



Employee's Protected Health Information (PHI)

Federal Workers' Compensation (FECA)

Office of Workers' Compensation Programs (OWCP)

Federal Agencies HR Departments Beware!

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 **[Not General Health Information]**.

Privacy Act of 1974

- ◆ Federal employees and/or their agency can be fined.

HIPAA Health Insurance Portability and Accountability Act 1996

- ◆ Ignoring HIPAA rules can result in your federal agency paying significant fines.
- ◆ The Office of Civil Rights gets to keep your federal agency's money!

Bivens Actions

- ◆ Federal Agents can be sued by Federal employees.
- ◆ United States Supreme Court: *Bivens v. Six Unknown Agents*, 403 U.S. 388 (1971).



Physicians Beware ☛ Many Federal HR Departments Do Not Know the Laws!

- Do not be fooled with a medical records request just because it has official government logos.
- Only OWCP determines if and what Protected Health Information is to be provided to the employer.



Employees: If Your Agency Requests Medical Information from You or Your Doctor

- Only Acceptable Forms: Form CA-17 Duty Status Report or Form CA-OWCP-5c Work Capacity Evaluation for Musculoskeletal Conditions
- ECOMP your employer's request to OWCP with your letter asking OWCP if you must comply.
- Give your employer this information handout.

Date: _____

From: Ellis Clinic, PC

To: Federal Agency: _____

and

To: Employee: _____

As per above, an Agency must contact the Office of Workers' Compensation Programs and provide reasons why they need this employee's PHI.

Enclosed: Copy of Agency's Request for Ellis Clinic to Provide Employee's Protected Health Information (PHI), Dated: _____



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