



UNITED STATES  
GOVERNMENT  
*MEMORANDUM*

**FORM G-115f (1-92)**  
RAILROAD RETIREMENT BOARD

August 4, 2010  
L-2010-04.1

To: V. M. Speakman, Jr.  
Labor Member

From: Steven A. Bartholow  
General Counsel

Subject: Clarification of Legal Opinion L-2010-04

I have been advised that questions have been raised concerning the advice provided in Legal Opinion L-2010-04 with respect to the creditability of pay for time lost in court issued judgments. Legal Opinion L-2010-04 addressed a situation where a judgment issued by a court in a FELA case allocated the pay for time lost both retroactively and prospectively. Future damages included pay for time lost, medical expenses, and other damages without specific allocation between pay for time lost and other damages; accordingly, under the RRA the entire amount of the future damages was considered to be pay for time lost. The opinion advised that, inasmuch as there was no restriction as to the period to which the judgment was to be apportioned, the entire amount would be considered as creditable so long as the employee retained an employment relationship, by allocating the maximum creditable monthly amount to the period prior to the judgment and for the number of months thereafter until the judgment amount has been exhausted.

My understanding is that questions have been raised suggesting that Legal Opinion L-2010-04 means that there is no way of restricting the period after the judgment to which pay for time lost is creditable. Compensation may not be credited to any month after an employee has relinquished his or her employment relationship. Accordingly, even if there is no period of time to which pay for time lost is to be allocated specified in the judgment, the employee can restrict the creditability of pay for time lost by relinquishing his employment rights with the employer. After the date on which the employee's employment rights are relinquished, no further compensation may be creditable. In addition, the judgment could make a specific allocation of damages for pay for time lost and for other damages.