

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 and EL-505 via Article 19 of the National Agreement and 20 C.F.R. 1 by delaying forwarding of a claim form to OWCP, 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 **[date]** at approximately **[time, if traumatic]** when **[explain incident]**.
2. Letter Carrier **[name]** reported the injury to Supervisor **[name]** on **[date]** at approximately **[time]**. This is documented by the written statement from Letter Carrier **[name]** in the case file.
3. The grievant filed a claim **[CA-1 or CA-2]** for Compensation with the Dept. of Labor on **[date]**. This is documented by a copy of the claim form filed on ECOMP.
4. Management delayed or returned the claim form for resubmission stating **[give management's reasons for the delay]**. This is documented by a copy of the claim form and reasons for resubmission.
5. 20 CFR §10.110(a) states:

The employer shall complete the agency portion of Form CA-1 (for traumatic injury) or CA-2 (for occupational disease) no more than 10 working days after receipt of notice from the employee. The employer shall also complete the Receipt of Notice and give it to the employee, along with copies of both sides of Form CA-1 or Form CA-2.
6. 20 CFR §10.110(c) states:

The employer should not wait for submittal of supporting evidence before sending the form to OWCP.
7. Relevant ELM 540 provisions state:

ELM 544.11.f

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Prompt completion and forwarding of Form CA-1 or CA-2 to the control office or control point on the same day it is received from the employee.

ELM 544.12

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.

ELM 544.212

The control office or control point submits to the appropriate OWCP district office within 10 working days after it is received from the employee:

- a. *Completed Form CA-1 or Form CA-2.*

ELM 545.12

Control point personnel must not, under any circumstances or for any reason, delay timely submission of reports or claim forms to the control office.

ELM 545.75d

Submission of Form CA-1 to OWCP must not be delayed, under any circumstances...

8. Relevant EL-505 provisions state:

EL-505, Section 4.4

Under no circumstances may ICCO [HRM] personnel...delay submission of the CA-1 to the OWCP within 10 working days from the date received by the supervisor.

EL-505, Section 8.3

Do not delay submitting the claim pending collection of data to support a controversion or challenge.

EL-505, Section 10.5

Do not delay submitting the CA-1, CA-2, CA-5 or CA-5b pending receipt of third party information.

9. Article 21.4 of the National Agreement states:

Employees covered by this Agreement shall be covered by Subchapter

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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.

10. 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;*

11. 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.

12. 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:

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1. Management violated Articles 3, 5, and 21 of the National Agreement along with ELM Section 540 and EL-505 via Article 19 of the National Agreement and 20 C.F.R. 1 when they delayed forwarding a claim for compensation form to OWCP.
2. Management's reasons for delaying or returning the claim form to the injured employee for resubmission is without merit. The provisions of the ELM 540, EL-505 and 20 CFR §10.110 are crystal clear as to management's responsibility in handling CA-1's and CA-2's when received from injured employees and their obligation to forward those claim forms to OWCP within 10 working days after receipt of notice from the employee without delay.
3. The Union contends this issue is an "obligation under the law" as defined by National Arbitrator Bernstein; therefore, management violated Article 3, 5, and 21 of the National Agreement, the ELM 540 and EL-505 via Article 19 of the National Agreement and 20 CFR 1.
4. The Union also contends there is nothing in the Handbooks and Manuals, FECA or Code of Federal Regulations that states management has the authority to return a claim form to the injured employee for resubmission.
5. 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 pay out of pocket expenses for medical treatment **[or explain any other 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 and EL-505 via Article 19 of the National Agreement and 20 C.F.R. 1.

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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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