

Continuation of Pay (COP)

The Federal Employees' Compensation Act (FECA) provides that an employee's regular pay may be continued for up to 45 calendar days of wage loss due to disability and/or medical treatment following a traumatic injury. COP is not considered compensation and is therefore subject to income tax, retirement and other deductions. After entitlement to COP is exhausted, the employee may apply for compensation or use leave.

An employee's regular pay is his or her average weekly earnings, including premium pay, night or shift differential, Sunday or holiday pay, and other extra pay. Overtime pay is not included. Within-grade increases or promotions, demotions, terminations of temporary details, etc. which the employee would have received but for the injury are included in COP since this payment represents salary and not compensation.

The effects of the injury sometimes result in loss of elements of pay such as night or Sunday differential (e.g. a night shift worker is reassigned to the day shift to perform prescribed light duty). In such situations COP is granted for the lost elements of pay and each day it is granted for this purpose counts as one full day of COP toward the 45 calendar day limit.

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

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

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

In all cases, OWCP has the final authority to determine whether the agency's action in paying or terminating COP is correct.

COP will not be entered on time and attendance records (ATAAPS)) until authorization to do so has been received from the compensation office.

Continuation of Pay and Light Duty Assignments

COP should be paid if the employee has been assigned light duty by formal personnel action and pay loss results (e. g., the employee is placed in a light duty position at lower pay). COP should also be paid if the light duty consists of work at regular duties for fewer than the usually scheduled number of hours.

The dollar amount of COP will be the difference between the pay rates of the job held on date of injury and the light duty position. One full day of COP should be charged for each day of light duty, even though the employee is working a full shift.

If the employee refuses to accept the work offered, COP should be terminated as of the date of the employee's refusal or after five workdays from the date of the offer, whichever is earlier. OWCP will then determine entitlement based on the medical reports and the duties of the offered position and issue a formal decision concerning payment of COP.

Recurrences

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

Terminating COP

COP should not be stopped except under the following circumstances:

a. **Medical Evidence is Not Submitted Within 10 Workdays.** This period should be counted from the date the employee claims COP or the disability begins (or recurs), whichever is later. If the agency has not received prima facie medical evidence of injury-related disability within that period, COP may be discontinued. However, the agency may not wait 10 days to request such evidence, which is defined as medical evidence showing that the employee is disabled for the job held at the time of injury because of an employment injury.

Pay may be continued without such evidence if the supervisor is satisfied that the employee sustained a disabling traumatic injury. For the purposes of this provision:

- (1) The 10-workday period begins the workday after the employee claims COP or the disability begins (or recurs).
- (2) A workday means the business day of the office or facility where the employee works or reports such that the medical evidence could be submitted by the employee to an authorized agency official.

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

c. **OWCP Notifies the Agency That Pay Should be Terminated.**

d. The 45 Calendar Day Period Expires. An employee who is scheduled to be separated and reports a traumatic injury on or before the separation date should still be separated; he or she is entitled to COP up to the date of termination and to compensation thereafter.