

# Local Grievance # \_\_\_\_\_

## Issue Statement (Block 15 of PS Form 8190):

Did management violate Articles 3, 5 and 21 of the National Agreement along with ELM Section 540 via Article 19 of the National Agreement and 20 CFR 1 by failing to provide OWCP with pay rate information in a timely manner, and if so, what should the remedy be?

## Union Facts and Contentions (Block 17 of PS Form 8190):

### Facts:

1. Letter Carrier **[name]** suffered an on-the-job injury on when **[explain incident]**.
2. Letter Carrier **[name]**'s claim was accepted by OWCP on **[date]**. This is documented by the Acceptance Letter from the Dept. of Labor dated **[date]**.
3. The grievant filed a CA-7 Claim for Compensation on **[date]**. This is documented by a copy of the CA-7 transmittal from the grievant's ECOMP account.
4. Article 21.4 of the National Agreement states:

*Employees covered by this Agreement shall be covered by Subchapter I of Chapter 81 of Title 5, and any amendments thereto, relating to compensation for work injuries. The Employer will promulgate appropriate regulations which comply with applicable regulations of the Office of Workers' Compensation Programs and any amendments thereto.*

5. Article 21 of the JCAM explains:

**Workers' Compensation.** *Letter carriers who sustain occupational injury or disease are entitled to workers' compensation benefits under the Federal Employees' Compensation Act (FECA), administered by the U.S. Department of Labor's Office of Workers' Compensation Programs (OWCP).*

*Sources of information concerning federal workers' compensation benefits are:*

- *ELM Section 540—USPS regulations governing workers' compensation;*
- *USPS Handbook EL-505, Injury Compensation (December 1995);*
- *Title 5 United States Code Section 8101 (5 U.S.C. 8101)—the Federal Employees' Compensation Act (FECA);*
- *Title 20 Code of Federal Regulations Section Chapter 1 (20 C.F.R. 1) —regulations of the Office of Workers' Compensation Programs;*

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6. National Arbitrator Bernstein ruled in case number H1N-5G-C 14964:

*Article 5 of the National Agreement serves to incorporate all of the Service's "obligations under law" into the Agreement, so as to give the Service's legal obligations the additional status of contractual obligations as well. This incorporation has significance primarily in terms of enforcement mechanism--it enables the signatory unions to utilize the contractual vehicle of arbitration to enforce all of the Service's legal obligations. Moreover, the specific reference to the National Labor Relations Act in the text of Article 5 is persuasive evidence that the parties were especially interested in utilizing the grievance and arbitration procedure spelled out in Article 15 to enforce the Service's NLRB commitments.*

7. ELM 544.12 states in relevant part:

*Control office and control point supervisors are responsible for reviewing all claims for accuracy and completeness and for forwarding claims and related documents to OWCP within prescribed FECA time frames.*

8. 20 CFR 10.111(c) states in relevant part:

*Upon receipt of Form CA-7 from the employee, or someone acting on his or her behalf, the employer shall complete the appropriate portions of the form. As soon as possible, but no more than five working days after receipt from the employee, the employer shall forward the completed Form CA-7 and any accompanying medical report to OWCP.*

9. Article 3 Management's Rights states:

*The Employer shall have the exclusive right, subject to the provision of this Agreement and consistent with applicable laws and regulations.*

### **Contentions:**

1. Management violated Articles 3, 5, and 21 of the National Agreement along with ELM Section 540 via Article 19 of the National Agreement and 20 C.F.R. 1 by failing to provide pay rate information to OWCP in a timely manner.

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2. The Employing Agency Portion of Form CA-7, Section 8 contains the following:

**Employing Agency Portion**  
**For first CA-7 claim sent, complete sections 8 through 15.**  
**For subsequent claims, complete sections 12 through 15 only.**

<b>SECTION 8</b>	Show Pay Rate as of	Additional Pay	Additional Pay	Additional Pay
Date of Injury:	Base Pay	Type _____	Type _____	Type _____
Date: _____	\$ _____ per _____	\$ _____ per _____	\$ _____ per _____	\$ _____ per _____
Grade: _____ step: _____				
Date Employee Stopped Work:		Type _____	Type _____	Type _____
Date: _____	\$ _____ per _____	\$ _____ per _____	\$ _____ per _____	\$ _____ per _____
Grade: _____ step: _____				

Additional pay types include, but are not limited to: Night Differential (ND), Sunday Premium (SP), Holiday Premium (HP), Subsistence (SUB), Quarter (QTR), etc. (List each separately)

The form specifically asks for the Employing Agency to “Show Pay Rate as of” Date of Injury and any additional pay types.

3. 20 CFR 10.111(c) specifically states:

***Upon receipt of Form CA-7 from the employee, or someone acting on his or her behalf, the employer shall complete the appropriate portions of the form. As soon as possible, but no more than five working days after receipt from the employee, the employer shall forward the completed Form CA-7 and any accompanying medical report to OWCP.***

4. Section 544.12 of the ELM clearly addresses management’s responsibilities when receiving claim forms from injured employees and forwarding those forms and/or related documents to OWCP within prescribed FECA time frames.

5. Letter Carrier **[name]** submitted a CA-7 Claim for Compensation on **[date]**. At this point, management had five working days to complete the Employing Agency’s Portion and submit it to OWCP. This did not happen in this case.

6. Management was notified by OWCP by letter dated **[date]** requesting pay rate information within 15 days of receipt of the letter. Management failed to provide OWCP with the requested information within the prescribed time limit. Section 544.12 of the ELM and 20 CFR 10.11(c) could not be more clear as to management’s responsibility regarding this issue.

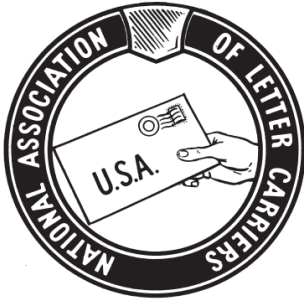
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7. The Union contends this issue is an “obligation under the law” as defined by National Arbitrator Bernstein; therefore, management violated Article 3, 5, 21 of the National Agreement, ELM 540 via Article 19 of the National Agreement and 20 CFR 1.
  
8. Letter Carriers who are injured on-the-job are guaranteed certain rights and protections by the National Agreement and Federal Law. When these rights are violated, Letter Carriers are harmed and caused undue hardship. Without the proper forms being provided and/or properly processed, an employee’s Worker’s Compensation benefits could be delayed and/or denied for reasons that are out of the employee’s control. In this case, Letter Carrier **[name]** had to take an early withdrawal from his/her TSP **[or explain any undue hardship, if any]**.

### **Remedy Requested (Block 19 of PS Form 8190):**

1. Management cease and desist violating Articles 3, 5, and 21 of the National Agreement, ELM Section 540 via Article 19 of the National Agreement and 20 C.F.R. 1.
  
2. Management at **[Station Name and Zip Code]** take a training course on the proper procedures and management’s responsibilities regarding on-the-job injuries.
  
3. Letter Carrier **[name]** be made whole for any and all lost wages and benefits that occurred as a result of management’s actions.
  
4. Letter Carrier **[name]** be paid a lump sum of \$100.00 for undue hardship caused by management’s actions and to ensure future compliance of the parties.
  
5. Management will make all payments associated with this case as soon as administratively possible, but no later than 30 days from the date of settlement and proof of payment will be provided to the Union.
  
6. Any and/or all remedies the Step B Team or Arbitrator deems appropriate.

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**National Association of Letter Carriers  
Request for Information**

To: \_\_\_\_\_  
(Manager/Supervisor)

Date \_\_\_\_\_

\_\_\_\_\_  
(Station/Post Office)

Pursuant to Articles 17 and 31 of the National Agreement, I am requesting the following information to investigate a grievance concerning a violation of Articles 3, 5, 19, and 21:

1. Copies of any and all forms related to the on-the-job injury to Letter Carrier **[name]**.
2. TACS Employee Everything report for Letter Carrier **[name]** from **[dates(s)]**.

I am also requesting time to interview the following individuals:

1. **[Name]**
2. **[Name]**
3. **[Name]**

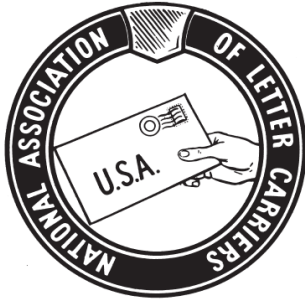
Your cooperation in this matter, will be greatly appreciated. If you have any questions concerning this request, or if I may be of assistance to you in some other way, please feel free to contact me.

Sincerely,

\_\_\_\_\_  
Shop Steward  
NALC

Request received by: \_\_\_\_\_  
Date: \_\_\_\_\_

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**National Association of Letter Carriers  
Request for Steward Time**

To: \_\_\_\_\_ Date \_\_\_\_\_  
(Manager/Supervisor)

\_\_\_\_\_  
(Station/Post Office)

Manager/Supervisor \_\_\_\_\_,

Pursuant to Article 17 of the National Agreement, I am requesting the following steward time to investigate a grievance. I anticipate needing approximately \_\_\_\_\_ (hours/minutes) of steward time, which needs to be scheduled no later than \_\_\_\_\_ in order to ensure the timelines established in Article 15 are met. In the event more steward time is needed, I will inform you as soon as possible.

Your cooperation in this matter will be greatly appreciated. If you have any questions concerning this request, or if I may be of assistance to you in some other way, please feel free to contact me.

Sincerely,

\_\_\_\_\_  
Shop Steward  
NALC

Request received by: \_\_\_\_\_

Date: \_\_\_\_\_

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**PRIVACY ACT AUTHORIZATION AND**

I authorize the NALC and/or its authorized representatives to disclose information received through the U.S. Department of Labor/Office of Workers' Compensation Programs deemed necessary to investigate and/or process grievances.

This authorization is effective on the date it is signed and is effective until revoked by me in writing. A copy of this authorization shall have the same force and effect as the signed original.

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

Privacy Act Statement: By signing this form you authorize the disclosure of your information regarding workers' compensation claims to the NALC and/or its representatives to investigate or to determine if a grievance exists. This form will be maintained by the NALC and will only be disclosed as part of a grievance should it be determined a violation of the National Agreement or FECA Regulations exists.

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