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APR 30 1986
OFFICE OF EXECUTIVE VICE PRESIDENT

Mr. William Burrus
Executive Vice President
American Postal Workers
Union, AFL-CIO
817 14th Street, N.W.
Washington, D.C. 20005-3399

APR 29 1986
ARTICLE _____ 19
SECTION ELM
SUBJECT CONTROVERSION

Re: M. Biller
Washington, D.C. 20005
HLC-NA-C 106

Dear Mr. Burrus:

On April 15, 1986, and again on April 24, 1986, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The issue in this grievance is whether management can properly terminate Continuation of Pay (COP) when converting a claim beyond the circumstances of Part 545.51 of the Employee and Labor Relations Manual (ELM).

During our discussion, we mutually agreed that the following constitutes full and final settlement of this case:

Controversion with termination of pay shall only be effected based upon the conditions listed in Part 545.51 of the ELM.

Please sign and return the enclosed copy of this letter as your acknowledgment of agreement to settle this case.

Time limits were extended by mutual consent.

Sincerely,

Muriel A. Aikens

Muriel A. Aikens
Labor Relations Department

William Burrus
William Burrus
Executive Vice President
American Postal Workers
Union, AFL-CIO

b. If the recurrence is within 6 months of the date the employee first returned to work following the initial period of disability. If the recurrence occurs more than 6 months after the employee returned to work following the initial disability, regular pay may not be continued, even if some portion of the 45 days remains unused. In this case, the employee is entitled only to sick or annual leave and to OWCP compensation.

545.3 Time Limit

The control office/control point submits:

a. Completed Form CA-1 or CA-2 to the appropriate OWCP district office within 2 working days after it is received from the employee.

b. Any other information or documents bearing on the claim.

545.4 Exceptions

.41 Form CA-1 or CA-2 is completed in every injury case. However, completed forms are not sent to OWCP if:

a. The injury does not cause incapacity for work beyond the day or shift it occurred, and

b. It appears that the injury will not result in prolonged treatment, permanent disability, or serious disfigurement of the head, face, or neck, and

c. The injury has not resulted, or apparently will not result, in a charge for medical or other related expenses.

.42 If all 3 of the above conditions are met, the CA-1 or CA-2 must be filed in the injured employee's official personnel folder, instead of being sent to OWCP.

545.5 Controversion

.51 With Termination of Pay

On the basis of information submitted by the employee or secured through an independent investigation, the USPS may controvert a claim for compensation. In traumatic injury cases, an employee's continuation of pay should be terminated only if:

a. The disability is the result of an occupational disease or illness, as defined in 541.2. (The employee may apply for compensation, or take annual or sick leave, but is not entitled to continuation of regular pay for an occupational disease or illness under FECA.)

b. The injury occurred off USPS premises when the employee was not engaged in official duties.

c. The injury was caused by:

(1) The employee's willful misconduct; or

(2) The employee's intent to bring about injury or death to self or another person; or

(3) The employee's intoxication which was the proximate cause of the injury.

d. The first absence caused by the injury occurred 6 months or more after the injury.

e. The employee failed to make an initial report of the injury until after employment was terminated.

f. The injury was not reported on Form CA-1 within 30 days following the injury.

.52 Without Termination of Pay. In all other cases where controversion is proper, the control office/control point will controvert the claim. However, pay must be continued if continuation of pay is applicable and applied for unless the claim falls within one of the grounds for termination of pay listed in 545.51.

.53 Control Office Procedures. When a claim is controverted, the control office/control point will ensure that the CA-1 is properly completed and that the controversion package is adequately documented. Each case will be tailored to the facts. Form letters and repetitive formats will be avoided. All controversion packages will be transmitted to the OWCP district office by a cover letter with detailed information on the reasons for the controversion.

.54 Form CA-1 Instructions

.541 Before the controversion package is submitted, the CA-1 should be carefully reviewed for completeness and accuracy. Item 42 on the CA-1 should be clearly marked and a full explanation for the basis of the controversion provided.

.542 If additional information in support of the controversion is to be sent at a later date under a separate cover, this must be stated in the cover letter and in Item 42 on the CA-1 before the package is submitted to the OWCP district office.

.543 Form CA-1 must not be delayed pending the collection of data to support a controversion. The Form CA-1 is promptly sent to the OWCP office, with a notation on the CA-1 and a cover letter advising that the claim is being controverted and that information to support the controversion is forthcoming.

.544 Proper identification of controverted claims is essential to permit the OWCP offices to give these claims priority in processing and to avoid the possibility of substantial, erroneous payments of regular pay which would have to be recovered from the employee.

.55 Controversion Denied by OWCP. If a controversion is denied by OWCP, the control point may submit a copy of the CA-1 and all other relevant documents to the MSC E&LR director or counterpart, for review and any necessary resubmission, if warranted. Cases that are not resolved, to the satisfaction of field management, may be forwarded to the Regional Injury Compensation Program Administrator, with a recommendation for further action.

.56 45-Day Continuation of Pay. The employee's regular pay is continued for up to 45 calendar days unless:

a. The controversion has been upheld by OWCP and the installation head has been notified; or

b. The treating physician notifies the control office that the employee is no longer disabled.