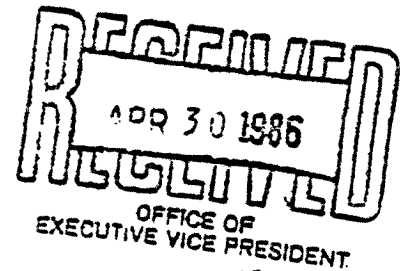




UNITED STATES POSTAL SERVICE
475 L'Enfant Plaza, SW
Washington, DC 20260



APR 29 1986

Mr. William Burrus
Executive Vice President
American Postal Workers
Union, AFL-CIO
817 14th Street, N.W.
Washington, D.C. 20005-3399

Re: M. Biller
Washington, D.C. 20005
H1C-NA-C 106

Dear Mr. Burrus:

On April 15, 1986, and again on April 24, 1986, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The issue in this grievance is whether management can properly terminate Continuation of Pay (COP) when converting a claim beyond the circumstances of Part 545.51 of the Employee and Labor Relations Manual (ELM).

During our discussion, we mutually agreed that the following constitutes full and final settlement of this case:

Controversion with termination of pay shall only be effected based upon the conditions listed in Part 545.51 of the ELM.

Please sign and return the enclosed copy of this letter as your acknowledgment of agreement to settle this case.

Time limits were extended by mutual consent.

Sincerely,

Muriel A. Aikens

Muriel A. Aikens
Labor Relations Department

William Burrus

William Burrus
Executive Vice President
American Postal Workers
Union, AFL-CIO

b. If the recurrence is within 6 months of the date the employee first returned to work following the initial period of disability. If the recurrence occurs more than 6 months after the employee returned to work following the initial disability, regular pay may not be continued, even if some portion of the 45 days remains unused. In this case, the employee is entitled only to sick or annual leave and to OWCP compensation.

545.3 Time Limit

The control office/control point submits:

a. Completed Form CA-1 or CA-2 to the appropriate OWCP district office within 2 working days after it is received from the employee.

b. Any other information or documents bearing on the claim.

545.4 Exceptions

.41 Form CA-1 or CA-2 is completed in every injury case. However, completed forms are not sent to OWCP if:

a. The injury does not cause incapacity for work beyond the day or shift it occurred, and

b. It appears that the injury will not result in prolonged treatment, permanent disability, or serious disfigurement of the head, face, or neck, and

c. The injury has not resulted, or apparently will not result, in a charge for medical or other related expenses.

.42 If all 3 of the above conditions are met, the CA-1 or CA-2 must be filed in the injured employee's official personnel folder, instead of being sent to OWCP.

545.5 Controversion

.51 With Termination of Pay

On the basis of information submitted by the employee or secured through an independent investigation, the USPS may controvert a claim for compensation. In traumatic injury cases, an employee's continuation of pay should be terminated only if:

a. The disability is the result of an occupational disease or illness, as defined in 541.2. (The employee may apply for compensation, or take annual or sick leave, but is not entitled to continuation of regular pay for an occupational disease or illness under FECA.)

b. The injury occurred off USPS premises when the employee was not engaged in official duties.

c. The injury was caused by:

- (1) The employee's willful misconduct; or
- (2) The employee's intent to bring about injury or death to self or another person; or
- (3) The employee's intoxication which was the proximate cause of the injury.

d. The first absence caused by the injury occurred 6 months or more after the injury.

e. The employee failed to make an initial report of the injury until after employment was terminated.

f. The injury was not reported on Form CA-1 within 30 days following the injury.

.52 **Without Termination of Pay.** In all other cases where controversion is proper, the control office/control point will controvert the claim. However, pay must be continued if continuation of pay is applicable and applied for unless the claim falls within one of the grounds for termination of pay listed in 545.51.

.53 **Control Office Procedures.** When a claim is controverted, the control office/control point will ensure that the CA-1 is properly completed and that the controversion package is adequately documented. Each case will be tailored to the facts. Form letters and repetitive formats will be avoided. All controversion packages will be transmitted to the OWCP district office by a cover letter with detailed information on the reasons for the controversion.

.54 Form CA-1 Instructions

.541 Before the controversion package is submitted, the CA-1 should be carefully reviewed for completeness and accuracy. Item 42 on the CA-1 should be clearly marked and a full explanation for the basis of the controversion provided.

.542 If additional information in support of the controversion is to be sent at a later date under a separate cover, this must be stated in the cover letter and in Item 42 on the CA-1 before the package is submitted to the OWCP district office.

.543 Form CA-1 must not be delayed pending the collection of data to support a controversion. The Form CA-1 is promptly sent to the OWCP office, with a notation on the CA-1 and a cover letter advising that the claim is being controverted and that information to support the controversion is forthcoming.

.544 Proper identification of controverted claims is essential to permit the OWCP offices to give these claims priority in processing and to avoid the possibility of substantial, erroneous payments of regular pay which would have to be recovered from the employee.

.55 **Controversion Denied by OWCP.** If a controversion is denied by OWCP, the control point may submit a copy of the CA-1 and all other relevant documents to the MSC E&LR director or counterpart, for review and any necessary resubmission, if warranted. Cases that are not resolved, to the satisfaction of field management, may be forwarded to the Regional Injury Compensation Program Administrator, with a recommendation for further action.

.56 **45-Day Continuation of Pay.** The employee's regular pay is continued for up to 45 calendar days unless:

a. The controversion has been upheld by OWCP and the installation head has been notified; or

b. The treating physician notifies the control office that the employee is no longer disabled.



American Postal Workers Union, AFL-CIO

97B

817 Fourteenth Street, N.W., Washington, D.C. 20005 • (202) 842-4250

MOE BILLER
President

April 18, 1984

James Gildea
Assistant Postmaster General
Labor Relations Department
United States Postal Service
475 L'Enfant Plaza, S.W.
Washington, D.C. 20260

Dear Mr. Gildea:

In accordance with provisions of Article 15 the Union submits the following issue at Step 4 as an interpretive dispute.

The Employer's letter of April 11, 1984 included responses from the Office of Workers' Compensation (OWCP) dated September 28, 1978 and February 22, 1983. The union does not interpret Sections 545.56 and 545.62 or other provisions of the ELM as incorporating the cited letters from OWCP.

The union interprets Subchapter 545.51 as controlling in the Employer's right to terminate pay.

Sincerely,

Moe Biller
Moe Biller
President

MB:WB:mc

NATIONAL EXECUTIVE BOARD • MOE BILLER, President

WILLIAM BURRUS
Executive Vice President
DOUGLAS HOLBROOK
Secretary-Treasurer
JOHN A. MORGAN
Director, Clerk Division

RICHARD J. WENODAU
Director, Maintenance Division
LEON S. HAWKINS
Director, MVS Division
CAROLLE ANDERSON
Director, SQM Division

THOMAS A. NEILL
Industrial Relations Director
KEN LEINER
Director, Mail Carrier Division

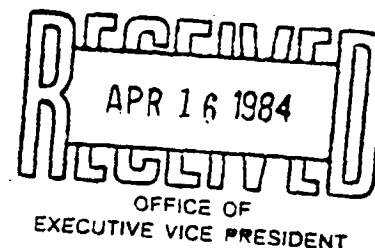
REGIONAL COORDINATORS
RANDALL K. VIGORE
Western Region
JAMES B. WILSON
Central Region

PHILIP C. FLEMING, JR.
Eastern Region
NEAL VACCARO
Northwestern Region
FRANCIS S. SIBURY
Southern Region



UNITED STATES POSTAL SERVICE
475 L'Enfant Plaza, SW
Washington, DC 20260

April 11, 1984



Mr. William Burrus
Executive Vice President
American Postal Workers
Union, AFL-CIO
817 14th Street, N.W.
Washington, D.C. 20005-3399

Dear Mr. Burrus:

This is in response to your February 22 letter requesting the identification of circumstances in which the Postal Service may terminate Continuation of Pay (COP) benefits exclusive of subchapter 545.51 of the Employee and Labor Relations Manual (ELM).

In response to specific inquiries, the Office of Workers Compensation (OWCP) on two occasions (September 28, 1978, and February 22, 1983) provided the Postal Service with policy interpretations. These letters are enclosed for your review. We believe these situations, while not addressed in ELM 545.51, are incorporated in ELM 545.56 and 545.62.

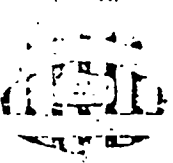
Also, on February 5, 1979, the OWCP stated that it would not be unreasonable for the Postal Service to require a medical report to determine if an employee should be placed in a COP status. Such a medical report would be necessary to substantiate a job caused traumatic injury and disability in instances where there are unwitnessed or highly questionable alleged job-related injuries.

We trust this satisfactorily answers your inquiry.

Sincerely,

W. E. Henry Jr.
William E. Henry Jr.
Director
Office of Grievance
and Arbitration
Labor Relations Department

Enclosures



American Postal Workers Union. AFL-CIO

1117 Fourth Street, N.W., Washington, D.C. 20005 • (202) 642-4200

WILLIAM BURRUS
Executive Vice President

February 22, 1984

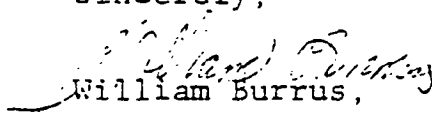
William E. Henry, Jr., Director
Office of Grievance and Arbitration
Labor Relations Department
United States Postal Service
475 L'Enfant Plaza, S.W.
Washington, D.C. 20260

Dear Mr. Henry:

This is in further response to your letter of February 17, 1984 informing me that the Postal Service "generally agree(s) with (my) interpretation of the cited provisions." You further state that the Office of Workers' Compensation identifies other circumstances exclusive of the items listed in 545.51.

I request the identification of the other circumstances and whether or not the Postal Service relies upon them to stop payment?

Sincerely,


William Burrus,

Executive Vice President

WB:mc

NATIONAL EXECUTIVE BOARD • MOE ELLER, President

WILLIAM BURRUS
Executive Vice President
JAMES ASH-O'CONNOR
National Treasurer
JAMES STOKES, JR.
National Secretary

KATHARINE WOODHEAD
Director, Membership & Public
Relations
DORIS M. HARRIS
Assistant Secretary

JOHN E. RICHARDS
Assistant Secretary of Internal
Affairs
JAMES M. HANCOCK, Director

REGIONAL COORDINATORS
EAST DIVISION: JAMES
WEST DIVISION: JAMES
SOUTHWEST DIVISION: JAMES
NORTH DIVISION: JAMES

PHILIP C. FLEMING, JR.
Eastern Region
SEAL S. MCCABE
Northeastern Region
ARCHIE S. SAUNDERS
Southern Region



UNITED STATES POSTAL SERVICE
475 L'Enfant Plaza, SW
Washington, DC 20260

February 17, 1984

Mr. William Burrus
Executive Vice President
American Postal Workers Union,
AFL-CIO
817 14th Street, N.W.
Washington, D.C. 20005-3399

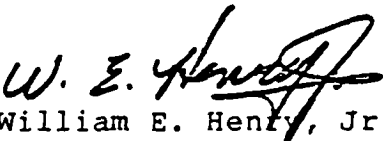
Dear Mr. Burrus:

This is in response to your January 20 letter to Mr. Gildea concerning the provisions of subchapter 545.51 of the Employee and Labor Relations Manual (ELM).

We generally agree with your interpretation of the cited provision. As stated in subchapter 545.52 "pay must be continued if continuation of pay is applicable and applied for unless the claim falls within one of the grounds for termination of pay listed in 545.51." This provision does not allow for expansion beyond the items listed in 545.51.

For your information, however, there are circumstances identified by the Office of Workers' Compensation where termination of COP is proper, exclusive of the items listed in 545.51.

Sincerely,



William E. Henry, Jr.
Director
Office of Grievance and
Arbitration
Labor Relations Department

American Postal Workers Union. AFL-CIO

1177 Constitution Street, N.W. Washington, D.C. 20005 • (202) 842-4141

1177 Constitution Street, N.W.
Washington, D.C. 20005

January 20, 1984

James Gildea
Assistant Postmaster General
Labor Relations Department
United States Postal Service
475 L'Enfant Plaza, S.W.
Washington, D.C. 20260

Dear Mr. Gildea:

The rights of bargaining unit employees under the Injury Compensation Program are incorporated in the National Agreement through provisions of Article 19 of the 1981 National Agreement. These provisions at Subchapter 545.5 define conditions under which the employer may discontinue continuation of pay when controverting a claim. Provisions at Subchapter 545.51 are specific in requiring that in all other cases where controversion is proper pay must be continued if continuation of pay is applicable.

Local officers are repeatedly refusing to place employees in a COP status when the claim is being controverted for reasons other than those listed at 545.51.

This is to determine whether a dispute exists between the union and the employer that continuation of pay cannot be stopped by the employer except for the reasons specifically stated at 545.51 and in all other cases where controversion occurs payment must be continued.

Sincerely,

William Burrus
William Burrus

Executive Vice President

WB:mc

NATIONAL EXECUTIVE BOARD • MOE BILLER, President

WILLIAM BURRUS
Executive Vice President
DOL GLAS HOLEBROOK
Secretary-Treasurer
JOHN A. MINGEN
Director, Clerk Division

RICHARD J. WEVODAU
Director, Maintenance Division
LEON S. HAWKINS
Director, MVS Division
MUE BENNER
Director, SDM Division

JOHN P. RICHARDS
Industrial Relations Director
EEN LEINER
Director, Mail Handling Division

REGIONAL COORDINATORS
RAYDELL R. MOORE
Western Region
JAMES P. WILLIAMS
Central Region

PHILIP C. FLEMING, JR.
Eastern Region
NEAL VACCARO
Northeastern Region
ARCHIE SALISBURY
Southern Region