

## **Clarification of mileage and other issues regarding limited duty assignments outside of regular hours and/or duty station**

### **Introduction**

ELM 546.142 requires the Postal Service to make every effort toward assigning limited duty consistent with medical limitations to partially recovered employees who have on-the-job injuries. In assigning such limited duty, the Postal Service is required to minimize the adverse impact on the employees by following the 'pecking order' found at ELM 546.142a1-4.

This provision requires the Postal Service to provide work within the employee's medical restrictions in the employee's own craft, regularly assigned facility and regular work hours, unless such work does not exist. If such work does not exist, the Postal Service must provide work following the pecking order. The last element of the pecking order includes work outside of the work facility to which the employee is regularly assigned, outside of the employee's craft and outside of the employee's normal work hours.

When work is not available higher in the pecking order, and work is assigned outside normal hours and/or the regular work facility, questions may arise regarding out-of-schedule pay, pay for commute time, and mileage reimbursement (travel expenses). This analysis addresses those issues in the context of limited duty jobs.

### **Out-of-Schedule Pay**

Eligible full-time bargaining unit employees generally receive out-of-schedule premium for time worked outside of, and instead of, their regularly scheduled workday or workweek while on temporary assignments at the request of management. See National Agreement Article 8.4B and ELM 434.6. However, there are exceptions to that general rule. One exception occurs when an employee is assigned to limited duty outside his or her normal hours. See ELM 434.622f and F-21 232.23b. Thus, employees are not entitled to out-of-schedule

pay when their regular schedules are properly changed in order to provide limited duty, in accordance with ELM 546.142 a1-4 (i.e., where work is not available within the employee's regular schedule).\*

### Pay for Additional Travel Time

When limited duty is provided at a work location outside of an employee's normal duty station, questions about pay (wages) for travel time may arise.

ELM 438.121 provides that commuting time before or after the workday between an employee's home and official duty station or any other location within the local commuting area is a normal incident of employment and is not compensable.

Thus, employees are not entitled to payment of wages for commute time between home and a temporary duty station within the local commuting area where work is properly provided in accordance with ELM 546.142a1-4.\*

The local commuting area is defined at ELM 438.11: *the suburban area immediately surrounding the employee's official duty station and within a radius of 50 miles.*

However, sometimes the Postal Service provides a limited duty job that involves daily duties in more than one work location. In these circumstances, time during a service day spent in travel from one job site to another without a break in duty status within a local commuting area is compensable. See ELM 438.132a.

### Mileage Reimbursement

ELM 438.121

*Commuting time before or after the regular workday between an employee's home and official duty station or any other location within the local commuting area is a normal incident of employment and is not compensable.*

ELM 438.121 has sometimes been misinterpreted to preclude payment of mileage reimbursement for commute travel to a temporary duty station. But ELM 438.121

addresses the issue of payment of wages for commuting time, not payment of commuting expenses. ELM 438.16 dispels that misinterpretation.

ELM 438.16

*The rules stated in 438.1, Pay During Travel, do not affect the entitlement of employees to other types of reimbursement under applicable regulations, such as reimbursement of certain travel expenses and per diem.*

There are applicable regulations providing for mileage reimbursement when a Letter Carrier is given a temporary assignment to a work location other than the official duty station.

National Agreement Article 36.2

***Section 2. Travel, Subsistence and Transportation***

*A. The Employer shall continue the current travel, subsistence and transportation program.*

*B. Employees will be paid a mileage allowance for the use of privately owned automobiles for travel on official business when authorized by the Employer equal to the standard mileage rate for use of a privately owned automobile as authorized by the General Services Administration (GSA). Any change in the GSA standard mileage rate for use of a privately owned automobile will be put into effect by the Employer within sixty (60) days of the effective date of the GSA change.*

*(The preceding Article, Article 36, shall apply to **City Carrier Assistant Employees.**)*

F-15 7-1.1.1.2:

*Local travel is defined as travel to a location within a 50-mile radius of your permanent duty station in which overnight lodging is not needed...*

*For local travel, the Postal Service reimburses you for your actual expenses – all reasonable subsistence expenses that you incur as a result of your official travel...*

*Mileage. When it is advantageous to the Postal Service, you may be authorized to depart directly from and return directly to your home. The Postal Service may reimburse you for any mileage that exceeds the distance*

*between your home and your permanent duty station. If mileage is less than that between your home and your permanent duty station, you may not claim a mileage reimbursement. You may claim out-of-pocket expenses such as tolls, parking etc.*

The Postal Service has agreed that the 'local travel' provisions, including mileage, currently found in the F-15 Section 7-1 apply to Letter Carriers who are temporarily assigned to work outside their official duty station. A national level agreement establishes this fact.

M-00347 (5/6/1985)

This national level settlement addressed the issue of pay (wages) for travel time and expenses (mileage) when letter carriers were loaned out to other installations. It states:

*We... agreed that management is not precluded from detailing regular carriers to other installations and that, in accordance with subsection 438.121 of the Employee and Labor Relations Manual, the grievants are not entitled to travel time compensation. However, per the M-9 Handbook, subsection 612 and 614b, the grievants are entitled to be compensated for the difference in mileage normally traveled and that traveled while on detail.*

The M-9 Handbook is currently obsolete and has been replaced by the F-15. However, the cited language from the M-9 is essentially the same as the pertinent language in the F-15.

M-9 Section 610

**LOCAL TRAVEL**

**611 Definition**

*Local travel is defined as travel within or adjacent to an employee's official station.*

**612 "Adjacent to"**

*Travel "adjacent to" means travel in suburban areas immediately surrounding the official station, within a radius of 50 miles...*

*614 The following expenses will be reimbursable for local travel within or adjacent to an employee's official station:*

*b. Mileage (at the standard mileage rate) for use of privately owned automobile, less deduction for the distance normally traveled between home and official duty station...*

*c. Bridge, road, and ferry tolls.*

Thus, letter carriers working limited duty jobs outside their official duty stations but within the local commuting area are entitled to mileage reimbursement to the extent that their commute distance from home to temporary duty station exceeds their commute distance from home to official duty station. They may also be entitled to reimbursement of necessary tolls. The entitlement to mileage and toll expenses exists even in cases where there is no violation of the pecking order in ELM 546.142.

\*Sometimes the Postal Service provides limited duty lower in the pecking order when work higher in the pecking order is available, and thus violates ELM 546.142. When that happens, the employee has a right to both accept the limited duty job and grieve the contractual appropriateness. See M – 01120 and JCAM pages 13-11 and 13-12.

Grievances protesting violations of the pecking order may appropriately request remedies that include compensation for the violation. Many regional arbitrators have awarded remedies in pecking order cases where a violation is found. Arbitral remedies have included payment of an additional 50% for all hours worked outside of the regular hours, payment of an additional 50% for all hours worked outside of the official duty station, payment for time spent traveling to the assigned duty station, and other payments. Grievance officers should not hesitate to pursue appropriate remedies when the facts of a case support them.

As noted, in accordance with the analysis above, mileage reimbursement is always payable in accordance with the F-15 language, irrespective of whether a limited duty job outside the official duty station violates ELM 546.142.

### A final note

The Postal Service distinguishes between limited duty job assignments and rehabilitation assignments.

All limited duty job assignments are temporary assignments, usually documented on PS Form 2499, and therefore an employee's PS Form 50 should show no change in his or her official duty station. See EL 505 Chapter 7 Questions and Answers About Limited Duty. (Fourth Q&A)

Rehabilitation assignments are typically permanent reassignments. The employee's PS Form 50 will reflect permanent reassignment, including to a new duty station if such a change is included in the rehabilitation assignment. Where a rehabilitation assignment includes a permanent change in duty station documented on PS Form 50, there may be no F-15 7-1.1.1.1 entitlement to excess commute mileage because the employee will only be commuting to the (new) permanent duty station.

Of course, if the Postal Service offers a rehabilitation job that violates the pecking order in ELM 546.142, the employee has a right to both accept the job and grieve it. A grievance in such a case could appropriately seek mileage reimbursement, as well as other remedies. The analysis provided in the asterisk above applies equally to limited duty jobs and to rehabilitation jobs that violate ELM 546.142. A note at the end of ELM 546.142 makes it clear that the pecking order requirement applies to both limited duty and rehabilitation assignments: *Placement priority for rehabilitation assignment is the same as for limited duty.*