

## **FAQs Concerning Exposures, Preventive (Prophylactic) Treatment, and Medical Surveillance vs Injury or Occupational Disease Claim – Covered or Not Covered Under Office of Workers’ Compensation Programs**

### **-----DISCLAIMER-----**

*This FAQ contains questions and answers most frequently asked about Exposures, what is covered or not covered by Department of Labor, Office of Workers’ Compensation Programs (OWCP) Federal Employees Compensation Act (FECA), how they are to be reported, and when is filing a claim to OWCP is appropriate. The information contained is subject to policy and/or procedural change.*

#### **Does OWCP cover exposure?**

The Federal Employees Compensation Act (FECA) does not provide for payment of expenses associated with simple exposure to an infectious disease without the occurrence of a work-related injury.

#### **Can Form CA-16, Authorization for Examination and/or Treatment be authorized for medical testing when an employee is exposed to a simple workplace hazard?**

No. The employer should not use a Form CA-16 to authorize medical testing for an employee who has merely been exposed to a workplace hazard.

#### **What requirements of a claim must be met before it can be accepted?**

The employee is responsible for establishing the essential elements of the claim OWCP will help the employee to meet this responsibility, which is termed burden of proof, by requesting evidence needed to establish these elements if such information is not included with the original submittal. Each claim for compensation must meet certain requirements before it can be accepted. This is true whether the claim is for traumatic injury, occupational disease or death. While the requirements are addressed somewhat differently according to the type of claim, they are always considered in the same order. The following are the requirement elements. (See Title 20 § 10.115)

- Time
- Civil Employee
- Fact of Injury
- Performance of Duty
- Causal Relationship

#### **Who does cover exposure?**

The Occupational Safety and Health Administration have published regulations addressing the health risks posed by blood borne pathogens in the work place. Under these regulations, an “exposure incident” is defined as a “specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee’s duties” (29 CFR §19 10.1030).

#### **Who covers preventive treatment and/or medical surveillance?**

Payment for preventive and medical surveillance measures such as vaccines and inoculations, and in general, preventive treatment may be a responsibility of the employing agency under the provisions of 5 U.S.C. 7901. This section of the law allows agencies to provide screening and associated health services to their own employees and the services offered may be geared to the particular occupational hazards to which an agency’s employees are commonly exposed. However, OWCP can authorize treatment for certain well-defined circumstances. (See §10.313).

#### **What are the certain well-defined circumstances that can be authorized by OWCP?**

Preventive (Prophylactic) Treatment. The FECA does not authorize provision of preventive measures such as vaccines and inoculations, and in general, preventive treatment is a responsibility of the employing agency under the provisions of 5 U.S.C. 7901. However, preventive care can be authorized by OWCP for the following:

- Complications of preventive measures which are provided or sponsored by the agency, such as adverse reaction to prophylactic immunization.
- An injury involving actual or probable exposure to a known contaminant, thereby requiring disease-specific measures against infection. Included among such treatments would be tetanus antitoxin or booster toxoid injections for puncture wounds; administration of rabies vaccine where a bite from a rabid animal, or one whose status was unknown, is involved; or AZT (azidothymidine) appropriate measure where exposure to human immunodeficiency virus (HIV) virus has occurred.
- Periodic examination of the uninjured eye may be authorized where injury to the other eye has resulted in loss of vision, so that possible sympathetic involvement of the uninjured eye may be detected at an early stage. The frequency of these examinations should be determined on the basis of the attending physician's recommendations. If sympathetic involvement of the uninjured eye is found, appropriate medical and surgical treatment for this condition will be authorized.

### **How is exposure to ticks covered?**

Identify the mechanism of injury vs exposure. Ticks can harbor more than one pathogen (bacteria, virus, or protozoa) and not all ticks are infectious. Removal of ticks within 36 hours often do not lead to infection, however every employee will react differently to tick bites. The following are scenarios of tick incidents to determine when it's appropriate to file a claim to OWCP vs reporting as an Incident in eSafety.

#### **Scenario 1 –**

Employee removes embedded tick, considered self-care and exposure.

- Employee is to report the incident to their supervisor.
- Supervisor will create an Incident Report in eSafety, which preserve rights to future claim. If the Unit keeps a “Tick Log”, post the tick incident.

#### **Scenario 2 –**

Bite = Illness: Employee suffers an illness with signs related to tick bite as a rash, fever, headache, joints aches, flu like symptoms, that may be related to any variety of pathogens ticks can carry (Lyme Disease, Tick-borne Encephalitis, Babesiosis, Rocky Mountain Fever etc.). When/if the employee seeks medical attention and is diagnosed positive for a tick pathogen, the employee may file a CA-2 for Occupational Disease. Reminder, the employee is responsible for all medical treatment. The medical documentation with diagnosis and other supporting documents as Incident report of the tick bite incident or tick-log can be submitted to OWCP as supporting documentation of the claim.

#### **Scenario 3 –**

Tick Bite = Employee seeks medical attention to remove the embedded tick. A CA-1 for traumatic injury is the appropriate claim. Reminder: Any blood test/medical surveillance or preventative medical treatment is generally not covered under FECA.

**Are animal bites or preventative treatments due to an animal bite covered under FECA?**

**Yes**, when the employee is seeking medical treatment for the bite (wound). The employee will file a CA-1 claim for traumatic injury in eSafety. Form CA-16, Authorization for Examination and/or Treatment is appropriate to treat the wound the employee suffered from the animal bite. Reminder: Any blood test/medical surveillance or preventative medical treatment is generally not covered under FECA.

**No**, when the employee chooses to self-treat the wound (bite), they still must report the incident to their supervisor. The supervisor will need to complete an Incident Report in eSafety, which preserve rights to future claim. Follow OSHA regulations and responsibility of the employing agency under the provisions of 5 U.S.C. 7901 for rabies preventative care/medical surveillance.

Note: if the animal was captured and tested, forward those results to OWCP once a claim number is received.

### **What does the employee do in the instance of building related illness?**

On occasion a building is found positive through air quality studies and various industrial testing to have mold and/or carcinogens.

Employees may suffer a medical condition after having been exposed, either short or long term. The employee seeks medical treatment. If the employee is considering filing a claim for Occupational Disease, CA-2, the employee will bear all responsibility for proving the claim at their expense. The medical documentation must provide a definitive diagnosis of the medical condition being claimed. The employee is encouraged to provide associated documentation as air quality studies and testing of the environment depicting findings to further support their claimed medical condition.

### **How is exposure to Bodily Fluids/Airborne Pathogens covered?**

Exposures to Tuberculosis (TB), Hepatitis, Mononucleosis, Blood, Emesis, Airborne Pathogens etc. are covered by medical surveillance, which is usually contracted with Federal Occupation Health (FOH) and Parks cover costs. Follow OSHA regulations and responsibility of the employing agency under the provisions of 5 U.S.C. 7901

The employee will report exposures to their supervisor. The employee will complete an Incident Report in eSafety to preserve rights to future claim.

If the employee has a definitive diagnosis from positive findings, the employee may file a CA-2 in eSafety, Occupational Disease claim. The employee will bear all responsibility for proving the claim at their expense. The medical documentation must provide a definitive diagnosis of the medical condition being claimed. The employee is encouraged to provide associated documentation in the eSafety Incident Report to further support their claim.

If the employee suffers a definable injury as a wound created by pierces, punctures, lacerations etc. the employee would complete the CA-1 claim for Traumatic Injury and agency may issue form CA-16, Authorization for Examination and/or Treatment form for the wound only.

For tetanus, laboratory testing or prophylactic treatment, follow OSHA regulations and responsibility of the employing agency under the provisions of 5 U.S.C. 7901

### **What is the employees right to file a claim?**

- It is the employee's decision to file a claim to OWCP.
- Employee can make the decision to use private insurance.
- An employee should not be coerced into filing a claim just for the sake of data collection.
- For reporting data, the employee notifies supervisor of exposure, near miss etc. and the supervisor creates an Incident Report in eSafety.

- Tick/Insect bites actually occurred and are not near miss.

### **What if the employee elects to file a claim for exposure?**

Supervisor, HR Workers' Compensation Case Manager (CM) and/or Regional Managers should counsel employee in regard to the following:

- Differences between reporting exposure, preventive (prophylactic) treatment vs filing a claim for exposure incidents.
- Medical documentation of a diagnosed condition of the claimed condition is necessary.
- If no supporting medical condition within one year, employee loses appeal rights.
- If employee files another claim of the same condition, DOL/OWCP notifies the employee of a duplicate claim previously denied and will not be considered.
- Filing a claim for exposure is the employee's choice and cannot stop the employee from filing a claim.
- The employee will not be asked to correct or change forms (claims) and should seek assistance from their CM.
- HR workers' compensation case manager (CM) and the employee's supervisor will challenge exposure claims.

### **What is the current eSafety Reporting Guidance?**

- An example of injury: If a tick/insect bite becomes infected or an embedded tick is removed by a medical provider. (CA1)
- An example of exposure: If you remove a tick(s) and nothing happens, then a potential exposure occurred under FECA. (Incident Report)
- An example of occupational disease: If there is a diagnosis of Lyme disease and/or tick borne illness, and the tick bites occurred during the official course of the employee's work duties. (CA2)