

U.S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

Office of Workers' Compensation Programs
Division of Longshore and Harbor Workers' Compensation

Washington, D.C. 20210



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

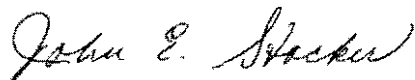
considered to have been not less than \$213.13 per week, but total weekly benefits may not exceed the average weekly wage of the deceased.

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 compensation 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 adjustment 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 insurance 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)



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Longshore and Harbor
Workers' Compensation

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OWCP Case No. _____
Carrier Case No. _____
Claimant/Chief _____
Beneficiary _____

Amount of Weekly Increase

Amount of Adjusted Weekly Award

Section 10(f) Adjustment Reimbursable by OWCP Yes No

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.)

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.

Include your address, ZIP code, and telephone on all correspondence

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)

Person to Whom Compensation Being Paid:			
Adjustment (Weekly Increase) Effective 10/1/79 \$		Amount of Weekly Compensation After Adjustment \$	
First Adjusting Payment			
Date Paid	For Period From:	To:	Amount \$
Authorized Signature:			
Name and Title of Person Whose Signature Appears Above			Date Signed: