



# MAIL HANDLER UPDATE

NATIONAL POSTAL MAIL HANDLERS UNION

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## CONTINUATION OF PAY & COVID-19

**D**ue to the perfect storm of the Omicron variant and holiday gatherings, the COVID-19 numbers are spiking. The system put in place by management to protect employees from the spread of the virus crumbled under the increase of USPS employees testing positive for the virus. After two years of this pandemic, members wonder how they will pay their bills if they are forced to quarantine.

In 2020 and 2021, federal employees had access to two different types of paid leave for COVID-19 related absences. The Families First Coronavirus Response Act (FFRCA) and Emergency Federal Employee Leave (EFEL) created by the American Rescue Plan Act of 2021 (ARPA).

Now that both FFCRA and EFEL have expired, if you develop symptoms or test positive, management will only offer sick leave, annual leave, or leave without pay. However, many employees have exhausted their own leave due to issues related to the pandemic, such as their kid's school going to remote learning. Many members wonder; Is there another type of paid leave they can use if they are forced to quarantine? The answer is yes.

On March 31, 2020, the Department of Labor's (DOL) Office of Workers' Compensation Programs (OWCP) Division of Federal Employees Compensation (DFEC) established certain conditions for federal employees, including postal employees, to qualify for Continuation of Pay (COP) due to contracting COVID-19. These conditions were fully set forth when DFEC published the Federal Employees' Compensation Act (FECA) Bulletin No. 20-05, Subject: Federal Employees Contracting COVID-19 in Performance of Duty.

FECA Bulletin No. 20-05 outlined the process for postal employees to file a CA-1 to receive COP in a similar manner to any other injury sustained at work. Except for employees considered to work high-risk jobs, OWCP required substantial evidence to approve such a request. Employees who worked high risk jobs were given the benefit of the doubt that they contracted the virus at work.

In particular, FECA Bulletin No. 20-05 stated:

*While all federal employees who contract COVID-19 related to their federal employment are entitled to FECA coverage, special case handling considerations apply to those employees engaged in high-risk employment.*

Of interest to Mail Handlers, FECA Bulletin No. 20-05 further stated:

*DOL has created new procedures to specifically address COVID-19 claims. Employees filing a claim for workers' compensation coverage as a result of COVID-19 should file Form CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation.*

On April 28, 2021, DFEC published new standards in FECA Bulletin No. 21-09, Subject: Processing FECA Claims for COVID-19 under the American Rescue Plan Act of 2021 (ARPA) changing the March 2020 guidelines.

FECA Bulletin No. 21-09 states in part:

*On March 11, 2021, the ARPA was signed into law. This new legislation streamlines the process for federal workers diagnosed with COVID-19 to establish coverage under the FECA. Specifically, Section 4016 of the ARPA provides that a "covered employee" as defined below shall ... be deemed to have an injury proximately caused by exposure to COVID-19 arising out of the nature of the covered employee's employment.*

Under Section 4016 of the ARPA, the term "covered employee" means an individual:

- Who is an employee under Section 8101(1) of title 5, United States Code, employed in the Federal service at any time during the period beginning on January 27, 2020, and ending on January 27, 2023;
- Who is diagnosed with COVID-19 during such period; and
- Who, during a covered exposure period prior to such diagnosis, carries out duties that—
  - require contact with patients, members of the public, or co-workers; or
  - include a risk of exposure to the novel coronavirus.

**In other words, Section 4016 of the ARPA has made it easier for postal employees to receive COP due to contracting COVID-19.** These changes mean that you are only required to show that your job puts you at risk of exposure to COVID-19. You no longer have to prove you were engaged in high-risk employment; that you were exposed to the virus; or that you were exposed to someone who had the virus while at work. Also, as a covered employee any diagnosed COVID-19 will be deemed to

have been caused by your postal employment. You no longer have to establish a causal link between your employment and your COVID-19 diagnosis.

### WHAT IS NEEDED FROM YOU TO FILE FOR COP?

If you file a claim requesting COP due to contracting COVID-19, two pieces of information should be provided along with your CA-1:

1. Evidence of being at work within 21 days of showing symptoms or a positive test, i.e., clock rings, statement, etc.; and
2. Acceptable evidence of a COVID-19 diagnosis.

FECA Bulletin 21-09 describes what OWCP will accept as a diagnosis of COVID-19:

- A. A positive Polymerase Chain Reaction (PCR) COVID-19 test result; or
- B. A positive Antibody or Antigen COVID-19 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.

Medical reports from nurses or physician assistants are acceptable if a licensed physician cosigns the report.

The process for requesting and filing a claim for an injury remains the same. It is the employee's responsibility to request the CA-1 within 30 days of showing symptoms or a positive test. Even if you are asymptomatic or have light symptoms, we do not know if there will be long term effects from contracting COVID-19. Protect yourself by filing a CA-1 as you would for any other injury.



**Please Post!!**

**January 2022**