

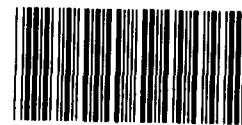
GAO

Report to the Chairman, Employment, and
Housing Subcommittee, Committee on
Government Operations, House of
Representatives

February 1992

**FEDERAL
EMPLOYEES'
COMPENSATION ACT**

Need to Increase
Rehabilitation and
Reemployment of
Injured Workers



146092



United States
General Accounting Office
Washington, D.C. 20548

General Government Division

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February 28, 1992

The Honorable Tom Lantos
Chairman, Employment and Housing
Subcommittee
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we review the Department of Labor's administration of the Federal Employees' Compensation Act as it relates to the rehabilitation and reemployment of injured federal workers.

As arranged with the Subcommittee, we are sending copies of this report to other Committees and Members of Congress, the Secretary of Labor, the Director of the Office of Management and Budget, and other interested parties.

The major contributors to this report are listed in appendix III. Please contact me on (202) 275-5704 if you or your staff have any questions concerning the report.

Sincerely yours,

Bernard L. Ungar
Director, Federal Human Resource
Management Issues

Executive Summary

Purpose

Injured federal workers received more than \$1 billion in compensation for lost wages during fiscal year 1990 under the Federal Employees' Compensation Act (FECA). Besides compensating for lost wages, it is FECA's intent to return disabled but employable workers to the workplace through a vocational rehabilitation program offering such services as testing, counseling, training, and job placement. Such efforts can more than pay for themselves by reducing compensation when workers are again productively employed.

The Chairman of the Employment and Housing Subcommittee of the House Committee on Government Operations asked GAO to review FECA's vocational rehabilitation program and related rehiring efforts for injured federal employees. GAO's review addressed (1) how long FECA claimants received compensation before receiving rehabilitation services and (2) whether opportunities exist to increase the number of injured workers who receive vocational rehabilitation services and return to work.

Background

FECA is administered by the Department of Labor's Office of Workers' Compensation Programs (OWCP). FECA covers federal and U.S. Postal Service employees who are injured on the job or who contract a work-related disease. It provides nontaxable payments as compensation for lost wages, monetary awards for bodily impairment or disfigurement, medical care, vocational rehabilitation services, and survivors' compensation.

Rehabilitation services are intended to help injured workers return to gainful work. Injured workers are to be screened and referred for rehabilitation services as soon as possible to increase their prospects of returning to work. In fiscal year 1990, the rehabilitation program cost \$13.6 million.

GAO's review covered 3 of OWCP's 12 district offices using statistically valid samples drawn from claimants not yet referred for rehabilitation services, claimants who were receiving services, and claimants who received services but were not yet reemployed. GAO also interviewed officials at federal agencies that collectively incurred about 75 percent of FECA compensation costs in fiscal year 1990.

Results in Brief

Research shows and OWCP agrees that injured workers are much more likely to undergo successful rehabilitation and return to work if rehabilitation services are started soon after injury. Of the cases GAO reviewed, however, less than 17 percent were referred for rehabilitation services within OWCP's early referral definition of 7 months. Many were not referred for at least 2 years. Labor has taken steps to expedite the screening and referral of injured workers for rehabilitation services.

OWCP has relied extensively on contracts with private counselors to provide rehabilitation services—an approach that OWCP believes better covers its geographic and skills needs and is easier to fund than hiring its own staff. To ensure that rehabilitation is done in a cost-effective manner, GAO believes OWCP should explore the potential for increasing the use of state and in-house staffs to do some work now done by contract counselors.

Opportunities also exist to increase the reemployment of injured workers. Closer coordination between counselors and injured workers' previous employers could help identify available training and jobs.

Principal Findings

Untimely Referrals

In the districts reviewed, GAO estimated that almost half of the injured workers receiving rehabilitation services waited at least 3 years before they were referred to the program. For those persons waiting to be referred, 86 percent had already been waiting longer than OWCP's definition of early referral (within 7 months of injury). OWCP has begun a 4-year effort to hire temporary staff to relieve the backlog of cases awaiting review and make more timely rehabilitation referrals. At GAO's suggestion, OWCP also made a procedural change to allow initial rehabilitation services unless claimants were permanently unable to work at least 4 hours a day. (See pp. 15-22.)

Opportunities for Providing More Services and Increasing Workers' Return to Jobs

Rehabilitation services are usually provided through contracts with private counselors, whose costs can be charged back to injured workers' agencies. However, OWCP has not evaluated the cost-effectiveness of this approach. In fiscal year 1990, the \$10 million paid primarily for contract counselors' fees could have funded nearly twice as many in-house specialists as counselors. OWCP said counselors best serve its needs for a range of skills and local expertise, and obtaining reimbursement from other agencies is easier than obtaining appropriations to hire more in-house specialists. GAO

believes OWCP should examine options besides contracting, such as greater use of in-house staff and state programs, which are federally funded and are required to serve federal employees. (See pp. 23-30.)

Some factors that prevent a rehabilitated worker's return to work may be largely beyond OWCP's control, such as changes in the worker's health or a poor job market. However, GAO identified other factors related to the program itself that may be hindering reemployment. One is a lack of coordination with pre-injury employers, who can help OWCP identify job openings and available training programs. GAO found that an estimated 40 percent of injured workers' files did not contain evidence that pre-injury employers had been contacted. Although this does not necessarily mean contact and coordination with employers did not occur, officials at agencies with the majority of injured workers on the compensation rolls said they should be more involved in identifying jobs and determining whether their own training resources could be used. Also, as noted earlier, long time periods passed before rehabilitation referrals were made. (See pp. 31-35.)

Recommendations

GAO's recommendations to the Secretary of Labor are aimed primarily at assessing staffing alternatives for the rehabilitation program and improving coordination with pre-injury employers.

Agency Comments

Labor agreed with all but one of GAO's recommendations, that being to determine whether hiring more in-house staff would be a more cost-effective way to provide rehabilitation services than continuing to rely heavily on contract counselors. Labor believes the present rehabilitation program delivers effective services and more than pays for itself. Labor also said the use of contract counselors adds benefits that cannot be replicated by using in-house staff.

GAO addressed Labor's disagreement in part by modifying the language of the recommendation to avoid Labor's inference that OWCP should stop using contract counselors. GAO recognizes that it may not be practical or appropriate to staff internally to satisfy the rehabilitation needs of all injured workers. On the other hand, OWCP has contracted with counselors to screen cases, a function normally performed by claims examiners and rehabilitation specialists. Also, in response to Labor's concern about the extra travel time and costs in-house staff would incur to serve geographically dispersed injured workers, GAO did a limited analysis that

showed that counselors often handled numerous injured workers' cases within the commuting areas of OWCP district offices. Thus, GAO continues to believe that OWCP should determine whether it is cost effective to hire more in-house specialists to do some of the work now being done by counselors. (Labor's comments and GAO's views are included in the relevant chapters of this report, and Labor's written comments are included in app. II.)

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Abbreviations

| | |
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| DOT | Department of Transportation |
| FAA | Federal Aviation Administration |
| FECA | Federal Employees' Compensation Act |
| LHWCA | Longshore and Harbor Workers' Compensation Act |
| OWCP | Office of Workers' Compensation Programs |
| RSA | Rehabilitation Services Administration |

Introduction

The Federal Employees' Compensation Act (FECA) provides compensation for federal civilian employees injured or killed while performing their duties. To help injured workers return to the workforce, the FECA program also provides vocational rehabilitation services including job counseling and guidance, testing, work evaluation to determine the injured employee's work capability, training for new job skills, and placement assistance. An injured worker's successful rehabilitation is important not only for the worker's self-esteem but also for the government, because a return to employment lessens the amount of FECA compensation that must be paid and that ultimately must be borne by the taxpayer.

At the request of the Chairman, Employment and Housing Subcommittee, House Committee on Government Operations, we reviewed the administration of FECA's vocational rehabilitation program relating to the screening and referral of injured workers for rehabilitation services and the extent to which rehabilitated workers return to the workforce.

Background

Enacted in 1916 (5 U.S.C. 8101, as amended), FECA provides workers' compensation coverage for about 3 million federal and U.S. Postal Service workers. Benefits include (1) nontaxable payments as compensation for lost wages, (2) monetary awards for bodily impairment or disfigurement, (3) medical care, (4) vocational rehabilitation services, and (5) survivors' compensation.

The Department of Labor's Office of Workers' Compensation Programs (OWCP) administers FECA and pays for benefits from the Employees' Compensation Fund. The agencies for whom the employees worked when they were injured or disabled reimburse the fund from their appropriations or operating revenues. Reimbursements cover the cost of compensation, rehabilitation, medical services, and death payments paid to injured employees and their survivors. OWCP bills agencies annually for the amounts they owe the fund. The chargeback billings cover a 12-month expense period from July 1 to June 30.

For expense period 1990, OWCP charged back about \$1.4 billion to the employing agencies for benefits provided to injured workers or their survivors. This total represented an increase of \$168 million (13.2 percent) over the prior year. Table 1.1 shows the chargeback cost growth since fiscal year 1985.

Table 1.1: FECA Chargeback Costs for Expense Periods 1985-90

| Dollars in millions | | | | |
|---------------------|-----------------------|-------------------------------|----------------|--------------------|
| Expense period | Compensation benefits | Medical expenses ^a | Death benefits | Total ^b |
| 1985 | \$730.0 | \$177.2 | \$57.2 | \$964.5 |
| 1986 | 791.1 | 191.7 | 65.8 | 1,048.6 |
| 1987 | 798.6 | 205.8 | 65.7 | 1,070.0 |
| 1988 | 837.9 | 238.7 | 67.4 | 1,144.0 |
| 1989 | 915.5 | 285.3 | 72.1 | 1,272.9 |
| 1990 | 1,045.3 | 311.2 | 84.5 | 1,441.0 |
| Total | \$5,118.4 | \$1,409.9 | \$412.7 | \$6,941.0 |

^aIncludes vocational rehabilitation expenses.

^bTotals may not add because of rounding.

As of September 30, 1990, about 50,000 injured workers were receiving monthly compensation for lost wages.¹ Because these individuals had disabilities that were expected to last more than 60 days, they were placed on the "periodic roll." Disability compensation is to be paid every 4 weeks, and OWCP is to review the medical conditions and wage-earning capacities of these individuals periodically.

To compensate totally disabled employees for lost wages, FECA provides three-fourths of an employee's gross salary if there are one or more dependents, or two-thirds of gross salary if there are no dependents. For partially disabled employees—for example, those who are working or for whom OWCP has established a wage earning capacity—FECA provides either two-thirds or three-fourths of the difference between their wages before the injury and their actual or potential after-injury earnings. Partially disabled employees who refuse to seek suitable work or refuse to work after suitable work is offered to them are not entitled to compensation.

OWCP administers FECA through its headquarters and 12 district offices. OWCP also administers two other workers' compensation programs—the Longshore and Harbor Workers' Compensation Act (LHWCA), which provides benefits to private sector employees engaged in maritime or maritime-related employment, and the Federal Mine Safety and Health Act of 1977, which provides "black lung" benefits to certain disabled coal miners. As of September 30, 1990, OWCP had a 1,321-person staff nationwide.

¹OWCP estimates that over 58,000 injured workers will receive monthly disability compensation by fiscal year 1995.

FECA's Vocational Rehabilitation Program

Rehabilitation services are generally either medical or vocational in nature and are aimed at returning the injured worker to gainful employment. Medical services are those necessary to correct, minimize, or modify impairment caused by disease or injury. Vocational services include testing, evaluation, counseling, guidance, job placement, and follow-up. When injured workers are medically stable and able to work at least 4 hours a day, OWCP's practice has been to direct them to undergo vocational rehabilitation. OWCP can reduce the monthly compensation for lost wages of those beneficiaries who refuse to do so.

If claimants overcome their disabilities within 1 year of the date compensation begins, their former federal employer must allow them to resume their former position or its equivalent. If recovery occurs after 1 year has passed, the pre-injury agencies must generally give the claimants priority placement consideration in their former or equivalent positions and make reasonable efforts to place them in other federal departments or agencies.

OWCP's rehabilitation program costs are increasing each year, as is the average cost per rehabilitation. Program costs rose from \$3.9 million in fiscal year 1982 to \$13.6 million in fiscal year 1990 (see table 1.2). Adjusted for inflation, this was an increase of about 158 percent. During the same period, the number of rehabilitations rose from 825 in fiscal year 1982 to 1,124 in fiscal year 1990, a 36-percent increase. By comparison, the cost per rehabilitation, adjusted for inflation, rose 89 percent, going from \$6,406 in fiscal year 1982 to \$12,117 in fiscal year 1990.

By returning rehabilitated claimants to the workforce, the vocational rehabilitation program has in the past paid for itself, according to OWCP officials. In fiscal year 1984, OWCP determined that the compensation savings resulting from its rehabilitation efforts were nearly double the year's program costs. OWCP officials believe the savings have continued. For example, OWCP reported that in fiscal year 1990, compensation savings totaled \$19,045,000 for rehabilitated claimants who had returned to work. The reduction in compensation costs should continue in subsequent years if the individuals remain employed. We did not assess the reliability or accuracy of OWCP's reported cost savings.

Table 1.2: Rehabilitation Program Costs, Fiscal Years 1982-90

| Fiscal year | Total costs (In millions) | | Number of rehabilitations | Average adjusted cost per rehabilitation ^a |
|-------------|---------------------------|---------------------------------|---------------------------|---|
| | Actual | Inflation-adjusted ^a | | |
| 1982 | \$3.9 | \$5.3 | 825 | \$6,406 |
| 1983 | 4.0 | 5.3 | 842 | 6,342 |
| 1984 | 4.2 | 5.4 | 695 | 7,730 |
| 1985 | 4.7 | 5.7 | 647 | 8,883 |
| 1986 | 5.5 | 6.6 | 624 | 10,611 |
| 1987 | 7.6 | 8.7 | 842 | 10,328 |
| 1988 | 10.1 | 11.1 | 985 | 11,301 |
| 1989 | 11.5 | 12.1 | 1,053 | 11,537 |
| 1990 | 13.6 | 13.6 | 1,124 | 12,117 |

Note: OWCP considers injured workers to be rehabilitated when they return to work for at least 2 months.

^aAdjusted to 1990 dollars.

Providing effective and timely rehabilitation services to claimants requires close coordination between three key positions—the claims examiner, the rehabilitation specialist, and the contract counselor. Their responsibilities are summarized as follows:

- **Claims examiner.** The claims examiner's screening and referral role is the foundation of a successful rehabilitation program. When medical evidence indicates that total disability has ended and no further active treatment is planned to cure or relieve the effects of the injury, the claims examiner is to evaluate claimants for their return-to-work potential. If the person can work 4 or more hours, the examiner attempts to determine, through correspondence or telephone calls, whether an appropriate job is available at the injured worker's previous federal agency. If none is available, the case is referred to a rehabilitation specialist for screening and possible rehabilitation service. Claimants or their physicians may also request referral for vocational rehabilitation services.
- **Rehabilitation specialist.** The rehabilitation specialist is to review referred cases to determine whether rehabilitation services should be authorized. When time permits, the rehabilitation specialist may also screen cases not yet referred by claims examiners. Once the review process is complete, the rehabilitation specialist is to make further placement inquiries with the claimant's previous employer and generally assign a contract counselor to each case. The rehabilitation specialist is to review the contract counselors' and claimants' progress periodically.
- **Contract counselor.** To complement its rehabilitation specialist staff, OWCP contracts with private counselors to provide vocational rehabilitation services and assist injured workers in finding suitable federal or other

services and assist injured workers in finding suitable federal or other employment. OWCP may also refer cases to state vocational rehabilitation agencies.

Objectives, Scope, and Methodology

Our objectives were to determine

- how long FECA claimants remained on the compensation rolls before receiving vocational rehabilitation services,
- whether opportunities exist to increase the number of injured workers who receive vocational rehabilitation services and return to work, and
- the adequacy of OWCP's internal controls over FECA and LHWCA vocational rehabilitation program funds.

To help us achieve these objectives, we reviewed available research on vocational rehabilitation and obtained FECA program information at OWCP headquarters, three district offices judgmentally selected for detailed review—San Francisco, Seattle, and Washington, D.C.—and other selected federal and state agencies. OWCP headquarters officials said that these three district offices would be generally representative of its nationwide rehabilitation activities. We also reviewed published research on workers' compensation, particularly research related to the timing of providing rehabilitation services to injured workers and their successful return to work.

To assess OWCP's screening, referral, and job placement activities, we interviewed (1) OWCP officials at headquarters and the three district offices selected for review and (2) rehabilitation counselors under contract with OWCP. We also interviewed officials responsible for managing compensation programs at the U.S. Postal Service and the Departments of Defense, Veterans Affairs, and Transportation. Collectively, these agencies incurred the bulk of the federal government's FECA compensation costs (about 75 percent) in fiscal year 1990.

At each of the three district offices, we randomly selected 25 case files for review from each of three population groups. The first group was composed of claimants receiving rehabilitation services during fiscal year 1989. The second group consisted of claimants who completed rehabilitation services but were not reemployed as of September 30, 1989. Both of these groups were selected to determine the length of time between date of injury and referral for rehabilitation. In addition, the second group was chosen to determine what factors may have affected

their ability to return to the workplace. The third group—claimants whom OWCP had not yet referred for rehabilitation services as of December 1, 1989—was selected to determine how long claimants were on the rolls without being screened and referred for rehabilitation. In total, we reviewed 221 cases. We could not always determine when these claimants should have been screened and whether they could have been referred earlier for rehabilitation, because the relevant medical information was not always in the case files.

Population estimates for each group at each of the district offices were based on the cases in that sample. Appropriate weighting methods were applied when aggregating across the three districts. Since a sample was used to develop our estimates, each estimate had a margin of error, or sampling error. This error indicates how closely we can approximate from a sample the results that we would obtain if we were to take a complete count of the universe using the same measurement methods. Adding the sampling error to and subtracting it from each population estimate indicates the upper and lower bounds for each estimate. This range is called a confidence interval. Sampling errors and confidence interval are stated at a certain confidence level, in this case, 95 percent. For example, a confidence interval at the 95-percent confidence level means that in 95 out of 100 samples drawn, the sampling procedure used would produce a confidence interval containing the estimated universe value.

To obtain views on the feasibility of states providing rehabilitation services to injured federal workers, we (1) interviewed cognizant officials at the Department of Education's Rehabilitation Services Administration, which helps fund states' vocational rehabilitation programs, and (2) state officials from California, Virginia, and Washington. OWCP officials said these states previously provided rehabilitation services to claimants referred by the OWCP district offices we reviewed.

We did a limited test of internal controls over the bills submitted for payment by contract counselors. In each district, we reviewed the 10 cases with the highest rehabilitation costs as of September 30, 1989, to assess compliance with procedures for authorizing and paying for counselors' services. We also judgmentally selected and interviewed six claimants in the Seattle district who at the time were receiving rehabilitation services to confirm whether they had received services for which contract counselors had billed OWCP. We did not use the results of this test to make district- or

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programwide estimates but rather to indicate whether a broader internal control evaluation should be considered.²

We did our work between January 1990 and September 1991 in accordance with generally accepted government auditing standards. The Director, OWCP, provided Labor's written comments on a draft of this report. These comments are presented and evaluated in chapters 2 through 5 and are included in appendix II.

²The results of our tests did not indicate a need for further evaluation and are therefore not presented in this report.

Referrals for Vocational Rehabilitation Services Were Not Timely

Studies have shown that initiating vocational rehabilitation services within 6 months after injury increases the likelihood that injured workers will be able to return to work. Although an injured employee may not be able to benefit from a full range of rehabilitative services within that time frame, OWCP recognizes the value of early intervention and agrees that certain services, such as counseling, guidance, and assessing potential for successful return to the workplace, are appropriate in order to help workers begin to deal with their disabilities. In the districts we reviewed, however, years often passed without OWCP referring injured workers for any rehabilitation services.

OWCP has begun to address the problem of untimely referrals. Because heavy caseloads were determined to be a primary cause of untimely referrals, OWCP recently started hiring temporary staff under a 4-year initiative to deal with the existing case backlog and, in turn, to free existing staff to intervene earlier with newer cases. However, on the basis of their interpretation of the FECA procedures manual, rehabilitation specialists in the districts we reviewed had not been conducting initial interviews with claimants or starting any rehabilitation activities unless claimants were able to work at least 4 hours per day. By changing this practice, OWCP's success in achieving effective early intervention should be enhanced.

Importance of Early Intervention

Various researchers have found that injured workers who began receiving rehabilitation services within 6 months of their injuries were more likely to return to work than those who did not. Vocational rehabilitation professionals agree that early referral of injured workers for rehabilitation services increases the likelihood of successful return to work.

The Workers Compensation Research Institute—a nonfederal research organization specializing in workers' compensation issues—observed that encouraging employers and insurers to evaluate cases for suitability for vocational rehabilitation not later than 6 months after injury could yield benefits for workers, employers, and insurers. The Institute further observed that the benefits, such as compensation cost savings to employers and increased earnings for rehabilitated employees, far exceeded any additional costs incurred. The Institute's study concluded that although job training and placement services need not begin within 6 months of an injury, an evaluation of the injured worker's eventual ability to return to work should be made by that time.¹ A nationwide study of 5,620 cases by another researcher showed that when workers were

¹John A. Gardner, *Improving Vocational Rehabilitation Outcomes: Opportunities for Earlier Intervention* (Cambridge, Mass.: Workers Compensation Research Institute, 1988).

referred to rehabilitation counseling within 3 months of their injury, 47 percent returned to work.² If referral for such counseling was 4 to 6 months after injury, the proportion returning was 33 percent; if it was more than a year after injury, only 18 percent returned to work. The study concluded that the timeliness of treatment (rehabilitation counseling) is the single most important consideration in rehabilitating an injured worker.

OWCP's contract counselors supported the view that early referral is important. They said the longer the time between the injury and the start of such vocational rehabilitation services as guidance and counseling, the more difficult it is to rehabilitate workers and help them return to work. One counselor added that if a long period of time elapses, the injured worker tends to develop a disability syndrome and becomes comfortable with not working. The Department of Labor's Office of Inspector General similarly stressed the importance of early intervention, noting:

The initial delays are costly since time is so critical to successful return to work efforts. It is a maxim within the workers' compensation community that most injuries heal within 6 weeks and that most employees should return to work within 6 months. After the 6-month window has passed, it is much more difficult for an employee to return to a work environment.³

OWCP's Workload Contributed to Rehabilitation Referral Delays

OWCP recognizes the value of early intervention, but its heavy workload has been a factor in keeping it from achieving this objective. In many cases, years passed before workers were referred for rehabilitation services. Two of the three districts we reviewed developed alternative staffing approaches to deal with their workload problems and to help expedite the referral process.

Long Time Periods Between Injuries and Rehabilitation Referrals

At each of the three districts, we reviewed samples of injured workers who had (1) received rehabilitation services in fiscal year 1989 and (2) who had not yet been referred as of December 1, 1989. On the basis of our sample, we estimated that in the three districts

²L.K. Spitz, "Winning at Cost Containment in Rehabilitation," *Risk Management*, vol. 30, no. 7 (July 1983), pp. 46-48.

³OWCP Should Evaluate Nonfederal Workers' Compensation Techniques to Assess Their Adaptability to FECA, Department of Labor, Office of Inspector General, 02-6-037-04-435, (Washington, D.C.: Aug. 1988).

- 45 (± 14) percent of the 3,547 individuals who were receiving rehabilitative services were initially referred 3 or more years after their injuries,
- less than 17 percent of the 3,547 had been referred within OWCP's early referral guidelines of 7 months,
- 3 or more years had passed for 39 (± 9) percent of 1,447 other injured workers who had not yet been referred for rehabilitative services, and
- it was at least 7 months since the date of injury for more than 92 (± 6) percent of the 1,447 who had not yet been referred for rehabilitation services.

Because a large number of years had passed for many of the injured workers in our samples, we used the median rather than the mean for our analyses to better reflect central tendencies. As shown in table 2.1, the median time between dates of injury and rehabilitation referrals was over 3 years in two districts and over 2 years in the third district.

Table 2.1: Median Number of Years Between Date of Injury and Referral for Rehabilitative Services

| District office | Median years |
|------------------|--------------|
| San Francisco | 3.35 |
| Seattle | 2.17 |
| Washington, D.C. | 3.26 |

Our analysis showed that a number of years from injury dates also elapsed for those individuals who had not yet been referred for any rehabilitative services. As shown in table 2.2, the median number of elapsed years was more than 2 years at two offices and more than 8 years at the third.

Table 2.2: Median Number of Years Since Injury for Individuals Not Yet Referred for Rehabilitative Services

| District office | Median years |
|------------------|--------------|
| San Francisco | 2.30 |
| Seattle | 2.60 |
| Washington, D.C. | 8.01 |

Heavy Workloads Delayed Rehabilitation Referrals

Heavy staff workloads contributed to the problem of delays in making early referrals of injured workers for vocational rehabilitation services, according to OWCP officials. Two positions share responsibility for referrals—the claims examiner, who is the primary source of referrals for rehabilitation services, and the rehabilitation specialist, who oversees the

provision of vocational rehabilitation services. According to OWCP officials, examiners and specialists have had heavy workloads for several years. For example, as of September 30, 1989, the year for which we sampled cases, claims examiners' and rehabilitation specialists' caseloads averaged 329 and 320, respectively, nationwide. Although the claims examiner's position description did not specify a "suggested" caseload, that of the rehabilitation specialist called for a caseload of 125 to 200. Table 2.3 shows their respective workloads in the three districts we reviewed.

Table 2.3: Claims Examiner and Rehabilitation Specialist Workloads in Districts GAO Reviewed

| District office | Average case workload as of 9/30/89 | |
|------------------|-------------------------------------|----------------------------|
| | Claims examiners | Rehabilitation specialists |
| San Francisco | 394 | 858 |
| Seattle | 299 | 230 |
| Washington, D.C. | 285 | 274 |

Districts Devised Alternatives for Addressing Referral Delays

The San Francisco and Washington, D.C., district offices supplemented their staffs in trying to deal with their heavy workloads—one hired contract workers and the other employed temporary rehabilitation specialists. The Seattle district also had a workload problem but decided not to augment its staff to increase case screening because it would only create a backlog of cases being referred for rehabilitation.

Beginning in October 1987, the San Francisco district office contracted with private rehabilitation counselors to perform the initial screening and referral functions normally performed by claims examiners. These contract counselors—or "screeners," as OWCP refers to them—identified claimants who would be appropriate candidates for vocational rehabilitation services and obtained information such as the needed medical data, their physical capabilities, and reemployment potential. Once contract screeners or claims examiners determined that injured workers needed rehabilitation, they referred the cases to rehabilitation specialists, who made the rehabilitation decisions and assigned contract counselors to proceed with the process. For expense period 1989, this district hired 11 contract screeners at \$65 per hour each, spending a total of \$198,000 for their services.

OWCP officials told us that the Washington, D.C., district office used two temporary GS-11 rehabilitation specialists to screen the files and identify

claimants as candidates for vocational rehabilitation services. As necessary, they contacted the claimants' physicians to obtain needed medical information before referring their cases to rehabilitation specialists. Because of budget limitations, district officials told us they were replacing one of the temporary specialists with a contract screener. The district director recognized that it was more expensive to hire a contract screener at \$50 an hour than to use a temporary GS-11 rehabilitation specialist at \$14 per hour. He believed, however, that it was the best alternative available because the contract screeners' costs could be charged back to the workers' employing agencies, whereas the specialists' costs had to be funded by Labor.

Plan for Using Temporary Staff to Achieve Earlier Intervention

Recognizing the need to intervene earlier in the disability cycle, Labor's fiscal year 1992 budget requested funding for 50 staff years as the initial phase of a 4-year, 200-staff-year effort to reduce its backlog of cases. An OWCP official told us that the additional staffing effort has been approved but that OWCP will be able to fund only about 25 staff years in fiscal year 1992 given Labor's overall appropriations.

OWCP is hiring temporary staff to review the periodic roll to determine whether claimants should continue to receive benefits, whether they need a second medical opinion, and whether vocational rehabilitation is appropriate. The staff would include occupational/rehabilitation nurses, claims examiners, rehabilitation specialists, and typists. The temporary staff would be primarily responsible for reviewing cases that have been on the periodic roll for more than 6 months. Regular claims and rehabilitation staff would be primarily responsible for handling the newer cases and providing early intervention.

As originally planned, OWCP expected the 4-year effort to result in 3,000 rehabilitations and terminations with anticipated net savings of approximately \$51 million. Although the project will not be funded at the level originally anticipated, OWCP still expects to increase rehabilitations and reduce overall costs. We believe that Labor's plan is logical and, if effectively implemented, should enable OWCP to perform more timely referrals of injured workers for vocational rehabilitation services.

Rehabilitation Referral Procedures Conflicted With One Another

Although heavy workloads appeared to be a primary cause of untimely rehabilitation referrals, case handling procedures were in conflict regarding when cases were to be closed without conducting an initial claimant interview and deciding on the need for rehabilitation services. As a result, the start of key rehabilitation activities such as counseling and guidance could be delayed for some employees, thereby denying both the employee and the government the benefits of early intervention.

At the time we reviewed our sample cases, OWCP required claims examiners to do a systematic identification of injured workers in need of rehabilitation and ensure that they were screened and referred for rehabilitation services before any negative attitudes about work became fixed and difficult to change. Early referrals were defined as those made to the rehabilitation specialist within 7 months of the claimant's date of injury.

Beginning in November 1990, OWCP stopped using 7 months as a time frame in defining early referral. OWCP's policy now encourages the identification and evaluation of injured workers in need of rehabilitation services at an early stage during the disability to enhance cooperation and the chances of a positive outcome. The policy notes that the chances of successful rehabilitation are much higher if the injured worker is approached soon after the injury. OWCP officials advised us that the reason for this change was their belief that they could overcome their workload problems and begin making rehabilitation referrals sooner than the "within 7 months" time period because of, among other things, their increased use of contract screeners. They also anticipated approval of their request for additional temporary staff.

Although rehabilitation specialists in the three districts we visited agreed with the importance of early intervention, they said that unless a claimant could work at least 4 hours per day, they would close that case without interviewing the claimant and delay further screening of such cases for rehabilitation referral. In doing so, they were relying on part 2, section 9.c.(4), of the FECA procedures manual, which stated that cases will be closed without an interview only if, because of medical restrictions, the injured worker is unable to work at least 4 hours a day.

According to the OWCP procedures manual dealing with rehabilitation, the initial interview is an important part of the referral process and should be tried in all cases except for those injured workers who have successfully returned to work. The manual states that the interviewer should, among other objectives, obtain sufficient information about the injured worker's

needs, motivations, and abilities to properly determine the need for rehabilitation services and reach a decision as to the type and timing of intervention best suited to bringing the claimant back to work. Thus, the initial interview is a precursor to early intervention and key rehabilitation activities such as counseling, guidance, and assessing the claimant's potential for a successful return to work.

Various sections of the FECA and OWCP manuals emphasize the importance of early intervention and rehabilitation referral without indicating that referrals be limited to those individuals who can work at least 4 hours per day. Moreover, part 3, section 7.b., of the OWCP manual provides that rehabilitation specialists may retain cases in active status for claimants who are not physically able to work 4 hours but whose physicians indicate that their physical situations may improve. However, the next section of the manual provides that a case may be closed from referral if the claimant is not able to work 4 hours per day and there is no possibility of improvement.

We discussed the apparent contradiction between the manuals' provisions with OWCP headquarters officials. They told us that the provision in the FECA manual relating to the claimant's ability to work at least 4 hours was not intended to preclude rehabilitation specialists from interviewing claimants and starting rehabilitation services; they acknowledged that they could see how specialists made that interpretation. They said that the key concern of specialists in terms of the timing of an initial interview and a decision on starting rehabilitation services should be the injured worker's medical stability, not his/her present ability to work.

The practice of closing cases without a claimant interview probably affected the rehabilitation referral of few, if any, of the cases we reviewed, given the districts' heavy workloads. However, if OWCP reduces its case backlogs as planned, rehabilitation specialists' continued application of the 4-hour work requirement could thwart early intervention efforts by limiting the number of individuals who could otherwise receive initial rehabilitation services.

In the draft report we provided to the Secretary of Labor for review and comment, we recommended that part 2, section 9.c.(4), of the FECA manual be revised regarding the 4-hour work requirement so that the objective of early intervention could be better achieved. Labor advised us that the section had been changed and provided us with a copy of FECA Transmittal No. 92-13, dated January 23, 1992, which modified section

9.c.(4), to reflect that only claimants who are permanently restricted to fewer than 4 hours of work per day should be excluded from vocational rehabilitation services.

Conclusion

Many injured workers receiving compensation were not being referred for vocational rehabilitation services until 2 to 3 years after their injuries. Research showed that to be successful, rehabilitation should begin within 6 months of the worker's injury. OWCP has taken a step in the right direction with its temporary staffing initiative to deal with its workload problem and expects to make rehabilitation referrals within this time frame. OWCP's ability to achieve early intervention should also be enhanced since it revised the section of the FECA manual that some rehabilitation specialists were misinterpreting regarding when to conduct initial interviews and start rehabilitation services.

OWCP Needs to Assess the Cost Effectiveness of Its Staffing Approach for Providing Counseling and Related Services

At the three districts we reviewed, OWCP was unable to screen and refer many cases for rehabilitation in a timely manner, thereby reducing the prospects for successfully rehabilitating injured federal workers. Moreover, its workload problem may be exacerbated by increasing the workload for rehabilitation specialists if the review teams being established to expedite the screening and referral of cases for rehabilitation services are effective.

OWCP has attempted to deal with its workload problem by contracting with private vocational rehabilitation counselors. This is an expensive option if other, more cost-effective alternatives are available. Accordingly, OWCP should determine whether some of the work of its contract counselors could be done by placing greater reliance on state rehabilitation counselors and/or expanding the number of its own rehabilitation specialists. Only by doing this can OWCP ensure that it is using the proper mix of rehabilitation resources.

Growth in OWCP's Use of Contract Counselors

The heavy workload of rehabilitation specialists, discussed in chapter 2, led OWCP to contract with private counselors for counseling and related services. Contract counselors are doing much of what the rehabilitation specialists and/or state rehabilitation counselors have done in the past—interviewing and counseling claimants concerning their rehabilitation needs, providing testing and evaluation services, developing vocational rehabilitation plans, and identifying job placement opportunities. One of the districts we reviewed also used contract counselors to screen cases for rehabilitation referral.

OWCP has increasingly used contract counselors since 1977. Like rehabilitation specialists, they are trained and experienced in providing vocational rehabilitation services. OWCP advertises for their services nationally, and once the selection process is completed, it certifies the selected counselors for 2 years. The role of the rehabilitation specialist has thus evolved essentially into assigning claimants to contract counselors and supervising their activities.

During fiscal year 1990, OWCP paid about \$10.4 million for contract counselors' services. Adjusting previous years' expenditures to 1990 dollars, the cost of contract counselors has risen 172 percent (from \$3.8 million to \$10.4 million) since fiscal year 1982. During this same period, the number of claimants rehabilitated as a result of contract counselors' and rehabilitation specialists' efforts increased 36 percent. From an

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inflation-adjusted cost standpoint, contract counselors' costs rose from \$4,620 per rehabilitation in fiscal year 1982 to \$9,209 in fiscal year 1990, an increase of 99 percent (see table 3.1).

Table 3.1: Growth of Contract Counselors' Costs for Fiscal Years 1982-90

| Fiscal year | Total cost (In millions) | | Number of rehabilitations | Average adjusted cost per rehabilitation ^a |
|-------------|--------------------------|---------------------------------|---------------------------|---|
| | Actual | Inflation-adjusted ^a | | |
| 1982 | \$2.8 | \$3.8 | 825 | \$4,620 |
| 1983 | 3.2 | 4.2 | 842 | 4,948 |
| 1984 | 3.4 | 4.3 | 695 | 6,125 |
| 1985 | 3.7 | 4.6 | 647 | 7,060 |
| 1986 | 4.1 | 4.9 | 624 | 7,917 |
| 1987 | 5.8 | 6.6 | 842 | 7,880 |
| 1988 | 7.7 | 8.5 | 985 | 8,643 |
| 1989 | 8.7 | 9.2 | 1,053 | 8,707 |
| 1990 | 10.4 | 10.4 | 1,124 | 9,209 |

^aAdjusted to 1990 dollars.

Greater Use of Rehabilitation Specialists for Providing Services Should Be Explored

The three district offices we reviewed routinely relied on contract counselors to complement their rehabilitation specialist staff. Moreover, the San Francisco and Washington, D.C., districts employed contract counselors and temporary rehabilitation specialists, respectively, to deal with the backlog of claimants to be screened and referred for rehabilitation services. Seattle district officials told us that although they agreed with the need for early intervention with claimants, they did not try to expedite claimant screening and referral because it would only create a backlog of cases referred for rehabilitation. They said this backlog would exist unless additional resources were made available to process and monitor the rehabilitation specialists' added caseload. Although this practice helps keep rehabilitation specialists' caseloads at more manageable levels, it also runs counter to OWCP's early intervention efforts.

According to OWCP, it usually pays counselors at an hourly rate comparable to the local prevailing rate. For example, in the three districts we reviewed, district officials said that the hourly rates used in selected fiscal year 1990 contracts were \$50 in Washington, D.C., and Seattle, and \$65 in San Francisco. Using the \$50-per-hour rate and the federal work year of 2,087 hours, the \$10.4 million expenditure for contract counselors in fiscal year 1990 equated to about 99 full-time-equivalent contract counselor positions.

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Most rehabilitation specialists were GS-12s and earned between \$17 and \$22 an hour in 1990, a maximum annual salary of \$46,571. Using a \$20 hourly rate with a 2,087-hour work year and assuming an additional 30-percent cost factor for the federal government's contribution for employee benefits,¹ the \$10.4 million OWCP spent for contract counselors could have funded the equivalent of 191 rehabilitation specialists instead of the 99 full-time-equivalent contract counselor positions OWCP purchased at \$50 an hour. OWCP officials said that a portion of these costs were for testing, vocational evaluation, training, and other services, which would have had to be purchased privately in any case. However, in calculating the \$10.4 million, we excluded \$2.3 million spent for training. Although data were not readily available to determine how much of the \$10.4 million was for other rehabilitation costs, another OWCP official told us that most of it was for counselors' salaries.

OWCP officials also said it is advantageous to use contract counselors because the geographic distribution and skills needs of injured federal employees make it impractical to provide rehabilitation services through in-house staff. They noted that if federal staff were required to visit job sites and physicians' offices, the cost of transportation, per diem, overhead, and other associated costs would greatly reduce the disparity between hourly rates of contractors and in-house rehabilitation specialists.

Another advantage of using contract counselors, according to OWCP officials, relates to budgetary considerations. They said Labor would have to increase its appropriation request for OWCP program administration funds to pay for additional in-house rehabilitation specialists. On the other hand, they said that funding for contract counselors is easier to obtain because it is included in OWCP's budget request for program costs that will be charged back to claimants' former employers.

¹Office of Management and Budget Revised Circular No. A-76, Transmittal Memorandum No. 7, dated September 28, 1988, cites the federal fringe benefit cost factors to be used in analyzing and comparing the government's cost to perform a service with the private sector's cost. The factors consider the government's contributions for employee benefits such as retirement, health and life insurance, and Medicare.

Greater Use of State Vocational Rehabilitation Programs Should Be Explored

Placing greater reliance on state rehabilitation resources represents another alternative that OWCP should explore for dealing with its heavy caseload. In fact, FECA requires OWCP to use state services and facilities where practicable. However, at the districts we visited, OWCP has made limited use of the counselors available through state vocational rehabilitation programs—even though these programs are already federally funded and are required to serve federal employees.

State agencies operate vocational rehabilitation programs under plans approved by the Rehabilitation Services Administration (RSA) of the Department of Education. The Rehabilitation Act of 1973, as amended (29 U.S.C. 721 (13)(A)), states that vocational rehabilitation services provided under a state plan shall be available to any civilian employee of the United States who is disabled while on duty on the same terms and conditions that apply to other persons. Like FECA, these programs provide counseling, guidance and referral, evaluation of reemployment potential, vocational and other training services, job placement, and/or post-employment services for claimants.

OWCP's use of state vocational rehabilitation counselors appears to have diminished over the years. For instance, according to a 1981 House of Representatives Committee report, about one-half of the vocational counselors OWCP used at that time were from state vocational rehabilitation agencies.² In comparison, OWCP officials in the three districts we reviewed said that they were making little use of state programs because states gave priority to handling their own cases, which in turn delayed the handling of FECA rehabilitation cases. A rehabilitation specialist in OWCP's San Francisco office also noted that state and federal reporting requirements differ.

We identified one specialist in the three districts who was using state rehabilitation counselors to service OWCP claimants. This specialist, in the Seattle office, said he used state counselors for 4 of his approximately 271 assigned claimants. He said that he used these counselors primarily when the claimant lived in a remote location and the state was willing to pay the cost of developing a rehabilitation plan and monitor the training program. The specialist advised us that greater use of state rehabilitation services could be made if the district's major concern could be overcome—the extended time that state counselors take to complete an assignment.

²Compensating and Rehabilitating Injured Federal Workers, House Report No. 97-399, 97th Cong. 1st Sess., Dec. 11, 1981.

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Vocational rehabilitation officials in one state told us that OWCP had used its counselors in the past but had stopped doing so because, among other reasons, of state delays in completing assigned cases. They acknowledged that the problem existed but believed that with a few additional counselors they could provide an acceptable level of service to OWCP claimants. These officials also believed that their state's program offered the advantages of lower cost and a more complete rehabilitation program compared with that of some private counselors. An official in Virginia told us the state would like to cooperate with OWCP, but, given limited resources, it could be difficult for the office to handle additional cases without experiencing workload problems. A California state official added that the different federal and state reporting requirements and billing cycles caused state counselors an administrative burden.

OWCP has a cooperative agreement with RSA to facilitate the referral of injured federal workers to state agencies for vocational rehabilitation services. RSA headquarters officials said that the cooperative agreement was last updated in 1966 and that RSA has initiated actions to update the agreement. They added that state vocational rehabilitation agencies should provide services to injured federal workers and that RSA will work with OWCP to resolve perceived program problems and state expectations in providing services to OWCP claimants.

An RSA Assistant Regional Commissioner believed that greater use by OWCP of states' vocational rehabilitation resources was a good idea because of the multiple state office locations and the number of state counselors available. He provided 1990 data showing, for example, that Idaho had 52 rehabilitation counselors located in 17 cities or towns throughout the state. He also provided data for Oregon and Washington that showed that Oregon had 87 counselors in 24 localities and Washington had 178 in 30 of its localities. Similarly, we noted during our visits with California and Virginia state officials that many rehabilitation counselors were located in cities and towns throughout these states. OWCP officials also said that they emphasize locations of counselors in selecting contract counselors. OWCP seeks a geographic dispersion to help ensure that its counselors are in close proximity to injured workers.

OWCP officials said that they are receptive to working with state agencies and their rehabilitation programs and are working with RSA to update the cooperative agreement. They also said that they were aware that at least one of the district offices is actively working with Florida to obtain state vocational rehabilitation services for injured federal workers.

Conclusions

To be in the best position to deal with existing backlogs and any additional workload that could result if rehabilitation referrals become more timely, OWCP will have to ensure that it is providing counseling and related vocational rehabilitation services in a cost-effective manner. To do this, OWCP needs to determine whether some of the services now being provided by contract counselors could be adequately provided through the increased use of less costly alternatives. Placing greater reliance on state vocational rehabilitation program resources and increasing the number of its own rehabilitation specialists are two options that need to be explored.

Recommendations

To help ensure that rehabilitation is being accomplished in a cost-effective manner, we recommend that the Secretary of Labor require the Director of OWCP to

- coordinate actions with the Department of Education's RSA Administrator and explore the feasibility of making greater use of state vocational rehabilitation resources and resolving program differences between state vocational agencies and OWCP and
- determine whether additional permanent and/or temporary rehabilitation specialists could be hired to do some of the work now being done by contract counselors.

Agency Comments and Our Evaluation

Labor generally agreed with our recommendation to explore the feasibility of making greater use of state vocational rehabilitation resources. It said the most successful partnerships with state agencies have been those in which Labor provided funding for dedicated staff to serve injured federal workers in return for an agreement that OWCP's qualitative and timeliness standards would be met. Labor said it is working with the Department of Education on a joint directive that will require OWCP regional directors to encourage additional agreements of this kind.

Labor disagreed, however, with our draft report recommendation that it determine whether hiring additional rehabilitation specialists would be more cost effective than continuously relying heavily on contract counselors. It expressed concern that our comparison of contractor costs with in-house staff costs was an unwarranted inference that OWCP's rehabilitation mission can be accomplished more cost effectively purely through an increase in federal staff. Labor believes its present program delivers effective services at a reasonable cost and pays for itself several times over. It also said the use of contract counselors brings benefits to the

program that cannot be replicated with in-house staff at any cost, and only in some areas by state staff. Labor added that given the wide geographic distribution of federal workers and facilities, the need for special local labor market expertise, and the fluctuating need for services based on an unpredictable pattern of disabling injuries, OWCP has never been and will never be able to provide professional services cost effectively using in-house staff. However, Labor provided no analyses to support these beliefs.

The intent of our recommendations is to have OWCP analyze its present staffing approach for providing rehabilitation to ensure that it is using the best mix of rehabilitation resources. We did not mean to imply that the rehabilitation program could be accomplished more cost effectively purely by increasing federal staff and eliminating contract counselors. Accordingly, we revised the wording of our recommendation to avoid Labor's inference that OWCP should discontinue the use of contract counselors.

We recognize that it may not be practical or appropriate to staff internally to satisfy the rehabilitation needs of all injured workers and that various administrative costs should be considered in determining an appropriate staffing mix. We do believe, however, and OWCP agreed, that the potential for making greater use of states' vocational rehabilitation programs should be explored. To the extent that potential is realized, a lesser need for contract counselors should result.

Also, as illustrated by the recent budgetary initiative to deal with the backlog of cases, OWCP has already identified opportunities for using more rehabilitation specialists in lieu of contract counselors. OWCP should also explore the potential for using more in-house staff to provide rehabilitation services and periodically ensure that its staffing mix is cost effective. OWCP's analysis should take into account, as appropriate, the locations of federal facilities in relation to OWCP and state offices that could provide rehabilitation services, and administrative, travel, and related costs that could be incurred to serve workers injured at federal facilities that are not in close proximity to OWCP or state offices.

In response to Labor's comments regarding the inefficiencies that would result from in-house specialists spending much of their time in travel status to provide rehabilitation services, we performed a limited analysis of contract counselors' caseloads and the locations of the claimants in OWCP's Washington, D.C., and Seattle districts. We found that of the 1,036

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claimants we reviewed who were referred for vocational rehabilitation services during the past few years, about 35 percent of the 704 Seattle office claimants and about 80 percent of the Washington, D.C., office claimants lived within a reasonable commuting distance of the respective OWCP office.³ Because contract counselors are serving large numbers of claimants who apparently live near these OWCP offices, we continue to believe that OWCP should do the analysis necessary to determine whether it would be cost effective to use more permanent and/or temporary in-house staff to provide rehabilitation services in these and other locations.

³We defined reasonable commuting distance as one-way travel time of about 1 hour in the Washington, D.C., area and about 50 miles in the Seattle area.

Opportunity to Increase Workers' Return to Jobs After Vocational Rehabilitation

Many workers who receive vocational rehabilitation services do not return to the workforce. Some factors that prevent a worker's return may be largely beyond the rehabilitation program's control—for example, changes in an injured worker's health or a poor job market. Other factors, however, are related more closely to the program itself. Our analysis of case histories of a sample of workers who received rehabilitation services and discussions with agencies' officials indicated that more coordination between OWCP's contract counselors and pre-injury employers would increase the likelihood of rehabilitated workers returning to work. In addition, many workers who received rehabilitation services experienced lengthy time periods between their injuries and referral for rehabilitation.

Multiple Factors Affect Successful Rehabilitation of Injured Workers

OWCP has had some success in returning rehabilitated injured workers to the workplace. OWCP reported that over 6,000 claimants were involved in some phase of rehabilitation during fiscal year 1990. OWCP also reported that a total of 1,124 injured federal workers were rehabilitated and returned to the workplace through the efforts of its rehabilitation specialists and contract counselors. About two-thirds of the rehabilitated workers returned to their former employers. Federal agencies have also developed their own programs to return injured workers to the workplace. Appendix I contains information on selected agencies' programs.

In contrast, many other claimants received rehabilitation services but did not return to the workforce. OWCP statistics showed that during fiscal year 1990, 1,389 injured workers received rehabilitation services but had not been reemployed. Our analysis showed that several factors affected the reemployment of injured workers, including many that OWCP could not control, such as a claimant's age, ongoing health problems unrelated to the injury, and lack of employment opportunities. The following examples illustrate factors beyond OWCP control that resulted in closure of claimants' rehabilitation cases and continuation of compensation:

- One claimant was cleared by his physician to work up to 8 hours a day, but with certain medical restrictions. According to OWCP, the claimant had fully cooperated in the vocational services provided. However, jobs could not be identified that were considered suitable and available to meet the claimant's medical condition and related physical restrictions.
- For another claimant, OWCP's file review indicated that the injured worker had received medical clearance to work 6 years after a wrist and elbow injury. Before initiating rehabilitation services, OWCP verified that the pre-injury employer had an interest in rehiring the former employee. Soon

after rehabilitation started, the individual developed psychiatric problems. OWCP concluded that the claimant's condition was unstable and discontinued rehabilitation.

- A 55-year-old claimant had been in the rehabilitation program for about 2 years. OWCP and its contract counselors had provided this claimant with vocational guidance, counseling, and testing services and had attempted to retrain him for light-duty work. Because of his age, physical limitations, and a poor job market in the community, the rehabilitation specialist discontinued his rehabilitation.

In contrast to the above examples, other factors—such as insufficient coordination with claimants' former employers or delays in initiating vocational rehabilitation services—reflect problems within the rehabilitation program itself.

Insufficient Coordination With Claimants' Former Employers

OWCP officials believe that placing a rehabilitated worker with his or her previous employer is the quickest way to return a person to work, involves less of a salary loss for the injured worker, and returns an experienced employee who is medically fit to be a productive part of the organization. OWCP requires its rehabilitation specialists and contract counselors to initiate contacts with a claimant's previous employer before trying to identify other employment opportunities.

We could only determine whether pre-injury employers were actually contacted as required if such contacts were documented in the case files. Based on our review of sample cases at the three district offices, we estimate that 60 percent (± 12 percent) of the files contained information indicating that the specialists and counselors had contacted the pre-injury employer.

Although we cannot say with certainty how often pre-injury employers were contacted, officials at the Postal Service and the Departments of the Air Force, Navy, and Veterans Affairs advised us that coordination and communication with OWCP through its rehabilitation specialists and contract counselors needed improvement. We considered the views of these officials to be significant because their agencies accounted for about 58 percent of the chargeback costs for the 1990 expense period; moreover, the agencies have demonstrated an interest in exercising more control over their FECA costs. In particular, these officials believed they should be more involved in identifying the training needs of their agencies'

injured workers and whether their agencies' own local training resources could be used. Following are examples of this level of concern.

- Personnel officials at a Naval shipyard facility said that had OWCP specialists or counselors contacted them, they could have suggested ways to restructure jobs to accommodate injured employees.
- Postal Service officials said that it would be helpful if OWCP specialists or counselors coordinated their efforts with the former employing units and the claimants' physicians to identify the tasks injured workers could perform and the positions that could be filled. They added that their agency's internal training programs may be suitable to help qualify injured workers for other positions.
- Air Force officials said although contract counselors generally tried to contact them and sometimes visited their installations, they would like to be more involved in the vocational rehabilitation of their injured workers. They added that they have training programs their injured workers could participate in, but expressed concern that they have no control over—but nevertheless have to pay for—their injured workers' vocational rehabilitation programs.
- Department of Veterans Affairs officials expressed the belief that their training was better than that OWCP could provide. They suggested that contract counselors should work more closely with Veterans Affairs so that claimants could be trained in areas needed by their agency.

Contract counselors and rehabilitation specialists said that they generally tried to contact pre-injury employers except where other past contacts with those employers were unsuccessful.

Delays in Initiating Early Vocational Rehabilitation Services

As discussed in chapter 2, initiating early rehabilitation services such as counseling, guidance, testing, and/or work evaluations within 6 months after injury increases the likelihood that injured workers will return to work. We noted, however, that the districts we reviewed were generally taking years rather than months to initiate those services. This condition also existed for our sample of 74 rehabilitated but unemployed claimants. In fact, the median times between their dates of injury and referral for rehabilitation services were even greater—3.1 years in the Seattle district, 4.6 years in the San Francisco district, and 4.7 years in the Washington, D.C., district.

The median ages for these workers ranged from 52 years in Seattle and Washington, D.C., to 54.5 years in San Francisco. Similarly, the median

ages of the injured workers who had not yet been referred for rehabilitation (see ch. 2) ranged from 46 in San Francisco to 59 in Washington, D.C. Unnecessary time delays in making early rehabilitation referrals can take on added significance for older injured workers. The California Workers Compensation Institute concluded, for example, that generally as age increases, the probability of post-rehabilitation employment declines.¹

We have no evidence directly tying the 74 claimants' unemployment status to the delay in rehabilitation referral and their ages. However, on the basis of published research and the characteristics of our sample cases, we believe it is reasonable to assume that the years it took to initiate rehabilitation services were a contributing factor in the rehabilitated workers' lack of success in returning to work.

Conclusion

Administrative action by Labor's OWCP is needed to increase the number of injured workers who are successfully rehabilitated and reemployed. Otherwise, the condition we found is likely to continue; that is, of those who receive rehabilitation services, more will remain unemployed than are reemployed.

OWCP's plan to deal with its backlog of cases awaiting screening for rehabilitation services, if effectively implemented, should help expedite the start of rehabilitation for injured workers. That plan, coupled with adopting our recommendations in chapter 3 for exploring the feasibility of making greater use of state vocational rehabilitation resources and/or additional temporary or permanent in-house staff, if needed, should enable OWCP to better prepare injured workers for their return to work. Nevertheless, additional actions are still needed.

OWCP's rehabilitation specialists, contract counselors, and pre-injury employers need to communicate and coordinate more effectively with each other. Although we recognize that this is a shared responsibility, OWCP's specialists and counselors have primary responsibility for initiating such contacts. Officials of various agencies with large numbers of injured workers believe that they could assist OWCP by identifying available job openings and agency training programs that could help in the rehabilitation and reemployment of their former employees.

¹The Employee's View of Vocational Rehabilitation: Outcomes and Attitudes, California Workers Compensation Institute (San Francisco: Jan. 1989).

Recommendation

We recommend that the Secretary of Labor require the Director, OWCP, to devise a way to ensure that rehabilitation specialists and contract counselors establish early contact and coordinate their rehabilitation activities with claimants' pre-injury employers.

Agency Comments and
Our Evaluation

Labor said its current sampling of cases shows a better record of contacts with pre-injury employers than we found. Labor did agree, however, that improvement is needed and said it will enforce the procedural requirement that placement with the pre-injury employer be sought in all cases.

Better Internal Controls Needed Over FECA and LHWCA Funds

OWCP administers both FECA and LHWCA. Unlike the FECA program, which is funded through Labor appropriations and reimbursements from agencies, LHWCA is funded by payments from maritime carriers participating in the program. Although OWCP's rehabilitation specialists work on both FECA and LHWCA cases, their salaries are paid exclusively by one program or the other. Because rehabilitation specialists' time is not allocated between the two programs, there is no assurance that the salaries paid for by the FECA and LHWCA funds, respectively, are in direct proportion to the time rehabilitation specialists devote to each program. Thus, the potential exists that the FECA and LHWCA funds are not paying their appropriate shares of rehabilitation program expenses.

No Assurance That Rehabilitation Specialists' Activities Are Being Charged to Appropriate Funds

LHWCA provides benefits and services to compensate employees, including longshore and harbor workers, ship repairers, shipbuilders, and shipbreakers, who are accidentally injured or killed as a result of maritime employment. As required by 33 U.S.C. 944, a special fund was established in the U.S. Treasury to pay only LHWCA program costs. This fund is maintained by payments from participating maritime carriers based on prorated assessments made by the Secretary of Labor. No authority exists for FECA funds to be used on the LHWCA program or, alternatively, for LHWCA funds to be used on the FECA program.

As of September 1990, OWCP employed 27 rehabilitation specialists to administer the FECA and LHWCA programs. The FECA program funded 17 rehabilitation specialists, and LHWCA funded the remaining 10. Table 5.1 shows the numbers of FECA and LHWCA vocational rehabilitation cases processed by rehabilitation specialists during fiscal year 1990.

Table 5.1: Rehabilitation Specialists' Workload Data for the FECA and LHWCA Programs, Fiscal Year 1990

| Case category | FECA | LHWCA | Ratio |
|--|-------|-------|-------|
| Referred to rehabilitation specialists | 6,403 | 2,994 | 2:1 |
| Current open caseload | 6,159 | 1,071 | 6:1 |
| Rehabilitated/reemployed | 1,124 | 336 | 3:1 |
| Not rehabilitated or reemployed | 1,389 | 655 | 2:1 |

In the three districts we visited, rehabilitation specialists funded by the LHWCA program acknowledged that they were handling claimant cases for both programs. For example, in one district the LHWCA-funded rehabilitation specialist said he was responsible for 148 FECA cases and 123 LHWCA cases. In another district, the LHWCA-funded specialist told us

that he had 85 FECA cases in addition to 147 LHWCA cases. Practice in the third district was the same as in the other two districts: rehabilitation specialists funded by LHWCA also handled FECA cases. However, on September 26, 1989, the district discontinued this practice and hired a rehabilitation specialist to handle only LHWCA cases.

San Francisco district officials said that they did not allocate costs on the basis of the time rehabilitation specialists spent on each program. District officials in Seattle also said no procedure exists for tracking specialists' time. We recognize that the practice of allowing specialists to work on both FECA and LHWCA cases may yield operational efficiencies, especially during periods of slow or minimal activity in one program versus the other. However, the use of LHWCA funds to support the FECA program, or vice versa, is improper.

The Director, Office of Management, Administration, and Planning, said that, historically, 10 of the rehabilitation specialist positions have been budgeted and allocated to the LHWCA program. He said that the basis for the allocation was an annual estimate of the relative amount of time and effort devoted to cases in each program. Although acknowledging that the estimation approach was inexact and not documented, he believed that this allocation would reasonably approximate the actual time spent on each program's cases. He added that OWCP should annually update and document the basis and rationale for its estimates.

Conclusion

OWCP should ensure that costs of providing rehabilitation services to FECA and LHWCA are properly allocated to each program. OWCP's practice of arbitrarily allocating the costs of 17 rehabilitation specialists to FECA and 10 specialists' costs to LHWCA is improper. We recognize that OWCP can achieve operational efficiencies by assigning rehabilitation specialists cases under both programs. However, without allocating costs on the basis of a valid measure of workload or effort devoted to each respective program, OWCP has no assurance that the funds available for each program are being used for the purposes intended.

Recommendation

We recommend that the Secretary of Labor develop an internal control procedure to allocate rehabilitation specialists' costs accurately between the FECA and LHWCA programs.

**Agency Comments and
Our Evaluation**

Labor reiterated that it believes FECA and LHWCA funds are being appropriately charged for the respective costs of their rehabilitation staff but agreed to implement our recommendation. Labor said that when present vacancies are filled, it expects to allocate the costs of 22 rehabilitation specialists to FECA and 9 to LHWCA. It will review workloads in each region to verify that charges are proper and develop a method of documenting the allocation and reviewing and updating the allocation each year. In a follow-up discussion on Labor's allocation approach, an OWCP official confirmed that its internal control procedure will include a means for adjusting the charges to each fund at year end if the annual review shows that the allocations at the beginning of the year did not accurately reflect the workload of each program during the year.

Reemployment Accomplishments of Various Federal Agencies

Federal agencies have established programs whose purpose is to assist injured workers in returning to their jobs. The following briefly describes some of the actions taken.

Postal Service

The U.S. Postal Service reported in 1989 that it

- temporarily assigned 29,032 employees to limited-duty work while they were recovering from injuries;
- returned to work a total of 397 employees from OWCP's rolls, avoiding a \$4.2 million expense; and
- permanently reassigned 411 disabled employees to duties consistent with their medical restrictions.

The Postal Service and OWCP also developed special project activities, including one with the state of Florida that was an attempt to increase its rehiring of injured postal workers. This joint project coordinates the rehabilitation efforts of three Postal Service field divisions in Florida and assists about 1,000 disabled employees. It provides intervention through medical and psychological rehabilitation, counseling, job modification, and placement assistance.

Department of Defense

A September 1985 Department of Defense directive provided guidance to its component agencies regarding Defense's injury compensation program. The directive covered, among other matters, Defense's policies on safe work environments, working relationships with OWCP, accountability for injury compensation costs, and returning injured workers to their jobs. As a part of its concern for costs, Defense has since required all its organizational components to pass on all "chargeback" compensation costs to the installation levels rather than budget for them centrally. Its service components, in addition, have instituted programs designed to control FECA costs and to focus on the rehabilitation and reemployment of injured workers.

The Department of the Air Force established a "pipeline" reemployment program in which headquarters gave base-level commands the authority and funds to rehire injured workers.

To help accommodate injured workers, it also created light-duty positions. The Air Force created liaison offices to work with OWCP and the service's

major commands and bases in trying to identify positions for injured claimants.

The Department of the Army has also established injury compensation teams and liaison offices to provide information and training for program managers and to help establish follow-up procedures and return-to-work programs for injured workers. The liaison offices hold training workshops in injury compensation for Army installations. This training is done on an interservice basis with OWCP.

The Department of the Navy began a Helping Injured Reemployable Employees program in July 1989. The purpose of this program was to rehire injured former employees. Although the program realized savings, a Navy official said that, because of budgetary problems, funding for the program was discontinued as of June 30, 1990.

Department of Veterans Affairs

Department of Veterans Affairs headquarters officials advised us at the time of our review that although Veterans Affairs does not yet pass chargeback costs to local installations, it has made progress in addressing ways to manage worker compensation costs. Veterans Affairs provides training for its managers to become better aware of the FECA program and the managerial responsibilities involved. This training was undertaken because Veterans Affairs officials recognized that managers and supervisors need to view the workers' compensation program differently, and training is instrumental in changing attitudes. Veterans Affairs officials said that a future change will be the issuance of an agencywide policy for managing injured workers and their compensation claims. They said that this would provide consistency throughout Veterans Affairs in case management techniques, light-duty assignments, and the rehabilitation and reemployment of partially disabled workers. They added that a similar policy is now in effect within the Veterans Health Services and Research Administration.

Department of Transportation

A Department of Transportation (DOT) official informed us that management of the injury compensation program is the responsibility of each agency administrator. DOT directs these programs through policy directives, instructions, and various training programs. The official added that DOT is not yet passing chargeback costs to the agency installation level but that as of April 1990 the Federal Aviation Administration (FAA) has been actively looking into this matter. In this connection, FAA officials

**Appendix I
Reemployment Accomplishments of Various
Federal Agencies**

stated that chargeback costs for injured FAA employees made up 85 percent of DOT's injury compensation costs. They said that they try to keep injured workers on light/modified duty instead of having them on the FECA rolls. They also said that they try to accommodate workers' injuries and reemploy them within 1 year of injury.

Comments From the Department of Labor

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs
Washington, D.C. 20210



File Number

JAN 16 1992

Richard L. Fogel
Assistant Comptroller General
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Fogel:

Thank you for the opportunity to comment on the General Accounting Office (GAO) report, *Federal Employees' Compensation Act: Need to Increase Rehabilitation and Reemployment of Injured Workers*. I am pleased that the GAO endorses our plan to manage Federal Employees' Compensation Act (FECA) workers' compensation cases using teams of four-year term employees to review the cases, arrange medical and vocational rehabilitation services where useful, and promote reemployment of all those able to work. We are gratified to have received sufficient resources from Congress to begin work in four offices this April.

We are, however, extremely concerned with GAO's comparison of counselor service costs with in-house staff costs, and the unwarranted inference that OWCP's rehabilitation mission can be accomplished more cost-effectively purely through an increase in Federal staff. Rehabilitation services require short-term, intensive personal contact between rehabilitation professionals and injured workers, and often require on-site visits to physicians' offices and Federal and private workplaces to evaluate job requirements and the adequacy of accommodation. When, as often occurs, the previous employer will not reemploy the injured worker, successful rehabilitation also requires familiarity with local job markets and training facilities.

Given the wide geographic distribution of Federal workers and facilities, the need for special local labor market expertise, and the fluctuating need for services based on an unpredictable pattern of disabling injuries, OWCP has never been and will never be able to provide professional services cost-effectively using in-house staff. In-house staff would spend much of their work time (at full salary) in traveling from the regional cities to far-flung Federal installations. Costs of transportation, per diem, telephone service, and administrative support would have to be budgeted.



Private counselors are located where injured workers are; are paid only when assigned to a case and only for work actually performed; receive half the professional hourly rate for travel time when travel is necessary; are experts on the job market and training and service facilities in their local areas; and allow for selection among a range of special skills (such as sign language ability) impossible to replicate through the hiring of permanent Federal employees. Their hourly rate includes their overhead, such as rent, utilities, and equipment.

Moreover, many of the dollars which GAO characterized as paying for counselor services in fact go for training, skills testing, vocational evaluation, functional abilities testing, and other market services which would have to be purchased in any case. Thus, the dollars spent for actual professional time by counselors would purchase many fewer hours of similar time by in-house professionals than GAO's comparison suggests.

OWCP had considerable experience in using state services before turning to private sources. The chief problem was their lack of timely service to Federal employees. While states are required to provide services to injured Federal workers, many state counselors have heavy caseloads from the Social Security Administration and other sources and have lost budgetary resources in recent years. Under the Rehabilitation Act of 1973, state agencies were required by law to give priority to "severely disabled" clients, a definition not met by most of our injured workers.

Our most successful partnerships with state rehabilitation agencies have been those where we provided funding for dedicated staff to serve our clientele, in return for an agreement that OWCP's exacting qualitative and timeliness standards would be met. Thus, state services of high quality have not been available to OWCP without cost. We are working with the Rehabilitation Services Administration in the Department of Education on a joint issuance which will require OWCP regional directors to encourage additional agreements of this kind; they will not, however, be cost free.

Costs increase when Federal employers are unable or unwilling to make a job offer. Our own more recent sample shows that 80% of Federal employers in one district visited by GAO were contacted by the counselor, and that several agencies not contacted were in fact out of business. Agencies, including several interviewed by GAO, often do not make job offers when contacted, and create delay and increase cost by not giving a prompt negative response. It is somewhat disappointing that GAO did not review agencies' actual achievement in its report.

In any case, Federal employers receive repeated notice of their injured workers' compensation status, readiness for modified employment, and progress in the rehabilitation effort. A letter is sent to agencies early in the disability period, giving them the opportunity to provide modified duty. Quarterly chargeback reports advise them of all workers receiving temporary disability payments. The agency receives a copy of the initial authorization letter to the rehabilitation counselor when the case is opened for services, and a copy of each status report prepared by the rehabilitation specialist in response to the counselors' progress reports. Thus, even if not contacted by the counselor, the agency knows who the assigned counselor is and has several opportunities to volunteer training and reemployment opportunities.

The record 1490 reemployments achieved in FY 1991 are not the whole story of OWCP rehabilitation savings. A number of injured workers - about 200 in FY 1990 and again in FY 1991-- elect retirement or leave the rolls rather than accept an offer of work, while another group have compensation reduced to reflect a demonstrated work capacity after rehabilitation, although they are not reemployed. Moreover, the estimated \$19 million in savings in FY 1990 represents the savings in the first full year following reemployment for all reemployed claimants. If two-thirds of the reemployed claimants remain off the rolls after two years, and a third remain off for good -- very conservative assumptions -- the \$13,000,000 expended on private rehabilitation services in FY 1990 will actually yield a savings over five years of \$62,000,000, or nearly five times the government's investment. The FECA program is now a \$1.6 billion dollar-a-year program, and three fourths of that cost, \$1.2 billion, is paid in wage loss compensation for disability. The \$13 million cost of the rehabilitation program represents only eight-tenths of one percent of total benefits. We believe that our present program delivers effective services at reasonable cost and pays for itself several times over. The use of private counselors brings benefits to the program which cannot be replicated with in-house staff at any cost, and only in some areas by state staff.

Based on technical discussions with your office, it is my understanding that the text of the report will be modified to include GAO's acknowledgement that the comparison of contract counselor costs to staff salary did not reflect the true cost of providing the same hours of professional service to disabled workers, which for Federal employees would include travel, per diem or local office space and other direct and indirect costs.

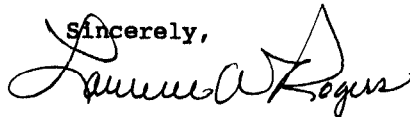
Finally, we believe that the Longshore Special Fund and the Federal Employees' Compensation Fund are being appropriately charged for the respective costs of their rehabilitation staff. Under the Longshore and Harbor Workers' Compensation Act, rehabilitation services are not mandatory for injured workers; the incentives for the worker and the employer are different from those in the FECA program; and injured longshore workers usually have limited education and work experience, making them difficult to place. Caseloads reflect the greater difficulty of these cases.

When present vacancies in the regions are filled, OWCP will employ 31 rehabilitation specialists, of whom it is expected that 22 will be charged to FECA and nine will be charged to the Longshore Special Fund. We will review workloads in each region to verify that charges are proper and to develop a method of documenting the allocation and reviewing and updating the allocation each year.

We will pay close attention to GAO's findings regarding earlier referral and contact with Federal employers. While our current sampling shows a better record than GAO found looking at 1989 cases, we agree that improvement is needed. The FECA procedure which was said to be inhibiting early referral has already been changed. The FECA Periodic Roll Management project will free regular staff to develop good medical assessments and promote light duty early in the disability period, and we will enforce the procedural requirement that placement with the previous employer be sought in all cases. It should be noted that even under our present structure, claims examiners or nurses contact the employer early in disability. These "early referrals" were not reviewed by GAO's evaluators, who focused on the formal referral for professional rehabilitation services.

I'm pleased to note that GAO's review of OWCP's internal controls with respect to authorizing and providing services was satisfactory so that further review was deemed unnecessary.

Sincerely,



LAWRENCE W. ROGERS
Director, Office of Workers'
Compensation Programs

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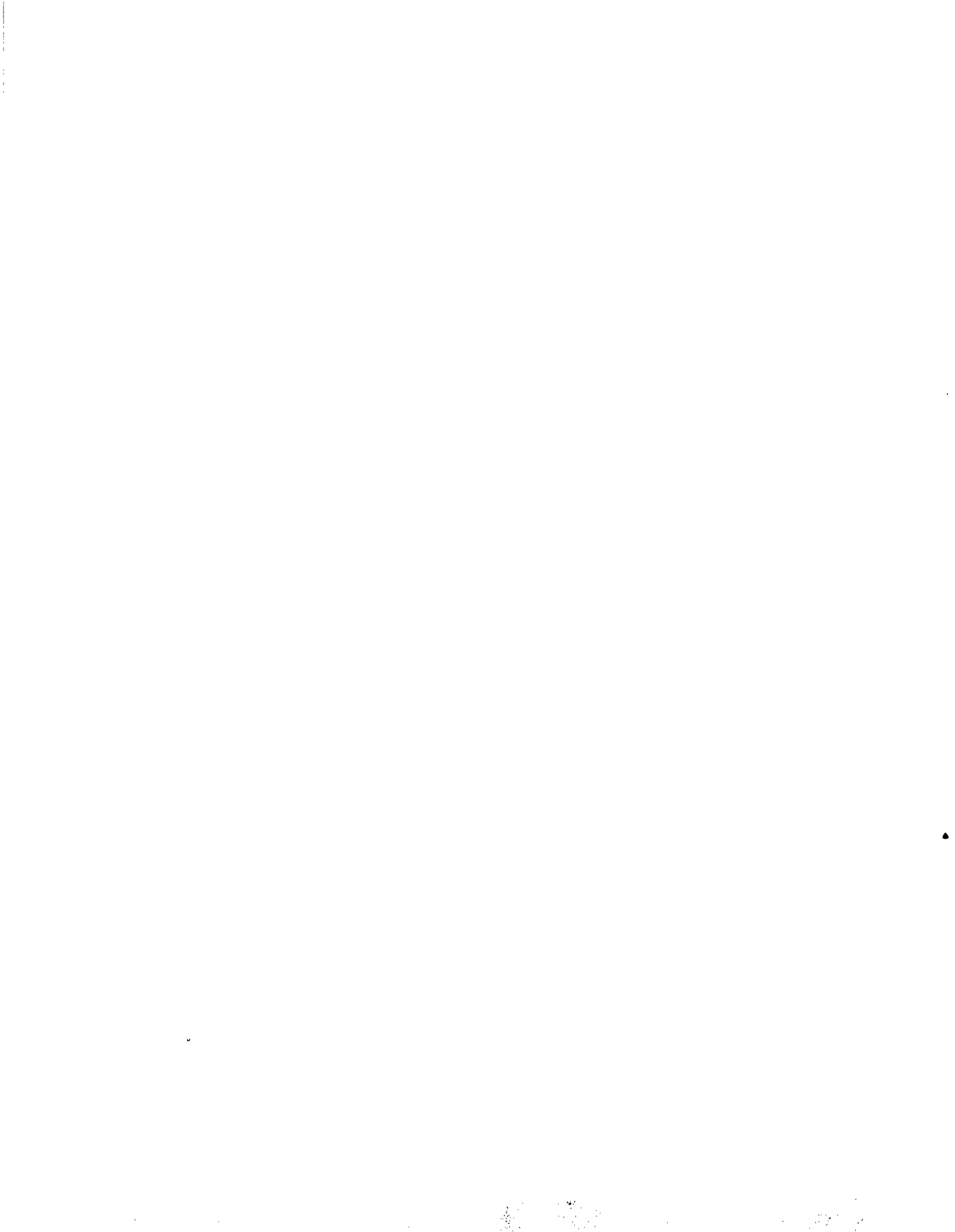
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