



October 1, 1988

No. 67

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

**SUBJECT: Maximum and Minimum Compensation Rates Under
Longshore Act, Effective October 1, 1988;
Adjustments of Permanent Total Disability
and Death Cases**

Section 6(b)(3) of the Longshore 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, 1988, and ending September 30, 1989, is \$318.12.

Section 6(b)(1) provides that for the period October 1, 1988 through September 30, 1989, 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 and death is \$636.24 (200 percent of \$318.12). 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 \$159.06 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 not be less than \$318.12 per week, which is the national average weekly wage for the covered period. In addition, under the provisions of the 1984 Amendments, the total weekly death benefits shall not

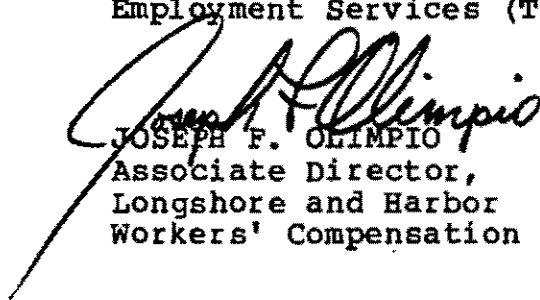
exceed the lesser of the average weekly wages of the deceased or 200% of the national average weekly wage. During the period October 1, 1988 to September 30, 1989 the 200% maximum benefit amount is \$636.24 per week, and is applicable to cases in which the death occurs during that period, except for DCCA cases which are not subject to the 1984 amendments.

The above noted maximum and minimum rates for disability and death also apply to employees covered by the Nonappropriated Fund Instrumentalities (NFI) Act.

Under Section 10(f) and 10(h) of the amended Act, compensation or death benefits payable for permanent total disability or death cases which were incurred prior to October 1, 1988, are to be increased by the lesser of -- (1) a percentage equal to the percentage by which the applicable national average weekly wage for the period beginning October 1, 1988, as determined under Section 6(b), exceeds the applicable national average weekly wage for the preceding period; or (2) 5 percent. DCCA cases are always subject to (1). The percentage by which the latter figure exceeds the former is 3.13. Since 3.13 is the lesser, these cases are to be increased by this percentage effective October 1, 1988.

Field or district offices of insurance carriers or self-insured employers paying benefits under the Longshore and Harbor Workers' Compensation Act and related Acts (District of Columbia Compensation Act of 1928 ^{1/}, Defense Base Act, Outer Continental Shelf Lands Act and Nonappropriated Fund Instrumentalities Act) will soon receive specific instructions from OWCP district offices and/or from the District of Columbia Government for making the adjustments on Section 10(f) and 10(h) cases, and should begin paying at the new benefit levels as soon as possible.

In case of questions about implementing these mandatory adjustments, any district office or the OWCP National Office, Longshore Division (Telephone: 202-523-8721), may be contacted. For DCCA cases, contact the D.C. Government, Department of Employment Services (Telephone: (202) 576-6265).


JOSEPH F. OLIMPIO
Associate Director,
Longshore and Harbor
Workers' Compensation

^{1/} Applicable only to injuries which occurred prior to July 26, 1982.