

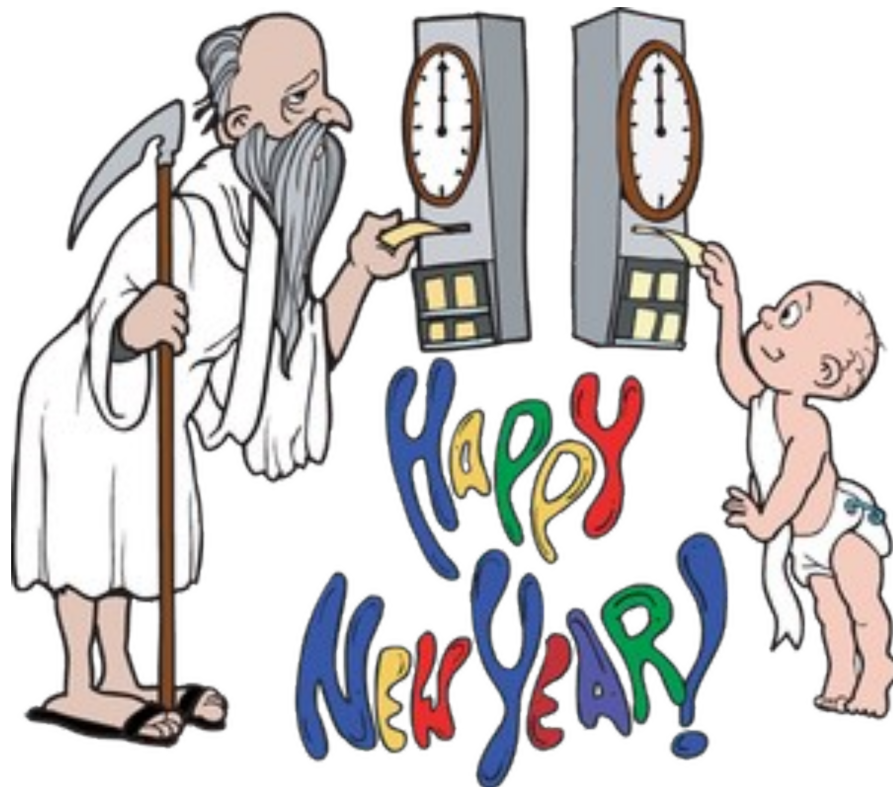
BRANCH 111 N.A.L.C.
"THE WASATCH BRANCH"

The
Pavement Pounder

November - December 2013

2014.1

Branch 111 sees the end of one year and looks forward to the next with anticipation.



The Nelson News

Jeff Nelson, President.



I hope all of you have had a safe & happy holiday season. There have been many things happening since the last newsletter. We have finally seen CCA employees being converted to career status in a couple of the installations. We are trying to take the withholding circle down further to convert CCA's in other installations as well. I've just received information that organizing is down in the branch. We need to focus on getting non-members to sign up.

With a new MOU coming out regarding new career carriers signing the overtime lists, I'm working on getting agreements in all of the installations to implement this practice. Basically, what it means is that if a new career carrier transfers in, or a CCA or PTF carrier is converted to full-time, they would have the option to sign one of the overtime lists immediately, rather than wait until the next quarter. This is an agreement we should have had in place a long time ago, and it makes sense on both sides. Most postmasters I've talked to have been receptive to this.

I still can't believe how many carriers I talk to or hear about that think they need to make DOIS times. I don't know how else to say it, but **you do not have to make management's numbers!** You give an estimate (not a commitment) to your supervisor, one that you know you can make, including taking your lunch & breaks. Then you follow it up by filling out a PS Form 3996, making a copy for yourself, and turning it in to management. In some offices, supervisors are writing down estimates incorrectly, or choosing what the return time for the carriers will be. If you have not covered yourself by filling out a 3996, the estimate that is written by management on the Daily Worksheet is the time that may be considered at the higher levels of any grievance.

Make sure that if you need to see a doctor for any reason (usually an on-the-job injury), do not see a doctor recommended by management! This happened with one carrier recently, and shortly after they had seen the Work Med doctor her supervisor told her to see, management had their medical information (including previous to working for USPS) and was conducting an investigative interview, claiming that the carrier had falsified the application for employment. If you need medical treatment for any reason, see your own doctor, or at the very least, don't go to the doctor management wants you to! It has been shown that any trust in them is compromised.

I'm sure all of you have heard of the tragedy that took place November 23, as carrier Tyson Barnette was shot & killed while delivering mail outside of Washington D.C. The attack took place around 7:20 pm (after dark), and the 26 year old carrier was pronounced dead at the scene from multiple gunshot wounds. While it's impossible to know the full circumstances behind the death of Tyson, it has been speculated that this may have been avoided (or at least witnessed) if he had not been out so late, delivering in the dark. The fact that so many carriers in Branch 111 have to deliver in the dark is a manufactured problem, and creates unnecessary hazards. This situation is due to management pushing start times later, not having adequate staffing, and trying to create overburdened routes. In turn, safety is compromised when carriers are unable to be fully aware of their surroundings due to poor visibility. Until management takes some action to fix this premeditated problem, management's claims to care about safety continue to look like lip service. Remember that nothing is more important than your safety!

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Visit the Branch 111 Website
<http://branch111.com/index.htm>

Protection of Medical Records

The protection of Medical Records is a complex and multilayered process involving Medical Practitioners and employers. Laws were created and implemented that protect our sensitive medical information from third party reviews, including employers and law enforcement entities without the first notifying the patients. Recently, the USPS has proactively attempted to obtain our medical information with various (legal) maneuvers that allows the Postal Service to review our diagnosis, prognosis and any and all medication that has been prescribed. Management has asked the permission of the employee to waive the HIPPA and privacy rules by asking the employee to sign a PS Form 2488 that would allow the Postal Service to have communication with our Doctor or Medical Provider. These forms should never be signed!!

The VP Speaks

Vice President Phil Rodriquez

The principle of doctor-patient confidentiality is fundamentally sacred and protected by law. After all, other entities may have an interest in gaining access to our medical records such as insurance companies, government agencies, and our employer, the United States Postal Service. Why would the USPS want our records? Maybe our Managers are genuinely concerned about our health? Probably not, but some inquiries for our medical records may be for the following: normal absences due to sick leave, requests for leave under the Family Medical Leave Act (FMLA), injuries related to the Office of Workers' Compensation Programs (OWCP), requests for Reasonable Accommodation, and requests for light duty. And more concerning, might be for criminal investigation regarding our employment for pre existing condition.

Some employees unwillingly provide their medical information to their Supervisor via FMLA. Understandably neither the employee nor the front line Supervisor understand the complexity of FMLA and the responsibilities of medical information. What is the rule?

29 CFR § 825.500(g)

Records and documents relating to medical certifications, recertifications or medical histories of employees or employees' family members, created for the purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files, and if ADA is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements (see 29 CFR §1630.14(c)(1)), except that: 1) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations

The Supervisor can be "informed regarding necessary restrictions" but should never be informed of diagnosis or prognosis. There are several layers of privacy protections in federal regulations regarding privacy of medical records. First, the employee's physician may be contacted only by the employer's health care provider, not a supervisor. Second, that contact may be made only with the employee's permission. Finally, the Service's inquiry to the physician may not seek additional information regarding the health condition of the employee (or family member, as applicable). The inquiry may only *clarify or authenticate* the medical certification. When requesting FMLA absences, take note, and never sign the PS Form 2488, as this form should not be a consideration as to approval or denial of the FMLA request. An employee signing Form 2488 waives all rights to medical privacy thus allowing the Service free access to private medical records.

Health Insurance Portability and Accountability Act (HIPAA). This is a very broad federal law enacted by Congress in 1996. The law deals with more than just privacy standards. HIPAA addresses various issues such as pre-existing conditions and health insurance coverage for employees who lose or change their jobs and most importantly, the release of medical information known as the Privacy Rule. As a Postal Employee, the section of HIPAA that deals specifically with the release of medical information is known as the Privacy Rule. The Privacy Rule provides a national standard for protecting an individual's health information. The Privacy Rule also specifies what type of information is protected. That would be any information that could be directly connected to an individual. Such information is referred to as "protected health information".

1) Restricted medical records.

These records are defined by the Postal Service in Management Instruction EL-860-98-2:

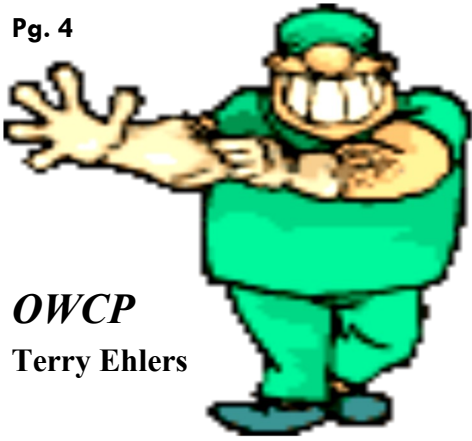
Restricted medical records contain medical information that is highly confidential, reflect the privileged employee-occupational health provider relationship, and have the most limitations placed on both their access and disclosure. . .Only medical personnel or postal personnel with a need to know have access to this material. . .These records are maintained only in medical offices or facilities in employee medical folders (EMFs) unless otherwise directed by the national medical director.

Further:

ELM 547.61 Privacy Act Protection All records, medical and other reports, statements of witnesses, and other paper relating to the injury or death of an employee or other person entitled to compensation or benefits under the Act are sensitive in nature, and no employee of the Postal Service may disclose information from or pertaining to the records to any person except as directed in these instructions. . .

Our employer is unique, we have our own Law Enforcement Agency, the OIG and the Postal Inspection Service, that has power of criminal investigation. In 2007 the NALC was informed that these entities were contacting medical providers and obtaining medical records without the permission of the patient. The NALC filed a lawsuit and was successful in obtaining a settlement that all HIPPA rules and regulations will be followed. Notify your medical provider that you do not authorize any release of information to your employer, or third party entity, without your permission. As a Postal Employee, we should make every attempt in the protection of our medical records: including our medical conditions to our Supervisor and other employees. Please be careful who you share your medical history with, including your co workers. Unfortunately, we have witnessed fellow Carriers sharing other employee's medical conditions, as were told in a conversation, with their Supervisors that resulted in probative investigative interviews from Management. Be careful and protect your privacy!

Phillip Rodriquez
prodriq@msn.com



You're right to choose your own physician

Those individuals that claim on-the-job injuries have the right to choose their treating physician. This right is set for the in the Federal Employee's Compensation Act (FECA) 5USC 8103 (a) (3) ...the employee may initially select a physician to provide medical services... it is also encompassed in postal regulations under ELM 543.3 FECA guarantees the employee the right to an initial choice of physician. The National Agreement has in Article 14.3C The employee will promulgate appropriate regulations which comply applicable regulations of the Office of Worker's Compensation Programs, including employee choice of health services. The language is clear and concise **Letter Carriers get to choose their treating physician, not the Postal Service.**

OWCP

Terry Ehlers

management directs a traumatically injured carrier to a contract doctor or other Postal Service physician, the authority of the Postal Service is also limited in that it may require that an injured carrier submit to examination by a postal selected physician, but it may **not** require an employee to accept treatment from the physician. Postal ordered examination may not interfere with (delay) examination and treatment from the physician of choice.

Failure by supervisors and managers to inform carriers of their right to choose a physician needs to be corrected by the grievance procedure. Management when notified of an injury should advise the traumatically injured carrier's of their right to free choice of physician. If

The Postal Service has an affirmative obligation to advise injured letter carriers of their right to freely choose a physician. This obligation is found in the FECA Regulations 20 CFR 10.300 d The employer should advise the employee of the right to his or her initial choice of physician and also in postal regulations ELM 544.112 In case of a traumatic injury, the supervisor must advise the employee of the following: a the right to select a physician of choice. ELM 545.21 the control office or control point must advise the employee of the right to an initial choice of physician.

If this violation occurs, a grievance investigation should be initiated.

There is a great difference between Medical Examination and Medical Treatment;

Medical Examination – inspection or investigation, especially as a means of diagnosing disease or disorder.

Example – visual inspection and x-ray of a sprained ankle constitute examination.

Medical Treatment – management and care of a patient for the purpose of combating disease or disorder.

Example – prescription of anti-inflammatory medicine and placement of a walking cast on a sprained ankle constitute treatment.

Grievances should be initiated in cases where a postal management or contract physician requires that an employee submit to treatment, as opposed to examination.

If I can be of assistance, please call Terry C Ehlers
NALC HEALTH BENEFIT PLAN
JIMMY KEREKES



I was disappointed this open season because of the delay of information and the premium rate confusion. OPM always seems to send out their booklets too late for many people to make a good comparison of the different options to choose a health plan, especially if they are wanting to change or sign up for the first time. Open season is over when you get this, but I hope I helped some of you. I hope next year will be more organized and presented on time. If anyone needs questions answered during the year 2014 about our NALC Health plan, call me and I will try to help you.

I know that by the time you get this article that Christmas and New Year's Day will have past. I hope you all had a good Christmas & that 2014 will be a good year.

One other thing CVS pharmacy building in Herriman is well under construction and will probably be done by March 2014. Any more new information coming my way I will share in succeeding

articles.



Merry Christmas and Happy New Year to all my Union Brothers and Sisters, I start this report off with good news in hopes that the New Year will only bring us more. The USPS released the financial report for the year 2013 and it showed the Post Office would have posted a 600 million dollar operational profit if not for the pre-funding mandate set on the Post Office Revenue was up 1.1 billion from last year. We all know how big the pre-funding mandate has been on the Post Office, in order to fulfill this obligation and meet this burden our Post Master Donahoe has closed offices, cut back on hours, cut jobs, and is trying to eliminate days of service. All these things he has done and is trying to do have been defensive moves to try and stay afloat. I for one would like to see our so called leader try to grow our service

and not shrink it to the point that we are no longer a force in our industry. It has taken much effort from all of you to help fight off all of the bad legislation proposed to our Congressman and Senators. I thank all of you for your efforts, but we are not done. We still have an uphill battle but I feel the tide is turning. Keep up with your efforts and we will be victorious.

In Post Masters Donahoe's monthly address to the employees he did not bring up cutting Saturday mail delivery once, he did talk about how we are now delivering on Sundays for Amazon. I get the feeling that he is starting to understand it is the business that wants Saturday and even Sunday delivery. This is where our future is. If you have been following the Post Master another one of his big plans was to create a health care system for just the Postal employees and drop out of the Federal Employees Health Care network (FEHB). This received so much back lash he said we are still going to stay in the FEHB but look into other areas in Health Care to save. He wants retired carriers to take advantage of Medicare and what it has to offer. With this it will save USPS about 50 billion and would eliminate the prefunding mandate. In his words "I still want to research this and pass my judgment of this later". I just would like to point out Medicare is a hot topic up on the Hill and there are key politicians that want to eliminate Medicare so with that said when you vote ask them there view on this matter.

Speaking of voting it is time to gear up for this election cycle. In Utah we know what the system is and how people are nominate to run for office. There is a movement right now in Utah to change this system it's called Count My Vote. I can argue both sides but the thing we need to focus on is what is currently in place, which is the caucus system. We all need to become delegates for our parties, by doing this we will have a stronger voice in who is going to be running for office. As a delegate the candidates running will come to you and ask for your support. What a great time to tell them about what we as Letter Carriers expect out of them. What a great opportunity for us to educate them on how the Post Office is financially profitable and what needs to be done to protect it. How do you become a delegate? You need to attend your local neighborhood caucus night, and for Democrats, with the low numbers, just showing up can be all it takes. For Republicans, you have to be voted in by your neighborhood but that is really not that hard. The neighborhood caucus for Democrats will be on March 18 and for Republicans it will be on March 20 so start making plans to attend those nights so you can become a delegate. More information will follow.

Last month we had Pete Tomao visit us from the D.C. office. Pete is our Regional Field Coordinator. While he was here we had meetings with Jason Chaffetz office, Chris Stewart's office, and we met with both candidates that will be running against Rob Bishop, Peter Clemens, and Donna McAleer. The one thing I really wanted to share from Chris Stewart's office was this, his aid said she receives many calls from people saying they don't need Saturday mail. If you live in Stewarts district call and tell him we want Saturday mail, get as many people as you can to call his office and tell him to protect Saturday deliver. Show his aid she is wrong.

If you have not signed up for E-Activist you should it is easy to sign up for you can do that at NALC.org. Signing up for E-Activist is a great way to be able to get the most recent info from our National President Fredric Rolando.

Congressman Chris Stewart

801-364-5550

Thanks all, and have a great holiday!

Chad Mortensen

What started out as a routine cyst removal, quickly turned into much more. Taylor Skougard, age 17, went to have a cyst removed from her head. When the pathology report came back positive for DFSP (Dermatofibrosarcoma Protuberans, a rare type of cancer that only 1 in 1,000,000 people are ever diagnosed with) she went to have it removed. On June 5, 2013 Taylor underwent her first surgery, but the surgeon was not prepared for what he saw. He immediately referred Taylor to an oncologist and plastic surgeon at The Huntsman Cancer Institute and University Hospital. Surgery number 2, July 5, 2013, the tumor was removed, sent to pathology, and came back positive right next to her skull. On July 10, 2013, Taylor had a portion of her skull removed and a skin flap was made to cover her wound. That was surgery number 3. Taylor was in the hospital for 10 days. The skin flap did not survive. So surgery number 4, on July 26, 2013, Taylor had the skin flap removed, and part of her back muscle was taken to use to cover her exposed skull. On August 2, 2013, Taylor underwent her 5th surgery, to skin graft the entire back of her head. Taylor had her final follow up appointment in September 2013. She was given the “all clear” and was told to come back in 6 months. November of 2013, the skin graft had not healed and was starting to deteriorate on the muscle flap. Taylor started hyperbaric treatments to see if more oxygen in her blood would help heal the graft. After a week of treatments, the muscle flap had also started to deteriorate and her skull was exposed. Taylor then tested positive for MRSA (an infection) on her wound, and was readmitted into the hospital. November 19, 2013, Taylor went for surgery number 6. They were taking a new muscle flap from her back. 2 days later, the bandages were removed and the flap was not doing good. Taylor started the hyperbaric treatments again twice a day. As of November 26, 2013, the flap is still alive. The treatments have worked. However the other skin graft on her head did not survive. She will be having surgery number 7 in about another week, for more skin grafting. Taylor will never grow hair on about 50% of her head. She is however cancer free.



Taylor Skougard, daughter of Diane Skougard a fellow carrier, is a very strong girl. As you can imagine, this has exhausted Dianes SL and Annual. This is nothing you could ever plan for. Please if it's at all possible, please donate. There is an account for them at Cyprus Credit Union. Account number - 259340

THANK YOU SO MUCH.

If you have any questions please feel free to contact either Rachel Jimenez – 801-557-3628 or Nikki Kubinski – 801-455-8227

IN MEMORIAM
FRANCIS LYNN NEWMAN



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