
Audit of the Department's Management of the Federal Employees' Compensation Act Program

FINAL AUDIT REPORT



ED-OIG/A19-D0008
March 2005

Our mission is to promote the efficiency,
effectiveness, and integrity of the
Department's programs and operations.



U.S. Department of Education
Office of Inspector General
Operations Internal Audit Team
Washington, DC

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

March 30, 2005

MEMORANDUM

TO: William Leidinger
Assistant Secretary for Management
Office of Management

FROM: Helen Lew /s/
Assistant Inspector General for Audit

SUBJECT: Final Audit Report
Audit of the Department's Management of the Federal Employees'
Compensation Act Program
Control Number ED-OIG/A19-D0008

Attached is the subject final audit report that covers the results of our audit of the Department's management of the Federal Employees' Compensation Act Program. An electronic copy has been provided to you and your Audit Liaison Officer. We received your comments concurring with the findings and providing proposed corrective actions for all of the recommendations. No changes were made to the report as a result of the Department's comments.

Corrective actions proposed (resolution phase) and implemented (closure phase) by your office will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System. Department policy requires that you develop a final corrective action plan (CAP) for our review in the automated system within 30 days of the issuance of this report. The CAP should set forth the specific action items, and targeted completion dates, necessary to implement final corrective actions on the findings and recommendations included in this final audit report.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the audits that remain unresolved six months after the date of issuance.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

We appreciate the cooperation given us during the review. If you have any questions, please call Michele Weaver-Dugan at (202) 245-6941.

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| EXECUTIVE SUMMARY | 1 |
| BACKGROUND | 3 |
| AUDIT RESULTS..... | 5 |
| Finding No. 1 –The Department Did Not Adequately Manage its Workers’ Compensation Cases | 5 |
| Recommendations | 11 |
| Finding No. 2 –The Department Did Not Process Workers’ Compensation Claims Timely..... | 11 |
| Recommendations..... | 14 |
| Finding No. 3 –The Department Did Not Effectively Monitor Continuation of Pay Benefits | 14 |
| Recommendations | 16 |
| Finding No. 4 –The Department Did Not Adequately Verify Chargeback Reports | 16 |
| Recommendations..... | 18 |
| OBJECTIVES, SCOPE, AND METHODOLOGY..... | 19 |
| STATEMENT ON INTERNAL CONTROLS..... | 21 |
| ATTACHMENT 1 - Department of Education Response | |

EXECUTIVE SUMMARY

The Federal Employees' Compensation Act (FECA) provides compensation benefits to civilian employees of the United States for disability due to personal injury or disease sustained while in the performance of duty. The FECA program is administered by the Office of Workers' Compensation Programs (OWCP), a component of the Employment Standards Administration within the United States Department of Labor. All workers' compensation claims are adjudicated by OWCP. Within the Department of Education (Department), the Office of Management's Support Services Team is responsible for processing compensation claims for Department employees, managing established cases, and assisting employees back to work.

The objectives of our audit were to: (1) determine whether the Department has adequately processed and documented workers' compensation claims, and (2) assess the appropriateness of selected claims.

Overall, we found improvements were needed in the Department's management of the workers' compensation program. Our audit revealed the Department did not adequately manage its workers' compensation program. Specifically, we noted there was no formal tracking system for cases, case files were unorganized, there was no comprehensive case management plan, and there was a lack of follow-up on long-term workers' compensation cases. In addition, our audit revealed workers' compensation claims were not always processed timely, Continuation of Pay benefits were not effectively monitored, and workers' compensation chargeback reports were not adequately verified. This occurred because the Department does not have established policies and procedures for the management of the workers' compensation program, lacks an effective tracking system for its claims and cases, and Department staff do not appear to fully understand their FECA responsibilities. As a result, the Department may be paying benefits to individuals that are not entitled to them, and may not be returning injured employees back to work in the most expeditious timeframe possible, thereby consuming federal resources that could otherwise be used elsewhere.

To correct the weaknesses we identified, we recommend the Department:

- Develop and distribute, to all affected parties, policies and procedures for the management of the workers' compensation program, to include case management and file maintenance, claim processing, verification of chargeback reports, and monitoring of Continuation of Pay benefits.
- Implement an electronic case file management system to monitor timeliness of claim submission and maintain and track case status.
- Ensure appropriate training is provided to all Department workers' compensation specialists, to include those in headquarters and the regional offices.

- Provide formal training to Department supervisors and managers on workers' compensation claim processing requirements and responsibilities.
- Update and distribute the *Supervisor's Guide to Workers' Compensation* to all supervisors, managers, and compensation specialists Department-wide and post a copy to the intranet.
- Update all current long-term files.
- Recoup Continuation of Pay benefits received by individuals with denied claims and those without established claims.
- Validate the most recent chargeback report against the Department's personnel database to determine whether any individuals are not Department employees or had an injury date prior to their entry date with the Department.

The Department concurred with our findings and provided a proposed corrective action plan addressing all of our recommendations. The full text of the Department's response is included as Attachment 1 to this audit report. The Department's response does not warrant any changes to the draft report.

BACKGROUND

The Federal Employees' Compensation Act (FECA) provides compensation benefits to civilian employees of the United States for disability due to personal injury or disease sustained while in the performance of duty. The FECA also provides for payment of benefits to dependents if a work-related injury or disease causes an employee's death. Benefits provided under the FECA constitute the sole remedy against the United States for work-related injury or death. Benefits include compensation for lost wages, monetary awards for bodily impairment or disfigurement, medical care, and vocational rehabilitation.

The FECA program is administered by the Office of Workers' Compensation Programs (OWCP), a component of the Employment Standards Administration within the United States Department of Labor (DOL). All workers' compensation claims are adjudicated by OWCP. For OWCP to determine workers' compensation eligibility, the injured employee must provide medical and factual evidence to establish five basic elements: (1) the claim was filed within the time limits set by the FECA; (2) the injured or deceased person was an employee of the United States government at the time of injury; (3) the injury, disease, or death did occur; (4) the employee was in the performance of duty when the injury, disease, or death occurred; and (5) the medical condition found was causally related to the claimed injury, disease, or death.

For OWCP to adjudicate a workers' compensation claim the injured employee must give notice of the injury to his/her supervisor within 30 days of the injury or the date the employee realized the disease or illness was job-related. The supervisor is expected to submit the completed form to the appropriate OWCP office within 10 workdays of receiving the claim.

To avoid disruption of an employee's income, the employee's agency continues to pay his/her regular wages for up to 45 days while he/she is recovering from an injury. This initial timeframe is referred to as the Continuation of Pay (COP) period. An employee may choose to use annual or sick leave to cover all or part of an absence due to injury. OWCP begins paying FECA compensation benefits at the end of the COP period when a claimant can no longer be paid his/her regular wages.

OWCP FECA costs are financed by the Employees' Compensation Fund (Fund). Workers' compensation costs are assigned to employing agencies annually at the end of the fiscal accounting period, which runs from July to June. Each year, OWCP furnishes each agency with a "chargeback report" which is a statement of payments made from the Fund on account of injuries to its employees. The agencies include these amounts in their budget requests to Congress. The sums appropriated are deposited into the Fund.

While OWCP has final authority with regard to approving and paying workers' compensation claims, the agency also bears certain responsibilities, such as ensuring appropriate agency personnel understand their FECA responsibilities; notifying injured employees of their rights and obligations under FECA; initiating the claim and ensuring timely notification to OWCP; providing and tracking COP; helping employees return to work as soon as possible; and monitoring the employee's medical status until a physician states the employee can return to work.

Within the Department of Education (Department), there are two full-time workers' compensation specialists within the Office of Management's (OM) Support Services Team who process claims and manage cases for employees located at Headquarters. Each regional office has a part-time workers' compensation coordinator that processes and manages claims in their respective region. In addition, the Department also hired a contractor to assist with the management of some of its Headquarters workers' compensation cases. The contract expired in 2002.

From Chargeback Years (CBYs) 2001 through 2003, the Department's FECA program costs totaled approximately \$4.6 million, with an average of 111 claimants per year receiving benefits. Costs were noted as declining slightly in each of the three years. Approximately 80 percent of the Department's FECA costs are related to claimants with injuries occurring 5 or more years ago that have not returned to work.

AUDIT RESULTS

Overall, we found improvements were needed in the Department's management of the workers' compensation program. Our audit revealed the Department did not adequately manage its workers' compensation program. Specifically, we noted there was no formal tracking system for cases, case files were unorganized, there was no comprehensive case management plan, and there was a lack of follow-up on long-term workers' compensation cases. In addition, our audit revealed workers' compensation claims were not always processed timely, Continuation of Pay benefits were not effectively monitored, and workers' compensation chargeback reports were not adequately verified.

This occurred because the Department does not have established policies and procedures for the management of the workers' compensation program, lacks an effective tracking system for its claims and cases, and Department staff do not appear to fully understand their FECA responsibilities. As a result, the Department may be paying benefits to individuals that are not entitled to them, and may not be returning injured employees back to work in the most expeditious timeframe possible, thereby consuming federal resources that could otherwise be used elsewhere.

The Department concurred with our findings and provided a proposed corrective action plan addressing all of our recommendations. The full text of the Department's response is included as Attachment 1 to this audit report. The Department's response does not warrant any changes to the draft report.

Finding No. 1 - The Department Did Not Adequately Manage its Workers' Compensation Cases

The Department did not manage its workers' compensation cases adequately. Our audit revealed that the Department did not have a formal tracking system for cases; case files were unorganized; there was no comprehensive case management plan; and there was a lack of follow-up on long-term workers' compensation cases.

Case Tracking System

We noted the Department had not utilized existing information technology in its management of workers' compensation program information. While the Department developed its own electronic database to assist with case management in 2000, the information contained in this database is limited, due to lack of staff availability to input case information. This database does not interface with the OWCP, does not include

information on cases predating the implementation of the database, and is not available to regional workers' compensation specialists. Support Services staff noted the system is used more as a data warehouse than as a program management tool, even though it has those capabilities. In actuality, cases are managed via paper files. Headquarters staff have access to OWCP's Automated Query System (AQS) to assist with basic case management functions, however, none of the regional coordinators have been granted access to AQS. Support Services staff recently indicated they are in the process of implementing OWCP's automated system- the Safety and Health Information Management System (SHIMS)- which will provide automated case management capabilities and the ability to transfer all forms to OWCP electronically.

File Maintenance and Documentation

We noted the Department's paper-based case management system was inadequate. We reviewed 53 case files and noted they were generally unorganized and/or incomplete, information was included in the wrong individual's case file, information for multiple cases filed by the same individual was included in the same file, duplicate copies of information were included in files, and some files were missing. While files were generally kept in filing cabinets, several were stored on the filing room floor in boxes. While some files had case tracking or log sheets included, others did not. Case tracking sheets that were included were many times incomplete or outdated, making it difficult to determine case status and follow-up activities. In general, we found little evidence in the files indicating cases are actively managed or tracked to ensure that employees are entitled to receive workers' compensation benefits or to assist injured employees back to work.

Long-Term Case Management and Follow-Up

As part of our audit, we reviewed all 14 long-term cases assigned to Headquarters to determine the extent of case management and follow-up. Long-term cases were defined as cases appearing on the chargeback reports with a designation code of "P" for periodic payroll, with claimants that have not returned to work that have been receiving benefits for five or more years. These cases comprised 40 percent, or \$1,844,750, of the Department's workers' compensation costs for the CBYs in our review. We specifically looked for medical updates and inquiries on these cases. Two case files were unable to be located. Two case files had been transferred to regional offices. In 1 of the 10 cases that were available for review (10 percent), we noted no medical updates or inquiries in the file. We noted medical inquiries in three other files in the last three to six years, but no resulting updates. For the other 6 cases, we determined 1 case was last updated over 10 years ago, 3 cases were updated between 5 and 10 years ago, and 2 cases were updated between 1 and 5 years ago. For these 6 cases, we noted an average of 5 years since medical updates had been obtained. For the 10 files that were available for review, we noted an average of 4 years since any type of case action was noted in the file.

While Support Services staff indicated they send periodic letters to OWCP inquiring about the current case status of Department claimants on the periodic payroll, we noted

that this consists of one general letter sent to each regional OWCP office with a listing of the applicable claimants attached. Letters are not specific to issues related to individual cases. The letter requests such information as claimant rehabilitation status and changes in medical status, noting the Department's hope to reduce costs by returning employees to work. We noted this to be an inappropriate inquiry for some individuals, and OWCP's resulting frustrations. We noted correspondence from OWCP in one particular case asking the Department to stop inquiring about a particular claimant, as OWCP had been informing them for years that the particular claimant had been deceased since 1978. The Department should have been specifying its letter to inquire about the status of any beneficiaries in this case.

Support Services staff stated sometimes OWCP responds to the letters and sometimes they do not. We noted the OWCP responses that were received were maintained in one accordion-type file. This file contained responses to 22 individual cases, with correspondence dating back to 1999. Support Services staff responded by stating that they are kept in an accordion file because the person that was responsible for filing them in the appropriate case files is no longer with the Department. Some of the correspondence contained in this file pertained to issues other than medical or rehabilitation status and to cases other than long-term/periodic payroll cases. Some responses were copies of letters of inquiry sent by OWCP to a claimant or claimant's physician requesting follow-up information, which provided no definitive answer on claimant status.

Other information we noted in the individual long-term case files reviewed caused us to question whether the Department followed-up on issues that could call into question the validity of continued payment of certain claims, as follows:

- One claimant has a medical evaluation from his doctor dated April 2000, where the doctor notes that the individual's disability at this point in time relates more to mental conditions than physical issues related to his back injury. The doctor notes the claimant could perform some work activities if it were not for his mental condition. The claimant's mental condition referred to was not accepted as being compensable under the workers' compensation program, only his back condition. In addition, an OWCP claims examiner note dated in February 2000 indicates there was no evidence that the claimant sought medical treatment for his back condition for the previous five years and had been treated conservatively for it in years prior to that. There were no additional medical evaluations noted in the file after April 2000. The Department's workers' compensation contractor had been requesting updates from OWCP during 2001 and 2002 until their contract expired, without success. There is no evidence of follow-up by the Department after that even though the information suggests reasons for the Department to call into question continued payment of the claim. The Department paid \$48,307 to this claimant during CBYs 2001-2003. The claimant's date of injury was 1984.
- The last medical update noted in the file for one individual was dated November 1997, consisting of an OWCP letter to the claimant stating the last medical report

received by them was dated October 6, 1993. OWCP also noted no bills had been recently submitted for any kind of treatment related to her condition. No further information was contained in the Department's file noting follow-up with the claimant or with OWCP to determine whether payment should continue. The Department paid \$113,909 to this claimant during CBYs 2001-2003. The claimant's date of injury was 1975.

- There were no medical updates or requests for medical information noted in one claimant's file. During CBYs 2001-2003, the Department paid \$162,695 for this claimant. The date of injury for this individual was 1988.
- One individual's case file indicated she had resigned from the Department after sustaining an injury, later returned to a position at the Department, and was subsequently involuntarily terminated during a probationary period. There is no indication that the Department notified OWCP of this situation to review whether the individual should continue to be entitled to benefits upon her termination. During CBYs 2001-2003, the Department paid \$239,275 for this claimant. The claimant's date of injury was 1966.
- The last request for one individual's medical status was in 1998, per a letter from OWCP, noting they had no current evidence in their file to establish entitlement to continuing benefits. We noted no other medical information in this file and no medical bills processed for the period under our review. During CBYs 2001-2003, the Department paid \$135,483 for this claimant. The claimant's date of injury was 1988.
- One individual was noted as having had restrictions placed on work duties by her physician until she had surgery. The individual refused to have the surgery that may have enabled her to return to work. In addition, the case file noted a DOL OIG investigation that stated the individual was working at another job during this time. There is no apparent follow-up noted by the Department questioning the continuation of benefits to this individual under the circumstances. During CBYs 2001-2003, the Department paid \$146,707 in workers' compensation benefits for this claimant. The claimant's date of injury was 1984.
- One file included a letter from OWCP to the claimant stating that she was impeding rehabilitation efforts and the result could be termination of benefits. The claimant is noted as stating that even if she completed the rehabilitation program, she was not returning to work. We noted nothing that would suggest the Department followed up on this to determine OWCP's subsequent actions. For CBYs 2001-2003, the Department paid \$128,984 in workers' compensation benefits for this claimant. The claimant's date of injury was 1987.

20 CFR § 10.506 states:¹

The employer may monitor the employee's medical progress and duty status by obtaining periodic medical reports... 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... The employer may also contact the employee at reasonable intervals to request periodic medical reports addressing his or her ability to return to work.

The Office of Workers' Compensation Programs Publication CA-810, *Injury Compensation for Federal Employees*, Chapter 9, Section 9-3, states:

- A. Training.* Ensure that sufficient training in technical and managerial skills is given to staff that routinely handle compensation claims and that resource materials are available to those who handle them infrequently.
- B. Administration.* Establish a record-keeping system that will enable the agency to maintain copies of claim forms, medical reports, correspondence with OWCP, and other materials related to each compensation claim in an orderly fashion.
- D. Medical Information.* Obtain medical information from OWCP or the injured employees as often as necessary (within OWCP and OPM regulations) to assess potential return to regular, light or limited duty. Advise physicians of any light-duty assignments available and their specific requirements. The agency can use the information thus gathered to monitor the claimant's medical care and notify OWCP if it appears that the care is inadequate.
- E. Reemployment.* Stay in touch with injured employees while they are receiving compensation, identify jobs suitable for them, and take steps to reemploy recovered or recovering employees as soon as the medical evidence shows that this is possible.

The Office of Workers' Compensation Programs Publication CA-810, *Injury Compensation for Federal Employees*, Chapter 8, Section 8-9, Separation from Employment, Part B, Removal for Cause, states that an employee who is separated for misconduct and whose removal is wholly unconnected to the work-related injury is not entitled to further compensation benefits. Section 8-5, Vocational Rehabilitation Services, Part D, Penalties, states that an employee who refuses to participate in an OWCP rehabilitation program may have his or her compensation reduced or terminated. Section 8-3, Nurse Services, Part D, Penalties, states that an employee who refuses to make a good faith effort to obtain reemployment may have his or her benefits reduced or terminated.

¹ Unless otherwise specified, all regulatory citations are to the April 1, 2003 volume.

The Department does not have established policies and procedures for case file maintenance and management, and staff do not appear to fully understand their FECA responsibilities. With regard to long-term case monitoring procedures, Support Services staff referred to the periodic letters they send to OWCP as their efforts on monitoring, returning and/or rehabilitating claimants. Support Services staff also stated that OWCP makes the decision to evaluate claimants and their assumption is OWCP sends out any correspondence it feels is needed. Support Services staff stated the Department does not do this, because it is not within the scope of their responsibilities. Support Services staff stated their belief that once an employee is removed from the Department's employment role, the Department is no longer responsible for the case and they are barred from contacting the employee.

The Department does not have a formal system in place to maintain and track case information and status. We noted more active case management of cases that had previously been assigned to a contractor that had been utilized to assist with some of the Department's workers' compensation cases. Under this contractor, we noted appropriate inquiries into medical updates, along with persistent follow-up when no responses were received.

In addition, Department staff responsible for managing workers' compensation cases do not receive adequate formal training. Of the seven regional workers' compensation coordinators we interviewed, none of them have received formal workers' compensation coordinator training within the last four years. They indicated they rely on on-the-job training. Those that had attended formal training did so on their own initiative.

If the Department does not develop comprehensive case management policies and procedures, employees that are injured may not return to work in the most expeditious time frame, thereby consuming federal resources that could otherwise be used elsewhere. Claimants may continue to receive benefits when they may no longer be entitled to receive them. As cases get older, the likelihood of returning employees to work decreases, thereby increasing the need for active case management. Had these cases been more actively managed earlier on in the case, the Department's long-term costs could have been less than they currently are.

Inconsistencies between regional and headquarters specialists will persist due to a lack of clear policies on case and program management. Incomplete, inadequate, and unorganized files may also hinder effective case management.

Without effective program management, the Department cannot determine whether its workers compensation program is operating efficiently and effectively. Without appropriate training of workers' compensation staff, the Department may not be doing all it can to ensure the program is less prone to fraud and abuse.

Recommendations

We recommend the Assistant Secretary for Management:

- 1.1 Develop and distribute case management and file maintenance policies and procedures, to include:
 - Annual reviews of cases exceeding one year where the employee has not returned to work to determine appropriate follow-up actions.
 - Obtaining annual medical updates.
 - Maintaining appropriate contact with claimants to assist in returning them to work and monitoring status.
 - Documenting case files with all case actions and updates, including periodic AQS inquiries.
 - Notifying OWCP of information requiring follow-up, such as terminations of rehabilitated employees.
 - Monitoring updates and requesting additional medical opinions or further review within OWCP on questionable cases.
- 1.2 Implement an electronic case file management system to maintain and track case status. The system should include reminders for appropriate follow-up actions.
- 1.3 Ensure regional specialists have access to the electronic file management system and OWCP's AQS.
- 1.4 Update all current long-term files.
- 1.5 Ensure appropriate training is provided to all Department workers' compensation specialists, to include those in headquarters and the regional offices. For example, we noted several courses available from the OWCP listed on its website and in its publication, *Injury Compensation for Federal Employees*.

Finding No. 2 - The Department Did Not Process Workers' Compensation Claims Timely

The Department did not always process workers' compensation claims timely. We reviewed 43 workers' compensation cases. We determined 32 of the cases had complete information available in the file from which we could analyze the timeliness of claim processing in accordance with federal regulations. Our analysis revealed the following:

- Four claims (13 percent) were not submitted to the employee's supervisor within 30 days of the date of injury. These claims were submitted between 9 and 62 days late.

- Fourteen claims (44 percent) were not submitted to OWCP within 10 working days (14 calendar days) after the supervisor's receipt of notice of injury. These claims were submitted between 2 and 84 days late.

In addition, we identified 26 of the 43 cases as having information available from which we could analyze timeliness of processing in accordance with Departmental policy. We noted 25 of the 26 cases (96 percent) did not have a workers' compensation claim submitted to the Department's Support Services Team within a 72-hour period from the employee's date of injury. These claims were submitted between 1 and 134 days late.

During our review we also noted the DOL publishes timeliness statistics by agency, by Fiscal Year (FY) quarter. For FY 2003, the Department was noted as having submitted 43.6 percent of its claims on time, ranking 11th out of 18 agencies with timeliness statistics noted. Through the third quarter of FY 2004, the Department was noted as having submitted 37.5 percent of its claims on time, ranking 5th out of 6 agencies with timeliness statistics noted.

20 CFR § 10.100, states:

- (a) To claim benefits under the FECA, an employee who sustains a work-related traumatic injury must give notice of the injury in writing on Form CA-1, which may be obtained from the employer or from the Internet at www.dol.gov/dol/esa/owcp.htm. The employee must forward this notice to the employer. Another person, including the employer, may give notice of injury on the employee's behalf. The person submitting a notice shall include the Social Security Number (SSN) of the injured employee.
- (b) For injuries sustained on or after September 7, 1974, a notice of injury must be filed within three years of the injury...
 - (1) If the claim is not filed within three years, compensation may still be allowed if notice of injury was given within 30 days or the employer had actual knowledge of the injury or death within 30 days after occurrence. This knowledge may consist of written records or verbal notification. An entry into an employee's medical record may also satisfy this requirement if it is sufficient to place the employer on notice of a possible work-related injury or disease.

20 CFR § 10.110 states:

- (a) The employer shall complete the agency portion of Form CA-1 (for traumatic injury) or CA-2 (for occupational disease) no more than 10 working days after receipt of notice from the employee...

The Office of Workers' Compensation Programs Publication CA-810, *Injury Compensation for Federal Employees*, Appendix A: Basic Forms, states:

Form CA-1: Federal Employee's Notice of Traumatic Injury and Claim for

Continuation of Pay/Compensation should be submitted by the employee within 30 days (but will meet statutory time requirements if filed no later than three years after the injury) and by the supervisor within 10 workdays following receipt of the form from the employee. The completed form should be sent to the supervisor by the employee and then to the appropriate OWCP office by the supervisor.

Form CA-2: Notice of Occupational Disease and Claim for Compensation should be submitted by the employee within 30 days (but will meet statutory time requirements if filed no later than three years after the injury) and by the supervisor within 10 workdays after receipt of the form from the employee. The completed form should be sent to the supervisor by the employee and then to the appropriate OWCP office by the supervisor.

The Office of Workers Compensation Programs Publication CA-550, *Federal Employees' Compensation Act (FECA): Questions and Answers*, Part B, Notices of Injury, Illness, And Death, states:

Form CA-1 should be filed within 30 days of the injury, and Form CA-2 should be filed within 30 days of the date the employee realized the disease or illness was caused or aggravated by the employment. The forms may be obtained from the employer or from OWCP. The employer is expected to submit the completed form to OWCP within 10 workdays.

Department of Education *Supervisor's Guide For Workers' Compensation*, April 1996, Employees' Responsibility, states:

The employee has the responsibility to initiate a written notice of injury (CA-1) or disease (CA-2). The form must then be given to the supervisor or designated representative, and submitted to the Compensation Specialist in the Health and Environmental Safety Group. In the regions, the form needs to be submitted to the Regional Personnel Specialist. The CA-1 must be submitted to HESG within 72 hours of the date of injury. This is a requirement by Education.

The Department lacks sufficient policies and procedures to ensure claims are tracked and handled on a timely basis. The Department also lacks sufficient information and training for supervisors and employees on the time requirements to process workers compensation claim forms. The Department's guide for supervisors on workers' compensation has not been updated since 1996 and is not distributed unless specifically requested. Supervisors and managers have no means by which they would be made aware of the existence of this publication. Three of the six regional workers' compensation specialists interviewed were even unaware that this guide existed.

According to the DOL, there is a direct relationship between submitting workers' compensation claims and returning an injured employee to work. The earlier the DOL becomes involved in a case, the sooner a nurse can be assigned to the case or a case

determination can be made, and the sooner the injured employee can return to work, resulting in less benefits paid by the Department. Late claim submissions can also result in delays in compensation benefits, medical bill payments, and possibly an interruption to a claimant's income.

Recommendations

We recommend the Assistant Secretary for Management:

- 2.1 Provide formal training to Department supervisors and managers on workers' compensation claim processing requirements and responsibilities.
- 2.2 Update and distribute the *Supervisor's Guide to Workers' Compensation* to all supervisors, managers, and compensation specialists Department-wide and post a copy to the intranet.
- 2.3 Establish a formal tracking system to monitor timeliness of claim submission.

Finding No. 3 - The Department Did Not Effectively Monitor Continuation of Pay Benefits

The Department did not effectively monitor Continuation of Pay (COP) benefits. We reviewed the seven employees in our universe that were identified as having their workers' compensation cases denied who had initially elected to receive COP benefits. We found that two of these individuals (29 percent) actually received COP and that neither of these employees had been requested to reimburse the Department for these benefits. These two employees received a total of 85 calendar days of COP benefits totaling \$12,592. We also noted that one of these employees received four days more than the maximum allowable amount of COP. In addition, we noted one employee in our universe who had his case denied and had initially elected not to receive COP, but actually did receive COP in the amount of \$1,060. This individual has not reimbursed the Department.

We also identified three Department employees that received COP benefits totaling \$714 but for which no workers' compensation claim had been filed.

20 CFR § 10.200 (a) states:

For most employees who sustain a traumatic injury, the FECA provides that the employer must continue the employee's regular pay during any periods of resulting disability, up to a maximum of 45 calendar days. This is called continuation of pay, or COP. The employer, not OWCP, pays COP. Unlike wage

loss benefits, COP is subject to taxes and all other payroll deductions that are made from regular income.

20 CFR § 10.205 (a)(1) states:

To be eligible for COP, a person must have a “traumatic injury” as defined at § 10.5(ee) which is job-related and the cause of the disability, and/or the cause of the lost time due to the need for medical examination and treatment.

20 CFR § 10.224 states:

Where OWCP finds that the employee is not entitled to COP after it has been paid, the employee may choose to have the time charged to annual or sick leave, or considered an overpayment of pay under 5 U.S.C. 5584.

The Department has not developed any written policies and procedures on the management of COP benefits, and does not have an effective tracking system in place to monitor COP usage. While Support Services staff received COP reports from Human Resources Services, reports were not reconciled with case files to determine eligibility. According to Support Services staff, individual Principal Offices (PO) are responsible for inputting time and attendance records and are responsible for monitoring the injured employees’ leave situations and obtaining reimbursement for COP benefits if a case is denied.

Support Services staff prepared a guide for supervisors several years ago outlining their reporting responsibilities relative to injury/illness compensation procedures involving the Department’s employees. However, it does not state whose responsibility it is to manage COP benefits, and this guide has never been widely distributed or publicized to Department supervisors. Workers’ compensation guidance provided on OM’s intranet site also does not cover management of COP benefits.

In subsequent follow-up with Support Services staff on the specific employees identified in our review, we were informed that all of the employees are currently appealing their cases to the DOL and COP would not be recouped until all appeals were exhausted. We noted that one of these employees had appealed her case twice before and was issued the second denial notice on March 13, 2003. We were informed that another individual is currently requesting reconsideration. His case was denied in 2002. Per CFR § 10.607, applications for reconsideration must be sent within one year of the date of the OWCP decision for which review is sought, indicating that appeal rights expired in March 2004 for the one individual and 2003 for the other. Support Services staff stated the other individual had her appeal previously submitted several times, however the DOL could not find it or had lost it.

With regard to employees noted as receiving COP without having an associated workers compensation claim, Support Services staff stated that in one case there was an

administrative error, which should have been corrected by now, and they were unable to identify approved claims for the other two individuals.

If the Department does not develop policies and procedures on the management of COP benefits and an effective tracking system to monitor COP usage, the Department may end up paying for benefits for employees that are not entitled to them. Without established controls in place, the Department will not be aware of the employees who: (1) are not entitled to COP benefits, (2) should reimburse the Department for COP benefits if the case is denied, and (3) exceed the maximum 45-days of COP benefits.

Recommendations

We recommend the Assistant Secretary for Management:

- 3.1 Develop policies and procedures for monitoring and tracking of COP benefits and distribute to all affected parties to ensure awareness of responsibilities.
- 3.2 Recoup the COP benefits received by the individuals identified above with denied claims and those without established claims.

Finding No. 4 - The Department Did Not Adequately Verify Chargeback Reports

The Department did not adequately verify workers' compensation chargeback reports. We identified individuals with workers' compensation claims filed or benefits received for CBYs 2001-2003. We matched these individuals against the Department's personnel database. We subsequently identified 15 out of 284 individuals for which a match was not found. Upon follow-up with the Office of Personnel Management, we identified one individual with questionable charges totaling \$1,485 for the period of our review. This individual was never an employee of the Department of Education, but had his benefits paid by the Department in two of the three CBYs included in our review.

We also noted several individuals listed on the chargeback reports that were coded under the incorrect Departmental PO or were included under an "Other" office listing. POs with individual appropriations are charged with their portion of workers' compensation costs through the Department's common support process based on information from the chargeback reports.

The Office of Workers' Compensation Programs Publication CA-810, *Injury Compensation for Federal Employees*, Chapter 9, Section 9-5, Chargeback, states:

The FECA program is financed by the Employees' Compensation Fund, which consists of monies appropriated by Congress or contributed by certain agencies

from operating revenues. The chargeback system is the mechanism by which the costs of compensation for work-related injuries and deaths are assigned to employing agencies annually at the end of the fiscal accounting period, which runs from July to June for this purpose. Each year OWCP furnishes each agency with a statement of payments made from the Fund on account of injuries to its employees. The agencies include these amounts in their budget requests to Congress. The sums appropriated or obtained from operating revenues are deposited in the Fund.

C. Quarterly Chargeback Report.

Each agency receives a quarterly report which lists all cases and costs for which charges will appear on the yearly chargeback bill. This report can be used to identify and correct errors before the agency is billed for them. When an agency believes that a case appearing on its chargeback report does not belong on its account, it should check current personnel and payroll records as well as search the service record file and/or send an inquiry to the Federal Records Center. Agency personnel may also review case files at the district office to resolve such discrepancies.

E. Adjustments to the Chargeback Bill.

When an adjustment to the yearly chargeback bill is desired, the agency must send the request directly to the OWCP National Office. If another agency should have been charged, OWCP will so advise that agency and a debit will appear on its next bill. Credits or debits will be made only for charges appearing on the agency's most recent bill.

The Office of Workers' Compensation Programs Publication CA-810, *Injury Compensation for Federal Employees*, Chapter 9, Section 9-3, Managing Compensation Programs, F, Financial Records, states agencies are to monitor chargeback billings and arrange to charge costs to the lowest organizational level practicable to make managers more aware of costs.

We found that the Department did not have any policies or procedures indicating who is responsible for verifying the reports, when the verification should be performed, and how the verification should be accomplished. Chargeback reports were not routinely sent to the regional specialists or applicable POs for review and verification. OM staff indicated the in-house case management database that was developed had the capability to match chargeback reports with personnel data, but they did not really use that capability.

As a result, the Department inappropriately paid workers' compensation benefits. These costs should have been charged to another agency. Per OWCP guidance cited above, the Department may not be able to recoup the costs associated with this individual from prior chargeback reports. Costs being charged to individual POs may be under or overstated since the claimants are not always listed under the correct PO. Without an effective verification process in place, the Department continues to run the risk of paying costs that are inappropriate.

Recommendations

We recommend the Assistant Secretary for Management:

- 4.1 Notify OWCP of the need to remove the individual identified above from the Department's chargeback report and recoup the associated costs if allowable.
- 4.2 Validate the most recent chargeback report against the Department's personnel database to determine whether any additional individuals are not Department employees or had an injury date prior to their entry date with the Department.
- 4.3 Develop and distribute policies and procedures addressing the verification of chargeback reports, to include who is responsible, how frequently chargeback reports are verified, and how the verification should be performed.
- 4.4 Ensure all knowledgeable parties, including regional specialists and applicable POs, are provided with copies of the chargeback reports to review and verify, including verification that individuals are listed under the appropriate PO. POs should also identify applicable individuals currently listed under the "Other" category and ensure they are moved to the appropriate PO listing.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our audit were to:

1. Determine whether the Department has adequately processed and documented workers' compensation claims.
2. Assess the appropriateness of selected claims.

To accomplish our objectives, we obtained an understanding of the controls in place over the workers' compensation program. We reviewed applicable laws, regulations, and Department of Education and DOL policies and guidance. We conducted interviews with OM staff responsible for the administration of the workers' compensation program within the Department. We also conducted interviews with staff and management from DOL's OWCP to obtain an understanding of the workers' compensation program and the roles and responsibilities of agency personnel. We reviewed other agencies' audit reports, policies and guidance to determine related findings in this area and to identify any best practices.

We limited our review to cases that had established workers' compensation claims or had benefits paid during CBYs 2001, 2002 and 2003. We identified 284 cases compiled from data obtained from DOL chargeback reports, DOL's AQS, and Department of Education COP reports. To test the reliability of DOL's automated data, we compared selected data elements with actual case file hardcopy documentation in DOL and Department of Education files. To assess completeness of the automated system, we pulled hardcopy files and determined whether these cases were included in the system. Based on these tests and assessments, we concluded the data were sufficiently reliable to be used in meeting the audit's objectives.

We further limited our case review and analysis to those cases that were located and processed in the Washington, D.C. Headquarters office. This office processed 64 percent of the cases in our universe and had the most experience handling workers' compensation cases. To identify program management variations within the Department, we telephonically surveyed six regional workers' compensation specialists.

We judgmentally selected 34 of the 182 Headquarters cases based upon high-risk criteria, including employees with multiple cases, employees associated with the management of the workers' compensation program, and employees receiving a high dollar amount of compensation benefits. We judgmentally selected 9 additional files from the Department's file room. We reviewed case files to assess the Department's timeliness in processing claims and evaluate the appropriateness of the claims. In addition, we identified all Headquarters cases appearing on the chargeback reports with a designation code "P" for periodic payroll, indicating long-term cases receiving continuous payroll

benefits. We identified 14 of these cases and analyzed them for overall case management activities and appropriateness of the claims.

To determine whether claimants were actually Department employees at the time of injury, we compared the entire workers' compensation universe as determined above to the Department's personnel database. We subsequently compared any individuals in question to Office of Personnel Management employment records to determine their Federal employment history. We also compared chargeback reports with Department records to determine if employees were appropriately coded to the correct PO.

To perform an analysis of COP benefits, we identified all claimants within our universe that had received COP benefits, as reflected in Department COP reports. We further identified all claimants that had received COP benefits and had their cases denied by DOL, individuals for which no workers' compensation claim could be identified, and individuals receiving a high-dollar amount of COP benefits. We analyzed associated time and attendance records for these individuals to determine whether individuals had received in excess of the maximum allowable amount of COP benefits, and whether COP benefits were recouped for individuals with denied cases.

We performed our fieldwork at applicable Department of Education and Department of Labor offices in Washington, D.C., from August 2003 through August 2004. We held an exit conference with Department management on November 9, 2004. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review as described above.

STATEMENT ON INTERNAL CONTROLS

As part of our review, we assessed the system of internal controls, policies, procedures, and practices applicable to the Department's administration of the workers' compensation program. Our assessment was performed to determine the level of control risk for determining the nature, extent, and timing of our substantive tests to accomplish the audit objectives.

For the purpose of this report, we assessed and classified the significant controls into the following categories:

- Case management
- Claim processing

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the internal controls. However, our assessment disclosed significant internal control weaknesses that adversely affected the Department's ability to administer the workers' compensation program. These weaknesses and their effects are fully discussed in the AUDIT RESULTS section of this report.

TO: Helen Lew
Assistant Inspector General for Audit
Office of Inspector General

FROM: William J. Leidinger
Assistant Secretary for Management and Chief Information Officer

SUBJECT: DRAFT AUDIT REPORT- *Audit of the Department's Management of the Federal Employees' Compensation Act Program (ED-OIG/A19-D0008)*

Thank you for your draft audit report, *Audit of the Department's Management of the Federal Employees' Compensation Act Program*, ED-OIG/A 19-D0008 dated January 7, 2005. The Office of Management (OM) concurs with all of the four findings, specifically:

- Finding # 1- The Department Did Not Adequately Manage its Workers' Compensation Cases
- Finding # 2- The Department Did Not Process Workers' Compensation Claims Timely
- Finding # 3- The Department Did Not Effectively Monitor Continuation of Pay Benefits
- Finding # 4- The Department Did Not Adequately Verify Chargeback Reports

The following is our proposed corrective action to address the 14 recommendations your office has provided related to the above findings.

Finding Number 1- The Department did not adequately manage its workers' compensation cases:

Recommendation 1. - Develop and distribute case management and file maintenance policies and procedures to include:

- 1.1.a. Annual reviews of cases exceeding one year where the employee has not returned to work to determine appropriate follow-up actions
- 1.1.b. Obtaining annual medical updates
- 1.1.c. Maintaining appropriate contact with claimants to assist in returning them to work and monitoring status
- 1.1.d. Documenting case files with all case actions and updates, including periodic AQS inquiries
- 1.1.e. Notifying OWCP of information requiring follow-up, such as terminations of rehabilitated employees
- 1.1.f. Monitoring updates and requesting additional, medical opinions or further review within OWCP on questionable cases.

Proposed Corrective Actions. OM is scheduled to implement a Safety and Health Information Management System (SHIMS), which will maintain all workers' compensation files electronically and track progress of claims. SHIMS will also electronically submit workers' compensation claims and provide OM with data on injuries/illnesses. SHIMS will provide OM with quicker and efficient case management for the Workers' Compensation Program. Additionally, OM will contract to provide periodic reviews of long-term cases and track/obtain required annual medical updates. These corrective actions will resolve all recommendations noted from 1.1.a through 1.1.f as stated in Recommendation 1.

Proposed Completion Date: September 30, 2006

Recommendation 1.2 Implement an electronic case file management system to maintain and track case status. The system should include reminders for appropriate follow-up actions.

Proposed Corrective Action: SHIMS will maintain and track the status of cases. Reminders for follow-up actions will be built into the system.

Proposed Completion Date: September 30, 2006

Recommendation 1.3. Ensure regional specialists have access to the electronic file management system and OWCP's and AQS (Agency Query System)?

Proposed Corrective Action: Since SHIMS is a web-based system, Regional Specialists will have access to the system. Training on SHIMS will be provided to HQ and Regional Specialists who have Workers' Compensation responsibilities.

Proposed Completion Date: September 30, 2006

Recommendation 1.4. Update all current long-term files.

Proposed Corrective Action: OM will use a contractor to update all current long-term files for OWCP.

Proposed Completion Date: March 30, 2006

Recommendation 1.5 Ensure appropriate training is provided to all Department workers' compensation specialists, to include those in headquarters and the regional offices. For example, we noted several courses available from the OWCP listed on the website and in its publication, *Injury Compensation for Federal Employees*.

Proposed Corrective Action: SHIMS will contain a training session within the system. OM will provide an additional on-line training package separate from the SHIMS, which would be required by all ED workers' compensation specialists both in HQ and in the regions. Regional offices may also contact Department of Labor for additional formal workers' compensation training. This training is free of charge.

Proposed Completion Date: September 30, 2006

Finding # 2- The Department Did Not Process Workers' Compensation Claims Timely

Recommendation 2.1 Provide formal training to Department supervisors and managers on workers' compensation claim processing requirements and responsibilities.

Proposed Corrective Action: As stated in the corrective action for Recommendation 1.5, OM will implement an on-line Intranet training program for all supervisors and managers. Claims processing requirements and responsibilities will be included in the training session. Additionally, OM will notify supervisors and managers about optional training available with the U.S. Department of Labor. This DOL training is free of charge.

Proposed Completion Date: September 30, 2005

Recommendation 2.2 Update and distribute the Supervisor's Guide to Workers' Compensation to all supervisors, managers, and compensation specialists Department-wide and post a copy to the intranet.

Proposed Corrective Action: OM will revise and update the *Supervisor's Guide for Workers' Compensation* and will make this document accessible to all supervisor's and managers on the Department's Intranet.

Proposed Completion Date: September 30, 2005

Recommendations 2.3 Establish a formal tracking system to monitor timeliness of claim submission.

Proposed Corrective Action: SHIMS will maintain and electronically track the status of cases as well as provide reminders for appropriate follow-up actions. SHIMS will electronically submit workers's compensation claims, which will in aid the timely submission of workers' compensation claims to the U.S. Department of Labor.

Proposed Completion Date: September 30, 2006

Finding # 3- The Department Did Not Effectively Monitor Continuation of Pay Benefits

Recommendation 3.1 Develop policies and procedures for monitoring and tracking COP benefits and distribute to all affected parties to ensure awareness of responsibilities.

Proposed Corrective Action: OM will develop a new Administrative Communications Systems (ACS) policy document on the Workers Compensation Program. OM will include a section on "monitoring and tracking COP benefits" in the actual policy document. OM has been in contact and is currently benchmarking with other federal agencies while gathering existing policy documents pertaining to the Workers' Compensation Program.

Proposed Completion Date: March 30, 2006

Recommendation 3.2 Recoup the COP benefits received by the individuals identified in the audit with denied claims and those without established claims.

Proposed Corrective Action: There are now only two individuals that now fall into the categories mentioned above. The third individual's previously denied claim has since been approved. OM has taken the appropriate actions to recoup the COP benefits for the two individuals identified in the report.

Completed: Provide date action done.

Finding # 4- The Department Did Not Adequately Verify Chargeback Reports

Recommendation 4.1 Notify OWCP of the need to remove the individual identified above (Stephen Allen) from the Department's chargeback report and recoup the associated costs if allowable.

Proposed Corrective Action: OM has notified OWCP to remove the individual identified in the draft audit report and he was removed from the chargeback roster. As per DOL regulations, ED is not allowed to recoup the minimal associated costs with this case.

Completed: Provide date action done.

Recommendation 4.2 Validate the most recent chargeback report against the Department's personnel database to determine whether any additional individuals are not Department employees or had an injury prior to their entry date with the Department.

Proposed Corrective Action: OM will validate the most recent chargeback report against the Department's personnel database and review for accuracy.

Proposed Completion Date: March 30, 2005

Recommendation 4.3 Develop and distribute policies and procedures addressing the verification of chargeback reports, to include who is responsible, how frequently chargeback reports are verified, and how the verification should be performed.

Proposed Corrective Action: OM will develop a new Administrative Communications Systems (ACS) policy document on the Workers Compensation Program. OM will include a section on "verification of chargeback reports" in the actual policy document. OM has been in contact and is currently benchmarking with other federal agencies while gathering existing policy documents pertaining to the Workers' Compensation Program.

Proposed Completion Date: March 30, 2006

Recommendation 4.4 Ensure all knowledgeable parties, including regional specialists and applicable POs, are provided with copies of the chargeback reports to review and verify, including verification that individuals are listed under the appropriate PO. POs should also identify applicable individuals currently listed under the "Not Specified" category and ensure they are moved to the appropriate PO listing.

Proposed Corrective Action: OM will develop a new transmittal document and send on chargeback reports to Regional Specialists and to Principal Offices on a regular basis. The document will only contain information for the specific region or Principal Office.

This process will be performed and coordinated manually by a HQ Workers' Compensation Specialist or contractor.

Proposed Completion Date: March 30, 2005

Please contact Ms. Carmen Merriweather or Fred Green if you have any questions on these responses. Ms. Merriweather may be reached on 202-401-0449 and Mr. Green may be reached on 202-401-5931.