



Out of Many/One Union
AFGE NVAC/AFL-CIO

NATIONAL VETERANS AFFAIRS COUNCIL

American Federation of Government Employees, Affiliated with the AFL-CIO

NATIONAL GRIEVANCE

NG-8/24/22

Date: August 24, 2022

To: Denise Biaggi-Ayer
Executive Director
Office of Labor-Management Relations
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420
Denise.biaggi-ayer@va.gov
Sent via electronic mail only

From: Alec Summerfield, Staff Counsel, National Veterans Affairs Council (#53) (“NVAC”),
American Federation of Government Employees, AFL-CIO (“AFGE”)

RE: National Grievance against the Department of Veterans Affairs Failure to Bargain a VA Policy Concerning FECA Claims that Constitutes a Change in Conditions of Employment

STATEMENT OF CHARGES

Pursuant to the provisions of Article 43, Section 11 of the Master Agreement Between the Department of Veterans Affairs and the American Federation of Government Employees (2011) (“MCBA”), American Federation of Government Employees/National Veterans Affairs Council (“the Union”) is filing this National Grievance against you and all other associated officials and/or individuals acting as agents on behalf of the Agency for unilaterally implementing substantial policy changes to VA Directive 1609 that unlawfully interfere with employee claims under the Federal Employees Compensation Act (“FECA”). To date, VA has failed to remedy this violation, and as such, continues to violate policy, contract, government-wide regulations, and law.

Specifically, the VA violated, Articles 2, 3, 41, 47, 49 the MCBA, 20 C.F.R. § 10.11, 20 C.F.R. § 10.110, 20 C.F.R. § 10.211, 20 C.F.R. § 10.220, 20 C.F.R. § 10.310, 5 U.S.C. § 7116(a), and any and all other relevant articles, laws, regulations, customs, and past practices not herein specified. The Union specifically reserves the right to supplement this grievance based upon the discovery of new evidence or information of which it is not presently aware, or otherwise, as necessary.

STATEMENT OF THE CASE

Background

FECA provides compensation and medical benefits to federal civilian employees for injury

or illness sustained while on duty. FECA mandates that the Office of Workers' Compensation Programs ("OWCP"), a division of the United States Department of Labor ("DOL"), is the exclusive administrator of federal workers' compensation programs. The Department does not administer workers' compensation or make eligibility determinations. The Department is simply an intermediary between the injured employee and/or their representative and the OWCP.¹ The Department does not have the authority to alter the OWCP's filing requirements or other DOL policies. However, recently, and in the course of advising employees on their OWCP rights and obligations, the Department has unilaterally implemented a series of changes to VA Directive 1609 that run contrary to law, regulation, and MCBA. In doing so, the Department has violated its obligations while making it more difficult for VA workers to request and receive compensation and medical benefits during the COVID-19 pandemic.

VISN Interference with CA-1 Processing

A litany of regulations and forms make clear the Agency's responsibilities when processing the forms that initiate the OWCP process to report a claim of traumatic injury, Form CA-1. When an Agency receives, a CA-1, it is required to complete the employer section of the form and submit it to OWCP within 10 working days. *See* 20 C.F.R. § 10.110. Further, when an employee requests Continuation of Pay ("COP"), the Agency must advise the employee of their right to receive COP and inform the employee of any decision to controvert COP and/or terminate pay. *See* 20 C.F.R. § 10.211. OWCP regulations carve out 7 narrow exceptions for when agencies can controvert a COP claim. *See* 20 C.F.R. § 10.220.²

Simply put, the Agency's role is to simply complete the correct form, submit the form to OWCP, and advise the employee of their rights. Per law and regulation, this process takes place at the supervisory level. Every CA-1 gives the following directions to supervisors: "As the time the form is received, complete the receipt of notice of injury and give it to the employee." Exhibit A. The CA-1 further instructs supervisors to complete specific sections of the form and submit any further information or evidence pertinent to the merits of the claim. *See Id.*

The newly implemented Appendix A of VA Directive 1609 ("Appendix A") runs contrary to the plain language of multiple OWCP regulations and forms. Exhibit B. Appendix A establishes a three-tier customer support service when "questions arise regarding interpretation of law, policy, guidance and processes." *Id.* Further, the Appendix outlines that VHA Workers Compensation Program personnel, operating at the VISN level, respond to customer support issues in writing to the originator. *See Id.*

This language is problematic for several reasons. Appendix A inserts VISN or national level VHA HR personnel to insert themselves directly into the FECA claims process, which may interfere with the exercise of rights under FECA and further delays the processing of OWCP claims. *See Id.* Agencies are not empowered to interpret OWCP policy or regulation. The extent that VA Workers Compensation Program personnel should be involved in the submission of FECA forms is to ensure that the forms are filled out correctly by the Supervisor and Employee and then

¹ Presently, the Department has elected to process workers' compensation claims at the Veterans Integrated Service Network ("VISN") level.

² Agencies can only controvert claims when the claimed disability was not a traumatic injury, the employee is not an American or Canadian citizen, the claim was not filed within 30 days of the injury, the injury was not reported until after employment was terminated, the injury occurred off the agency's premise, the injury was caused by willful misconduct, or the employee did not stop working until more than 45 days following the injury.

submitted to OWCP. OWCP is responsible for making factual and legal determinations regarding the claim.

Claimant Right to Select Medical Care Provider

After OWCP approves a FECA claim, employees are entitled to receive all medical services, appliances, or supplies that a qualified physician prescribes or recommends and that OWCP necessary to treat the work-related injury. 20 C.F.R. § 10.310. Any qualified physical or qualified hospital may provide such services. *Id.* Article 41 Section 2 of the MCBA requires that the Agency inform employees of all rights to compensation benefits, including the right to select an approved provider.

VA Directive 1609 explains the responsibilities of VA Medical Center Directors and VHA Workers' Compensation Program personnel regarding informing employees of their right to request VA Employee Occupation Health ("EOH") for claim-related medical treatment. Exhibit C. While it is true that employees *may* select EOH as the provider for their treatment related to a work-related injury, this is not a requirement. It is important that employees are aware of their right to seek an outside provider through the OWCP provider search tool.

The absence of this notice in Directive 1609 creates a failure by the Agency to adequately inform employees of all their rights regarding OWCP claims and benefit in violation of Article 41 of the MCBA, which requires that the Agency inform affected employees of all their rights under FECA.

VA Workers' Compensation Record Management

All FECA records related to claims or benefits, including any copies of such records maintained by an employing agency, are covered by the government Privacy Act system of records. 20 C.F.R. § 10.11. Further, all records relation to FECA claims or benefits, including copies of such records maintained by an employing agency, are considered confidential and may not be released, inspected, copied, or otherwise disclosed except as provided in the Freedom of Information Act and the Privacy Act of 1974. 20 C.F.R. § 10.11.

VA Directive 1609 contains a reference to the VA Records Control Schedule that implicates 20 C.F.R. § 10.10 and § 10.11. The directive states that all records created by this directive must be managed as required by the approved records schedules found in the VHA Records Control Schedule 10-1 ("RCS"). Exhibit D. Upon examination, the RCS indicates that certain records are not forwarded to the DOL's master OWCP records. Exhibit E. There are no exceptions in OWCP regulations for the management of FECA claims and benefits data. Any record related to a FECA claim must be forwarded to and managed by the DOL record system. The failure to do so is a violation of OWCP regulations.

Violations

By implementing a policy that empowers national or VISN level workers' compensation specialists to have influence or approval over CA-1 processing, the Department violated Article

41 of the MCBA, 20 C.F.R. §10.110, 20 C.F.R. §10.211, 20 C.F.R. §220. Additionally, Article 2 of the MCBA requires that the Department comply with applicable federal statutes and regulations in the administration of matters covered by the MCBA. Therefore, in violating 20 C.F.R. §10.110, 20 C.F.R. §10.211, 20 C.F.R. §220, the Department also violated Article 2 of the MCBA.

By refusing to negotiate with the Union prior to implementing Directive 1609 that constitutes a change to conditions of employment, the Department committed an unfair labor practice under 5 U.S.C. §7116(a)(5) and violated the mid-term bargaining obligations set forth in Articles 47 and 49 of the MCBA. Further, Article 3 encourages the parties to maintain a cooperative labor-management relationship that is based on mutual respect, open communication, consideration of each other's views, and minimizing collective bargaining disputes. By failing to negotiate with the Union before requiring employees to submit additional forms to start a workers' compensation claim, the Department renounced its commitments under Article 3 of the MCBA and triggered further collective bargaining disputes.

By implementing a policy that fails to adequately inform FECA claimants of their rights to select a provider, the Agency violated Article 41 of the MCBA, 20 C.F.R. § 10.310, and the statutory and contractual bargaining obligations set forth above.

By implementing a policy that allows for FECA claims and benefit-related records to be maintained outside of the DOL system of records, the Department violated 20 C.F.R. § 10.310, and the statutory and contractual bargaining obligations set forth above.

Remedy Requested

The Union asks that to remedy the above situation, the VA agree to the following:

- To cease and desist the implementation of the April 5, 2022, changes to VA Directive 1609 in its entirety until mid-term bargaining obligations are satisfied;
- To cease and desist any practice of not forwarding FECA claims and benefits-related data to OWCP;
- To cease and desist any policy or procedure that prevents, discourages, or interferes with employees filing for workers' compensation;
- To fully comply with its contractual obligations under Articles 2, 3, 41, 47, 49 of the MCBA, and its regulatory obligations under 220 C.F.R. §10.11, 20 C.F.R. § 10.110, 20 C.F.R. § 10.211, 20 C.F.R. § 10.220, 20 C.F.R. § 10.310;
- To distribute an electronic notice posting signed by the Acting Assistant Under Secretary for Health for Support, Deborah E. Kramer, to all bargaining unit employees, via email, concerning the Department's unilateral implementation of changes in conditions of employment in violation of the MCBA and federal law;
- To return to *status quo ante* until bargaining obligations are met;
- To make whole any adversely affected bargaining unit employees, including leave restoration and/or back pay, interest, and attorney's fees;
- To comply with its obligations under federal law, regulations, and contract;
- To agree to any and all other remedies appropriate in this matter.

Time Frame and Contact

This is a National Grievance, and the time frame for resolution of this matter is not waived until the matter is resolved or settled. If you have any questions, please contact the undersigned at AFGE Office of the General Counsel. The undersigned representative is designated to represent the Union in all matters related to the subject of this National Grievance.



Alec Summerfield
Staff Counsel, National VA Council
Office of the General Counsel
American Federation of Government Employees, AFL-CIO
80 F Street, NW
Washington, DC 20001
tel: 202.639.6424
efax: 202.379.2928
alec.summerfield@afge.org

cc: Alma L. Lee, President, AFGE/NVAC
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Thomas Dargon, Jr., Supervisory Attorney, AFGE/NVAC

EXHIBIT A

Instructions for Completing Form CA-1

Complete all items on your section of the form. If additional space is required to explain or clarify any point, attach a supplemental statement to the form. Some of the items on the form which may require further clarification are explained below.

Employee (or person acting on the employees' behalf)

1a) Email address

Injured workers should provide an email address when completing this form. Pursuant to policy established by the Department of Labor, Office of Workers' Compensation Programs (OWCP), Division of Federal Employees' Compensation, email communication on case specific inquiries is not allowed due to security concerns. However, obtaining claimant email addresses at the point of filing will allow OWCP to share general, non-case specific information with injured workers earlier in the claims submission process. As a longstanding policy and in an effort to protect the identities and personal information of claimants under the Federal Employees' Compensation Act, and to allow better tracking of incoming communications, we do not use two-way email as a primary method of interaction with claimants and their representatives.)

13) Cause of injury

Describe in detail how and why the injury occurred. Give appropriate details (e.g.: If you fell, how far did you fall and in what position did you land?)

Supervisor

As the time the form is received, complete the receipt of notice of injury and give it to the employee. In addition to completing items 17 through 33, the supervisor is responsible for obtaining the witness statement in Item 16 and for filling in the proper codes in shaded boxes a, b, and c on the front of the form. If medical expense or lost time is incurred or expected, the completed form should be sent to OWCP within 10 working days after is received.

The supervisor should also submit any other information or evidence pertinent to the merits of this claim.

If the employing agency controverts COP, the employee should be notified and the reason for controversion explained to him or her.

17) Agency name and address of reporting office

The name and address of the office to which correspondence from OWCP should be sent (if applicable, the address of the personnel or compensation office).

18) Duty station street address and zip code

The address and zip code of the establishment where the employee actually works.

19) Employers Retirement Coverage.

Indicate which retirement system the employee is covered under.

30) Was Injury caused by third party?

A third party is an individual or organization (other than the injured employee or the Federal government) who is liable for the injury. For instance, the driver of a vehicle causing an accident in which an employee is injured, the owner of a building where unsafe conditions cause an employee to fall, and a manufacturer whose defective product causes an employee's injury, could all be considered third parties to the injury.

32) Name and address of physician first providing medical care

The name and address of the physician who first provided medical care for this injury. If initial care was given by a nurse or other health professional (not a physician) in the employing agency's health unit or clinic, indicate this on a separate sheet of paper.

14) Nature of injury

Give a complete description of the condition(s) resulting from your injury. Specify the right or left side if applicable (e.g., fractured left leg; cut on right index finger).

15) Election of COP/leave

If you are disabled for work as a result of this injury and filed CA-1 within thirty days of the injury, you may be entitled to receive continuation of pay (COP) from your employing agency. COP is paid for up to 45 calendar days of disability, and is not charged against sick or annual leave. If you elect sick or annual leave you may not claim compensation to repurchase leave used during the 45 days of COP entitlement.

33) First date medical care received

The date of the first visit to the physician listed in Item 31.

36) If the employing agency controverts continuation of pay, state the reason in detail.

COP may be controverted (disputed) for any reason; however, the employing agency may refuse to pay COP only if the controversion is based upon one of the nine reasons given below:

- The disability was not caused by a traumatic injury.
- The employee is a volunteer working without pay or for nominal pay, or a member of the office staff of a former President.
- The employee is not a citizen or a resident of the United States or Canada;
- The injury occurred off the employing agency's premises and the employee was not involved in official "off premise" duties;
- The injury was proximately caused by the employee's willful misconduct, intent to bring about injury or death to self or another person, or intoxication;
- The injury was not reported on Form CA-1 within 30 days following the injury;
- Work stoppage first occurred 45 days or more following the injury;
- The employee initially reported the injury after his or her employment was terminated; or
- The employee is enrolled in the Civil Air Patrol, Peace Corps, Youth Conservation Corps, Work Study Programs, or other similar groups.

EXHIBIT B

PROGRAM ADMINISTRATION

This appendix addresses program oversight, administration, customer support expectations and communication methods within the Veterans Health Administration (VHA) Workers' Compensation Program (WCP).

1. PROGRAM OVERSIGHT

As described in paragraph 5.f. in this directive, the National WCP Manager is responsible for the oversight and compliance of VHA WCP to ensure that the Workforce Management Consulting (WMC) program offices and Veterans Integrated Services Network (VISN) WCP Managers understand program requirements and reports to stakeholders, as necessary, the status of compliance with laws, regulations, policies and procedures through the Assistant Under Secretary for Health for Support. **NOTE:** *The two WMC program offices that handle WC claims filed by Department of Veterans Affairs (VA)/VHA Central Office and VHA program office employees are HR Operations Office and HR Management and Consulting Service. The responsibilities for implementing VHA WCP at VHA program offices apply to only those program offices and their WCP personnel and not to any other VHA entity.*

2. ADMINISTRATION

a. Office of Workers' Compensation Programs Agency Code Assignment.

(1) VHA WCP personnel request Office of Workers' Compensation Programs (OWCP) Agency Codes from the National WCP Manager through the WMC program office or VISN WCP Manager.

(2) OWCP assigns at least one four-digit OWCP Agency Code to each WMC program office or VISN WCP so that costs paid by OWCP to or on behalf of, the injured employee are charged back to the appropriate program office or VA medical facility (e.g., 4000, 4010).

(3) The program office or VA medical facility is assigned a standard two-character suffix of "00" along with the four-digit OWCP Agency Code (e.g., 4000 00, 4010 00). When there is a need to separate costs by service, such as by appropriation, service or geographic boundary; VHA WCP personnel request an individual two-character suffix that is added to the four-digit OWCP Agency Code. (i.e., 4000AB, 4000AC).

(4) In all cases, VHA WCP personnel are responsible for ensuring that the correspondence address and point of contact information is accurate at OWCP. To make changes, VHA WCP personnel notify the National WCP Manager, through the WCP Manager in their WMC program office or VISN, to ensure that the OWCP National Office updates their records.

(5) VHA WCP personnel assign appropriate OWCP Agency Codes to each workers' compensation (WC) case during the claim initiation process and validates the accuracy of the assigned OWCP Agency Codes upon first review of the OWCP record after transmitting to OWCP for processing.

b. Workers' Compensation Program Staffing List.

(1) The National WCP Manager maintains a staffing list of all VHA WCP personnel used as a distribution list for communications and to evaluate staffing levels against approved staffing allocation models. This list also serves as a networking tool for VHA WCP personnel.

(2) WCP personnel ensure that the VHA WCP Staffing List for their WMC program office or VISN is up to date and that correspondence information such as addresses, phone numbers and email addresses are accurate.

(3) WMC program office or VISN WCP Managers periodically review the VHA WCP Staffing List for accuracy and assist VHA WCP personnel when changes are necessary.

c. Workers' Compensation Program Distribution Lists.

(1) The National WCP Manager creates and reviews distribution lists on a quarterly basis. Distribution lists align with each specific stakeholder group to control information based on a 'need to know.'

(2) The National WCP Manager maintains the VHAWCGROUP@va.gov distribution email list in Microsoft Outlook and updates the email list monthly. Information released to this group includes program communications and other information requiring immediate release to all VHA WCP personnel.

d. Case File Management.

VHA WCP personnel manage all WC claims filed by injured employees within the duty stations serviced; including claims from injured employees within a duty station that are on temporary duty in another location at the time of the injury, illness or death. The following are exceptions:

(1) VHA WCP personnel must not manage their own WC claims. The WMC program office or VISN WCP Manager assigns another WMC program office or VISN WCP to manage the claim. When reassigning, the WMC program office or VISN WCP Manager must take into consideration that tools and technology may limit other WCP from accessing WC case file information.

(2) VHA employees who are injured while on a detail assignment documented on Standard Form (SF)-52, Request for Personnel Action, and outside of the regular duty station must file their WC claim with the WMC program office or VISN WCP personnel responsible for managing WC claims for the assigned duty station. VHA WCP personnel use the OWCP Agency Code and suffix for the assigned duty station.

e. **Staffing Titles.** VHA WCP personnel use official position titles in signage or emails, (e.g., John Doe, Employee Benefits Specialist). The use of the acronym “OWCP” in signage or emails (e.g., Jane Doe, OWCP Specialist) is not permitted because it lends to the perception that VHA WCP personnel is acting on behalf of the U.S. Department of Labor (DOL) OWCP.

3. CUSTOMER SUPPORT

a. **Internal Customer Support.** VHA WCP personnel follow a three-tier customer support process when questions arise regarding interpretation of law, policy, guidance and processes; or when issues related to supporting tools and technology exist. VHA WCP personnel must first research the matters using the communication methods provided by the National WCP Manager and WMC program office or VISN WCP Manager before making a request for assistance. VHA WCP personnel respond to customer support issues in writing to the originator, with copies to all VHA WCP personnel involved in the customer support process. For matters of importance to a wider WCP community, WCP personnel send a copy of the response to their WMC program office or VISN WCP Manager for inclusion in program communications to all VHA WCP personnel.

(1) **Tier 1 Support.** VHA WCP personnel make requests for assistance to the WMC program office or VISN WCP Manager. The WMC program office or VISN WCP Manager evaluates the request and attempts to resolve the question using available reference materials.

(2) **Tier 2 Support.** When the WMC program office or VISN WCP Manager cannot resolve the request for assistance, they escalate the request to the National WCP Manager for resolution. The National WCP Manager evaluates the submitted research and attempts to resolve the request for assistance.

(3) **Tier 3 Support.** The National WCP Manager escalates the request to VA Human Resources and Administration, Office of Occupational Safety and Health when assistance is required in obtaining resolution.

b. **External Customer Support.** When requesting customer support from OWCP, the following protocol is used:

(1) VHA WCP personnel contact the OWCP Office Phone Bank when making telephone inquiries about a WC case to increase the likelihood that the telephone contact is documented and a response is received. VHA WCP personnel provide intake staff members with enough information to assist the OWCP Claims Examiner (CE) with the request and follow up with written Reports of Contact providing more detailed information. VHA WCP personnel upload the Report of Contact into the Employee Compensation Operations & Management Portal (ECOMP) so that the CE has the Report of Contact available when responding to the request. **NOTE:** For more information on contacting OWCP, see <https://www.dol.gov/agencies/owcp/FECA/contacts/fecacont>.

(2) Written requests for assistance must be clear, concise and factual. When requesting case file information, VHA WCP personnel describe the purpose for the request and the intended use of the information. VHA WCP personnel upload the written request to ECOMP. If OWCP does not respond within 30 calendar days, VHA WCP personnel make a second request for the information. If the second request is unanswered within 30 calendar days, WCP personnel may contact their WMC program office or VISN WCP Manager for assistance in escalating the issue with the OWCP District Office.

4. COMMUNICATIONS

a. **Workers' Compensation Program Stakeholder Communications.** The National WCP Manager develops WCP stakeholder communications based on the appropriate 'need to know.' The National WCP Manager determines the level of data included in communications in collaboration with stakeholder groups, such as the WMC program office or VISN Directors, WMC program office or VISN WCP Managers, WMC program office Human Resource Directors and VISN Human Resource Officers.

b. **Information for Immediate Release.** The National WCP Manager forwards information for immediate release to applicable stakeholders through appropriate communication methods, including operational memoranda, as determined by stakeholder's role within VHA WCP. A copy of the communication is sent via email to the WMC program office or VISN WCP Manager.

c. **Electronic Media Repository.** The National WCP Manager maintains an electronic media repository to provide program support and access to other WCP laws, regulations, policies, procedures, references, tools and templates. **NOTE:** *The electronic media repository is located at:* <https://dvagov.sharepoint.com/sites/VHAohshq/vhawc/default.aspx>. *This is an internal VA website that is not available to the public and access is restricted to WMC program office and VISN WCP Managers and VHA WCP personnel.*

EXHIBIT C

(8) Performing quality case review and regular on-site consultation with VISN WCP personnel on complex administrative cases, Congressional correspondence and other written program responses.

(9) Developing a professional working relationship with OWCP District Offices that administer FECA within the VISN and reviewing case file information not available electronically.

(10) Managing the WCP for all VA medical facilities within the VISN and supervising the work of the assigned VISN WCP personnel.

(11) Ensuring that Public Key Infrastructure (PKI) encryption is available and that VISN WCP personnel are using PKI to transmit protected data through electronic messaging; ensuring that VISN WCP personnel receives and understands VA Privacy and Information Security Awareness training and signs the Rules of Behavior.

(12) Periodically reviewing the VISN WCP Staffing List in accordance with paragraph 2.b. in Appendix A.

m. **VHA Service Chiefs, Managers and Supervisors.** *NOTE: The duties listed here apply to all Service Chiefs, Managers and Supervisors at VHA program offices, VISNs and VA medical facilities. VHA Service Chiefs, Managers and Supervisors are responsible for:*

(1) Working to minimize risk of work-related injury or illness by conducting periodic inspections of all work areas used by staff to identify potential hazards and addressing concerns related to workplace safety issues as soon as possible.

(2) When emergency care is required, advising the injured employee of the right to emergency diagnosis and first treatment by the VA medical facility Employee Occupational Health (EOH) or by a private physician or hospital of choice; ensuring that the appropriate health care personnel are notified; obtaining the name and address of the physician elected as the provider of choice and providing that information to WMC program office or VISN WCP personnel, as appropriate, once emergency treatment is secured.

(3) Notifying WMC program office or VISN WCP personnel, as appropriate, immediately or as soon as possible, after an employee reports an injury or illness.

(4) Investigating the possible causes of the reported injury or illness; documenting the investigation on Occupational Safety and Health Administration (OSHA) Form 301 (Injury and Illness Incident Report) or equivalent electronic record and recommending abatement strategies in coordination with the VA medical facility Safety Office.

(5) Providing guidance and counseling to injured employees regarding entitlements, rights and responsibilities when filing a claim for benefits under FECA. **NOTE:** See paragraph 6 for further information regarding FECA benefits that injured employees may be entitled to.

(3) Ensuring all VA medical facility Service Chiefs, Managers and Supervisors are trained and held accountable for their roles and responsibilities with respect to injured employees at their VA medical facility.

(4) Establishing light duty assignment standard operating procedures to ensure injured employees return to productive duty as soon as medically able by providing light duty assignments when physical restrictions are present due to their work-related injury.

(5) Determining if providing medical services in the EOH to injured employees beyond emergency diagnosis and first treatment would interfere with the ability to provide treatment or service to Veterans; and informing employees of their option to elect or not elect EOH as a provider of choice (see paragraph 7 for further information).

(6) Ensuring that fiscal processes are in place to appropriately bill OWCP for services provided by EOH to injured employees, beyond emergency diagnosis and first treatment or VA Primary Care physicians at the current cost-based inter-agency rate prescribed in the Federal Register (see paragraph 7 for further information).

(7) Ensuring that suspected fraud, waste and abuse within the VA medical facility WCP are referred to VA OIG and appropriate officials. For further information, see the VHA Workers' Compensation Guidebook at: <http://vaww.hefp.va.gov/guidebooks/vha-workers-compensation-guidebook>. **NOTE:** *This is an internal VA website that is not available to the public.*

(8) Ensuring that VISN WCP personnel located at VA medical facilities have appropriate secure office space containing locked file cabinets and dedicated computer equipment (to include printer, fax and scanner) due to the sensitive and confidential nature of the program.

o. VHA Workforce Management Consulting Program Office or VA Medical Facility Finance Officer. The VHA WMC program office or VA medical facility Finance Officer is responsible for:

(1) Authorizing access to payroll information related to employees' injury leave to WMC program office or VISN WCP personnel.

(2) Tracking COP or other injury-related leave when authorized by WMC program office or VISN WCP personnel; and correcting time and leave records to document leave as requested by the employee when COP is rescinded.

(3) Providing a detailed injury-related leave report to WMC program office or VISN WCP personnel each pay period to validate that COP leave authorizations are paid appropriately.

(4) Providing pay rate and premium pay data to WMC program office or VISN WCP personnel within 5 business days, when requested, so that claims for compensation are submitted to and processed by OWCP within regulatory timeframes.

EXHIBIT D

receiving medical treatment for a job-related injury for the purpose of preparing bills for reimbursement as prescribed by law.

8. TRAINING

a. VHA WCP personnel must complete required and supplemental training. VA and VHA-sponsored training may include modules in the VA Talent Management System (TMS), VA-approved e-learning or virtual training systems, face-to-face training sessions or other emerging training formats. The following training is **required** for VHA WCP personnel:

(1) VHA Workers' Compensation Staff Training (TMS Curriculum ID # 34661 and 35666).

(2) DOL Privacy Act training. **NOTE:** *This training must be completed annually to maintain access to OWCP and VA WC official Systems of Record. It is presented virtually.*

b. It is recommended that VHA WCP personnel attend VA and VHA WCP-planned conference calls using interactive electronic media.

9. RECORDS MANAGEMENT

All records regardless of format (e.g., paper, electronic, electronic systems) created by this directive must be managed as required by the National Archives and Records Administration (NARA) approved records schedules found in VHA Records Control Schedule 10-1. Questions regarding any aspect of records management should be addressed to the appropriate Records Officer.

10. REFERENCES

a. 38 U.S.C. §§ 703(c), 1725, 1729, 1784, 1785, 7301(b).

b. 29 U.S.C. § 654.

c. 5. U.S.C. §§ 552a, 8101-8193.

d. 20 C.F.R. §§ 10.11, 10.115, 10.220, 10.222, 10.508, 10.707 and part 25.

e. VA Directive 5810, VA Workers' Compensation Program, dated September 1, 2021.

f. VA Directive 6609, Mailing of Sensitive Personal Information, dated May 20, 2011.

g. VA Handbook 5011/34, Hours of Duty and Leave (Weather and Safety Leave), dated October 25, 2019.

EXHIBIT E

Item Number	Records Description	Disposition Instructions	Disposition Authority
3075.9	<p>Incentive Package Records.</p> <p>Records of recruitment, relocation, and retention incentives; federal student loan repayment; and supervisory differentials offered under the Federal Employees Pay Comparability Act.</p>	<p>Temporary. Destroy 3 years after date of approval, completion of service agreement, or termination of incentive or differential payment, whichever is later, but longer retention is authorized if required for business use.</p>	<p>GRS 2.4, item 090 DAA-GRS-2016-0015-0011</p>
3075.10	<p>Workers' Compensation (personnel injury compensation) Records.</p> <p>Federal Employees' Compensation Act case files on Injuries Federal employees sustain, while performing their duties that result in lost time or death, whether or not the employee filed a workers' compensation claim. Includes:</p> <ul style="list-style-type: none"> ▪ forms, reports, correspondence, claims ▪ medical and investigatory records ▪ administrative determinations or court rulings ▪ payment records 	<p>Temporary. Destroy 3 years after compensation ceases or when deadline for filing a claim has passed.</p>	<p>GRS 2.4, item 100 DAA-GRS-2016-0015-0012</p>
3075.11	<p>Requests for Health Benefits Under Spouse Equity.</p> <p>Applications and related papers. If applications are denied, may include denial.</p>	<p>Transfer to appropriate retirement system after enrollment is cancelled or terminated, or annuity payment begins.</p>	<p>GRS 2.4, 110</p>