



National Postal Mail Handlers Union

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February 17, 2022

To: Local Presidents
Regional Directors/Representatives
National Executive Board

Fr: Charles R. Manago *CRM*
Contract Administration Representative

Re: **U.S. Department of Labor updates COVID-19 Claims Processing Guidelines Relating to Reinfections and Home Test.**

Dear Sisters and Brothers:

Please find enclosed a copy of the above-reference document from the U.S. Department of Labor amending previous FECA bulletins.

- Updates to COVID-19 Claims Processing Guidelines Relating to Reinfections and Home Test, 2-16-2022
- COVID-19 and Federal Workers' Compensation FAQs, 2-8-2022

Please disseminate this information as you deem appropriate. Should you have any questions contact the Contract Administration Department.

Cc: Paul V. Hogrogian, National President
Michael J. Hora, National Secretary-Treasurer
Teresa L. Harmon, Manager Contract Administration



COVID-19 and Federal Workers' Compensation

The American Rescue Plan Act of 2021 (ARPA) makes it much easier for federal workers diagnosed with COVID-19 to establish coverage under the Federal Employees' Compensation Act (FECA). To establish a COVID-19 claim, you simply need to establish:

- You were diagnosed with COVID-19 via a positive test result (*excluding home tests*) or medical professional¹; and
- Within 21 days of your diagnosis of COVID-19, you carried out duties that required contact with patients, members of the public, or co-workers¹.

<p>Will I get paid if I miss time from work for <u>isolation</u> after a COVID-19 positive test?</p> <p>Do I qualify for Continuation of Pay (COP)?</p>	<p>Yes, Continuation of Pay (COP) is payable under the FECA <i>but only if:</i></p> <p>1) You can demonstrate you have COVID-19 via a positive test result (excluding home tests) or a medical professional. A notice to quarantine for exposure without a COVID-19 diagnosis as described above is <u>not</u> sufficient.</p> <p>2) You file your CA-1 form within 30 days of the date of the injury (the last date you were exposed at work, prior to the positive test result). <u>See 20 CFR 10.205.</u></p> <p>If you file a CA-1 and elect to use COP, you must ensure that medical evidence substantiating you have COVID-19 via a positive test result is provided to your employer within 10 calendar days after filing the CA-1. If a qualifying positive test result is on file, you are eligible for COP during that period.</p> <p>If you are disabled and must be out of work beyond that initial 10-day period, you must submit medical evidence to your employer supporting <u>disability</u> resulting from COVID-19. If evidence supporting disability due to COVID-19 is not submitted, your employer can stop COP after that initial 10-day period. You should also submit/upload proof of your COVID-19 diagnosis and inability to work into your OWCP case file.</p>
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¹ You are deemed to have had exposure if you have COVID-19 symptoms or positive test result within 21 days of interaction with at least one other person (a patient, a member of the public, or a co-worker) in the course of your employment duties.

- The interaction does not have to be direct physical contact. Nor is there a specified time for such interaction, any duration qualifies. General office contact and interaction is sufficient. This includes but is not limited to interaction in shared workspaces such as lunchrooms, break areas and common restrooms. However, an employee that is **exclusively teleworking** during a covered exposure period is not considered a "covered employee" under the ARPA. See **FECA Bulletin 20-09**.

<p>How many days of pay (COP) can I receive during <u>isolation</u> if I have COVID-19?</p>	<p>If you meet the two requirements noted above, the Centers for Disease Control (CDC) as of this date recommends a period of isolation of at least 5 days following your symptoms and/or positive test. Therefore, <u>if your file contains a COVID-19 diagnosis via a positive test result (excluding home tests) or medical professional</u>, OWCP will not intervene during the first 10 days of COP since isolation following a positive test result is akin to disability.</p> <p>OWCP acknowledges that the current recommendation for isolation is 5 days, but because that timeframe has varied and is dependent on symptomology onset, if your file contains a COVID-19 diagnosis via a positive test result (excluding home tests) or medical professional, OWCP will not intervene until the 10-day regulatory timeframe provided for in <u>20 CFR 10.222</u> has passed.</p>
<p>What if I file a FECA claim but cannot demonstrate I had COVID-19?</p>	<p>If you do not submit evidence you had COVID-19 via a positive test result (excluding home tests) or a medical professional within 10 days, and your employing agency requests that OWCP make a formal determination on your claim, OWCP will formally adjudicate your claim and make a determination on COP. If your claim is denied because you cannot demonstrate your COVID-19 diagnosis via a positive test result (excluding home test) or a medical professional, your employing agency can recover any COP previously paid to you.</p>
<p>What if I need to <u>quarantine</u> for exposure and cannot demonstrate I had COVID-19?</p>	<p><u>If you do not have COVID-19 but cannot work because you must quarantine, consider the following:</u></p> <p>Quarantine periods are for when you have been exposed to COVID-19, but there is no evidence that you have COVID-19. Quarantine recommendations vary based on vaccine status, whether you have had COVID-19 in the last 90 days, and other factors. Visit the Centers for Disease Control (CDC) <u>COVID-19 website</u> for more detail on quarantine recommendations.</p> <p>OWCP cannot accept a worker's compensation claim based solely on quarantine or exposure, and COP is not payable solely for quarantine or exposure.</p> <p>Consult your employing agency for leave options that may be available if you must quarantine. You can also visit the <u>Safer Federal Workforce website</u> for the most up to date information pertaining to available leave options to include potential weather and safety leave. The Safer Federal Workforce Task Force is led by the White House COVID-19 Response Team, the General Services Administration (GSA), and the Office of Personnel Management (OPM) and provides valuable information for federal employees regarding the federal response to COVID-19 and how the federal government is responding to keep its workforce safe.</p>

U.S. Department of Labor

Office of Workers' Compensation Programs
Division of Federal Employees', Longshore and
Harbor Workers' Compensation
Washington, D.C. 20210



FECA BULLETIN NO. 22-06

February 16, 2022

Subject: Updates to COVID-19 Claims Processing Guidelines Relating to Reinfections and Home Tests

Background: The Federal Employees' Compensation Act (FECA) covers injury in the performance of duty; injury includes a disease proximately caused by federal employment. The U.S. Department of Labor's (DOL) Office of Workers' Compensation Programs (OWCP) Division of Federal Employees', Longshore and Harbor Workers' Compensation (DFELHWC) administers the FECA. The FECA provides to an employee injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which OWCP considers "likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation." See 5 U.S.C. 8103. The FECA pays compensation for the disability or death of an employee resulting from injury in the performance of duty.

On March 11, 2021, the American Rescue Plan Act of 2021 (ARPA) was signed into law. This new legislation streamlined the process for federal workers diagnosed with COVID-19 to establish coverage under the FECA. On April 28, 2021, the FECA Program issued FECA Bulletin 21-09, which provided detailed processing procedures for claims for COVID-19 filed under the ARPA. Pursuant to Bulletin 21-09, a claim for COVID-19 would not be considered a new injury unless the date of injury was more than 1 year from the date of injury of any prior accepted COVID-19 claim for the same employee. Rather it would be combined with the existing claim and developed as necessary as a consequential or recurrence claim. This guideline was established to prevent a new injury claim being created based on a previously confirmed virus or test result used to establish the initial injury.

Bulletin 21-09 also provided that COVID-19 cases not expected to involve large medical expenses or extended disability may be administratively closed without formal adjudication by claims staff.

On August 28, 2021, the FECA Program issued FECA Bulletin 21-10, which further amended the processing procedures for claims for COVID-19 to the extent that in order to establish a diagnosis of COVID-19, an employee (or survivor) should submit medical evidence as noted below:

- a. A positive Polymerase Chain Reaction (PCR) or Antigen COVID-19 test result; or
- b. A positive Antibody test result, together with contemporaneous medical evidence that the claimant had documented symptoms of and/or was treated for COVID-19 by a physician (a notice to quarantine is not sufficient if there was no evidence of illness); or

c. If no positive laboratory test is available, a COVID-19 diagnosis from a physician together with rationalized medical opinion supporting the diagnosis and an explanation as to why a positive test result is not available.

In certain rare instances, a physician may provide a rationalized opinion with supporting factual and medical background as to why the employee has a diagnosis of COVID-19 notwithstanding a negative or series of negative COVID-19 test results.

Reinfection occurs when a person was infected with COVID-19, recovers and then becomes infected with COVID-19 again. Since the onset of the COVID-19 pandemic, research and studies have been conducted by the Centers for Disease Control and Prevention (CDC) and through the U. S. National Science Foundation. Current research supports COVID-19 reinfection (or the onset of a new COVID-19 virus) can occur as early as 90 days following the initial infection.

Self-administered COVID-19 tests, also called "home tests", "at-home tests", or "over-the-counter (OTC)" tests have become available and more prevalent over the course of the COVID-19 pandemic. Self-testing offers fast results and may be more convenient than laboratory-based tests and point-of-care tests. Self-tests can be purchased online or in pharmacies and retail stores. They are also available for free through some local health departments or Federally Qualified Health Centers (FQHC). Self-tests are available to detect current infection, but not to detect antibodies to the virus that causes COVID-19.

The research conclusions concerning COVID-19 reinfection as documented by the CDC and through the U. S. National Science Foundation; and the increase in accessibility to self-administered COVID-19 testing, have prompted the need for further guidance concerning the processing, and evidence required for adjudication, of COVID-19 claims under the FECA.

This Bulletin also provides clarity with respect to COVID-19 claims placed in an administrative closure status and the impact on Continuation of Pay (COP).

Purpose: To provide updated guidance regarding the processing of FECA claims with respect to handling reinfection claims, claims involving self-administered COVID-19 testing and administratively closed claims.

Applicability: All DFELHWC FECA Program Staff

Action:

Reinfection:

1. Effective the date of this Bulletin, a claim for COVID-19 will be considered a new injury when the employee tests positive for COVID-19 90 days or more from the date of the employee's previous positive COVID-19 test. The 90 days is from the date the initial COVID-19 test is performed to the date the current COVID-19 test is performed. A claim based on a positive COVID-19 test which is performed fewer than 90 days after the initial positive COVID-19 test was performed will be combined with the existing claim and developed as necessary as a consequential or recurrence claim.

Self-Administered COVID-19 Testing:

2. Self-administered COVID-19 testing as defined above is insufficient to establish a diagnosis of COVID-19 under the FECA. This is because there is no way for FECA claims staff to affirmatively establish (1) the date and time the sample was collected and (2) that the sample collected is that of the injured Federal employee making the claim.

3. The only exception to this policy is where the administration of the self-test is monitored by a medical professional and the results are verified through documentation submitted by such professional.

4. There is no change to the established policy whereby if no positive laboratory test is available, a COVID-19 diagnosis from a physician together with rationalized medical opinion supporting the diagnosis and an explanation as to why a positive test result is not available may be submitted to establish a claim.

Administratively Closed Cases:

5. COVID-19 claims that close upon receipt are assigned case status code "C1" or "C4" pursuant to FECA Procedure Manual 01-0400. While case status code "C4" is indicative of lost time, COP is only payable if the requisite statutory and regulatory requirements are met.¹ If COP is claimed but not allowable, a formal decision denying COP may be issued even where the case remains in an administrative closure status.

Regardless of whether a COVID-19 claim administratively closes on receipt, the employing agency must continue the regular pay of employees who are eligible for COP, assuming the above referenced statutory and regulatory requirements are otherwise met.

Disposition: This Bulletin amends FECA Bulletins 21-09 and 21-10 and is to be retained until incorporated into the FECA Procedure Manual.

ANTONIO RIOS
Director for
Division of Federal Employees', Longshore and Harbor Workers' Compensation

Distribution: All DFELHWC FECA Program Staff

¹ See 5 USC §8118, 20 CFR §205; 20 CFR §220