



Supervisor's Role in Workers' Compensation

U.S. Department of Commerce
Office of Occupational Safety and
Health

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Topics

- Overview of the Federal Employees' Compensation Act (FECA)
- Traumatic Injury
- Occupational Illness/Disease
- Controverting/Challenging Continuation of Pay (COP) or a Claim
- Supervisor's Responsibilities
- Statistics
- Controlling Workers' Compensation Costs
- Resources



Overview of the FECA

- Federal Employees' Compensation Act (FECA) - 1916
 - Compensation benefits to civilian employees of the U.S. for disability due to personal injury or disease sustained in the performance of duty
 - Benefits to dependents if a work-related injury or disease causes an employee's death
 - Funded through agency chargebacks
 - Non-adversarial – an attorney is not required
 - Sole remedy – a federal employee or surviving dependent is not entitled to sue the U.S. or recover damages for injury or death under any other law



Overview of FECA

- Administered by Department of Labor (DOL), Division of Federal Employees' Compensation's (DFEC), Office of Workers' Compensation Programs (OWCP)
 - OWCP adjudicates (decides if a claim is valid) claims
 - 12 District Offices
- Individual case files protected under Privacy Act
 - Only employee, her/his representative (if any), and agency personnel may routinely have access to a file
 - HIPAA doesn't apply to OWCP or employing agencies
- No one may require an employee or other claimant to waive her/his right to claim compensation under the FECA



Primary Benefits under FECA

➤ Medical Benefits

- Services, appliances, and supplies prescribed or recommended by physicians which in the opinion of OWCP are likely to cure, give relief, reduce the degree or period of disability, or aid in lessening the amount of monthly compensation
- Includes examination, treatment, and related services such as medications and hospitalization, as well as transportation needed to secure these services
- Preventive care is not authorized



Primary Benefits under FECA

- Continuation of Pay (COP)
 - Continuation of regular pay for up to 45 calendar days of wage loss due to disability and/or medical treatment after a traumatic injury
 - Intent is to avoid interruption of pay while the claim is being adjudicated
 - Subject to usual deductions from pay, such as income tax, retirement allotment, etc.



Primary Benefits under FECA

- Wage loss compensation
 - Temporary Total Disability
 - Continues as long as medical evidence supports total disability
 - Injured worker who returns to work can receive compensation for time lost due to medical appointments, physical therapy, and/or reduced work hours based on medical restrictions
 - Compensation
 - 66 2/3% of salary without dependents
 - 75% of salary with dependents



Primary Benefits under FECA

➤ Schedule awards

- Compensation for specific periods of time for permanent loss, or loss of use, of certain members and functions of the body
- Partial loss or loss of use of members and functions is compensated on a proportional basis
- Must have reached maximum medical improvement
- Based on pay rate used for compensation purposes



Primary Benefits under FECA

- Vocational rehabilitation
 - Provides vocational rehabilitation services to assist disabled employees in returning to gainful employment consistent with physical, emotional, and educational abilities
 - May be requested by attending physician, employee, or employing agency
 - Compensation may be reduced or terminated for employee's failure to participate or to make a good faith effort to obtain employment



Primary Benefits under FECA

- **Loss of Wage-Earning Capacity**
 - When medical evidence shows an employee is no longer totally disabled and medical evidence determines s/he can perform duties of a lower-paying job, compensation is paid on the basis of loss of wage-earning capacity



Primary Benefits under FECA

➤ Death Benefits

- Survivors of federal employee whose death is work-related are entitled to benefits including compensation payments, funeral expenses, and transportation expenses for the remains
- Eligible survivors
 - Widow or widower
 - Unmarried child under 18 or over 18 if incapable of self support due to disability
 - Child 18 – 23 who has not completed four years of post-high school education and is regularly pursuing full time course of study
 - Parent, sibling, grandparent, or grandchild who was wholly or partially dependent on deceased



Traumatic Injury Initiating a Claim

➤ Traumatic Injury

- Wound or other condition of the body caused by external force, including stress or strain
- Caused by specific event or series of events or incidents within a single day or work shift



Traumatic Injury

- FECA form CA-1
 - Employee (or someone on her/his behalf, including supervisor) completes front
 - Supervisor completes back
 - Must be submitted to employing agency within 30 days of date of injury to be eligible for COP – however the CA-1 can be submitted up to three years after the injury
 - Supervisor submits claim to Commerce contractor, CCSI, via fax.
 - Must be transmitted to OWCP within ten workdays from date agency received form – therefore, do NOT hold the CA-1 for wage calculations, supporting documentation, etc.



Traumatic Injury - Supervisor's Role

- Review CA-1 for completeness and assist employee in completing it
- Complete and sign back of CA-1
 - If doubt as to whether employee's condition is related to employment, note this on the form
 - Submit CA-1 to your bureau's Workers' Compensation Specialist who will work with you to submit it to Commerce's contractor, CCSI
 - CCSI will submit it to OWCP
 - Goal is to have the claim submitted to OWCP within 10 working days from date of injury
- Authorize medical care if needed by completing a Medical Treatment Form CA-16 within four hours of request whenever possible
 - May refuse to issue a CA-16 if more than a week has passed since the injury since the need for immediate treatment would have become apparent in that period
- Advise employee of the right to elect COP, rather than use leave
- Advise employee of her/his responsibility to submit medical evidence of disability within ten calendar days or risk termination of COP



Occupational Disease

Initiating a Claim

- Occupational Disease
 - Condition produced over a period longer than one workday or shift (e.g., repetitive motion disorders, asbestosis)
- COP is not provided for occupational diseases
- CA-16 is not issued for occupational diseases



Occupational Disease

➤ Form CA-2

- Employee (or someone on her/his behalf, including supervisor) completes front
- Supervisor completes back
- Must be submitted to employing agency within three years of the date when the employee becomes aware, or reasonably should have been aware, of a possible relationship between the medical condition and the employment
- Must be transmitted to OWCP within ten workdays from date agency received form – do NOT hold for receipt of supporting documentation



Occupational Disease

Supervisor's Role

- Review CA-2 for completeness and assist employee in completing
- If doubt as to whether employee's condition is related to employment, note this on the form
 - Review the employee's portion of the form and provide comments concerning the employee's statement
- Submit CA-2 to your bureau's Workers' Compensation Specialist who will work with you to submit it to Commerce's contractor, CCSI
 - CCSI will submit it to OWCP
 - Goal is to have the claim submitted to OWCP within 10 working days from date of notification
- Prepare a supporting statement to include exposure data, test results, copies of previous medical reports, and/or witness statements – depending on the nature of the case
- Advise employee of the right to elect sick or annual leave or LWOP, pending adjudication of the claim



Occupational Disease Supervisor's Role

- Obtain Appropriate Occupational Disease Checklist from your Workers' Compensation Specialist and give to employee
 - CA-35a – Occupational Disease in General
 - CA-35b – Hearing Loss
 - CA-35c – Asbestos-Related Illness
 - CA-35d – Coronary/Vascular Condition
 - CA-35e – Skin Disease
 - CA-35f – Pulmonary Illness (not Asbestosis)
 - CA-35g – Psychiatric Illness
 - CA-35h – Carpal Tunnel Syndrome



Initiating a Claim for a Recurrence

- A recurrence of an injury/illness is a spontaneous return or increase of disability due to a previous injury or occupational disease without intervening cause, or a return or increase of disability due to a consequential injury
- No event other than the previous injury accounts for the disability



Claim for a Recurrence

- No medical treatment authorized at OWCP expense until claim for recurrence is accepted
- If employee was entitled to COP and 45 calendar days of COP have not been exhausted, s/he may elect to use remaining days of COP if 45 days have not elapsed since first return to work
- Employee may elect to use sick leave or annual leave pending adjudication of claim for recurrence



Claim for Recurrence

Supervisor's Role

- Claim for Recurrence of Disability – Form CA-2a
 - Employee (or someone on her/his behalf, including supervisor) completes front
 - Supervisor completes back
 - If doubt as to whether employee's condition is related to employment, note this on the form
- Submit CA-2 to your bureau's Workers' Compensation Specialist who will work with you to submit it to Commerce's contractor, CCSI
 - CCSI will submit it to OWCP
 - Goal is to have the claim submitted to OWCP within 10 working days from date of notification
- Employee should arrange for submission of factual and medical evidence described in the form instructions



Wage Loss/Permanent Impairment

- An employee who can not return to work when COP ends or who is not entitled to COP may claim compensation for wage loss
- An employee who has returned to work but who still requires medical treatment during work hours may claim compensation for lost wages while undergoing or traveling to and from treatment



Wage Loss/Permanent Impairment

- Claim for Compensation for Wage Loss – Form CA-7
 - Supervisor provides form on 30th day of COP or as soon as wage loss occurs
 - Employee (or someone on her/his behalf, including supervisor) completes front
 - Supervisor completes back and submits with any new medical evidence to OWCP within five workdays of receipt – do NOT hold for receipt of documentation
 - Dates of compensation claimed should represent the period of disability supported by the medical evidence or the interval until the employee's next medical appointment
 - A new CA-7 should be submitted every two weeks during periods of continued disability and wage loss



Other Functions of the CA-7

- An employee who uses annual or sick leave to avoid interruption of income may repurchase that leave, subject to agency concurrence, if the claim is approved
- Schedule awards for permanent impairment



Death Benefits - Initiating a Claim

- When an employee dies because of an injury incurred in the performance of duty, the supervisor/agency should immediately notify the district office via phone or fax
- The supervisor/agency should contact any survivors, provide them with claim forms, and help them prepare the claim
- CA-5 or CA-5b used to submit claims for death benefits
- Supervisor/Agency uses form CA-6 to report the work-related death of an employee



Conditions of Coverage

- Each claim for compensation must meet certain requirements before it can be accepted – always addressed in order
 - Timely filing of claim
 - Federal civilian employee
 - Fact of injury
 - Performance of duty
 - Causal Relationship



Timely Filing

- Employee has three years from
 - Date of injury
 - Date of first awareness
 - Date of last exposure



Civilian Employee

- FECA covers all civilian employees except for non-appropriated fund employees
- Temporary employees covered on the same basis as permanent employees
- Contract employees, volunteers, and loaned employees are covered under some circumstances



Fact of Injury

➤ Factual

- Actual occurrence of an accident, incident, or exposure in time, place, and manner alleged

➤ Medical

- Medical condition diagnosed in connection with that accident, incident, or exposure



Performance of Duty

- Injury occurred
 - While performing assigned duties or engaging in an activity reasonably associated with the employment
 - On work premises
 - Off premises while engaged in work activity



Causal Relationship

- Link between work-related exposure/injury and any medical condition found
- Based entirely on medical evidence provided by physicians who have examined and treated the employee
- Opinions of employee, supervisor, or witnesses not considered – nor is general medical information contained in published articles



Causal Relationship

➤ Four Types

- Direct Causation
 - Injury or factors of employment result in condition claimed through natural and unbroken sequence
- Aggravation
 - Preexisting condition worsened, either temporarily or permanently, by a work-related injury
- Acceleration
 - Work-related injury or disease may hasten the development of an underlying condition
- Precipitation
 - Latent condition that would not have manifested itself on this occasion but for employment



Statutory Exclusions

- Willful Misconduct
 - Deliberate and intentional disobedience of rules/orders – not carelessness
- Drug or Alcohol Intoxication
 - Proximately caused the injury
- Intent to Injure Self or Others
 - Intent must be established



Nine Reasons for Controverting Continuation of Pay (COP)

- Reminder: COP is only for traumatic injuries (not occupational illnesses)
- Agency may controvert (not pay) COP only if one of the following applies:
 1. Disability is result of occupational disease or illness
 2. Employee comes within the exclusions of 5 USC 8101 (1) (B) or (E)
 3. Employee is neither a citizen nor resident of the U.S. or Canada
 4. Injury occurred off the agency's premises and the employee was not engaged in official "off premises" duties



Nine Reasons for Controverting COP (continued)

5. Employee's willful misconduct, intentional harm or death, or proximate intoxication
6. Injury not reported within 30 days of injury
7. Work stoppage first occurred more than 45 days after the injury
8. Employee reported injury after employment was terminated
9. Employee is enrolled in Civil Air Patrol, Peace Corps, or other group covered by special legislation



Controverting COP – Supervisor’s Role

- Indicate controversion on CA-1 and attach narrative statement and specific evidence substantiating controversion
- Advise employee of controversion
- Can also terminate COP if no prima facie medical evidence is received within ten calendar days



Challenging/Controverting Validity of Claim

- Investigate circumstances, report results to your bureau Workers' Compensation Specialist who will work with Commerce Workers' Compensation Specialists and OWCP
- Must be supported by specific factual evidence
- Issues to consider
 - Differing Versions
 - Previous Injury
 - Time Lags
 - Other employment
 - Timely Filing of Claim
 - Federal Civilian Employee
 - Fact of Injury
 - Performance of Duty
 - Causal Relationship



Challenging/Controverting Validity of Claim

- Attach detailed statement describing circumstances behind challenge
- Include specific evidence: witness statements, accident investigations, timecards, etc.
- Pay COP (if applicable) pending OWCP decision
- Authority to determine any aspect of claim rests with OWCP. While agency is entitled to explanation of basis for OWCP action, it must accept determination rendered.



Supervisor's Responsibilities

- Encourage safe work habits, safe working conditions, and enforce safety regulations
- Advise employees on rights and responsibilities
- When an employee is injured
 - Seek appropriate medical attention (Commerce Health Unit should be contacted immediately and they will call 911 if necessary)
 - Report injuries promptly to your bureau Workers' Compensation Specialist
 - Complete and submit forms in timely manner
 - CA-1 and CA-2 within ten workdays of receipt
 - CA-7 within five workdays of receipt
- Work with bureau Workers' Compensation Specialist and bureau Human Resources to activate Continuation of Pay following traumatic injuries, is appropriate



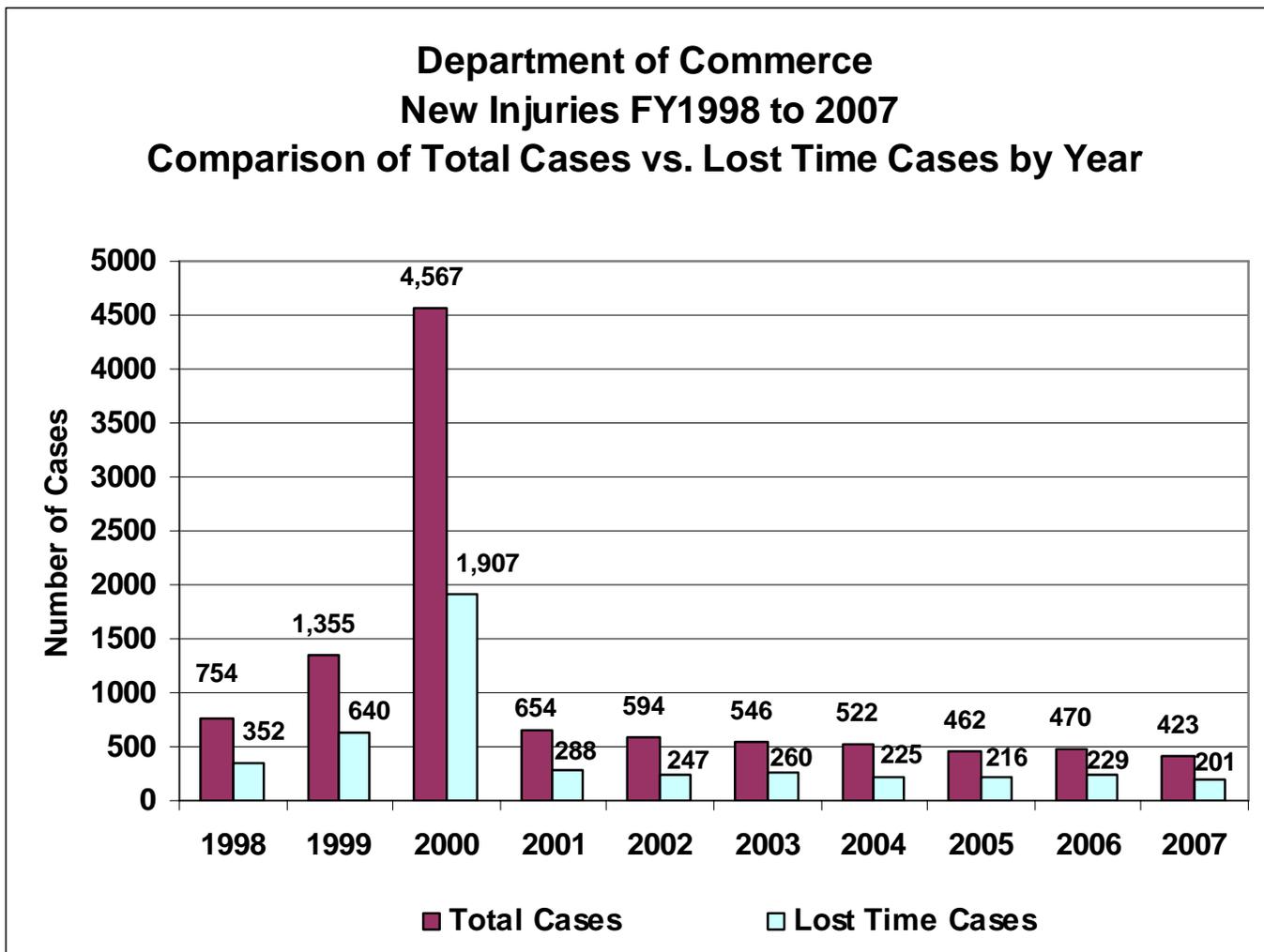
Supervisor's Responsibilities

- Work with your bureau's Workers' Compensation Specialist to assist injured employees in returning to work
 - Keep in contact with injured employees
 - Accommodate "light duty" work when able
- Represent the agency's interest
 - Challenge questionable claims (controvert)
 - Help reduce accidents/injuries and help reduce compensation costs

Statistics



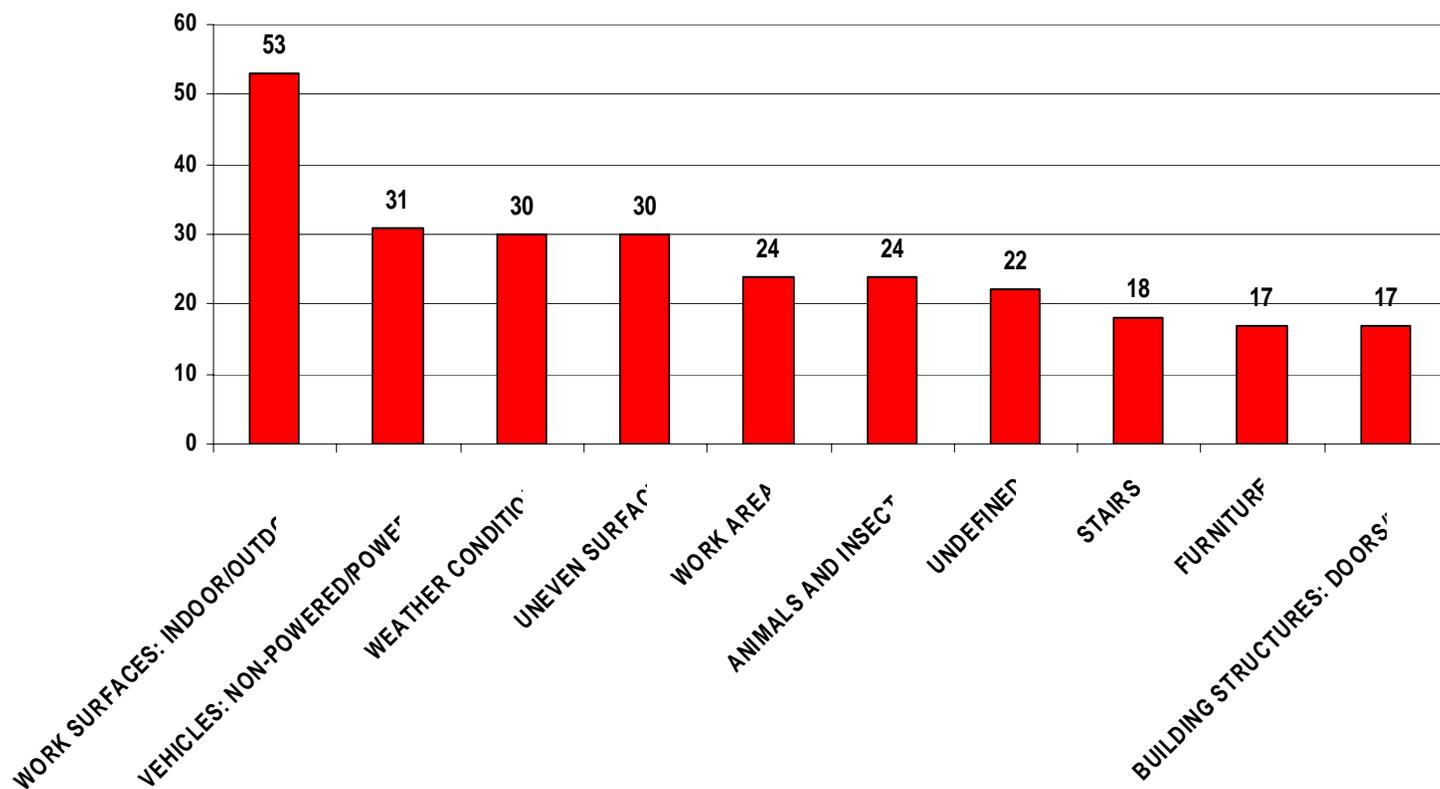
1998 – 2007 New Injuries Commerce-wide





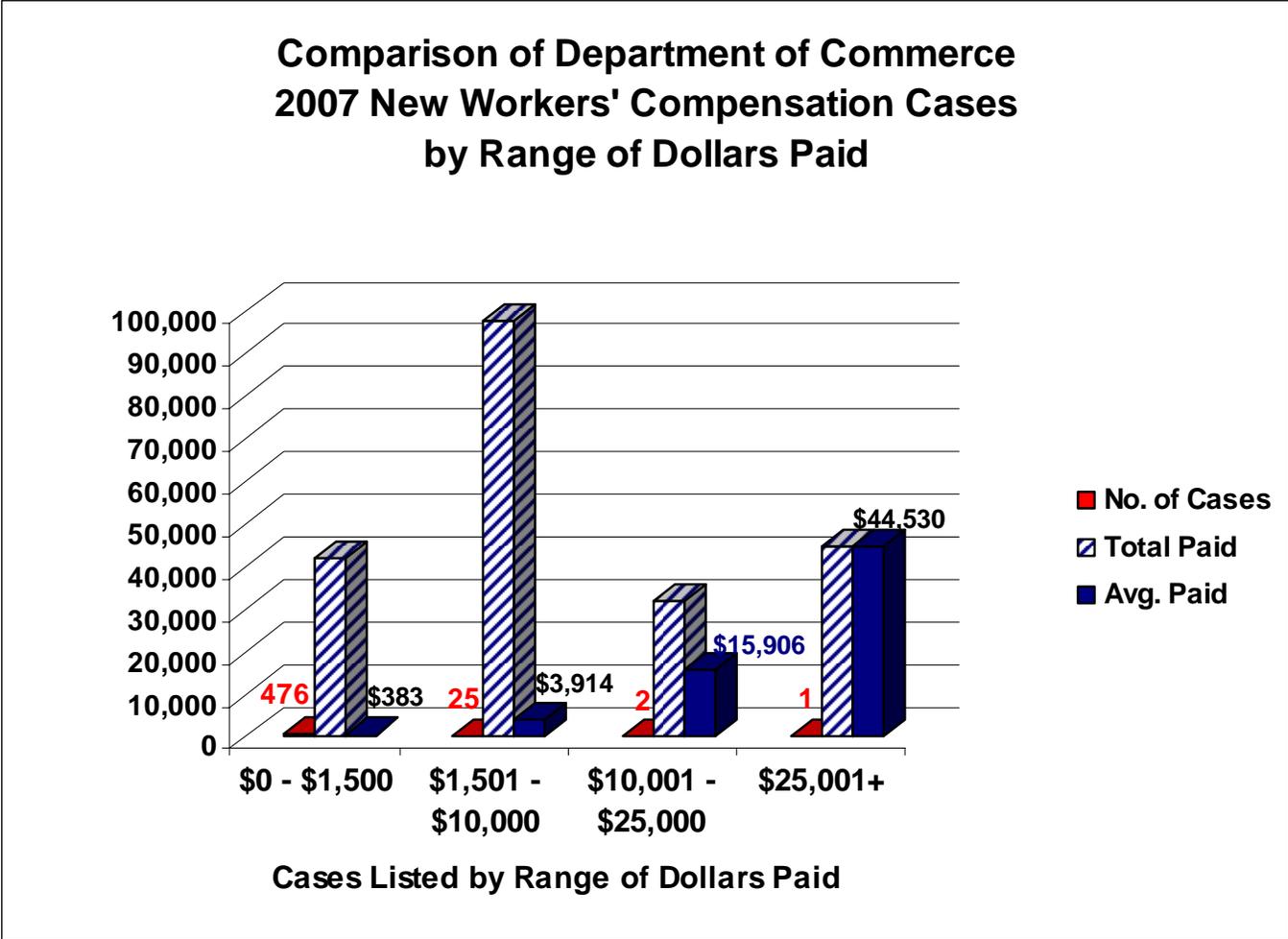
2007 New Injuries – by Cause

Department of Commerce
2007 New Workers' Compensation Claims
Cause of Injury by Claim Count



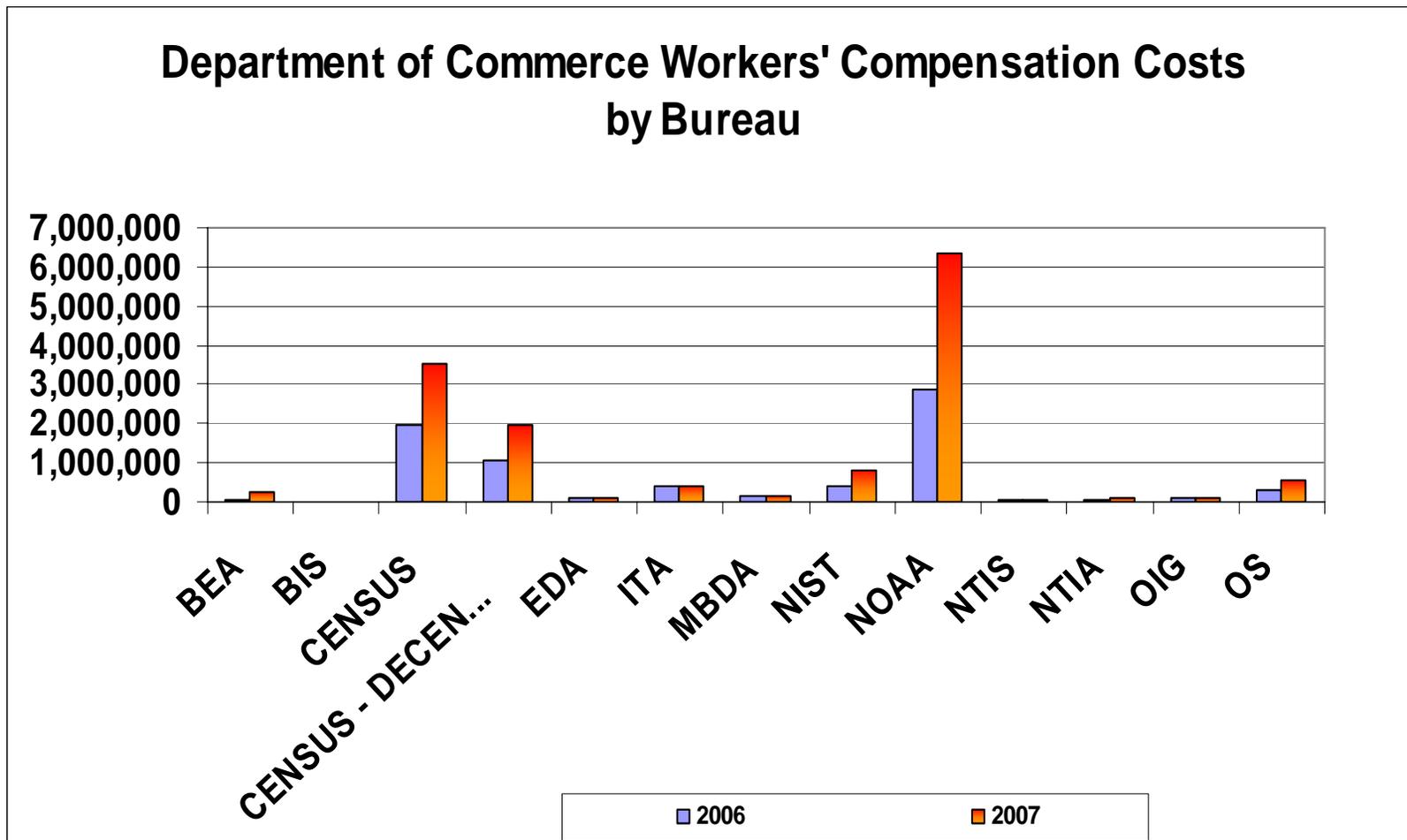


Controlling Workers' Compensation Costs





Workers' Compensation Costs - by Bureau





Controlling Workers' Compensation Costs – Supervisor's Role

- Timely submission
 - Enables prompt adjudication and medical management of claim
 - Ensures compliance with the SHARE initiative and Federal regulations
 - Submit CA-1s and CA-2s ASAP to contractor so forms can be sent to OWCP within ten workdays
 - Submit CA-7s within five workdays



Controlling Workers' Compensation Costs – Supervisor's Role

- Controvert/Challenge Questionable Claims
 - OWCP accepts employee statement as factual unless agency provides refuting evidence
 - Agency does not have post adjudicative appeal rights
 - Include actual evidence rather than conjecture or opinion



Controlling Workers' Compensation Costs – Supervisor's Role

- Track Injured Employee's Medical Status
 - Maintain constant contact with employee
 - Have your bureau Workers' Compensation Specialist work with Commerce Workers' Compensation Specialists to request frequent medical updates – in writing from physician
 - Cooperate with OWCP nurses, Claims Examiners, Vocational Rehabilitation Specialists, and Workers' Compensation Specialists/Injury Compensation Specialists



Controlling Workers' Compensation Costs – Supervisor's Role

- Offer Light Duty
 - Match employee's physical limitations to your particular needs
 - Create temporary positions where none exist
 - Benefits of offering light duty:
 - Improves morale for both injured worker and remainder of workforce
 - Each day employee remains out of work reduces likelihood s/he will ever return
 - Can be made verbally but must be followed-up in writing
 - Must include: job description, physical demands of position, organizational and geographical location, date available, date response required
 - If employee refuses, notify OWCP immediately



Resources

- Your Workers' Compensation Specialist
- Commerce Workers' Compensation Specialists
- Department of Labor
Employment Standards Administration/OWCP
Division of Federal Employees' Compensation
 - www.dol.gov/esa/regs/compliance/owcp/fecacont.htm
 - When Injured At Work (CA-11)
 - District Office Addresses and Telephone Contacts
 - Questions and Answers about the Federal Employees' Compensation Act
 - Publication CA-550 - Handbook for injured workers
 - Injury Compensation for Federal Employees
 - Publication CA-810 - Handbook for employing agencies
 - Forms



Bureau Workers' Compensation Specialists

- **BEA**
 - Joyce Whitman – joyce.whitman@bea.gov
- **BIS**
 - Jennifer Kuo – jkuo@bis.doc.gov
- **Census**
 - George Barnett – george.e.barnett@census.gov
- **EDA**
 - Anita Sanders – asanders2@eda.doc.gov



Bureau Workers' Compensation Specialists

- **ESA**
 - Pam Moulder – pamela.moulder@esa.doc.gov
- **ITA**
 - Jeffrey Scherr – jeffrey_scherr@ita.doc.gov
- **MBDA**
 - Michael Barber – mbarber@mbda.gov
- **NIST**
 - Rosamond Rutledge-Burns – rosamund.burns@nist.gov



Bureau Workers' Compensation Specialists

- NTIA
 - Tony Calza – acalza@ntia.doc.gov
- NTIS
 - Angie Martin – amartin@ntis.gov
- NOAA
 - Linda Tarlow – linda.tarlow@noaa.gov
- OS
 - Sandra Williams – swilliams@doc.gov
- PTO
 - Susan Henderson – susan.henderson@uspto.gov



For More Information

- Your Bureau Workers' Compensation Specialist
 - _____
 - _____
- Commerce Workers' Compensation Specialist
 - Sandra Williams
 - (202) 482-0799
 - swilliams@doc.gov
- Director, Office of Occupational Safety & Health and Workers' Compensation
 - Nancy McWilliams, CSP, ARM
 - (202) 482-4935
 - nmcwilliams@doc.gov