

Coby Jones  
Assistant to the President for Injury Compensation  
National Association of Letter Carriers  
100 Indiana Ave. NW  
Washington, D.C. 20001-2144

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Anjanette Suggs  
DOL-OWCP/DFELWHWC  
200 Constitutional Ave., NW, Room S-3323  
Washington, D.C. 20210

Re: *Federal Register* / Vol. 88, No. 50 / March 15, 2023 / Notice pp. 16038-16039  
Agency/Docket Number: OMB Control No. 1240-0046  
Document Number: 2023-05278

Dear Ms. Suggs:

The National Association of Letter Carriers, AFL-CIO (NALC) submits these comments on the Department's "Proposed Revision of Information Collection; FECA Medical Report Forms, Claim for Compensation" published in the Federal Register Vol 88, No. 50, March 15, 2023, pp. 16038-16039.

Founded in 1889 and headquartered in Washington D.C., the NALC is a labor union with approximately 280,000 members who are actively employed as letter carriers by the U.S. Postal Service or retired from such employment. NALC is the exclusive bargaining representative of the approximately 210,000 city letter carriers currently employed by the Postal Service. NALC negotiates and administers a nationwide Collective Bargaining Agreement with the Postal Service covering all city letter carrier craft employees. All such employees are covered by the Office of Workers' Compensation Programs.

### Introduction

As a general matter, the NALC strongly supports the DOL's efforts to collect information necessary for the processing injury compensation claims in an efficient and fair manner in order to timely furnish the relief and benefits to injured federal workers provided for by the FECA (Federal Employees' Compensation Act).

The NALC has a particular interest in OWCP's medical report forms because they affect so many of our members. In most years, city letter carriers make up the largest subgroup of injured federal workers filing claims under FECA. This is due to the physical nature of our work that involves driving vehicles, extensive walking, climbing stairs, handling equipment, heavy lifting, and strenuous repetitive activities.

This response to the *Proposed Revision of Information Collection* will specifically address the last two bullet points found under Section II of the *Proposed Revision*: “Desired Focus of Comments”:

- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection on those who are to respond

## Comments

Thousands of injured letter carriers use the forms listed in the *Proposed Revision of Information Collection* every year. Navigating through the federal injury compensation program can be a daunting task for both the injured worker and their attending physician even in simple and straightforward cases. Under FECA, the injured worker bears the burden of proof to establish the that their claim is valid. Forms ideally should aid in this process. According to the implementing regulations of the FECA at 20 CFR §10.115:

### ***What evidence is needed to establish a claim?***

***Forms CA–1, CA–2, CA–5 and CA–5b describe the basic evidence required*** [emphasis added] *OWCP may send a request for additional evidence to the claimant and to his or her representative, if any; however, the burden of proof still remains with the claimant. Evidence should be submitted in writing. The evidence submitted must be reliable, probative, and substantial. Each claim for compensation must meet five requirements before OWCP can accept it. These requirements, which the employee must establish to meet his or her burden of proof, are as follows:*

- (a) The claim was filed within the time limits specified by the 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(1) and § 10.5(h) of this part;*
- (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; and*
- (e) The medical condition for which compensation or medical benefits is claimed is causally related to the claimed injury, disease, or death. Neither the fact that the condition manifests itself during a period of Federal employment, nor the belief of the claimant that factors of employment caused or aggravated the condition, is sufficient in itself to establish causal relationship.*
- (f) In all claims, the claimant is responsible for submitting, or arranging for submittal of, a medical report from the attending physician. For wage loss benefits, the claimant must also submit medical evidence showing that the condition claimed is disabling.*

In order to meet their obligation under (f) above, the injured worker must obtain a medical report that contains the required elements listed under 20 CFR §10.330 of the implementing regulations:

### ***What are the requirements for medical reports?***

*In all cases reported to OWCP, a medical report from the attending physician is required. This report should include:*

- (a) Dates of examination and treatment;*
- (b) History given by the employee; (c) Physical findings;*
- (d) Results of diagnostic tests;*
- (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 condition(s) 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; and*
- (l) All other material findings.*

The problem for the injured worker and their physician is that the forms mentioned under 20 CFR §10.115 do not actually adequately describe the basic evidence required for OWCP to accept their case, particularly with regard to (i) above, the causal explanation. The level of detail OWCP requires for a causal explanation, especially in CA-2 occupational disease cases, goes far beyond what any other medical insurer requires. And there is no current form that sufficiently elicits this information.

While OWCP addresses claim deficiencies through development letters, it has been our experience that these also do not adequately describe what OWCP is looking for in the causal explanation.

Doctors' frustration with writing acceptable medical reports has led to what OWCP in conversations with us at the national level calls "provider deserts." There are now many "deserts" around the country where doctors willing to take on federal injury compensation cases are rare or nonexistent.

The NALC believes that revising an existing form to adequately elicit the necessary information for accepting claims would simplify the process for doctors and encourage their participation in the program. Many state injury compensation programs successfully employ such forms including my own home state of Washington. While most doctors in Washington willingly take on state injury compensation cases, fewer and fewer agree to participate in the federal program.

20 CFR §10.331 states that Form CA-20 may be used for both initial and subsequent medical reports. We suggest that the CA-20 be revised to actually elicit the necessary information sufficient to accept most cases. Many benefits would flow from such a revision:

- It would streamline the process and make it more transparent and less frustrating for the attending physician.
- It would make the process more like state programs that the attending physician is used to working with.
- It would eliminate paperwork: fewer development letters, fewer initial denials, fewer appeals, and fewer appellate decisions.
- It would ensure that injured workers speedily receive the benefits they are entitled to under FECA.

- It would eliminate needless delays in injured workers getting the treatment they need to heal and return to work in a timely fashion.
- And finally, it would address the “desired focus” of the *Proposed Revision of Information Collection* in that it would enhance the quality, utility, and clarity of the information that is collected, and it would minimize the burden of the information collection on those who are to respond.

## Conclusion

In sum, the NALC not only appreciates the opportunity to respond to the “*Proposed Revision of Information Collection*” published in the *Federal Register* but also the level of responsiveness and transparency we have experienced with OWCP in recent years. We trust that the Department will seriously consider the comments and proposals we have offered above in order to help achieve the broad remedial intent of the FECA.

Sincerely yours,



Coby Jones  
Assistant to the President for Injury Compensation  
The National Association of Letter Carriers