

STATE OF WISCONSIN  
DEPARTMENT OF MILITARY AFFAIRS  
Office of The Adjutant General  
Post Office Box 8111  
Madison, Wisconsin 53708

Human Resources  
Regulation No. 810-1

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**COMPENSATION BENEFITS FOR TECHNICIANS**

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## CHAPTER 1 - COVERAGE & ELIGIBILITY

1-1. PURPOSE: This regulation explains the major benefits available to technicians who sustain injuries or incur occupational diseases and survivors of those technicians killed in the performance of those assigned duties. This regulation must be brought to the attention of all technicians to enable them to properly protect their rights and benefits. The term "OWCP Specialist" in the context of this regulation indicates the individual in the Human Resources Office (HRO) designated to handle Office of Workers' Compensation Programs (OWCP). The U.S. Department of Labor is responsible for administration of the program. The Office of Workers' Compensation Programs is charged with the responsibility of receiving and processing all bills for services and adjudicating all claims for Wisconsin National Guard technicians. The HRO is responsible for maintaining files for each technician alleging injury, processing all claims, maintaining a supply of forms, and keeping personnel advised of their rights and benefits. Supervisors are responsible for seeing that all job-related injuries and diseases are reported, maintaining a supply of forms as indicated in para 1-4 and maintaining a file on all injuries of technicians under their supervision.

1-2. GENERAL: The Federal Employees' Compensation Act (FECA) provides compensation and medical care for all Wisconsin National Guard Technicians for disability due to personal injuries sustained while in the performance of duty. The term "injury" includes, in addition to injury by accident, a disease approximately caused or aggravated by employment. The law also provides for payment of certain funeral and burial expenses of the technician and compensation for dependents if the injury or disease causes the technician's death. Generally, a technician in an official travel status is considered to be covered by FECA during all hours from the time the official travel status begins until it is terminated at home station. Injuries involving recreation, the physical fitness program, horseplay, assault or emergencies will be handled on a case-by-case basis. The "prudent person rule" applies. For example, if you are gone out to dinner and get home by 8:30 p.m., you would be covered. If you are gone out to dinner and get home after 10:30 p.m., then the claims examiner would probably question coverage.

1-3. EXCLUSIVENESS OF REMEDY: A technician who is injured while in the performance of duty has no right to recover damages from the United States or the State of Wisconsin for the effects of the injury except through FECA. The benefits provided by the Act constitute the exclusive remedy for work-related injuries or death. The Compensation Act also includes damage to or destruction of prosthetic devices or appliances, including eyeglasses and hearing aids if they were damaged incidental to a personal injury requiring medical services. (Personal property claims can only be made under the Military Personnel and Civilian Employee's Claims Act, 31 U.S.C. 240.)

1-4. FORMS: Supervisors can maintain an adequate supply of the forms or click on the Internet on the following site and download the forms:  
<http://www.dol.gov/dol/esa/public/regs/compliance/owcp/fecacont.htm> or forms can be requested from the Human Resources Office.

<u>FORM NO.</u>	<u>FORM TITLE</u>
CA-1	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation.
CA-2	Federal Employee's Notice of Occupational Disease and Claim for Compensation.
CA-2a	Notice of Employee's Recurrence of Disability Claim for Pay
CA-5	Claim for Compensation by Widow, Widower and/or Children.
CA-5b	Claim for Compensation By Parents, Brothers, Sisters, Grandparents or Grandchildren.
CA-6	Official Supervisor's Report of Employee's Death.
CA 7	Claim for Compensation on Account of Traumatic Injury, Attending Physicians Report
CA-10	Poster, What a Federal Employee Should Do When Injured at Work
CA-16	Request for Examination and/or Treatment.
CA-17	Duty Status Report.
CA-20	Attending Physician's Report
CA35a-h	Occupational Disease Checklists
CA-915	Claimant Medical Reimbursement Form
OWCP Form 1500a	-- Medical Provider's Claim Form
OWCP Memorandum	-- WIARNG Form 250-R

1-5. PENALTIES: This regulation (pursuant to 20 CFR 10.23) provides that:

a. Any person who knowingly makes, or knowingly certifies to any false statement, misrepresentation, concealment of fact, or any other act of fraud with respect to a claim under the FECA or who knowingly accepts compensation to which that person is not entitled, is subject to criminal prosecution and may, under appropriate U.S. Criminal Code provisions (i.e., 18 U.S.C. 287 and 1001), be punished by a fine of not more than \$10,000 or imprisonment for not more than 5 years or both.

b. Any person who, with respect to a claim under the FECA, enters into any agreement, combination, or conspiracy to defraud the United States by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim is subject to criminal prosecution and may, under appropriate U.S. Criminal Code provisions (i.e., 18 U.S.C. 286), be punished by a fine of not more than \$10,000 or imprisonment for not more than 10 years, or both.

c. Any person charged with the responsibility for making reports in connection with an injury who willfully fails, neglects, or refuses to do so; knowingly files a false report; induces, compels, or directs an injured technician to forego filing a claim, or willfully retains any notice, report or paper required in connection with an injury, is subject to a fine of no more than \$500.00 or imprisonment for no more than one year, or both.

#### 1-6. **TERMS:**

**OWCP:** Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor

**OWCP Specialist:** The individual in the HRO designated to assist technicians and supervisors in the processing of claims in this program.

**FECA:** Federal Employees Compensation Act

**Injury:** Means a wound or condition of the body induced by accident or trauma and includes a disease or illness proximately caused by the employment for which benefits are provided under the act.

**Official Travel Status:** Travel officially ordered by supervisors away from the place of normal duties. This does not include travel to and from normal place of employment, travel while in a military status, or travel during State active duty.

**CA:** A symbol followed by a number which identifies forms used in the program.

**Physician:** A term that includes surgeons, osteopathic practitioners, podiatrists, dentists, clinical psychologists and optometrists within the scope of their practice as defined by State law. Chiropractors are included only to the extent that their reimbursable services consist of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist (subject to regulation by the Department of Labor). Naturopaths, faith healers, and other practitioners of the healing arts are not recognized as physicians for the purposes of workers compensation.

**Traumatic Injury:** A wound or other condition of the body caused by an external force, including stress or strain. The injury must be identifiable as to time and place of occurrence and member or function of the body or incidents within a single workday or work shift. Traumatic injuries also include damage or destruction to prosthetic devices or appliances, exclusive of eyeglasses and hearing aids unless the eyeglasses or hearing aids were damaged incident to a personal injury requiring medical attention.

**Occupational Disease or Illnesses:** A condition of the body produced by systemic infections; continued or repeated stress or strain; exposure to toxins, poisons, fumes, etc., or continued and repeated exposure to conditions of the work environment over a period longer than 1 workday or shift.

**Supervisor:** The first-line technician supervisor over the subordinates.

**Official Supervisor:** Defined for this purpose as the first-line technician supervisor over the subordinates.

**Authorizing Official:** Cases in which persons or agencies other than the National Guard or the Federal Government may be liable for the injury or death of a technician.

**Scope of Employment.** For the purpose of this coverage, a technician is deemed to be within the scope of his employment when performing authorized travel in a duty or temporary duty status in commercial, military or privately owned aircraft or vehicles regardless of whether or not the requirement to travel is included in the technician's job description. This does not include travel to and from work, travel while in a military status or during State active duty. However, it must be recognized that each case must be judged on its own merits, and the final authority for decision is the OWCP.

1-7. **STATUS AND LEAVE:** Technicians who are injured while in the performance of duty will be granted administrative leave on the day of injury for the time off the job to

secure medical treatment. If a medical determination has been made that he/she is unable or should not work the remainder of the day, administrative leave will be granted

for the remainder of that day. For disability or treatment beyond the day of injury, refer to paragraphs 4-2a(6) and 4-3.

2-1. GENERAL: When a technician is injured, the main objective is to sustain life and prevent further injury. The urgency of the situation depends upon the extent of the injury. If there is any doubt, the technician should receive medical attention as soon as possible and the necessary forms should be completed later. If the situation is not critical, then as a minimum the CA-16 should be completed before sending the technician for medical attention.

2-2. NOTICE OF INJURY: A technician is required to give his supervisor written notice (CA-1) of an injury within thirty (30) days after an injury in the performance of duty. Compensation may be denied if notice of injury is not given within thirty (30) days, or if the supervisor does not have actual knowledge of the injury.

2-3. MEDICAL TREATMENT: Upon receiving a report of a traumatic injury the supervisor will authorize medical treatment if required. The CA-16 will be used for that purpose. If urgent treatment is required, the supervisor will get the technician to treatment as soon as possible and the forms will be completed after the technician has received the immediate attention required to preserve life and to prevent further injury. The supervisor should not issue the CA-16 if more than 48 hours have elapsed from date of injury. A CA-16 "authorization guarantees payment of medical bills for up to 60 days or until OWCP withdraws authorization".

2-4. CLAIM FOR COMPENSATION: A claim for compensation is a claim for loss of wages (salary). This does not happen until a technician goes on Leave Without Pay. An injured technician is required to file a written claim for compensation within three (3) years after the injury and before compensation may be paid. If, however, the supervisor had actual knowledge of the injury within thirty (30) days, or if written notice was given (CA-1) within thirty (30) days, compensation is allowed regardless of whether a written claim was made within three years after the injury. Actual knowledge must be such as to put the supervisor reasonably on notice of an on-the-job injury or death.

2-5. CLAIM FOR DEATH COMPENSATION: If the technician dies, a written claim for compensation (CA-5 or CA-5b) by or on behalf of the dependents is required before compensation may be paid. This claim is to be filed within three (3) years after death, unless the supervisor had actual knowledge of the death within thirty (30) days, or written notice was given to the supervisor within thirty (30) days. Also, the timely filing of a disability claim because of an on-the-job injury will satisfy the time requirements for a death claim based on the same injury.

2-6. MINORS AND INCOMPETENTS: The time limitations do not apply to:

- a. A minor until attaining the age of 21 or a legal representative is appointed or

b. An incompetent during the period of incompetency if there is no duly appointed legal representative.

## 2-7. FORMS REQUIRED FOR INJURIES:

a. CA-1. The original is required. The original should be forwarded to The Adjutant General, WI, ATTN: WING-HR-MT; one copy should be retained in supervisor's file. The receipt from the original should be given to the technician by the supervisor.

b. CA-16. The original is required. The original should be taken to the medical facility and filled out by the treating physician and then forwarded to The Adjutant General, WI, ATTN: WING-HR-MT immediately and a copy retained in the supervisor's file.

c. CA-17. The original should be sent to the physician for completion and then should be forwarded to the HRO. One copy should be retained in the supervisor's file. This form is completed at intervals as often as required by the supervisor.

d. CA-7. This is no longer a combined form. The original CA-7 is required only if the technician is disabled and will be off from work for more than 45 calendar days, desires to go on Leave Without Pay from his job and will be paid by the Department of Labor. This form is also used to claim wage loss for National Guard Pay, file for Leave Buy-Back and to file for a scheduled award. The technician cannot be paid compensation without the completion of this form. If the technician decides to use sick leave, this form is not required. The original CA-7 is sent to The Adjutant General, WI, ATTN: WING-HR-MT. One copy is retained in the supervisor's file.

e. CA-20. The original is sent or hand carried to the attending physician to be filled out and returned to The Adjutant General, WI, ATTN: WING-HR-MT.

## 2-8. OCCUPATIONAL DISEASE:

a. CA-2. The original is completed and forwarded to The Adjutant General, WI, ATTN: WING-HR-MT. One copy is retained in the supervisor's file. The original receipt portion will be given to the technician.

b. CA-16. The CA-16 will not be used for disease or illnesses without prior approval of The Adjutant General, WI, or the Office of Workers' Compensation Programs. In urgent situations, the Human Resources Office may be contacted by telephone. An injured technician cannot issue an authorization for examination or treatment, or both, on his or her own behalf.

2-9. OCCUPATIONAL DEATH: Three copies of the CA-6 are required. Forward the original and one copy to The Adjutant General, WI, ATTN: WING-HR-MT. One copy is retained in the supervisor's file. Contact the Human Resources Office immediately by phone in any case of a technician that dies as a result of an occupational accident or disease.

2-10. RECURRENCE OF DISABILITY: Two copies of the CA-2a are required when a technician stops work due to the previous injury. The original is sent to The Adjutant General, WI, ATTN: WING-HR-MT. One copy is retained in the supervisor's file.

2-11. CLAIM FOR COMPENSATION BY RELATIVES: Three copies of the CA-5 are required. Forward the original and one copy to The Adjutant General, WI, ATTN: WING-HR-MT. One copy is retained in the supervisor's file. These are claims for compensation for the surviving dependents of a technician who dies as a result of employment related injury or disease. Contact the Human Resources Management Office for information and forms.

2-12. POSTER - WHAT A FEDERAL EMPLOYEE SHOULD DO WHEN INJURED AT WORK: CA-10 is required to be posted on bulletin boards in technician work areas.

2-13. SUPERVISOR'S INSTRUCTIONAL GUIDE: Refer to attachment for detailed instructions on how to complete the basic forms required for OWCP claims.

3-1. MEDICAL CARE: The FECA at 5 U.S.C 8103 authorizes the medical services needed to provide treatment of or to counteract or minimize the effects of any condition which is causally related to factors of Federal employment. No limit is imposed on the length of time for which medical expenses are paid, and the amount paid is based on OWCP's determination of the fees for the services involved. Federal employees are entitled to all of the services, appliances, and supplies prescribed or recommended by qualified physicians which, in the opinion of OWCP, are likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation. Medical care includes examination, treatment, and related services such as hospitalization, medications, appliances, supplies and transportation. A claimant must obtain approval in advance from OWCP for any surgical procedures other than emergency surgery in order to insure payment by OWCP. When travel is necessary to receive medical care, the injured technician may be furnished transportation or may be reimbursed for travel by privately owned conveyance and for incidental expenses. To claim reimbursement for mileage for traveling by privately owned automobiles a CA-77 (Instructions for Submitting Travel) and an SF 1012 (Travel Voucher) should be used. All care is contingent upon the proper submission of all required reports and records and certification or approval of the claim by the appropriate local District Office, OWCP, US Dept of Labor. Such care does not cease after the termination of employment.

a. Each injured employee is allowed an initial selection of a local qualified private physician or hospital. (Generally within 25 miles of his place of work or home), subject to the limitation that the injury is caused by an accident. (In case of disease or illness, the Human Resources Office should be contacted for instructions.) However, an injured employee must still obtain official authorization for examination and for treatment of an injury sustained while in the performance of duty.

b. In emergency situations of injury by accident, the employee should contact the nearest qualified physician or hospital. The employee will have the option of continuing with the private physician providing emergency care or selecting another local qualified physician for any further care needed for her or his injury.

c. A change of physician after the employee's initial choice will only be permitted with the approval of the Office of Workers' Compensation Programs after consideration of the reasons proposed for the change. All such requests for change of physicians will be submitted to the Human Resources Office, giving specific reasons why the change is requested.

### 3-2. TEMPORARY TOTAL DISABILITY

a. Continuation of Pay (COP) -Traumatic Injury

(1) Continuation of Pay (COP) is the continuation of an employee's regular pay by the employing agency with no charge to sick or annual leave.

It is only given in traumatic injury cases and for a maximum of 45 calendar days. In order to qualify for COP, the employee must file a claim for COP in writing within 30 days of the date of injury. Form CA-1 is designed for this purpose.

(2) The Adjutant General, WI may controvert a claim on the basis of information submitted by the employee or secured through investigation ("controvert" means to dispute, challenge, or deny the validity of the claim). The agency may controvert a claim by completing the indicated portion of Form CA-1 providing detailed information in support of the controversion to OWCP. Even though a claim is controverted, the employing agency must continue the employee's regular pay unless at least one of the conditions set forth below is met, in which case the employing agency shall not pay COP:

- (a) The disability is a result of an occupational disease or illness.
- (b) The claimant's status as an employee is defined by 5 U.S.C. 8101(1) (B) or (E);
- (c) The employee is neither a citizen nor a resident of the United States or Canada;
- (d) The injury occurred off the employing agency's premises and the employee was not engaged in official duties;
- (e) The injury resulted from the employees' willful misconduct, the employee's intention to bring about the injury or death of himself/herself or of another person, or the employee's intoxication by alcohol or illegal drugs, which includes any controlled substance obtained or used without proper medical prescription;
- (f) The injury was not reported on Form CA-1 within 30 days following the injury;

- (g) Work stoppage first occurred 45 days or more following the injury;
  - (h) The employee initially reported the injury after employment was terminated;
- or

(i) The employee is enrolled in the Civil Air Patrol, Peace Corps, Job Corps, Youth Conservation Corps, a work study program, or a similar group.

In all other cases, the employing agency may controvert an employee's right to COP, but the employee's regular pay shall not be interrupted during the 45 day period unless the controversion is sustained by OWCP and until the employing agency is so notified.

(3) Whenever technicians who are involved in the situations listed above are otherwise entitled to compensation, but are excluded from continuation of pay for the 45 day period, their entitlement to FECA compensation payments will begin from the date of pay loss, subject to other applicable sections of the FECA.

(4) The supervisor may controvert a claim by completing the indicated portion on the CA-1 Form and submitting detailed information in support of the controversion to The Adjutant General, WI, WING-HR-MT.

(5) Where pay is continued after the technician stops work due to a disabling injury, it must not be interrupted until

(a) Medical information from the attending physician states that the technician is no longer disabled; or

(b) A notification from the Office of Workers' Compensation Programs states that pay should be terminated; or

(c) At the expiration of 45 calendar days.

(6) On the date of injury the technician is carried in administrative leave on the T&A Report provided that the technician is injured while in the performance of duty during the official workday and that there is immediate time loss on the day of injury. Continuation of pay (COP) will begin the day after the injury. If there is no immediate time loss, the first time loss following the injury and due to it is the first day of COP. Once the employee begins COP, he/she is entitled to a maximum of 45 calendar days (not work days) per injury. The time loss must be certified by a physician. Days

charged to COP would include holidays, days off and weekends if included in a specific period that the physician/medical evidence indicates an employee is disabled. COP is charged in one day increments, even if the employee worked a portion of the day. The FECA regulations allow 45 days from the first working day on which the employee returns to work to begin using any balance of the full 45 days. However, COP days

must be continuous if COP goes beyond the 45 days. Once the disability stops beyond the 45 days, the employee loses all remaining COP days, but is entitled to claim compensation for wage loss. Supervisors should record a full day of administrative leave on the T&A Report when a technician uses COP. In the remark section of the T&A Report, the supervisor should record the date and hour of the injury and show the number of hours worked. The supervisor should provide HRO a copy of the T&A Report at the end of each pay period when a technician uses COP.

b. Compensation. Compensation based on loss of wages is payable after the 45th day for traumatic injuries or from the beginning of pay loss in all other injuries, subject to waiting days.

(1) When an injured technician loses pay due to temporary total disability resulting from an on-the-job injury, compensation is payable at the rate of 66 2/3% of the pay rate established for compensation purposes. The compensation rate is increased to 75% when there are one or more dependents.

Dependents include a wife/husband, an unmarried child under 18 years of age, (or if over 18, incapable of self support, a student until reaching 23 years of age or completing four years of school beyond high school level), or a wholly dependent parent. Compensation begins when the technician starts to lose pay if the injury causes permanent disability or if there is pay loss for more than 14 days. Otherwise compensation begins on the fourth day after pay stops.

(2) A technician has the right to receive pay for leave or to receive compensation. Compensation may not be paid while an injured technician receives pay for leave.

3-3. BUY-BACK-LEAVE: A technician may decide to take sick leave or annual leave, or both to avoid possible interruption of income. If the technician elects to take leave and the claim for compensation is subsequently approved by the Office of Workers' Compensation Programs, the technician may arrange with The Adjutant General, WI, to buy back the leave used and have it reinstated in his/her leave account. Compensation entitlement for leave repurchase is computed in the same way as compensation for temporary total disability. Because leave is paid at 100 percent of the usual wage rate and compensation is paid as a percentage, the employee will generally owe the agency money for the leave repurchase. A technician who desires to buy back leave should

contact the OWCP Specialist in the Human Resources Office for details and required forms.

3-4. PERMANENT TOTAL DISABILITY: When the injury causes permanent total disability, an injured technician is entitled to compensation until death unless the technician is medically or vocationally rehabilitated. Compensation for total disability

equals 66 2/3% of the technician's pay and is increased to 75% when there is a dependent. The technician may receive additional compensation, not to exceed \$500 per month, when the services of an attendant are needed constantly because of the disability.

3-5. PARTIAL DISABILITY:

a. Loss of Wage Earning Capacity. An injured technician may receive compensation computed on loss of wage earning capacity when unable to return to usual employment because of partial disability as a result of the on-the-job injury. The compensation will equal 66 2/3% of the technician's loss and will be increased to 75% when there is a dependent. The compensation will be paid so long as there is loss of wage earning capacity. The partially disabled technician who refuses suitable work is not entitled to disability compensation.

b. Scheduled Awards. Compensation is provided for specified periods of time for the permanent loss, partial loss or loss of use of certain members, organs, and functions of the body. Proper and equitable compensation, not to exceed \$3500, may be paid for serious disfigurement of the face, head or neck if of a character likely to handicap a person in securing or maintaining employment. Compensation for wage earning capacity may be paid after the scheduled award expires. (Contact the OWCP Specialist in the Human Resources Office for details.) The following table shows the number of weeks of compensation that may be payable in the event a technician suffers 100% functional loss or dismemberment. The award may be for a lesser number of weeks proportionate to the percentage of disability. These payments are at the full weekly compensation rate and are in addition to any payments for periods of temporary disability. This list is not all inclusive.

<u>Anatomical Member</u>	<u>Weeks of Compensation</u>
Arm	312
Leg	288
Hand	244
Foot	205
Eye	160
Thumb	75

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<u>Anatomical Member</u>	<u>Weeks of Compensation</u>
First Finger	46
Great Toe	38
Second Finger	30
Third Finger	25
Toe, other than great toe	16
Fourth Finger	15

Loss of hearing - monaural	52
Loss of hearing - binaural	200
Breast	52
Kidney	156
Larynx	160
Lung	156
Tongue	160

Compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is same as for loss of the eye. The degree of loss of vision or hearing for a schedule award is determined without regard to correction; that is, improvements obtainable with use of eyeglasses and hearing aids are not considered in establishing the percentage of impairment. The law contains no provisions of a schedule award on account of permanent impairment to the back, heart or brain.

3-6. DEATH:

a. Burial. A sum not to exceed \$800 may be paid for funeral and burial expenses. An additional sum may be paid for transporting the remains to home if the technician dies away from home or his/her official duty station. An additional sum of \$200 is paid to the personal representative of the decedent for reimbursement of the cost of termination of the descendant's status as an employee of the United States.

b. Dependents.

(1) No children. When there are no children entitled to compensation, the technician's widow or widower may receive compensation equal to 50% of the technician's pay until death or remarriage. Upon remarriage, a widow or widower will be paid a lump sum equal to 24 times the monthly compensation being paid on his or her behalf. If, however, such remarriage occurs on or after the age of 55, the lump sum payment will not be made and compensation will continue until the beneficiary's death.

(2) Children involved. When a child is entitled to compensation, the compensation for the widow or widower will equal 45% of the technician's pay plus 15% for each child, but no more than 75% of the technician's pay. A child is entitled to compensation until he or she dies, marries, or reaches 18 years of age, or if over 18 and incapable of self support, becomes capable of self support. If an unmarried child is a student when reaching 18 years of age, compensation may be continued for as long as the child remains a student or until he or she marries. It may not, however, be

continued beyond the end of the semester or enrollment period after the child reaches 23 years of age or has completed four years of school beyond the high school level.

### 3-7. MINIMUM AND MAXIMUM COMPENSATION:

a. Disability. Compensation for disability may not exceed 75% of the monthly pay of the highest step of the GS-15 level. For total disability, it may not be less than 75% of the monthly pay of the first step of the GS-2 level or actual pay, whichever is less.

b. Death. Compensation for death may not exceed a75% of the highest step of the GS-15 level, and it may not be less than the minimum pay for the first step of the GS-2 salary. In no case may it exceed the employee's salary except when the excess is created by cost-of-living increases.

3-8. VOCATIONAL REHABILITATION: Vocational rehabilitation, job counseling and placement assistance may be provided an injured technician who is unable to return to usual employment because of permanent disability due to the on-the-job injury. Additional compensation not to exceed \$200 per month may be paid if it is considered necessary by the Office of Workers' Compensation Programs for maintenance when the technician is pursuing an approved training course. Also, a technician will be paid at the rate of total disability while pursuing an Office of Workers' Compensation approved training course.

### 3-9. DUAL BENEFITS

a. Civil Service Annuity and Compensation. As a general rule, a person may not concurrently receive compensation (wages or salary) from the Office of Workers' Compensation Programs and a retirement or survivor annuity from the Office of Personnel Management (either CSRS or FERS) for the same period. However, the beneficiary may elect to receive the more advantageous benefit. There are some exceptions to this rule.

b. Military Retirement/Retainer Pay and Compensation. A technician may receive

compensation concurrently with military retired pay, retirement pay, retainer pay or equivalent pay for service in the Armed Forces or other uniform services subject to the reduction of such pay in accordance with 5 USC 5532(b).

3-10. HEALTH BENEFITS: An injured technician receiving disability compensation and enrolled in a health benefits plan on the date his/her pay stops is eligible to continue his/her health benefits enrollment and that of his/her family members if he/she was: (1) enrolled during all of his/her service since his/her first opportunity to enroll; (2) enrolled

for the five years of service immediately preceding the start of his/her compensation; (3) enrolled on or before 31 December 1984.

### 3-11. INSURANCE:

a. FEGLI. During the time a technician receives disability compensation and is unable to resume usual employment, his/her Federal Employees' Group Life Insurance (FEGLI) is continued without cost to him/her.

b. Optional Life Insurance.

(1) Technicians are permitted to continue their optional insurance: (a) while in receipt of disability compensation payments or (b) while in receipt of a scheduled award in cases when it has been determined by the OWCP that they are unable to return to duty, and when they have had the optional insurance in force continuously from the time it first became available to them. Unlike regular life insurance which continues without cost to a technician receiving disability compensation, the full cost of the optional life insurance will be deducted from the technician's disability compensation until age 65 is reached. However, no deductions for optional insurance will be made for any period of disability of 28 days or less. When the period of compensable disability exceeds 28 days, premiums for optional insurance will be deducted for the entire period including the first 28 days.

(2) In order to prevent an overlap of premium deductions for optional insurance, the office that submits the Report of Termination of Disability (Form CA-3), (which reports the disabled technician's return to duty) should include the beginning and ending dates of the pay period in which the technician returned to work in Item 15.

### 3-12. CIVIL SERVICE RETENTION RIGHTS:

a. General. It was the intent of Congress that technicians who sustain a compensable job-related injury or disability, have certain rights to return to employment.

Technicians being restored after recovering from a compensable injury are generally entitled to be treated as though they had never left. The entire period when a technician was receiving compensation or continuation of pay is creditable for purposes of rights and benefits based on length of service, including within-grade increases, career tenure, and completion of probationary period. However, technicians do not earn sick or annual leave while in a nonpay status. Technicians who sustain a compensable injury enjoy no special job protection as a result of the injury. Therefore, they are subject to reduction-in-force procedures just as other technicians are. They are granted whatever rights they would have had to another job, had they not been injured. Technicians who

sustain an on-the-job compensable injury may be granted paid leave or leave without pay for the first year they are receiving compensation. They may be granted extensions in increments of six months. However, if after the end of the initial year and a review of the case indicates that the technician will not or cannot return to work within a reasonable period of time, appropriate steps will be taken to separate the technician. Technicians who are granted leave without pay for a compensable injury are expected to report to work as soon as possible after they are fully recovered. This is usually the first regularly scheduled workday after the date the medical determination has been made that the technician is able to resume regular duties. Disciplinary actions may be taken against any technician who fails to report for regular work.

b. Recovery Within One Year.

(1) Fully Recovered. If a technician has fully recovered within one year after the date compensation begins, the technician is entitled to resume his or her former or equivalent position. The technician is not entitled to their former or equivalent position if he or she was separated because of reduction-in-force, for cause, or for reasons unrelated to the injury.

(2) Partially Recovered.

(a) If a technician has partially recovered from the injury or disability within one year after the date compensation begins and is able to return to limited duty, the Human Resources Office will make an effort to restore him or her to an appropriate position consistent with the circumstances in each case. (See paragraph 4-11 below.) If the Human Resources Office cannot restore the technician to any position, it shall notify the technician of the reasons and of the right to appeal the decision.

(b) If, because of the compensable injury, the individual is disqualified for the position he or she held or a comparable one, he or she is entitled within one year of the date he or she began receiving compensation, to be restored to the next best position

for which qualified for; meaning the position that most closely approximates in seniority, status and pay the position held prior to the injury. If the technician fully recovers from the injury after one year from the date compensation begins, the Human Resources Office will make a reasonable effort to place the technician in his or her former or equivalent position, (Subchapter 2, FPM 353).

3-13. LIMITED/LIGHT DUTY:

a. Light Duty Policy: The employee will notify the supervisor when a non-work related medical problem occurs and what leave status he/she desires to be in. An

employee must inform the supervisor if they are interested in returning to work under a limited/light duty assignment. The employee has the option requesting paid leave or LWOP until fully recovered. If it is work related, the technician will report the situation immediately to his/her supervisor. When the attending physician indicates that the employee is no longer totally disabled, the injured employee **is required** to accept any reasonable or suitable limited/light duty. Failure to do so will affect the employee's workers compensation benefits.

b. The technician must submit medical certification to the supervisor prior to a return to work offer. The technician must provide his/her supervisor with a Performance Capability Chart (attachment 1) prior to a return to work offer. The Performance Capability Chart should be completed by the employee's attending physician. It is recommended that the supervisor also provide the attending physician with a Duty Status Cover Letter (attachment 2) and a copy of the worker's position description. If the injury is work related, form CA-17, Duty Status Report, can be used in place of the Performance Capability Chart.

c. Determination of the Duty Status. Upon receipt of the medical evidence from the physician the supervisor will determine the appropriate duty status. The employee will be returned to full duty, assigned to limited/light duty, placed in a continuation of pay (COP) status (only if a work-related traumatic injury claim), or placed in sick leave, annual leave, or leave without pay (LWOP) status.

d. Transitional Limited/Light Duty. If the attending physician determines that the technician can perform limited/light duty work, the supervisor will notify the employee to return to work the next scheduled workday. The supervisor will plan the technician's limited duty assignments and record the work recovery plan (attachment 3).

(1) Duties must be performed within the medical restrictions imposed by the treating physician.

(2) The plan needs specific effective dates for starting and ending. The duration of the limited/light duty status will not exceed 120 days. Any exception must be approved by the Human Resources Office (HRO). Should an injured technician remain in limited/light status for less than 120 days the supervisor need not initiate any personnel action.

(3) The plan will need to be flexible, changing daily or weekly depending on the worker's medical progress and the organization's needs. Any change must be within the current medical restrictions or approved by the treating physician.

(4) The job assignments must promote recovery for the injured employee and result in useful and productive work for the agency.

(5) Once the technician accepts the position, HRO will notify OWCP at the earliest time possible of the date the technician will return to duty. Compensation benefits will be terminated or adjusted as appropriately. (To avoid overpayment of compensation, HRO should notify OWCP telephonically and follow up with a note or memo.

#### **CHAPTER 4 - ADJUDICATION**

4-1. **HEARINGS**: If the technician did not request a reconsideration, as described below, the technician may request an oral hearing before an OWCP representative. Such a request must be made in writing, within 30 days after the date of this decision, as determined by the postmark on the technician's letter. At an oral hearing, the technician will be given the opportunity to present testimony and written evidence in support of his/her claim. The hearing will be informal and will be held at a location in the local area. The technician may be represented at the hearing by any person authorized by him/her in writing. If his/her injury occurred on or after July 4, 1966, and technician did not request a reconsideration, the technician may instead request an examination of

the written record by a hearing representative appointed by the Director. This examination must be requested within 30 days of the date of this decision. The Technician will not be asked to attend or give oral testimony, but may submit additional written evidence. The technician will be granted this review instead of an oral hearing. Any additional written evidence must be sent with the request for a review. To protect the right to a hearing, the request for an oral hearing or a review of the written record, must be sent the Branch of Hearings and Review, at the address included with the appeal rights; no special form is needed. Any request for a hearing (written or oral) must be made before any request for reconsideration by the district office (5 U.S.C. 8124(b)(1)). The technician will have the right to request a reconsideration or an appeal of the hearing representative's decision if the technician disagrees with it.

4-2. RECONSIDERATION: If the technician has additional evidence which he/she believes is pertinent, he/she may request in writing that OWCP reconsider the decision. Such a request must be made within one year of the date of the decision, clearly state the grounds upon which reconsideration is being requested, and be accompanied by relevant evidence not previously submitted, such as medical reports or affidavits, or a legal argument not previously made. The technician's request for reconsideration and the new evidence being submitted should be sent to the district office. In order to ensure that the technician receives independent evaluation of the evidence, the case will be reconsidered by persons other than those who made this determination.

4-3. APPEALS: If the technician believes that all available evidence has been submitted, he/she has the right to appeal to the Employees' Compensation Appeals Board for review of the decision. Review by the Appeals Board is limited to the evidence of record and no new evidence may be submitted. A request for review by the Appeals Board should be made within 90 days from the date of this decision and should be addressed to the district office handling the claim. If the technician should

request a hearing or reconsideration by the Office of Workers' Compensation Programs as indicated above, the 90-day period for a request for review by the Appeals Board will run from the date of any decision by OWCP. The Appeals Board may waive failure to file within 90 days if application is made within one year from the date of the decision being appealed.

4-4. REPRESENTATION: A technician may be represented by a union official or other individual on any matter pertaining to an injury or death occurring in the performance of duty. Such representation must be authorized in writing by the technician or claimant. No claim for legal services or for other services rendered in respect to a case, claim or award of compensation shall be valid unless approved by OWCP.

4-5. CASES INVOLVING LIABILITY OF A THIRD PARTY: The OWCP has the right to be reimbursed from damages recovered in any case of injury or death caused under circumstances creating a legal liability by someone other than the United States. No person claiming compensation should attempt to settle a third party claim arising out of an injury or death without first obtaining advice and approval of the Solicitor of Labor. In all cases of this kind, the supervisor should advise technicians or claimants of this requirement.

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The proponent of this HRR is the Director, Human Resources Office.  
Users of this regulation are invited to send comments to The Adjutant  
General, WI, ATTN: WING-HR, PO Box 8111, Madison, WI 53708-8111

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//s\\  
SETH E. PERELMAN  
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Dir, Human Resources

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### PERFORMANCE CAPABILITY CHART

Name of Patient: \_\_\_\_\_

Address of Patient: \_\_\_\_\_

After having examined the above patient on     date(s)    , it is my medical opinion that he/she ( ) IS ( ) IS NOT currently capable of returning to work without creating a reasonable probability of either reinjuring or further aggravating the following disabling condition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above opinion is based upon the restrictions set forth below, which have been explained to the above patient.

1. The patient is capable of performing the following degree of work:<sup>1</sup>

Sedentary Work. Lifting ten pounds maximum. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required only occasionally and other sedentary criteria are met.

Light Work. Lifting twenty pounds maximum with frequent lifting and/or carrying of objects up to ten pounds. Even though the weight lifted may only be a negligible amount, a job in this category when it requires walking or standing to a significant degree or when it involves sitting most of the time with a degree of pushing and pulling of arm and/or leg controls.

Medium Work. Lifting fifty pounds maximum with frequent lifting and/or carrying of objects weighing up to twenty-five pounds.

Heavy Work. Lifting one hundred pounds maximum with frequent lifting and/or carrying of objects weighing up to fifty pounds.

Very Heavy Work. Lifting objects in excess of one hundred pounds with frequent lifting and/or carrying of objects weighing fifty pounds or more.

None of the above.

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<sup>1</sup> Job categories taken from US Dept. of Labor, II Dictionary of Occupational Titles, 654-55 (3d ed. 1965)

2. During a single work shift, the patient can safely lift or carry a maximum of:

\_\_\_\_\_ pounds on a single occasion

\_\_\_\_\_ pounds repetitively

3. During a single work shift, the patient can stand or walk:

Not at All	Occasionally	Frequently	Continuously
<u>(0-1 hour)</u>	<u>(1-4 hours)</u>	<u>(3-5 hours)</u>	<u>(6-8/9/10 hours)</u>
( )	( )	( )	( )

4. During a single work shift, the patient can sit:

Not at All	Occasionally	Frequently	Continuously
<u>(0-1 hour)</u>	<u>(1-3 hours)</u>	<u>(3-5 hours)</u>	<u>(5-8/9/10 hours)</u>
( )	( )	( )	( )

5. During a single work shift, the patient can drive:

Not at All	Occasionally	Frequently	Continuously
<u>(0-1 hour)</u>	<u>(1-3 hours)</u>	<u>(3-5 hours)</u>	<u>(5-8/9/10 hours)</u>

( )

( )

( )

( )

6. During a single work shift, the patient can constantly use his/her hands for repetitive actions such as:

	<u>Right</u>	<u>Left</u>	<u>Both</u>
A. Simple Grasping	( )	( )	( )
B. Pushing and Pulling	( )	( )	( )
C. Fine Manipulation	( )	( )	( )
D. Finger Movement and Dexterity	( )	( )	( )
E. Rotation	( )	( )	( )
F. Bending	( )	( )	( )
G. Lifting Weights	( )	( )	( )

7. During a single work shift, the patient is able to perform work at shoulder level:

A. With Both Hands	( )
B. Only with Left Hand	( )
C. Only with Right Hand	( )

8. During a single work shift, the patient can use his/her feet for repetitive movement, such as operating foot controls:

A. Right Foot	( )
B. Left Foot	( )
C. Both Feet	( )

9. During a single work shift, the patient can use his/her arms for repetitive actions such as:

	<u>Not at All (0-1 hour)</u>	<u>Occasionally (1-3 hours)</u>	<u>Frequently (3-5 hours)</u>	<u>Continuously (5-8/9/10 hours)</u>
A. Bending	( )	( )	( )	( )
B. Squatting	( )	( )	( )	( )
C. Climbing	( )	( )	( )	( )
D. Crawling	( )	( )	( )	( )
E. Twisting	( )	( )	( )	( )
F. Pushing	( )	( )	( )	( )
G. Pulling	( )	( )	( )	( )
H. Performing Overhead Work	( )	( )	( )	( )

10. During a single work shift, the patient is able to:

	<u>Not at All (0-1 hour)</u>	<u>Occasionally (1-3 hours)</u>	<u>Frequently (3-5 hours)</u>	<u>Continuously (5-8/9/10 hours)</u>
A. Work on Unprotected Heights	( )	( )	( )	( )
B. Work Around Moving Machinery	( )	( )	( )	( )

- C. Work in Atmospheres With Marked Changes in Temperature and Humidity ( ) ( ) ( ) ( )
- D. Drive Automatic Equipment ( ) ( ) ( ) ( )
- E. Be Exposed To Dust, Fumes And Gases ( ) ( ) ( ) ( )

11. The restrictions set forth above are:

- ( ) Permanent
- ( ) Temporary

12. If the above restrictions are temporary in nature, when is the patient's healing period expected to be completed?

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13. Please describe any additional physical restrictions and/or functional limitations that you feel are necessary.

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DATE: \_\_\_\_\_ Physician's Signature: \_\_\_\_\_

Physician's Name: \_\_\_\_\_

Address: \_\_\_\_\_

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Telephone: \_\_\_\_\_

COVER LETTER TO PHYSICIAN

(Date)

(OFFICE/SHOP TITLE, Ex: Human Resources Office)

SUBJECT: Return to Work Offer For Limited/Light Duty

Name of Physician

Address Line

City, State, Zip Code

Dear Dr. \_\_\_\_\_:

Our records indicate that (Employee's name) has been off work since (Date) and is under your care for a (Type of Injury, Ex. Back Strain) which occurred (Date of Injury). We are interested in rehabilitating our employees and would appreciate a work evaluation as to what type of work (Employee's name) can perform and how many hours a day.

Through our rehabilitation program we provide suitable light or limited duty assignments for our employees who are partially disabled as a result of their injury (work or non-related). We support rehabilitation and recognize the benefits of providing

limited/light duty to the patient, family, and the employer. We will cooperate with you in providing any light duty assignment within (Employee's name)'s medical restrictions.

Please review the enclosed job description and advise if (Employee's name) can meet the physical requirements of this job as stated. Please complete the enclosed Performance Capability Chart based on (Employee's name) physical capabilities and we will accommodate any reasonable limitations you impose. If you feel he/she cannot return to any type of work at this time, please give us a prognosis as to when he/she may be able to work in a limited/light duty capacity.

If additional information is needed, please don't hesitate to contact me at \_\_\_\_\_.

Thank you in advance for your cooperation and prompt response.

Sincerely,

Name of Supervisor  
Supervisor's Title

Enclosures

### WORK RECOVERY PLAN

ATTN: WING-HR-MT  
The Adjutant General, WI  
PO Box 8111  
Madison, WI 53708-8111

EMPLOYEE'S NAME: \_\_\_\_\_

DATE OF INJURY: \_\_\_\_\_

Medical documentation from your physician indicates that you have been released for light duty work. This agency is, therefore, offering you the following assignment effective \_\_\_\_\_.

LOCATION: \_\_\_\_\_

WORK SCHEDULE:  
(Hours/Days/Week) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DUTIES:  
\_\_\_\_\_  
\_\_\_\_\_

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PHYSICAL REQUIREMENTS:

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\_\_\_\_\_  
SUPERVISOR'S SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
EMPLOYEE'S SIGNATURE

\_\_\_\_\_  
DATE