

COMSCINST 12810.1B	COG CODE N1	DATE 4 AUG 1998
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DEPARTMENT OF THE NAVY
COMMANDER MILITARY SEALIFT COMMAND
WASHINGTON NAVY YARD BLDG 210
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WASHINGTON DC 20398-5540

COMSCINST 12810.1B
N1
04 August 1998

COMSC INSTRUCTION 12810.1B

Subj: FEDERAL EMPLOYEES' COMPENSATION PROGRAM

Ref: (a) Federal Employees' Compensation Act (FECA), 5 USC 8101
(b) 20 CFR 10, Part A
(c) OPNAVINST 12810.1
(d) ASN (M&RA) memo of 23 Dec 96

Encl: (1) Death Gratuity Payment Information

1. Purpose. To provide guidance in managing the Federal Employees' Compensation Program (FECP) and reduce injury compensation costs. This instruction also sets forth policy and procedures for death gratuity payments for a civilian employee whose death results from an injury sustained in the line of duty on or after August 2, 1990. This is a complete revision and should be read in its entirety.
2. Cancellation. COMSCINST 12810.1A.
3. Scope. Provisions of this instruction apply MSC-wide. Servicing Human Resources Offices (HROs) are responsible for performing the functions described in this instruction when appropriate.
4. Background. Reference (a) is a government-wide program administered by the Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor (DOL). FECA provides compensation benefits to civilian employees of the U.S. for disability due to personal injury or disease sustained while in the performance of duty. FECA also provides for payment of benefits to dependents if work-related injury or disease causes an employee's death. Reference (d) and enclosure (1) provide policy and procedures on death gratuity payments.

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5. Action

a. COMSC (N1) shall ensure that FECA program management policy and procedures are effectively carried out and are implemented.

b. COMSC (N8) shall ensure that FECA chargeback budgeting, billings and payments are properly executed.

c. Area Commanders, Director, Afloat Personnel Management Center and Heads of MSC subordinate components shall, in conjunction with their servicing HROs:

(1) Administer the injury compensation program in accordance with references (a) through (c).

(2) Establish an Injury Compensation Cost Reduction Committee in accordance with reference (c).

(3) Appoint an Injury Compensation Program Administrator (ICPA) and additional staff, as necessary, to manage day-to-day operations of the FECA program.

(4) Establish light and/or limited duty assignments where feasible for injured workers to permit them to return to work as soon as they are able.

NOTE: For those MSC subordinate components that are collocated (e.g., MSCLANT and APMC) and serviced by a single HRO, one program administrator may be assigned to manage and administer the program for all subordinate components. A written agreement to this effect signed by all participating subordinate components for a single program administrator is recommended.

d. ICPAs shall manage injury compensation cases in accordance with reference (c).

Distribution:

COMSCINST 5000.19

List I (Case A, B, C)

SNDL 41B (MSC Area Commanders)

41C (MSC NFAF East/West)

41D (MSC Offices)

41E (APMC)

DEATH GRATUITY PAYMENT

Section 651 of Public Law 104-208, authorizes payment of death gratuity to the personal representative of a civilian employee whose death results from an injury sustained in the line of duty on or after August 2, 1990. This law applies to any MSC civilian employee whose death would permit the payment of Federal Employees' Compensation Act (FECA) death benefits under 5 USC 8133(f) and 4 USC 8134(a).

Eligibility for the Gratuity. The gratuity is payable to the personal representative of any Federal employee who dies from an injury that was sustained in the line of duty on or after August 2, 1990. This includes an MSC employee who dies after separation from service, if the death is the result of an injury sustained in the line of duty.

Injury. The term "injury" as used in section 651 of Public Law 104-208 does not encompass occupational illness. In most cases, it covers traumatic injury resulting in instantaneous death, but does not exclude deaths that may occur sometime later as a result of the traumatic injury.

Personal Representative of the Deceased. Public Law 104-208 (section 651) directs readers to applicable law for the definition of personal representative. Applicable law, in turn, refers to the law of the state that the deceased had declared as his/her primary residence at time of death. Thus, the definition of personal representative may vary from state to state. In most cases, however, this will be the primary individual to whom the OWCP pays survivor benefits. The Public Law does not provide for multiple personal representatives.

Amount of Gratuity. The gratuity, of not more than \$10,000 is payable in cases where OWCP has found the employee (or former employee) dies as a result of a traumatic injury sustained in the line of duty on or after August 2, 1990. While OWCP approval is required for eligibility, prior approval is not necessary in a case where there is no question the claim will be accepted (e.g., Oklahoma City Federal Building bombing, TWA Flight 800 crash, Riyadh Saudi Arabia Khobar Towers bombing).

When Not to Pay Gratuity Payments. The gratuity is not payable in cases where OWCP disapproves a death claim.

When No OWCP Claim is Filed. Generally, the gratuity is not paid. However, there are personal representatives who do not file claims. These representatives are not eligible for monthly OWCP benefits and prefer not to go through the paperwork process merely to receive the \$200 and \$800 payments. In such cases, a \$9,000 payment is made after determining that such claim, if submitted to OWCP, would be accepted (e.g., deaths

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resulting from the Oklahoma City Federal Building bombing, TWA Flight 800 crash, Riyadh Saudi Arabia Khobar Towers bombing). Personal representatives should be encouraged to file for the additional \$1,000 (\$200 and \$800) OWCP payments. A payment of \$10,000 would result in overpayment should the representative later apply to OWCP.

Information Needed by Payroll for Payment. Proper authority within the servicing personnel office should provide payroll personnel with written notification that a death gratuity is payable. The following information must be included: deceased's name and social security number; amount of gratuity to be paid; name and mailing address of personal representative to receive gratuity payment; and name and telephone number of the individual who can be contacted to obtain the proper fund cite for payment.

Note: Proper authority within the servicing personnel office should send the personal representative a letter informing him/her that a death gratuity payment is being processed.