

Recordkeeping



Confidentiality

All records relating to claims for benefits, including copies of such records maintained by an employer, are considered confidential and may not be released, inspected, copied or otherwise disclosed except as provided in the Freedom of Information Act and the Privacy Act of 1974 or under the routine uses provided by DOL/GOVT-1 if such release is consistent with purpose for which the record was created.

Privacy Act



Purpose:

- Provides that individuals be granted access to records concerning them which are maintained by federal agencies, and a means by which to seek amendment of their records.
- Sets forth various agency record-keeping requirements.
- Balance the government's need to maintain information with rights of individuals to be protected against unwarranted invasion of privacy.

Privacy Act

Four Basic Policy Objectives:

1. Restrict disclosure
2. Grant individuals increased rights of access
3. Grant individuals right to seek employing agency (EA) records
4. Establish a code of “fair information practices”



Privacy Act - Routine Uses

- Allows for disclosure of a record outside of EA without consent (because of notification to individual at time of collection)
- Disclosure must be “for a purpose which is compatible with the purpose for which [the information] was collected”
- Examples of routine uses include sending record to medical providers asked by Office of Workers’ Compensation Programs (OWCP) to examine or treat claimant; nurses and rehabilitation counselors assigned by OWCP to work on case; EA personnel (but only for purposes related to claim, and not for other reasons such as personnel actions)



Privacy Act - Routine Uses

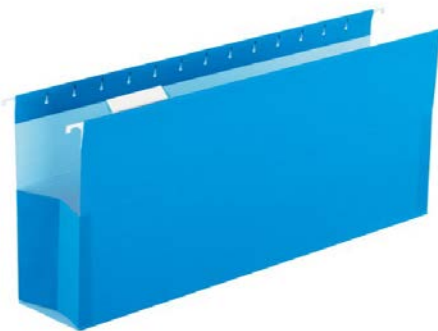
DOL/GOVT-1

Examples of routine uses for FECA

- Third party in a third party action
- Employing agency at time of injury to verify billing, check status of claim, consider rehire, etc.
- Potential employers for return to work consideration
- Rehab agencies for evaluation
- Physicians for use in treatment
- Health insurance or medical/welfare plans for clarification of billing responsibility
- Labor union acting on behalf of the employee
- Dual benefits issues

Privacy Act – Agency Responsibilities

- EA that maintains copies of OWCP records is responsible for protecting information from improper access and/or disclosure.
- As stated in OWCP's regulations, while an EA may establish procedures for an injured employee or beneficiary to obtain documents, any decision issued in response to such a request must comply with OWCP's regulations.



Privacy Act – Agency Responsibilities

Disclosure: Yes/No ?

- EMPLOYING AGENCY

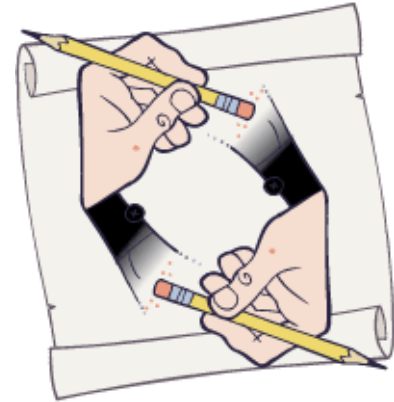
- OIG: Yes (If investigating FECA fraud)
- Injury Compensation Coordinator: Yes
- Employee's Supervisor: Yes, if related to RTW, and with limitations
- EEO Investigator: No (with PA waiver, Yes)
- Personnel Action: No
- Agency Attorney: No (if assisting agency with FECA case itself, YES)
- Budget Office: Yes (summary information only)
- Safety and Health: Yes, with limitations
- Union Representative: Yes, but only if representing claimant before OWCP

Custodian of Records

- All records relating to claims for benefits filed under the FECA, including any copies of such records maintained by an EA, are covered by the government-wide Privacy Act system of records entitled DOL/GOVT-1 (OWCP, Federal Employees' Compensation Act (FECA) file). This system of records is maintained by and under the control of OWCP, and, as such, all records covered by DOL/GOVT-1 are official records of OWCP.
- Field office Director of each OWCP field office is considered Custodian of Records for all FECA-related records maintained by that field office.

Correcting a FECA-Related Document

- Any request to amend a record covered by DOL/GOVT-1 should be directed to field office having custody of official file.
- No EA has authority to issue determinations with regard to requests for correction of records contained in or covered by DOL/GOVT-1.
- Any request for correction received by an EA must be referred to OWCP for review and decision.



Obtaining Copies of FECA Records

Claimant:

- Claimant has right to a copy of his/her file at any time, unless file contains medical information which could be harmful if released.
- Claimant seeking copies of his/her official FECA file should write a request to OWCP office having custody of file. A claimant seeking copies of FECA-related documents in custody of EA should follow procedures established by EA.

Obtaining Copies of FECA Records

Employing Agency:

- EA seeking copies from official FECA file should address a request to OWCP office having custody of file and identify purpose for which records will be used.
- Official records are releasable to EA providing that use is only for purposes related to claim, and not for other reasons as personnel actions.

Obtaining Copies of FECA Records

Representative:

- Any person identifying themselves as a claimant's representative must provide a signed release of information from claimant.
- Without such release on record, no copies or other information can be released.

Status Inquiries by Representative or Relative(s)

- If a claimant's representative does not provide a signed release from claimant, disclosure is not permitted.
- If a relative is not authorized representative, disclosure is not permitted.
- Be extremely careful and cautious when discussing matters over phone—and make sure that any one calling on behalf of claimant has a signed release on file.
- Disclosing fact that a record exists, in and of itself, is a Privacy Act disclosure.

Obtaining Entire Case File Copies

- If any party authorized to have access to personal information under Privacy Act requests a copy of entire file, first copy is made available to requester at no charge.
- Duplicate copies are available upon written request at a cost of 15 cents per page.

Questions

Under the Privacy Act and DOL/GOVT-1, the case records may be disclosed “for a purpose which is compatible with the purpose for which (the information) was collected.” This is sometimes called routine use. All of the following are examples of people that may receive documents under routine disclosure except:

- a) Third party in a third party claim
- b) Potential employers for return to work consideration
- c) Physicians for use in treatment
- d) Labor union acting on behalf of the employee
- e) An ex-spouse (without authorization) to verify support payments

Questions

An employing agency that maintains copies of OWCP records is responsible for protecting that information from improper access and/or disclosure. An employing agency can disclose documents under the Privacy Act to:

- a)OIG, if investigating FECA fraud
- b)The employee's supervisor if related to return to work
- c)A union representative who is representing the injured worker before OWCP
- d)An agency attorney assisting the agency with the FECA claim
- e)All of the above

Questions

DOL/GOVT-1 is a system of records maintained by and under the control of OWCP, and, as such, all records covered by DOL/GOVT-1 are official records of OWCP.

- a) True
- b) False

Take Away Tips

- 1) All records relating to claims for benefits, including copies of such records maintained by an employer, are considered confidential and may not be released, inspected, copied or otherwise disclosed except as provided in the Freedom of Information Act and the Privacy Act of 1974 or under the routine uses provided by DOL/GOVT-1 if such release is consistent with purpose for which the record was created.
- 2) The Privacy Act provides that individuals be granted access to records concerning them which are maintained by federal agencies, and a means by which to seek amendment of their records.
- 3) Examples of routine uses include sending record to medical providers asked by Office of Workers' Compensation Programs (OWCP) to examine or treat claimant; nurses and rehabilitation counselors assigned by OWCP to work on case; EA personnel (but only for purposes related to claim, and not for other reasons such as personnel actions).

Take Away Tips

- 4) EA that maintains copies of OWCP records is responsible for protecting information from improper access and/or disclosure. While an EA may establish procedures for an injured employee or beneficiary to obtain documents, any decision issued in response to such a request must comply with OWCP's regulations.
- 5) All records relating to claims for benefits filed under the FECA, including any copies of such records maintained by an EA, are covered by the government-wide Privacy Act system of records entitled DOL/GOVT-1. This system of records is maintained by and under the control of OWCP, and, as such, all records covered by DOL/GOVT-1 are official records of OWCP.
- 6) EA seeking copies from official FECA file should address a request to OWCP office having custody of file and identify purpose for which records will be used. Official records are releasable to EA providing that use is only for purposes related to claim, and not for other reasons as personnel actions.
- 7) If any party authorized to have access to personal information under Privacy Act requests a copy of entire file, first copy is made available to requester at no charge.