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**FECA BULLETIN NO. 20-05****Issue Date: March 31, 2020**

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**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 employer<sup>1</sup>), 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.

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<sup>1</sup> 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.

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