured eye to detect possible sympathetic involvement of the uninjured eye at an early stage.

545.3 **Return to Work Responsibility**

545.31 **Control Office or Control Point Responsibility**

Upon authorization of medical care, the control office or control point advises the employee, in writing, of the obligation to return to work as soon as possible. The term *return to work* refers to work in the employee's bid assignment or work in other locations and positions. Notification to the employee must include the following:

- a. If a specific alternative position is available, the control office or control point must advise the employee in writing of the specific duties and physical requirements of the position.
- b. If no specific alternative position is necessary, the control office or control point should advise the employee of any change the agency can make to the employee's permanent assignment to accommodate the employee's limitations due to the injury.

545.32 **Suitable Work**

To be considered suitable by OWCP, the job offer must include the following:

- a. A description of the duties of the position.
- b. A description of the specific physical requirements of the position and any special demands of the workload or unusual working conditions.
- c. The organizational and geographical location of the job.
- d. The effective date of the position.

- e. The date the employee must accept or refuse the job offer.
- f. Pay rate information for the offered position.

The job offer may be made verbally, as long as a written job offer is provided to the employee within 2 business days of the verbal job offer.

545.33 **Employee Responsibility**

The employee is responsible for the following:

- a. Ensuring that the treating physician specifies work limitations and provides them to the control office or control point.
- b. Providing the treating physician with a description of any specific alternative positions offered.
- c. Ensuring a prompt response from the treating physician with an opinion on whether and how soon the employee can be expected to return to work in any capacity, either an offered position or offered modified duties.
- d. Seeking and accepting suitable work.

545.4 **Implementing Medical Care**

545.41 **Emergency Treatment**

An employee needing emergency treatment must be sent to the nearest available physician or hospital or to a physician or hospital chosen by the employee or the employee's representative. The physician who provides emergency treatment is not considered the employee's initial choice of physician.

A supervisor may accompany the employee to the doctor's office or hospital to make certain that the employee receives prompt medical treatment.

Animal bites or eye injuries are always considered medical emergencies. In the event that there is doubt as to the emergent nature of the injury, it should be handled as an emergency.

545.42 **Initial Medical Examination and/or Treatment**

Initial medical examination and/or treatment must be authorized in accordance with FECA provisions and applicable OWCP regulations and policies governing medical care. (See 545.2 for control office or control point instructions on authorizing medical examination or treatment.)

545.43 **Postal Physician or Contract Equivalent**

A postal physician or contract equivalent may provide initial medical treatment not to exceed two office visits if:

- a. The employee accepts such treatment.
- b. Treatment complies with EL-806, *Health and Medical Service*, and with OWCP regulations and directives.

545.44 Outside Treatment in a Nonemergency Situation

In a nonemergency situation, if an employee does not accept treatment at a Postal Service occupational health services office or contract facility, the employee may select a physician or hospital within approximately 25 miles of his or her home or worksite. The physician's office should be contacted by telephone by the control office or control point to determine if the physician is available and will accept the employee for treatment under FECA. If not, the employee must select another qualified physician or hospital.

A postal supervisor is not authorized to accompany the employee to a medical facility or physician's office in nonemergency situations.

Although the injured employee selects an outside physician for initial medical treatment, in nonemergency situations he or she may be required first to be examined by a postal physician or contract equivalent. In such instances:

- a. The examination must be performed promptly following the report of injury.
- b. Form CA-16, *Authorization for Examination and/or Treatment*, must be issued to the employee's physician of choice promptly following the report of injury, as specified in 545.2.
- c. The examination must in no way interfere with the employee's right to seek prompt examination and/or treatment from a physician of choice.

545.45 Continuing Treatment With Postal Service or Contract Physician

If treatment with a contract physician will exceed two visits, the employee may continue treatment with a postal or contract physician provided the employee designates that person as his or her physician of choice.

Form CA-16, *Authorization for Examination and/or Treatment*, must be completed in accordance with 545.2.

545.5 Monitoring the Employee's Medical Care

In all cases reported to OWCP, a medical report from the attending physician is required. The report should bear the physician's signature or signature stamp. OWCP may require an original signature on the report. The employee's treating physician or hospital must, as soon as possible after medical examination or treatment is received, submit a report indicating the extent of disability affecting the employee's ability to work due to the injury. Use of OWCP medical report forms is not required. Form CA-16 may be used for the initial medical report, and Form CA-20 may be used for the initial report and for subsequent reports. The report may also be made in narrative form on the physician's letterhead stationery. The report must be submitted directly to OWCP by the physician or the employee. The control office or control point may request a copy of the report from OWCP or the physician.

In claims involving COP, medical evidence supporting disability resulting from a claimed traumatic injury, including a statement as to when the employee can return to his or her date-of-injury job, must be provided to the control office or control point within 10 calendar days after the employee files the claim. (See 545.724 for COP entitlement.) Form 2488, *Authorization for*

Medical Report, may be used to obtain release of a medical report from the attending physician.

545.51 **Medical Report Requirements**

The medical report should include:

- a. Dates of examination and treatment.
- b. History given by the employee.
- c. Physical findings.
- d. Results of diagnostic tests (MRI, CAT scans, etc.).
- e. Diagnosis.
- f. Course of treatment.
- g. A description of any other conditions found but not due to the claimed injury.
- h. The treatment given or recommended for the claimed injury.
- i. The physician's opinion, with medical reasons, as to causal relationship between the diagnosed conditions and the factors or conditions of the employment.
- j. The extent of disability affecting the employee's ability to work due to the injury.
- k. The prognosis for recovery.
- l. All other material findings.

545.52 **Determining Return to Work Capability**

The control office or control point must monitor the employee's medical progress and determine return to work capability by obtaining periodic medical reports. Form CA-17 may be used for this purpose. This form:

- a. Enables the Postal Service to provide the attending physician of an employee injured on duty with a brief summary of that employee's normal work duties.
- b. Provides a checklist of physical requirements to permit the attending physician to indicate to the Postal Service what types of duties an injured employee may safely perform, and with what limitations. The control office or control point completes Part A of Form CA-17 before it is issued to the attending physician for completion. Particular attention should be given to Item 7, Description of Regular Work.
- c. Is used to facilitate an injured employee's return to suitable employment.

To aid in returning an injured employee to suitable employment, the control office or control point may also contact the employee's physician in writing concerning the work limitations imposed by the effects of the injury and possible job assignments. However, FECA prohibits contacting the physician by telephone or through a personal visit except for administrative purposes such as determining whether a fax has been received or ascertaining the date of a medical appointment. A copy of all written correspondence to the employee's physician and any response received must be sent to the OWCP

and the employee. The employee may be contacted at reasonable intervals to request periodic medical reports concerning return to work potential.

545.53 **Review of Medical Treatment**

Postal Service personnel must not interfere with the medical care prescribed by the employee's attending physician. Questions concerning the duration or type of medical treatment may be referred to the postal physician, occupational health nurse administrator, or contract physician for review.

If the employee's treating physician or hospital is unable to predict an employee's work capacity on either a short-term or long-term basis, the control office or control point may request information from OWCP. If the OWCP response does not explain the situation, a fitness-for-duty examination may be recommended to the installation head, Human Resources manager, or designee as provided in 545.61.

The Injury Compensation manager or authorized control office or control point personnel must refer to OWCP on a case-by-case basis, recommendations and supporting documentation regarding:

- a. Change of the treating physician.
- b. Use of a medical consultant or specialist by OWCP to clarify medical opinion and/or resolve a material difference in medical opinion.
- c. Employee's achievement of maximum medical improvement.
- d. Employee's fitness for full or limited duty.

Any disagreement or delay regarding the recommendations or proposals made to OWCP may be brought to the attention of OWCP district director through the area human resources analyst for injury compensation.

545.6 **Fitness for Duty Examinations**

545.61 **General**

The fact that an injured or ill employee is scheduled for a series of treatments or appointments with a physician or hospital does not, by itself, establish that the employee is not fit for duty in the interim. Control office or control point personnel may recommend to the installation head, Human Resources manager or designee at any time, upon medical justification, that any employee being treated by a physician or hospital be required to undergo a fitness-for-duty examination. An installation head, Human Resources manager, or designee is authorized to approve a fitness-for-duty examination.

545.62 **Fitness-for-Duty Procedures**

The following procedures apply only to fitness-for-duty determinations relative to an on-the-job injury or illness. Fitness-for-duty determinations for other purposes are not covered by this instruction.

A fitness-for-duty examination is not limited to the employee's regular duties, but should be based on whether the employing installation has any alternative duties available that the employee may safely perform.

A fitness-for-duty examination may include the parts of the anatomy being treated provided the examination in no way disturbs or interferes with the treatment regimen.

545.63 **Fitness-for-Duty-Results**

The results of this examination must be brought to the attention of the OWCP district office for consideration.

545.64 **Difference in Medical Opinion**

If the results of the fitness-for-duty examination disagree with the findings of the attending physician, and the disagreement cannot be resolved with the attending physician, the matter, along with justification for the Postal Service position, is referred by the control office or control point to OWCP for resolution. No administrative action may be taken to change the employee's compensation or employment status until the medical issue is settled by OWCP.

545.7 **Continuation of Pay by the Postal Service**

545.71 **General**

FECA provides that the employer must continue regular pay during periods of disability up to a maximum of 45 calendar days for eligible employees who sustain traumatic injuries. Employees are not required to use their own sick or annual leave, unless the provisions of 545.73 or 545.74 apply.

545.72 **Eligibility**

545.721 **Initial Disability for a Traumatic Injury**

To be eligible for COP, an employee must:

- a. Have a traumatic injury.
- b. File Form CA-1 within 30 days of the date of the injury and elect COP.
- c. Begin losing time from work within 45 days of the injury.

545.722 **Recurrence of Disability**

In recurrence of disability cases, an employee is eligible for any balance of the 45 days of entitlement to COP not used during prior periods of disability provided that:

- a. The employee completes Form CA-2a and elects to receive COP.
- b. OWCP did not deny the original claim for disability.
- c. The disability recurs and the employee stops work within 45 days of the time he or she first returned to work following the initial period of disability.
- d. Pay has not been continued for the entire 45 days.

545.723 Exclusions

FECA excludes authorization of COP to members of the following groups:

- a. Persons rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay.
- b. Volunteers.
- c. Individuals in work-study programs.
- d. Grand or petit jurors (unless otherwise federal employees).

545.724 Employee Responsibility

To ensure continuing eligibility for COP, an employee must:

- a. Complete and submit Form CA-1 to the employing agency as soon as possible, but no later than 30 days from the date the traumatic injury occurs.
- b. Ensure that medical evidence supporting disability resulting from the claimed traumatic injury is provided to the employer upon receipt from the attending physician, but no later than 10 calendar days after filing the claim for COP. The report from the physician must include a statement as to when the employee can return to the date-of-injury job.
- c. Ensure that relevant medical evidence is submitted to OWCP and cooperate with OWCP in developing the claim.
- d. Ensure that the treating physician specifies work limitations and provides them to the employer.
- e. Provide the treating physician with a description of any specific alternative positions offered by the Postal Service to the employee and ensure that the treating physician responds promptly to the control office or control point with an opinion as to whether and how soon the employee can perform that or any other specific duties.

545.73 Controversion of COP**545.731 Definition of Controversion**

Controversion means to dispute, challenge, or deny the validity of a claim. The Postal Service may controvert a claim by completing the indicated portion of Form CA-1 and submitting detailed information in support of the controversion to OWCP (see 545.75).

545.732 Controversion With COP Withheld

The Postal Service controverts (i.e., challenges or disputes validity) a claim and does not authorize COP when any one of the following circumstances is present:

- a. The disability was not caused by a traumatic injury.
- b. No written claim was filed within 30 days from the date of injury.
- c. The injury was not reported until after employment had been terminated.
- d. The injury occurred off the employing agency's premises *and* was otherwise not within the performance of official duties.

- e. The injury was caused by the employee's willful misconduct or intent to bring about injury or death to self or another person, or was proximately caused by the employee's intoxication by alcohol or illegal drugs.
- f. The first absence caused by the injury occurred 45 days or more after the injury.

545.733 **Controversion With COP Provided**

In all situations, except as described in 545.732 above, the employer may controvert entitlement to COP, but must continue the employees regular pay pending a final determination by OWCP. OWCP has the exclusive authority to determine questions of entitlement and all other issues relating to COP.

545.74 **Stopping COP**

545.741 **Circumstances for Stopping COP**

After payment of COP is initiated, it may be stopped only when one of the following circumstances is present:

- a. Medical evidence supporting disability due to a work-related injury is not received within 10 calendar days after the claim is submitted (unless the results of the accident investigation shows disability to exist).
- b. The medical evidence from the treating physician shows that the employee is not disabled from the date-of-injury position.
- c. Medical evidence from the treating physician shows that the employee is not totally disabled and the employee refuses a written job offer that is approved by the attending physician.
- d. The employee returns to work with no loss of pay.
- e. The employee's period of employment expires or employment is otherwise terminated as established prior to the date of injury (i.e., a casual or other employee with a specific term of employment). (See explanation in 545.743.)
- f. Termination of employment is established prior to the date of injury.
- g. OWCP directs the employer to stop COP.
- h. COP has been paid for 45 calendar days.

The control office or control point must file a controversion with OWCP setting forth the basis on which COP is stopped, no later than the effective date of the termination.

545.742 **Relation to Disciplinary Action**

COP may not be interrupted or stopped because of a disciplinary action, unless a preliminary notice was issued to the employee before the date of injury and the action becomes final or otherwise takes effect during the COP period.

545.743 **Stopping Continuation of Pay for Temporary Employees**

In cases where casuals or other employees with specific terms of employment are injured, COP is awarded only through the end of their appointment; for example, if a casual employee is hired for 90 days and becomes injured on the 85th day, then COP is covered only through the 90th

day; or, if an employee is hired for an appointment not to exceed 90 days and the appointment is changed to 60 days because of lack of work prior to the date that the injury occurred, then COP is awarded through the 60th day.

Note: If an employee is terminated as per 545.741 or 545.742, such an employee may file for compensation effective the date of termination.

545.75 **Controversion Package**

Proper identification of controverted claims is essential to permit the OWCP to give these claims priority in processing and to avoid the possibility of substantial, erroneous payments of regular pay. If a written explanation of the controversion is not submitted, OWCP may accept as factual the employee's report of injury.

When a claim is controverted, the control office or control point must ensure that the following actions are taken:

- a. CA-1 must be properly completed and the controversion package must be adequately documented. Item 36 on the CA-1 should be clearly marked and a full explanation for the basis of the controversion provided.
- b. Each case must be tailored to the facts; form letters and repetitive formats must be avoided. All controversion packages must be transmitted to OWCP district office by a cover letter with detailed information on the reasons for the controversion.
- c. If additional information in support of the controversion is to be sent at a later date under a separate cover, this must be stated along with the date this information will be submitted in the cover letter and in Item 36 on the CA-1 before the package is submitted to OWCP district office.
- d. Submission of Form CA-1 to OWCP must not be delayed, under any circumstances, pending the collection of data to support a controversion. Form CA-1 must be promptly sent to OWCP office with a notation on the CA-1 and a cover letter advising that the claim is being controverted and that information to support the controversion is forthcoming.
- e. The employee, employee beneficiary, or representative must be furnished with a written explanation for the basis of the controversion.

545.76 **Adjudication Process**

Proceedings conducted with respect to claims filed under FECA are not adversarial in character. Accordingly:

- a. The Postal Service does not have the right to actively participate in the claims adjudication process. However, the Postal Service may investigate the circumstances surrounding an injury to an employee and the extent of the disability (e.g., the Postal Service may investigate an employee's activities where it appears the employee who is alleging total disability may be performing other employment or the employee may be engaging in activities that would indicate less than total disability).

- b. The Postal Service has the responsibility to submit to OWCP, at any time, all relevant and probative factual and medical evidence in its possession or evidence that it may acquire through investigation or other means. OWCP considers and acts upon all evidence submitted by the Postal Service and informs the claimant, the claimant's representative, and the Postal Service of such action.
- c. In those instances where the Postal Service contests a claim at the time of the initial submission and the claim is subsequently approved, OWCP must notify the Postal Service of the rationale for approving the claim.

545.77 **Controversion Denied by OWCP**

If a controversion is denied by OWCP, the control office or control point may submit a copy of the CA-1 and all other relevant documents to the area human resources analyst for injury compensation, or designee, for review and any necessary resubmission, if warranted. Cases that are not resolved to the satisfaction of field management may be forwarded to the area human resources analyst for injury compensation with a request for further action.

545.78 **Overpayment Determination**

In the event of an overpayment, OWCP determines the period of absence from the job that resulted in the overpayment in the course of adjudication of the claim. The control office or control point and the employee are notified of the period of disability that is approved by OWCP.

545.8 **Compensation by OWCP for Disability**

545.81 **Initial Period of Compensation**

545.811 **Traumatic Injury**

If medical evidence shows that disability resulting from a traumatic injury is expected to continue beyond 45 days of COP and compensation from OWCP is desired after the expiration of the 45-day period, the employee and the control office or control point personnel give the employee a Form CA-7 by day 30 of the COP period. The employee completes the front side of the Form CA-7 and the control office or control point completes the reverse side. The completed form and any accompanying medical documentation is then filed with the OWCP district office by day 40 of the COP period.

Note: An employee may file Form CA-7 to claim compensation for initial periods of disability for which there is no entitlement to COP.

545.812 **Occupational Disease or Illness**

If the disability is a result of an occupational disease or illness, a Form CA-7 is completed and submitted to OWCP not more than 5 working days after receipt from the employee.

545.82 Subsequent Periods of Compensation

In instances of either traumatic injury or occupational disease or illness, subsequent claims of compensation for periods of disability beyond the initial period of compensation are also made on Form CA-7. Employees are responsible for submitting the CA-7. Without receipt of such a claim, OWCP has no knowledge of a continuing wage loss. Therefore, while disability continues:

- a. The employee submits a claim using Form CA-7 every 2 weeks until the employee is otherwise instructed by OWCP.
- b. The employee completes and signs the face of the form and the control office or control point completes the reverse side.
- c. The employee is responsible for submitting or arranging for the submission of medical evidence in support of the claim (see 545.33 and 545.51).
- d. The control office or control point forwards the completed Form CA-7 and any other accompanying medical reports to OWCP within 5 working days upon receipt from the employee.

545.83 Waiting Period

The employee is advised that there is a waiting period of 3 calendar days before OWCP compensation begins, unless the disability extends beyond 14 calendar days. The 3-day waiting period may not be satisfied by using sick or annual leave; the employee must be in a nonpay status.

The waiting period applies as follows:

- a. In the case of an occupational disease or illness, compensation is not payable for the first 3 days of disability, unless the disability extends beyond 14 calendar days.
- b. In the case of traumatic injury, the 3-day waiting period begins immediately after the end of the 45-day COP period, unless the disability continues for more than 14 calendar days after the expiration of the 45-day COP period.

545.84 Leave Buy-Back

An employee may use sick or annual leave after the COP period expires, or during a period of disability due to an occupational injury. In such cases, the employee may be entitled to buy back the leave with compensation payments (see 512.923). The control office is responsible for informing employee, in writing, that:

- a. The buy-back must be initiated within 1 year of the return to duty, or within 1 year of the date OWCP approved the claim, whichever is later.
- b. Employees who are being separated because of disability or other reasons cannot buy back leave after they are off the rolls of the Postal Service.

545.9 Managing Extended Leave Cases**545.91 General**

An employee who suffers job-related injury or illness for which OWCP compensation is being received should be granted leave without pay because of injury on duty (LWOP/IOD) for an initial period of up to 1 year from the date OWCP compensation begins.

545.92 Deciding Appropriate Action

In considering the action to take in matters involving extended leave, the control office or control point evaluates the information contained in the employee's injury compensation file and does one of the following:

- a. Authorizes a fitness-for-duty examination as provided in 545.6.
- b. Extends LWOP/IOD for an additional period, at the end of which an additional determination must be made. If the employee is unable to return to work at the end of the 1-year period on LWOP/IOD, the LWOP/IOD may be extended for successive additional periods of up to 6 months. Extensions are granted only if it appears that the employee is likely to return to work within the period of the extension.
- c. If it is not likely that the employee will be able to return to work at the end of 1 year of LWOP/IOD or during the authorized extended period, the employee may be separated. Before any employee who is on the rolls of OWCP can be separated, the requesting official must submit a comprehensive report to the manager of Health and Resource Management at Headquarters through the area human resources analyst for injury compensation with appropriate recommendations and documentation. The employee must be retained on the rolls of the Postal Service pending approval from Headquarters.

545.93 Separation — Disability

After receiving permission from the Health and Resource Management manager at Headquarters, the requesting official initiates the separation action in accordance with 365.

546 Reassignment or Reemployment of Employees Injured on Duty**546.1 Law****546.11 General**

The Postal Service has legal responsibilities to employees with job-related disabilities under 5 U.S.C. 8151 and the Office of Personnel Management's (OPM) regulations as outlined below.

546.12

546.12 Disability Fully Overcome Within One Year**546.121 Obligation**

A current or former career employee who fully recovers from an injury or disability within 1 year of initial or recurrent compensation must be given the right to resume employment in the former or equivalent position.

546.122 Rights and Benefits

Upon reemployment, all rights and benefits that would have been acquired in the former position must be restored.

546.13 Disability Fully Overcome After More Than One Year**546.131 Obligation**

When a current or former employee fully overcomes the injury or disability more than 1 year after compensation begins, the Postal Service must give the current or former employee priority consideration for reassignment or reemployment into the former position or an equivalent one. The names of all former employees who fully recover from their compensable disabilities more than 1 year after compensation begins must be entered on a reemployment list in two groups:

- a. Group one includes all those former employees who are entitled to 10-point veteran preference. They must be considered for employment before persons in group two.
- b. Group two includes all other former employees who fully recover from their compensable disabilities in more than 1 year. They must be considered before other sources of recruitment, such as transfers from other agencies, reinstatements, or appointments from hiring registers.

546.132 Rights and Benefits

Rights and benefits are the same as those outlined in 546.122.

546.14 Disability Partially Overcome**546.141 General**

The procedures for current employees cover both limited duty and rehabilitation assignments. Limited duty assignments are provided to employees during the recovery process when the effects of the injury are considered temporary. A rehabilitation assignment is provided when the effects of the injury are considered permanent and/or the employee has reached maximum medical improvement.

546.142 Obligation

When an employee has partially overcome the injury or disability, the Postal Service has the following obligation:

- a. *Current Employees.* When an employee has partially overcome a compensable disability, the Postal Service must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerance (see 546.611). In assigning such limited duty, the Postal Service should minimize any adverse or disruptive impact on the employee. The following

considerations must be made in effecting such limited duty assignments:

- (1) To the extent that there is adequate work available within the employee's work limitation tolerances, within the employee's craft, in the work facility to which the employee is regularly assigned, and during the hours when the employee regularly works, that work constitutes the limited duty to which the employee is assigned.
 - (2) If adequate duties are not available within the employee's work limitation tolerances in the craft and work facility to which the employee is regularly assigned within the employee's regular hours of duty, other work may be assigned within that facility.
 - (3) If adequate work is not available at the facility within the employee's regular hours of duty, work outside the employee's regular schedule may be assigned as limited duty. However, all reasonable efforts must be made to assign the employee to limited duty within the employee's craft and to keep the hours of limited duty as close as possible to the employee's regular schedule.
 - (4) An employee may be assigned limited duty outside of the work facility to which the employee is normally assigned only if there is not adequate work available within the employee's work limitation tolerances at the employee's facility. In such instances, every effort must be made to assign the employee to work within the employee's craft within the employee's regular schedule and as near as possible to the regular work facility to which the employee is normally assigned.
- b. *Former Employees.* When a former employee has partially recovered from a compensable injury or disability, the Postal Service must make every effort toward reemployment consistent with medically defined work limitation tolerances. Such an employee may be returned to any position for which he or she is qualified, including a lower grade position than that which the employee held when compensation began.

Note: Placement priority for rehabilitation assignment is the same as for limited duty.

546.143 **Rights and Benefits Upon Partial Recovery**

When a current or former employee has partially overcome the injury or disability, he or she has the following rights and benefits upon reassignment or reemployment:

- a. *Seniority.* Former employees who are reemployed into bargaining unit positions or current career employees who are reassigned into such positions are credited with seniority in accordance with the collective bargaining agreements covering the position to which they are assigned.

- b. *Probationary Period.* Reemployed individuals who have completed their probationary periods, or would have completed their probationary periods but for their compensable injuries, are not required to serve a new probationary period.
- c. *Leave Credit.* For purposes of computing leave rate accrual, former employees who were eligible to accrue leave under 510 are credited upon reemployment with the total time compensation was received from OWCP.
- d. *Retirement.* Former employees (not reemployed annuitants) who were covered by the Civil Service Retirement Act (see 560) or Federal Employees Retirement System (see 580) are credited with the time spent on OWCP compensation in computing retirement credit. Annuitants who are reemployed after a period of separation during which they received OWCP benefits in lieu of an annuity receive credit for the separation only after they have qualified for a redetermination of the annuity. (For additional information on retirement considerations see the federal *CSRS/FERS Handbook*, Chapter 102.
- e. *Salary Determination.* The following salary restoration criteria must be met for both reemployment and reassignment actions:
 - (1) *Reassignment or Reemployment to the Former Grade or Step in the Same Salary Schedule.* Those individuals who are reemployed into a position with the same grade or step as held at the time of injury or disability receive the current salary for that grade and the step that they would have acquired if there had been no injury or disability.
 - (2) *Reassignment or Reemployment to a Higher Grade Step in the Same Salary Schedule.* Those individuals who are reemployed to a position with a grade higher than that of the position held at the time of injury or disability are placed in the higher grade at the current salary for the grade or step that they would have acquired if there had been no injury or disability. If that salary is between steps in the higher grade, their salary is increased to the next higher step.
 - (3) *Reassignment or Reemployment to a Lower Grade or Step in the Same Salary Schedule:*
 - (a) *Salary Below Maximum of Lower Grade.* The individual is placed in any higher step in the lower grade that is less than one full step above the current salary for the grade or step that he or she would have acquired if there had been no injury or disability.
 - (b) *Salary Above Maximum of Lower Grade.* In those cases where the current salary for the grade that the individual would have acquired if there had been no injury or disability exceeds the maximum salary of the lower grade position, he or she is afforded a saved rate at the higher grade or step salary. These saved-rate provisions apply for an

- indefinite period and are subject to the rules of the salary schedule to which assigned for the following employees:
- (i) Current career employees who have accepted a permanent rehabilitation job offer and are reassigned to a lower grade due to a job-related injury.
 - (ii) Former career employees who are being reemployed under 546.142b.
 - (iii) Limited duty career employees.
- (4) *Reassignment or Reemployment to a Position in a Different Salary Schedule.* When an individual is reemployed or reassigned to a position in a salary schedule that is different from the schedule under which he or she was paid at the time of injury or disability, he or she is treated under the rules applicable to the salary schedule to which reemployed or reassigned:
- (a) The individual is reemployed or reassigned at the grade appropriate for the position to which reemployed or reassigned.
 - (b) The individual is placed in any higher step in the new grade that is less than one full step above the current salary for the grade or step that he or she would have acquired if there had been no injury or disability.
 - (c) If reemployment or reassignment is in a nonstep schedule, the individual is placed at a salary plus any salary increases the he or she would have acquired if there had been no injury or disability. Bargaining unit merit salary increases are based on the most recent performance rating prior to the injury or disability.
 - (d) If the current salary for the grade that the individual would have acquired if there had been no injury or disability exceeds the maximum salary of the new grade, he or she is given a saved rate. These saved-rate provisions apply for an indefinite period and are subject to the rules of the salary schedule to which assigned.
- (5) *Reassignment or Reemployment to a Former Position Under Different Salary Schedule.* If the position held at the time of injury or disability is no longer under the same salary schedule, the current salary for the former grade or step is determined by:
- (a) The manager of Corporate Personnel Management for Headquarters and Headquarters field unit positions.
 - (b) The area Human Resources manager for area positions.
 - (c) The district Human Resources manager for other field positions.
- (6) *Step Increases.* Upon reemployment or reassignment, the partially recovered and permanently partially disabled individuals are assigned a new waiting period for step or merit increases. The date assigned is based on the effective date for the most

recent step, merit, or equivalent increase the individual would have acquired if there had been no injury or disability.

546.144 **Relocation Consideration**

Factors considered when relocation of a former employee is proposed include the following:

- a. *Scope.* Every effort must be made to reemploy the individual at a postal facility within the area of his or her present place of residence. Any offer to reemploy in a different location can be considered only after all reasonable attempts have been made to rehire within the area of the employee's present place of residence.
- b. *Expenses.* If an individual accepts a reemployment offer but will incur relocation expenses as a result of this acceptance, any expenses that OWCP determines reasonable and necessary may be paid by OWCP from the Employees' Compensation Fund.

546.2 **Collective Bargaining Agreements**

546.21 **Compliance**

Reassignment or reemployment under this section must be in compliance with applicable collective bargaining agreements. Individuals so reassigned or reemployed must receive all appropriate rights and protection under the newly applicable collective bargaining agreement.

546.22 **Contractual Considerations**

546.221 **Scope**

Collective bargaining agreement provisions for filling job vacancies and giving promotions and provisions relating to retreat rights due to reassignment must be complied with before an offer of reassignment or reemployment is made to a current or former postal employee on OWCP rolls for more than 1 year.

546.222 **Reassignment or Reemployment**

A partially recovered current or former employee reassigned or reemployed to a different craft to provide appropriate work must be assigned to accommodate the employee's job-related medical restrictions. Such assignment may be to a residual vacancy or to a position uniquely created to fit those restrictions; however, such assignment must not impair seniority rights of PTF employees. Minimum qualification requirements, including written examinations, may be waived in individual cases for former or current employees injured on duty and being considered for reemployment or reassignment. When there is evidence (including that submitted by the postal physician or occupational health nurse administrator) that the employee can be expected to perform satisfactorily in the position within 90 days after assignment, a waiver may be granted by one of the following:

- a. The vice president of Employee Resource Management for Headquarters and Headquarters field unit positions.
- b. An area Human Resources manager for area positions.
- c. A district Human Resources manager for other field positions.

546.23 Types of Appointments

Types of appointments available include the following:

- a. A current full-time career employee may be reassigned to a full-time career position if his or her job-related medical condition permits.
- b. A current or former part-time flexible career employee may be reassigned or reemployed to a part-time flexible career position.
- c. A current or former noncareer employee may be reassigned or reemployed to the position held previously or, upon satisfactory demonstration of the ability to meet the job requirements and in accordance with the appropriate collective bargaining agreement, may be reassigned or reemployed to another noncareer position or noncompetitively converted to a career position (NOA 501). Approval for conversion actions from noncareer to career must be approved by the manager of Health and Resource Management at Headquarters prior to any Form 50 action.

546.3 Restoration Rights

OPM is responsible for implementing the regulations contained in 5 U.S.C. 8151. These regulations are codified in 5 CFR 353. In accordance with 5 U.S.C. 8151(a), an individual injured or disabled on duty who resumes employment with the Postal Service is to be credited with the time during which compensation was received for purposes of certain rights and benefits based upon length of service.

546.4 Employee Appeal Rights

Current or former employees who believe they did not receive the proper consideration for restoration, or were improperly restored, may appeal to the Merit Systems Protection Board under the entitlements set forth in 5 CFR 353.

546.5 Retirement Considerations

Reemployment of retired annuitants requires special retirement considerations that must be addressed (see 323.3). Injury Compensation control office personnel should coordinate the reemployment of annuitants with the appropriate appointing official.

546.6 Reassignment and Reemployment Procedures**546.61 OWCP Referrals**

OWCP makes referrals of current and former postal employees to the Postal Service for reassignment or reemployment consideration.

546.611 Work Limitation Tolerances

The work limitations are established by the employee's treating physician or a physician selected by OWCP and afforded weight of medical evidence.

546.612 OWCP Vocational Rehabilitation Services

OWCP may provide vocational rehabilitation services that include assistance from registered nurses. The nurses may visit the worksite to ensure that the duties of an offered position do not exceed the medical limitations as represented by the weight of medical evidence established by OWCP and address any problems the employee may have in adjusting to the work setting. Other vocational rehabilitation services include evaluation, testing, training, and placement services with either the Postal Service or a new employer. These services may include functional capacity evaluations, which help to tailor individual rehabilitation programs to employee's physical reconditioning and behavioral modification needs and to help employees to meet the demands of current or potential jobs.

546.62 Postal Service Medical Review**546.621 Physical Examination**

Provisions applicable to physical examinations are as follows:

- a. The postal physician or occupational health nurse administrator evaluates fully all medical records referred to the Postal Service from OWCP district offices.
- b. A complete physical examination paid for by the Postal Service is required for former employees. A physical examination for current employees is not mandatory. The result of the physical examination is documented on Form 2485, *Medical Examination and Assessment*, and on Form 2489, *Identification of Physical/Mental Disability*.
- c. The postal physician or occupational health nurse administrator makes a statement of concurrence with OWCP-documented medical limitations or further restricts the current or former employee's work limitation tolerances. The postal physician or occupational health nurse administrator can in no way liberalize the medical limitations tendered by OWCP district offices.

546.622 Special Considerations

Special considerations are as follows:

- a. An individual who is referred for reassignment or reemployment consideration by OWCP may have some degree of concurrent disability that is not caused by or related to the original job injury or disability. The postal physician or occupational health nurse administrator should review medical documentation for any concurrent medical condition that might prevent the individual from performing the duties of the position for which the individual is being considered.
- b. The postal physician or occupational health nurse administrator should carefully evaluate all concurrent disabilities and include their potential impact in the recommendation for reassignment or reemployment sent to the appointing official.
- c. Current and former employees now permanently and partially disabled may have some type of residual handicap. The postal physician or occupational health nurse administrator who reviews the physical examination and/or medical documentation is responsible for assigning

the correct handicap code as defined in Handbook EL-301, *Guidelines for Processing Personnel Actions*.

546.63 **Offer of Appointment**

546.631 **Evaluation**

Upon receipt and evaluation of OWCP referral containing documented medical limitations and evaluation of the postal physician's or occupational health nurse administrator's recommendations, the appointing official determines if a reassignment or reemployment offer can be made.

546.632 **Interview**

During the return to work interview, the appointing official must ensure that the individual receives the following information:

- a. In-depth analysis of medical limitations and the individual's responsibility to work within the prescribed work limitation tolerances.
- b. If applicable, the status of injury compensation and disability retirement benefits and future eligibility.
- c. A full explanation of all restoration rights and benefits (see 546.143 and 546.3).
- d. Full particulars regarding the position including title, duties, grade, salary, location of work assignment, and all other information required in a return to work interview (see Handbook EL-311, *Personnel Operations*).
- e. Instructions for completion and submission of any required employment forms.

546.633 **Processing Personnel Actions**

The appointing official is responsible for processing the reassignment or reemployment action in accordance with Handbook EL-301, *Guidelines for Processing Personnel Actions*.

546.64 **Employee's Refusal of Job Offer**

When a current or former employee is offered suitable employment or reemployment by the Postal Service (i.e., employment or reemployment that OWCP has deemed suitable), that individual is obligated to return to such employment (see 544.3). However, if the current or former employee refuses an offer of suitable employment or reemployment, the control office or control point must:

- a. Offer the individual an opportunity to sign a declination of employment.
- b. Advise the individual that the effect of such a refusal may result in the termination or reduction of compensation benefits by the Department of Labor.
- c. Notify OWCP district office by telephone, fax or, email of the declination and the reasons given.
- d. Within 2 working days, forward a full written summary of the current or former employee's interview, including the signed declination and medical evaluations or other pertinent information, to OWCP district

office. OWCP is responsible for notifying the Office of Personnel Management if the individual's disability retirement status is to be evaluated.

546.65 **Management's Refusal to Reemploy**

The appointing official may not be able to accommodate the former employee for medical reasons or other considerations. If the former employee will not be reemployed, the appointing officer must:

- a. Notify the district manager or postmaster with written justification stating specific reasons for refusal to reemploy. If the district manager or postmaster agrees with the appointing officer's refusal to reemploy, then he or she must seek final concurrence from the manager of Health and Resource Management at Headquarters through the area human resources analyst for injury compensation.
- b. With the final concurrence, notify the employee in writing of the refusal to employ, including a paragraph informing the individual of the right to appeal to the Merit Systems Protection Board, and send a copy to OWCP.

547 **Third Party Liability**

547.1 **Purpose**

This section instructs control office or control point personnel on how to collect damages from a third party who is responsible for causing an injury to a postal employee who receives benefits under the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101-50, as a result of that injury.

547.2 **Background**

547.21 **Requirement to Take Action**

FECA provides that if the injury or death (which is compensable under the Act) is caused by a third party, the claimant can be required to take action against that third party. The Office of the Solicitor of Labor (SOL) is delegated authority to administer the subrogation aspects of certain FECA claims for OWCP. Either OWCP or SOL can require an employee receiving benefits under FECA to do one of the following:

- a. Assign to the United States any right of action he or she may have to force the third party to pay damages or assign any right the employee may have to share in money received in satisfaction of a liability claim.
- b. Prosecute the action in his or her own name.

547.22 **Penalty for Refusal**

Any employee who refuses to assign right of action to the United States or to prosecute an action in his or her own name when required to do so by the secretary of the Department of Labor (DOL) may be denied compensation by DOL.

547.23 Postal Service Administrative Pursuit

The agreement between the director of OWCP and the Postal Service provides that to more efficiently and effectively accomplish the stated purpose of FECA, OWCP agrees that the Postal Service may administratively pursue collection of damages from the third party who is responsible for the injury sustained by a Postal Service employee in all cases of traumatic injury except in any of the following cases:

- a. When the injury results in the death of the employee.
- b. When the injury occurs outside of the United States or Canada.
- c. When the third party is a common carrier.
- d. When malpractice or product liability is involved.
- e. When injuries are sustained by more than one employee in the same incident (group injuries).

547.3 Definitions and Use of Terms

The definitions in this section apply to 547 only and are not included under 541.2. They do not change the terms of the Act, the regulations of the Department of Labor, or other sections of the ELM.

- a. *Assignment* — a written agreement whereby the employee or beneficiary transfers his or her right to recover damages from a third party to the Postal Service and such offer is accepted by the Postal Service.
- b. *Legal liability* — a determination that a third party is responsible for the payment of money damages to an injured employee.
- c. *Negligence* — the failure of a third party to act as an ordinary prudent person would act under the same or similar circumstances and such failure is the proximate cause of an injury to an employee.
- d. *Prosecute* — any action taken to recover damages from the third party.
- e. *Serious injury* — a personal injury that results in death, dismemberment, significant disfigurement, a fracture, or permanent loss of use of a body organ, member function, or system.
- f. *Third party* — a person or organization, other than the United States and its agencies, who is believed to be responsible for injury to a postal employee while in the performance of employment.
- g. *Tort* — a wrongful act committed by a third party that is done intentionally or negligently and that causes injury to an employee.

547.4 Responsibility

The Injury Compensation control office carries out the responsibilities outlined in these instructions. At installations that do not have an Injury Compensation control office, the Injury Compensation manager designates a qualified control point supervisor responsible for coordinating these instructions with the control office. The Injury Compensation manager must ensure that control point personnel are properly trained to carry out the responsibility of making third party recoveries.

547.5 Third Party Recovery Action**547.51 Traumatic Injury**

Upon receipt of Form CA-1, the control office or control point supervisor reviews the form to determine if a third party is involved in the injury to the employee and whether the third party could be responsible for the injury.

547.52 Occupational Illness or Disease

Third party cases for which a claim is filed on Form CA-2 must be identified and forwarded to OWCP. OWCP continues to be responsible for third party recoveries in these cases. The control office or control point supervisor monitors the progress of OWCP action and obtains periodic status reports until these cases are closed.

547.53 Potential Third Party Injuries

Although a third party recovery case can arise from many circumstances in which a third party's act or failure to act results in the injury or death of an employee, the most common circumstances are, but are not limited to, these:

- a. Automobile accidents.
- b. Animal attacks.
- c. Conditions that cause tripping, slipping, and falling on sidewalks, steps, and other portions of nonfederal property.
- d. Defective machinery, automobiles, and equipment.
- e. Physical attacks and other assaults.
- f. Defects in leased postal premises.

547.54 Investigation

When a possible third party recovery case is identified, the control office or control point supervisor should coordinate an investigation of the incident and do the following:

- a. If possible, obtain a detailed, written statement from:
 - (1) The injured employee, if the Form CA-1 is not sufficient to determine third party liability or is otherwise inadequate.
 - (2) Any witness to the incident.
 - (3) Any other person who may be acquainted with the facts or is identified as having pertinent information.
- b. Obtain the name, address, and telephone number of the third party.
- c. Obtain a detailed description of the place where the incident occurred, and all the circumstances concerning the incident.
- d. If an investigation of the incident was previously made by the local police, Postal Service Vehicle Services, Postal Service safety personnel, Inspection Service, or any other organization, obtain a copy of the reports and the investigative file.

- e. Consult Handbook PO-702, *Accident Investigation — Tort Claims*, for information and procedures regarding investigative techniques and guides.

547.55 **Notification**

In all cases when it appears that a third party recovery is a possibility, a completed Form 2562, *Injury Compensation Program — Notice of Potential Third Party Claim* (Exhibit 547.55), should be obtained from the injured employee. If the claim has already been submitted to OWCP, a copy of the completed form should be forwarded to that office with the employee's claim for benefits as soon as possible after it is received from the employee. (See 544 for submission of claims to OWCP.) Do not delay the submission of the claim to OWCP pending receipt of third party information. When OWCP is responsible for making the third party recovery (see 547.23), no action to recover should be taken by the control office.

547.56 **OWCP Responsibility**

In all cases in which OWCP is responsible for making a recovery, the control office or control point supervisor monitors the progress of OWCP's action and obtains periodic status reports until the case is closed. Any such cases that are closed without a payment from the third party are referred to the area human resources analyst for injury compensation for review and appropriate action.

547.56

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Exhibit 547.55 (p. 1)

Form 2562, Injury Compensation Program — Notice of Potential Third Party Claim

		Injury Compensation Program - Notice of Potential Third Party Claim		1. Date
A. Employee Information				
2. Name		3. Home Address (Include Apt. Number & ZIP + 4)		
4. Social Security Number				
5. Title		6. Home Phone (Include Area Code)		
7. Office of Employment		8. Contact Point at Employing Office (Name & Phone Number)		
B. Injury Information				
1. Date & Location of Injury		2. OWCP File Number		
3. Brief Description of Injury				
4. Name & Address of Attending Physician (Include Suite Number)				
5. Name & Address of Attorney Representing Employee (Include Suite Number)				
6. Wage Records, Medical Records, and Other Pertinent Information May Be Released to My Attorney.				
<input type="checkbox"/> Yes		<input type="checkbox"/> No		
C. Third Party Information				
1. Name		2. Address (Include Apt. Number and ZIP + 4)		
3. Does the Employee or Beneficiary(ies) Intend to Take Action Against the Third Party? (If "No", Explain Why Not)				
<input type="checkbox"/> Yes		<input type="checkbox"/> No		
4. Name & Address of Insurance Company (Include Suite Number)		5. Name & Address of Law Enforcement Agency Notified		
Prepared By (Printed Name & Signature)		Date Signed		
PS Form 2562, December 1988				

Exhibit 547.55 (p. 2)

Form 2562, Injury Compensation Program — Notice of Potential Third Party Claim

-
1. Complete this form whenever a third party (individual) is involved in an incident where a postal employee has applied for compensation benefits.
 2. A third party may be involved directly, as in a vehicle accident, or indirectly, as in designing or manufacturing an unsafe or defective machine.
 3. The employee or employee's beneficiaries are encouraged to seek recovery from a third party that they believe is responsible for the employee's work related injury. An injured employee or employee's beneficiaries who, when required by OWCP, fail to take action against a third party may become ineligible for injury compensation.
-

The Federal Employees' Compensation Act, as amended (5 USC 8101, et seq.), is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor. In accordance with this responsibility, the office collects and maintains personal information on claimants and their immediate families. The information will be used to determine eligibility for and the amount of benefits payable under the Act. The information may be used by other agencies or persons in handling matters relating, directly or indirectly, to the subject matter of the claim, so long as such agencies or persons have received the consent of the individual claimant, or have complied with the provisions of 20 CFR 10. In addition, this information may be disclosed to an appropriate law enforcement agency for investigative or prosecutive purposes, to a congressional office at your request, to OMB for review of private relief legislation, to a labor organization as required by the NLRA, and where pertinent, in a legal proceeding to which the Postal Service is a party. Failure to provide the information requested may delay the adjudication process, or result in an unfavorable decision or a reduced level of benefits (disclosure of your social security number is voluntary; the failure to disclose such number will not result in the denial of any right, benefit or privilege to which you may be entitled).

547.57 Postal Service Responsibility

When a third party collection responsibility has been assumed by the Postal Service, the control office or control point supervisor forwards copies of all letters issued together with other pertinent third party claim documents to OWCP district office. The control office or control point supervisor should then proceed as follows when the employee is represented by an attorney:

- a. If the answer to the question on Form 2562 "Does the employee or beneficiary(ies) intend to take action against the third party?" is Yes, and the Form 2562 or other information shows that the employee is represented by an attorney, forward the following to the employee's attorney:
 - (1) Sample letter A, *Notice to Attorney of Government's Lien* (Exhibit 547.57a), with the papers and forms referred to in that letter.
 - (2) Sample letter B, *Request for Status and Transmittal of Information* (Exhibit 547.57b).
- b. If a response to sample letter A is not received within 90 days after mailing, obtain a status report on the progress of the case by contacting directly the attorney who is representing the postal employee. Status reports from the postal employee's attorney should be obtained as frequently as is considered necessary by the control office or control point supervisor. If no reply is received from the attorney within 90 days after any request for a status report has been made, send a follow-up letter to the attorney. If there is no response after 15 days, contact the employee regarding status of cases. If recovery still has not been made, do one of the following:
 - (1) Contact your area human resources analyst for injury compensation or field general council for further guidance.
 - (2) Monitor progress if the case is still in the process of recovery.
- c. Upon receipt of notification from the postal employee's attorney that the case has been terminated, verify the nature of termination (i.e., with or without settlement).
 - (1) If the case is terminated without settlement, do one of the following:
 - (a) Attempt to obtain from the employee a voluntary assignment if the case has merit.
 - (b) If the attorney indicates that a suit for damages is unlikely to prevail, close the file and assist the employee in requesting release from his or her obligation to proceed. The request should be in writing and provide evidence of the attorney's opinion.
 - (2) If the case is settled, obtain settlement sheet, Form 2556, *Third Party Statement of Recovery* (Exhibit 547.57c), and payment due the Postal Service. Verify the accuracy of Form 2556 and forward settlement sheet in accordance with 547.73.

Exhibit 547.57a

Sample Letter A, Notice to Attorney of Government's Lien[date][name][street][city, state, ZIP]

File Number:

Employee:

Date of Injury:

Dear [name]:

We have been advised that you have been retained to represent the above-named employee with respect to the third party damage claim arising from the above-referenced injury. Copies of the reports contained in our file are enclosed for your information. If OWCP disbursements have been made in this case, you will also find a statement showing the disbursements made to date. Also enclosed is Form 2556, *Statement of Recovery*, for your use. Upon request, we will furnish you an updated statement of disbursements, or copies of additional reports.

If you have any questions concerning the third party aspect of this case, or the obligations and responsibilities to protect the government's lien imposed by Sections 8131 and 8132 of Title 5, United States Code, please contact [name] at [telephone no.].

Sincerely,

[signature][title][telephone no.]

Enclosures

cc: District Office, OWCP

547.57

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Exhibit 547.57b

Sample Letter B, Request for Status and Transmittal of Information[*__date__*][*__name__*][*__street__*][*__city, state, ZIP__*]File Number:
Employee:
Date of Injury:Dear [*__name__*]:

We will appreciate a report concerning the present status of this third party damage claim. If possible, advise the date that you expect the matter to be concluded.

We are enclosing copies of additional reports from our file which may be of assistance to you.

There is attached a statement of the disbursements made to the employee.

Sincerely,

[*__signature__*][*__title__*][*__telephone no.__*]

Attachment

cc: District Office, OWCP

Exhibit 547.57c (p. 2)

Form 2556, Third Party Statement of Recovery**Instructions**

(Disbursement must be made in accordance with 5 U.S.C. 8132. Also, provide the employee with a copy of this form.)

NOTE: Shaded area for USPS Use Only.)

Property Damage, (line 2): A reasonable amount for clothing or other personal belongings damaged or destroyed in an accident may be deducted. These amounts must be itemized. If an automobile or other vehicle is damaged or destroyed, then more tangible evidence of such damage is required. The year, make, model, and Blue Book value of the vehicle must be furnished. A copy of the repair bill will suffice if the vehicle was not totally destroyed.

Attorney's Fee, (line 4): Deduct the attorney's fee in line 4 from the balance shown in line 3. The attorney's fee as a percentage of line 3 must also be shown.

Court Costs, (line 6): These consist of such items as filing fees, witness fees, actual costs of collection, or any payments to physicians for expert testimony as opposed to payment for treatment. *(Payment for medical treatment comes under line 10 and/or 12.)* All items must be itemized.

20% Guarantee, (line 8): This amount is turned over to the claimant and is not subject to any deductions.

Public Health Service, (line 10): Refund made to a Federal medical facility for medical treatment is deductible under line 10. The claim of the Federal medical facility is separate and apart from the claim of the OWCP.

Medical Expense Paid By Claimant, (line 12): This consists of any medical expenses paid by the claimant other than those paid by OWCP or by an insurance carrier. It does not include items paid by the claimant for which the claimant was subsequently reimbursed by the OWCP or by an insurance carrier. Itemize all items submitted for credits and deduction in line 12 or attach copies of paid bills. A lump sum amount will not be accepted for credit.

Government Allowance for Attorney's Fee, (line 15): The Government contributes a portion of its refund to the claimant as an attorney fee. This fee is based upon the OWCP's disbursements, or other amount as shown in line 14.

Amount to Be Refunded, (line 16): This represents the amount to be refunded to the Government for OWCP disbursements. Refund check must be made payable to the OWCP.

Surplus, (line 17): This surplus, which is retained by the claimant, is the amount against which the OWCP will credit any future compensation payments or additional medical expenses payable on account of the same injury or death.

547.58 Employee Not Represented by Attorney

The control office or control point supervisor should proceed as follows:

- a. If the answer to the question on the Form 2562 “Does the employee or beneficiaries intend to take action against the third party?” is *Yes*, and the Form 2562 or other information shows that the employee desires to pursue the recovery him- or herself and is not represented by an attorney, furnish the employee sample letter C, *Notice to Employee of Government’s Lien* (Exhibit 547.58a), and mail sample letter D, *Notice to Third Party of Government’s Lien* (Exhibit 547.58b), to the third party and/or insurer.
- b. At least every 60 days after the date sample letter C is given the employee, check with the employee to determine the status of the case.
- c. If a recovery has not been made within 6 months after the accident, or if prior to that time there is information that the action on the claim has been terminated, contact the employee for status of recovery action. If the employee has decided not to pursue or has been unsuccessful in the recovery attempt, proceed in accordance with 547.59d.
- d. When a recovery statement (see Form 2557, *Employee’s Third Party Recovery Statement*, Exhibit 547.58c) is received from the employee, review it for accuracy, take the necessary action to correct any errors, and forward the recovery statement together with the payment, in accordance with 547.73.

547.58

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Exhibit 547.58a

Sample Letter C, Notice to Employee of Government's Lien

[__date__]

Notice to Employee of Government's Lien

[__name__]

[__street__]

[__city, state, ZIP__]

File Number:

Date of Injury:

Dear [__name__]:

Our records show that you have presented or you intend to present a claim for damages against a third party apparently responsible for your injury.

The Federal Employees' Compensation Act provides that the United States must be reimbursed out of any third party recovery for any disbursements made to you or on your behalf by the United States. Therefore, you should include as damages in your claim the disbursements indicated on the attached Form 2557, *Employee's Third Party Recovery Statement*, and any other disbursements that you received or that were made in your behalf. If you receive additional treatment, compensation, or continuation of pay, contact this office for an up-to-date statement of disbursements before settling your claim.

This office must be notified of any recovery you obtain. Completion and submission of the attached form will serve as notification of a recovery obtained without the services of an attorney. It will also enable you to determine the amount of any refund you must pay to the Postal Service.

If you should retain the services of an attorney to assist you in your third party claim, please advise this office immediately and provide the attorney's name and complete address.

If you wish to discuss this matter or desire us to assist you, please contact [__name__] at [__telephone no.__].

Sincerely,

[__signature__]

[__title__]

[__telephone no.__]

Attachment

cc: District Office, OWCP

Exhibit 547.58b

Sample Letter D, Notice to Third Party of Government's Lien[*date*][*name*][*street*][*city, state, ZIP*]File Number:
Employee:
Date of Injury:
Your Insured:
Policy Number:Dear [*name*]:

We have been informed that the postal employee named above has made a claim for damages as a result of an incident involving you (your insured) that occurred on the date shown.

The injury occurred in the performance of federal employment and comes under the Federal Employees' Compensation Act (5 U.S.C. 8101 et seq.). Section 8132 of Title 5 of the United States Code requires that the Government must be reimbursed for payments made to or on behalf of a beneficiary out of the recovery made from a third party. This section also states, "No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or his (or her) designee the proceeds of such suit or settlement without first satisfying or assuring satisfaction of the interest of the United States."

Because of the Government's financial interest in the outcome of this case, please request a statement from this office of the Government's disbursements before distributing any proceeds in settlement of this case.

Sincerely,

[*signature*][*title*][*telephone no.*]

cc: District Office, OWCP

Exhibit 547.58c
Form 2557, Employee's Third Party Recovery Statement

		<h2 style="margin: 0;">Employee's Third-Party Recovery Statement</h2>		File No. _____
Claimant	Date of Injury/Death	MSC	Finance No.	

When a Third-Party Settlement Is Made Without an Attorney

1. Contact this office for the amount of disbursements.
2. If you were examined or treated at a Federal medical facility, contact that facility for the value of its service. If service was rendered by the U.S. Public Health Service, the Regional Counsel of the Department of Health and Human Services should be contacted.
3. Complete the recovery statement below and return it to this office. Enclose a check or money order for the amount appearing in item 3, below, made payable to "Office of Workers' Compensation Programs (OWCP)."

The law provides that the United States must be reimbursed out of any third-party recovery for any disbursements made by the Government. The term "disbursement" includes compensation, medical bills and transportation expenses. If there were disbursements requiring a refund, you are still entitled to a minimum amount of the recovery irrespective of any liens of the Government (*see item 2c below*).

1. Total recovery	\$ _____
2. Less:	
a. Personal property damage	\$ _____
b. Balance (<i>item 1 less item 2a</i>)	\$ _____
c. Minimum guarantee (<i>20 percent of item 2b - to be retained by you</i>)	\$ _____
d. Medical expenses paid by you for which you have not received reimbursement from OWCP or an insurance carrier (<i>attach itemization</i>)	\$ _____
e. Adjusted balance (<i>item 2b less items c and d</i>)	\$ _____
3. OWCP disbursements or item 2e, whichever is less	\$ _____
4. Surplus (<i>line 2e less item 3</i>)	\$ _____

Following submission of this statement, you will be advised further concerning your compensation status.

Date of Judgment or Release	Signature	Date
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The Federal Employee's Compensation Act, as amended (5 USC 8101, et seq.) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor. In accordance with this responsibility, the office collects and maintains personal information on claimants and their immediate families. The information will be used to determine eligibility for and the amount of benefits payable under the Act. The Postal Service uses the information in handling matters relating, directly or indirectly, to the subject matter of the claim in accordance with provisions of 20 CFR 10. In addition, this information may be disclosed to an appropriate law enforcement agency for investigative or prosecutive purposes, to a congressional office at your request, to OMB for review of private relief legislation, to a labor organization as required by the NLRA, and where pertinent, in a legal proceeding to which the Postal Service is a party. Failure to provide the information requested may delay the adjudication process, or result in an unfavorable decision or a reduced level of benefits, (however, disclosure of the social security number is voluntary and will not cause such delays; its only purposes are to enable the Postal Service to account for program costs and to verify the dollar amount of payments due the Department of Labor).

PS Form **2557**, July 1986 (*Copy to Employer*)

547.59 Employee Not Pursuing Third Party Action

The control office or control point supervisor should proceed as follows:

- a. If the answer to the question on Form 2562 “Does the employee or beneficiaries intend to take action against the third party?” is *No*, or the employee is undecided, or it is unclear what action the employee contemplates, furnish the employee with sample letter E, *Request for Information From Employee and Notice of Government's Lien* (Exhibit 547.59a), and Form 2559, *Third Party Claim — Information Request* (Exhibit 547.59b).
- b. If Form 2559 is not received within 15 days, contact the employee directly or through the employee's supervisor to determine what action the employee intends to take against the third party.
- c. If the employee advises that he or she will seek recovery against the third party, proceed in accordance with 547.57 or 547.58, as appropriate.
- d. If the employee indicates that he or she will not seek recovery against the third party, or is unable to decide what action he or she will take, ask whether the employee will agree to assign his or her claim against the third party to the Postal Service by signing Form 2577, *Assignment of Claim to the USPS* (Exhibit 547.59c). If the employee declines to make the assignment, refrain from saying or doing anything to the employee that could be regarded as pressuring or coercing the employee to agreeing to the assignment. Point out that the Postal Service is not ordering or directing the employee to either sue or assign the claim, but advise the employee of the following information:
 - (1) By assigning a claim to the Postal Service, the employee will enable the Postal Service to attempt to shift the financial liability for the employee's injury from the Postal Service to the true wrongdoer, i.e., the third party.
 - (2) The ultimate recovery that the employee will realize for the injury cannot possibly be reduced by the employee's agreement to the assignment. An employee is entitled to a minimum of 20 percent of the net recovery after the expense of the recovery (attorney's fees, property damage, and court costs only) have been deducted. In addition, any surplus amount realized in the third party action that exceeds the amount of the employee's compensation payments and the expense of realization or collection, will be paid to the employee.
 - (3) OWCP is authorized to require an assignment of the claim and to terminate an employee's entitlement to past or future compensation payments if he or she refuses to pursue or assign what appears to be a valid third party claim.

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- e. If the employee continues to refuse to pursue or assign his or her claim, then refer the file to the area human resources analyst for injury compensation. Use Form 2560, *Referral of Third Party Material* (Exhibit 547.59d) to transmit the file. Take no further action to obtain an assignment after the file is referred.
- f. Upon receipt of an assignment of the employee's claim on Form 2577, *Assignment of Claim to the USPS*, send sample letter F, *Notice of Assignment of Postal Employee's Claim and Request for Settlement* (Exhibit 547.59e), to the third party and to his or her insurer, if known.
- g. When a reply to sample letter F is received, attempt to negotiate a settlement of the government's and the employee's claim (see 547.7, *Settlement of Claims*).
- h. Contact the Postal Service Field Counsel if it is felt that assistance is necessary.

Exhibit 547.59a

Sample Letter E, Request for Information from Employee and Notice of Government's Lien

[_date_]

[_name_]

[_street_]

[_city, state, ZIP_]

File Number:

Date of Injury:

Dear [_name_]:

Our records show that on the above date you sustained an injury under circumstances which may place liability for damages upon a party other than the United States.

Under the provisions of Section 8131 of Title 5, United States Code, the Secretary of Labor can and will require a workers' compensation beneficiary to prosecute an action for damages in his or her own name when injury or death occurs under circumstances which indicate legal liability to pay damages on a party other than the Government. When damages are recovered from such a party, the beneficiary must, out of the damages recovered, reimburse the United States for any payments made to the beneficiary or on the beneficiary's behalf. Nevertheless, in all cases you will be entitled to a minimum of 20% of the net recovery.

For our records, a statement is required from you as to whether you have presented a claim for damages as a result of this injury against anyone other than the Postal Service or the Office of Workers' Compensation Programs (OWCP). It is requested that you answer the questions on the enclosed Form 2559, *Third Party Claim-Information Request*, and promptly return it to this office.

If you have initiated a third party action, you should contact us for a statement of any OWCP disbursements made to you or on your behalf before you make a final settlement. These disbursements must be repaid from any recovery you make from the third party (the person or persons responsible for the injury).

If you wish to discuss this matter or desire to assist you, please contact [_name_] at [_telephone no._].

Sincerely,

[_signature_]

[_title_]

[_telephone no._]

Enclosure

cc: District Office, OWCP

547.59

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Injury Compensation Program

Exhibit 547.59b

Form 2559, Third Party Claim — Information Request**Third Party Claim - Information Request**

Section 8131 of Title 5, United States Code, provides that when damages are recovered the United States shall be reimbursed for payments if made on account of the injury.

1. Have you presented a claim or instituted suit for damages against any person or persons apparently responsible for your injury? Yes No
(If yes, give the third party's name and address and the name and address of the insurance carrier, if known.)

Third Party's Name and Address

Insurance Carrier's Name and Address

2. Have you retained an attorney with regard to a possible action against any person or persons apparently responsible for your injury? Yes No
(If yes, give the attorney's name.)

3. If you have not filed a claim for damages, state your reasons, in full detail, for not doing so.

4. Have damages been recovered? Yes No (If yes, please furnish the following information:)

- a. Total amount recovered \$ _____
- b. Personal property damage, if any \$ _____
- c. Medical expenses paid by you personally (Do not include those paid or reimbursed by OWCP or an insurance carrier.) (Attach itemization.) \$ _____
- d. Attorney's fee, if any \$ _____

Date of Judgment or Release

5. Signature

Date

The Federal Employee's Compensation Act, as amended (5 USC 8101, et seq.) is administered by the Office of Workers' Compensation Program of the U.S. Department of Labor. In accordance with this responsibility, the office collects and maintains personal information on claimants and their immediate families. The information will be used to determine eligibility for and the amount of benefits payable under the Act. The Postal Service uses the information in handling matters relating, directly or indirectly, to the subject matter of the claim in accordance with the provisions of 20 CFR 10. In addition, this information may be disclosed to an appropriate law enforcement agency for investigative or prosecutive purposes, to a congressional office at your request, to OMB for review of private relief legislation, to a labor organization as required by the NLRA, and where pertinent, in a legal proceeding to which the Postal Service is a party. Failure to provide the information requested may delay the adjudication process, or result in an unfavorable decision or a reduced level of benefits; however, disclosure of the social security number is voluntary and will not cause such delays; its only purposes are to enable the Postal Service to account for program costs and to verify the dollar amount of payments due the Department of Labor.

PS Form 2559, February 1981

Exhibit 547.59c
Form 2577, Assignment of Claim to the USPS



Assignment of Claim to the USPS

As a result of my applying for and receiving benefits under the provisions of the Federal Employees' Compensation Act (5 U.S.C. 8101-50), and because I do not wish to prosecute an action in my own name to recover damages, I (name) _____, of (address) _____, City of _____, County of _____, State of _____, hereby voluntarily assign to the United States Postal Service all of my right, title and interest in any claim, demand, or cause of action which I may have against (name of third party) _____, or any other person, as a result of an injury I sustained on (date) _____, at (location) _____, while in the performance of my duties as an employee of the United States Postal Service.

I understand that in the event of recovery of damages by the United States Postal Service under this assignment, I am entitled to one-fifth of the net amount of recovery after expenses thereof have been deducted and to any surplus remaining as provided by Section 8131 of the Federal Employees' Compensation Act.

I understand that I have the right to pursue an action to recover damages by myself or by an attorney of my own choice, but I hereby am assigning that right to the United States Postal Service. Upon acceptance of this assignment, the United States Postal Service shall have full and complete authority to take whatever action on this claim it considers appropriate., and may institute legal action, settle or compromise the claim or any suit, or decline to institute suit, or to take any other action. In the event the United States Postal Service declines to institute suit, or to take other action, it shall have the right to cancel this assignment and thereby reassign the claim back to me.

I hereby authorize the United States Postal Service to furnish all records, medical and other reports, statements made by myself and other papers relating to my injury to the parties against whom claim is made, their representative, and insurance companies for the purpose of effectuating a settlement of the assigned claim.

IN WITNESS WHEREOF, I have signed this assignment this _____ day of _____, 19 _____.

(Signature)

Recognizing that it is within the discretion of the United States Postal Service to accept or to refuse to accept this Assignment of Claim, and pursuant to the authority granted by 39 C.F.R. 224.2(b) (1) (i) and other Postal Regulations, I hereby accept the above assignment.

Dated _____

(Signature)

(Title)

Privacy Act Statement

Collection of this information is authorized by 39 USC 401. The purpose for which the information is to be used is to assign a third-party damage claim to the USPS. As a routine use, this information may be disclosed to OWCP and a third-party representative. Completion of this form is voluntary; however, if you do not complete this form, the USPS can not pursue your claim or prosecute an action on your behalf.

PS Form 2577, September 1988 (Previous Editions Unusable)

547.59

Employee Benefits
Injury Compensation ProgramExhibit 547.59d
Form 2560, Referral of Third Party Material

		Referral of Third Party Material	
To:		From:	
Case No.	Date Submitted	Date Claimant Rtd. to Work	Employee's Name
Attached Are the Following Documents:			
1. CA Forms (Front and Back)			
<input type="checkbox"/> CA-1	<input type="checkbox"/> CA-4	<input type="checkbox"/> Other (<i>Identify</i>):	
<input type="checkbox"/> CA-2	<input type="checkbox"/> CA-5		
<input type="checkbox"/> CA-3	<input type="checkbox"/> CA-7		
2. Witness Statements and Accident Reports			
<input type="checkbox"/> Reverse of CA-1 or CA-2	<input type="checkbox"/> Other (<i>Identify</i>):		
3. Medical Reports			
<input type="checkbox"/> CA-16 (<i>Reverse</i>)	<input type="checkbox"/> Other (<i>Identify</i>):		
<input type="checkbox"/> CA-20			
<input type="checkbox"/> CA-20A			
4. Correspondence From:			
<input type="checkbox"/> Attorney Dated: _____	<input type="checkbox"/> Other (<i>Identify</i>):		
<input type="checkbox"/> Claimant Dated: _____			
5. Award of Compensation			
<input type="checkbox"/> CA-1048	<input type="checkbox"/> CA-181	<input type="checkbox"/> Other (<i>Identify</i>):	
<input type="checkbox"/> CA-1049			
<input type="checkbox"/> CA-180			
6. Settlement			
<input type="checkbox"/> Claimant's Recovery Statement	<input type="checkbox"/> Settlement Has Been Made in This Case. Attached Is a Copy of:		
<input type="checkbox"/> Recovery Letter 1			
PS Form 2560, November 1987			

Exhibit 547.59e

Sample Letter F, Notice of Assignment of Postal Employee's Claim and Request for Settlement

[__ date __]

[__ name __]
[__ street __]
[__ city, state, ZIP __]

RE: Accident on [__ date __]

Dear [__ name __]:

On [__ date __], a postal employee, [__ name __], was injured as a result of [__ description of incident __].

Pursuant to the provisions of the Federal Employees' Compensation Act, our employee has filed for benefits and has assigned [__ his __] [__ her __] personal injury claim to the Postal Service; a copy of that assignment, Form 2577, *Assignment of Claim to USPS*, is attached.

We request that you, your insurance carrier, or your attorney contact this office to discuss settlement of this matter.

Sincerely,

[__ signature __]
[__ title __]
[__ telephone no. __]

Attachment

cc: DOL

547.6 Release of Information**547.61 Privacy Act Protection**

All records, medical and other reports, statements of witnesses, and other papers relating to the injury or death of an employee or other person entitled to compensation or benefits under the Act are sensitive in nature, and no employee of the Postal Service may disclose information from or pertaining to the records to any person except as directed in these instructions. Upon the employee's death, records lose much of their sensitivity; i.e., the Privacy Act no longer applies to them. Release of records on deceased employees should be guided by the Postal Service release of information guidelines (*Administrative Support Manual (ASM) 352*).

547.62 Release to Employee or Beneficiary**547.621 General**

If (a) an employee, or (b) in the case of death, an employee's beneficiary, or (c) the authorized representative of an employee or beneficiary requests information from the Postal Service in connection with a third party recovery case, refer the request to the control office or control point supervisor, who permits the requester to examine the records of the case, except where release of the information is not in the best interest of the employee (see 547.622).

547.622 Release to Physician

When the control office or control point supervisor, based upon consultation with the postal physician or occupational health nurse administrator, determines that release of medical reports directly to the employee clearly is not in the best interest of the employee, the control office or control point supervisor should request authorization from the employee to release the information to the employee's personal physician.

547.623 Limitation to Germane Information

In honoring requests, the control office or control point supervisor discloses only that information that is germane to the request and the third party action.

547.63 Release to Other Parties

Information requested for use in third party recovery cases by persons who are interested in third party action other than the employee or other legal representative may be released only upon written authorization of the employee or of the authorized representative. Direct all such requests to the control office or the control point supervisor.

547.64 Release to Court or Other Authority

Any employee of the Postal Service who is served with a demand by federal or state courts or other administrative bodies for records or information relating to third party recovery matters must promptly, and without awaiting appearance before the court or other authority, contact field counsel for instructions concerning the response to the demand.

547.7 Settlement of Claims**547.71 Employee Pursuing Collection of Damages From Third Party**

The Postal Service, with certain adjustments, is entitled to collect from the proceeds paid to an employee by a third party the amount of compensation and medical and related expenses paid by OWCP on behalf of the employee. Therefore, when information is received that a third party recovery is imminent, the control office or control point supervisor contacts OWCP for an up-to-date statement of all disbursements made by OWCP and advises the employee or the employee's attorney of those disbursements. If settlement has already been made, Form 2556, *Third Party Statement of Recovery*, should be reviewed to see that the total disbursements made by OWCP have been accurately computed.

547.72 Employee Not Pursuing Third Party Recovery

When the postal employee has indicated that he or she does not wish to pursue a recovery from a third party and has been requested to and has signed Form 2577, *Assignment of Claim to the USPS*, the Postal Service, with certain adjustments, is entitled to recover from the third party or his or her insurer the compensation and medical and related expenses paid by OWCP on behalf of the employee. In addition, the Postal Service is entitled to collect on behalf of the employee those damages to which the employee may be entitled. Such damages may consist of payment for pain and suffering sustained by the employee, any damage to the employee's personal property, and out-of-pocket expense not covered by FECA benefits. Upon recovery, the employee is to provided with a copy of Form 2556, which indicates the employee's total entitlement. Further, the control office or the control point supervisor should ensure that OWCP district office is provided with copies of all documents pertaining to the recovery.

547.73 Disbursement of Recovered Third Party Funds

When a settlement is made, the control office or control point supervisor makes disbursement of the funds as follows:

- a. When the third party check includes OWCP payments only, send the check and Form 2556 or 2557, as applicable, directly to OWCP unless the check is made payable to the Postal Service. If this is the case, deposit the check and issue a Treasury check or no-fee money order to OWCP.
- b. When the third party check includes OWCP payments and the employee's share, payments issued in installments, COP that has been collected in error, or checks made payable to the postmaster, the following procedures apply:
 - (1) Deposit the check or monies in the postmaster's trust account.
 - (2) Request a receipt Form 3544, *Post Office Receipt for Money*. Include the employee's name and OWCP claim number on the receipt.

547.74

- (3) Forward a memorandum (see Exhibit 547.73 — Sample letter G) to the accounting office advising them of the proper disbursement to be made along with Form 2556 or 2557, whichever is applicable.
 - (4) Have the accounting office issue a no-fee money order or Treasury check that includes the employee's name and OWCP claim number to the appropriate parties, i.e., OWCP and postal employee.
- c. For installment payments made by the third party, disbursement should be issued at periodic intervals (3 or 6 months) to the postal employee until the total expected monies from the third party are collected.

547.74 Settlement Verification

The control office or control point supervisor furnishes the employee and OWCP a copy of the Form 2556 or Form 2557 on all recoveries made.

547.75 Control Point Supervisor Requirements

All efforts on the part of control point supervisors concerning these instructions, to include case closure, settlement, or assistance, must be coordinated with the assigned control office.

547.76 Recovery Assistance

When the control office desires any advice on matters relating to the settlement of a third party recovery case or other legal matters, the appropriate field counsel should be contacted.

547.77 Delegation of Authority

The following are authorized to accept voluntary assignment of an employee's claim against a third party and sign a release on behalf of the Postal Service when requested by the third party or insurance carrier:

- a. Manager of Injury Compensation.
- b. Qualified control point supervisor.
- c. Field counsel.

Exhibit 547.73
Sample Letter G

[__ date __]

DISBURSING OFFICER
[__ applicable accounting office __]

SUBJECT: Recovery Disbursements — Third Party Settlement

The enclosed check or money order in the amount of \$ [__ amount __] represents settlement of a third party claim for:

Name:
SSN:
OWCP Case No.:

These funds are forwarded for disposition (see attached Form 2556 or 2557 for amount of total recovery).

1. Amount due OWCP \$ [__ amount __]

Send check to:
U.S. Department of Labor
[__ applicable district office __]

2. Amount due employee \$ [__ amount __]

Send check to:
[__ employee's name __]
c/o Injury Compensation Office

[__ signature __]
Injury Compensation Supervisor or Specialist

547.8 **Third Party Recovery Action**

547.81 **General**

FECA provides that an employee who is required to appear as a party or witness in the prosecution of a third party court action is in an active duty status while so engaged (5 U.S.C. 8131(a)(2)). Therefore, when an employee assigns a third party claim to the Postal Service and appears in court as a witness, or when an employee prosecutes a third party claim in his or her own name and appears in court as a party, such an employee is compensated for the court appearance as provided in 547.82.

547.82 **Compensation for Court Appearances**

The following provisions apply to compensation for court appearances:

- a. A postal employee who appears as a witness in a third party action that has been assigned to the Postal Service is in an official duty status for the time spent in court (ELM 516.41) and for the time spent traveling between the court and the employee's work site. However, any time spent traveling between an employee's residence and the court is considered commuting time and, therefore, is not compensable.
- b. An employee who prosecutes a third party action in his or her own name is *not* in an official duty status as that term is defined in ELM 516.41. However, in order to implement FECA provision requiring compensation of such an employee, the Postal Service compensates that employee *as if the employee were in an official duty status*. Accordingly, such an employee is compensated to the same extent as that explained in 547.82a for the time spent in court and for the time spent traveling between the court and the employee's worksite. Any time spent traveling between the employee's residence and the court is considered commuting time and is not compensable.

547.83 **Documentation of Court Appearances**

An employee who is prosecuting a third party action in his or her own name and who appears in court must document the time required to appear in court on the memorandum, *Third Party Court Appearance Sheet* (see Exhibit 547.83). The employee is considered in an active duty status; therefore, a Form 3971, *Request for Notification of Absence*, is not required. Rather, the hours on the time card for third party appearances are recorded as *work only* — and not as court leave or any other type leave. The completed memorandum is to be returned to the control office or control point as appropriate.

547.84 **Case Preparation**

An employee who is prosecuting a third party action in his or her own name is *not* treated as if in an official duty status for the time spent developing the case. Any time used for this purpose within the employee's regular work schedule is charged to annual leave or leave without pay (LWOP).

