



Department of Veterans Affairs Office of Inspector General

FOLLOW-UP AUDIT OF DEPARTMENT OF VETERANS AFFAIRS WORKERS' COMPENSATION PROGRAM COST

The Department of Veterans Affairs continues to be at risk for workers' compensation program abuse, fraud, and unnecessary costs.

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Executive Summary

Introduction

The Office of Inspector General (OIG) conducted a follow-up audit of the Department of Veterans Affairs (VA) Workers' Compensation Program (WCP). A 1998 OIG audit¹ identified opportunities for VA to strengthen WCP case management and reduce program costs by more effectively identifying employees who can be brought back to work or should be removed from the rolls. A 1999 OIG audit² found that the Veterans Health Administration (VHA) was vulnerable to abuse, fraud, and unnecessary costs associated with WCP claims in certain high-risk areas reviewed. The objectives of the current audit were to:

- Evaluate implementation of recommendations included in the 1998 and 1999 OIG WCP audits.
- Identify opportunities to improve VA's case management associated with WCP claims and reduce program costs.
- Identify the extent of potential fraud associated with WCP claims.

Results

The audit found that the Department continues to be at risk for significant WCP abuse, fraud, and unnecessary costs because of inadequate case management and fraud detection. Prior OIG audit recommendations to enhance the Department's case management and fraud detection efforts, and avoid inappropriate dual benefit payments³ were not fully implemented. Additionally, we found that the Department's WCP costs are being impacted because of employee injuries associated with violent patient incidents. The Department is also at risk for unnecessary WCP costs due to lack of action/responses on case inquiries to the Department of Labor (DOL), who administers the Federal Employees' Compensation Act (FECA).

Reducing the risk to WCP abuse, fraud, and unnecessary costs is important due to the significance of Department WCP costs. Since Charge Back Year⁴ (CBY) 1998, Department

¹ Audit of VA's Workers' Compensation Program Cost, Report No. 8D2-G01-67, July 1, 1998.

² Audit of High-Risk Areas in the Veterans Health Administration's Workers' Compensation Program, Report No. 99-00046-16, December 21, 1999.

³ WCP and VA regulations prohibit concurrent payments of VA Compensation and Pension and WCP compensation for the same injury or disability.

⁴ A CBY begins on the first day in July and ends on the last day in June. The WCP costs for work-related injuries and deaths are billed to employing agencies at the end of DOL's fiscal accounting period. The CBY 1998 period was July 1, 1997, to June 30, 1998.

WCP costs totaled \$876 million.⁵ During the most recent CBY, 2003, WCP costs totaled \$157.3 million.⁶ Since CBY 1998, the Department's annual WCP compensation costs have decreased by \$7.4 million (6.9 percent), when adjusted for inflation. However, our findings show that the level of Department WCP compensation costs could be significantly lower if our prior recommendations concerning case management improvements (best practices) were fully implemented. Case management improvements that still need to be fully implemented include:

- Establishing and maintaining a VA case file on all open/active claims.
- Providing timely follow-up actions on all open/active claims.
- Ensuring that if a claimant has work capacity, a job offer is made.
- Providing consistent resources to the program to complete necessary case management actions.

Our audit found that ineffective WCP case management and program fraud results in potential unnecessary/inappropriate costs to the Department totaling \$42.7 million annually. These costs represent significant potential lifetime⁷ compensation payments to claimants totaling \$696.2 million. Additionally, an estimated \$112.6 million in avoidable past compensation payments were made that are not recoverable, because the Department missed opportunities to return employees back to work.

Our audit also found that the Department's WCP costs are being impacted by employee injuries due to violent patient incidents which requires Department action to better address employee safety. Annually, we estimate these WCP related costs total \$7.2 million, with lifetime compensation payments to claimants totaling \$148.7 million. VA's WCP costs are further impacted by the fact that in 11 percent of the cases we reviewed, there was a lack of action/response from DOL on case inquiries from VA WCP case managers.

Additionally, the Department did not implement our prior recommendation to collect and use Continuation of Pay (COP)⁸ data for monitoring potential WCP costs and employee health and safety issues. We also found that VA needs to collect information and monitor actions taken to controvert⁹ COP and/or dispute questionable claims. Use of this data could provide for more effective WCP Department-wide oversight, management, and cost containment.

⁵ The WCP costs included \$223.6 million in medical costs and \$652.4 million in compensation costs.

⁶ The WCP costs included \$44.5 million in medical costs and \$112.8 million in compensation costs.

⁷ Lifetime estimates were calculated using the Veterans Benefits Administration life expectancy table for net worth determinations contained in Veterans Benefits Administration (VBA) Manual M21-1, Part IV, Chapter 16, Addendum B. The annual dollar impact was multiplied by the number years of life expectancy. The estimates did not include future increases in WCP benefits.

⁸ FECA provides eligible Federal workers who suffer traumatic injuries with salary COP benefits for a period not to exceed 45 days. After the 45th day, there is a 3-day waiting period before a wage-loss benefit begins.

⁹ The employing agency has no authority for approval or denial of claims filed under FECA. However, the employing agency may challenge paying COP. This process is known as controversion of claim. There is an appeal

VA also did not effectively implement our recommended one-time review of all open/active WCP cases and cases involving potential dual benefit payments that are prohibited by WCP and VA regulations. As a result, opportunities were lost to return employees to work, reduce program costs, and identify/complete fraud referrals to the OIG Office of Investigations involving potential inappropriate benefit payments.

Given the significance of the audit findings and the continued risk of program abuse, fraud, and unnecessary costs we recommend that the Assistant Secretary for Management continue to designate the WCP as an Internal High Priority Area with increased program monitoring and oversight. This should include preparation of an action plan and timeline to correct these program weaknesses. The WCP requires priority attention by the Department to address significant case management deficiencies, program fraud, and future program costs. The Department faces a significant liability for future WCP compensation payments that is estimated at \$1.9 billion.¹⁰

The Assistant Secretary for Management agreed with the recommendation to continue to designate the WCP as an Internal High Priority Area with increased program monitoring and oversight. The Assistant Secretary will request the Office of Human Resources and Administration prepare an action plan with milestones to correct this program weakness.

The Department's decentralized approach to WCP administration is not effective. We found a lack of case management and fraud detection Department-wide, including each of the administrations [VHA, Veterans Benefits Administration (VBA), National Cemetery Administration (NCA)] and at VA Central Office (VACO). The Department needs to establish a unified approach to WCP administration and implement necessary case management improvements throughout the Department. We recommend that this effort be directed by the Acting Assistant Secretary for Human Resources and Administration, who has overall Department responsibility for program oversight and guidance. The Acting Assistant Secretary needs to take the following actions:

- Establish a centralized Department-wide program management and oversight process to proactively address WCP case management deficiencies and reduce the risk for program abuse, fraud, and unnecessary costs. This should include: (1) developing performance criteria to measure WCP case management effectiveness; (2) evaluating adequacy of compliance with WCP performance criteria; (3) identifying performance deficiencies that require corrective action; and, (4) ensuring that responsible WCP officials and staff are held accountable for implementing required case management enhancements and meeting performance criteria.
- Ensure that adequate staff resources are available to complete necessary WCP case management actions throughout VA in a timely manner. Staffing guidelines and training

process for injured employees if the claim is denied by DOL. However, once wage loss compensation has been approved by DOL, the employing agency cannot controvert the decision.

¹⁰ Audit of the Department of Veterans Affairs Consolidated Financial Statements for Fiscal Years 2003 and 2002, Report No. 03-01237-21, November 14, 2003.

requirements should be developed to help identify needed staffing levels and training to provide the skills needed to effectively perform WCP assigned duties.

- Ensure that the Department's WCP case management process includes the following key requirements: (1) establish and maintain a VA case file on all open/active claims; (2) provide timely follow-up actions on all open/active claims; and, (3) if a claimant has work capacity, a job offer is made.
- Monitor the extent of facility WCP claims involving violent patient incidents and coordinate with VHA on appropriate actions needed to address the safety of employees in their work areas.
- Coordinate with individual Department elements to conduct a one-time review of all open/active WCP cases to prioritize and identify those cases where additional case management efforts could return employees back to work or otherwise remove them from the WCP rolls. Provide the OIG with the results for oversight review. *(Repeat recommendation from the 1998 OIG WCP audit.)*
- As part of the one-time review, emphasize the need for WCP case managers to identify and report potential program fraud to the OIG. Ensure that the OIG handbook on case management and fraud detection and other fraud related information that can be found on our web site at www.va.gov/oig/52/wcp/wcp.htm is fully utilized in this review. Work with the OIG to establish a web based fraud referral process, including referral criteria.
- Establish Department-wide policy that requires WCP case managers to notify VBA Compensation and Pension (C&P) Service when a veteran-employee is injured on the job to ensure WCP claimants that also receive VA C&P benefits do not inappropriately receive dual benefits for the same injury. *(Repeat recommendation from the 1999 OIG WCP audit.)*
- Collect COP information and use as a management tool to monitor WCP cost trends and employee health and safety issues. *(Repeat recommendation from the 1998 OIG WCP audit.)*
- Collect information on Department actions to controvert COP and/or dispute claims and use as a management tool to evaluate the effectiveness of Department efforts to identify questionable claims and avoid unnecessary WCP related costs.
- Initiate dialog with DOL to discuss opportunities where both organizations could benefit from improved coordination/support in the delivery of WCP benefits to Department employees.

The Acting Assistant Secretary for Human Resources and Administration agreed with the findings and recommendations. The Acting Assistant Secretary provided an acceptable alternative approach to recommendation 2i (page 15) that will include COP reviews in oversight and training initiatives to ensure appropriate application of COP entitlements. The Acting Assistant Secretary also agreed with the estimated monetary benefits, and indicated that it was a conservative estimate. While the Acting Assistant Secretary's comments do not include detailed implementation plans with milestone completion dates, responsible program officials advised

that work on these plans is in process and will be provided for OIG review and implementation follow up.

The Acting Assistant Secretary's comments also noted that "Our success in implementing the IG's recommendations is dependent on the availability of administrative and funding support from VA Administrations." Based on the significance of the report findings and estimated monetary benefits, the Department needs to ensure that necessary administrative and funding support is provided as soon as practical to implement the report recommendations.

In addition, the Acting Assistant Secretary's comments noted that it was necessary, however, to qualify our assessment by stating our concern over the limited availability of IG staff to conduct necessary fraud investigations. Federal statutes prohibit employing agencies from conducting criminal fraud investigations, limiting agencies solely to the review of the extent of medical impairment of the claimant. Criminal fraud investigations may be conducted only by authorized law enforcement agencies. Increased IG capacity to conduct fraud investigations is essential if we are to achieve the potential dollar impact calculated for fraudulent claims. A highly suitable alternative would be to increase the IG's capacity to initiate civil fraud investigations for Workers' Compensation (WC) cases where warranted. The standards of proof for civil fraud are more advantageous and VA could recoup treble damages under civil fraud statutes.

As discussed in the report, the establishment of a web based fraud referral process, including referral criteria will help better identify potential fraud cases that the OIG should consider for review. Once detailed implementation plans are provided, we will follow up on the planned actions until they are completed.

(original signed by:)
MICHAEL L. STALEY
Assistant Inspector General for Auditing

Background, Scope, and Methodology

Background

FECA provides compensation and medical benefits to civilian employees of the Federal government for personal injuries or diseases sustained while in the performance of their duties. FECA also provides benefits to an employee's dependents if the work-related injury or disease results in the employee's death. Benefits provided under FECA constitute the sole remedy against the United States for work-related injury or disease. Additionally, under FECA, employees sustaining traumatic injuries in performance of their duties are entitled to COP for up to 45 days while they recover from the injuries. COP is authorized for traumatic injuries but not for occupational diseases.

When employees are injured while in performance of their duties, prompt action should be taken to ensure the employees receive the appropriate FECA benefits and are returned to duty as soon as possible. Once employees report their injuries, they are to be informed of their rights and obligations under FECA. Generally, employees should receive appropriate medical attention, if needed, from VA's Employee Health Unit or the employees' private physicians. If employees are still unable to return to work at the end of the 45 days COP, they are entitled to begin receiving compensation for lost wages (after 3 days of no wages). The compensation is based on medical assessments and the employees' pay rates at the time of the injuries.

The employing agency has no authority for approval or denial of claims filed under FECA. However, the employing agency does have an obligation to closely monitor the cases to ensure that the injured employees receive benefits they are entitled to and are returned to productive duty as soon as they are cleared by physicians to return to work.

While the follow-up audit has again found problems with overall WCP case management, some positive actions have been identified involving WCP reporting and safety program initiatives. According to input provided by VHA program officials (this administration accounts for about 94 percent of VA's WCP costs), some WCP improvement actions have been taken and they have formulated additional improvement actions to be implemented. Steps taken by VHA include appointment of a National VHA WCP Program Manager in October 2002 and meeting DOL's Federal Worker 2000 initiative by increasing the timeliness of claim submissions to DOL from 50 percent to over 67 percent. VHA program officials also indicated that they have reduced the "Lost Times Claims Rate"¹¹ by 33 percent. While these are positive results, additional effort is needed to address the impact of claims associated with patient incidents as well as improve management of WCP cases where claimants are receiving compensation as discussed in this report.

¹¹ This is the percent of claims where employees missed 1 or more days of work as a result of an injury.

Scope and Methodology

To accomplish the audit objectives, we selected a judgment sample of 246 active WCP claims from the 4,008 WCP claims that had compensation payments greater than \$10,000 in CBY 2002. *(Details are presented in Appendix B on pages 19-21.)* The sample included WCP claims from VHA, VBA, NCA, and other VACO elements. Additionally, an electronic survey questionnaire was developed to obtain key information on program oversight and case management efforts from VHA field facilities. Notice of the electronic survey questionnaire was sent out to VA's "National Injury Compensation Group" exchange distribution list.¹² Additionally, VHA program officials in VACO provided instructions to all VHA Veterans Integrated Service Network (VISN) Directors to have facility WCP Coordinators complete the electronic survey, and a reminder notice was sent with our file request to VISN Network Directors. We received 132 responses to the electronic survey. Responses were received from each VISN, individual VHA field facilities, and from VACO.

We held discussions with program officials in VHA, VBA, NCA, and other VACO elements to identify program management controls and procedures to aid in assessment of implementation of prior OIG recommendations. We made site visits to the VISN 5, Capitol Network and VISN 22, VA Desert Pacific Healthcare Network to follow up on prior OIG assist efforts, discuss current VISN initiatives, and review cases included in the audit scope.

The follow-up audit also included a review of potential dual benefit payments. Our analysis of VBA C&P automated records identified 96 potential dual benefit cases nationally. We also made a site visit to the VBA regional office (RO) in Los Angeles, California to review potential dual benefit cases identified for that RO. We also completed a review at our office of claims files for potential dual benefit cases identified for other ROs.

We also requested that WCP case files for the 246 sample cases be sent to our office for review to evaluate facility case management efforts. As part of the WCP case file reviews, we contacted the facility WCP Coordinators to obtain additional information or clarification on case management issues, if necessary. When we completed our reviews and returned the WCP case files to the appropriate facilities, we included OIG case review summary worksheets that discussed our findings, conclusions, estimated cost avoidances, and recommended case management actions. This summary worksheet also requested that the facility provide comments or any additional information that we should consider as part of our audit results. We fully considered the information provided.

We used automated information from VA's Workers' Compensation – Management Information System (WC-MIS) for sample selection and case analysis. An assessment of the reliability of this automated information was made by comparison testing of selected data elements to documentation in the WCP claims files. We concluded, based on our comparison test, that the automated information was sufficiently reliable for the purpose it was used.

¹² This is a VA e-mail distribution list of VHA and VBA staff involved in the WCP area. Most are facility WCP Coordinators or facility Human Resources Service staff.

The audit was performed in accordance with generally accepted Government Auditing Standards for performance audits.

Results and Recommendations

Employee Claims For Workers' Compensation Continues To Be At Risk For Abuse, Fraud, And Unnecessary Costs

Ineffective case management and program fraud is resulting in significant potential unnecessary/inappropriate WCP costs. Also, WCP costs are being impacted because of employee injuries associated with violent patient incidents.

The WCP Is At Risk For Significant Future Unnecessary/Inappropriate Claim Costs

Based on the results of our judgment sample, we estimate that case management deficiencies resulted in potential unnecessary/inappropriate costs involving 1,679 claimants totaling \$38.5 million annually. Estimated lifetime payments for these claimants could be \$588 million. Additionally, an estimated \$112.6 million in avoidable past compensation payments were made that are not recoverable. *(Details are presented in Appendix B on pages 19-21.)*

Case management deficiencies were identified in 103 of 246 (41.9 percent) sample WCP cases reviewed involving the following areas:

Missed Opportunities To Return Employees Back To Work

In 43 of 246 (17.5 percent) sample cases, medical evidence showed that the claimants could return to work or that the injuries had resolved, but job offers were not made. The reasons identified for not returning the 43 claimants to work included:

- VA did not pursue job offers (29 cases).
- There were no limited or restricted positions available (7 cases).
- VA refused to return the claimants to work (7 cases).

Based on the sample results, we estimate that 701 WCP claimants with annual WCP compensation payments totaling \$15.5 million could have been returned to work or otherwise removed from the WCP rolls if job offers had been made. Estimated future lifetime payments for these claimants could be \$235.2 million. Additionally, an estimated \$112.6 million in avoidable past compensation payments were made that are not recoverable.

The 1998 OIG WCP audit highlighted, as a best practice, the need for VA to utilize light or modified duty positions to bring employees back to work as they recover from their injuries. OWCP studies show that the longer an employee is off from work, the harder it is to get them to return. Additionally, the audit identified the need to provide job opportunities for employees who had fully recovered from their injuries and could work in non-restricted positions. The current audit results show that these best practices have not been fully implemented. A

significant number of claimants have not been provided the opportunity to return to work, resulting in VA incurring significant WCP compensation payments that were avoidable.

The following are examples of missed opportunities to return employees back to work in VHA.

- The claimant was injured on June 28, 2001. There was limited documentation in the facility's WCP case file. The claimant had been cleared to return to work with restrictions. However, a letter from DOL-Office of Workers' Compensation Programs (OWCP) to the claimant's attorney dated July 26, 2002, stated that the facility had informed them that there were no limited or restricted positions available for the claimant. As result of not returning the claimant to work, the facility continues to pay \$1,671 in WCP compensation to the claimant every 28 days and has paid over \$2,722 for vocational rehabilitation services to aid the claimant in seeking employment due to no job offer from the facility. We estimated that the facility had missed the opportunity to avoid \$32,776 in past compensation payments and will pay \$567,106 in future WCP compensation benefits to the claimant.
- The claimant developed a minor skin condition and filed a notice for occupational disease in January 1992. There was no evidence in the case file of any case management by the facility between August 1994 and February 2000. Medical evidence in 2000 showed that the claimant could return to work with only a restriction of not handling food. There was a letter from the VISN WCP Coordinator to the facility WCP Coordinator dated October 25, 2001, that recommended the facility offer the claimant a job. There was no evidence in the case file that a job offer was made or that any other action was taken on this recommendation. The claimant is receiving \$2,216 in WCP compensation every 28 days. We estimated that the facility had missed the opportunity to avoid \$109,794 in past compensation payments by not making a job offer and will pay \$638,198 in future WCP compensation benefits to the claimant.

Lack Of Follow-up/Action On Cases

The 1998 OIG WCP audit highlighted the need for VA to complete timely follow-up/action on cases. The current audit sample results show that this best practice area has not been fully implemented, with increased risk for unnecessary future compensation payments. For example, in 43 of 246 (17.5 percent) sample cases, the lack of follow-up or other case management actions put these claims at risk for potential abuse or fraud. Based on the sample results, we estimate that 701 WCP claimants with annual WCP compensation payments totaling \$16.3 million are at risk. Estimated lifetime payments for these claimants could be \$242.2 million.

The following are examples of lack of follow-up/action on cases in NCA and VBA.

- NCA – The claimant smashed the fourth finger on his hand during an industrial accident on December 8, 1999, and the finger was eventually amputated in 2001. There was very little evidence of any case management efforts in the facility's WCP case file. The last documented action was a request to DOL from the cemetery manager for information relating to the claimant's work restrictions dated October 11, 2002. There was no follow-up/action documented in the case file or any response to the request. This case is at risk for potential abuse and/or fraud as a result of not completing appropriate follow-up/action. We

estimated that the facility will pay \$495,752 in future WCP compensation benefits to the claimant.

- VBA – The claimant filed a claim for “depressive disorder” on March 2, 1998. This claimant is also a veteran receiving VA compensation. At the time the claimant filed the DOL-OWCP claim, he had a VA disability rating of 80 percent for “Major Depressive Disorder.” One month after the claimant filed the DOL-OWCP claim, the rating was increased to 100 percent. We found very little evidence of case management by the VBA facility. Most of the documentation in the case file primarily consists of letters from DOL-OWCP. There is a letter from DOL-OWCP dated July 31, 2000, informing the claimant of a proposed reduction in DOL-OWCP compensation because medical evidence showed that the claimant was no longer totally disabled. However, the compensation payment amount has not been reduced. There is no evidence that the VBA facility took any follow-up/action. Additionally, the VBA facility has not taken any action to determine if the claimant is inappropriately receiving dual benefits. Due to the lack of follow up or other case management actions, this case is at risk for potential fraud. We estimated that the facility will pay \$234,662 in future WCP compensation benefits to the claimant.

Additionally, we found that the Department is at risk for unnecessary WCP costs due to a lack of action/response on case inquiries to DOL, who administers FECA. In 27 of the 246 (11 percent) sample cases, facility WCP staff had requested information to aid in case management from DOL multiple times, but there was no evidence that DOL had responded or that the requested information had been received.

No Case File Maintained

The 1998 OIG WCP audit highlighted the need for VA to maintain case files on all open/active claims. This would help ensure that claim actions can be properly documented and monitored. The current audit results show that this best practice area has not been fully implemented, with increased risk for unnecessary future compensation payments.

In 17 of 246 (6.9 percent) sample cases, case files were not maintained putting these claims at risk for potential abuse or fraud. Based on the sample results, we estimate that case files are not maintained for 277 claimants with annual WCP compensation payments totaling \$6.7 million. Estimated lifetime payments for these claimants could be \$110.6 million.

OIG Recommended One-time Case Review Not Effectively Completed

While the Department adequately addressed some of the policy and guidance issues we recommended in the 1998 audit report, the recommendation to conduct a one-time review of all open/active WCP cases was not effectively completed. During this audit we targeted 1,705 VHA WCP claims for a one-time review. The current case sample review included 61 of these cases with the following results:

- In 27 of the 61 (44.3 percent) cases reviewed, there was no documented support (such as a copy of the OIG developed case review sheet) in the claims files to show that the reviews had been completed.
- In 19 of these 27 (70.4 percent) cases, our review identified case management issues that required action.
- In 3 of these 27 (11.1 percent) cases, our review identified potential fraud.

Additionally, our web based survey questionnaire of WCP Coordinators/Specialists in VHA also disclosed that 27.6 percent of the responders did not complete the one-time review.

A significant aspect of the one-time review was to identify potential fraud cases that could be referred to the OIG for fraud determination. While VHA's one-time review identified 206 potential fraud cases, none of these cases could be accepted by the OIG because not enough information was provided to support a fraud determination review. The OIG discussed the additional information needed with VHA officials, but the additional information was not provided. Also, because many VA facilities did not complete the OIG recommended one-time review, we believe the number of fraud referrals could have been much higher.

Based on current audit findings and the Department's lack of effectively implementing the one-time review of cases recommended in the prior audit, we are recommending that another one-time review of cases be completed. This will provide the opportunity to identify cases where additional case management efforts could return employees back to work or otherwise remove them from the WCP rolls. This effort would also provide the opportunity to identify potential fraud cases.

WCP Continues To Be At Risk For Inappropriate Claims

Based on the results of our judgment sample, we estimate that 196 WCP claimants may be fraudulently obtaining as much as \$4.2 million in compensation payments annually. Fraudulent lifetime WCP compensation payments could be \$108.2 million. Potential fraud was identified in 12 of the 246 (4.9 percent) sample WCP cases reviewed. We referred the 12 potential fraud cases to the OIG Office of Investigations for determination of fraud. One case has been referred to DOL for administrative action, four cases are under investigation, and seven cases are pending review.

We identified the following types of potential program fraud:

- In 4 of the 12 (33 percent) cases, there were indicators that the claimants were not properly reporting earnings.
- In 3 of the 12 (25 percent) cases, there were indicators that the claimants or their primary physicians had prior criminal convictions in medical care fraud or illegal drug use.

- In 5 of the 12 (42 percent) cases, there were indicators of program fraud such as very little medical evidence to support the claimed injuries, un-cooperativeness of the claimants, and multiple family members on WCP rolls.

Significant WCP Costs Are Associated With Violent Patient Incidents

We found that VA's WCP costs are being impacted because of employee injuries associated with violent patient incidents. An OIG Office of Healthcare Inspections Report¹³ identified two VHA facilities with a significant number of claims (52 percent and 21 percent) related to employee injuries that occurred as a result of violent patient episodes. The current WCP audit found this to be a significant WCP cost impact area Department-wide. The audit found that 17 of 246 (6.9 percent) cases in our judgment sample involved claims associated with violent patient incidents. Based on the sample results, the annual cost of these claims is estimated to total \$7.2 million, with lifetime compensation costs of \$148.7 million. *(Details are presented in Appendix B on pages 19-21.)* Given the significance of these costs, the Department needs to monitor the extent of facility WCP claims involving violent patient incidents and take appropriate action to address the safety of employees in their work areas.

Fraud Referrals Need To Be Made To OIG

During our prior assist work requested by VHA, we developed a fraud detection methodology contained in an OIG handbook¹⁴ that was provided to facility WCP Coordinators/Specialists to aid in VHA's one-time review of open WCP cases.

In one of the cases we reviewed in the current audit, there was evidence in the claims file that it had been reviewed as part of VHA's one-time review of WCP cases and potential fraud indicators had been identified. However, this case was not included in any of the discussions between VHA and OIG during the one-time review nor was it ever referred to the OIG. This was 1 of the 12 cases we referred to the OIG Office of Investigations during the current audit.

Considering the number of potential fraud cases identified during this audit, we believe that the Department needs to emphasize to WCP case managers the importance of identifying and reporting potential program fraud to the OIG. This should include highlighting the availability of the OIG handbook and other fraud related information that can be used to assist Department WCP officials in fraud detection efforts. This information can be found on our web site at www.va.gov/oig/52/wcp/wcp.htm.

To help facilitate the completion of fraud referrals, we will work with the Department to establish a web based referral process, including referral criteria. This process will provide for an efficient and streamlined approach to submit, review, and consider potential fraud referrals.

¹³ Healthcare Program Evaluation Veterans Health Administration's Management of Violent Patients, Report No. 02-01747-139, dated May 3, 2004.

¹⁴ Handbook For VA Facility Workers' Compensation Program (WCP) Case Management and Fraud Detection, Report No. 9D2-G01-064, April 14, 1999. This handbook contains key information, instructions, and worksheets to aid individual VA facility WCP Coordinators/Specialists with case management and fraud detection efforts.

Each referral will require submission of certain information needed for the OIG Office of Investigations to determine if a referral will be accepted for investigation.

The 1998 OIG WCP audit also identified a need for the Department to seek assistance from individuals with an investigative background to develop information on suspected fraudulent WCP claims. Because of the difficulty and expense of hiring or contracting for WCP administrative investigative type services on a case by case basis, the Department has made limited use of this technique. We believe that if the Department had these services readily available on a national level, they could be used effectively to identify potential WCP fraud. To address this issue, VA should consider purchasing these services under the Economy Act from another Federal entity who has the experience and capability to do this on a reimbursable basis. For example, with adequate resources, a WCP case review function could be established within the OIG to provide the Department with needed administrative investigative services.

OIG Recommended Cost Containment Measures Not Fully Implemented

Prior to the Department's limited implementation of the one-time case review, the OIG provided assistance requested by VHA to identify ways to improve its WCP case management and better contain program costs. We provided training and assistance to VISN and facility WCP Coordinators/Specialists that included implementing the methodologies contained in the OIG developed protocol package¹⁵ and handbook. Included in these methodologies was the implementation of best practices that we had identified that could lead to improved case management and fraud detection.

During this effort completed in 1999, the OIG provided assistance to five VHA VISNs that resulted in identification of opportunities to reduce WCP costs and identify potential fraud cases by implementing best practices with more effective case management. Through our joint efforts, actions were taken that resulted in reducing WCP costs through the removal of employees from the WCP rolls and the identification of potential fraud cases that were referred to the OIG for a determination of fraud. Unfortunately, the momentum gained from this joint work did not continue and we now find the WCP at increased risk for unnecessary costs and potential fraud.

We reviewed WCP cases at two of the five VHA VISNs where we had provided assistance and identified opportunities to reduce costs. We found that cost containment and fraud detection elements we recommended (best practices) were not fully implemented and resulted in lost opportunities to reduce WCP costs by both networks. At VISN 22, we found that in 24 of the 68 (35.3 percent) WCP claims reviewed, the network did not complete case management improvements we had recommended that could have identified the opportunity for reduced WCP costs of \$470,780 annually and \$2.6 million in lifetime cost reductions. At VISN 5, we found

¹⁵ Protocol Package For Veterans Integrated Service Network (VISN) Workers' Compensation Program (WCP) Case Management and Fraud Detection, Report No. 9D2-G01-002, April 14, 1999. The protocol package was developed to provide a methodology for enhanced VISN level review and oversight of WCP claims. The package includes an automated analysis of WCP claims that prioritizes cases for review, discusses best practices and other tools that can be used to enhance case management, and provides review instructions and worksheets to aid in case review efforts.

that in 38 of the 71 (53.5 percent) WCP claims reviewed, the network did not complete case management improvements we recommended that could have identified the opportunity for reduced WCP costs of \$809,279 annually and \$7.2 million in lifetime cost reductions.

At both networks, we found that the following best practices had not been fully implemented:

- Establishing and maintaining a VA case file on all open/active claims.
- Providing timely follow-up actions on all open/active claims.
- Ensuring that if a claimant has work capacity, a job offer is made.
- Providing consistent resources to the program to complete necessary case management actions.

The continued lack of progress in addressing these improvement areas will prevent the Department from ensuring the appropriateness of WCP claims and identifying and/or acting on opportunities to contain program costs.

OIG Recommended Dual Benefit Determinations Not Fully Implemented

The current audit identified 20 of 96 (20.8 percent) cases reviewed with potential inappropriate dual benefits that should have been identified and forwarded to VBA for a dual benefit determination. WCP and VA regulations prohibit concurrent payments of VA compensation for the same injury or disability. These cases represent potential inappropriate lifetime benefit costs of \$6.3 million. These costs were calculated using VBA's life expectancy table discussed in footnote 7, page ii.

The 1999 OIG audit found that the claims were vulnerable to inappropriate dual benefit payments. During that audit we reviewed 170 of 1,251 potential dual benefit cases and estimated that 59 cases could involve lifetime dual benefit payments totaling \$3.8 million. VHA agreed to review the remaining 1,081 cases as part of our recommended one-time case review. The current follow-up audit did not find any evidence that these cases were reviewed. As a result, the Department lost the opportunity to identify and eliminate additional potential dual benefit cases.

Also, in response to our 1999 audit report, VHA agreed to notify VBA when a veteran-employee is injured on the job to ensure that WCP claimants that also receive VA C&P benefits do not inappropriately receive dual benefits for the same injury. In our web based survey, 60.3 percent of the respondents stated that they did not notify VBA of the nature and type of injury for veteran-employees so a dual benefit determination could be made. Given the continued risk of dual benefit payments and the lack of implementation of prior OIG recommended actions, Department-wide policy needs to be established to ensure that potential dual benefit cases are identified and VBA C&P Service is notified. This will help ensure that required dual benefit determinations are completed, as well as necessary benefit adjustments.

OIG Recommended Collection And Use Of COP Data Not Implemented

VA did not implement our prior 1998 audit report recommendation to collect and use COP data for monitoring potential WCP costs and employee health and safety issues at the national level. While the Department agreed to implement our recommendation, the expected implementation of a planned replacement payroll system needed to facilitate collecting this information was not completed.

Our current audit findings continue to support the need for implementing this recommendation. Use of this data combined with additional information such as cause of injury, nature (type) of injury, and location of injury could be used to anticipate increases or decreases in WCP costs. This information could be used by management to trend the cost and type of injury causes and identify potential safety issues like those we have discussed in this report concerning employee injuries due to violent patient incidents. According to VA's WCP Program Manager in the Office of the Director, Occupational Safety and Health, the Department is looking at ways to extract COP cost information from the existing payroll system.

Department-wide Information Needs To Be Gathered On Controverting COP And/Or Disputing WCP Claims

The audit found that the Department does not collect information and monitor facility actions taken/results of controverting COP and/or disputing questionable WCP claims. Collection of this information nationally could be used by the Department as a management tool to evaluate the effectiveness of Department efforts in these areas to avoid unnecessary WCP costs. Our follow-up work at VISNs 5 and 22 found that facilities in these VISNs were controverting COP and/or disputing WCP claims with questionable claims denied by DOL.

As an example, at the VA Medical Center (VAMC) Martinsburg, West Virginia facility in VISN 5, the WCP Coordinator indicated that during CBY 2003 there were 6 COP claims. One of these claims was controverted and the COP was denied by DOL. The facility also disputed 14 of the 82 WCP claims submitted to DOL, and 8 were denied. At the VAMC Long Beach, California facility in VISN 22, the WCP Coordinator indicated that during CBY 2003 there were 123 COP claims. Nineteen COP claims were controverted, and 17 were denied. The facility also disputed 54 of the 199 WCP claims submitted to DOL, with 34 claims denied. This data shows that action is being taken at these facilities to challenge questionable claims and avoid unnecessary WCP related costs for claims that should be denied. This type of information needs to be collected and monitored nationally to compare and contrast the extent of individual facility efforts in identifying questionable claims that should be challenged.

A Centralized Department-wide WCP Management And Oversight Process Is Needed

A centralized Department-wide program management and oversight process is needed to proactively address WCP case management deficiencies and reduce the risk for program abuse, fraud, and unnecessary costs. WCP administration is decentralized within the Department with

program implementation responsibilities carried out individually by each of the administrations and staff offices in VACO. This has contributed to the lack of implementation of our prior audit recommendations and continued case management deficiencies. Of particular concern is the failure of individual Department elements to ensure timely follow-up actions are completed and employees that have work capacity are returned back to work.

A centralized Department-wide program management and oversight process should be established under the Office of the Acting Assistant Secretary for Human Resources and Administration. This would provide the opportunity for development of a comprehensive plan for the management of WCP throughout the Department and ensure that VA effectively carries out its WCP responsibilities under FECA.

Under this centralized approach, the Acting Assistant Secretary's office would have a primary role in Department-wide WCP management and oversight. This role would include development of performance criteria to measure WCP case management effectiveness, evaluation of compliance with WCP performance criteria, and identification of performance deficiencies that require corrective actions. Once a national strategy for improved WCP case management has been developed, responsible WCP officials and staff should be held accountable for implementing required case management enhancements and meeting performance criteria.

The Acting Assistant Secretary's office also needs to ensure that adequate staff resources are available throughout VA to complete necessary WCP case management actions in a timely manner. Staffing guidelines and training requirements need to be established to ensure that sufficient staff is available and that they have the skills to effectively perform their assigned WCP duties. The 1998 OIG WCP audit found that the amount of staff resources used in WCP case management varied among facilities and impaired the ability of some facilities to accomplish case management initiatives.

The current audit results show that the availability of staffing resources continues to be a problem. Case management staff has other duties that can limit time available for WCP case work. A web based survey of WCP Coordinator/Specialists in VHA completed during the audit found that 72 percent of the respondents indicated that they had other duties in addition to WCP case management. While assigning other duties to WCP Coordinators/Specialists may be appropriate at facilities with more limited case workload, our audit results show that this practice can detract from completing necessary WCP case management actions at facilities with a significant case workload.

As an example, our onsite review of case management activities in VISN 22 at the Greater Los Angeles Healthcare System found the same inadequate WCP staffing situation and case management deficiencies that was identified in the prior audit. The WCP Coordinator is responsible for oversight and management of several hundred cases, but is also assigned other duties, such as processing employee personnel actions. We also found that the WCP Coordinator is now responsible for additional WCP cases that were transferred from VAMC Sepulveda, California. This has contributed to case management deficiencies involving lack of follow-up and job offers to employable claimants.

The number of case management deficiencies identified during the audit also indicates a need for increased training in case management. While VA has undertaken various approaches to WCP related training, including holding annual national WCP conferences, the availability of a structured training program for all WCP staff on a national level has not been established. Addressing program training requirements is important given the fact that our web based survey found that 11.4 percent of the respondents have 2 years or less of experience with WCP duties.

As part of a centralized program management approach, the Acting Assistant Secretary's office should also initiate dialog with DOL to discuss areas where both organizations could benefit from improved coordination/support in the delivery of WCP benefits to VA employees. The audit identified problems with inadequate case follow-up/support by both organizations that need to be addressed to ensure effective delivery of WCP benefits to VA employees.

WCP Should Continue To Be Designated As An Internal High Priority Area

Since the mid 1990s, the Office of the Assistant Secretary for Management has identified the WCP as an Internal High Priority Area for program monitoring and oversight. Given the significance of the audit findings discussed in this report and the continued high risk for program abuse, fraud, and unnecessary costs, we believe that the WCP should continue to be designated as an Internal High Priority Area with increased program monitoring and oversight. This should include preparation of an action plan and timeline to correct this program weakness. The Department has a long history of WCP case management deficiencies and this program weakness has gone unresolved for too long. Additionally, priority action is needed to eliminate unnecessary costs since the Department faces a significant liability for future WCP compensation payments that is currently estimated at \$1.9 billion.¹⁶

Conclusion

The Department needs to improve WCP case management and fraud detection to reduce unnecessary/inappropriate program costs. The WCP continues to be at significant risk of abuse and fraud.

¹⁶ Future workers' compensation estimates are generated from an application of actuarial procedures developed by DOL to estimate the liability for FECA benefits. The liability for future workers' compensation benefits includes the expected liability for death, disability, medical, and miscellaneous costs for approved compensation cases and for potential cases related to injuries incurred but not reported. The liability is determined by utilizing historical benefit payment patterns related to a particular period to estimate the ultimate payments related to that period.

Recommendation 1.

We recommend that the Assistant Secretary for Management continue to designate the WCP as an Internal High Priority Area with increased program monitoring and oversight. This should include preparation of an action plan and timeline to correct this program weakness.

Assistant Secretary For Management Comments

The Assistant Secretary for Management agreed with the findings and recommendation 1.

Implementation Plan

The Office of Financial Policy, Management Controls Division, is responsible for the monitoring and oversight of all material weaknesses, Internal High Priority Areas, and other areas of concern affecting the Department. As such, that office will request the Office of Human Resources and Administration prepare an action plan with milestones to correct this program weakness. The Office of Management will request that the Office of Human Resources and Administration address the 10 actions identified in recommendation 2 and provide specific corrective actions with targeted milestone dates.

In addition to monitoring the completion of the corrective action plan, the Management Controls Division will monitor the progress of milestone implementation on a monthly basis. The Office of Management will recommend that this Internal High Priority Area become an item for discussion at the monthly performance review meetings with the VA Deputy Secretary.

(See Appendix D on page 23 for the full text of the Assistant Secretary's comments.)

Office of Inspector General Comments

The implementation plan is acceptable. We will follow up on the planned actions until they are completed.

Recommendation 2.

We recommend that the Acting Assistant Secretary for Human Resources and Administration take the following actions to strengthen VA's WCP and reduce unnecessary program costs:

- a. Establish a centralized Department-wide program management and oversight process to proactively address WCP case management deficiencies and reduce the risk for program abuse, fraud, and unnecessary costs. This should include: (1) developing performance criteria to measure WCP case management effectiveness; (2) evaluating adequacy of compliance with WCP performance criteria; (3) identifying performance deficiencies that require corrective action; and, (4) ensuring that responsible WCP officials and staff are

held accountable for implementing required case management enhancements and meeting performance criteria.

- b. Ensure that adequate staff resources are available to complete necessary WCP case management actions throughout VA in a timely manner. Staffing guidelines and training requirements should be developed to help identify needed staffing levels and training to provide the skills needed to effectively perform WCP assigned duties.
- c. Ensure that the Department's WCP case management process includes the following key requirements: (1) establish and maintain a VA case file on all open/active claims; (2) provide timely follow-up actions on all open/active claims; and, (3) if a claimant has work capacity, a job offer is made.
- d. Monitor the extent of facility WCP claims involving violent patient incidents and coordinate with VHA on appropriate actions needed to address the safety of employees in their work areas.
- e. Coordinate with individual Department elements to conduct a one-time review of all open/active WCP cases to prioritize and identify those cases where additional case management efforts could return employees back to work or otherwise remove them from the WCP rolls. Provide the OIG with the results for oversight review. *(Repeat recommendation from the 1998 OIG WCP audit.)*
- f. As part of the one-time review, emphasize the need for WCP case managers to identify and report potential program fraud to the OIG. Ensure that the OIG handbook on case management and fraud detection and other fraud related information that can be found on our web site at www.va.gov/oig/52/wcp/wcp.htm is fully utilized in this review. Work with the OIG to establish a web based fraud referral process, including referral criteria.
- g. Establish Department-wide policy that requires WCP case managers to notify VBA C&P Service when a veteran-employee is injured on the job to ensure WCP claimants that also receive VA C&P benefits do not inappropriately receive dual benefits for the same injury. *(Repeat recommendation from the 1999 OIG WCP audit.)*
- h. Collect COP information and use as a management tool to monitor WCP cost trends and employee health and safety issues. *(Repeat recommendation from the 1998 OIG WCP audit.)*
- i. Collect information on Department actions to controvert COP and/or dispute claims and use as a management tool to evaluate the effectiveness of Department efforts to identify questionable claims and avoid unnecessary WCP related costs.

- j. Initiate dialog with DOL to discuss opportunities where both organizations could benefit from improved coordination/support in the delivery of WCP benefits to Department employees.

Acting Assistant Secretary For Human Resources And Administration Comments

The Acting Assistant Secretary for Human Resources and Administration agreed with the findings and recommendation 2 (a-j). The Acting Assistant Secretary provided an acceptable alternative approach to recommendation 2i that will include COP review in oversight and training initiatives to ensure appropriate application of COP entitlements.

Implementation Plan

The Acting Assistant Secretary's comments discuss various actions that will be taken to improve program effectiveness. Actions planned include increased program monitoring and oversight, staff training, and field compliance reviews to ensure the requirements of policies, statutes, and other regulations are followed. While detailed implementation plans with milestone completion dates were not provided, we were advised by responsible program officials that work on these plans is in process and they will be provided for OIG review and implementation follow up.

(See Appendix E on pages 24-28 for the full text of the Acting Assistant Secretary's comments.)

Office of Inspector General Comments

The Acting Assistant Secretary's comments and planned actions are acceptable and address the recommendation. The comments noted that increased OIG capacity to conduct fraud investigations is essential if we are to achieve the potential dollar impact calculated for fraudulent claims. A highly suitable alternative would be to increase the OIG's capacity to initiate civil fraud investigations for Workers' Compensation (WC) cases where warranted. The standards of proof for civil fraud are more advantageous and VA could recoup treble damages under civil fraud statutes. The establishment of a web based fraud referral process, including referral criteria will help better identify potential fraud cases that the OIG should consider for review. Once detailed implementation plans are provided, we will follow up on the planned actions until they are completed. It should be noted, though, that targeting these cases for civil fraud requires a criminal investigation.

Summary Of VA WCP Costs

Government-wide, VA has the fourth largest WCP costs. Annual WCP costs incurred by all Federal agencies is about \$2.3 billion, of which VA's WCP costs of \$157.3 million accounted for about 7 percent of this total. Our review found that VA's medical and compensation WCP costs for CBYs 1998 – 2003 totaled \$876 million. As shown in the table below, VA's WCP compensation payments, when adjusted for inflation, decreased by \$7.4 million (6.9 percent) since CBY 1998.

VA WCP Costs For CBYs 1998 - 2003

(Dollars in Millions)

CBY	DOL Inflation Rate	Actual Medical Payments	Medical Adjusted For Inflation	Actual Compensation Payments	Compensation Adjusted For Inflation	Total WCP Payments	Total Adjusted For Inflation
1998	Base Year	\$32.5	Base Year	\$107.6	Base Year	\$140.1	Base Year
1999	2%	\$31.2	\$30.6	\$106.7	\$104.6	\$137.9	\$135.2
2000	3%	\$35.7	\$34.0	\$107.5	\$102.3	\$143.2	\$136.3
2001	3%	\$38.5	\$35.6	\$107.4	\$99.2	\$145.9	\$134.8
2002	2%	\$41.2	\$37.3	\$110.4	\$100.0	\$151.6	\$137.4
2003	2%	\$44.5	\$39.5	\$112.8	\$100.2	\$157.3	\$139.7
Totals		\$223.6		\$652.4		\$876.0	
Inflation Adjusted Expenditure Increase (Decrease) 1998 – 2003			\$7.0		(\$7.4)		(\$.4)
Percent Inflation Adjusted Increase (Decrease) 1998 – 2003			21.5%		(6.9%)		(0.3%)

The decrease in compensation costs was mostly offset by an increase in WCP related medical costs that totaled \$7 million, when adjusted for inflation. The increase in medical costs is reflective of the annual increasing cost of health care services as well as an increase in the number of cases with medical expenses. As discussed in the report, our findings show that the level of WCP compensation expenditures could have been further reduced with more effective case management and return of employees to work.

As shown in the table on the next page, the number of WCP cases with claimants receiving compensation payments decreased by 187 cases from 6,862 cases in CBY 1998 to 6,675 WCP cases in CBY 2003. During this same time period, the number of WCP related medical claims increased by 570 cases. The audit results show that with more effective case management and return of employees to work, VA could have further reduced the number of active WCP cases involving compensation payments.

VA WCP Case Workload For CBYs 1998 - 2003

CBY	Number Of Cases With Costs	Increase (Decrease) In Cases	Number Of Cases Receiving Compensation Benefits	Increase (Decrease) In Compensation Cases
1998	15,374		6,862	
1999	15,287	(87)	6,734	(128)
2000	15,507	220	6,759	25
2001	15,500	(7)	6,650	(109)
2002	16,202	702	7,020	370
2003	15,944	(258)	6,675	(345)
Net Increase (Decrease) 1998 -2003		570		(187)

Summary Of Random Sample Results

Sampling Plan

To evaluate the overall management of VA's WCP claims, we reviewed a statistically random sample of WCP claims. The OIG's Statistician approved the sampling plan and number of records to be reviewed. For the purpose of sample selection, the audit universe was all active workers' compensation claims that had compensation payments totaling \$10,000 or more in CBY 2002. Based on the selection criteria, the VA-wide universe of 7,020 WCP claims that had compensation payments in CBY 2002 was reduced as follows:

Total WCP cases with compensation payments in CBY 2002	7,020
Less WCP cases with compensation payments less than \$10,000	(2,831)
Less closed WCP cases as of June 30, 2002	<u>(181)</u>
Audit Universe for Sample Selection	4,008

The 4,008 WCP cases in the audit universe had compensation payments totaling \$97,880,971 in CBY 2002. WCP cases with compensation payments less than \$10,000 were eliminated due to materiality and closed cases were eliminated because there should not be any future payments made on these cases. Due to the high volume of cases in the audit universe, a sampling plan was developed to evaluate implementation of prior OIG recommendations and VA's efforts to reduce WCP costs through effective case management.

We randomly selected 246 cases from the 4,008 cases that were open as of the end of CBY 2002. Evaluation of sample cases included review of data contained in VA's WC-MIS, VBA's Target System,¹⁷ individual WCP claim folders, and other files as needed.

To assess the effectiveness of case management, we used the following attributes:

- A case file is maintained by the facility to document facility case management efforts.
- Timeliness of follow-up actions on case management efforts such as requests to DOL-OWCP or WCP claimants.
- Timeliness of case management efforts to return the injured employee to work as soon as they are able.
- Evaluation and reporting of potential program fraud to the OIG.

To determine if an injury was the result of violent patient incidents, we used the following attributes:

- Description of injury on OWCP Form CA1 (Report of Traumatic Injury) stated the injury was caused by a violent patient.
- Review of VA's WC-MIS and WCP claims file found that the cause of injury was violence.

¹⁷ This VBA system provides access to beneficiary claims information.

Sample Results And Projections

Audit Universe And Sample Distribution

Department Element	Records In Audit Universe	Percent Of Audit Universe (4,008)	Records In National Sample	Percent Of Sample (246)	Exception (Needs Case Management Improvements)	Percent Of Exceptions (103)	Potential Fraud
VHA	3,804	94.9%	236	95.9%	93	90.3%	12
VBA	96	2.4%	6	2.5%	6	5.9%	0
NCA	63	1.6%	2	0.8%	2	1.9%	0
All Other	45	1.1%	2	0.8%	2	1.9%	0
Total	4,008	100.0%	246	100.0%	103	100.0%	12

Case Management Issues

Mid-Point Projection Of Sample Results To Audit Universe

Type Of Exception	Number Of Exceptions In Sample	Percent Of Sample	Projected Number In Audit Universe	Projected Annual WCP Compensation (In Millions)	Projected Past Compensation	Projected Future Compensation
Missed Opportunity	43	17.5%	701	\$15.5	\$112.6	\$235.2
Lack of Follow Up	43	17.5%	701	\$16.3		\$242.2
No Case File	17	6.9%	277	\$6.7		\$110.6
Sub Total	103	41.9%	1,679	\$38.5	\$112.6	\$588.0
Potential Fraud	12	4.9%	196	\$4.2		\$108.2
Total	115	46.8%	1,875	\$42.7	\$112.6	\$696.2

Lower/Upper Limits Of Sample Projections

Type Of Exception	Precision (+/-)	Projected Number In Universe		Annual WCP Compensation (In Millions)		Past WCP Compensation (In Millions)		Future WCP Compensation (In Millions)	
		Lower Limit	Upper Limit	Lower Limit	Upper Limit	Lower Limit	Upper Limit	Lower Limit	Upper Limit
Missed Opportunity	4.7%	511	892	\$11.3	\$19.8	\$82.1	\$143.2	\$171.3	\$299.0
Lack of Follow Up	3.2%	511	892	\$11.9	\$20.7			\$176.5	\$307.9
No Case File	4.7%	150	403	\$3.6	\$9.7			\$59.8	\$161.4
Sub Total		1,172	2,187	\$26.8	\$50.2			\$407.6	\$768.3
Potential Fraud	2.7%	191	201	\$4.1	\$4.3			\$105.3	\$111.1
Total		1,363	2,388	\$30.9	\$54.5	\$82.1	\$143.2	\$512.9	\$879.4

WCP Claims As A Result Of Violent Patient Incidents

Mid-Point Projection Of Sample Results To Audit Universe

Type Of Exception	Number Of Exceptions In Sample	Percent Of Sample	Projected Number In Audit Universe	Projected Annual WCP Compensation (In Millions)	Projected Future Compensation (In Millions)
Injury Caused by Violent Patient Incident	17	6.9%	277	\$7.2	\$148.7

Lower/Upper Limits Of Sample Projections

Type Of Exception	Precision (+/-)	Projected Number In Universe		Annual WCP Compensation (In Millions)		Future WCP Compensation (In Millions)	
		Lower Limit	Upper Limit	Lower Limit	Upper Limit	Lower Limit	Upper Limit
Injury Caused by Violent Patient Incident	4.7%	150	403	\$3.8	\$10.2	\$80.4	\$216.9

Monetary Benefits In Accordance With IG Act Amendments

<u>Recommendation</u>	<u>Explanation of Benefit(s)</u>	<u>Better Use of Funds</u>
2c	Estimated WCP compensation costs that could be potentially avoided for projected lifetime claimant benefits through improved case management.	\$588,000,000.00
2f	Estimated WCP compensation costs that could be potentially avoided for projected lifetime claimant benefits through improved fraud detection.	108,200,000.00
	Total	\$696,200,000.00

Assistant Secretary For Management Comments

Department of Veterans Affairs

Memorandum

Date: June 29, 2004

From: Assistant Secretary for Management (004)

Subj: Draft Report of Follow-up Audit of VA Workers' Compensation Program (WCP) Cost (EDMS #274397)

To: Assistant Inspector General for Auditing (52)

1. The Office of Management (OM) has reviewed the subject draft report; we agree with recommendation 1 that OM "continue to designate the WCP as an Internal High Priority (IHP) Area with increased program monitoring and oversight."

2. The Office of Financial Policy, Management Controls Division, is responsible for the monitoring and oversight of all material weaknesses, internal high priority areas, and other areas of concern affecting the Department. As such, that office will request that the Office of Human Resources and Administration (HRA) develop and implement a corrective action plan with milestones to correct this program weakness. OM will request that HRA address the 10 actions identified in recommendation 2 and provide specific corrective actions with targeted milestone dates.

3. In addition to monitoring the completion of the corrective action plan, the Management Controls Division will monitor the progress of milestone implementation on a monthly basis. OM will recommend that this IHP become an item for discussion at the monthly performance review meetings with the Deputy Secretary.

4. Thank you for the opportunity to review the draft follow-up audit report. If you have questions, please call me or have a member of your staff contact Ed Murray, Acting DAS for Finance, at 273-5504.

/s/
William H. Campbell

Acting Assistant Secretary For Human Resources And Administration Comments

Department of Veterans Affairs

Memorandum

Date: July 15, 2004

From: Acting Assistant Secretary for Human Resources and Administration (006)

Subj: Draft Report of Follow-up Audit of Department of Veterans Affairs Workers' Compensation Program Cost (EDMS #274219)

To: Assistant Inspector General for Auditing (52)

1. Thank you for the opportunity to provide comments to the IG's Draft Report of Follow-up Audit of VA's Workers' Compensation Program Cost. In developing our response, we have received and considered comments from Veterans Health Administration, Veterans Benefits Administration, and National Cemetery Administration.
2. We generally concur with the report findings and recommendations, with the exception of Recommendation 2.i. for which a proposed alternative approach is provided. As requested, we have also included with our response comments regarding the estimated dollar impact for Recommendations 2.c. and 2.f. Successful implementation of recommended actions is dependent upon the availability of administrative and funding support from VA Administrations.
3. Should you have any questions regarding our response, please have a member of your staff contact John Hancock, Director, Office of Occupational Safety and Health (00S1), at 273-9742.

/s/
William H. Campbell

Attachment

RESPONSE TO THE IG DRAFT REPORT OF FOLLOW-UP AUDIT OF VA'S WORKERS' COMPENSATION PROGRAM COST

Human Resources and Administration (HR&A) generally concurs in the findings and recommendations, with the exception of Recommendation 2.i., and appreciate the opportunity to examine more closely those courses of action that will enable VA to enhance the management of this important employee benefit program. However, resources necessary to implement these recommendations are not currently available to HR&A. Our success in implementing the IG's recommendations is dependent on the availability of administrative and funding support from VA Administrations.

HR&A solicited and reviewed Veterans Health Administration (VHA), Veterans Benefits Administration (VBA), and National Cemetery Administration (NCA) comments on the draft report and received no new substantive comments that would merit modification of the IG draft report.

COVER LETTER AND EXECUTIVE SUMMARY

In your cover letter, you specifically requested that HR&A provide our agreement or disagreement with the estimated dollar impact for Recommendations 2.c. and 2.f. In our estimation, we believe that the amounts indicated in Appendix C of the audit report are modestly conservative, based upon the following information:

- Recommendation 2.c. Concur. The audit report utilizes an actuarial table that averages the years a compensation recipient has left to reach an age where termination of compensation would occur. We believe that the audit's estimated dollar impact of implementing IG recommendations is conservative, but reasonable.
- Recommendation 2.f. Concur. We believe that the IG audit calculation for potential costs to be avoided through improved fraud detection is conservative, but fairly stated.

We feel it necessary, however, to qualify our assessment by stating our concern over the limited availability of IG staff to conduct necessary fraud investigations. Federal statutes prohibit employing agencies from conducting criminal fraud investigations, limiting agencies solely to the review of the extent of medical impairment of the claimant. Criminal fraud investigations may be conducted only by authorized law enforcement agencies. Increased IG capacity to conduct fraud investigations is essential if we are to achieve the potential dollar impact calculated for fraudulent claims. A highly suitable alternative would be to increase the IG's capacity to initiate civil fraud investigations for Workers' Compensation (WC) cases where warranted. The standards of proof for civil fraud are more advantageous and VA could recoup treble damages under civil fraud statutes.

Regardless of the methodology used to calculate the unnecessary costs of the WCP, the amount is significant and clearly supports the need for enhanced WCP management throughout VA.

Page 2.

REPORT RECOMMENDATIONS

Recommendation 2.

We recommend that the Acting Assistant Secretary for Human Resources and Administration take the following actions to strengthen VA's WCP and reduce unnecessary program costs:

a. Establish a centralized Department-wide program management and oversight process to proactively address WCP case management deficiencies and reduce the risk for program abuse, fraud, and unnecessary costs. This should include: (1) developing performance criteria to measure WCP case management effectiveness; (2) evaluating adequacy of compliance with WCP performance criteria; (3) identifying performance deficiencies that require corrective action; and, (4) ensuring that responsible WCP officials and staff are held accountable for implementing required case management enhancements and meeting performance criteria.

Concur. VA's WCP was decentralized in 1999. Since that time, the trend line of cost increases has steadily risen. While program costs are not by themselves indicative of program management efficiency, such a consistent, upward 5-year-cost trend line serves to underscore the fact that more needs to be done.

b. Ensure that adequate staff resources are available to complete necessary WCP case management actions throughout VA in a timely manner. Staffing guidelines and training requirements should be developed to help identify needed staffing levels and training to provide the skills needed to effectively perform WCP assigned duties.

Concur. Staffing levels must be re-evaluated by VA Administrations and field facilities to ensure adequate resources are available. There is currently no formal training course for WCP specialists. Plans are in place to develop a formal course of instruction, as well as an interim Best Practices course, lacking only funding to bring them to fruition.

c. Ensure that the Department's WCP case management process includes the following key requirements: (1) establish and maintain a VA case file on all open/active claims; (2) provide timely follow up actions on all open/active claims; and (3) if a claimant has work capacity, a job offer is made.

Concur. These elements are listed in VA Directive 5810, Managing Workers' Compensation Cases and Costs, dated August 5, 1997, and are the responsibility of all appropriate VA officials. Plans for compliance reviews have been developed and are needed to ensure the requirements of policies statutes and other regulations are followed. Implementation of compliance reviews is subject to appropriate funding.

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d. Monitor the extent of facility WCP claims involving violent patient incidents and coordinate with VHA on appropriate actions needed to address the safety of employees in their work areas.

Concur. IG studies have shown that many work-related injuries stem from violent patients. VA's Office of Occupational Safety and Health, in cooperation with VA Administrations, will continue to monitor this important program area.

e. Coordinate with individual Department elements to conduct a one-time review of all open/active WCP cases to prioritize and identify those cases where additional case management efforts could return employees back to work or otherwise remove them from the WCP rolls. Provide the IG with the results for oversight review. (Repeat recommendation from the 1998 IG WCP audit.)

Concur. The most effective measure of a facility's program management is a direct review of each case file to ensure that everything has been done to resolve a case. Compliance reviews will assist greatly in ensuring these tasks are completed provided funding is made available.

f. As part of the one-time review, emphasize the need for WCP case managers to identify and report potential program fraud to the IG. Ensure that the IG handbook on case management and fraud detection and other fraud related information that can be found on our web site at <http://www.va.gov/oig/52/wcp/wcp.htm> is fully utilized in this review. Work with the IG to establish a web based fraud referral process, including referral criteria.

Concur.

g. Establish Department-wide policy that requires WCP case managers to notify VBA C&P Service when a veteran employee is injured on the job to ensure WCP claimants that also receive VA C&P benefits do not inappropriately receive dual benefits for the same injury. (Repeat recommendation from the 1999 IG WCP high risk audit.)

Concur. On September 18, 2001, HR&A issued instructions to the field requiring VBA notification of veteran claimants to allow a review for statutorily prohibited dual compensation. The policy will be re-issued and the issue will be incorporated in planned compliance reviews subject to appropriate funding.

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h. Collect COP information and use as a management tool to monitor WCP cost trends and employee health and safety issues. (Repeat recommendation from the 1998 IG WCP audit.)

Concur. Plans are in place to update the Department's payroll system. We have been advised that the new Defense Finance and Accounting Service system includes automated collection of COP data.

i. Collect information on Department actions to controvert COP and/or dispute claims and use as a management tool to evaluate the effectiveness of Department efforts to identify questionable claims and avoid unnecessary WCP related costs.

Concur with alternative plan. Claim controversions and disputes are written narratives describing in detail an agency's position on a case. There is no automated means to capture this information other than recording whether the claim was initially controverted or disputed. This type of data collection would tell us little about COP management effectiveness. As an alternative in lieu of collecting information on the number of claims controverted, we propose to include COP review into our oversight and training initiatives to ensure the appropriate application of COP entitlements.

j. Initiate dialog with DOL to discuss opportunities where both organizations could benefit from improved coordination/support in the delivery of WCP benefits to Department employees.

Concur. It is always prudent to enhance working relationships between governmental departments when managing Federal programs. Both the former and current Department WCP managers developed and maintain a solid relationship and effective communication with DOL Headquarters (HQ). All VA program specialists have been informed of the process whereby facility WC issues may be rapidly elevated through VA's WCP Manager to DOL HQ for resolution. Many cases have been reviewed and resolved by DOL HQ in just such a fashion. VA will work to maintain this relationship in the best interests of the Federal service.

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