

Worker's Compensation Program Supervisor Roles

Virtual Conference for Supervisors

Recorded March 9, 2017

We are ready to get started, Letitia, if you are. I will turn the controls over to you and Lisa.

Okay. We are ready. Good morning, everyone. Letitia Coleman and I would like to welcome and thank you all for your participation in this virtual conference regarding OWCP: Supervisors' Roles. The supervisor plays a very important part in helping and assisting the employees as well as them receiving benefits from the other agency that we work with, and we will talk about that in the class.

We are going to talk about the Federal Employee Compensation Act, which is the regulation that covers injured employees, the employee's responsibility as well as your responsibility, and we're going to talk about issuing the CA-16 which will hopefully assist in the employee getting urgent or emergent medical care, third-party liability, and discuss the fiscal responsibility and what it costs the National Park Service in implementing our workers compensation program.

My first question of the day is: what does the letters OWCP stand for?

Okay, [Indiscernible]. There's 100% of you with the correct answer, which is the Office of Worker's Compensation Program. Awesome.

The next question is: what agency oversees the program for injured workers? And there is a poll that is coming. Lisa, do you have the poll?

I'm looking for it. It disappeared on me. Hold on, I've got it.

We've been having technical issues here with [Indiscernible]. I can see the poll and I see that everybody has answered Department of Labor.

That might have been from the other day.

Let's do it again.

Okay, now we know the answer is the Department of Labor, so we will go ahead and bypass that one for now. They answered, six of them said Department of labor.

We are not seeing that.

Awesome, it is the Department of Labor.

The Department of Labor is the agency that has sole adjudication authority over the program, and the National Park Service, we are the administrators and the paper pushers, but we have absolutely no legal rights in saying a case will be approved or disapproved. It's administered by the Office of Worker's Compensation Programs, which falls under DOL, and any workers compensation records that the agency maintains for the National Park Service, those are actually an extension of the Department of Labor's records and they have the say so as to how we as the National Park Service will maintain those records and files under their Privacy Act and not under the DOI Privacy Act. Also, the Department of Labor, they pay our cost upfront and being we are funded through what's called a chargeback, where we paid two years in arrears to reimburse to the Department of Labor for any costs that they paid on our behalf.

Under FECA, there are six types of events and they are medical benefits, continuation of pay, which allows injured employees who have had a traumatic injury only to continue with 45 days of pay, if there is medical documentation to support such. The next is disability compensation, and that is once we have employees over the 45 days when they have occupational disease claim and they are missing time from work that they can apply for compensation through Department of Labor. There's also schedule awards, and a schedule awards are for injuries where that body part will never be the same. There is maybe loss of some kind of function as in range of motion or scarring or [Indiscernible] or something like that, and then there is a benefits from the Department of Labor. They also will provide vocational rehabilitation, and that an example of that would be if we had a maintenance worker that was injured and he can no longer do the laborious type activities and maybe needed to have a sedentary position but had no skills with computers and Microsoft and Excel and things like that, the Department of Labor will send them to classes to learn the skills so they can function in an administrative role. The last benefit is that the [Indiscernible] benefits. [Indiscernible] either from the residuals of the injury or initially from the injury that their loved ones not [Indiscernible] paying them back or make them totally whole but they can apply for death benefits.

We have categories of injuries. We have the traumatic, as I mentioned earlier, and I also mentioned occupational disease, and the difference in them isn't that in the traumatic injury occurs in one workday which is the works, or the person can identify by the time the new it occurred at 10:00 or around 11:00 or around 2:00. The supervisor can issue a CA-16, which is a control form, and we will talk about that later, and that form is kept by the workers comp coordinator in the park. It can be a minor injury or it can be a catastrophic injury, and the burden of the proof in meeting their merits of the claim is left on the employee. And they have up to three years to file for injury overall, but for filing for a COP they only have three days to have an official claim submitted to the Department of Labor.

The occupational disease claim, those occur over a period of time. That's usually your carpal tunnel, your stress claim, your claims that were once an exposure that now has become an actual disease. They are not entitled to continuation of pay. They have to use either their leave were there or LWOP until the claim is accepted officially. They have the burden of proof to meet the merits of their case, and they have, again, three years to file either from the date of injury or when they first noticed that that actual condition was a result of the workplace.

Again, COP, no COP. The employee's responsibility in all this is always to report the injury to their supervisor and to seek medical attention. The employee cannot claim medical treatment first based on individual needs, so if there is an urgency and that injury comes up, the employee should always seek medical care first without telling the supervisor. It is always life first, so some injuries, if a person is [Indiscernible] they can tell a supervisor, so they should always seek medical attention, and if they are unconscious hopefully there's a coworker or someone around that will call 911 for them. All incidents, whether they file a claim or not, should be reported on an incident report in SMIS. It is also called the OSHA 301.

They also have to complete their form, and we are mandated to use an electronic system and that is our SMIS system. They should submit any evidence that they cannot work, any disability slips and the supervisor workers comp coordinator and the coordinator can upload it into our electronic system. That goes directly to the Department of Labor, but it is the responsibility of the employee to let their supervisor know that they are incapable of either performing some duties of their job or they might need accommodations or they're unable to work at all. They should date and sign the form and print it out from SMIS, and always keep their supervisor abreast of when they are able to return to work or the doctor has expanded the disability time. So, the doctor might say initially you're going to be off for two weeks, but it is a little bit more complicated and the individual is not healing as they thought, and the doctor is going to extend it to be another four weeks or something like that.

What are some of our responsibilities as supervisors with regards to assisting your employee when they are injured?

Okay. I have Karen saying helping with the paperwork, assist in getting the forms to them, sure. Are there any more things that we should be doing as supervisors?

We should be filling out our paperwork, getting medical attention, yes, that is a big one. Someone says to make sure to approve. I'm not quite clear on that. Can you type out a little bit more what do you mean by make sure to approve?

Okay, so basically he is talking about going in and certifying, because remember, only the Department of Labor can approve a claim but yes, as a supervisor you are going in there and certifying the form. Accommodate for leave and appointments. All right. Thank you so much for that.

Basically, as you guys have already said, guys and females, certify the form. So, the supervisor should go in there and certify the form within two to five days. That's very important, because as an agency we are measured and we have to have the form in within 10 days. So, the workers comp coordinator [Indiscernible] go in there and they have to do a lot of coding. They have to ensure that the right park is going to be charged, and if anything is missing that will allow them time to react to the supervisor or the employee to get additional information. I did not say where the CA 7 was, but that is the form that the employee uses for compensation, and we only get two days as supervisors to certify it because it must be with Labor in five days. Then, if an employee does suffer an urgent type injury, then the supervisor will go in there and do the form for that employee to ensure they get the COP, and it will help in assisting their family. So, not only will they have to worry about their injured loved one, but they don't have to worry about the finances, so that will be very helpful.

Controvert or challenge the claim when there is a disagreement, and I am going to list some of the regulatory reasons why to challenge the claimant. Offer limited duty of feasible and accommodate permanent restrictions if feasible, and that usually down the road about a year of a person being on limited duty or that type of thing. Remember that you don't offer job that those lost days count against production as some assistance or work driven numbers for the agency and it cost the agency money when a person is sitting out, those costs are coming off the top of your budget and that is the money rate [Indiscernible] we reimburse back to the Department of Labor.

You want to track the employee's medical progress and keep in touch with them. Complete the [Indiscernible] when the employee has reached 80 hours of LWOP. Communicate with the workers comp coordinator, because all the committee [Indiscernible] and load going directly to the Department of Labor and remember that you cannot prevent an employee from filing a claim. Always get emergency care, because the paperwork can follow.

This is Jo. Karen asked the question about the [Indiscernible] two slides back. Is everything that you were talking about on the slide done in SMIS and automatically sent to Labor?

Yes. When it comes down to filling out the form, the employee will do it the first part of the form, be at these CA 1 or CA 2 and the SMIS system. As the supervisor you will receive an e-mail, you will click on the link and then you will go in there and do your portion, which is usually Page 2 of the form, and the workers comp coordinator will go in there. They will code it and submit it to the Department of Labor.

Thank you, this is Karen. I wanted to make sure that you are not actually dealing with pieces of paper in the mail anymore.

Yes and no. The claim form will go electronically to the Department of Labor; however, depending on where you workers comp coordinator is by law, we must print out the paper form and have the signatures of the employee that is claiming injury, as well as the supervisor and we have to keep those forms on file.

That is very helpful. Thank you very much.

You're welcome.

I'm going to talk about the form CA 16. That is actually a blank check for \$1500. It is a controlled form and that is why it is under the care of the workers comp coordinators, because they have access into the DOL system. So, the employee gets to choose whatever medical facility or provider that they want to use, and although we have some contracts with [Indiscernible] we cannot force the employees to go there, but I always say encourage them to go to one if it is a minor injury, or go, for instance, a [Indiscernible] or a cut or something like that people.

There's another question: does the digital signature count as a [Indiscernible] signature?

No. DOL does not accept digitally signed forms. They except the transmission of forms just to get the process started, so we have to have the wet signature up, and that's all they will accept. They can come to us as an agency or any Federal agency clear across the nation and inspect those OWCP forms for the signatures.

So, although we've gone electronically, as far as filing, electronic signatures are still not accepted.

Great, thanks, Letitia.

No problem.

When you issue a CA 16, remember it is only for traumatic injuries. It should be issued within 24 hours of the [Indiscernible] they reported the injury. However, if you are speaking to a medical facility and you tell them that you are going to authorize the care, make sure you get the form to them and at least about two days, 48 hours, something like that, and if they go to the hospital or receive urgent care, it can be issued for up to a week. But after that, they missed the window of opportunity to have that form issued for that initial payment.

We have a couple of type questions coming in. Jason asked can any supervisor issued the CA 16?

It should be the employee's immediate supervisor, however, people to have a leave on the book or they are away at training or other things crop up, they might not be there on the day of the injury, so if there's another supervisor, the next level or if somebody knows of another supervisor, yes, any supervisor can issue it. However, it should be the immediate, but there are cases where that is not reasonably done because a person is not there.

Again, you can issue the CA 16 also for volunteers.

We have a couple folks typing so there might be more questions that you might want to address.

I will keep an eye on that. This is still dealing with the CA 16. When you issue the CA 16, there's multiple pages, and Page 2 is actually the physician report. So, that's what you get your first immediate medical documentation to support disability or to support the medical restriction. I am reading here, we've been experiencing local doctors who will not take workers comp, so we have to send them to the emergency room. Yes, that is true. Yesterday I did have a conversation with the Department of Labor, and you have providers who do not accept workers comp, and if they don't, then the employee still needs a medical care, so then send them to the hospital. Just because one physician won't take it then we have to go and look at other areas.

We have a staff OWCP point of contact to issue without CA 16, is that okay?

Yes, if that's what you doing the Park, if that is your policy on how you handle those CA 16s, then it sounds like you might be the workers comp coordinator issuing these CA 16 and, yes, that is legal.

Are there any more questions?

[Indiscernible] I talked about controverting the COP. There's nine regulatory reasons and we already talked about the first one. If they're a volunteer, they are not entitled to COP and you should controvert the claim. There is a spot when you are filling out the form, if they are not a resident or citizen of Canada or the United States. If they were off premises and not doing any official duties. It there was misconduct or they intended to harm another employee. The injury was not reported in 30 days, remember I said they have up to three years to file, but they only have up to 30 days to actually get the claim into get COP. The first time they stop working must be within 45 days, and they cannot receive COP if they resign or were terminated from the agency. And then the next one is for special groups, and I need to change the slide so it is more beneficial to us. So, our group of people that will fall in here would be our YCC, anybody in a job corps or work-study program, AmeriCorps. So, those are the special groups that this would be applicable, so they are not entitled to COP.

As a supervisor, you should question the claim, and when they happen and how they happen. You don't have to witness it, but you should ask a couple of questions. It is questionable in your mind about what happened, and the mechanism of the injury and the time of injury. Just make sure that you have the facts and what you are certifying is true to the best of your knowledge and factual.

I want to stop here and spend a few minutes talking about performance of duty. The employee should be on the premises. They can be off the agency's premises that they must be, they went off to training or, here is an example in Washington, D.C.: we are at 12th and I,

but we also have our main building that is several blocks away, so if somebody is hurt while they are going in between the two locations, they would be covered. To and from work is not covered, so traveling to work and going home from work are not covered. To and from is covered when the person has travel orders and they are going from their home to the airport or from work to the airport. In that case to and from is covered. A diversion from duty, so if they are out traveling for conference or something and they stop to see the in-laws or parents or friends, that's a diversion from duty. Going sightseeing, that's a diversion from duty, so they are not covered under those circumstances. Recreation, if there is something that is sponsored by the agency then they are covered recreationally, but if it something they are doing. If the agency is allowing them an hour of PT and they go out and play a game of basketball, then no, they are not covered. Emergency assistance, if it employee stops to help out in a car accident and they are injured, they are covered, because emergency assistance is covered. Assault cases; so, for the person who was assaulted, they are covered, but usually the person doing the assaulting is not. Horse play, pretty much it is more applicable for the firefighters who spend a lot of time together and work long hours, and sometimes want to have a little fun at work, and somebody may get hurt. And coworker harassment and teasing. So, the person that is being harassed is usually covered in it [Indiscernible] however, the person doing the harassing is not.

Someone asked a question you may cover this but how do handle [Indiscernible]?

We will talk about that next.

[Indiscernible] has to be reasonably incidental to the travel, so that is sleeping and eating, stuff like that. It is not covered for 24 hours.

When not to issue a CA 16. That's usually falls under occupational diseases and exposures. Let's talk about tick bites since someone brought that up. This is very prevalent to us; so, if a person is bitten by a tick and let's say the tick bite becomes infected, and in that instance it would be a traumatic injury because you can pretty much can point it to incident and an infection, so the infection is actually going to give you a diagnosis. Example two, there is a tick bite, the tick is removed, nothing happens. So that is an exposure, exposures are not covered. So, for an exposure we have a couple of things going on. So, because if a person was bitten by the tick there is a probability, it doesn't mean it is going to happen but it could. We all have immune system, so not every time we get a tick bite are we are going to actually have Lyme disease, or whatever other disease that can come from a tick bite. Usually it takes some time for these things to occur. It is latent and happens after the fact, because it is working on the body of [Indiscernible] working on the immune system, it takes some time. So, in that case, not until the person is actually diagnosed with a disease from the tick bite do they have a workers comp claim. So, for just for the tick bite, the supervisor is going to go into SMIS and do the incident report and also we have tick logs, so you're going to put it in a tick log in to the incident report. That incident report is going to cover the employee does that OSHA 301 in case in the latent stage a disease actually comes up. So, for a tick bite, it is an exposure and it is not covered at that point. But the rights are being preserved by doing the incident report, so

that they can later go back and file a CA 2 under occupational disease. That is how we handle ticks and more stuff is going to be coming out about that. There is a Council and we are working to make it much easier for explaining and for capturing those exposures, because we have been doing it incorrectly and essentially causing more harm to the employee with a Worker's Compensation claim because those claims are [Indiscernible] because they are exposures.

The next thing we are not going to issue a CA 16 to a contractor or to a visitor or to a volunteers from partnering organizations like SCA, because they have state workers comp, that organization is covering them.

I'm not going to keep [Indiscernible] up exposures, we pretty much had a good example with the tick bite unless there are more questions. So [Indiscernible] says what if the tick is removed and they are freaking out about Lyme disease or other illnesses, like they want a preventative measure. So again, DOL for workers comp only deal with diseases, illnesses that have a diagnosis. They could freak out all they want to; I would tell them if you have some literature to give to them, but as far as preventative medicine or medical surveillance, much of that is covered under safety. It is not a workers comp issue, and each park or the region should have something in place to cover employees for medical surveillance and for preventative medicine. So if somebody is exposed to HIV, they are exposed to tuberculosis, they had a tick bite, all of that is covered under safety and save these preventative medicine program and their surveillance program.

We have the workers comp coordinator that has a role in of this. They submit all the forms to the Department of Labor. They provide guidance to the supervisor and the employee and maintain all the records. The upload any agency correspondence, so if we challenge a claim they will upload that. It they can assist the employee and upload their medical documentation but the employee can also upload their own. [Indiscernible] they upload any responses from us to a letter from the Department of Labor. They report and discuss return opportunities with the supervisor, because a lot of times there might be a letter that comes from DOL and they request us as an agency to accommodate the medical restrictions, especially if they are permanent, and so the workers comp coordinator is person that will receive that correspondence, so they would have to come back to you as a supervisor and explain and share what is that the Department of Labor is asking of us as an agency. They also do case management, so they keep up with the days of the COP, and they make sure of all of the regulatory guidance and we are doing the things that we are supposed to do as an agency and handling any workers compensation case. And they serve as liaisons between the agency and OWCP. They also coordinate with the timekeepers, because sometimes we have approved the employee to receive COP, however, DOL comes back and for some reason they say the employee was not entitled or we received the official decision notifying us that the claim was denied, and once that happens the T&A has to be amended. They reconcile the COP chargeback reports. They also should notify DOL when a person returns to work, so that they don't have an overpayment that they don't get paid from us because they returned to work

and receive payment from the Department of Labor, because the last medical documentation that they received showed the person was disabled.

We are going to spend a little time talking about third-party, and that is when someone else injures one of our employees with [Indiscernible] car accident or they were on travel staying in hotel and they slipped and fell. When the individual puts in their claim, there is a spot on Page 2 for the supervisor to know it is a third-party. That's how we get reimbursed by what that other entity causing injury to our employee. I provided the regulation showing that the employee should claim a third-party, so the supervisors should mark it on the claim.

Third-party liability is important to us. It is a cost savings and also saves the taxpayers, and we get audited on all this information, so it helps keep the auditors happy and we stay out of the media because we are being fiscally responsible and when we have a third-party. DOL will deduct any money received from that third party back to us, so it will lower our overall cost. Here is a screenshot of what it looks like when you are in the electronic system filling out the form.

It is usually motor vehicle accident, there's a lot of trips and falls and privately owned parking lots. Sometimes there's a third-party liability because of defective equipment, and again if a person is hurt in any building when they are on official duty, that is not under a government [Indiscernible]. You want to look at those things.

I have a poll question. [Indiscernible] employees sue a supervisor or agency in any court regarding their on-the-job injury?

I put the poll up for you, they are still voting. Great. Can you guys see that poll?

We are seeing it now.

The poll [Indiscernible] actually, we had seven people say yes, and 30% said no. Here we go. A Federal employee or government entity is not a third-party liability under workers comp and one government agency cannot sue another. So, there's a difference in the third-party liability under workers comp in a tort case. So, they can sue in regular court but they cannot sue in any Federal court. They can hire an outside attorney and they can settle, they will settle the third-party with the solicitor from the Department of Labor, and if they refuse to go after a third-party then they come lose their benefits. Just remember, if there is a third-party as a supervisor that you noted on the form, request any police reports and statements when it is appropriate from the employee and then confirm that the incident occurred or did not occur on government property.

And being fiscally responsible, I put up some costs from previous years, but in 2016 we are at \$23 million, so we had a decrease from last year are we were at [Indiscernible] In 2015, we had a decrease from [Indiscernible] \$5 million. You can see what it is costing us our compensation cost, we are at about \$15 million and the medical cost is at about \$7.6 million.

In addition to that, that's what we owe the Department of Labor. There is an administrative cost that Interior pays that is during the COP period, and again I broke this out by the different regions, but for 2016 we are almost at a million. You can see where your region fits into all of this. As a supervisor what can you do to control costs?

You want that in chat?

Yes, please.

Someone said find light duty opportunities. Yes, that is major and it is key, especially if there is a medical documentation recording that the individual can work. Someone says it is Operational Leadership. To prevent injuries, yes. Address safety issues. Definitely, because if we address that, then we won't even have to deal with any of this other stuff that we just had a discussion about.

Let's see. Yes, stay in contact with [Indiscernible] point and monitor medical reports, and that is how you find that light duty is based on those medical reports. Cooperate with OWCP [Indiscernible] entity claims examiners and your workers comp coordinator in the field, because they will have a lot of information, and some of the correspondence or employees will sometimes share things with other employees before they share it with you as a supervisor. Again, [Indiscernible] rights, we cannot contact their physicians, but we can write to the physician and send the form CA 17, and on that form on the left the supervisors says you can accommodate, and on the right the doctor will say they disagree or agree that the person can do those activities. Remember that our workers compensation program is not a retirement program. Please do not use the program to retire difficult employees and investigate your questionable injuries. If you have an employee that is term and their limit is expiring, please give a copy of the SF50 to the workers comp coordinator, so we can send that to the Department of Labor. To all your COP rules and track that time and certify into submit claims timely.

We did not really talk about it, but we also have alternative assignment during COP. Some Regional offices already have examples and so you can [Indiscernible], I can share those and you can tweak them to benefit your work area and offer alternative positions when someone is injured, and we want to bring them back and they cannot do their job, the job can be offered at a lower grade. Communicate with your workers compensation coordinator to discuss rehabilitation, because you can send that information to the Department of Labor and have them assist us as well.

Here is a lifetime cost of an individual when we use this as a retirement-type system. So, there is a person, they were 44 at the GS 12 step 5 earning a little bit over \$60,000 a year. DOL, when they pay a person that is disabled, it is at what we call a compensation rate, it is either 75% if they have a dependent; it is 66 and 2/3 with no dependents. And so I give out calculations based on 36 years, because the Social Security death Index says overall Americans

are living to a medium age of 80, so I took that age 80 so for this individual. In 36 years we are going to pay him with dependents \$1.6 million, and that is without putting in any cost for healthcare, their health benefits or their optional life benefits, and the CBAs that are adjusted annually that these type of employees receive based on an increase in their benefits.

Here I've given you all the information for when a person has completed 45 days and they have been off for another 80 hours on leave without pay, there's a certain way to code the personnel action so that this time is not counting against them.

I've supplied references for everything that has been shared today.

Here is a list of contacts. My information is on there, but you have a Regional workers compensation program person in each of the regions, so I put their information up there. You can always give me a call to discuss any complicated issues that you are having out there, and I will include the Regional program manager, and we will assist you or assist the employee to the best of our ability. Because throughout all of this we did talk about challenging claims and controverting certain aspects of the claim, we are here to make sure that their injured employees are entitled to everything that they are entitled to under the law. We want to see them improve with their help as far as injuries that occur while they were here at the work ways so we work in the middle. We make sure that we are following the law to the letter, and also we are here to make sure that the employee receives the medical treatment and any other care they need due to the work-related injury.

Are there any more questions?

I would like to say thank you all for your time and attendance. I wish that you have an awesome Thursday and enjoy the rest of your day.

Thank you, Letitia. We appreciate your information today. To the supervisors online, thank you all for being here in this session. In this classroom we do not have a session at 10:00, but there is the final telework session which is in the other classroom that begins at 10:00. [Indiscernible] our next session is at 11:30, as soon as we said find it. We have Conduct and Performance in this classroom at 11:30, so we will see you sometime the rest of the day or the week and enjoy these 10 minutes we gave you back.