

# Continuation of Pay (COP)



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# COP Defined

- Continuation of Pay (COP) is the continuance of the employee's regular pay for a period not to exceed 45 calendar days of disability
- Applies to traumatic cases only
- Intent is to avoid interruption of pay while the claim is adjudicated
- COP can be paid for:
  - Disability – Total or Partial
  - Lost elements of pay – (e.g. night differential, holiday pay)
  - Lost time for medical appointments
- After entitlement to COP ends, the employee may apply for compensation or use leave



# COP Defined - Historical

- On January 4, 1999, the Code of Federal Regulations Section 10.205(a)(3) was revised. The period in which a person must begin losing time from work in order to receive COP was changed from 90 days to 45 days, because the submission and adjudication of claims had improved. The 90-day grace period was no longer necessary to ensure the employee's pay was continued.
- On December 20, 2006, FECA was amended by Title IX of the Postal Service Accountability and Enhancement Act to establish a three-day waiting period before COP may be granted to employees of the United States Postal Service.

# Agency Responsibilities

- Provide Form CA-1 to employee
- Notify of right to elect COP or AL/SL
- Employee must begin losing time from work due to traumatic injury within 45 days of the injury to be eligible for COP
- Injured employee must provide a written report on Form CA-1 within 30 days of the injury
- Notify employee to submit medical evidence to the employing agency within 10 days
- Termination of COP – when disability ends, 45 days expires, or employee returns to work (RTW)
- If Limited Duty (LD) job offer made verbally, must be confirmed in writing



# Employee's Responsibilities

- File an approved OWCP Form CA-1 within 30 days of the injury. (CA-2, CA-2a, or CA-7 will be considered an approved form to fulfill the timely filing requirement.)
- Present medical documentation supporting disability to EA within 10 days.
- Advise physician of the availability of LD if applicable.
- Employee must RTW upon notification by attending physician of release to full or LD.



# Dates of Eligibility

- Unless the injury occurs before the beginning of the workday, time lost on date of injury is charged to administrative leave.
- EA keeps the claimant in a pay status on the date of injury (DOI) with no charge against COP.
- If the claimant stops work on the DOI, the first day of COP is the day after the DOI.
- For non-postal employees, the period to be charged to COP begins with the first day or shift of disability or medical treatment after the date of injury, provided that the absence began within 45 days after the injury.
- For U.S. Postal Service employees, COP entitlement begins following the three-day waiting period, unless the period of disability exceeds 14 days.

# Counting COP

- COP should be charged for weekends and holidays if the medical evidence shows the employee was disabled on the days in question - calendar days are counted, not just work days.
- For example, if the physician states that disability will continue only through Saturday for an employee who has Saturday and Sunday off, COP will be charged only through Saturday.
- If work stoppage occurs for only a portion of a day or shift, e.g. for medical appointment, a full day of COP will be counted toward the 45-day entitlement even though the employee is not entitled to COP for the entire day or shift.



# Counting COP

- If the employee is absent for all or part of the remaining workday, the time loss should be covered by leave, LWOP, AWOL, etc., if work is available, since absence beyond the time needed to obtain the medical treatment cannot be charged to COP.
- If a partially disabled employee continues to work several hours a day, each day or partial day of absence from work is chargeable against the 45-day period.

1	2	3	4	5	6
7	8	9	10	11	12

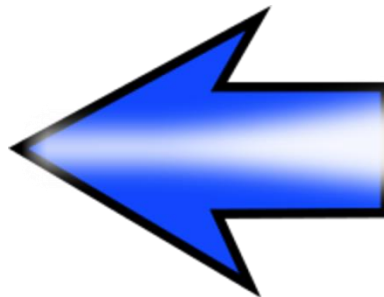


# Counting COP - COP and Leave

- An employee may use annual or sick leave to cover all or part of an absence due to injury.
- If an employee elects to use leave, each full or partial day for which leave is taken will be counted against the 45 days of entitlement to COP.
- While an employee may use COP intermittently along with sick or annual leave, entitlement is not extended beyond 45 days of combined absences.

# Counting COP - COP and Leave

- Decision to use leave versus COP is not irrevocable. Employee who uses leave can later elect COP within one year of the leave usage or date the case is accepted by OWCP, whichever is later.
- Compensation from OWCP does not begin to run until COP terminates and any use of leave ends.
- If OWCP denies a claim for COP, the amount paid will be charged to sick leave or annual leave at the option of the employee or shall be deemed an overpayment.



# Modified Duty Assignments during COP

- Employing agencies are expected to provide their injured employees with modified alternative-duty assignments during COP whenever possible, and claimants are expected to accept such offers of work.
- If claimant accepts position, COP is paid if the claimant is assigned to a job with a lower salary resulting in loss of income.



# Modified Duty Assignments during COP

- Refusal of Job – If claimant refuses or fails to respond to an offer of work, the Claims Examiner (CE) must determine the suitability.
- If not suitable, the CE advises EA the reason why and instructs to pay COP retroactive to the date of termination.
- If suitable, the claimant is given 30 days to submit the reason for refusal.

# Modified Duty Assignments during COP

- If the claimant responds and the refusal is found justified, the CE instructs EA to reinstate COP retroactive to the date of termination.
- If the refusal is not found to be reasonable or justified (or no response), a formal decision is issued, effective the date of EA's termination of COP.



# Recurrences during COP

- If an employee returns to work following a work stoppage without using all 45 days of COP and then suffers a recurrence of disability within 45 days from the first RTW date, the employee is entitled to use the remaining 45 days.
- A period which begins before the 45-day deadline and continues beyond it, may be charged to COP as long as the period of time is uninterrupted.
- If the recurrence begins later than 45 days after the first RTW, EA should not pay COP even though some days of entitlement remain unused.

# Recurrences during COP

- To clarify, if the 45-day entitlement has been exhausted, or the recurrence begins more than 45 days after the employee first RTW, EA may NOT pay COP.
- The employee should claim compensation for wage loss on Form CA-7.





# Controverting COP



- To controvert the claim, the agency must complete the indicated portion of Form CA-1 and submit detailed information in support of the controversion to the OWCP.
- Even though a claim is controverted, the employing agency must continue the employee's regular pay unless one of the conditions set forth in a later slide is met, in which case the employing agency shall not pay COP.
- EA must advise employee of controversion.
- OWCP reviews COP controversion and can overturn it and require that COP be paid.
- EA is provided with explanation of basis for CE decision.

# Controverting COP – Form CA-1

Blocks on the CA-1 pertaining to controversies:

Block #29:

- Was injury caused by employee's willful misconduct, intoxication, or intent to injure self or another? Yes (If "Yes," explain) or No

Block #36:

- If EA controverts continuation of pay, state the reason in detail.



# Controverting COP – Form CA-1

**Official Supervisor's Report: Please complete information requested below:**

**Supervisor's Report**

17. Agency name and address of reporting office (include city, state, and zip code)	OWCWP Agency Code
	OSHA Site Code
	ZIP Code

18. Employee's duty station (Street address and ZIP code)

19. Employee's retirement coverage  CSRS  FERS  Other, (identify)

20. Regular work hours From:  a.m.  p.m. To:  a.m.  p.m. 21. Regular work schedule  Sun.  Mon.  Tues.  Wed.  Thurs.  Fri.  Sat.

22. Date of injury Mo. Day Yr. 23. Date notice received Mo. Day Yr. 24. Date stopped work Mo. Day Yr. Time:  a.m.  p.m.

25. Date pay stopped Mo. Day Yr. 26. Date 45 day period began Mo. Day Yr. 27. Date returned to work Mo. Day Yr. Time:  a.m.  p.m.

28. Was employee injured in performance of duty?  Yes  No (If "No," explain)

29. Was injury caused by employee's willful misconduct, intoxication, or intent to injure self or another?  Yes (If "Yes," explain)  No

30. Was injury caused by third party? <input type="checkbox"/> Yes <input type="checkbox"/> No (If "No," go to item 32.)	31. Name and address of third party (include city, state, and ZIP code)
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32. Name and address of physician first providing medical care (include city, state, ZIP code)	33. First date medical care received Mo. Day Yr.
	34. Do medical reports show employee is disabled for work? <input type="checkbox"/> Yes <input type="checkbox"/> No

35. Does your knowledge of the facts about this injury agree with statements of the employee and/or witnesses?  Yes  No (If "No," explain)

36. If the employing agency controverts continuation of pay, state the reason in detail.	37. Pay rate when employee stopped work \$ Per
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**Signature of Supervisor and Filing Instructions**

38. A supervisor who knowingly certifies to any false statement, misrepresentation, concealment of fact, etc., in respect of this claim may also be subject to appropriate felony criminal prosecution.

I certify that the information given above and that furnished by the employee on the reverse of this form is true to the best of my knowledge with the following exception:

Name of supervisor (Type or print)	
Signature of supervisor	Date
Supervisor's Title	Office phone

39. Filing instructions  No lost time and no medical expense: Place this form in employee's medical folder (SF-66-D)  No lost time, medical expense incurred or expected: forward this form to OWCP  Lost time covered by leave, LWOP, or COP: forward this form to OWCP  First Aid Injury

# Controverting COP - Nine Reasons

An EA's objection to paying COP for one of nine reasons provided by regulation is called "controversion". COP may be controverted only if one of the following applies:

1. Disability is a result of occupational disease or illness
2. Claimant's status as an employee is defined by 5 USC 8101 (1) (B) or (E) (volunteers)
3. Employee is neither a citizen nor resident of the US or Canada
4. Injury occurred off EA's premises and the employee was not engaged in official "off premises" duties

# Controverting COP - 9 Reasons

5. The injury resulted from the employee's willful misconduct, the employee's intention to bring about the injury or death of himself or herself or of another person, or the employee's intoxication by alcohol or illegal drugs
6. Injury not reported on a form approved by OWCP within 30 days following the injury
7. Work stoppage first occurred more than 45 days after the injury
8. Employee reported injury after employment was terminated
9. Employee is enrolled in Civil Air Patrol, Peace Corps, or other group covered by special legislation

# Controverting COP - Decision

- If additional info is needed, OWCP will request it and allow 30 days.
- If COP is denied, OWCP issues a formal denial with appeal rights.
- The amount of COP paid will be charged to sick or annual leave at the option of the employee or will be considered an overpayment.
- If COP is approved, the claimant and EA will be notified - usually in the acceptance letter.
- If a controverted claim is subsequently accepted, OWCP will make a finding on ALL the issues raised by EA and include an explanation of why COP was authorized.



# Paying COP

- COP is not considered compensation
- Subject to usual deductions from pay, such as income tax, retirement, allotments, etc.
- The pay rate for COP purposes is equal to the employee's regular weekly pay rate
- Excludes overtime pay, but includes other applicable extra pay except to the extent prohibited by law
- Changes in pay which would have otherwise occurred during the 45-day period are to be reflected (i.e., promotion, demotion, step increases)



# Paying COP – Pay Rate

- Regular Work Schedules: For a full-time or part-time worker, whether permanent or temporary, who works the same number of hours per week, the weekly pay rate equals the number of hours regularly worked each week times the hourly pay rate on the date of injury, excluding overtime.
- Irregular Work Schedules: For a part-time worker, whether permanent or temporary, who does not work the same number of hours per week, the weekly pay rate equals the average weekly earnings for the year prior to the date of injury, excluding overtime.



# Paying COP – Pay Rate



## Intermittent and Seasonal Workers:

- For an intermittent or part-time worker, whether permanent or temporary, who does not work each week of the year (or the period of appointment), the weekly pay rate equals the average of the employee's earnings in Federal employment within one year prior to the date of injury.
- The pay rate is computed on the basis of the total earnings divided by the number of weeks worked. Partial weeks worked are counted as whole weeks.

*Increments of Pay:* Night or shift differential, holiday or other extra premium pay should be included, but overtime pay may not be considered.

# Paying COP – Pay Rate

## *Changes in Pay:*

- Changes in pay due to within-grade increases, promotions, demotions, terminations of temporary details, etc., which would have occurred but for the injury are included in COP since COP represents salary and not compensation.
- An employee who moves into a higher-paying job during the COP period is entitled to receive COP at the higher rate of pay.
- Where the weekly COP rate is based on the employee's average weekly earnings during the year prior to the date of injury, the COP rate should be changed by the same percentage as the change in hourly pay or salary.

# Paying COP – Pay Rate

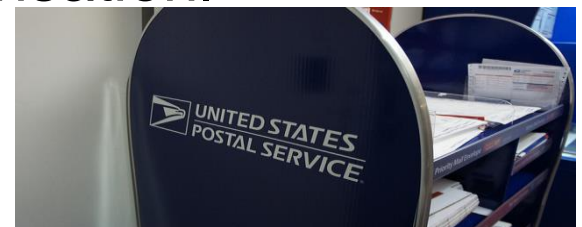
## *Lost Elements in Pay:*

- An element is sometimes lost due to the effects of the injury. For instance, a night shift worker may be reassigned to the day shift to perform LD, and thus lose night differential. In such instances, COP should be granted for the lost element of pay. Each day for which COP is granted to cover a lost element of pay will count as one full day of COP.
- EA is not required to include in COP elements of pay that EA is prohibited to pay by law.



# USPS COP Cases

- A December 2006 amendment to the FECA, which applies only to USPS employees, establishes a three-day waiting period before COP will be granted.
- The employee must elect COP on the front of Form CA-1 or request previously elected annual leave (AL) or sick leave (SL) be changed to COP for the three-day waiting period to apply.
- If an injured employee is not entitled to COP or the three-day waiting period was not met during the COP eligibility period, a three-day waiting period will be applied by OWCP for receipt of temporary total disability (TTD) compensation.



# USPS COP Cases

- If the disability from work exceeds a total of 14 days, the AL, SL, or LWOP elected by the employee for the three-day waiting period must be changed to COP. USPS should process a pay adjustment to change any leave used to COP and reinstate any leave used for the three-day waiting period.
- If an employee has been cleared by his/her treating physician to return to LD work but suitable work is not provided by the USPS, the first three days of work loss count as work disability and count toward the three-day waiting period for COP.
- The effective date for this revised COP policy was 12/20/06 - the day the postal reform law was signed.

# Terminating COP

- When EA has paid COP, it may be stopped only when at least one of the following occurs:
  - Medical evidence is not received within 10 calendar days after the claim is submitted.
  - The 10-day period begins the day after the employee claims COP or the disability begins or recurs.
  - Medical evidence shows that the employee is not disabled from his/her regular position.
  - Medical evidence shows that the employee is capable of performing LD, and the employee has refused a suitable written job offer.

# Terminating COP

- Employee returns to work with no loss of pay.
- Employee's period of employment expires and the employee sustained an injury **after** receiving written notice of the date of termination - is entitled to COP up to the date of separation and to compensation thereafter.
- If a preliminary notice of disciplinary action is issued before the injury and becomes final during the period of COP.
- OWCP directs the employer to stop.
- COP has been paid for 45 days.



# TASK

## CONTINUATION OF PAY #1

On 02/01/2012, John Brown was working as a Transportation Security screener, lifting bags onto an x-ray machine when a runaway bag rolled into his left knee. On the date of injury, he notified his supervisor of the incident. He subsequently stopped working on 03/01/2012 to undergo left knee surgery. On 04/01/2012, Mr. Brown filed his Form CA-1, Notice of Traumatic Injury form.

### **Questions:**

- 1) Is Mr. Brown's claim timely filed?
- 2) Is Mr. Brown eligible for COP?



# ANSWER KEY #1/MR. BROWN

1. Is Mr. Brown's claim timely filed? ***Yes. He reported the injury to his supervisor on the date of injury. Also, a claim for traumatic injury is considered to be timely filed if filed within three years from the date of injury.***
2. Is Mr. Brown eligible for COP? ***No. While Mr. Brown reported the incident to his supervisor on the date of injury, he failed to file his claim within 30 days of the injury on an approved form.***

# TASK

## CONTINUATION OF PAY #2

On 01/13/2009, Scarlett Green was working as a mail processing clerk when she slipped on some water on the workroom floor and fell on her back. Ms. Green completed Form CA-1 Notice of Traumatic Injury on 01/13/2009 and stopped working immediately following the incident. Ms. Green was totally disabled from work until 01/31/2009 when she returned to full-time limited duty work.

On 03/09/2009, Ms. Green stopped working to undergo approved surgery for her lower back.

### Questions:

1. How many days of COP were paid for the period of disability immediately following the work injury?
2. Is Ms. Green eligible for COP for the period of disability beginning on 03/09/2009? Please explain.
3. If Ms. Green is eligible for COP with the period beginning on 03/09/2009, what is the last date she will be entitled to COP?

# ANSWER KEY #2/MS. GREEN

1. How many days of COP were paid for the period of disability following the work injury? **17**
2. Is Ms. Green eligible for COP for the period of disability beginning on 03/09/2009? Please explain.  
**Yes. Since Ms. Green's work stoppage of 03/09/2009 is within 45 days from her first return to work on 01/31/2009 and she has remaining days of COP, she is entitled to use those remaining days for the continuous period of wage loss.**
3. If Ms. Green is eligible for COP with the period beginning on 03/09/2009, what is the last date she will be entitled to COP? **04/05/2009**

# January 2009 Task #2

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12	13 Date of Injury	14 Day 1	15 Day 2	16 Day 3	17 Day 4
18 Day 5	19 Day 6	20 Day 7	21 Day 8	22 Day 9	23 Day 10	24 Day 11
25 Day 12	26 Day 13	27 Day 14	28 Day 15	29 Day 16	30 Day 17	31 Return to work

# February 2009 Task #2

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

# March 2009 Task #2

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9 Surgery Day 18	10 Day 19	11 Day 20	12 Day 21	13 Day 22	14 Day 23
15 Day 24	16 Day 25	17 Day 26	18 Day 27	19 Day 28	20 Day 29	21 Day 30
22 Day 31	23 Day 32	24 Day 33	25 Day 34	26 Day 35	27 Day 36	28 Day 37
29 Day 38	30 Day 39	31 Day 40				

# April 2009 Task #2

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 Day 41	2 Day 42	3 Day 43	4 Day 44
5 Day 45	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

# **TASK**

## **CONTINUATION OF PAY #3**

On 01/03/2009, Ann Black, employed as a Nurse with the Department of Veteran's Affairs, was assisting a coworker in lifting a patient when she experienced pain and felt a "pop" in her right elbow. Nurse Black continued to work the remainder of her shift and the next several days. However, as the pain would not subside with home remedies, Nurse Black sought medical treatment on 01/10/2009, at which time she was placed off from work for two weeks. Nurse Black filed her Form CA-1 on 01/10/2009 following her medical appointment and provided her supervisor with the medical documentation to support her work stoppage.



# **TASK**

## **CONTINUATION OF PAY #3**

Nurse Black returned to full time work on 01/25/2009. She subsequently lost intermittent hours to attend physical therapy on the following dates (in 2009):

01/28, 01/30, 02/03, 02/06, 02/10, 02/14, 02/18, 2/20, 02/24, 02/26, 03/02, 03/05, 03/09, and 03/13.

In spite of this extensive treatment, Nurse Black's right elbow condition did not improve, and she needed surgery. She stopped work on 03/17/2009 to undergo right elbow surgery and was off work indefinitely.

# TASK

## CONTINUATION OF PAY #3

### Questions:

1. Is Nurse Black entitled to COP?
2. If so, on what dates is COP payable?
3. Are there any dates for which COP is not payable? If so, please note the dates for which COP is not payable and explain why.

# ANSWER KEY #3/NURSE BLACK

1. Is Nurse Black entitled to COP? **Yes**
2. If so, on what dates is COP payable? ***01/10/2009 – 01/24/2009 & intermittent hours lost from 01/28/2009 – 03/09/2009***
3. Are there any dates for which COP is not payable? If so, please note the dates for which COP is not payable and explain why. ***Yes. 03/13/2009 and the period beginning on 03/17/2009. While the claimant did not use all 45 days of COP, the intermittent date of 03/13/2009 and disability beginning on 03/17/2009 is more than 45 days after her first return to employment on 01/25/2009.***

# January 2009 Task #3

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3 Date of Injury
4	5	6	7	8	9	10 Treatment Day 1
11 Day 2	12 Day 3	13 Day 4	14 Day 5	15 Day 6	16 Day 7	17 Day 8
18 Day 9	19 Day 10	20 Day 11	21 Day 12	22 Day 13	23 Day 14	24 Day 15
25 1 <sup>st</sup> Return to Work	26	27	28 Day 16	29	30 Day 17	31

# February 2009 Task #3

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3 Day 18	4	5	6 Day 19	7
8	9	10 Day 20	11	12	13	14 Day 21
15	16	17	18 Day 22	19	20 Day 23	21
22	23	24 Day 24	25	26 Day 25	27	28

# March 2009 Task #3

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 Day 26	3	4	5 Day 27	6	7
8	9 Day 28	10	11	12	13 Not Allowed	14
15	16	17 Not Allowed	18 —————>	19	20	21
22	23	24	25	26	27	28
29	30	31				

# Questions

Continuation of Pay (COP) applies to traumatic injury cases and is the continuance of the employee's regular pay for a period not to exceed:

- a) 1 calendar day of disability
- b) 30 calendar days of disability
- c) 45 calendar days of disability
- d) 1 year of disability

Correct answer – c

Feedback for wrong answer – That is incorrect. COP is the continuance of the employee's regular pay for a period not to exceed 45 calendar days of disability.

# Questions

An employee must begin losing time from work due to a traumatic injury within 45 days of the injury to be eligible for COP.

a) True

b) False

Correct answer – a

Feedback for wrong answer – That is incorrect. In order to be eligible for COP, an employee must begin losing time from work within 45 days.



# Questions

During the COP period, if a claimant stops work after 4 hours to attend a medical appointment, how many COP days will be counted towards the 45-day entitlement?

- a) 0 days
- b) ½ day
- c) 1 day

Correct answer – c

Feedback for wrong answer – If work stoppage occurs for only a portion of a day or shift, a full day of COP will be counted toward the 45-day entitlement.

# Questions

Once an injured employee decides to use leave versus COP, they are unable to alter that decision.

a) True

b) False

Correct answer – b

Feedback for wrong answer – The decision to use leave versus COP is not irrevocable. An employee who uses leave can later elect COP within one year of the leave usage or date the case is accepted by OWCP, whichever is later.

# Questions

If an employee returns to work following a work stoppage without using all 45 days of COP and then suffers a recurrence of disability within 45 days from the first return to work, the employee:

- a) Is entitled to use the remainder of the 45 days
- b) Is not entitled to any other COP

Correct answer – a

Feedback for wrong answer – The employee is entitled to use the remainder of the 45 days of COP if they suffer a recurrence of disability within 45 days from the first return to work.

# Questions

An employing agency can controvert paying COP for one of nine reasons. The examples below are reasons to controvert COP except:

- a) Disability is a result of an occupational disease or illness
- b) Employee states they fell; however, no one saw it
- c) Injury occurred off employing agency premises and the employee was not engaged in official 'off premises' duties
- d) Work stoppage first occurred more than 45 days after the injury
- e) Employee reported injury after employment was terminated

Correct answer – b

Feedback for wrong answer – You have selected one of the nine reasons to controvert COP.

# Questions

An employing agency may stop paying COP when which of the following occurs?

- a) Medical evidence is not received within 10 calendar days after the claim is submitted
- b) Medical evidence shows that the employee is not disabled from their regular position
- c) Medical evidence shows that the employee is capable of performing limited duty, and the employee has refused a suitable written job offer
- d) OWCP directs the employer to stop
- e) COP has been paid for 45 days
- f) All of the above

Correct answer – f

Feedback for wrong answer – You have selected a reason an employing agency can stop paying COP; however, all of the choices represent reasons for terminating COP.

# Take Away Tips

- 1) Continuation of Pay (COP) is the continuance of the employee's regular pay for a period not to exceed 45 calendar days of disability
- 2) Employee must begin losing time from work due to traumatic injury within 45 days of the injury to be eligible for COP
- 3) COP should be charged for weekends and holidays if the medical evidence shows the employee was disabled on the days in question - calendar days are counted, not just work days.
- 4) If an employee returns to work following a work stoppage without using all 45 days of COP and then suffers a recurrence of disability within 45 days from the first RTW date, the employee is entitled to use the remainder of the 45 days.

# Take Away Tips

- 5) To controvert the claim, the agency must complete the indicated portion of Form CA-1 and submit detailed information in support of the controversion to the OWCP.
- 6) An EA's objection to paying COP for one of nine reasons provided by regulation is called "controversion". COP may be controverted only if one of the nine reasons apply.
- 7) When EA has paid COP, it may be stopped only in certain instances. Please see Continuation of Pay presentation for those instances.