Checklist • Federal Workers’ Compensation
OWCP • Office of Workers’ Compensation Programs

Employee: ___________________________  OWCP Claim # ___________________________  Date of Injury ___________________________

Keys for a Successful Claim: Detailed Employee Statement plus Physician’s Medical Rationale Report How Employment Factors Caused Injury

1. **Employee Notifies Employer & OWCP of Injury Claim with Form CA-1, CA-2 or CA-2a.**
   - You can file your claim using paper or with ECOMP www.ecomp.dol.gov. ECOMP is usually quicker. Attach medical records as scanned PDF files.
   - Form CA-1 Notification of Traumatic Injury: Tell Employer. Give Form CA-1 to Employer or ECOMP. Wages: 15. d. a. Continuation of pay (COP).
   - Form CA-2 Notification of Occupational Disease and Claim for Compensation • Form CA-2a Notice of Recurrence: Send CA-2/CA-2a to OWCP.
     - The 2 Keys to Success: 1) Physician’s Medical Rationale Causation report, 2) Employee’s Type Narrative report. See Form CA-35A-H

2. **Employee Has Sole Right to Select Their Treating Physician** anywhere in the United States.
   - Physician should know OWCP requirements, provide reports and be able to obtain OWCP pre-approval for treatment, tests, surgery, etc.
   - For acute injuries you may see the employer’s physician and then follow up with the physician of your choice.
   - To change your treating physician you must send a letter to OWCP with your new physician’s name and address and the reason you are changing.
   - The Employer and OWCP can send you for second opinion exams and reports but not for treatment unless you agree.

3. **Employer Completes Their Section of Claim Form and Sends Form and any Medical Records to OWCP within 10 Days**
   - CA-1: If possible, attach a physician’s medical rationale report to your CA-1. It is OK to wait a few days to get your medical records.
   - CA-2 & CA-2a: If your supervisor does not send medical records then the Claims Examiner will not have medical evidence to accept your claim.

4. **OWCP Assigns a Claim Number and Your Claims Examiner** Note: A claim number does not mean your claim is accepted.
   - Your Claims Examiner is the judge for your claim. It is best to correspond in writing and to keep proof of conversations.
   - OWCP can assign a Nurse Case Manager (NCM). A NCM needs your permission to talk to your doctor or be in the room with you and your doctor.

5. **OWCP Accepts Your Claim and Authorizes Treatment or Denies Your Claim** (For denials see below)
   - Check that all injured body parts and conditions are accepted. If not, have your physician write an Upgrade Conditions Request medical report.
   - CA-1: Employer authorizes treatment with Form CA-16. If Employer denies treatment then OWCP can authorize or deny treatment by letter to employee.
   - CA-2 & CA-2a: Only OWCP authorizes treatment with a letter to the employee.

6. **Treating Physician Treats and Provides OWCP with Medical Reports.**
   - Treatment can be for your lifetime. Claims close if no physician report to OWCP every 180 days. Can be reopened with a physician report.

7. **Treating Physician Provides Employer & OWCP with Work Restrictions or Unable to Work Forms**
   - Only your chosen treating physician determines work restrictions and if and when the employee can return to work.
   - Employers cannot talk directly to the treating physician, but can request work restrictions using Form CA-17 or OWCP-5c.
   - If off work due to injury, an employee receives 75% of pay if there are dependents or 67% without dependents.

8. **Schedule Award** A monetary award for a permanent disability.
   - Obtain an impairment rating report from a physician. If you get worse you can repeat Schedule Award exams and impairment ratings.
   - OWCP pre-approves payment to the physician of your choice for a Schedule Award exam and impairment rating.
   - Send Form CA-7 and medical impairment rating to OWCP. In Section 2 check d. Schedule Award.
   - Careful! Getting a Schedule Award stops OWCP off work wage checks. You may need to stay off work and stay on OWCP payments.

   ✤ Options if OWCP Denies Your Claim ✤

1. **Reconsideration in Writing**: Usually the best option. On your OWCP denial letter, check Reconsideration and send to OWCP with a new medical report.
   - If your physician is not familiar with OWCP, they can refer you or you can choose another physician to write your reconsideration reports.

2. **Oral Hearing**: Usually, you should have an advocate or attorney.

3. **ECAB Employee’s Compensation Appeals Board**: Careful! Use as a last resort. You need an advocate, attorney or union rep.

Ellis Clinic
Fair & Compassionate Federal Workers’ Compensation™

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Right to Select Your Physician

FECA • Federal Workers’ Compensation Act, U.S.C. 8103
OWCP • Office of Workers’ Compensation Programs

You Have the Sole Right to Select Your Treating Physician!
FECA/OWCP Provides for Unlimited Treatment for Your Lifetime!

• You Can Select or Change Your Treating Doctor at Any Time
  You select your doctor when you get injured. You can write to OWCP requesting a change in
  your treating doctor at anytime. Provide doctor’s name and address and reason for the change,
  i.e., my doctor referred me to Dr. Welby, my doctor will not see injured federal patients, etc.
  ○ You do not have to write OWCP for a change of doctor in these situations:
    • Your doctor sends you for one time consultation.
    • Your doctor sends you for surgery. The surgeon automatically becomes your treating
      doctor until they send you back to your doctor who again becomes your treating doctor.
    ○ Your treating doctor can be anyone in the United States.
    ○ FECA/OWCP pays up to 100 miles for you to see your treating doctor.
    ○ You can see any doctor in any state for medical rationale causation reports, Schedule Award
      impairment rating reports, or consultation.

• You Do Not Have to Accept Your Employer’s Doctor
  ○ Employers can send you for emergency treatment.
  ○ If you continue with the employer’s doctor, then you have chosen your treating doctor.
    You can always request a change in your treating doctor.
  ○ OWCP &/or Employers can send you for second opinion examinations.
  ○ OWCP pays for second opinion examinations and travel expenses.
  ○ Work Restrictions are determined by your treating doctor and not the second opinion doctor.
    Your doctor can agree or disagree. If they disagree they should provide OWCP with a rebuttal
    medical report which has higher probative (legal) value because it is from the treating doctor.

John W. Ellis, M.D.

Fellowships:
  • American College Occupational & Environmental Medicine
  • American Academy Family Doctors

Board Certifications:
  • American Board Environmental Medicine
  • American Board Family Medicine

Professional Certifications:
  • American Board Disability Analysts
  • American Board Forensic Examiners
  • American Board Forensic Medicine
  • American Board Independent Medical Examiners
  • Certified Forensic Consultant, CFC ®

Full Curriculum Vitae available at www.EllisClinic.com

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Employers Do Not Have Automatic Access to an Employee’s Protected Health Information (PHI)

- Employers cannot talk to an injured employee's treating physicians.
- Employers can only contact physicians in writing requesting work limitations:
  - Form CA-17 Duty Status Report
  - Form OWCP-5c Work Capacity Evaluation Musculoskeletal Conditions
  - Periodic Medical Reports addressing employee’s ability to return to work.
- Employer’s Medical Clinics and Physicians:
  - Employees have the sole right to select their treating doctors.
  - Employees may to select or refuse treatment from the employer’s physicians.
  - Employers can require employee be evaluated concerning work by their physicians.
  - Employer’s medical clinics must send PHI only to OWCP, the employee, the employee’s representative and the employee’s selected physician.
- OWCP does have access to an employee’s PHI: Claims Examiners, District Medical Advisors, Second Opinion Physicians, and Nurse Case Managers.OWCP.
- Employees can file a Health Insurance Portability & Accountability Act (HIPAA) complaint if an employer’s medical clinic or physician incorrectly release their PHI.

20 CFR §10.506 May the employer monitor the employee’s medical care?

The employer may monitor the employee’s medical progress by obtaining periodic medical reports. Form CA-17 is usually adequate for this purpose. To aid in returning an injured employee to suitable employment, the employer may also contact the employee’s physician in writing concerning the work limitations imposed by the effects of the injury and possible job assignments. However, the employer shall not contact the physician by telephone or through personal visit. When such contact is made, the employer shall send a copy of any such correspondence to OWCP and the employee, as well as a copy of the physician’s response when received. The employer may also contact the employee at reasonable intervals to request periodic medical reports addressing his or her ability to return to work.

To Physicians:
- Send an Employee’s PHI Only to OWCP and the employee and/or their representative.
- Employees can authorize their PHI be sent to their attorney or union representative.
- Physicians can communicate with other treating physicians.
- Be careful! A request for PHI on a government agency’s letterhead does not always meet HIPAA requirements or have the employee’s written authorization.
Getting Fair VA Disability Decisions

Physicians lack of Legal Medicine training results in Veteran’s Disability Claims being denied and/or assigned the wrong percentage of disability.

Example: VA denies a Korean War veteran’s three obvious claims:
1. Hearing Loss from Being in the Artillery for Three Years.
   - VA doctor wrote the noise induced hearing loss was not aggravated by artillery.
2. Frostbitten Feet
   - VA doctor wrote he did not know if it was cold in Korea.
   - VA regulations require that Korean War vets be examined for cold injuries!
   - VA doctor wrote his feet hurt from diabetes that began in 2004. How did the vet know to file about his feet so many years before he developed diabetes?
3. Torn Thigh Muscle. The VA doctor did not even examine the leg!
The vet was dying from cancer so I drove 200 miles to examine him in his home for free.

Overcoming VA Denials Due to Lack of In Service Medical Records
Vets understand that they were not encouraged to go to sick call. They tried to ignore their injuries and treated themselves with over the counter medicines. You overcome the VA denial by telling your doctor your medical history while in the service. Your doctor’s expert medical opinion sets forth that your injury or medical conditions started while in the service and that it is their medical opinion that your injuries or conditions are service connected.

Ellis Clinic loves helping our vets. To obtain an appointment for a VA Disability Expert Medical Opinion Report: Call (405) 917-5336 or go to www.EllisClinic.com and click [VA Disability].

God Bless, Doc Ellis

John W. Ellis, M.D., Captain, U.S. Army, Flight Surgeon, Retired

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- American College Occupational & Environmental Medicine
- American Academy Family Physicians

Board Certifications:
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- American Board Family Medicine

Professional Certifications:
- American Board Disability Analysts
- American Board Forensic Examiners
- American Board Forensic Medicine
- American Board Independent Medical Examiners
- Certified Forensic Consultant, CFC ©

For full curriculum vitae go to www.EllisClinic.com and click [John W. Ellis, MD]

You are not alone. Many states and veteran service organizations have free services to help you file your VA claims. For the Directory of Veterans Service Organizations go to http://www.va.gov/vso/
The National Organization of Veterans’ Advocates (NOVA) are advocates and attorneys. There is usually a fee if they are successful in getting your claim accepted or increased. Go to http://vetadvocates.org
VA Disability Examination Protocol
Welcome Cherished Veteran!

Name __________________________ Phone __________________________

Street or PO Address __________________________

City/State/Zip __________________________

VA Claim# __________________________ SSN __________________________ Date of Birth __________________________

Military Branch & Dates Served __________________________

If obtained, your VA Rep or Attorney __________________________

Exam & Report Fee: $500 for up to 4 Claims. $100 for Each Additional Claim.
- Count as 1 Claim each body part or disease, i.e. Right Shoulder + Right Elbow + Left Knee = 3 Claims. PTSD = 1 Claim. Heart Disease = 1 Claim.
- Count as one claim: (Hearing Loss+Tinnitus) and (Neck or Back with nerve pain & numbness into one or both extremities).
- PTSD & Psychological claims need to provide a mental health practitioner’s report. You can ask for a psych evaluation at your VA.
- Overcoming No Service Medical Records: You tell your physician your medical history and then your physician provides their medical opinion and explanation how and why your acute injuries and consequential conditions are service connected or service aggravated.

<table>
<thead>
<tr>
<th>Claimed Body Part • Disease • Condition</th>
<th>Requesting the VA to:</th>
<th>VA Code# &amp; % (Only if VA has assigned)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Accept [ ] Raise [ ]</td>
<td>VA Code# __________________________</td>
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<tr>
<td>2.</td>
<td>Accept [ ] Raise [ ]</td>
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<td>3.</td>
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<td>4.</td>
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<td>5.</td>
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<tr>
<td>8.</td>
<td>Accept [ ] Raise [ ]</td>
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</tr>
</tbody>
</table>

☐ Additional page attached.

Physician ethics do not allow contingency fees. No refunds if Ellis Clinic does not opine a claim is service connected or if the VA denies a claim or lowers a percentage.


For Assistance from Veteran’s Service Organization (American Legion, DAV, VFW, etc.) Go to www.va.gov/vso
For Assistance from Attorney: NOVA National Organization of Veteran’s Advocates. Go to http://vetsadvocates.org
Ellis Clinic Protocol for a VA Disability Exam & Report

Veteran's Name: 

☆ Put this Protocol Form on Top of Your Records.
☆ Summary List of Records.
Your Summary List of Records is Very Important! It is attached to your report.
If you do not have a list of records reviewed the VA may claim your medical report has less value!
If you do not provide a Summary List of Records there can be no appointment.
☆ Form DD-214 & VA Decisions (Put most recent decisions on top)
☆ Medical Records WHILE IN Military Service.
☆ Medical Records NOT IN Military Service.
1. Operation Reports and Hospitalization Discharge Summaries.
2. Tests i.e. MRI, EMG, X-Ray (In and out of service)
3. Medical Provider's Treatment Records (Doctors, Clinics, VA)

- Separate each claim with a tab or colored paper. Write on the tab or page the body part or disease.
- It is helpful if you staple or clip together each medical provider (doctor, clinic, VA)
- It is helpful if you write the range of dates, i.e. Mayo Clinic 1/3/14 to 5/13/16, VA 4/6/15 to 8/8/16.
- Within each medical record put most recent on top.
- Send only copies! Records are destroyed after your appointment.
- Send only pertinent records such as an Operation Report but not all the hospital records

Summary List of Records Example
Records of John Q. Doe, VA# 123 45 678
DD214

Left Shoulder
Operation Report: Arthroscopy Left Shoulder, Dx: Rotator Cuff Repair, Ima Cutter, MD 7/7/2001
MRI Left Shoulder: 6/6/2001
VA medical records: 7/1/1970 to 1/5/2012
Ima Cutter, MD: 3/3/2001 to 12/2/2001

Back
Operation Report: L5-S1 Laminectomy, Dx: Herniated Disc L5-S1, IMA Cutter, MD, 5/5/1998
VA medical records: 10/2/1970 to 1/5/2012
ABC Ortho Group: Ima Cutter, MD & Rita Snow, DO: 2/14/1996 to 4/1/2001

Records Assistance: Professional Record Review collates your records, types the Summary List, and then mails to Ellis Clinic.
Professional Record Review • Tel: (615) 618-7661 • 2002 Brenthaven Dr., Mt. Juliet, TN 37122.
PRR Fees: $40 per inch plus postage. Ellis Clinic receives no monies from PRR.

Enclose Payment: $500 for up to 4 claims (body part or disease). $100 for each additional claim.
Payment Method □ Check to Ellis Clinic □ MasterCard □ Visa (No Am Express or Discover)
Payment will be deposited only if your records are acceptable. Ellis Clinic will then call you for an appointment.

Date: ___________________ Total Payment $ _______________ for __________________ Number of Claims.

Card# ___________________ Expires ____ / ____ Security Code ____________

Name on Card: ________________________________

Card Address: ________________________________
OWCP Pays for Transportation to Obtain Medical Treatment

20 CFR § 10.315. OWCP pays for transportation to obtain medical treatment. The employee is entitled to reimbursement of reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances or supplies. To determine what is a reasonable distance to travel, OWCP will consider the availability of services, the employee’s condition, and the means of transportation. Generally, 25 miles from the place of injury, the work site, or the employee’s home is considered a reasonable distance to travel. The standard form designated for Federal employees to claim travel expenses should be used to seek reimbursement under this section.

Your physician obtains ACS Web Bill Processing Portal approval from OWCP for your office visit, Schedule Award exam, medical report, test, surgery, etc. Your physician gives you a copy to attach to your Form OWCP-957 as proof that your doctor visit, test or surgery was approved and therefore should be reimbursed as medical travel.

Under 50 Miles round trip: File After Your Office Visit

- File Form OWCP-957 Medical Travel Refund Request.
- Attach your physician’s ACS Web Bill Processing Portal approval.
- To get form, Google “OWCP-957

Over 50 Miles round trip: File Before Your Office Visit (OK to try after your visit)

- Fax Transportation and Travel Authorization Request.
- Attach your physician’s ACS Web Bill Processing Portal approval.
- To get the form Google > “Authorization - Travel and Transportation 04-23-10”
- Or go to http://owcp.dol.acs-inc.com/portal/main.do
  i. Click > Forms and Links
  ii. Click > Federal Employees’ Compensation Act (FECA)
  iii. Click > Medical Authorization - Transportation and Travel

* * * * * * *
Right to Select Your Physician
FECA • Federal Workers’ Compensation Act, U.S.C. 8103
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You Have the Sole Right to Select Your Treating Physician!
FECA/OWCP Provides for Unlimited Treatment for Your Lifetime!

• You Can Select or Change Your Treating Doctor at Any Time
  You select your doctor when you get injured. You can write to OWCP requesting a change in
  your treating doctor at anytime. Provide doctor’s name and address and reason for the change,
  i.e., my doctor referred me to Dr. Welby, my doctor will not see injured federal patients, etc.
  ○ You do not have to write OWCP for a change of doctor in these situations:
    • Your doctor sends you for one time consultation.
    • Your doctor sends you for surgery. The surgeon automatically becomes your treating
      doctor until they send you back to your doctor who again becomes your treating doctor.
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Supervisors Delaying Injury Claims

Federal Workers' Compensation

Title 18 USC § 1922, US Code - Section. 1922: False or withheld report concerning Federal employee's compensation: Whoever, being an officer or employee of the United States charged with the responsibility for making the reports of the immediate superior specified by section 8120 of title 5, willfully fails, neglects, or refuses to make any of the reports, or knowingly files a false report, or induces, compels, or directs an injured employee to forego filing of any claim for compensation or other benefits provided under subchapter I of chapter 81 of title 5 or any extension or application thereof, or willfully retains any notice, report, claim, or paper which is required to be filed under that subchapter or any extension or application thereof, or regulations prescribed thereunder, shall be fined under this title or imprisoned not more than one year, or both.

Form CA-1 [Under Signature of Supervisor and Filing Instructions Sections]
38. A supervisor who knowingly certifies to any false statement, misrepresentation concealment of fact, etc. in respect of this claim may also be subject to appropriate felony criminal prosecution.
I certify that the information given above and that furnished by the employee on the reverse of this form is true to the best of my knowledge with the following exception:
[Under Supervisor Instructions]
As (At) the time the form is received, complete the receipt of notice of injury and give it to the employee. In addition to completing items 17 through 39, the supervisor is responsible for obtaining the witness statement in Item 16 and for filling in the proper codes in shaded boxes a, b, and c on the front of the form. If medical expense or lost time is incurred or expected, the completed form should be sent to OWCP within 10 working days after is received. The supervisor should also submit any other information or evidence pertinent to the merits of this claim. If the employing agency controverts COP, the employee should be notified and the reason for controversion explained to him or her.

Form CA-2 [Under Signature of Supervisor Sections]
35. A supervisor who knowingly certifies to any false statement, misrepresentation concealment of fact, etc., in respect to this claim may also be subject to appropriate felony criminal prosecution.
I certify that the information given above and that furnished by the employee on the reverse of this form is true to the best of my knowledge with the following exception:
[Under Receipt of Notice of Occupational Disease or Illness]
This acknowledges receipt of notice of disease or illness sustained by: (Name of injured employee). I was first notified about this condition on (Mo., Day, Yr.), At (Location)
Signature of Official Superior Title Date (Mo., Day, Yr.)
This receipt should be retained by the employee as a record that notice was filed.
[Under Supervisor (Or appropriate official in the employing agency) section]
At the time the form is received, complete the Receipt of Notice of Disease or Illness and give it to the employee. In addition to completing items 19 through 34, the supervisor is responsible for filling in the proper codes in shaded boxes a, b, and c on the front of the form. If medical expense or lost time is incurred or expected, the completed form must be sent to OWCP within ten working days after it is received. In a separate narrative statement attached to the form, the supervisor must: a) Describe in detail the work performed by the employee. c) Attach a record of the employee's absence from work caused by any similar disease or illness. Have the employee state the reason for each absence. Identify fumes, chemicals, or other irritants or situations that the employee was exposed to which allegedly caused the condition. State the nature, extent, and duration of the exposure, including hours per days and days per week, requested above. d) Attach statements from each co-worker who has first-hand knowledge about the employee's condition and its cause. (The co-workers should state how such knowledge was obtained.) b) Attach copies of all medical reports (including x-ray reports and laboratory data) on file for the employee. e) Review and comment on the accuracy of the employee's statement requested above. The supervisor should also submit any other information or evidence pertinent to the merits of this claim.
Nurse Case Managers
Federal Workers’ Compensation
OWCP • Office of Workers’ Compensation Programs

- Nurse Case Managers can be helpful or a hindrance with your injury claim.
- Federal employees can elect whether to work with a Nurse Case Manager.
- Federal employees have the sole right to select their treating physician.
- Federal employees can elect on whether to allow a Nurse Case Manager to be present during their physician visit or to talk to their physician after their visit.
- Federal employee’s treating physician can elect whether or not to talk with a Nurse Case Manager or to allow them into their office.

- The treating physician should:
  - Obtain authorization from employee to talk with the Nurse Case Manager.
  - Be paid for time and services requested by the Nurse Case Manager.
  - Require the Nurse Case Manager obtain OWCP pre-approval for their service.
Unlawful Collection for Medical Treatment
Injury covered by Federal Employees’ Compensation Act (FECA)
Office of Workers’ Compensation Programs (OWCP)

From Injured Federal Employee:

Name: _____________________________________________
Address: ___________________________________________
OWLCP Claim# ______________________ Date of Injury: ____________

To Medical Provider or Entity Unlawfully Seeking Payment for Medical Services:

Medical Provider: ___________________________________________
Address: _____________________________________________

Federal Employee’s Patient Account #: ______________________________

Medical Provider or Entity:
You have unlawfully tried to collect directly from me for medical services for my Federal Workers’ Compensation injury which is covered by the Federal Employees Compensation Act (FECA), 5 U.S.C. 8103. FECA is the sole remedy for payment for medical treatment. Submit bills only to U.S. Department of Labor, Office of Workers’ Compensation Programs.

Send written acknowledgment within thirty (30) days that you will only seek reimbursement from the U.S. Department of Labor, Office of Workers’ Compensation Programs.

There are several remedies available for unlawful collections, such as:
  • File complaint with the U.S. Department of Labor and U.S. Department of Justice.
  • File complaint with state’s Department of Consumer Credit.
  • File complaint with the Better Business Bureau
  • Civil lawsuits.

Signature of Federal Employee: ______________________________ Date: ____________

Enclosed is proof my injury is covered under Federal Workers’ Compensation Act (FECA) administered by the U.S. Department of Labor, Office of Workers’ Compensation Programs:
  • U.S. Department of Labor Injury Acceptance Letter dated ________________, or
  • ACS Web Bill Processing Portal dated ________________.
  • Elective: Medical Provider/Entity’s correspondence to employee dated ________________

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Activities of Daily Living:
Whereas, an Employer’s supervision is only over an Employee’s work activities, and whereas, an Employer is not privy to the employee’s Protected Health Information, therefore, Ellis Clinic’s work restrictions are directed to the Employer and work and not to the Employee's Activities of Daily Living. To assist in their healing, the Employee is encouraged to be active to the point of discomfort while heeding the symptoms from their injured body.

In Federal Workers’ Compensation, if the Employer has concerns about the Employee's Activities of Daily Living, then the Employer must submit their concerns to the Office of Workers’ Compensation Programs (OWCP) who can then contact the treating physician.

Video Surveillance:
Before expending time and money, the Employer should become familiar with the United States Department of Labor, Employees’ Compensation Appeals Board (ECAB), DECISION and ORDER, Docket No. 11-863, Issued September 26, 2012. The below is a partial summary. Read the case.

1. Video surveillance must first be seen by Employee and their attorney.
2. The Employee’s Statement must accompany the video.
3. If the Department of Justice, Office of Inspector General (OIG), presents a video to a physician, they have become an agent for the Employer.
4. Federal Employers cannot directly contact the treating physician.
5. Videos are not good evidence for the ability to work because the person may be on medications and the video may not show the employee’s actual work.