

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

The
Pavement Pounder

March—April 2014

2014.2

**Goodbye winter its been fun
now get out.**



**Don't take it
personally but we wont miss
you**

The Nelson News

Jeff Nelson, President.



As I write this article to you, the weather has began to warm up, and the snow is mostly gone. I'm sure I'm not the only one hoping that the prediction of Punxsutawney Phil will be errant and we won't have 6 more weeks of winter. There have been quite a few accidents over the last few months, both vehicle accidents and also slip, trip & falls.

Whether you're on a mounted route, or have park & loop, continue to be extra cautious until spring does arrive.

Some good news is that multiple offices are changing their start times in the right direction. Several offices have changed to an earlier start time, and I'm hearing that others will follow suit shortly. It's just sad that this change was only brought about because of public pressure on the Postal Service, due to multiple carriers being injured or killed after dark, rather than common logic. I've heard some in management saying that if carriers can't go faster with the early start times, they will try to push them back again. Don't buy into these threats. Do your route as safely & efficiently as possible, and be consistent in the way you do your route. If you worked from 8 am to 4:30 pm before, don't buy into the idea that you should be doing 7:30 am to 3:30 pm now, because of the "reward" that management has so graciously given to you. If your route was 8 hours before, it didn't shrink because you're starting earlier; it's still 8 hours. Continue to take your lunch and breaks.

What if your route isn't 8 hours? Under Section 271 of the M-39, it gives circumstances under which a special inspection may be warranted. Some of these conditions include:

consistent use of overtime or auxiliary assistance

excessive undertime

new construction or demolition which has resulted in an appreciable change in the route

carrier consistently leaves and/or returns late

if the route is shown to have over 30 minutes of overtime on 3 out of the 6 days of the week for a six week period (omitting the month of December)

If you or your route meet these conditions, turn in a written request for a special inspection, citing section 271 of the M-39. Management has 4 weeks to complete the inspection, so they should act on it quickly. If management denies the inspection, notify your steward so they may look into it and determine if the denial was improper.

In solidarity Jeff Nelson

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

The VP Speaks

Vice President Phil Rodriquez

Recently, the issue was brought forth of an order from a Supervisor to a Carrier, to use a short cut (delivering park and loop) that might have created a safety hazard. The Supervisor had ordered the Carrier to cut across a flower bed and “jump” over a retaining wall instead of walking on the sidewalk to the next stop. A grievance was filed, and ultimately, the relevant contractual language was stated in the decision. Instead of paraphrasing the decision, I will quote the relevant language below:

“As cited in Article 41.3.N.1, A Carrier may be instructed broadly to take all “obvious shortcuts” and to cross lawns where there is no reason to believe the customer may object. However, the determination of what constitutes an obvious shortcut or whether a hazard exists is made in the first instance by the carrier. The carrier’s judgment can be exercised only in the light of the specific conditions at the location involved. City carriers have the responsibility to choose and conduct safe and efficient means to perform their duties. Instructions by management to alter their method of cutting lawns must be reviewed on a case-by-case basis and would require sufficient evidence from management to confirm why the change is appropriate.

The parties are reminded to adhere to the defined grievance procedure as detailed in Article 15 and Article 41.3.N

Pages 41-23 &24 of the JCAM states:

Letter Carriers may cross lawns while making deliveries if customers do not object and there are no particular hazards to the carrier.

Lawn Crossing. Although in his Cincinnati Lawn Crossing decision (August 20, 1979, NC-NAT-13212, C-03228) National Arbitrator Sylvester Garrett did not set down clear standards for determining when customers have objected to carriers crossing their lawns and when hazards exist which would make crossing lawns unsafe. Garret did set down the following general guidelines:

- 1. A carrier may be instructed broadly to take all obvious shortcuts and to cross all lawns where there is no reason to believe the customer may object. However, the determination of what constitutes an obvious shortcut or whether a hazard exists is made in the first instance by the carrier. The carriers judgment can be exercised only in the light of the specific conditions at the location involved.*
- 2. A supervisor may conclude, after personal observation and discussion with the carrier, that a particular lawn should be crossed and order the carrier to cross the lawn. The carrier may not ignore such an order with impunity. His remedy is to file a grievance. However, discipline should not be imposed upon a carrier who had exercised his discretion and not crossed lawns, merely because a supervisor later decides that some of the lawns could have been crossed.*
- 3. The only proper instruction before and during route inspection is that the carrier deliver the route in exactly the same manner as he does throughout the year. During the route inspection the examiner observes but does not supervise. Therefore, a carrier cannot be directed on the day of a route inspection to take any shortcuts which the carrier does not use throughout the year.”*

Delivering safely is always the best way instead of taking the chance and potentially injuring yourself. Remember, they cannot discipline for being safe but they will drop the hammer for unsafe actions.

Phillip Rodriquez
Vice President
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OWCP

Terry Ehlers

I HAVE BEEN ON THE OWCP ROLLS FOR OVER A YEAR. RECENTLY, THE AMOUNT I PAY FOR MY HEALTH BENEFITS PREMIUMS HAS ESCALATED WITHOUT EXPLANATION. WHY?

An employee who is receiving wage loss benefits from OWCP pays for his health benefit premiums from his OWCP payments at the postal employee rate negotiated by the parties (NALC and USPS) in the collective bargaining agreement which covers the occupational group to which the injured worker belongs. After one year on the OWCP rolls, however, all federal employees are assessed health benefit premiums at the federal rate, which is a higher percentage than postal employees pay. To compensate for the increase in premiums, the USPS is obligated to pay a health benefit refund to OWCP recipients on a quarterly basis. The refund is equal to the difference between FEHBP premiums at the federal rate and FEHBP premiums at the postal rate. These refunds are supposed to be paid automatically, but any OWCP claimant who does not receive the refund(s) within the prescribed time frame should promptly notify his NALC representa-

tive(s).

SCHEDULED AWARDS

Schedule awards are for an OWCP accepted condition arising out of an on-the-job injury. The awards are generally for the permanent loss or use of a scheduled member of the body and usually not for the body as a whole.

The appropriate method of evaluating the extent of any permanent impairment is found in the AMA's Guides to the Evaluation of Permanent Impairment, 6th Edition, the use of which has been approved by the OWCP. Among the elements which may be considered in determining the extent of impairment are loss of motion, pain and weakness. The element of pain may serve as the sole basis for determining the degree of impairment for schedule

When determining a percent of impairment, the written evidence must be strong enough so that it clearly and convincingly establishes the maximum improvement that has, in fact, been reached by an established date. The report should describe and state which factors entered into the calculation of a percentage loss. It also must include that the claimant has reached MMI [maximum medical improvement]. It is best if a board certified specialist makes the determination of percentage loss. The report should be in a written narrative that includes medical rationale and evidence and signed by the board certified specialist. It must be submitted along with a completed CA-7.

The schedule award provision of the FECA ([Federal Employees Compensation Act](#)) and its implementing regulations set forth the number of weeks of compensation to be paid for permanent loss, or loss of use, of body members listed in the schedule. The Act, however, does not specify the manner in which the percentage of loss of a member shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables to calculate schedule awards so that there may be uniform standards applicable to all claimants. The Office has adopted, and the Board has approved, the use of the American Medical Association, Guides to the Evaluation of Permanent Impairment 6th Edition, as an appropriate standard for evaluating schedule losses.

Prior to going to physician for the SA determination, put the following in a narrative letter asking him/her to describe the impairment in sufficient detail and to give the percentage evaluation in term of specific affected body member. The detailed description the physician provides must include, when appropriate. **a.** loss of degree of active motion of affected member. **b.** loss of degree of passive motion of affected member. **c.** amount of atrophy or deformity. **d.** decrease in strength or impairment, or **e.** other pertinent description of the impairment.

Physicians are required to use the most current AMA Guides to the Evaluation of Permanent Impairment available at time of rating the impairment. Where injuries leave objective or subjective impairments not measured by the AMA Guides the OWCP is required to consider pain, atrophy, deformity, loss of sensation, loss of strength, marked sensitivity to heat or cold and soft tissue damage (scarring, discoloration), in addition to the AMA Guides. Therefore, in addition to the AMA guidelines above, CE's (Claims Examiners) should advise any physician evaluating permanent impairment to report objective or subjective impairments which cannot easily be measured by the AMA Guides. Some examples are:

(a) Pain **(b)** Atrophy **(c)** Deformity **(d)** Loss of sensation **(e)** Loss of strength **(f)** Marked sensitivity to heat or cold **(g)** Soft tissue damage (scarring, discoloration). An amended award should be sought when you can show that you are entitled to a greater percentage of loss even after payment of the SA. An Amended SA can also be paid if you sustain an increased impairment at a later date due to work related factors.

Concerning the need for an amended award, the FECA BULLETIN 01-05 states "A claimant who has received a schedule award calculated under a previous edition may later make a claim for an increased award, which should be calculated according to the 6th edition."

The FECA provides for the payment of a Schedule Award. Schedule Awards are defined as an award of compensation payable for a set number of weeks for the loss or loss of use of a part of the body, whether total or partial.

The degree of impairment is established by medical evidence and expressed as a percentage loss of the member involved. Permanent impairment may originate either within the affected member (i.e., loss of use of your arm in a Carpal Tunnel Syndrome claim) or another part of the body (i.e., a back injury may result in impairment to a leg) for which a Schedule Award would be payable. A claimant may also receive an Award for more than one part of the body concerning a single injury (i.e., a back injury may result in impairment to a leg and an arm).

An injured worker should only apply for a Schedule Award after having reached maximum medical improvement (MMI) and are back to work full time (even in a limited duty capacity) or retiring. The OWCP will not pay compensation for wage loss (i.e., time in LWOP-IOD being paid by OWCP) and a Schedule Award at the same time. In order to apply for a Schedule Award, you need to submit a CA-7. **Pg. 5**

The treating physician should be advised to use the American Medical Association's Guides to the Evaluation of Permanent Impairment, Sixth Edition, and to report findings in accordance with those guidelines. Injuries sometimes leave objective or subjective impairment that cannot easily be measured by the AMA Guides. Some examples are: pain, atrophy, deformity, loss of sensation, loss of strength, marked sensitivity to heat or cold, and soft tissue damage such as scarring and discoloration. The effects of such factors should be explicitly considered along with the impairment measurable by the AMA Guides (6th Edition).

To support a Schedule Award, the file must contain competent medical evidence which:

- Shows that the impairment has reached a permanent and fixed state (MMI) and indicates the date on which this occurred (date of maximum medical improvement).
- Describes the impairment in sufficient detail for the Claims Examiner to visualize the character and degree of disability; and
- Gives a percentage evaluation of the impairment (in terms of the affected member or function, not the body as a whole, except for impairment to the lungs).

The treating physician should also provide a detailed description of the impairment which includes, where applicable, the loss in degree of active and passive motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbances of sensation, or other pertinent description of impairment.

Once all of the medical evidence has been submitted to OWCP, the Claims Examiner will review the file for completeness and forward the entire case file to the District Medical Advisor (DMA) for verification. If there is no conflict in medical opinion, you will be notified of the details concerning your Schedule Award. If there is a conflict, the Claims Examiner will schedule a second opinion or contact the physician for clarification.

Terry C Ehlers 801-694-2558

If I can be of assistance please call me



NALC Health Benefit Plan

Jimmy Kerekes Jr

For all new hires, CCA'S, I'm going to reprint the information given by the NALC Health Plan that explains your options. There are two options.

Option 1: If you are a 360-day CCA, you have three options: (1) You can choose self-only or self & family coverage in the USPS Non-career Plan and receive a \$125 contribution to the premium every two weeks; (2) As a NALC member, you can choose to become a member and select self and family coverage (not self only) from the NALC Consumer Driven Plan or Value Option Plan and receive the \$125 bi-weekly contribution from USPS ; or (3) You can choose self-only or self and family coverage in any plan offered through the FEHB Program, but receive no contribu-

tion toward premium costs.

Option 2: If you have not completed a 360-day period of service, you have only one plan option: You can choose to enroll in the USPS Non-career Plan (with either self-only or family coverage) and receive the \$125 bi-weekly premium contribution from the Postal Service. However, if the NALC prevails in its dispute with the USPS, you may also have the option in the future to choose self and family coverage under either version of the NALC Consumer Driven Plan or Value Option Plan and receive the \$125 bi-weekly contribution from the USPS.

Those of you who are union members can call me or if not a member of the union join and I can help you with choices for health coverage. I also have one copy of all the other health plans in the FEHB program. When any of you get the big benefits packet from the post office, you usually have 60 days to sign up for health and life insurance. I am willing to help. So call me if you want help. My phone # is on the back of this issue.

Remember, by joining the union, you get benefits to protect your job. Those and other benefits are too numerous to mention but a couple are your rights and wages. Be diligent, good luck in your careers and we are here to support you.



The political wheels are turning in Utah the legislators are meeting up on Utah’s Capitol Hill. Every Wednesday the AFL-CIO and other members from local unions meet and review bills that affect labor and our members. At each meeting we vote on which bills to support, oppose, or to just watch. The outcome is recorded and then given to all the Senators and Representatives that have our labor endorsement. It is so amazing to see how much work and support that the AFL-CIO has given to all its members.

We have a couple of important dates approaching. March 18th is the Democratic Neighborhood Caucus and March 20th is the Republican Neighborhood Caucus. This is where the delegates for each party will come from. Each delegate will then be able to go to their party’s local convention where they will then vote for the political candidates that will run for office in their party. As Letter Carriers and as Labor we need as many delegates as we can get in this process. On March 1st 2014 there will be a How to Become a Delegate training. It will start at 9:00 AM. It will be held in the Salt Lake County Council Chambers building 2001 S. State Street North Building, SLC UT. Let’s get as many people as we can to this training.


S-1486 went before the Homeland Security and Government Affairs Committee on Feb 6th it was approved by a vote of 9 to 1. As written, S-1486 would end door delivery, eliminate Saturday delivery, authorize the mailing of distilled spirits, wine, or malt beverages, it removes Postmaster General, and the Deputy Postmaster General from the Board of Governors, reduces FECA benefits for totally disabled enrollees to 50% of their pre-disability pay. This is not a bill to help the Postal Service as it still requires us to pre-fund for our future retirees Health Care, but only at 80% instead of 100%. President Fredric Rolando said S-1486 would only send the USPS on a down ward trajectory.

We need to inform our Senators, our Representatives, and our customers of the truth behind this bill, inform them how the Postal Service is an operational profitable company if not for the pre-funding mandate. It was just released that the Postal Service posted a \$765 million dollar operational profit for quarter 1 2014. One of the best tools we have as Letter Carriers to get this information out is through our legislative team and this team relies on COLCPE contributions. The money from COLCPE goes to help provide for rallies, to help open up a chain of communications to our elected officials. If you don’t have automatic deductions for COLCPE you should it is another form of job insurance for you and your fellow co-workers. Get with your local shop steward and sign up.

We will be looking for volunteers to help out with some campaigning events in our state we have Luz Robles running against Chris Stewart in District 2, Doug Owens is running in district 4 Jim Matheson’s old district. Keep an eye out for more information coming, get involved.

Chad Mortensen

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