

**§10.7 What forms are needed to process claims under the FECA?**

(a) Notice of injury, claims and certain specified reports shall be made on forms prescribed by OWCP. Employers shall not modify these forms or use substitute forms. Employers are expected to maintain an adequate supply of the basic forms needed for the proper recording and reporting of injuries.

<b>Form No.</b>	<b>Title</b>
(1) CA-1	Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation.
(2) CA-2	Notice of Occupational Disease and Claim for Compensation.
(3) CA-2a	Notice of Employee's Recurrence of Disability and Claim for Pay/Compensation.
(4) CA-3	Report of Work Status.
(5) CA-5	Claim for Compensation by Widow, Widower and/or Children.
(6) CA-5b	Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren.
(7) CA-6	Official Superior's Report of Employee's Death.
(8) CA-7	Claim for Compensation Due to Traumatic Injury or Occupational Disease.
(9) CA-7a	Time Analysis Form.
(10) CA-7b	Leave Buy Back (LBB) Worksheet/Certification and Election.
(11) CA-16	Authorization of Examination and/or Treatment.
(12) CA-17	Duty Status Report.
(13) CA-20	Attending Physician's Report.
(14) CA-20a	Attending Physician's Supplemental Report.
(15) CA-40	Designation of a Recipient of the Federal Employees' Compensation Act Death Gratuity Payment under Section 1105 of Public Law 110-181 (Section 8102a).
(16) CA-41	Claim for Survivor Benefits Under the Federal Employees' Compensation Act Section 8102a Death Gratuity.
(17) CA-42	Official Notice of Employees' Death for Purposes of FECA Section 8102a Death Gratuity.
(18) CA-1108	Statement of Recovery Letter with Long Form.
(19) CA-1122	Statement of Recovery Letter with Short Form.

(b) Copies of the forms listed in this paragraph are available for public inspection at the Office of Workers' Compensation Programs, U.S. Department of Labor, Washington, DC 20210. They may also be

obtained from district offices, employers (*i.e.*, safety and health offices, supervisors), and the Internet, at <http://www.dol.gov>.

#### **§10.105 How and when is a notice of death and claim for benefits filed?**

(a) If an employee dies from a work-related traumatic injury or an occupational disease, any survivor may file a claim for death benefits using Form CA-5 or CA-5b, which may be obtained from the employer or from the Internet at [www.dol.gov](http://www.dol.gov) under forms. The survivor must provide this notice in writing and forward it to the employer. Another person, including the employer, may do so on the survivor's behalf. The survivor may also submit the completed Form CA-5 or CA-5b directly to OWCP. The survivor shall disclose the SSNs of all survivors on whose behalf claim for benefits is made in addition to the SSN of the deceased employee. All such notices should be submitted electronically wherever feasible to facilitate processing of such claims. All employers that currently do not have such capability should create such a method by December 31, 2012. The survivor may withdraw his or her claim (but not the notice of death) by so requesting in writing to OWCP at any time before OWCP determines eligibility for benefits.

(b) For deaths that occur on or after September 7, 1974, a notice of death must be filed within three years of the death. The form contains the necessary words of claim. The requirements for timely filing are described in §10.100(b)(1) through (3).

(c) However, in cases of death due to latent disability, the time for filing the claim does not begin to run until the survivor is aware, or reasonably should have been aware, of the causal relationship between the death and the employment (see 5 U.S.C. 8122(b)).

(d) The filing of a notice of injury or occupational disease will satisfy the time requirements for a death claim based on the same injury or occupational disease. If an injured employee or someone acting on the employee's behalf does not file a claim before the employee's death, the right to claim compensation for disability other than medical expenses ceases and does not survive.

(e) A survivor must be alive to receive any payment; there is no vested right to such payment. A report as described in §10.414 of this part must be filed once each year to support continuing payments of compensation.

#### **§10.410 Who is entitled to compensation in case of death, and what are the rates of compensation payable in death cases?**

(a) Pursuant to 5 U.S.C. 8133, benefits may be paid to eligible dependents of an employee whose death results from an injury sustained in the performance of duty. This benefit is separate and distinct from a death gratuity benefit under 5 U.S.C. 8102a and subpart J of this part.

(b) If there is no child entitled to compensation, the employee's surviving spouse will receive compensation equal to 50 percent of the employee's monthly pay until death or remarriage before reaching age 55. Upon remarriage, the surviving spouse will be paid a lump sum equal to 24 times the monthly compensation payment (excluding compensation payable on account of another individual) to which the surviving spouse was entitled immediately before the remarriage. If remarriage occurs at age 55 or older, the lump-sum payment will not be paid and compensation will continue until death.

(c) If there is a child entitled to compensation, the compensation for the surviving spouse will equal 45 percent of the employee's monthly pay plus 15 percent for each child, but the total percentage may not exceed 75 percent.

(d) If there is a child entitled to compensation and no surviving spouse, compensation for one child will equal 40 percent of the employee's monthly pay. Fifteen percent will be awarded for each additional child, not to exceed 75 percent, the total amount to be shared equally among all children.

(e) If there is no child or surviving spouse entitled to compensation, the parents will receive compensation equal to 25 percent of the employee's monthly pay if one parent was wholly dependent on the employee at the time of death and the other was not dependent to any extent, or 20 percent each if both were wholly dependent on the employee, or a proportionate amount in the discretion of the Director if one or both were partially dependent on the employee. If there is a child or surviving spouse entitled to compensation, the parents will receive so much of the compensation described in the preceding sentence as, when added to the total percentages payable to the surviving spouse and children, will not exceed a total of 75 percent of the employee's monthly pay.

(f) If there is no child, surviving spouse or dependent parent entitled to compensation, the brothers, sisters, grandparents and grandchildren will receive compensation equal to 20 percent of the employee's monthly pay to such dependent if one was wholly dependent on the employee at the time of death; or 30 percent if more than one was wholly dependent, divided among such dependents equally; or 10 percent if no one was wholly dependent but one or more was partly dependent, divided among such dependents equally. If there is a child, surviving spouse or dependent parent entitled to compensation, the brothers, sisters, grandparents and grandchildren will receive so much of the compensation described in the preceding sentence as, when added to the total percentages payable to the children, surviving spouse and dependent parents, will not exceed a total of 75 percent of the employee's monthly pay.

(g) A child, brother, sister or grandchild may be entitled to receive death benefits until death, marriage, or reaching age 18. Regarding entitlement after reaching age 18, refer to §10.417.

#### **10.413 May a schedule award be paid after an employee's death?**

For a schedule award to be paid following the death of an employee, the employee must have filed a valid claim specifically for a schedule award prior to death; in addition, the employee must have died from a cause other than the injury before the end of the period specified in the schedule. The balance of the schedule award may be paid to an employee's survivors pursuant to the proportions and order of precedence described in 5 U.S.C. 8109.

#### **§10.417 What reports are needed when compensation payments continue for children over age 18?**

(a) Compensation payable on behalf of a child, brother, sister, or grandchild, which would otherwise end when the person reaches 18 years of age, shall be continued if and for so long as he or she is not married and is either a student as defined in 5 U.S.C. 8101(17), or physically or mentally incapable of self-support.

(b) At least once each year, OWCP will ask a beneficiary receiving compensation based on the student status of a dependent to provide proof of continuing entitlement to such compensation, including certification of school enrollment. The beneficiary is required to report any changes to student status in the interim.

(c) Likewise, at least once each year unless otherwise provided in paragraph (d) of this section, OWCP will ask a beneficiary or legal guardian receiving compensation based on a dependent's physical

or mental inability to support himself or herself to submit a medical report verifying that the dependent's medical condition persists and that it continues to preclude self-support. If there is a change in that condition, the beneficiary or legal guardian is required to immediately report that change to OWCP.

(d) In the case of a dependent incapable of self support due to that dependent's physical or mental disability where the status of that dependent is unlikely to change, a beneficiary or legal guardian may establish the permanency of that condition by submitting a well rationalized medical report which describes that condition and the ongoing prognosis of that condition. If the permanency of that condition is established by such a report, OWCP will not seek further information regarding that condition; however, if there is a change in that condition, the beneficiary or legal guardian is required to immediately report that change to OWCP.

**§10.535 How are dependents defined, and what information must the employee report?**

(a) Dependents in disability cases are defined in §10.405. While the employee has one or more dependents, the employee's basic compensation for wage loss or for permanent impairment shall be augmented as provided in 5 U.S.C. 8110. (The rules for death claims are found in §10.414.)

(b) An employee who is receiving augmented compensation on account of dependents must advise OWCP immediately of any change in the number or status of dependents. The employee should also promptly refund to OWCP any amounts received on account of augmented compensation after the right to receive augmented compensation has ceased. Any difference between actual entitlement and the amount already paid beyond the date entitlement ended is an overpayment of compensation and may be recovered pursuant to 5 U.S.C. 8129 and other relevant statutes.

(c) An employee who is receiving augmented compensation shall be periodically required to submit a statement as to any dependents, or to submit supporting documents such as birth or marriage certificates or court orders, to determine if he or she is still entitled to augmented compensation.

**§10.537 What reports are needed when compensation payments continue for children over age 18?**

(a) Compensation payable on behalf of a child that would otherwise end when the child reaches 18 years of age will continue if and for so long as he or she is not married and is either a student as defined in 5 U.S.C. 8101(17), or physically or mentally incapable of self-support.

(b) At least once each year, OWCP will ask an employee who receives compensation based on the student status of a child to provide proof of continuing entitlement to such compensation, including certification of school enrollment. The employee is required to report any changes to student status in the interim as soon as they occur.

(c) Likewise, at least once each year, OWCP will ask an employee who receives compensation based on a child's physical or mental inability to support himself or herself, and who is not covered by §10.417(d) of this part, to submit a medical report verifying that the child's medical condition persists and that it continues to preclude self-support. The employee is required to report any changes to that status in the interim.

(d) If an employee fails to submit proof within 30 days of the date of the request, OWCP will suspend the employee's right to compensation until the requested information is received. At that time OWCP will reinstate compensation retroactive to the date of suspension, provided the employee is entitled to such compensation.

