

# Employee's Protected Health Information Federal Workers' Compensation

OWCP • Office of Workers' Compensation Programs

## Employers Do Not Have Automatic Access to an Employee's Protected Health Information (PHI)

- Employers cannot talk to an injured employee's treating physicians.
- Employers can only contact physicians in writing requesting work limitations:
  - Form CA-17 Duty Status Report
  - Form OWCP-5c Work Capacity Evaluation Musculoskeletal Conditions
  - Periodic Medical Reports addressing employee's ability to return to work.
- Employer's Medical Clinics and Physicians:
  - Employees have the sole right to select their treating doctors.
  - Employees may to select or refuse treatment from the employer's physicians.
  - Employers can require employee be evaluated concerning work by their physicians.
  - Employer's medical clinics must send PHI only to OWCP, the employee, the employee's representative and the employee's selected physician.
- OWCP does have access to an employee's PHI: Claims Examiners, District Medical Advisors, Second Opinion Physicians, and Nurse Case Managers.OWCP.
- Employees can file a Health Insurance Portability & Accountability Act (HIPAA) complaint if an employer's medical clinic or physician incorrectly release their PHI.

### 20 CFR §10.506 May the employer monitor the employee's medical care?

The employer may monitor the employee's medical progress by obtaining periodic medical reports. Form CA-17 is usually adequate for this purpose. To aid in returning an injured employee to suitable employment, the employer may also contact the employee's physician in writing concerning the work limitations imposed by the effects of the injury and possible job assignments. However, the employer shall not contact the physician by telephone or through personal visit. When such contact is made, the employer shall send a copy of any such correspondence to OWCP and the employee, as well as a copy of the physician's response when received. The employer may also contact the employee at reasonable intervals to request periodic medical reports addressing his or her ability to return to work.

### To Physicians:

- Send an Employee's PHI Only to OWCP and the employee and/or their representative.
- Employees can authorize their PHI be sent to their attorney or union representative.
- Physicians can communicate with other treating physicians.
- Be careful! A request for PHI on a government agency's letterhead does not always meet HIPAA requirements or have the employee's written authorization.