



DEPARTMENT OF LABOR

Office of the Workers' Compensation Programs

Proposed New Information Collection: Claim for Schedule Award (CA-9)

[OMB Control No. 1240-0NEW]

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs (OWCP) is soliciting comments on the information collection for Claim for Schedule Award (CA-9).

DATES: All comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- Federal eRulemaking Portal:

<https://www.regulations.gov>. Follow the instructions for submitting comments for Claim for Schedule Award (CA-9). Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket, with no changes. Because your comment will be made public, you are responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as your or anyone else's Social Security number or confidential business information.

- If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- Mail/Hand Delivery: Mail or visit U.S. DOL-Office of Workers' Compensation Programs, OWCP, Room S3323, 200 Constitution Avenue NW, Washington, DC 20210.
- OWCP will post your comment as well as any attachments, except for information submitted and

marked as confidential, in the docket at

<https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers' Compensation Programs, OWCP, at suggs.anjanette@dol.gov (email); (202) 354-9660 (voice).

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) under 5 U.S.C. 8101 *et seq.* Congress gave the Secretary of Labor (Secretary) authority to prescribe the rules and regulations necessary for the administration and enforcement of the FECA (5 U.S.C. 8149). The FECA requires the United States to provide compensation to individuals who sustain an injury while in the course of federal employment. 5 U.S.C. 8102.

Part of the compensation Congress provided for federal employees is for scheduled impairments (5 U.S.C. 8107).

Presently, under previous regulations published in 1999, schedule award claims for scheduled impairments may be filed using a form CA-7, Claim for Compensation (currently approved under OMB 1240-0046). However, the FECA regulations published June 28, 2011, also provides that OWCP may create a form specifically for a Schedule Award, and that only this form may be filed for a Schedule Award

claim under 5. U.S. C. 8107. The final rule updating new procedures to the FECA regulations became effective August 29, 2011. To this end, the Department of Labor is proposing a new schedule award filing process under the provision of 20 CFR 10.103. The Department of Labor is also proposing allowing claimants to file a Schedule Award claim using a rating based on either the Fifth Edition or the Sixth Edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment. As this is a change in current policy, The Department of Labor is attaching a draft policy paper describing the need for this change in policy to be reviewed while reviewing this information collection. Schedule impairment awards are payable to an injured employee who has sustained permanent impairment to a member or function of the body pursuant to the FECA Section 8107. The relevant statutory provisions are found at 5 U.S.C. 8102 and 8107 and they read as follows:

§ 8102. Compensation for disability or death of employee

(a) The United States shall pay compensation as specified by this subchapter for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty, unless the injury or death is—

- (1) caused by willful misconduct of the employee;
- (2) caused by the employee's intention to bring about the injury or death of himself or of another; or

(3) proximately caused by the intoxication of the injured employee.

(b) Disability or death from a war-risk hazard or during or as a result of capture, detention, or other restraint by a hostile force or individual, suffered by an employee who is employed outside the continental United States or in Alaska or in the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), is deemed to have resulted from personal injury sustained while in the performance of his duty, whether or not the employee was engaged in the course of employment when the disability or disability resulting in death occurred or when he was taken by the hostile force or individual. This subsection does not apply to an individual—

(1) whose residence is at or in the vicinity of the place of his employment and who was not living there solely because of the exigencies of his employment, unless he was injured or taken while engaged in the course of his employment; or

(2) who is a prisoner of war or a protected individual under the Geneva Conventions of 1949 and is detained or utilized by the United States.

This subsection does not affect the payment of compensation under this subchapter derived otherwise than under this

subsection, but compensation for disability or death does not accrue for a period for which pay, other benefit, or gratuity from the United States accrues to the disabled individual or his dependents on account of detention by the enemy or because of the same disability or death, unless that pay, benefit, or gratuity is refunded or renounced.

§ 8107. Compensation schedule

(a) If there is permanent disability involving the loss, or loss of use, of a member or function of the body or involving disfigurement, the employee is entitled to basic compensation for the disability, as provided by the schedule in subsection (c) of this section, at the rate of 66 $\frac{2}{3}$ percent of his monthly pay. The basic compensation is—

- (1) payable regardless of whether the cause of the disability originates in a part of the body other than that member;
- (2) payable regardless of whether the disability also involves another impairment of the body; and
- (3) in addition to compensation for temporary total or temporary partial disability.

(b) With respect to any period after payments under subsection (a) of this section have ended, an employee is entitled to compensation as provided by—

- (1) section 8105 of this title if the disability is total; or

(2) section 8106 of this title if the disability is partial.

(c) The compensation schedule is as follows:

(1) Arm lost, 312 weeks' compensation.

(2) Leg lost, 288 weeks' compensation.

(3) Hand lost, 244 weeks' compensation.

(4) Foot lost, 205 weeks' compensation.

(5) Eye lost, 160 weeks' compensation.

(6) Thumb lost, 75 weeks' compensation.

(7) First finger lost, 46 weeks' compensation.

(8) Great toe lost, 38 weeks' compensation.

(9) Second finger lost, 30 weeks' compensation.

(10) Third finger lost, 25 weeks' compensation.

(11) Toe other than great toe lost, 16 weeks' compensation.

(12) Fourth finger lost, 15 weeks' compensation.

(13) Loss of hearing—

(A) complete loss of hearing of one ear, 52 weeks' compensation; or

(B) complete loss of hearing of both ears, 200 weeks' compensation.

(14) Compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is

the same as for loss of the eye.

(15) Compensation for loss of more than one phalanx of a digit is the same as for loss of the entire digit. Compensation for loss of the first phalanx is one-half of the compensation for loss of the entire digit.

(16) If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation is the same as for loss of the arm or leg, respectively.

(17) Compensation for loss of use of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, is proportioned to the loss of use of the hand or foot occasioned thereby.

(18) Compensation for permanent total loss of use of a member is the same as for loss of the member.

(19) Compensation for permanent partial loss of use of a member may be for proportionate loss of use of the member. The degree of loss of vision or hearing under this schedule is determined without regard to correction.

(20) In case of loss of use of more than one member or parts of more than one member as enumerated by this schedule, the compensation is for loss of use of each member or part thereof, and the awards run consecutively. However, when the injury affects only

two or more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is computed on the loss as affecting both ears.

(21) For serious disfigurement of the face, head, or neck of a character likely to handicap an individual in securing or maintaining employment, proper and equitable compensation not to exceed \$3,500 shall be awarded in addition to any other compensation payable under this schedule.

(22) For permanent loss or loss of use of any other important external or internal organ of the body as determined by the Secretary, proper and equitable compensation not to exceed 312 weeks' compensation for each organ so determined shall be paid in addition to any other compensation payable under this schedule.

References: 5 U.S.C 8102, 5 U.S.C. 8107, and 20 CFR 10.103.

<https://www.dol.gov/agencies/owcp/FECA/regs/statutes/feca#toc>

II. Desired Focus of Comments

OWCP is soliciting comments concerning the proposed information collection related to the Claim for Schedule Award. OWCP is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions

- of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of OWCP's estimate of the burden related to the information collection, including the validity of the methodology and assumptions used in the estimate;
 - Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
 - Minimize the burden of the information collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Background documents related to this information collection request are available at <https://regulations.gov> and at DOL-OWCP located at U.S. Department of Labor, Office of Workers' Compensation Programs, Room S3323, 200 Constitution Avenue NW, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the FOR FURTHER INFORMATION section of this notice.

III. Current Actions

This information collection request concerns for the Claim for Schedule Award, CA-9. OWCP has updated the data with respect to the number of respondents, responses,

burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: New collection.

Agency: DOL - Office of Workers' Compensation Programs.

OMB Number: 1240-0NEW

Affected Public: Individuals or households.

Number of Respondents: 775.

Frequency: On Occasion.

Number of Responses: 775.

Annual Burden Hours: 388 hours.

Annual Respondent or Recordkeeper Cost: \$16.00.

OWCP Forms: OWCP Form CA-9, Claim for Schedule Award.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

Anjanette Suggs,
Certifying Officer.

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