



National Border Patrol Council

I have been injured at work. What is COP and how is it calculated?

Following a traumatic injury, one of the first concerns for an injured employee and their family is compensation. The [Federal Employees Compensation Act](#) (FECA) has a provision known as [Continuation of Pay](#) (COP) which requires that the employing agency must continue the injured employee's regular pay during any period of work-related disability, up to a maximum of 45 calendar days. The agency, not OWCP, pays COP. Unlike wage loss benefits, COP is subject to taxes and all other payroll deductions that are made from regular income.

The agency must continue the pay of an injured employee, who is eligible for COP, and may not require the employee to use his or her own sick or annual leave, [unless special provisions apply](#). However, while continuing the employee's pay, the employer may controvert the employee's COP entitlement pending a final determination by OWCP. OWCP has the exclusive authority to determine questions of entitlement and all other issues relating to COP.

Below are summaries of specific provisions relating to the eligibility for, calculation of, and tolling of COP eligible absences.

Eligibility

To be eligible for COP, an injured employee must:

- Have a "traumatic injury" [as defined under the FECA](#) which is job-related and the cause of the disability, and/or the cause of lost time due to the need for medical examination and treatment;
- File Form CA-1 within 30 days of the date of the injury; and
- Begin losing time from work due to the traumatic injury within 45 days of the injury. OWCP may find that the injured employee is not entitled to COP for other reasons [consistent with the statute](#).

Pay Rate

As the goal of COP is to provide a *continuation* of compensation to the injured employee during a period of disability, OWCP provides specific guidance to employing agencies on how to calculate the pay rate. The agency calculates COP using the weekly pay rate.

The pay rate for COP purposes is equal to the employee's regular "weekly" pay (the average of the weekly pay over the preceding 52 weeks). The pay rate includes other applicable extra pay except to the extent prohibited by law. Some [examples of included "extra pay" are Night Differential, Holiday Pay, and AUO](#). Sunday Premium and overtime however, are excluded by law. Changes in pay or salary which would have otherwise occurred during the 45-day period are to be reflected in the weekly pay determination. Examples are pay changes due to promotion, demotion, within-grade increases, termination of a temporary detail, etc.

Best Practice: Injured employees should request confirmation from their employing agency regarding the calculation of the COP rate. Where the injured employee and agency disagree, OWCP will make the final determination.

Tolling the COP Period

- Injured employees are eligible for up to 45 days. The 45 days during which pay may be continued are counted as calendar days, not work days.
- The period begins with the first day the injured employee begins to lose time from work after the date of injury, provided that it begins within 45 days of the traumatic injury. The employing agency will keep the injured employee in a pay status or grant administrative leave (AA) for any fraction of a day or shift lost on the date of injury, with no charge to the 45-day period. If the injury occurs before the work shift begins, the date of injury may be charged as the first day of the 45-day period of COP.
- If the employee stops work for a portion of a day or shift other than the date of injury, such day or shift will be counted as one full calendar day for purposes of counting the 45 days of COP. The injured employee is only entitled to COP for the hours lost due to the work injury (and not the entire day or shift) if work is available for the remaining partial shift. If the employing agency does not allow the employee to work a partial shift, the employee is entitled to COP for the entire shift.
- Regular days off are included if COP has been used on the regular work days immediately preceding or following the regular day(s) off and medical evidence supports disability. Leave used during a period when COP is otherwise payable is counted toward the 45-day COP maximum as if the employee had been in a COP status.