



Memo

To: Branch 2184 Stewards and Officers

From: Joe Golonka, Branch 2184 Contract Administration Unit

Date: 09/02/2022

Re: Medical Documentation Updates, Limited and Light Duty as well as 8/40 (no overtime)

Background: USPS management in many Branch 2184-represented offices as well as throughout the United States frequently tries to impose a mandatory "every 30-days" timeframe for medical updates with letter carriers that have medical restrictions on their work duties due to job related (limited duty) as well as non-job related (light duty) injuries or illnesses. This update mandate is also frequently imposed on letter carriers that have 8-hour daily or 40-hour weekly work restrictions from their physicians.

Although it is reasonable for the employer to require periodic medical updates, the "30-day" mandate is unsupported contractually, other than a long-existing misapplication of the Employee and Labor Relations Manual (ELM) section 865.2, which states that "When employees take intermittent or reduced schedule leave, management can request a return-to-work clearance for such absences up to once every 30 days **if reasonable safety concerns exist regarding the employee's ability to perform his or her duties due to the medical condition in issue.**" That language clearly limits 30-day updates to situations where legitimate safety concerns exist with reduced schedules or intermittent leave, and it is not basis for blanket update requirement of any specific timeframe.

NALC Regional Workers Compensation Assistant (RWCA) David Miller has composed a response to the "30-day" update policy, which follows. These arguments and accompanying citations should be used in grievances challenging the imposition of a 30-day medical update mandate on a letter carrier.

The "30-day rule" is a misconception or rather a myth.

There are really only a couple of requirements, in writing, that spell out the frequency that can or cannot be implemented for injuries. **For a work-related OWCP approved injury, 20 CFR 10.506 reads, "The employer may also contact the employee at reasonable intervals to request periodic medical reports addressing his or her ability to return to work."**

The question is, what is a reasonable interval? If the physician says that he/she wants to see you for an exam again in 6 months and your restrictions are good until then, the employer cannot require you to go to a doctor for updated restrictions until that appointment. The physician determines what intervals you should be examined and treated. If they do order you to go to a doctor, follow their instructions but file a grievance. I would request a cease and desist and even argue that the USPS should be responsible for the payment of the bill rather than OWCP, per EL-505 Section 6-8 that reads, in part:

The USPS pays medical bills for the following:

- First-aid cases treated by USPS contract medical providers.
- Management directed medical services, e.g., FFDs, consultative examinations, and tests.

If the USPS wants updated medical restrictions, they can contact your physician directly to request them. EL-505 provides in Section 6-3:

Contacting the Treating Physician — ICCO

* When the USPS medical provider or OHNA is unable to do so, contact the treating physician if additional information is needed because of inconsistencies relative to the employee's duty status or if there are incomplete medical reports. (ELM 545.62) The designated control point may contact the treating physician if clarification is needed following the initial examination.

***When making such contacts, ensure the following:**

- **USPS personnel and the staff of USPS contract medical providers are not interfering with the medical care prescribed by the employee's attending physician.**
- **Inquiries are limited to information regarding the medical condition of the employee, or the employee's ability to return to full or limited duty.**

*When communicating with the treating physician, professionally present the pertinent facts and request the treating physician's medical opinion.

*Contact the treating physician when requesting a new CA-17, updating medical progress. Ensure that the following are accomplished:

- Document any change in duty status authorized by the treating physician.
- When duty status information is given, issue a new CA-17 with a cover letter, requesting the treating physician to confirm the information in writing.
- Send copies of such correspondence to the employee and to the OWCP district office, and forward copies of the physician's response to both, once it is received.

Additionally, there is a Step 4 Settlement (M-01437) pertaining to light duty (non-work-related injury) requirements to update medical documentation every 30 days that reads, "The parties agree that the local practice of requiring an automatic update of medical information every 30 days is contrary to the intent of Article 13 and, therefore, will be discontinued."

I believe this Step 4 clearly shows the intent of the parties is that a 30-day rule is inconsistent with the collective bargaining agreement.
