October 2, 1979

No. 40

NOTICE TO INSURANCE CARRIERS, SELF-INSURED EMPLOYERS UNDER THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT, AND OTHER INTERESTED PERSONS

Subject: Maximum and Minimum Compensation Rates Under Longshore Act Effective October 1, 1979; Adjustments of Permanent Total Disability and Death Cases

Section 6(b)(3) of the Longshoremen's and Harbor Workers' Compensation Act provides that prior to October 1 of each year, based on the national average weekly wage for the three calendar quarters ending June 30 of that year, the Secretary of Labor shall determine the national average weekly wage to be applicable for the period beginning October 1 of the current year and ending with September 30 of the next year. It has been determined that the applicable national average weekly wage for the period beginning October 1, 1979, and ending September 30, 1980, is $213.13.

Section 6(b)(1)(D) provides that for the period October 1, 1979 through September 30, 1980, the maximum rate of compensation under this Act shall not exceed 200 percent of the national average weekly wage. The maximum compensation rate for total disability for injuries sustained during this period is $426.26 (200 percent of $213.13). Compensation for disability subject to this maximum should be paid at 66-2/3 percent of the employee's average weekly wage, as determined under section 10, subject to the foregoing limitation.

The minimum compensation rate payable for disability incurred in the above period is $106.57 per week, 50 percent of the national average weekly wage. However, if an employee's average weekly wage is less than this amount, he or she receives the employee's entire average weekly wage as compensation for total disability.

In computing death benefits covered by this applicable period, the average weekly wage of the deceased employee shall be
considered to have been not less than $213.13 per week, but
total weekly benefits may not exceed the average weekly wage
of the deceased.

The foregoing maximum and minimum rates do not apply to
employees covered by the Nonappropriated Fund Instrumentalities Act. The maximum and minimum rates for those
employees change under a separate schedule, whenever Federal
employees' pay rates change.

In accordance with subsections 10(f) and 10(h)(3) of the Act,
effective October 1, 1979, the compensation or death benefits
payable for cases of permanent total disability or death
which occurred prior to October 1, 1979, are to be increased
by 7.43 percent, the percentage by which the national average
weekly wage of $213.13 (effective October 1, 1979) exceeds the
previous national average weekly wage of $198.39 (effective
October 1, 1978 through September 30, 1979). The weekly com-
penation after adjustment is fixed at the nearest dollar,
and no adjustment of less than $1 shall be made. In no
instance is compensation for death benefits reduced. District
Offices of the Office of Workers' Compensation Programs (OWCP)
will advise beneficiaries receiving payments, insurance
carriers and self-insured employers, of the amount of adjust-
ment due in each case.

Field or district offices of insurance carriers or self-insured
employers paying benefits under the Longshoremen's and Harbor
Workers' Compensation Act and related Acts (District of Columbia
Compensation Act, Defense Base Act, Outer Continental Shelf
Lands Act and Nonappropriated Fund Instrumentalities Act) will
soon receive specific instructions from OWCP District Offices
for making the adjustments under section 10(f) in individual
cases, and should begin paying at the new benefit levels as
soon as possible.

If the section 10(f) increase is to be reimbursed to an insur-
ance carrier or self-insured employer under procedures which
have been established by the OWCP National Office, it will be
indicated on form Ltr. LS-521 (rev.) for that case with the
"Yes" block being marked on the front of the letter. If the
"No" block is marked, the section 10(f) adjustment is not
subject to reimbursement by OWCP. In case of questions about
implementing these mandatory adjustments, any district office
or the OWCP National Office may be contacted (Phone: Area
Code 202--523-8721)

John E. Stocker
Associate Director,
Longshore and Harbor
Workers' Compensation
![Image](image-url)

**U.S. DEPARTMENT OF LABOR**

**Employment Standards Administration**

**Office of Workers' Compensation Programs**

**Division of Longshore and Harbor Workers' Compensation**

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<table>
<thead>
<tr>
<th>OMCP Case No.</th>
<th>Carrier Case No.</th>
<th>Claimant/Chief Beneficiary</th>
<th>Amount of Weekly Increase</th>
<th>Amount of Adjusted Weekly Award</th>
</tr>
</thead>
</table>

**Section 10(f) Adjustment**

Reimbursable by OMCP [ ] Yes [ ] No

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**NOTICE TO INSURANCE CARRIER OR SELF-INSURED EMPLOYER**

Pursuant to Section 10(f) of the Longshore Act, as amended by P.L. 92-576, and the regulations thereunder, your company should increase payment of weekly compensation to the named beneficiary or payee by the amount shown in the upper box at the top of this letter, effective October 1, 1979. This increase reflects the 7.43 percent increase in the national average weekly wage, from $198.39 for the period ending September 30, 1979, to $213.13 for the period beginning October 1, 1979. As indicated in Section 10(g), the adjusted weekly amount is to be fixed at the nearest dollar. Figures ending in $.50 or over are to be raised to the next whole dollar; figures ending in less than $.50 are to be rounded to the preceding dollar amount. After increasing payment by this amount, the adjusted weekly award should be the same as indicated in the lower box at the top of this letter.

The claimant, beneficiary or payee is to be notified by your company that the adjusting increase has been made, the amount of the increase, and the new weekly entitlement. After notification and the first adjustment payment has been made, please furnish the information indicated in the boxes on the reverse side of this letter and return a copy of the letter to the Office of Workers' Compensation Programs' district office printed on the envelope. Further instructions are included on the reverse side. (The paragraph below is intended for the beneficiary or payee to whom a copy of this letter is being sent as notification of the adjustment.)

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**NOTICE TO BENEFICIARY OR PAYEE**

By copy of this letter you are notified of the weekly increase under Section 10(f). Do not return this letter or copy to the district office. The instructions above are directed to the company presently making payments to you. If you have any questions or if the notice of the increase is not received from the insurance carrier or employer within three weeks of the date of this letter, please contact this office at the address on the envelope.

Ltr. LS-521

Rev. Sep. 1979
The increase under section 10(f) is to be applied to all cases of permanent total disability or death, providing the date of death or commencement of permanent total disability was prior to October 1, 1979. However, if the increase is to be applied to a case which was previously adjusted under section 10(h) (3) of the amended Act, indicated by "yes" on the reverse of this letter, your company can be reimbursed for the additional increase from the special fund and Federal appropriations. The National Office of the Office of Workers' Compensation Programs has procedures for reimbursing carriers and self-insured employers for the section 10(h)(1) and subsequent section 10(f) adjustments they advance to these beneficiaries. Claims are filed by the head offices of insurance companies or self-insured employers.

Deputy Commissioner

cc: Beneficiary/Payee

Report of Adjustment of Permanent Total Disability or Death Benefit Under Section 10(f)

(To Be Completed by Insurance Carrier or Self-Insured Employer)

<table>
<thead>
<tr>
<th>Person to Whom Compensation Being Paid:</th>
</tr>
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<tbody>
<tr>
<td>Adjustment (Weekly Increase)</td>
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<td>Effective 10/1/79 $</td>
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<tr>
<td>Amount of Weekly Compensation</td>
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<tr>
<td>After Adjustment $</td>
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<td>First Adjusting Payment</td>
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<td>Amount $</td>
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<td>Authorized Signature:</td>
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<tr>
<td>Name and Title of Person Whose Signature Appears Above</td>
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<td>Date Signed:</td>
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Ltr. LS-521 -
Rev. Sept. 1979