



**Statement of Patricia A. Dalton
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U.S. Department of Labor
Before the House Committee Education and the Workforce
Subcommittee on Workforce Protections
U.S. House of Representatives
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Good morning Mr. Chairman and members of the Subcommittee. Thank you for inviting the Office of Inspector General (OIG) to testify on our work in the Federal Employees' Compensation Act (FECA) program. Specifically you requested our views on customer service provided by the Office of Workers' Compensation Programs (OWCP), the agency responsible for administering FECA. I am here in my capacity as Acting Inspector General to present the views of the OIG, which may not necessarily be representative of those of the Department of Labor.

Background – Federal Employees’ Compensation Act

The U.S. Department of Labor administers several programs and statutes designed to provide and protect the benefits of workers. FECA is a comprehensive workers’ compensation law covering some 3 million Federal and postal employees. It is designed to provide medical benefits, income replacement, and certain supportive services to employees with work-related injuries or, in the case of deaths, survivor benefits to family members. OWCP is responsible for making eligibility determinations and for the initial reconsideration if a claim is denied. Benefits are paid from the Employees’ Compensation Fund which is principally funded through chargebacks to the Federal agencies that employ the injured worker. Therefore, the FECA program affects the budgets of all Federal agencies. In its FY 2001 budget justification, OWCP stated that in FY 2000, they will receive approximately 165,000 new cases in addition to over 40,000 cases on their periodic rolls. This year, FECA expenditures are expected to total about \$2 billion.

OIG Activities Relating to FECA

Mr. Chairman, the OIG recognizes that it is extremely important to balance the needs and rights of OWCP's claimants with right of the taxpayer to have an effectively and efficiently managed program. As such, we have conducted many audits, evaluations, and investigations that have identified and made recommendations that we believe will help to improve a number of customer service and program integrity issues in the FECA program. OWCP has recognized the need to implement changes in response to our concerns and I would like to note that the agency has been responsive to many of our recommendations.

I will now discuss some of our work to illustrate our efforts related to customer service and program integrity issues.

Customer Service Evaluation

Based on issues raised during a prior Congressional hearing, we reviewed OWCP's 1995–1998 FECA customer service surveys. We analyzed the surveys' methodology in order to determine its accuracy and usefulness in providing sound information about customer service. Although OWCP has made efforts to improve the surveys each year, our analysis revealed the existence of methodological flaws in several areas, including survey design, measurement of customer service, sampling, response rate, and survey operations. As a result, we made a number of recommendations to enhance the accuracy of the data by improving the survey methodology and thus help OWCP judge

and improve the quality of customer service provided. The agency agreed with most of our recommendations and incorporated them in its subsequent survey.

Crossmatches between FECA and Social Security Wage Information

Our most recent audit to improve overall program effectiveness looked at whether FECA claimants earned wages while receiving long-term total disability compensation; whether automated crossmatches with Federal or state wage records could assist OWCP in identifying potential claimant fraud or overpayments; and whether internal controls ensured that claimant wages were detected and benefit amounts were adjusted. Our audit involved 27,050 FECA claimants who had received total disability compensation for the entire Calendar Year 1996. Of those claimants, we found that 905 of them had total earnings of \$2.9 million. The OIG concluded that routine automated crossmatches with SSA would result in program savings, including reduced compensation, medical, and administrative costs. The DOL-OIG also recommended that OWCP crossmatch Social Security wage data. (this is more fully detailed in our section on recommendations to improve the FECA program). OWCP, however, cannot institute this recommendation without a change in the law. We also recommended that OWCP follow its own policies and procedures to detect wages.

President's Council on Integrity and Efficiency FECA Review

Mr. Chairman, part of effective customer service is the need for all Federal agencies to provide supportive services to help employees return to work when appropriate. In 1996, under the leadership of the DOL-OIG, the President's Council on Integrity and

Efficiency (PCIE) issued a Consolidated Report on FECA. This report summarized the results of audits conducted by 13 participating Inspectors General regarding agencies' effectiveness in managing their workers' compensation program. Each participating Inspector General was responsible for follow-up on specific recommendations they made to agency officials. The report disclosed that:

- C Employing Federal agencies generally needed to improve the management of the workers' compensation programs;
- C Nine of 10 employing agencies did not have effective return-to-work programs and the PCIE concluded that employing agencies were not effectively monitoring the work status of injured employees;
- C Seven out of 10 OIG's reported that agency workers' compensation files were out of date or missing altogether. Moreover, there was a perception in many agencies that claimants receiving compensation from OWCP were no longer the agencies' concern;
- C Twelve of the 13 employing agencies were not adequately verifying their FECA chargeback cost reports, which reconcile chargebacks between OWCP and employing agencies. Most agencies had concluded that it was not cost effective to verify the chargeback reports, therefore, many employing agencies were paying more in FECA costs than was necessary; and
- C Five of the IG's reviewed FECA claim forms processing and all five found that their agencies were not processing the forms in a timely manner. As a result, many injured employees had no income while waiting for their FECA benefits to begin.

While the DOL-OIG has not conducted a follow-up audit, we are aware of several new initiatives that agencies are implementing that relate to some of the PCIE recommendations. For example, several Departments have instituted electronic filing to submit claims directly to OWCP. In addition, OWCP also has initiated the Early Nurse Intervention Program to help claimants return to work as soon as appropriate, thereby reducing costs in the program.

Medical Reimbursements and Authorization of Surgical Requests

Another customer service issue that we have reviewed is that of medical reimbursements and authorization of surgical requests. In 1999, based on complaints received by the OIG from FECA claimants, the OIG issued an evaluation of the timeliness of claimant reimbursement for out-of-pocket medical expenses and requests for surgical authorizations in OWCP. Our review found that OWCP surpasses its “95 percent” 60-day performance standard by paying 96.9 claimant-submitted bills within 60 days, although it falls short of the “90 percent” standard in 28 days by paying 82.1 percent of claimant-submitted bills within 28 days. OWCP stated that it implemented an automated bill review system to increase the percentage of claimant-submitted bills paid. In this review, we also examined OWCP’s handling of requests for non-emergency surgery. We found that OWCP had not set a performance standard in this area and recommended that the agency do so. In its response to the evaluation, OWCP stated that this was not feasible at the time the evaluation was issued. They indicated that response times vary greatly, depending on the type of request, and it would be difficult for them to track the information required under their current information system. However, OWCP stated that it is analyzing the issue and, by FY 2001, will determine whether it needs a new standard.

Financial Statement Audits

In addition, Mr. Chairman, each year, the OIG is required to audit DOL’s financial statements. In the most recent report, we continued to note weaknesses related to

several areas of the FECA program. For example, we identified the need for improvements in verifying the continuing eligibility of claimants. The audit disclosed that FECA does not have policies and procedures in place to ensure that documents are requested and received on a timely basis. These policies and procedures are necessary in order to confirm a claimant's continuing eligibility or - in the case of an investigation - to determine a claimant's intent to defraud the program.

Improper Medical Provider Billings

Mr. Chairman, we have also focused significant attention to identifying program integrity weaknesses that can have a bearing on customer service because resources are diverted away from serving legitimate claimants. In 1997, we issued a report which revealed that millions of dollars are being lost annually because of improper or abusive medical provider billings. In that report, we recommended that OWCP procure a commercial system to screen medical billings for code manipulation and pursue collection actions, if warranted. These screenings are critical to quickly identify inappropriate claims. In its FY 2001 budget justification, OWCP indicated that it has implemented a commercial software system to screen incoming medical bills for duplicate charges and/or abusive billing practices.

Job Corps Safety and Health Program

The top priority of a customer-oriented compensation program should be one of ensuring that workplace injuries are prevented in the first place. To that end, the OIG just released an audit report on the implementation of a model safety and health program for the Department's Job Corps centers. Job Corps participants are covered by the FECA program and we audited their safety and health program, in part because Job Corps had the second highest workers' compensation costs in Program Year 1999 for DOL agencies.

This audit is a follow-up to a 1997 OIG audit and we found that Job Corps has made only limited progress implementing a model safety and health program and reducing accidents and injuries, and that Job Corps' responsibilities have largely been unfulfilled. The OIG found that the injury/illness rate for new students is the same in FY 99 as it was in FY 94. In addition, there was no adequate system to ensure that violations were properly and timely abated, and the reliability of statistical data accumulated to assist in gauging Job Corps safety and health status was based on incomplete and inconsistent practices.

We concluded that Job Corps' currently administered safety and health program must be improved to meet its goal of reducing center injuries/illnesses and becoming a model program with exemplary safety and health plans and operations.

In response, the Department generally agreed with most of our findings indicated that it recognizes the need for implementing changes to the overall safety and health program and are taking steps to address many of our recommendations.

Recommendations to Improve the FECA Program

Mr. Chairman, as I have stated previously, OWCP has worked with us to improve the efficiency of the FECA program and decrease the level of fraud and abuse. Even though the OIG has made great strides to increase the efficiency and effectiveness of the FECA program, there are still issues that need to be addressed. In the past, the OIG has made recommendations to strengthen the program. Some of these are administrative in nature and can be resolved by OWCP, but there are other solutions that are legislative or budgetary in nature. These include:

C The Continuation of Pay Period

FECA currently has a provision that allows employees who sustain disabling job-related traumatic injuries to receive continuation of their regular pay for a period not to exceed 45 calendar days after the injuries. This waiting period, a feature common to all workers' compensation systems, exists in order to help discourage frivolous claims. Currently, the three-day period under the FECA is **at the end** of the COP period, which does not serve to discourage frivolous claims. In order to reduce the number of frivolous claims, the OIG recommends that the Congress reinstate a three-day waiting period before the COP period begins, but allow employees to use their accrued Federal employment leave.

C Establishing a Retirement Age for Beneficiaries

Currently, FECA beneficiaries are not required to "retire" at any age. Therefore, beneficiaries may remain on the disability rolls until they die. As a result, there is

a strong incentive to remain on the rolls, since the tax-free benefits are much greater than any retirement earnings would be. The OIG recommends that the Congress establish a suitable “retirement age” for FECA claimants. Once the beneficiaries reach the specified retirement age, their “retirement” benefits would be adjusted downward to a specified level, however medical benefits could still be paid by OWCP.

C Adding a Wage Reporting Requirement for Total Disability Recipients

The Act reads that only “partially disabled” individuals must report wage-earning information. While OWCP requests such information from individuals classified as “totally disabled,” it is not required of them. This wage information is necessary for OWCP to determine whether individuals remain eligible for their continued benefit level. The OIG recommends that the Congress add a similar income reporting requirement for any individuals receiving FECA benefits for total disability.

C Accessing Social Security Information

Wage information can be used by OWCP to document whether a claimant has outside employment. If it is determined that the claimant has unreported outside employment or income, any inappropriately-paid benefits can be reduced or withdrawn. Access to Social Security wage information would also be useful to verify the validity of any Social Security numbers provided by the claimants. Unfortunately, OWCP can only access Social Security wage information if the claimant gives OWCP permission to do so. A refusal to grant such authorization has no adverse impact on the claim. Claimants who are defrauding the FECA

program are unlikely to willingly grant OWCP or the OIG the authority to access information about their earnings. The Congress should grant authorization for OWCP and the OIG to have access to Social Security data, similar to the access already provided to several other Federal agencies.

Conclusion

In conclusion Mr. Chairman, our findings and recommendations have focused on helping to make the FECA program operate more effectively and efficiently, while ensuring the integrity of the program. This concludes my written statement and I would be pleased to answer any questions you or the other members of the Subcommittee may have.