



DEPARTMENT OF VETERANS AFFAIRS
Washington DC 20420

AUG 28 2007

**Continuation of Pay (COP) Management
INFORMATION LETTER**

1. The Federal Workers' Compensation Program exists to provide employees, who are injured or become ill while in the performance of their duties, with compensation and medical benefits. While the U.S. Department of Labor (DOL) administers the program government-wide, VA is responsible for assuring that its employees receive the benefits to which they are entitled while at the same time providing effective stewardship of this program. Chargeback Reports from DOL's Office of Workers' Compensation Programs (OWCP) as well as reports from the Occupational Safety and Health Administration (OSHA), reflect increasing program costs and difficulties in meeting the goals of the Presidential Directive on Safety, Health and Return to Employment (SHARE).
2. To better ensure appropriate program controls, one of the areas within the Workers' Compensation Program where management must focus is Continuation of Pay (COP). COP is the continuation of salary payments to injured employees who submit claims for traumatic injuries as if the employee was still at work during their normal work schedule. Continuation of salary may be made for up to 45 calendar days following the work injury. It is important to note that the cost to VA for COP is not included in the total chargeback costs we receive from OWCP each year and represents substantial additional costs.
3. Authorization for COP requires that the injured employee provide medical evidence supporting continuing disability to their supervisor and/or workers' compensation staff. In some instances, facilities have no consistent procedure of authorizing COP or method to verify that COP should be awarded. This results in improper authorization for COP and enables OWCP to accept claims where proper review may have revealed that the claim did not meet the criteria for award of COP.
4. The regulations regarding the approval of COP by employing agencies are located in 20 CFR 10.200, 20 CFR 10.330, and CA-810 A Handbook for Employing Agency Personnel. Excerpts of these two documents are attached for your information.
5. The basic procedure for approval of COP should be as follows:
 - a. Employee signs Form CA-1 to claim an on-the-job traumatic injury. [Note: COP is not payable for claims of Occupational Disease filed on form CA-2.] The employee's supervisor is then obligated to complete the supervisor's section of the form. The facility workers' compensation staff then processes the CA-1 for appropriate action. The employee is entitled to up to 10 calendar days of COP by signing this form, if total disability results.
 - b. By the 10th calendar day, the injured employee must provide medical evidence to their employing agency in order to determine whether COP will be extended. The employing agency should pay particular attention to medical notes that fail to provide

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acceptable evidence of total disability. Employees must provide the employer with such medical evidence within 10 calendar days [see 20 CFR 10.330 at attachment 3]. The employing agency should extend COP up to a total of 45 calendar days if the injured employee provides medical evidence that substantiates disability for this period of time. On the other hand, the employing agency may terminate COP pending adjudication of the claim by OWCP if the injured employee fails to provide medical evidence by the 10th calendar day. OWCP will then instruct the employing agency whether to extend COP or recoup COP or other adjustments. OWCP makes all decisions regarding whether COP should be paid and in what amount.

c. The employing agency should limit the authority to authorize COP to one or two key individuals within the facility. These individuals are responsible for reviewing the medical evidence submitted and deciding whether it meets the criteria found in the regulations for approval. If not, they should document the reasons for their decision and dispute or controvert the award of COP and send all material to the OWCP District Office for adjudication.

d. If the key individuals approve COP, then they should issue a memorandum to the employee's supervisor, safety, and payroll documenting the approval of COP and indicating specifically how many days COP is in force. The employee's timekeeper should then annotate the employee's time card to reflect which days are covered by COP.

6. It is most important to remember that absence from duty covered by COP is limited to 45 calendar days prescribed by regulations. Furthermore, authorized absence, except for the date of injury, is inappropriate to cover days away from work for Federal Employees' Compensation Act (FECA) purposes.

7. Proper authorization and management of COP by the employing agency should result in providing injured employees with all the benefits to which they are entitled while ensuring that unnecessary costs incurred by inappropriate approval of COP are avoided.

8. If you have questions concerning this letter, please contact Mr. David L. Hull, VA Workers' Compensation Program Manager, at (304) 453-2518, extension 4941.



Paul J. Hutter
Executive in Charge of the
Office of Human Resources and Administration

Attachments

Attachment 1

Subpart C – Continuation of Pay – 20 CFR 10.200

Sec. 10.200 What is continuation of pay?

(a) For most employees who sustain a traumatic injury, the 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. This is called continuation of pay, or COP. The employer, not OWCP, pays COP. Unlike wage loss benefits, COP is subject to taxes and all other payroll deductions that are made from regular income.

(b) The employer must continue the pay of an employee who is eligible for COP, and may not require the employee to use his or her own sick or annual leave, unless the provisions of Secs. 10.200(c), 10.220, or Sec. 10.222 apply. However, while continuing the employee's pay, the employer may controvert the employee's COP entitlement pending a final determination by OWCP. OWCP has the exclusive authority to determine questions of entitlement and all other issues relating to COP.

(c) The FECA excludes certain persons from eligibility for COP. COP cannot be authorized for members of these excluded groups, which include but are not limited to: 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; volunteers (for instance, in the Civil Air Patrol and Peace Corps); Job Corps and Youth Conservation Corps enrollees; individuals in work-study programs, and grand or petit jurors (unless otherwise Federal employees).

Eligibility for COP

Sec. 10.205 What conditions must be met to receive COP?

(a) To be eligible for COP, a person must:

(1) Have a "traumatic injury" as defined at Sec. 10.5(ee) which is job-related and the cause of the disability, and/or the cause of lost time due to the need for medical examination and treatment;

(2) File Form CA-1 within 30 days of the date of the injury (but if that form is not available, using another form would not alone preclude receipt); and

(3) Begin losing time from work due to the traumatic injury within 45 days of the injury.

(b) OWCP may find that the employee is not entitled to COP for other reasons consistent with the statute (see Sec. 10.220).

Sec. 10.206 May an employee who uses leave after an injury later decide to use COP instead?

On Form CA-1, an employee may elect to use accumulated sick or annual leave, or leave advanced by the agency, instead of electing COP. The employee can change the election between leave and COP for prospective periods at any point while eligibility for COP remains. The employee may also change the election for past periods and request COP in lieu of leave already taken for the same period. In either situation, the following provisions apply:

(a) The request must be made to the employer within one year of the date the leave was used or the date of the written approval of the claim by OWCP (if written approval is issued), whichever is later.

(b) Where the employee is otherwise eligible, the agency shall restore leave taken in lieu of any of the 45 COP days. Where any of the 45 COP days remain unused, the agency shall continue pay prospectively.

(c) The use of leave may not be used to delay or extend the 45-day COP period or to otherwise affect the time limitation as provided by 5 U.S.C. 8117. Therefore, any leave used during the period of eligibility counts towards the 45-day maximum entitlement to COP.

Sec. 10.207 May an employee who returns to work, then stops work again due to the effects of the injury, receive COP?

If the employee recovers from disability and returns to work, then becomes disabled again and stops work, the employer shall pay any of the 45 days of entitlement to COP not used during the initial period of disability where:

(a) The employee completes Form CA-2a and elects to receive regular pay;

(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 the employee first returned to work following the initial period of disability; and

(d) Pay has not been continued for the entire 45 days.

Responsibilities

Sec. 10.210 What are the employee's responsibilities in COP cases?

An employee who sustains a traumatic injury which he or she considers disabling, or someone authorized to act on his or her behalf, must take the following actions to ensure continuing eligibility for COP. The 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 occurred.

(b) Ensure 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 employer within 10 calendar days after filing the claim for COP.

(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 and/or representatives of OWCP.

(e) Provide to the treating physician a description of any specific alternative positions offered the employee, and ensure that the treating physician responds promptly to the employer and/or OWCP, with an opinion as to whether and how soon the employee could perform that or any other specific position.

Sec. 10.211 What are the employer's responsibilities in COP cases?

Once the employer learns of a traumatic injury sustained by an employee, it shall:

(a) Provide a Form CA-1 and Form CA-16 to authorize medical care in accordance with Sec. 10.300. Failure to do so may mean that OWCP will not uphold any termination of COP by the employer.

(b) Advise the employee of the right to receive COP, and the need to elect among COP, annual or sick leave or leave without pay, for any period of disability.

(c) Inform the employee of any decision to controvert COP and/or terminate pay, and the basis for doing so.

(d) Complete Form CA-1 and transmit it, along with all other available pertinent information, (including the basis for any controversy), to OWCP within 10 working days after receiving the completed form from the employee.

Calculation of COP

Sec. 10.215 How does OWCP compute the number of days of COP used?

COP is payable for a maximum of 45 calendar days, and every day used is counted toward this maximum. The following rules apply:

(a) Time lost on the day or shift of the injury does not count toward COP. (Instead, the agency must keep the employee in a pay status for that period);

(b) The first COP day is the first day disability begins following the date of injury (providing it is within the 45 days 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;

(c) Any part of a day or shift (except for the day of the injury) counts as a full day toward the 45 calendar day total;

(d) Regular days off are included if COP has been used on the regular work days immediately preceding or following the regular day(s) off, and medical evidence supports disability; and

(e) Leave used during a period when COP is otherwise payable is counted toward the 45-day COP maximum as if the employee had been in a COP status.

(f) For employees with part-time or intermittent schedules, all calendar days on which medical evidence indicates disability are counted as COP days, regardless of whether the employee was or would have been scheduled to work on those days. The rate at which COP is paid for these employees is calculated according to Sec. 10.216(b).

Sec. 10.216 How is the pay rate for COP calculated?

The employer shall calculate COP using the period of time and the weekly pay rate.

(a) The pay rate for COP purposes is equal to the employee's regular "weekly" pay (the average of the weekly pay over the preceding 52 weeks).

(1) The pay rate excludes overtime pay, but includes other applicable extra pay except to the extent prohibited by law.

(2) Changes in pay or salary (for example, promotion, demotion, within-grade increases, termination of a temporary detail, etc.) which would have otherwise occurred during the 45-day period are to be reflected in the weekly pay determination.

(b) The weekly pay for COP purposes is determined according to the following formulas:

(1) For full or part-time workers (permanent or temporary) who work the same number of hours each week of the year (or of the appointment), the weekly pay rate is the hourly pay rate (A) in effect on the date of injury multiplied by (x) the number of hours worked each week (B): $A \times B = \text{Weekly Pay Rate}$.

(2) For part-time workers (permanent or temporary) who do not work the same number of hours each week, but who do work each week of the year (or period of appointment), the weekly pay rate is an average of the weekly earnings, established by dividing (<divide>) the total earnings (excluding overtime) from the year immediately preceding the injury (A) by the number of weeks (or partial weeks) worked in that year (B): $A \text{ <divide> } B = \text{Weekly Pay Rate}$.

(3) For intermittent and seasonal workers, whether permanent or temporary, who do not work either the same number of hours or every week of the year (or period of appointment), the weekly pay rate is the average weekly earnings established by dividing (\div) the total earnings during the full 12-month period immediately preceding the date of injury (excluding overtime) (A), by the number of weeks (or partial weeks) worked during that year (B) (that is, $A \div B$); or 150 times the average daily wage earned in the employment during the days employed within the full year immediately preceding the date of injury divided by 52 weeks, whichever is greater.

Sec. 10.217 Is COP charged if the employee continues to work, but in a different job that pays less?

If the employee cannot perform the duties of his or her regular position, but instead works in another job with different duties with no loss in pay, then COP is not chargeable. COP must be paid and the days counted against the 45 days authorized by law whenever an actual reduction of pay results from the injury, including a reduction of pay for the employee's normal administrative workweek that results from a change or diminution in his or her duties following an injury. However, this does not include a reduction of pay that is due solely to an employer being prohibited by law from paying extra pay to an employee for work he or she does not actually perform.

Controversion and Termination of COP

Sec. 10.220 When is an employer not required to pay COP?

An employer shall continue the regular pay of an eligible employee without a break in time for up to 45 calendar days, except when, and only when:

- (a) The disability was not caused by a traumatic injury;
- (b) The employee is not a citizen of the United States or Canada;
- (c) No written claim was filed within 30 days from the date of injury;
- (d) The injury was not reported until after employment has been terminated;
- (e) The injury occurred off the employing agency's premises and was otherwise not within the performance of official duties;
- (f) The injury was caused by the employee's willful misconduct, intent to injure or kill himself or herself or another person, or was proximately caused by intoxication by alcohol or illegal drugs; or
- (g) Work did not stop until more than 45 days following the injury.

Sec. 10.221 How is a claim for COP controverted?

When the employer stops an employee's pay for one of the reasons cited in Sec. 10.220, the employer must controvert the claim for COP on Form CA-1, explaining in detail the basis for the refusal. The final determination on entitlement to COP always rests with OWCP.

Sec. 10.222 When may an employer terminate COP which has already begun?

(a) Where the employer has continued the pay of the employee, it may be stopped only when at least one of the following circumstances is present:

(1) Medical evidence which on its face supports disability due to a work-related injury is not received within 10 calendar days after the claim is submitted (unless the employer's own investigation shows disability to exist). Where the medical evidence is later provided, however, COP shall be reinstated retroactive to the date of termination;

(2) The medical evidence from the treating physician shows that the employee is not disabled from his or her regular position;

(3) Medical evidence from the treating physician shows that the employee is not totally disabled, and the employee refuses a written offer of a suitable alternative position which is approved by the attending physician. If OWCP later determines that the position was not suitable, OWCP will direct the employer to grant the employee COP retroactive to the termination date.

(4) The employee returns to work with no loss of pay;

(5) The employee's period of employment expires or employment is otherwise terminated (as established prior to the date of injury);

(6) OWCP directs the employer to stop COP; and/or

(7) COP has been paid for 45 calendar days.

(b) An employer may not interrupt or stop COP to which the employee is otherwise entitled 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.

(c) An employer cannot otherwise stop COP unless it does so for one of the reasons found in this section or Sec. 10.220. Where an employer stops COP, it must file a controversion with OWCP, setting forth the basis on which it terminated COP, no later than the effective date of the termination.

Sec. 10.223 Are there other circumstances under which OWCP will not authorize payment of COP?

When OWCP finds that an employee or his or her representative refuses or obstructs a medical examination required by OWCP, the right to COP is suspended until the refusal or obstruction ceases. COP already paid or payable for the period of suspension is forfeited. If already paid, the COP may be charged to annual or sick leave or considered an overpayment of pay consistent with 5 U.S.C. 5584.

Sec. 10.224 What happens if OWCP finds that the employee is not entitled to COP after it has been paid?

Where OWCP finds that the employee is not entitled to COP after it has been paid, the employee may chose to have the time charged to annual or sick leave, or considered an overpayment of pay under 5 U.S.C. 5584. The employer must correct any deficiencies in COP as directed by OWCP.

CA-810 Chapter 5. Continuation of Pay (COP)

This chapter describes the employee's entitlement to continuation of his or her regular pay (COP) for periods of disability or medical care which occur soon after a traumatic injury.

- 5-1 Definition and Entitlement
- 5-2 Use of Leave Instead of COP
- 5-3 Controversion
- 5-4 Pay Rate for COP Purposes
- 5-5 Computation
- 5-6 Light- or Limited-Duty Assignments
- 5-7 Recurrences
- 5-8 Terminating COP
- 5-9 Reporting COP--Form CA-3
- 5-1. Definition and Entitlement

The FECA provides that an employee's regular pay may continue for up to 45 calendar days of wage loss due to disability and/or medical treatment after a traumatic injury. The intent of this provision is to avoid interruption of the employee's income while the case is being adjudicated. COP is not considered compensation and is therefore subject to the usual deductions from pay, such as income tax and retirement allotments. After entitlement to COP ends, the employee may apply for compensation or use leave.

An employee is entitled to receive COP when he or she is absent from work due to disability or medical treatment, or when he or she is reassigned by formal personnel action to a position with a lower rate of pay due to partial disability. Because informal assignment to light or limited duties without a personnel action does not result in pay loss, time worked in such a position may not be charged to COP. However, an employee whose work schedule is changed, so that a loss of salary or premium pay (e.g., holiday pay or night differential, though not Sunday pay) results, is entitled to COP for such wage loss whether or not the schedule was changed by a formal personnel action.

Temporary employees are entitled to COP on the same basis as permanent employees. If a termination date has been set for an employee prior to the injury, however, COP need not be continued past the date of termination as long as Form SF-52 showing the date of termination has been completed. In this instance, OWCP will pay compensation to a disabled worker after employment has ceased. Like any other employee, a temporary worker who first reports a traumatic injury after employment ends is not entitled to COP.

5-2. Use of Leave Instead of COP

An employee may use annual or sick leave to cover all or part of an absence due to injury. If an employee elects to use leave, each full or partial day for which leave is taken will be counted against the 45 days of entitlement to COP. Therefore, while an employee may use COP intermittently along with sick or annual leave, entitlement is not extended beyond 45 days of combined absences.

An election of sick or annual leave during the 45-day period is not irrevocable. If an employee who has elected leave later wishes to elect COP, the supervisor must make such a change on a prospective basis from the date of the employee's request. Where the employee wishes to have leave restored retroactively, the supervisor must honor the request, provided he or she receives prima facie medical evidence of injury-related disability for the period in question.

5-3. Controversion

An agency's objection to paying COP for one of the reasons provided by regulation is called controversion. The supervisor may controvert a claim by completing the indicated portion of Form CA-1 and submitting detailed supporting information to OWCP. Even though a claim is controverted, the agency must continue the employee's regular pay unless at least one of the following conditions applies:

- A. The disability is a result of an occupational disease or illness;
- B. The employee comes within the exclusions of 5 U.S.C. 8101 (1) (B) or (E) (which refer to persons serving without pay or nominal pay, and to persons appointed to the staff of a former President);
- C. The employee is neither a citizen nor a resident of the United States, Canada, or the territory under the administration of the Panama Canal Commission (i.e., a foreign national employed outside these areas);
- D. The injury occurred off the employing agency's premises and the employee was not engaged in official "off-premises" duties;
- E. The employee caused the injury by his or her willful misconduct, or the employee intended to bring about his or her injury or death or that of another person, or the employee's intoxication was the proximate cause of the injury;
- F. The injury was not reported on a form approved by OWCP (usually Form CA-1) within 30 days of the injury;
- G. Work stoppage first occurred more than 45 days after the injury;
- H. The employee first reported the injury after employment was terminated;
- I. The employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, Youth Conservation Corps, work study program, or other group covered by special legislation.

The agency may not continue pay under any of the above circumstances.

The agency may dispute an employee's right to receive COP (and/or the validity of the claim as a whole) on other grounds, for instance on the basis that the employee was not performing assigned duties when the injury occurred, or that the condition claimed is not the result of a work-related injury.

Any such objection should be supported by factual evidence such as witness statements, pictures, accident investigation reports, or time sheets. If the validity of a claim is disputed for reasons other than the nine listed above, the agency must continue regular pay for up to 45 calendar days. COP may not be interrupted during the 45-day period unless one of the conditions in sections 5-6 or 5-8 is met.

5-4. Pay Rate for COP

An employee's regular pay is his or her average weekly earnings, including night or shift differential and various kinds of premium pay (but not Sunday pay). It also includes other extra pay, such as pay authorized by the Fair Labor Standards Act for employees who receive annual premium pay for standby duty and who also earn and use leave on the basis of their entire tour of duty, including periods of standby duty. Overtime pay is not included except for administratively uncontrollable work covered under 5 U.S.C. 5545(c)(2).

A. Standard Tour of Duty. For a full-time or part-time worker, either permanent or temporary, who works the same number of hours per week, the weekly pay rate equals the number of hours regularly worked each week times the hourly pay rate on the date of injury, excluding overtime.

B. Non-standard Tour of Duty. For a part-time worker, either permanent or temporary, who does not work the same number of hours per week, the weekly pay rate equals the average weekly earnings for the year prior to the date of injury, excluding overtime.

C. Intermittent Work. For an intermittent or part-time worker, either permanent or temporary, who does not work each week of the year (or the period of appointment), the weekly pay rate equals the average of the employee's weekly earnings during the year before the injury. The pay rate is computed on the basis of the total earnings divided by the number of weeks worked (partial weeks worked are counted as whole weeks). The annual earnings used for this computation must not be less than 150 times the average daily wage earned within one year before the date of injury (the daily wage is the hourly rate times eight).

D. Increments of Pay. Night or shift differential as well as holiday or other extra premium pay (except for Sunday pay) should be included, but overtime pay may not be considered.

E. Changes in Pay. Changes in pay due to within-grade increases or promotions, demotions, terminations of temporary details, etc. which would have occurred but for the injury are included in COP since COP represents salary and not compensation. Moreover, an employee who moves into a higher-paying job during the COP period is entitled to receive COP at the higher rate of pay. Where the weekly COP rate is based on the employee's average weekly earnings during the year prior to the date of injury, the COP rate should be changed by the same percentage as the change in hourly pay or salary.

F. Lost Elements of Pay. An element is sometimes lost due to the effects of the injury. For instance, a night shift worker may be reassigned to the day shift to perform light duty, and thus lose night differential. In such instances COP should be granted for the lost element of pay. Each day for which COP is granted to cover a lost element of pay will count as one full day of COP.

5-5. Computation

Unless the injury occurs before the beginning of the workday, time loss on the date of injury should be charged to administrative leave. The period to be charged to COP begins with the first day or shift of disability or medical treatment after the date of injury, provided that the absence began within 45 days after the injury. COP should be charged for weekends and holidays if the medical evidence shows the employee was disabled on the days in question. For example, if the physician states that disability will continue only through Saturday for an employee who has Saturday and Sunday off, COP will be charged only through Saturday.

If work stoppage occurs for only a portion of a day or shift, a full day of COP will be counted toward the 45-day entitlement, even though the employee is not entitled to COP for the entire day or shift. For example, if an employee who has returned to work must lose three hours to obtain physical therapy for the effects of the injury, he or she is entitled to only three hours of COP even though one full day will be counted. If the employee is absent for all or part of the remaining workday, the time loss should be covered by leave, LWOP, AWOL, etc., as appropriate, since absence beyond the time needed to obtain the physical therapy cannot be charged to COP.

If a partially disabled employee continues to work several hours a day, each day or partial day of absence from work is chargeable against the 45-day period.

5-6. Light- or Limited-Duty Assignments

When the physician's report shows that the employee is no longer totally disabled, he or she is required to accept any reasonable offer of suitable light or limited duty. Such an offer may be made by telephone but must be confirmed in writing within 48 hours to be valid. The offer should include a description of the duties and requirements of the offered position. If a personnel action is involved, the employee must be furnished with a copy of it prior to the effective date.

COP should be paid if the employee has been assigned light or limited duty by formal personnel action and pay loss results (e.g., the employee is placed in a light duty position at lower pay). The dollar amount of COP will be the difference between the pay rates of the job held on date of injury and the light- or limited-duty position. One full day of COP should be charged for each day of light duty, even though the employee is working a full shift. COP should also be paid if the light or limited duty consists of work at regular duties for fewer than the usually scheduled number of hours. COP should also be paid if the light or limited duty consists of work at regular duties for fewer than the usually scheduled number of hours.

If the employee refuses to accept the work offered, COP should be terminated as of the date of the employee's refusal or after five workdays from the date of the offer, whichever is earlier. OWCP will then determine entitlement based on the medical reports and the duties of the offered position and issue a formal decision concerning payment of COP. A discussion of the criteria used in making such determinations is found in Chapter 8-4.

5-7. Recurrences

In many cases, an employee will return to work without using all 45 days of entitlement of COP. Should such an employee suffer a recurrence of disability, he or she may use COP if no more than 45 days have elapsed since the date of first return to work, including part-time work and light or limited duty. If the recurrence begins later than 45 days after the first return to work, the agency should not pay COP even though some days of entitlement remain unused. A period which begins before the 45-day deadline and continues beyond it may be charged to COP as long as the period of time is uninterrupted.

If a third-party credit has been established, the supervisor should contact OWCP before paying COP.

5-8. Terminating COP

COP should not be stopped unless:

A. **Medical Evidence is Not Submitted Within 10 Workdays.** This period should be counted from the date the employee claims COP or the disability begins (or recurs), whichever is later. If the agency has not received prima facie medical evidence of injury-related disability within that period, it may stop COP.

However, the agency need not wait 10 days to request such evidence, which is defined as medical evidence showing that the employee is disabled for the job held at the time of injury because of an employment injury. Pay may be continued without such evidence if the supervisor is satisfied that the employee sustained a disabling traumatic injury.

For the purposes of this provision:

(1) The 10-workday period begins with the workday after the employee claims COP or the disability begins (or recurs).

(2) A "workday" means the business day of the office or facility where the employee works or reports, such that the employee could submit the medical evidence to an authorized agency official.

B. The Employee is No Longer Disabled. The agency should terminate COP if: it receives medical information from the attending physician stating that the employee is no longer disabled for regular work; a partially disabled employee returns to full-time light or limited duty with no pay loss; or the employee refuses a suitable offer of light- or limited- duty work.

C. OWCP Notifies the Agency That Pay Should be Terminated.

D. The 45-Day Period Expires. An employee who is scheduled to be separated and who reports a traumatic injury on or before the date of separation is entitled to COP up to the date of separation and to compensation thereafter.

5-9. Reporting COP--Form CA-3

A. Time Cards. Time loss for an employee who is receiving COP should be recorded as "COP" on the Time and Attendance Report. A diminishing record of the 45-day limitation is to be maintained in the "Remarks" block.

B. Completion of Form CA-3. Sometimes, return to duty information is shown on Form CA-1 when the injury is first reported. If not, the agency may (but is not required to) complete Form CA-3 and submit it to OWCP when entitlement to COP ends, the employee returns to work, or the disability ceases. Any Form CA-3 filed should state the specific days and hours charged to COP and/or leave, and attachments may be used if necessary. The amount of money shown should reflect only the amount paid for COP; it should not include wages paid for light or limited duty or for parts of days actually worked. In cases of intermittent or delayed disability, time charged to COP may be reported by narrative letter rather than Form CA-3. If the disability ends before the 45-day period expires, the agency should terminate COP. An employee who is no longer disabled must return to work upon notification by the attending physician that he or she is able to perform full regular duty or suitable and available light or limited duty. If the employee does not return to duty, an overpayment which is subject to collection by the agency may result.

C. Formal Decision. In all cases OWCP has the final authority to determine whether the agency's action in paying or terminating COP is correct. If entitlement is denied, OWCP will issue a formal decision (usually conveyed by Form CA-1050). Payment made may then be charged, at the employee's option, to sick or annual leave or be deemed an overpayment subject to collection by the agency.

Medical Reports

20 CFR Sec. 10.330 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.