

112TH CONGRESS  
1ST SESSION

# H. R. 2465

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2011

Received; read twice and referred to the Committee on Homeland Security and  
Governmental Affairs

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## AN ACT

To amend the Federal Employees' Compensation Act.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Federal Workers’ Com-  
3 pensation Modernization and Improvement Act”.

4 **SEC. 2. PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE**  
5 **NURSES.**

6       (a) **DEFINITION OF MEDICAL SERVICES.**—Section  
7 8101(3) of title 5, United States Code, is amended—

8           (1) by striking “law. Reimbursable” and insert-  
9 ing “law (reimbursable”); and

10           (2) by inserting before the semicolon, the fol-  
11 lowing: “, and medical services may include treat-  
12 ment by a physician assistant or advanced practice  
13 nurse, such as a nurse practitioner, within the scope  
14 of their practice as defined by State law, consistent  
15 with regulations prescribed by the Secretary of  
16 Labor)”.

17       (b) **MEDICAL SERVICES AND OTHER BENEFITS.**—  
18 Section 8103 of title 5, United States Code, is amended—

19           (1) by redesignating subsection (b) as sub-  
20 section (c); and

21           (2) by inserting after subsection (a), the fol-  
22 lowing:

23       “(b) Medical services furnished or prescribed pursu-  
24 ant to subsection (a) may include treatment by a physician  
25 assistant or advanced practice nurse, such as a nurse  
26 practitioner, within the scope of their practice as defined

1 by State law, consistent with regulations prescribed by the  
2 Secretary of Labor.”.

3 (c) CERTIFICATION OF TRAUMATIC INJURY.—Section  
4 8121(6) of title 5, United States Code, is amended by in-  
5 serting before the period, the following: “(except that in  
6 a case of a traumatic injury, a physician assistant or ad-  
7 vanced practice nurse, such as a nurse practitioner, within  
8 the scope of their practice as defined by State law, may  
9 also provide certification of such traumatic injury and re-  
10 lated disability during the continuation of pay period cov-  
11 ered by section 8118, in a manner consistent with regula-  
12 tions prescribed by the Secretary of Labor)”.

13 **SEC. 3. COVERING TERRORISM INJURIES.**

14 Section 8102(b) of title 5, United States Code, is  
15 amended in the matter preceding paragraph (1)—

16 (1) by inserting “or from an attack by a ter-  
17 rorist or terrorist organization, either known or un-  
18 known,” after “force or individual,”; and

19 (2) by striking “outside” and all that follows  
20 through “1979)” and inserting “outside of the  
21 United States”.

22 **SEC. 4. DISFIGUREMENT.**

23 Section 8107(c)(21) of title 5, United States Code—

1           (1) by striking “For” and inserting the fol-  
2           lowing: “(A) Except as provided under subparagraph  
3           (B), for”; and

4           (2) by adding at the end the following:

5           “(B) Notwithstanding subparagraph (A), for an  
6           injury occurring during the 3-year period prior to  
7           the date of enactment of the Federal Workers’ Com-  
8           pensation Modernization and Improvement Act for  
9           which the Secretary of Labor has not made a com-  
10          pensation determination on disfigurement under sub-  
11          paragraph (A), or for an injury occurring on or after  
12          the date of enactment of such Act resulting in a se-  
13          rious disfigurement of the face, head, or neck, prop-  
14          er and equitable compensation in proportion to the  
15          severity of the disfigurement, not to exceed \$50,000,  
16          as determined by the Secretary, shall be awarded in  
17          addition to any other compensation payable under  
18          this schedule. The applicable maximum compensa-  
19          tion for disfigurement provided under this subpara-  
20          graph shall be adjusted annually on March 1 in ac-  
21          cordance with the percentage amount determined by  
22          the cost of living adjustment in section 8146a.”.

23 **SEC. 5. SOCIAL SECURITY EARNINGS INFORMATION.**

24          Section 8116 of title 5, United States Code, is  
25          amended by adding at the end the following:

1 “(e) Notwithstanding any other provision of law, the  
2 Secretary of Labor may require, as a condition of receiving  
3 any benefits under this subchapter, that a claimant for  
4 such benefits consent to the release by the Social Security  
5 Administration of the Social Security earnings informa-  
6 tion of such claimant.”.

7 **SEC. 6. CONTINUATION OF PAY IN A ZONE OF ARMED CON-**  
8 **FLICT.**

9 Section 8118 of title 5, United States Code, is  
10 amended—

11 (1) in subsection (b), by striking “Continu-  
12 ation” and inserting “Except as provided under sub-  
13 section (e)(2), continuation”;

14 (2) in subsection (c), by striking “subsections  
15 (a) and (b)” and inserting “subsections (a) and (b)  
16 or subsection (e),”;

17 (3) in subsection (d), by striking “subsection  
18 (a)” and inserting “subsection (a) or (e)”;

19 (4) by redesignating subsection (e) as sub-  
20 section (f); and

21 (5) by inserting after subsection (d) the fol-  
22 lowing:

23 “(e) CONTINUATION OF PAY IN A ZONE OF ARMED  
24 CONFLICT.—

1           “(1) IN GENERAL.—Notwithstanding subsection  
2           (a), the United States shall authorize the continu-  
3           ation of pay of an employee as defined in section  
4           8101(1) of this title (other than those referred to in  
5           subparagraph (B) or (E)), who has filed a claim for  
6           a period of wage loss due to traumatic injury in per-  
7           formance of duty in a zone of armed conflict (as so  
8           determined by the Secretary of Labor under para-  
9           graph (3)), as long as the employee files a claim for  
10          such wage loss benefit with his immediate superior  
11          not later than 45 days following termination of as-  
12          signment to the zone of armed conflict or return to  
13          the United States, whichever occurs later.

14          “(2) CONTINUATION OF PAY.—Notwithstanding  
15          subsection (b), continuation of pay under this sub-  
16          section shall be furnished for a period not to exceed  
17          135 days without any break in time or waiting pe-  
18          riod, unless controverted under regulations pre-  
19          scribed by the Secretary of Labor.

20          “(3) DETERMINATION OF ZONES OF ARMED  
21          CONFLICT.—For purposes of this subsection, the  
22          Secretary of Labor, in consultation with the Sec-  
23          retary of State and the Secretary of Defense, shall  
24          determine whether a foreign country or other foreign  
25          geographic area outside of the United States (as

1 that term is defined in section 202(7) of the State  
2 Department Basic Authorities Act of 1956 (22  
3 U.S.C. 4302(7)) is a zone of armed conflict based  
4 on whether—

5 “(A) the Armed Forces of the United  
6 States are involved in hostilities in the country  
7 or area;

8 “(B) the incidence of civil insurrection,  
9 civil war, terrorism, or wartime conditions  
10 threatens physical harm or imminent danger to  
11 the health or well-being of United States civil-  
12 ian employees in the country or area;

13 “(C) the country or area has been des-  
14 ignated a combat zone by the President under  
15 section 112(c) of the Internal Revenue Code of  
16 1986 (26 U.S.C. 112(c));

17 “(D) a contingency operation involving  
18 combat operations directly affects civilian em-  
19 ployees in the country or area; or

20 “(E) there exist other relevant conditions  
21 and factors.”.

22 **SEC. 7. SUBROGATION OF CONTINUATION OF PAY.**

23 (a) SUBROGATION OF THE UNITED STATES.—Sec-  
24 tion 8131 of title 5, United States Code, is amended—

1 (1) in subsection (a), by inserting “continuation  
2 of pay or” before “compensation”; and

3 (2) in subsection (c), by inserting “continuation  
4 of pay or” before “compensation already paid”.

5 (b) **ADJUSTMENT AFTER RECOVERY FROM A THIRD**  
6 **PERSON.**—Section 8132 of title 5, United States Code, is  
7 amended—

8 (1) by inserting “continuation of pay or” before  
9 “compensation” the first, second, fourth, and fifth  
10 place it appears;

11 (2) by striking “in his behalf” and inserting  
12 “on his behalf”; and

13 (3) by inserting “continuation of pay and” be-  
14 fore “compensation” the third place it appears.

15 **SEC. 8. FUNERAL EXPENSES.**

16 Section 8134 of title 5, United States Code, is  
17 amended—

18 (1) in subsection (a), by striking “If” and in-  
19 serting “Except as provided in subsection (b), if”;

20 (2) by redesignating subsection (b) as sub-  
21 section (c); and

22 (3) by inserting after subsection (a) the fol-  
23 lowing:

24 “(b) Notwithstanding subsection (a), for deaths oc-  
25 ccurring on or after the date of enactment of the Federal



1 Workers' Compensation Modernization and Improvement  
2 Act, if death results from an injury sustained in the per-  
3 formance of duty, the United States shall pay, to the per-  
4 sonal representative of the deceased or otherwise, funeral  
5 and burial expenses not to exceed \$6,000, in the discretion  
6 of the Secretary of Labor. The applicable maximum com-  
7 pensation for burial expenses provided under this sub-  
8 section shall be adjusted annually on March 1 in accord-  
9 ance with the percentage amount determined by the cost  
10 of living adjustment in section 8146a.”.

11 **SEC. 9. EMPLOYEES' COMPENSATION FUND.**

12 Section 8147 of title 5, United States Code, is  
13 amended—

14 (1) in subsection (a)—

15 (A) by striking “except administrative ex-  
16 penses” and inserting “including administrative  
17 expenses”; and

18 (B) by striking the last 2 sentences; and

19 (2) in subsection (b)—

20 (A) in the first sentence, by inserting be-  
21 fore the period “and an estimate of a pro-rata  
22 share of the amount of funds necessary to ad-  
23 minister this subchapter for the fiscal year be-  
24 ginning in the next calendar year”; and

1 (B) in the second sentence, by striking  
2 “costs” and inserting “amount set out in the  
3 statement of costs and administrative expenses  
4 furnished pursuant to this subsection”.

5 **SEC. 10. CONFORMING AMENDMENT.**

6 Section 8101(1)(D) of title 5, United States Code,  
7 is amended by inserting before the semicolon “who suf-  
8 fered an injury on or prior to March 3, 1979”.

9 **SEC. 11. EFFECTIVE DATE.**

10 Except as otherwise provided, this Act and the  
11 amendments made by this Act, shall take effect 60 days  
12 after the date of enactment of this Act.

13 **SEC. 12. PAYGO COMPLIANCE.**

14 The budgetary effects of this Act, for the purpose of  
15 complying with the Statutory Pay-As-You-Go Act of 2010,  
16 shall be determined by reference to the latest statement  
17 titled “Budgetary Effects of PAYGO Legislation” for this  
18 Act, submitted for printing in the Congressional Record  
19 by the Chairman of the House Budget Committee,

1 provided that such statement has been submitted prior to  
2 the vote on passage.

Passed the House of Representatives November 29,  
2011.

Attest:

KAREN L. HAAS,

*Clerk.*