



Transportation
Security
Administration

June 25, 2020

Dr. Everett B. Kelley
National President
American Federation of
Government Employees
80 F Street, NW
Washington, DC 20001

Dear Dr. Kelley:

Thank you for your letter dated May 26, 2020, regarding your request that the **Transportation Security Officer (TSO) position is identified as "high-risk" for the purpose of COVID-19-related workers' compensation benefits** and for your support of the TSO workforce, including those who tragically have lost their lives due to this pandemic.

Several weeks ago, federal agencies received guidance from the Department of Labor, Office of Workers' Compensation Programs (DOL-OWCP) requiring that high-risk positions be identified by occupational series code. DOL-OWCP established specific criteria to help agencies identify these positions. In April 2020, the Transportation Security Administration (TSA) identified the occupational series codes satisfying the established criteria and uploaded this information into DOL-OWCP's compensation database to support the adjudication of related injury claims. TSA identified the **1802 job series as high-risk** to ensure our TSO workforce is included in this category.

Please note individuals are still responsible for providing medical documentation to support a claim that they were infected with **COVID-19 at the workplace, and DOL** will still make the final determination on the claim.

Thank you for your continued support of TSA's critical personnel working on the frontlines, as well as your *recognition of the important advantages that the Aviation and Transportation Security Act provides to the Agency and our workforce.*

Sincerely,

A handwritten signature in black ink that reads "David P. Pekoske".

David P. Pekoske
Administrator

FECA BULLETIN NO. 20-05

Issue Date: March 31, 2020

Subject: Federal Employees Contracting COVID-19 in Performance of Duty

Background: The Federal Employees' Compensation Act (FECA) covers injury in the performance of duty; injury includes a disease proximately caused by federal employment. The U.S. Department of Labor's (DOL) Office of Workers' Compensation Programs (OWCP) Division of Federal Employees' Compensation (DFEC) provides to an employee injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which OWCP considers "likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation." See [5 U.S.C. 8103](#). FECA pays compensation for disability or death of an employee resulting from injury in the performance of duty.

While all federal employees who contract COVID-19 related to their federal employment are entitled to FECA coverage, special case handling considerations apply to those employees engaged in **high-risk employment**. In the case of COVID-19, federal employees who are required to have in-person and close proximity interactions with the public on a frequent basis – such as members of law enforcement, first responders, and front-line medical and public health personnel – will be considered to be in high-risk employment triggering the application of [Chapter 2-0805-6](#) of the FECA Procedure Manual. In such cases, there is an implicit recognition of a higher likelihood of infection related to such federal employment. OWCP DFEC recognizes that certain kinds of employment routinely present situations that may lead to infection by contact with sneezes, droplet infection, bodily secretions, and surfaces on which the COVID-19 virus may reside. Conditions such as COVID-19 (like the diseases covered in [Chapter 2-0805-6](#)) more commonly represent a work hazard in health care facilities, correctional institutions, and drug treatment centers, among others. The employment-related incidence of COVID-19 appears more likely to occur among members of law enforcement, first responders, and front-line medical and public health personnel, and among those whose employment causes them to come into direct and frequent in-person and close proximity contact with the public.

DOL has created new procedures to specifically address COVID-19 claims. Employees filing a claim for workers' compensation coverage as a result of COVID-19 should file [Form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation](#). The new procedures will also call the adjudicator's attention to the type of employment held by the employee, rather than burdening the employee with identifying the exact day or time they contracted the novel coronavirus.

Purpose: To provide targeted instructions to claims staff on the handling of COVID-19 FECA claims by federal employees.

Action:

1. A special indicator has been assigned to all COVID-19 claims. The indicator is available for input in the Employees' Compensation and Management Portal (ECOMP) or can be added by case-create clerks where the form is received on paper or by fax. However, where the indicator is not included (such as in cases where the agency uses its own electronic data interchange (EDI) system or where the agency did not elect to use the indicator available in ECOMP), claims examiners should alert their District Director that the COVID-19 indicator must be added.

2. An OWCP DFEC COVID-19 Task Force has been created to help ensure cases are handled expeditiously in a fair and consistent manner. The Task Force will review all COVID-19 claims development and adjudications.
3. **EXPOSURE FROM HIGH-RISK EMPLOYMENT:** If a COVID-19 claim is filed by a person in high-risk employment (by job category or otherwise confirmed by the employer¹), OWCP DFEC will accept that the exposure to COVID-19 was proximately caused by the nature of the employment. If the employer supports the claim and that the exposure occurred, and the CA-1 is filed within 30 days, the employee is eligible to receive Continuation of Pay for up to 45 days.
4. **EXPOSURE FROM OTHER EMPLOYMENT:** If a COVID-19 claim is filed by a person whose position is not considered high-risk, OWCP DFEC will require the claimant to provide a factual statement and any available evidence concerning exposure. The employing agency will also be expected to provide OWCP DFEC with any information they have regarding the alleged exposure, and to indicate whether they are supporting or controverting the claim. If the employer supports the claim, including that the exposure occurred, and the CA-1 is filed within 30 days, the employee is eligible to receive Continuation of Pay for up to 45 days.
5. **TESTING:** The results of any COVID-19 testing should be submitted to OWCP if available. If the employee has encountered difficulty in obtaining such testing, OWCP will authorize such testing if the employee is working in high-risk employment or otherwise has a confirmed COVID-19 employment exposure.
6. **MEDICAL:** Medical evidence establishing a diagnosis of COVID-19 is needed. You will need to provide medical evidence establishing that the diagnosed COVID-19 was aggravated, accelerated, precipitated, or directly caused by your work-related activities. For health and safety reasons, claimants may wish to use telehealth to obtain medical evidence from a qualified physician – OWCP encourages this flexibility.
7. **CAUSAL RELATIONSHIP:** Establishing causal relationship generally requires a qualified physician's opinion, based on a reasonable degree of medical certainty, that the diagnosed condition is causally related to employment conditions. This opinion must be based on a complete factual and medical background. In the case of high-risk employment, the factual and medical background would include the physician's recognition that the employee is engaged in high-risk employment that included exposure to COVID-19 while in federal employment. See *D.M. (T.M.)* Docket No. 19-0358 (issued March 19, 2020) (ECAB found the employee's death due to meningococemia was causally related to her high-risk employment as a nurse at the employing establishment, as her employment routinely presented situations which could lead to infection by contact with human blood, bodily secretions, and other substances.)
8. **USE OF THE DISTRICT MEDICAL ADVISOR (DMA):** In the case of high-risk employment where testing establishes a diagnosis of COVID-19 but no physician's signature is on file following appropriate development, the CE may use the DMA to establish the diagnosis and provide the above-referenced recognition that the employee is engaged in high-risk employment that included exposure to COVID-19 while in federal employment.
9. **DISABILITY:** FECA pays compensation for partial or total disability of an employee resulting from injury in the performance of duty. Just as with other conditions/claims, disability is claimed by the filing of a CA-7, Claim for Compensation, with the employing agency and requires an incapacity because of an employment-related injury to earn wages.

¹ A real-time list of occupational codes and/or job series, including the geographic locations where the high-risk determination has been flagged by the agency, will be available to OWCP staff to assist OWCP's determination that the position falls within that category.

Applicability: Appropriate National and District Office personnel.

Disposition: This bulletin is to be retained until incorporated into the Procedure Manual.

ANTONIO RIOS
Director for
Federal Employees' Compensation
Distribution: All DFEC Staff

2020 COLLECTIVE BARGAINING AGREEMENT
Updated November 9, 2021

- a. TSA will make reasonable efforts to ensure that each bargaining unit employee receives his/her full compensation due (amount that was due based on payroll transmission) on the established payday at the electronic site designated by the employee. Bargaining unit employees are responsible for reviewing their electronic earnings and leave statements and notifying their local payroll point of contact of any discrepancies.
- b. When a bargaining unit employee does not receive proper base pay compensation on the established payday, TSA will, as soon as the payroll office is notified, authorize payment in accordance with established TSA practice and the bargaining unit employee will receive payment within three (3) to five (5) days. Pay discrepancies requiring investigation will be resolved expeditiously.

C. WORKERS' COMPENSATION:

1. When a bargaining unit employee reports a possible job-related injury as a result of his/her performance of duties, management will:
 - a. Arrange for immediate medical care, if required, and transportation assistance, if necessary, for the bargaining unit employee.
 - b. Complete Form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation, and notify the bargaining unit employee of his/her rights and benefits under the Federal Employees' Compensation Act; and
 - c. Articulate the management and bargaining unit employee responsibilities for reporting and documenting the claim as detailed in TSA Management Directive 1100.00-6, *Workers' Compensation Program*, effective July 2, 2009 and associated Handbook unless otherwise superseded by law or regulation.
2. A bargaining unit employee may use annual and sick leave in lieu of continuation of pay (COP) as described in TSA Management Directive 1100.00-6, *Workers' Compensation Program*, effective July 2, 2009 unless otherwise superseded by law or regulation. Eligibility for COP is governed by the Federal Employees' Compensation Act and bargaining unit employees are generally eligible for up to forty-five (45) calendar days of pay, which is treated as salary and subject to the usual payroll deductions.
3. TSA shall offer limited duty assignments to bargaining unit employees who have approved DOL/OWCP claims consistent with TSA's legitimate operational needs. A bargaining unit employee who declines a limited duty position may be placed on LWOP while DOL/OWCP reviews the case and makes a decision on the bargaining unit employee's suitability for the limited duty assignment.
4. A bargaining unit employee may be offered a light duty position based on documented medical restrictions while the claim is being evaluated by DOL. Limited duty assignments will receive priority over light duty positions based on legitimate operational needs.
5. Information on forms, rights, and procedures related to workers' compensation will be maintained on iShare. TSA will provide to bargaining unit employees an annual reminder on access to these policies and procedures.

Note: Highlighted sections are not agreed to and have been submitted to arbitration.