

Local Grievance # _____

Issue Statement (block 15 of PS Form 8190):

Did management violate Articles 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. 10.506 by improperly contacting the grievant's physician and failing to provide copies of the correspondence to the grievant, 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]**.
2. Letter Carrier **[name]** physician was contacted by the Postal Service in writing/by telephone.
3. Letter Carrier **[name]** did not receive a copy of correspondence sent to physician nor did they receive the responses from the physician.
4. 20 C.F.R. 10.506 states:

To aid in returning an injured employee to suitable employment, the employer may also contact the employee's physician in writing concerning 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.

5. ELM 515.52 states:

However, FECA prohibits contacting the physician by telephone or through a personal visit except for administrative purposes such as determining whether a fax has been received or ascertaining the date of a medical appointment.

6. Article 21.4 of the National Agreement states:

Employees covered by this Agreement shall be covered by Subchapter

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.

7. 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;*

8. M-01385 states:

The Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor, issued new regulations governing the administration of the Federal Employees' Compensation (FECA) effective January 4, 1999. The specific regulation that is germane to the instant case is 20 CFR 10.506, which specifically prohibits phone or personal contact initiated by the employer with the physician.

The EL-505 Section 6.3 specifically states that the employee will be sent copies of such correspondence.

Contentions:

1. Management violated Articles 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 10.506 by improperly contacting the grievant's physician and/or failing to provide copies of the correspondence to the grievant.

2. Section 544.12 of the ELM addresses the management's responsibilities when contacting the employee's physician:

544.12 states: The control office must provide the employee a copy of all correspondence between the Postal Service and the treating physician.

545.52 states:

A copy of all written correspondence to the employee's physician and any response received must be sent to the OWCP and the employee

Letter Carrier **[name's]** physician was contacted by the Postal Service. The Postal Service contacted the physician by letter. The letter was sent via fax to the physician's office. The treating physician responded to the request. Neither the questions asked nor the response was given to the Grievant.

OR

Letter Carrier **[name's]** physician was contacted by the Postal Service by telephone. This is evidenced by the statement from the grievant included in the case file. The Postal Service failed to provide the questions asked or the response given to the Grievant.

3. Handbook EL-505 Section 6.3 further explains management's responsibilities when contacting the treating physician:

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's received.

4. The Union contends this issue is an "obligation under the law" as defined by 20 CFR 10.506 therefore, management violated Article 5 of the National Agreement as well.

Remedy (block 19 of PS Form 8190):

1. That management cease and desist violating Articles 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. 10.506.
2. That management abide by ELM Section 540 and EL-505 at all times in the future.

3. That Letter Carrier **[name]** will receive copies of all correspondence between the Postal service and the treating physician, or whatever remedy the Step B team or an arbitrator deems appropriate.



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 15, 16 and 19:

1. Copies of any and all correspondence between the Postal service and Letter Carrier **[name]** treating physician.

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,

Request received by: _____

Shop Steward
NALC

Date: _____



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,

_____ Request received by: _____

Shop Steward
NALC

Date: _____