



UNPACKING THE PROCESS

How OWCP Adjudicates Claims

About Our Trainer:

Craig DeMello

- 30+ years of federal experience in Workers' Compensation
- Former Senior Claims Examiner and Regional Program Manager
- Co-Program Manager for VHA Workers' Compensation (2022)
- Expert in federal claims, compliance, and training
- Frequent speaker at national trainings and conferences



Objectives



Understand OWCP & CE roles

Master the 5 claim elements

Know your agency's role

Learn 7 COP controversion reasons

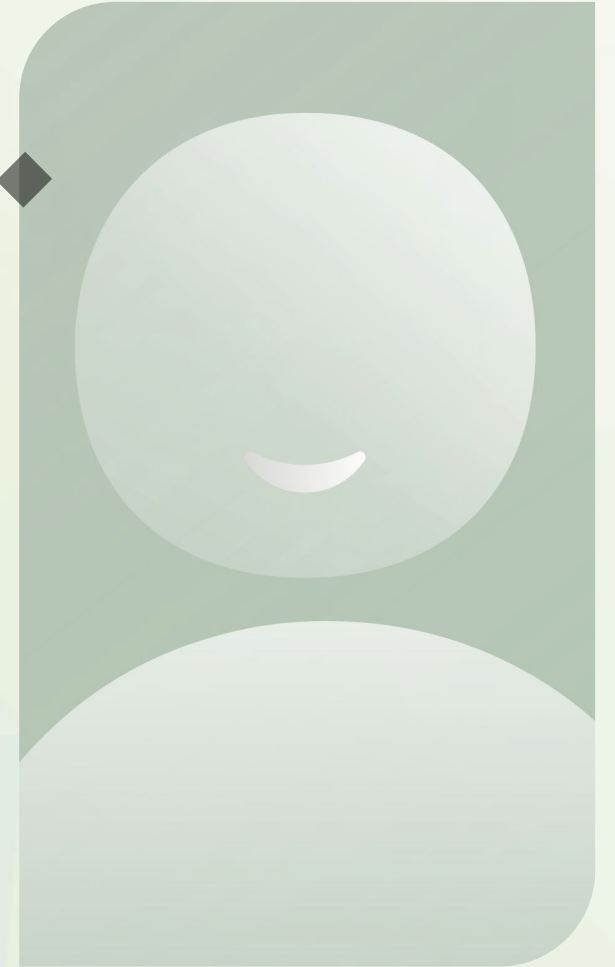
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What Goes On at OWCP?

A seemingly mysterious place where information goes in...

...and decisions come out that sometimes appear disconnected

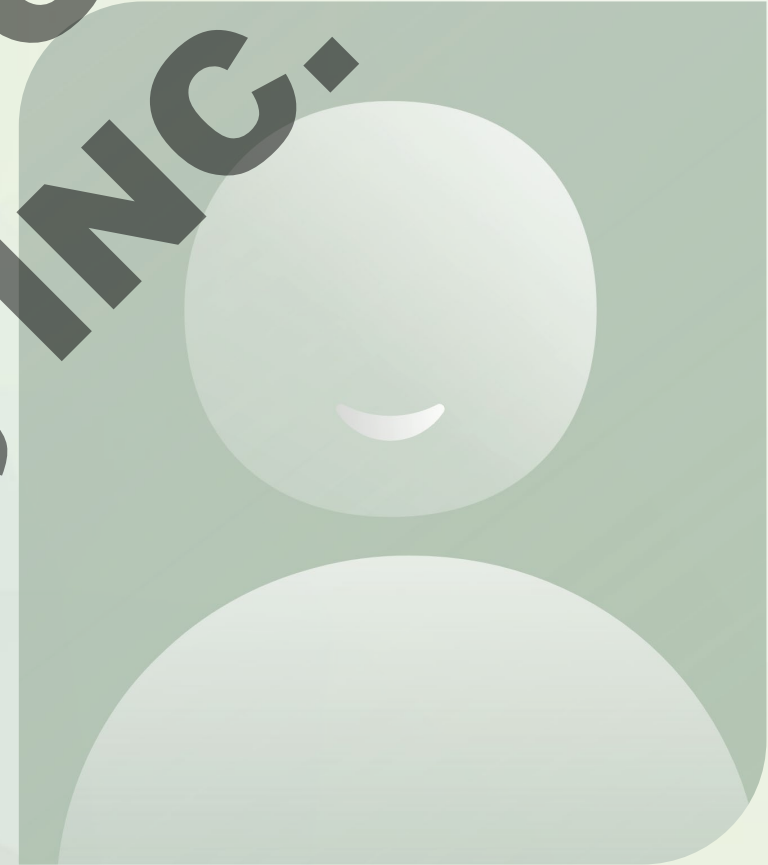
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Functions of OWCP

- Claims adjudication**
- Case management for entitled benefits**
- Benefit payments during COP**
- Return-to-work facilitation**

NOT a retirement system



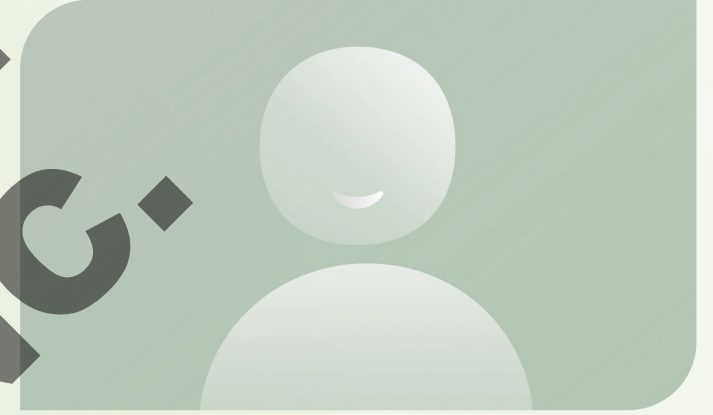
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What is Adjudication?

The process of developing evidence in a workers' comp claim and making decisions on the issues



Types of Claims Adjudication



Full Adjudication

- All occupational disease claims
- Traumatic injury claims for stress
- Traumatic injury beyond AR Review
- Cases meeting special criteria

Administrative Review

- Simple traumatic injuries
- Minimal medical treatment
- No surgery needed
- No wage loss compensation

Administrative Review Cases

Administratively accepted

If expenses <\$1500, no surgery, no wage loss

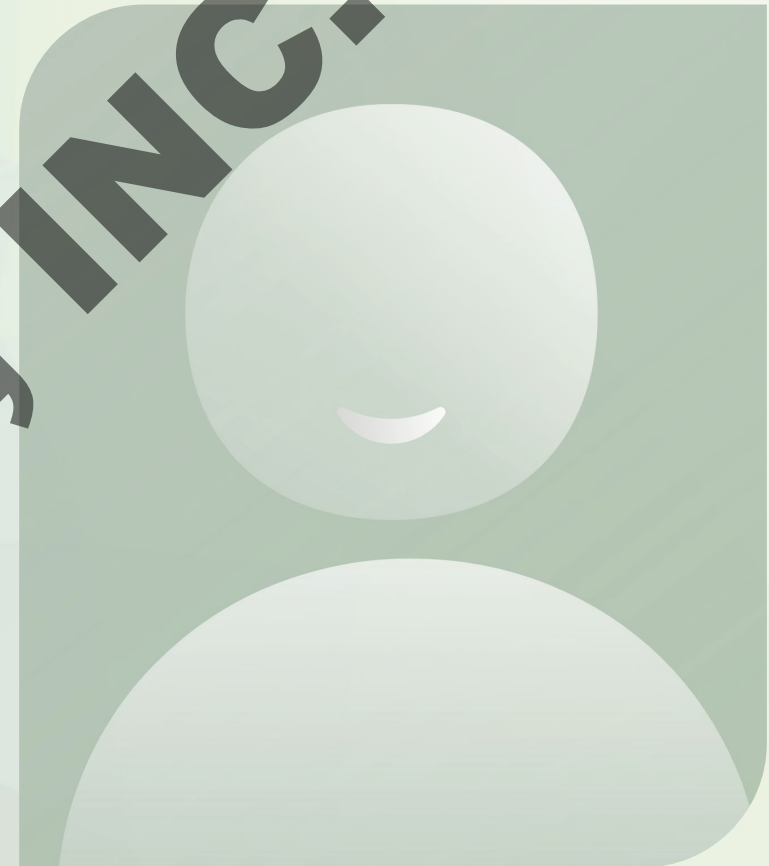
Limited CE review

Rarely seen unless exceeding pre-set limits

Most cases resolve

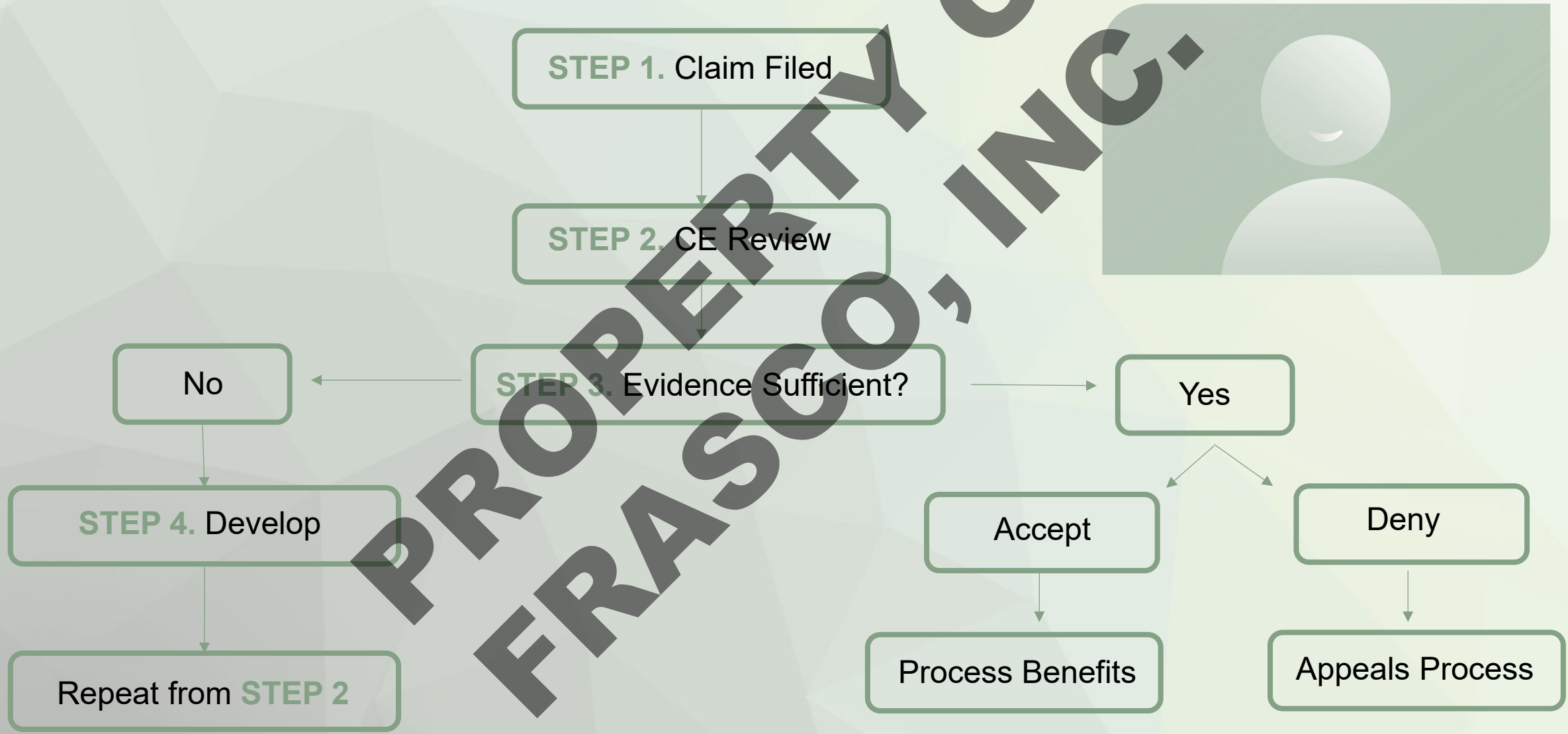
90%+ return to work, never exceed \$1500

Can be re-opened for full adjudication if needed



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Overview of the Claim and Adjudication Process



Initial Claim Review



CE determines if evidence is sufficient



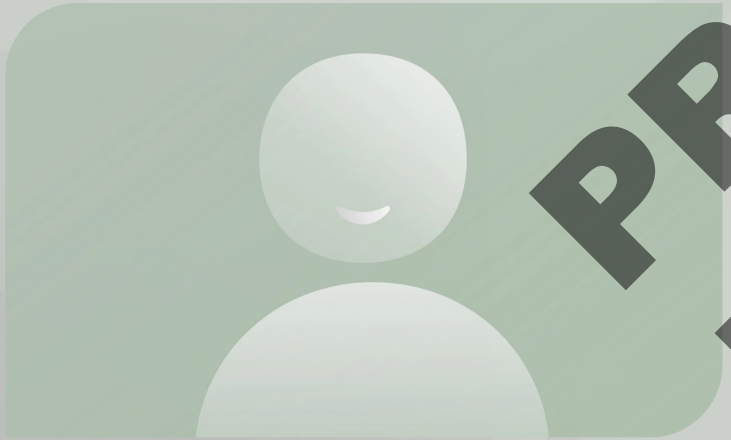
Sends letter to claimant if more info needed



Can accept without development

Cannot deny without due process

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Burden of Proof

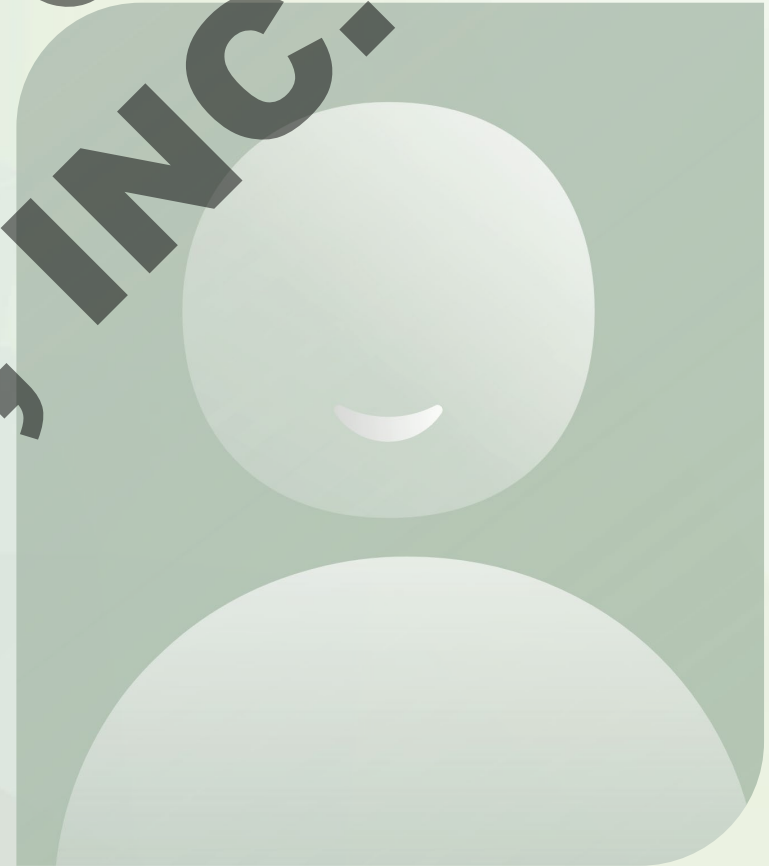
Claimant must provide all necessary evidence

Exception: Information in agency's possession

20 CFR 10.115(f); 10.118(a)



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Due Process Requirements

CE provides claimant:

- 30 days initial response time
- Additional 30 days if no reply

20 CFR 10.121

Failure to allow due process = reversible error

Adjudication Decision

After development and claimant response time or if all evidence is present initially, CE decides based on the **Five Elements**:

- 1 **Timely Filing**
- 2 **Civil Employee**
- 3 **Fact of Injury**
Factual & Medical
- 4 **Performance of Duty**
- 5 **Causal Relationship**

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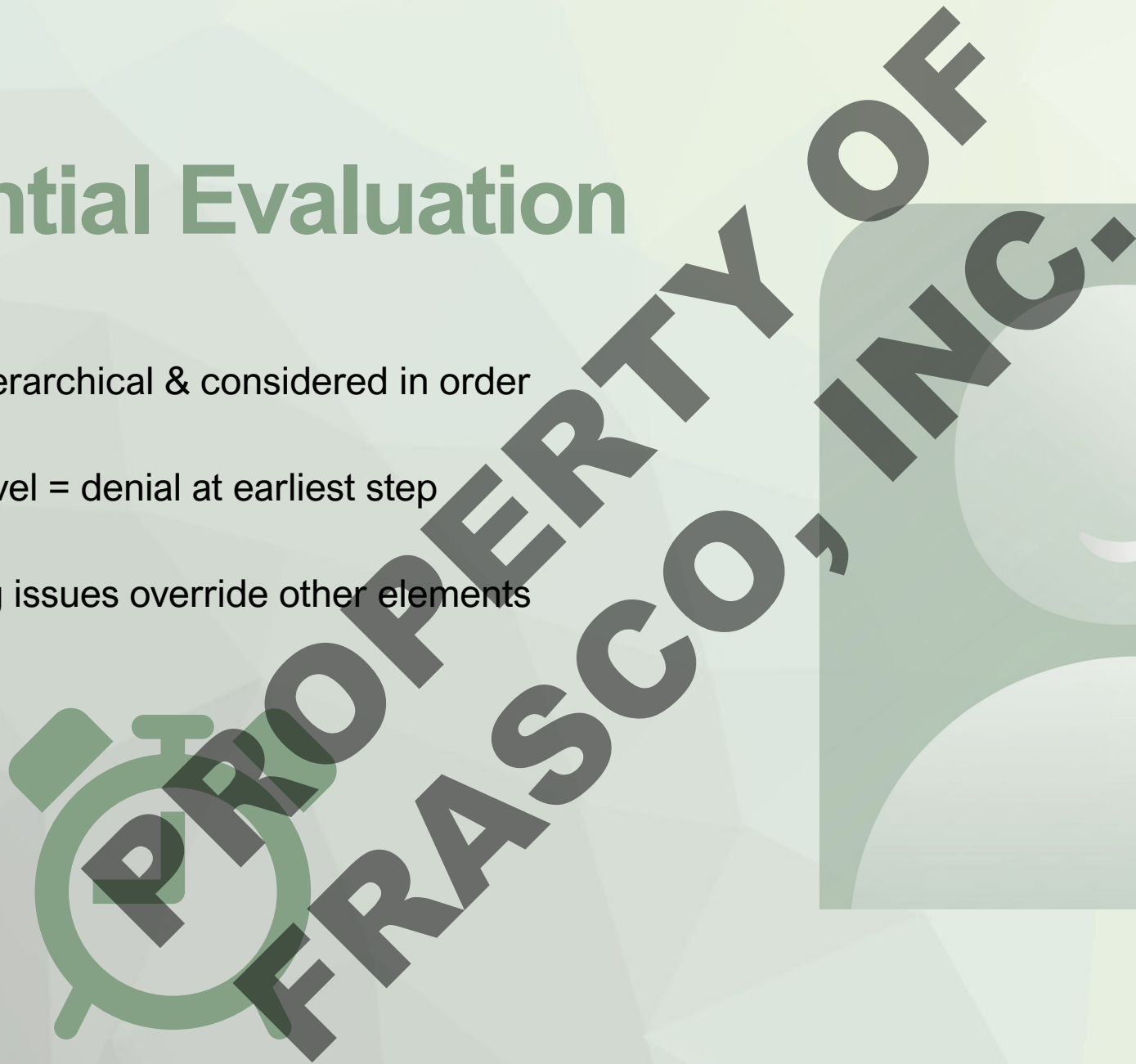


Sequential Evaluation

Elements are hierarchical & considered in order

Failure at any level = denial at earliest step

Example: Timing issues override other elements



Element 1: Timely Filed

Traumatic Injury

3 years from date of injury

Occupational Injuries

From first awareness or when should have known

From last exposure/retirement

Review if claimant is still at DOI job



Timely Filing Exceptions



Minor status

Time begins at age 21 or when legal rep appointed



Mental/physical incompetence

Without appointed legal representative



Exceptional circumstances

Preventing written notice

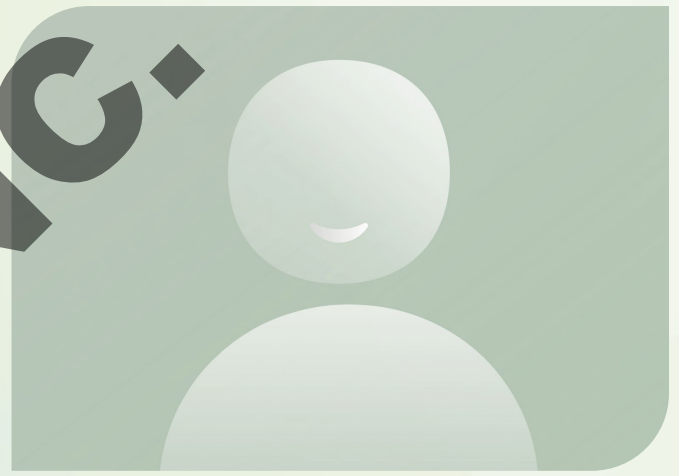
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Agency “Actual Knowledge”

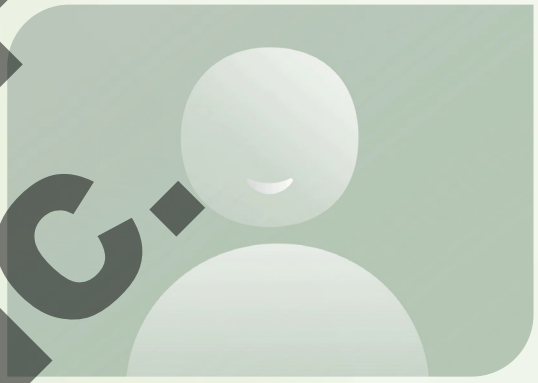
Time requirement met if agency knew of injury within first 30 days

Examples: Agency health unit report, monitoring program records

20 CFR 10.100(b)(1)



Element 2: Civil Employee



1

Usually straightforward

2

Borderline cases include:

- Non-Federal law officers
- Volunteers (VIPs, YCC, Job Corps)
- Contractors

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Element 3: Fact of Injury

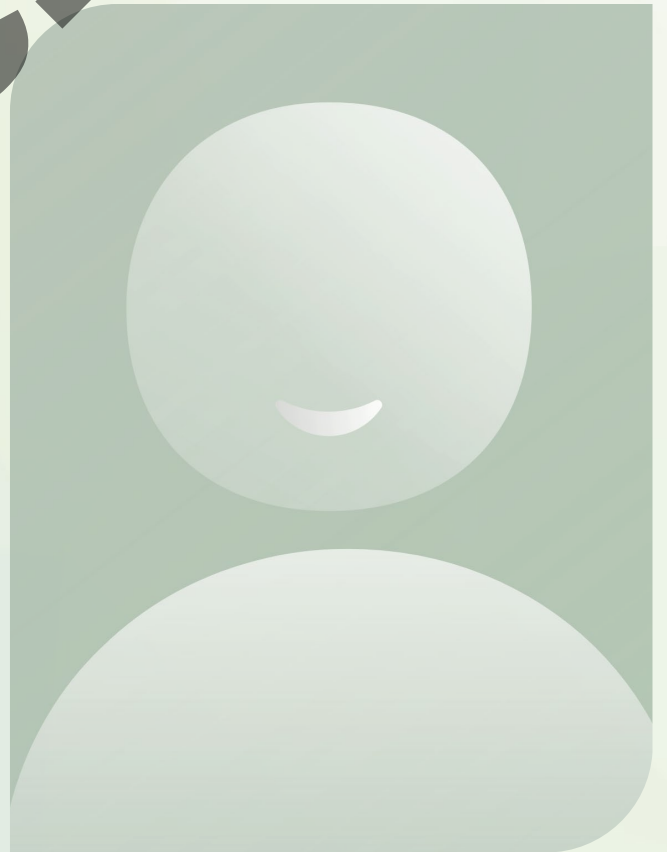
Factual Component

Did an injury event actually occur?



Medical Component

Is there a diagnosed medical condition?



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Element 4: Performance of Duty

Injury must arise "out of and in the course of employment"

Two tests:

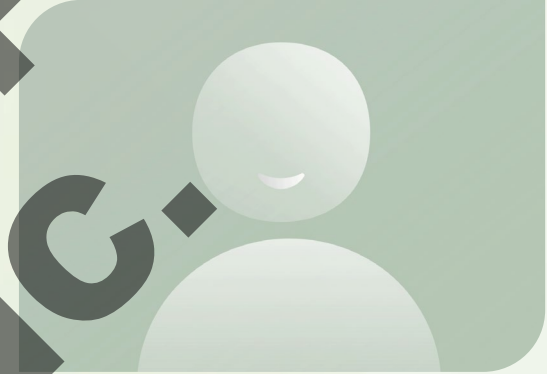
- "In course of" = while at work
- "Out of" = work/workplace led to injury

Both tests must be met

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Performance of Duty Factors



Premises

Fixed place of employment

To/From Work

Usually not covered (exceptions exist)

Recreation

Only if formally organized

Misconduct

Safety violations (negligence not enough)

Union Duties

If on documented union time

Intoxication

Must be proximate cause of injury

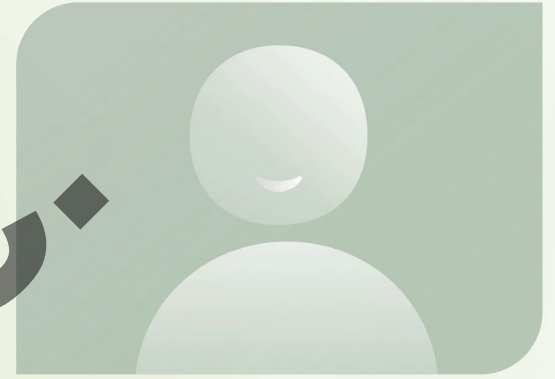
More POD Considerations

- Personal Doctrine
- Idiopathic Falls
- Travel Status
- Diversion from Duty
- Assault cases
- Coworker harassment
- Teasing

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Element 5: Causal Relationship



Direct Cause

Work directly caused condition

Aggravation

Work worsened existing condition

Acceleration

Work sped up condition progression

Precipitation

Work triggered latent condition

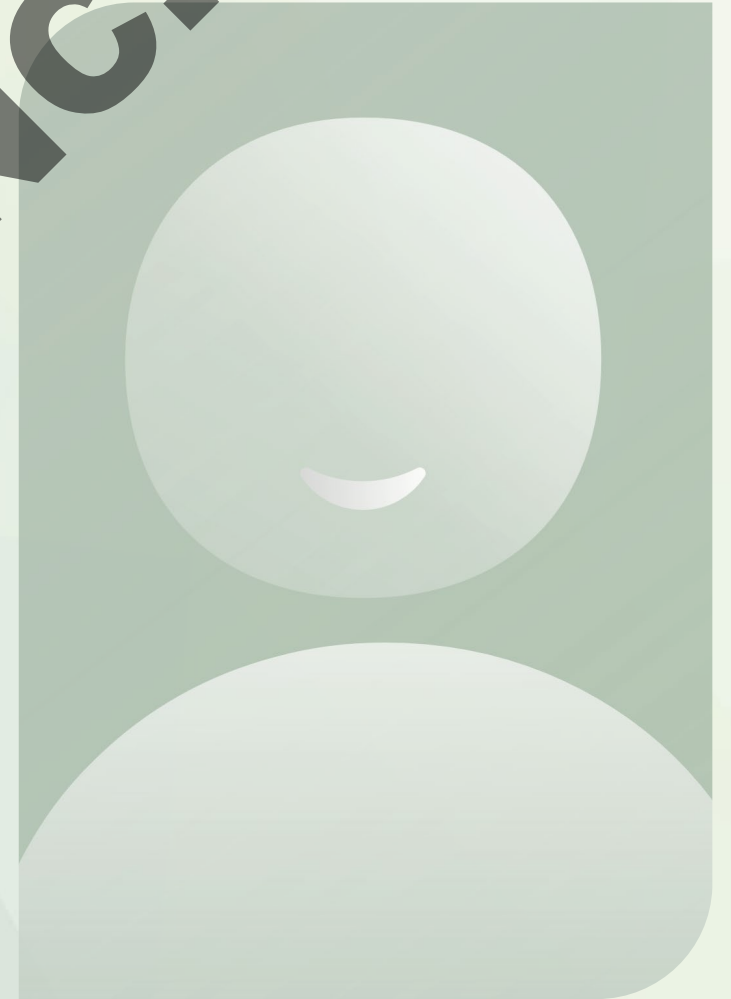
Link between work injury/exposure and claimed condition

Causal Relationship Over Time

Not a one-time determination - must continue throughout claim

Compensation continues if work-related disability exists

OWCP must show with medical evidence when relationship ceases



Your Agency's Role

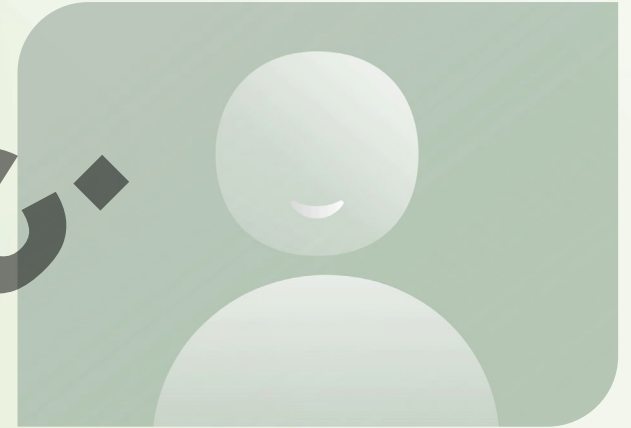
Right & Duty to Submit Information

- ✓ During development process
- ✓ Workers' Comp Specialist closest to incident
- ✓ Accident investigation is critical

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Your Ongoing Responsibilities



Understand FECA Coverage

Know what is and isn't covered to respond appropriately

Submit Evidence Properly

Electronically or to central mail location

Remember Transparency

Claimant and rep can view agency submissions

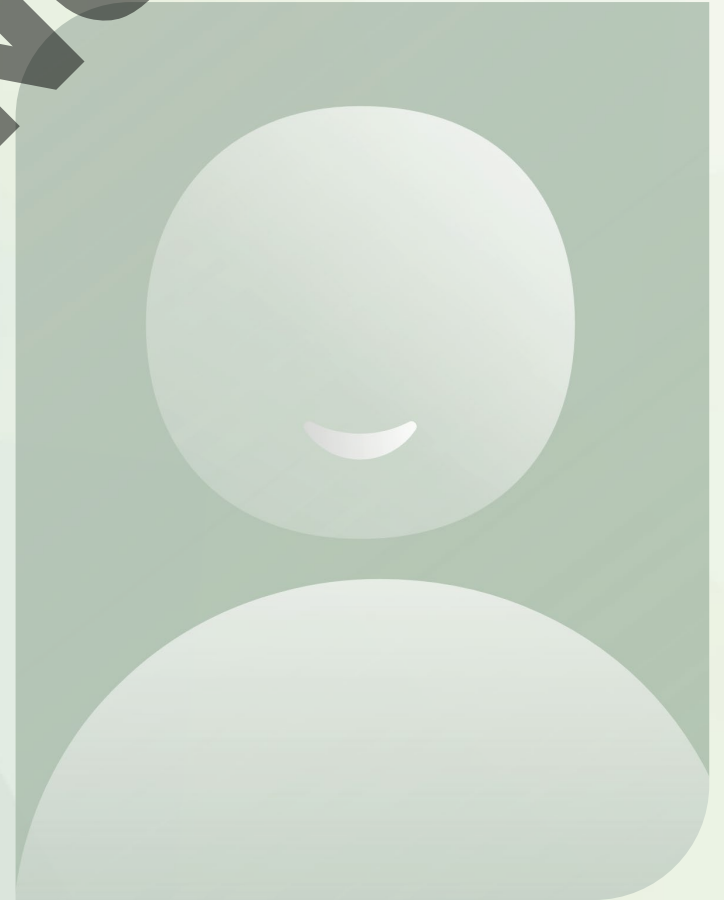
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Contesting Claims (20 CFR § 10.117)

Submit statement to OWCP when disagreeing with any aspect

Timeframe: With injury notice or within 30 days of receiving notice

Without agency reply, OWCP may accept claimant's report as factual



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Agency Participation (20 CFR § 10.118)



Submit all relevant evidence

Agency must provide factual/medical evidence in its possession



Verify disability extent

May investigate when total disability is questionable



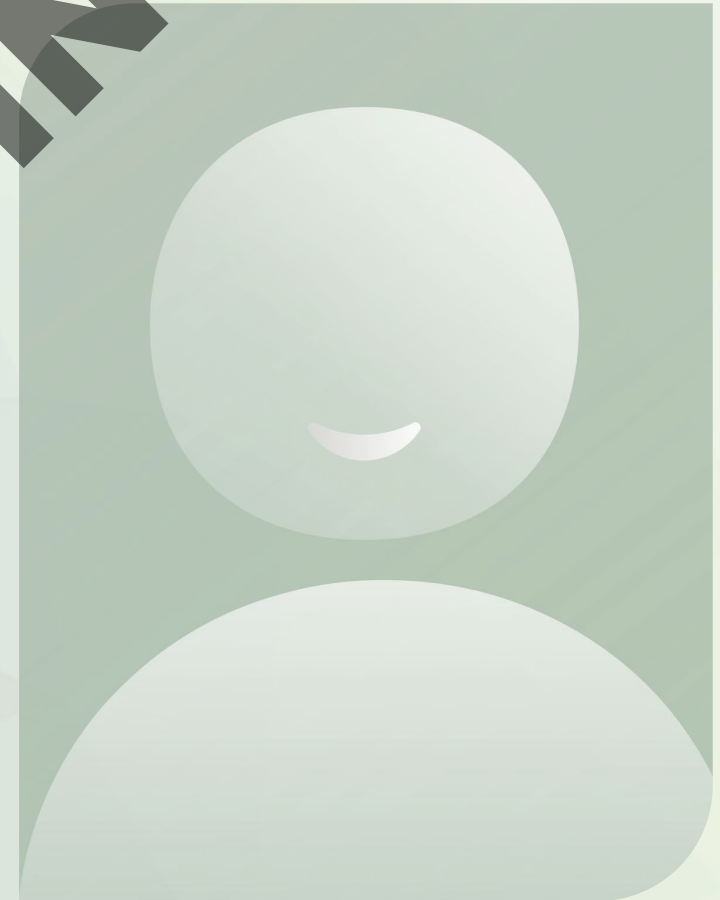
Limited active participation

No right to actively participate except in COP cases

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OWCP Review of Agency Input (§ 10.119)

- ✓ All evidence considered appropriately
- ✓ OWCP informs all parties of actions taken
- ✓ When contested claims are approved, agency receives approval rationale



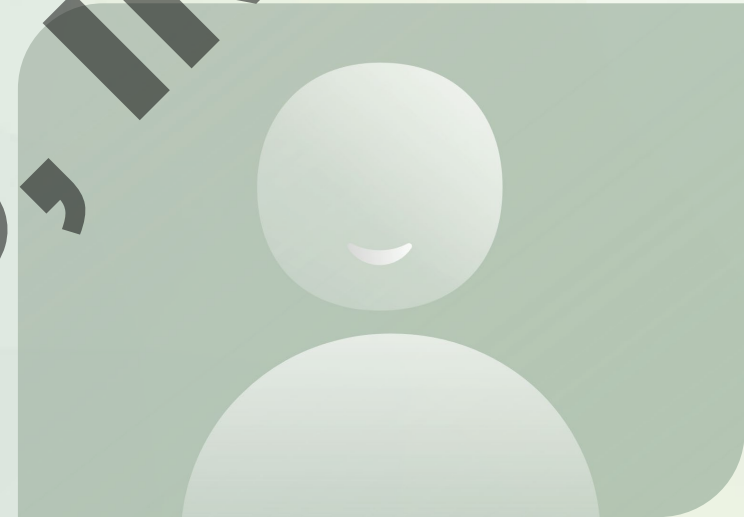
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Disagreeing with OWCP Decisions

Review by the Director (10.610)

- Error in decision is basis for request
- Error must be documented
- High threshold for rescinding acceptance

"Director" = Director of Office issuing decision



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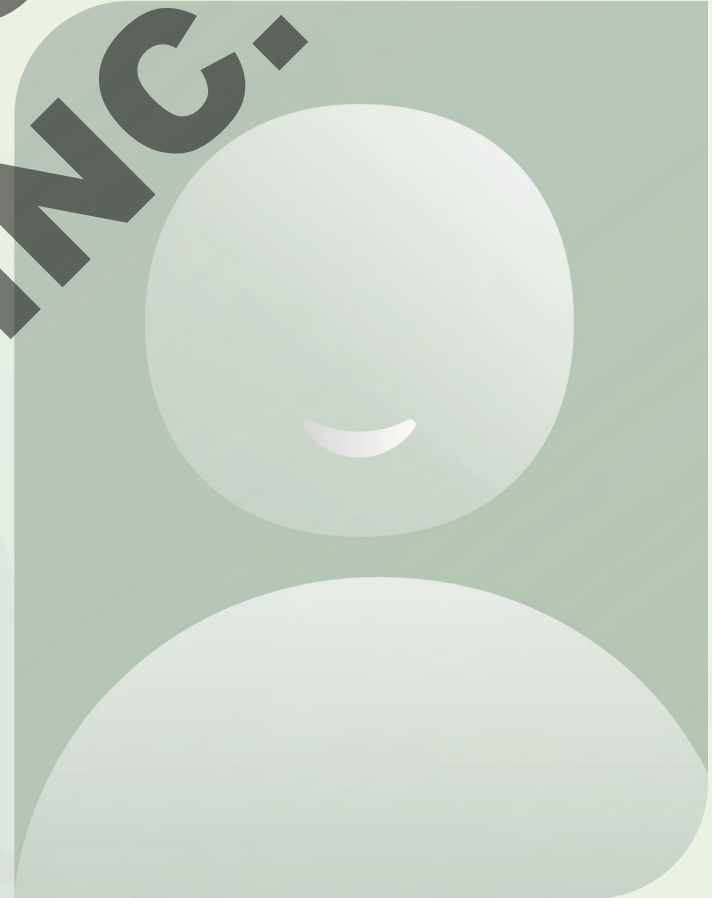
Continuation of Pay (COP)

When Agency Controvers COP

- OWCP must review and decide
- Based on written evidence only
- All parties must be informed

Claimant must be notified in controverted claims

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OWCP COP Review Process

Claims Examiner considers arguments from both sides

Decision based on:

- Clear and convincing quality of evidence
- Regulatory guidance at 20 CFR 10.220

7 Reasons to Controvert COP

- 1 Occupational disease, not traumatic
- 2 Not US/Canada citizen or resident
- 3 No written claim within 30 days
- 4 Injury not reported before termination
- 5 Off-premises injury not in POD
- 6 Willful misconduct or intoxication
- 7 Work stoppage >45 days after injury

