

MARO Regional Partnership Committee

March 8, 2008

Issue:

To provide some clarity and direction of the Worker's Compensation Program to volunteers working on the Appalachian Trail.

Background:

When a volunteer is injured while working on the Appalachian Trail they are considered federal employees for the purposes of medical compensation for injuries. They are also considered federal employees for tort claims arising out of their activities as a volunteer. As such they are legally protected by the Federal Tort Claims Act and the Federal Employees Compensation Act.

The responsibility for the implementation of the U.S. Department of Labor's Office of Worker's Compensation Program (OWCP) rest with each park unit. The authorization is derived by Public Law 91-357: the National Park Services Volunteers-In-Parks Program. Volunteers assist the National Park Service in diverse and innovative ways. The National Trails System Act affirms the critical importance of volunteers to NPS-administered trails.

The Park Volunteer Coordinator is charged with developing and operating a VIP program that fits the conditions and needs of their particular park. Guidance is provided in Reference Manual and Director's order #7. Director's Order #50: Worker's Compensation Case Management addresses risk management, worker safety and claim management. It has been expanded to three parts.

Rita Hennessy serves as the VIP Coordinator for the Appalachian Trail Park Office. Chief Ranger Remaley is tasked with the OWCP Coordinator responsibilities.

Current Situation:

Applying a workable Worker's Compensation Program to the diverse and decentralized AT volunteer corps is challenging. This challenge has traditionally been met by supplying a packet containing several forms with instructions to those volunteers in leadership/supervisory positions.

Packet Contents:

- Trail Maintenance and Construction Tasks, Their Hazards and Recommended Safety Gear
- CA-1 Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation
- CA-2 Notice of Occupational Disease and Claim for Compensation
- CA-16 Authorization for Examination And/Or Treatment

The packets instructions direct the leader to assist the injured party in getting emergency care followed by contacting the Chief Ranger as soon as possible after the emergency. Filling out the paper copy of the CA-1 form as soon as possible will serve as a vital reference for the OWCP Coordinator's electronic submittal of this same information. Ideally, the CA-16 is completed before emergency care is completed. It serves as the document that permits the care and initiates the OWCP claim. Practically speaking, even in a more traditional park environment, completion of this paperwork occurs hours or days later. This generally does not affect the processing of the claim. The process to seek reimbursement is often long and cumbersome.

One determination that will need to be made soon after the claim is filed is the land ownership at the exact location where the incident occurred. The National Park Service provides protection when the accident occurs on AT sections owned or administered by the National Park Service, a state agency or a private land owner. Coverage on USFS owned or administered lands will be covered by them under the VIF (Volunteer-In-Forest) program. If the accident occurs in another NPS Unit, they may cover the claim. This will depend on the clubs relationship to that park unit and will need to be determined soon after the incident. It is possible that regional clubs will have established relationships with state or local agency partners that provide coverage. Coverage in these situations may have to, and can be, determined post accident.

CHANGES:

Upon initial review it was believed that there was a need for major changes in how we implemented the OWCP. After further consideration and input from other NPS VIP and OWCP Coordinators, it appears that modest changes were best.

Tradition VIP packets will be available soon in the paper form. Plans are to have them available online as well.

The LMPG Appendix K: The Volunteers-in-the-Parks and Volunteers-in-Forest Programs and VIP&VIF Protection on the Appalachian Trail provides direction on VIP and VIF coverage. It has been reviewed and updated and will be available on the ATC website.

Q&As

Is an employee/volunteer required to use OWCP instead of their personal insurance?

No. OWCP can provide cost recovery like personal insurance but it was described by the Solicitor's office as an abbreviated tort process against the government and not an insurance policy. Although unlikely, if an insurance company chose, they could file a tort claim against the government to seek reimbursement.

Are volunteer employees covered under OWCP during travel to and from the work site?

No. Coverage begins upon arrival.

What affiliation to the club is necessary for a volunteer to be covered?

For the purposes of OWCP coverage, a VIP is anyone who performs work for the NPS under a current volunteer agreement. Blanket agreements are in place with many clubs that permit non-affiliated volunteers to be included by way of a field roster. The agreements are to designate the VIP's supervisor and contain an accurate job description.