

## § 10.826

the six-month period immediately preceding the order of exclusion.

(b) Notwithstanding any exclusion of a physician, hospital, or provider of medical services or supplies under this subpart, OWCP shall not refuse an employee reimbursement for any otherwise reimbursable medical treatment, service or supply if:

(1) Such treatment, service or supply was rendered in an emergency by an excluded physician; or

(2) The employee could not reasonably have been expected to have known of such exclusion.

(c) An employee who is notified that his or her attending physician has been excluded shall have a new right to select a qualified physician.

### § 10.826 How can an excluded provider be reinstated?

(a) If a physician, hospital, or provider of medical services or supplies has been automatically excluded pursuant to § 10.816, the provider excluded will automatically be reinstated upon notice to OWCP that the conviction or exclusion which formed the basis of the automatic exclusion has been reversed or withdrawn. However, an automatic reinstatement shall not preclude OWCP from instituting exclusion proceedings based upon the underlying facts of the matter.

(b) A physician, hospital, or provider of medical services or supplies excluded from participation as a result of an order issued pursuant to this subpart may apply for reinstatement one year after the entry of the order of exclusion, unless the order expressly provides for a shorter period. An application for reinstatement shall be addressed to the Director for Federal Employees' Compensation, and shall contain a concise statement of the basis for the application. The application should be accompanied by supporting documents and affidavits.

(c) A request for reinstatement may be accompanied by a request for oral argument. Oral argument will be allowed only in unusual circumstances where it will materially aid the decision process.

(d) The Director for Federal Employees' Compensation shall order reinstatement only in instances where such

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reinstatement is clearly consistent with the goal of this subpart to protect the FECA program against fraud and abuse. To satisfy this requirement the provider must provide reasonable assurances that the basis for the exclusion will not be repeated.

### PART 25—Compensation for Disability and Death of Noncitizen Federal Employees Outside the United States

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AUTHORITY: 5 U.S.C. 301, 8137, 8145 and 8149; 1946 Reorganization Plan No. 2, sec. 3, 3 CFR 1943-1948 Comp., p. 1064; 60 Stat. 1095; Reorganization Plan No. 19 of 1950, sec. 1, 3 CFR 1943-1953 Comp., p. 1010; 64 Stat. 1271; Secretary's Order 5-96, 62 FR 107.

SOURCE: 63 FR 65340, Nov. 25, 1998, unless otherwise noted.

**Subpart A—General Provisions****§ 25.1 How are claims of Federal employees who are neither citizens nor residents adjudicated?**

This part describes how OWCP pays compensation under the FECA to employees of the United States who are neither citizens nor residents of the United States, any territory or Canada, as well as to any dependents of such employees. It has been determined that the compensation provided under the FECA is substantially disproportionate to the compensation for disability or death which is payable in similar cases under local law, regulation, custom or otherwise, in areas outside the United States, any territory or Canada. Therefore, with respect to the claims of such employees whose injury (or injury resulting in death) has occurred subsequent to December 7, 1941, or may occur, the regulations in this part shall apply.

**§ 25.2 In general, what is the Director's policy regarding such claims?**

(a) Pursuant to 5 U.S.C. 8137, the benefit features of local workers' compensation laws, or provisions in the nature of workers' compensation, in effect in areas outside the United States, any territory or Canada shall, effective as of December 7, 1941 and as recognized by the Director, be adopted and apply in the cases of employees of the United States who are neither citizens nor residents of the United States, any territory or Canada, unless a special schedule of compensation for injury or death has been established under this part for the particular locality, or for a class of employees in the particular locality.

(b) The benefit provisions adopted under paragraph (a) of this section are those dealing with money payments for injury and death (including medical benefits), as well as those dealing with services and purposes forming an integral part of the local plan, provided they are of a kind or character similar to services and purposes authorized by the FECA.

(1) Procedural provisions, designations of classes of beneficiaries in death cases, limitations (except those affecting amounts of benefit pay-

ments), and any other provisions not directly affecting the amounts of the benefit payments, in such local plans, shall not apply, but in lieu thereof the pertinent provisions of the FECA shall apply, unless modified in this section.

(2) However, the Director may at any time modify, limit or redesignate the class or classes of beneficiaries entitled to death benefits, including the designation of persons, representatives or groups entitled to payment under local statute or custom whether or not included in the classes of beneficiaries otherwise specified by this subchapter.

(c) Compensation in all cases of such employees paid and closed prior to January 4, 1999 shall be deemed compromised and paid under 5 U.S.C. 8137. In all other cases, compensation may be adjusted to conform with the regulations in this part, or the beneficiary may by compromise or agreement with the Director have compensation continued on the basis of a previous adjustment of the claim.

(d) Persons employed in a country or area having no well-defined workers' compensation benefits structure shall be accorded the benefits provided—either by local law or special schedule—in a nearby country as determined by the Director. In selecting the benefit structure to be applied, equity and administrative ease will be given consideration, as well as local custom.

(e) Compensation for disability and death of non-citizens outside the United States under this part, whether paid under local law or special schedule, shall in no event exceed that generally payable under the FECA.

**§ 25.3 What is the authority to settle and pay such claims?**

In addition to the authority to receive, process and pay claims, when delegated such representative or agency receiving delegation of authority shall, in respect to cases adjudicated under this part, and when so authorized by the Director, have authority to make lump-sum awards (in the manner prescribed by 5 U.S.C. 8135) whenever such authorized representative shall deem such settlement to be for the best interest of the United States, and to compromise and pay claims for any benefits provided for under this part,