



**DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION PROGRAMS**

**WAR HAZARDS COMPENSATION ACT
PROCEDURE MANUAL**

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Chapter 4-0300, War Hazards

1. **Purpose and Scope.** This chapter outlines the procedures to be followed in claims under the War Hazards Compensation Act, which are prefixed with WH- or EA-. The EA- prefix was assigned to cases dating from World War II which involved contractors to Pacific Naval Air Bases who were captured by the Japanese. The WH- prefix is assigned to the remaining cases.

2. **Statutory Authority.** War Hazards Compensation Act (WHCA), 42 U.S.C. 1701 et seq., issued December 2, 1942, and amended in 1943, 1946, 1953, 1958, 1959 and 1961.

3. **Regulations.** WHCA cases are addressed in 20 C.F.R. Parts 61 and 62, published on February 8, 1988.

4. **Jurisdiction.** All claims for benefits under the WHCA are to be adjudicated and maintained in District Office 9 (Cleveland).

5. **Claim Forms.** Either regular Federal Employees' Compensation Act or Longshore and Harbor Workers' Compensation Act forms may be used to claim benefits under the WHCA.

6. Purpose of the WHCA and Relationship to Other Statutes.

a. The WHCA supplements the Defense Base Act (42 U.S.C. 1651), which is an extension of the Longshore and Harbor Workers' Compensation Act (LHWCA, 33 U.S.C. 901 et seq.) The WHCA completes the protection provided to Federal contractors' employees and certain other selected employees performing work outside the United States. All liability for injury, death and detention benefits under the WHCA is assumed by the Federal Government, and is paid from the Employees' Compensation Fund established by 5 U.S.C. 8147.

b. Under Section 104 of the WHCA, an insurance carrier, self-insured employer, or compensation fund may claim reimbursement from the Employees' Compensation Fund for benefits paid on cases approved under the Defense Base Act (DBA), if it can be shown that the injury or death was due to a war-risk hazard. Where there is no compensation payable under the DBA, an employee or his or her survivors may file a claim directly under Section 101 of the WHCA. Section 101 of the WHCA also authorizes the payment of detention benefits for contractors' employees who are captured or detained by a hostile force.

c. The administrative procedures of the Federal Employees' Compensation Act (FECA) are generally applicable to claims filed under Section 101 of the WHCA, with the exception that computation of disability and death benefits, and determination of pay rate and beneficiaries, are made in accordance with the provisions of the LHWCA. The minimum provisions of the LHWCA for computing disability compensation (Section 6b) and death benefits (Section 9e) do not apply to these claims or to cases paid under the Defense Base Act. Medical treatment and care are furnished under the applicable sections of the FECA.

7. Conditions of Coverage.

a. Time limitations for filing a claim under the WHCA are as outlined in the FECA, except that timely filing requirements may be waived altogether if circumstances beyond the employee's control prevented the timely filing of a claim.

b. Coverage under the WHCA is extended to any person employed outside of the continental United States who is:

(1) Covered under the DBA;

(2) Engaged by the United States under a personal service contract (note that personal service contractors with the Agency for International Development are covered under the FECA);

(3) Covered under the Nonappropriated Fund Instrumentalities Act;

(4) Engaged for personal services by the United States under the Mutual Security Act; or

(5) Engaged by an American employer to provide welfare or similar services to the Armed Forces for injury or death which is causally related to a war-risk hazard.

Detention benefits may also be paid to an employee as described above who is missing from his or her employment under conditions which would lead one to believe that the absence is due to action of a hostile force, who is known to have been taken prisoner by a hostile force, or who is not returned to his or her home due to the failure of the United States or the contractor to furnish transportation.

c. A "war-risk hazard" is a hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring within any country in which a covered individual is serving. The hazard may be from:

(1) The discharge of a missile, including liquids and gas, or the use of any weapon, explosive or other noxious thing by a hostile force or person or in combatting an attack or a perceived attack by a hostile force or person;

(2) Action of a hostile force or person, including rebellion or insurrection against the United States or any of its allies;

(3) The discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or person;

(4) The collision of vessels in convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

(5) The operation of vessels or aircraft in a zone of hostilities or engaged in war activities.

d. "Hostile force or individual" is defined as a nation, a subject of a foreign nation, or any other person serving a foreign nation engaged in:

- (1) A war against the United States or any of its allies;
- (2) Armed conflict, whether or not war has been declared, against the United States or any of its allies; or
- (3) A war or armed conflict between military forces of any origin in any country in which a person covered by the WHCA is serving.

e. The usual "performance of duty" considerations do not apply in WHCA cases, in that eligible individuals are covered at all times, except for people who reside at or near the place of employment and do not live there solely by virtue of the exigencies of the employment. These individuals will be covered while in the performance of duty only.

f. Coverage is not extended to a prisoner of war detained or utilized by the United States. An individual who:

- (1) Recovers or receives workers' compensation benefits from any other source;
- (2) Is a foreign national and is entitled to benefits from that or any other country; or
- (3) Has been convicted of a subversive act against the United States is not entitled to benefits under the WHCA.

g. The DBA provides for waivers of coverage by the head of any department or other agency of the United States or the Secretary of Labor. The waiver may apply with respect to any contract, subcontract, or subordinate contract, work location under such contracts, or classification of employees. The waiver would have to have been made prior to the injury or detention. If coverage under the DBA is waived, and a condition of the waiver is that the contractor obtain other war hazard coverage, there is no coverage under Section 101 of the WHCA. Section 104 claims may be allowed in spite of waiver.

The Longshore Division will alert DFEC of the existence of a waiver, or may be consulted if the existence of a waiver is an issue.

8. Terrorist Attacks. The statutory definition of a war-risk hazard does not specifically address terrorist attacks. Determining coverage under the WHCA for such attacks may be complicated, as it is not always possible to identify the person or group responsible for a terrorist act, or to determine the intended target of the action. Coverage may be extended to some victims of terrorist acts. Each case must be considered on an individual basis in conjunction with the definitions of "war-risk hazard" and "hostile force or individual" found in paragraphs 7c and 7d. The following examples are intended to give some guidance on this matter.

Example 1: An employee covered by the DBA is injured when members of a known terrorist organization drive a vehicle into a U.S. Embassy and explode it. No war is in progress in the country, but the attack itself constitutes an "armed conflict" directed against the United States, or its official representative in the country, the U.S. Embassy. The United States is by the very nature of the situation "engaged" in the conflict, even if it has had no chance to respond. The terrorists are related to an identifiable organization which uses violence to achieve political goals, and are therefore a "hostile force or person engaged in armed conflict". A "war-risk hazard" is present in this instance.

Example 2: Off-duty employees of a contractor are injured or killed by a terrorist attack while sitting in a public place. The United States is not engaged in a war or an armed conflict. The remaining consideration, then, is whether the incident occurred as the result of a war or armed conflict between military forces of any origin within the country in which the contractor's personnel are serving. If the claimants are able to establish with reasonable certainty that the attackers were members of or acting on behalf of an identifiable military group, one that pursues its political goals through the use of violence, that has taken up arms against the United States or against the government where the incident arose, coverage would be extended.

Example 3: An American airliner on which employees of a contractor are travelling is hijacked in a foreign country, with the intent to take the airplane to a destination where political prisoners are held to exchange the airplane and its passengers for the release of those prisoners. The incident did not arise out of an armed conflict in which the United States is engaged, nor is the United States the obvious object of the attack. Coverage for injury or death may be extended, however, if the claimant(s) can establish that a state of war or armed conflict between identifiable organized military groups existed in the foreign country at the time of the hijacking, and injury or death was due to one of the factors outlined in paragraph 7c. Detention benefits may be paid if the hijackers meet the definition of "hostile force or individual" found in paragraph 7d.

Example 4: Employees of a contractor to the Department of Defense are killed when the U.S. military bus on which they are riding is attacked by native insurgents. The attackers are members of a military/political group which seeks to overthrow the local government through the use of violence. The local government has actively attempted to subdue the group by military means. This situation would qualify for WHCA coverage as "an armed conflict in which the United States is engaged" (the bus, an identifiable symbol of the United States, was attacked by a known terrorist group), and as an "armed conflict between military forces of any origin in any country in which a person...is serving."

Example 5: An individual with no connection to an identifiable group seeks revenge against the United States for its role in the Middle East by planting a bomb in a non-American airliner. Because the perpetrator cannot be connected with an identifiable group which pursues its political goals through the use of violence, no WHCA coverage can be extended.

9. Processing Claims Filed Under Section 104 of the WHCA.

a. Form CA-278, "Claim for Reimbursement of Benefit Payments and Claims Expense," is used by an insurance carrier or a self-insured employer to file a claim for reimbursement under Section 104 of the WHCA (see [Exhibit 1](#)). Most of the claims filed under the WHCA will originate in this manner. The claim must be supported by copies of the forms, statements, and medical reports submitted by the employee (or his or her survivors) and the employer to establish a claim under the DBA, the compensation order awarding benefits under the DBA, and the insurance policy (or relevant portion thereof) under which the employee was covered.

If there is not sufficient information to determine that the injury or death occurred as the result of a war-risk hazard, it is the responsibility of the Claims Examiner (CE) to request additional evidence or clarification from the insurance carrier. The claim for reimbursement must also be accompanied by documentation of the payments for which reimbursement is being claimed. Documentation of payment may take the form of receipts and copies of payment drafts, or a certified listing of payments which includes payee name, services rendered, amount paid, date paid, check or draft number, and signature of the certifier.

b. A claim for reimbursement filed by an insurance carrier or self-insured employer must be denied if it is found that the benefits paid or payable were on account of injury, detention or death which arose from a war-risk hazard for which a premium (which included an additional charge or loading for such hazard) was charged; or where the insurance carrier or self-insured employer has been reimbursed, paid, or compensated for the loss for which reimbursement is claimed.

c. The only appeal procedure available to insurance carriers and self-insured employers filing for reimbursement under Section 104 of the WHCA is reconsideration, which must be requested within 60 days by carriers within the United States and within six months by carriers outside of the United States. Requests for reconsideration should be sent to the Director for Federal Employees' Compensation. The Office may grant reconsideration after these periods have elapsed if reasonable cause for the delay is shown.

10. Processing Claims Filed Under Section 101 of the WHCA.

a. An employee or survivor should file a claim directly with the Division of Federal Employees' Compensation under Section 101 of the WHCA only after a Longshore District Director has determined that no compensation is payable under the Defense Base Act. The CE will undertake any necessary development of the factual and medical evidence. As in regular FECA claims, the claimant has the burden of establishing entitlement.

b. An employee or survivor filing for benefits under Section 101 should be asked whether he or she has claimed, recovered, or received workers' compensation benefits from any other source on account of the same injury or death for which benefits are being sought under the WHCA.

c. After the necessary development of the evidence, the CE will prepare a memorandum on the issue of whether the injury, disease, or death was the result of a war-risk hazard. Recommendations for acceptance of a claim must be approved by the Supervisory Claims Examiner. Denial of a claim will be made by compensation order, with a full explanation of the reasons for the action taken, and signed by the Supervisory Claims Examiner.

d. Individuals who file a claim under Section 101 of the WHCA receive the same appeal rights granted in regular FECA cases.

11. Reimbursement of Insurance Carriers and Self-Insured Employers under Section 104.

a. After a claim has been accepted for reimbursement, the CE will review the documentation submitted in support of the payments made by the insurance carrier or self-insured employer. The CE must determine whether compensation was paid in the correct amount and whether the medical expenses were for treatment of the condition(s) accepted as related to the war-risk hazard. If the case contains a compensation order issued by the Longshore Division under the Defense Base Act, compensation rates and accepted conditions will be stated in the compensation order. Reimbursement may not be made for compensation paid in excess of the amounts provided under the Longshore and Harbor Workers' Compensation Act or for medical bills unrelated to the accepted condition(s).

b. In addition to payments made for compensation and medical bills, insurance carriers and self-insured employers are entitled to reimbursement for reasonable and necessary claims expense incurred in determining liability, including expenses for attorneys' fees, court and litigation costs, witnesses and expert testimony, examinations, and autopsies.

These types of costs are known as "allocated claims expenses," and the specific expenses must be itemized and documented. An insurance carrier may also claim "unallocated claims expenses" in an amount of up to 15% of the sum of the reimbursable medical, compensation, and burial payments. Unallocated claims expenses represent the cost incurred by the company handling the claim in its regular course of operations. These expenses cannot be specifically itemized or documented.

c. After the CE has calculated the reimbursement amount for the claim filed on Form CA-278, the CE will prepare a letter explaining the reimbursement amount for each category of payment claimed (compensation and medical benefit payments, burial expenses, allocated expenses, unallocated expenses), as well as the total amount to be reimbursed. The employee's name, War Hazards file number, and insurance carrier's file number should also be included in the letter.

Any payments for which reimbursement is claimed, but cannot be authorized, must be noted in the letter, along with the reason for denial. Carriers or employers may submit additional information in support of the disallowed items, or file objections to the disallowance. The time requirements for submitting evidence or objections are 60 days for carriers within the United

States and six months for carriers abroad, although these limitations may be waived if warranted by unusual circumstances.

d. Concurrent with issuing the letter explaining the reimbursement amount, the CE should enter a payment to the appropriate payee commensurate with the total reimbursement amount for the applicable period claimed, and refer the payment for a supervisor's, assistant office director's, or office director's certification, as appropriate.

12. Assuming Direct Payment of Benefits Under Section 104.

a. In cases where an ongoing entitlement to compensation has been established, the OWCP may assume direct payment of benefits rather than continue to reimburse the insurance carrier or employer. As a rule, a case should be accepted for direct payment only when the rate of compensation and the period of compensation have become relatively fixed. Cases in which the nature and extent of entitlement to compensation either have not been determined or are in dispute should remain under the control of the insurance carrier until the issues have been resolved.

b. When direct payment of benefits has been deemed appropriate, the CE will arrange with the insurance carrier or employer to assume payment as of a specified date. For cases to be placed on the periodic roll, this date should coincide with the beginning of a periodic roll period. The person who will begin to receive payment directly from OWCP should be advised of the change and given instructions for submitting bills, changes of address, and other communications. If death benefits are being paid, the claimant should be advised to report any changes in marital status for the widow or widower and changes in marital or student status for dependent children.

c. Medical care in disability cases for which the Office has assumed direct payment will be furnished in a manner consistent with the regulations and procedures governing the furnishing of medical treatment under the FECA.

13. Payment of Compensation for Claims Filed Under Section 101.

a. Monetary compensation for disability, death, and burial expenses paid in cases accepted under Section 101 of the WHCA is computed in accordance with the benefit structure of the Longshore and Harbor Workers' Compensation Act, with the exception that the minimum limits of the LHWCA do not apply. Information necessary to compute compensation can be found in the Longshore Act in Sections 6, "Maximum and Minimum Compensation"; 8, "Compensation for Disability"; 9, "Compensation for Death"; and 10, "Determination of Pay". Assistance may be sought from the Division of Longshore and Harbor Workers' Compensation whenever questions arise about the computation of benefits.

b. Compensation for total disability is paid at 66 2/3% of the average weekly wage as determined under Section 10 of the LHWCA. The LHWCA also makes provision for payment of

compensation as the result of permanent partial disability and loss of wage-earning capacity. There is no augmented rate for employees with dependents.

c. The sum of the percentages paid to the beneficiaries in a death case may not exceed 66 2/3% of the average weekly wage. The widow or widower is entitled to 50%, plus 16 2/3% for each child, with a total not to exceed 66 2/3%. If there is no widow or widower, compensation is paid at the rate of 50% for one child, increased by 16 2/3% for each additional child, share and share alike, up to a maximum total of 66 2/3%.

If there is no surviving spouse or child, or if the aggregate amount payable to the spouse and child(ren) is less than 66 2/3% of the pay rate, compensation may be paid at a rate of up to 20% for a dependent brother, sister, or grandchild, and up to 25% for a dependent parent or grandparent. The aggregate amount payable to dependent brothers, sisters, grandchildren, parents and grandparents may not exceed the difference between 66 2/3% and the amount payable to the spouse and children.

d. Prior to November 26, 1972, the weekly maximum for death benefits was \$70.00. For death occurring between November 26, 1972 (effective date of the 1972 LHWCA amendments), and September 28, 1984, there is no maximum limit on the average weekly wage on which death benefits are computed. For deaths on and after September 29, 1984 (effective date of the 1984 LHWCA amendments), the total weekly death benefits may not exceed the lesser of the average weekly wages of the deceased or the benefit the deceased would have been eligible to receive under Section 6(b)(1).

e. Survivors of employees who were receiving compensation for permanent and total disability and died between November 26, 1972, and September 28, 1984 are entitled to receive death benefits, even if the cause of death was unrelated to the accepted war-risk injury. The 1984 amendments to the LHWCA eliminated death benefits in cases of unrelated death, when death occurs on or after September 29, 1984. The survivors of an employee whose death is related to the accepted condition(s) continue to be entitled to death benefits.

f. Dependents who are not citizens of the United States and who are not residents of the United States or Canada are limited to the surviving spouse and children, or if there is no surviving spouse or children, to a surviving parent receiving full or partial support from the employee for the one year immediately preceding the date of death. In cases of permanent total or permanent partial disability or death, the future liability of the United States for payment to persons who are noncitizens or nonresidents may be discharged by a lump sum payment equal to one-half of the commuted value of the future installments of compensation. Requests for lump sum calculations should be forwarded to National Office, for referral to the Longshore Division.

14. Annual Adjustment of Benefits.

a. Section 10(f) of the LHWCA provides for an annual adjustment of benefits effective each October 1. The October 1 adjustment is applicable to War Hazards cases in which compensation is being paid for permanent and total disability or death resulting from a war-risk hazard. The increase does not apply to compensation for death unrelated to the accepted injury condition,

temporary total disability, partial disability or internment. Unlike CPI increases under the FECA, there is no waiting period that must be satisfied before a claimant is eligible for the Section 10(f) adjustment.

b. The rate of the yearly adjustment may be obtained from the Longshore Division. The increase is applied to the weekly compensation rate and rounded to the nearest dollar. [Exhibit 3](#) shows the increases to date.

15. Monitoring Cases on the Periodic Roll.

a. In most of the War Hazards cases for which regular periodic payments are being made for disability, a Longshore District Director has made a finding of permanent disability. It is generally sufficient to request a medical report once every three years, unless more frequent reports are needed to monitor medical care and support the payment of medical bills. A yearly inquiry will be sent to the claimant to verify the current address, continuing receipt of benefits, and employment. Information about a disabled employee's marital status or dependents need not be requested, as the presence or absence of a spouse or dependent children has no effect on compensation rates for disability under the LHWCA.

b. Where death benefits are being paid to the spouse of a deceased employee, a yearly inquiry will be made to verify that there has been no change in the marital status of the widow or widower. See Exhibit 4 for an example of such a status inquiry. A widow or widower's entitlement to benefits ceases upon remarriage, at which time a lump sum representing two years' compensation is paid. If benefits are paid to a widow, widower or other individual on behalf of dependent children, the Claims Examiner (CE) should obtain yearly verification that the payee continues as guardian.

c. The CE must monitor the status of dependent children and adjust compensation accordingly. In cases where the employee died prior to October 26, 1972, no compensation is payable on behalf of a child once his or her 18th birthday occurs. For death on or after October 26, 1972, compensation may continue after a child's 18th birthday if he or she meets the definition of a student. The requirements for student status are the same as those under the FECA, and Forms CA-1615 and CA-1617 may be used to obtain the necessary documentation. It is important to maintain accurate data in the call-up system to serve as notification of a child's approaching 18th birthday or the need for verification of student status.

16. Changes in Benefit Levels.

a. In some of the older cases, there may be a question as to whether the claim was accepted under Section 101 or 104 of the WHCA. The presence of a compensation order from a Longshore Deputy Commissioner (now District Director) awarding benefits under the Defense Base Act is an indication of processing under Section 104. If there is no evidence of a Longshore compensation order or liable insurance carrier, it may be assumed that the case was handled under Section 101. Cases with EA prefixes may be presumed to be Section 101 cases, barring any evidence to the contrary.

b. When a change in the status of a beneficiary necessitates a change in the amount of compensation being paid, the adjustment will be processed as in any FECA death case and the payee advised accordingly. Most of these changes will result from changes in the status of dependent children.

c. If it appears that a change in benefits may be appropriate due to a change in the extent of injury-related disability or an incorrect computation of benefits, and the case was originally processed under Section 104 of the WHCA (i.e., the Defense Base Act claim was accepted), the case file and a memorandum summarizing the appropriate facts should be submitted to the Director for Federal Employees' Compensation who will forward the information to the Longshore Division. The Longshore Division will take appropriate formal or informal action and return the case through the Director for Federal Employees' Compensation for further handling. FECA appeal rights do not apply in these situations.

d. FECA overpayment procedures do not apply in cases handled under Section 104 of the WHCA. Section 104 cases in which overpayments occur should be forwarded to the Longshore Division through the Deputy Director for Federal Employees' Compensation, with appropriate documentation about the benefits paid and the claimant's financial situation, including a completed Form OWCP-20. The Longshore Division will determine whether an overpayment does in fact exist and how any recovery should be made.

e. Overpayments in cases processed under Section 101 of the WHCA are handled in accordance with the overpayment procedures described in FECA PM Part 6.

17. Detention Benefits.

a. An employee as defined in Section 101 of the WHCA who is taken prisoner, hostage or otherwise detained by a hostile force or person is entitled to receive or have credited to his or her account compensation equal to 100% of the employee's average weekly wage, paid by OWCP from the Employees' Compensation Fund. The average weekly wage used to compute detention benefits may not exceed the average weekly wages paid to civilian employees of the United States in the same or most similar occupation in the area nearest to the place of employment. Seventy percent of the benefits may be disbursed to the employee's dependents during the period of detention, if such dependents reside in the United States or its territories or possessions.

b. Compensation for disability under the WHCA may not be paid at the same time detention benefits are being paid, except that payment for schedule losses may be made at the same time the employee is in receipt of detention benefits. Concurrent receipt of detention benefits under the WHCA and other payment from the United States due to the same period of detention is prohibited. If a dual benefit situation occurs, the benefits due under the WHCA are reduced by the amount of the benefits paid under other statutes.

c. When a detained employee is released, OWCP will pay the cost of transportation from the point of release to the employee's home. In case of death, the cost will be paid of transporting the body to the home of the deceased.

d. If an employee is detained or missing for a prolonged period of time, the CE should send a yearly inquiry to any dependents receiving a portion of the detention benefits. This letter may be used to verify the current address of the payee and inquire about new information concerning the employee's status. Care should be taken that the annual Section 10(f) adjustment is not applied to detention benefits.

e. In certain cases where the employee's disappearance continues for a prolonged period of time, it may be appropriate to make a finding that death has occurred. Section 206 of the WHCA gives OWCP the authority to make a presumptive finding of death on the basis of evidence that the employee disappeared under circumstances that make the death appear probable. A presumptive finding of death should be undertaken only after careful consideration of the circumstances surrounding the disappearance and the wishes of the employee's survivors.

To make a finding of presumed death, the SrCE must prepare a memorandum to the Director and a compensation order for the signature of the Deputy Director for Federal Employees' Compensation. The copy of the compensation order sent to the employee's survivors should be accompanied by a cover letter advising the survivors of the procedure for filing a claim for death benefits. The amount of the death benefit may be more or less than the portion of the detention benefit the survivors had been receiving, depending on the date of death and the amount of time elapsed between the date of detention and the date of death.

18. Fees for Legal Services.

a. Section 204 of the WHCA provides that:

- (1) A claim for legal or other services rendered in respect to a claim under the WHCA is not valid unless approved by the Secretary;
- (2) An approved claim for legal or other services will be paid out of compensation payable to the claimant; and
- (3) Receipt of a fee without such approval, or solicitation of employment for oneself or another person in respect to a claim under the WHCA is a misdemeanor, punishable by a fine not to exceed \$1000.00, one year imprisonment, or both.

b. In addition, Section 61.403 of 20 C.F.R. provides that:

- (1) Stipulated or contingent fees will not be recognized;
- (2) Fee applications must be supported by a statement of the extent and character of the necessary work done on behalf of the claimant; and
- (3) The fee approved will reflect the actual necessary work performed by the representative, considering the capacity in which the representative appeared, the amount of compensation involved, and the circumstances of the claimant.

c. The procedures outlined in FECA PM Chapter 2-1200 may generally be used to process applications for fees under the WHCA, with the following exceptions:

- (1) Informational letters and awards should not reference the FECA or FECA regulations;
- (2) The fee should be paid by the OWCP out of compensation due the claimant, taking into consideration the existence of an outstanding large payment and the claimant's financial circumstances.

19. Common Medical Conditions Related to Internment.

a. A large number of cases accepted under Section 101 of the WHCA involve employees of U.S. Government contractors who sustained injury or disease as the result of detention in the Pacific theater during World War II. In these cases, known as "Enemy Action" (EA) cases, questions often arise about the relationship of current medical conditions to the internment. In May of 1980, the Veterans Administration published Study of Former Prisoners of War, in which common internment-related medical and emotional conditions were described. Although each case must be decided on its own merits, the following description of conditions identified in POW (Prisoner of War) studies as internment-related may be of assistance in the management of EA cases.

b. POWs were interned in the World War II Pacific theater under particularly harsh conditions exacerbated by a sparse and unfamiliar diet, tropical diseases, and primitive medical care. Thirty-seven percent of the American POWs interned in the Pacific theater died during internment, compared to a mortality rate of 1% for Americans in European prison camps. At the time of repatriation, many Pacific theater POWs were found to be suffering from malnutrition, gastrointestinal problems, and residuals of tropical and parasitic diseases. Most of the EA cases were accepted for at least one of these conditions.

Among ex-POWs in the World War II Pacific theater, the Veterans Administration has found that the most common current medical conditions related to the internment are malnutrition and systemic diseases (malaria, avitaminosis, beriberi, pellagra), amebiasis and other gastrointestinal disorders, and anxiety neurosis. Evidence in other studies of ex-POWs has shown an increased incidence of musculoskeletal problems, eye diseases, respiratory problems, cardiovascular symptoms, skin diseases, and neurological disorders.

Exhibit 1: Form CA-278 ([Link to Image](#))

Exhibit 2: Form SF-1034 ([Link to Image](#))

Exhibit 3: Yearly Increases Under the LHWCA

YEARLY INCREASES UNDER THE LHWCA

<u>Date of Increase</u>	<u>Percentage of Increase</u>
10/1/73	6.49%
10/1/74	6.26%
10/1/75	6.74%
10/1/76	7.59%
10/1/77	7.21%
10/1/78	8.05%
10/1/79	7.43%
10/1/80	7.03%
10/1/81	8.87%
10/1/82	5.64%
10/1/83	4.51%
10/1/84	5.00%
10/1/85	2.69%
10/1/86	1.69%
10/1/87	1.92%
10/1/88	3.13%
10/1/89	3.83%
10/1/90	3.26%
10/1/91	2.61%
10/1/92	3.03%
10/1/93	2.38%
10/1/94	3.06%
10/1/95	2.83%
10/1/96	2.38%
10/1/97	4.33%
10/1/98	4.31%
10/1/99	3.39%
10/1/00	3.61%

Exhibit 4: Sample Periodic Status Inquiry Letter

SAMPLE PERIODIC STATUS INQUIRY LETTER

Dear NAME OF BENEFICIARY:

Reference is made to the benefits you are receiving under either the War Hazards Compensation Act or the Defense Base Act. Periodically we are required to verify the continuing entitlement of beneficiaries. Please provide responses to the following questions: 1. Has there has been a change in your marital status since your entitlement under this program began? If yes, please provide the date of the change and specify the event which caused the change. 2. Have any of your dependents for whom you claim compensation married since you began receiving benefits? If yes, please provide the date of the marriage and any change of name. To ensure continuation of benefits without interruption, please reply within thirty days of the date of this letter. Failure to respond may result in reduction or suspension of benefits. Your response, to include your case file number, may be sent to the address shown above.

Sincerely,

CLAIMS EXAMINER