

AGENCY RESPONSE

U.S. Department of Labor

Assistant Secretary for
Employment Standards
Washington, D.C. 20210



SEP 25 2007

MEMORANDUM FOR ELLIOT P. LEWIS

Assistant Inspector General
for Audit

A handwritten signature in black ink, appearing to read "Victoria A. Lipnic", is written over the typed name.

FROM: VICTORIA A. LIPNIC

SUBJECT: Mechanisms Used to Identify Changes in
Dependent Eligibility Are Inadequate at the FECA District
Office in Jacksonville, Florida
Draft Report No. 04-07-002-04-431

This responds to your September 13, 2007 memorandum requesting comments on the subject draft audit report. ESA has reviewed the report and our responses are provided below.

You recommend that the Assistant Secretary for Employment Standards ensure that OWCP/DFEC:

1. "Changes the FECA Procedure Manual to conform with 20 CFR Section 10.537, which requires the semiannual submission of medical evidence for physically or mentally disabled dependent children."

Management Response:

DFEC agrees that further clarification of the Procedure Manual is necessary, and will make requisite modifications to correctly reflect Program policy regarding this regulation. However, it is noted that the Program will continue to exercise prudence in applying the regulations to avoid unnecessary, duplicative, or invasive requests for medical evidence. For example, in claims where the medical condition is critically debilitating or with no known cure (such as cerebral palsy or severe mental retardation lasting more than 25 years), we will continue to act appropriately in the spirit of the regulation. The 20 CFR Section 10.537 was created to ensure that continuing dependency of disabled dependents is established to support ongoing compensation payments, and the DFEC will continue to maintain those standards intended by the regulation.

2. "Improves OWCP forms by including dependents' and survivors' social security numbers on key forms so that information verification of the claimant data can be more easily performed."

Management Response:

The DFEC did not have the ability to track dependent's or survivor's social security numbers (SSN's) in its computer operating system until the recent implementation of the Integrated Federal Employees' Compensation System (iFECS) in 2005. Any change to forms prior to that time to collect this information would not have been supported by the Office of Management and Budget (OMB), since DFEC could not have supported a routine use and storage of the information. Now that the iFECS system has given DFEC the ability to capture the data, DFEC will begin changing the necessary forms to collect it as they come up for OMB clearance.

3. "Requires claimants to submit their Federal tax returns annually to assist DFEC in verifying dependent status."

Management Response:

The DFEC disagrees with this recommendation. As noted previously in the audit findings, the DFEC already has regulations in place to verify dependency status. It is doubtful that requiring the filing of a tax form would greatly assist in that effort. Furthermore, since many claimants have no other income beyond their DFEC compensation benefits (which are a tax-free benefit) they do not have any need to file a tax return form with the Internal Revenue Service (IRS) and the DFEC cannot compel them to do so. It is also noted that the definitions of a "dependent" differ for the IRS and the DFEC. This issue could cause further confusion of the actual status.

4. "Performs timely follow-up and suspends payment of compensation when claimants do not provide required information within the time specified by regulation."

Management Response:

The DFEC will always strive to ensure the compensation entitlement is properly supported, and in the quickest and most efficient timeframes possible. Towards that end, the DFEC has developed the Periodic Entitlement Review (PER) application in the iFECS operating system. This application monitors the timeliness of supporting documentation to establish ongoing compensation, such as the Form CA-1032 and the Form CA-12. In addition, the application sends prompts to the appropriate Claims Examiner to send out requests for information as required, to follow-up on prior requests that lack a response, and to suspend compensation should no response ever be received. Recent audit findings have confirmed that the PER application has greatly improved DFEC performance in this area, and we will continue to develop it to ensure compliance with Program policy and regulation

If you have any questions concerning this response, please contact Rose Broadwater of my staff on 693-0285.