

## Federal Workers' Compensation Act (FECA) Program

### Questions and Answers

The Office of Workers' Compensation Programs (OWCP) provided the answers (in italics) below to questions submitted by participants at the symposium, Federal Employees' Compensation Act (FECA) Program: Building a Coordinated Approach to the IG Community's FECA-Related Work, held on March 22, 2006.

If you have additional questions about the FECA program, please email them to [hill.michael@oig.dol.gov](mailto:hill.michael@oig.dol.gov).

### Continuation of Pay (COP)

**OWCP's current policy requires a FECA claimant, whose period of 45 days COP is nearing the end, to sign the CA-7 request for compensation form 5 days before the end of the 45-day COP period. This policy creates a loophole that claimants can use. When the claimant signs the CA-7, he or she testifies that they have not returned to work. Since a fraudulent CA-7 is important evidence for prosecuting fraud, what can OWCP do to ensure that the CA-7 is signed at the proper time?**

*First, we would like to point out that CA-7s generally cover a period of two weeks, so it is unlikely that the employment status will change from the time of the claimant's signing until the time that the payment is processed. All CA-7s are submitted through the employing agency, so if the claimant returns to work with the same agency, the compensation specialist should be aware of the outstanding CA-7 and can alert us to avoid an overpayment. Wage loss compensation can never be paid in advance. If a claimant completes a CA-7 for some period into the future, the payment will not be generated until the claimed time has passed. We are planning a process to enable agencies to electronically submit CA-7s, thereby reducing any perceived need to file significantly early.*

**If form CA-7 is filled out in advance of the annual pay cycle, and processed after January 1, 2006, the FECA benefit matches the 2006 pay scale, even though it was signed in 2005. What can be done about that?**

*The time of filing of the CA-7 has no impact on the benefit level. Our benefits are solely based on the injured worker's date of injury, date of recurrence or date disability began pay rate.*

### Data Requests to OWCP

**Since agencies pay DOL to administer the FECA program for their employees, can OIGs have access to DOL's case files when performing investigations?**

Yes, release of information to agencies investigating potential legal violations is considered a "routine use" under DOL/GOV1 (DOL Privacy Act System of Record Notices, 58 FR 49548[September 23, 1993] at 49554).

**Will there be any consideration of giving law enforcement officers access to OASIS (IFECS) for law enforcement purposes only?**

*Yes, when a claimant is under investigation, the investigator can review the case record at our district office kiosk or request a copy of the file on CD. Case records dating prior to mid 2002 are not imaged, and can only be viewed from the paper file maintained at the district office. (If the 3<sup>rd</sup> digit in a case number is either 2 or 3, the record is fully imaged.)*

**FECA Claimants (General)**

**Could there be more self-reporting from claimants on an annual basis and agency follow-up with intent to get more people back to work (regular or light duty) or off the rolls?**

*For claimants on the automated payment rolls, we presently request annual CA-1032s (which require the disclosure of updated information regarding work and earnings, dependency and other benefits), annual release statements for Social Security earnings records and annual medical reports (for the vast majority of benefit recipients – certain case statuses require less frequent medical). We would entertain requests for additional reporting, if you wish to suggest the type of information being sought, but there are workload implications to any expansion of reporting requirements which would also have to be assessed.*

**FECA Fraud**

**How can we better communicate the message to claimants that abuses of the FECA program will be prosecuted? Or, how do we get the message out to claimants that they need/must come back to work when they are able?**

*Our CA-1049 (an informational document sent when the claimant is being placed on the automated pay rolls), CA-7 (a claim for benefits for a specified period) and CA-1032 (annual update form described above) all include a warning above the claimant's signature block about the legal penalties for providing fraudulent information. Our CA-1049 and CA-1008 (initial acceptance letter) explain the requirement to return to work when possible. We also assign nurses and possibly rehabilitation counselors to claims incurring wage loss to help facilitate a return to work. Employing agency staff, including the worker's supervisor, should also communicate with the worker about the worker's recovery and to encourage return to work.*

**Could you have a major U.S. government-wide effort that called on agencies to reassess all FECA cases to ensure that claimants still should be receiving benefits? It should be a big push with publicity so people on the FECA rolls know this.**

*We are already performing this function through our Periodic Roll Management project as described by Mr. Hallmark at the symposium. Since 1992, we have specific FTE who review claims on the automated compensation rolls in an effort to identify return to work potential. However, it is solely the role of the Department of*

*Labor to determine ongoing benefit eligibility. Employing agencies do not have this authority. We encourage other agencies to reassess their light duty employment possibilities so that more injured workers can return to meaningful employment. Especially for cases that have been on the periodic roll for some time, each case must be handled individually and on its own merits. This typically requires close coordination between employing agency staff and the OWCP claims examiner, nurse, and/or rehabilitation counselor.*

**What percent of FECA claimants reside overseas? Would OWCP consider requiring that any medical appointments to diagnose/reevaluate a claimant be performed by a U.S. doctor? It is far too easy to manipulate medical reports coming from developing nations (bribery of doctors, etc.), and is nearly impossible to monitor employment activity. As FECA claimants age and retire, more may in fact opt to reside overseas.**

*Only a very small fraction of FECA recipients reside overseas, and the majority of those reside in developed countries. These claims are maintained in our Special Claims Unit in our Cleveland district office. These claimants have the same medical and earnings reporting requirements. We have brought claimants to the United States for medical evaluation when deemed appropriate. However, the travel costs must be added to the employing agency's chargeback.*

**Have concerns about fraud indicators been addressed by OWCP, and have remedies been discussed and corrections made?**

*Our program has detailed procedures for handling claims where fraud is suspected. We are unaware of any specific fraud indicators that have been deemed sufficiently reliable. Although various attempts have been made to "profile" potential fraud cases, each case is different and identifying fraud occurs one case at a time.*

**Will OWCP conduct data mining of its records in an effort to assist law enforcement agencies to focus on potential violations of Workers Compensation regulations, or to identify suspected fraud?**

*The DOL OIG has audit responsibility for the FECA program, and is currently engaged in one or more data mining audits. We have also cooperated in requests for data from other agencies so that they can assist their programs. Much of this same data is already provided to federal employers through chargeback extracts. The Division of Federal Employees' Compensation is presently developing nationwide procedures for coordinating and facilitating such requests to develop a consistent policy and to avoid duplication of effort.*

**Has OWCP considered sharing suspicions of fraudulent medical providers with the appropriate law enforcement agencies for investigation?**

*We have done this on a regular basis and we have standing program procedures to outline this process.*

**Does DOL keep any statistics on fraud and abuse in the program?**

*No. OWCP does assist the DOL OIG in the computation of savings resulting from their investigative actions. The number of cases prosecuted each year is a tiny fraction of one percent of annual FECA claims filed.*

**Under OWCP's current policies and procedures, what is a claims examiner supposed to do if he or she suspects fraud by a FECA claimant?**

*The claims examiner's procedures are specifically outlined in our procedure manual at PM 2-0402- 7 & 8. Our manual is available on-line at <http://www.dol.gov/esa/regs/compliance/owcp/INDEXofResources.htm#bookmark3>*

**How much training does OWCP give claims examiners to identify fraud and abuse?**

*See response to the previous question (above).*

**What agency-wide fraud detection measures does OWCP maintain to assist law enforcement agencies to detect and deter Workers' Compensation fraud?**

*Claims examiners conduct regular reviews of ongoing disability claims to identify changes in the claimants' ability to work, other benefits and dependent status. Our systems controls ensure that medical services are appropriate for the accepted condition, coding of services are accurately applied and duplicates are excluded. Our maximum fee schedules deter excessive charging for services.*

**What steps has OWCP taken to improve its district offices' customer service to law enforcement agencies conducting fraud investigations?**

*The district offices generally enjoy a good working relationship with the local investigators. As noted above, we are presently formulating a program wide policy so that fraud investigators can expect a more consistent response from our district offices.*

**What is being done to correct or prevent Affiliated Computer Services (ACS), OWCP's medical bill payer and medical treatment authorizer, from issuing payments for medical procedures not approved by OWCP and paying monies for claims not approved?**

*Payment of medical bills is controlled by a series of edits, including an edit that checks whether the billed service falls within the "treatment suite". Treatment suite is our term to describe the acceptable range of treatments that can be authorized and/or paid based on the medical condition accepted by our claims staff. Recently, we enhanced our system to apply the treatment suite concept to drug classes, to help ensure that we only pay for appropriate prescriptions. An edit exists to check the case status in every bill processed; medical bills cannot be paid in unaccepted claims. We are beginning our third year with the central bill payment contractor. Although we experienced a variety of problems at the onset, we believe that the system has been tuned to the point that federal agencies are experiencing significant savings in their chargeback for medical treatment.*

**How hard and fast is the rule that the FECA claimants provide new medical information?**

*New claims require medical reports contemporaneous to the injury or onset of illness, in order to be adjudicated. Cases on the automated payment roll are generally required to provide updated medical information at least once per year.*

*Although our examiners more closely monitor the medical reports in claims involving wage loss benefits to ensure evidence of ongoing disability, the examiners also monitor ongoing treatment reports when claimants are only pursuing medical benefits. Second opinion examinations are scheduled if treatment exceeds the anticipated course.*

**What about one year evaluations for medical compensation claims?**

*See answer to previous question (above).*

**What information is forwarded to OIGs with regard to fraud by individuals?  
What about medical examiners forwarding rehabilitation information on cases?**

*The claims examiners complete a DL-1-156 Incident Report and provide this along with supporting documentation. For a block by block description of the information contained on this form, see our procedure manual at PM 2-402- 8 & 9. If documents related to the rehabilitation plan are pertinent to the suspected fraud, they would be included in the supporting documentation.*

**Does OWCP or the sub-programs have in place a group or person whose function is to identify fraud or anomalies that may indicate fraud? If so, what have been the results of their work? If only at the sub-program level, has any effort been made to use the information from one program to identify the same conditions in the other sub-programs?**

*A unit of this kind existed in OWCP prior to the creation of the Office of the Inspector General, at which time that staff and function were consolidated into the OIG. Although there is not a particular staff member tasked to identify fraud, this function is part of every examiner's job. See the responses to questions above.*

**Could there be some kind of statement or certification on the CA-17 that the claimant would sign to certify that the information on the form is true? (Such a statement would assist in prosecuting fraudulent claims.)**

*The CA-17 is not a form that is completed by the claimant. This form is completed by the employing agency and the attending physician to compare physical requirements with physical restrictions.*

**i-FECS**

**What controls safeguards were placed into the new i-FECS to mitigate or identify fraud that were not previously installed or used in the FEC system? Have these been successful?**

*iFECS, the Integrated Federal Employees' Compensation System, was designed to benefit our internal users through the integration of various programs that previously stood alone. Although not the chief goal of the project, we have been able to incorporate new controls into this technology to lessen the opportunities for fraud. Internally, all system users now have an assigned "user role". The role defines the user's access. For example, a user who has access to make payments cannot change the address of a payee. The system requires appropriate signature level*

*certification on large dollar amounts. The system tracks the actions of a particular user. Externally, the system alerts the examiners when a 1032 annual update form and Social Security earnings release are due. The system will automatically create an overpayment, where appropriate, when a retroactive change is made to the benefit entitlement.*

*The new iFECS system is still in its infancy, so assessment of benefits is probably premature at this point. In the longer run, the greater flexibility and integration of the system will facilitate data mining, and its more powerful functionality will boost claims examiners' effectiveness and productivity substantially, as well as customer satisfaction.*

**What benefits have been realized by using the new i-FECS, in fraud, in performance, and in customer satisfaction?**

*See answer to previous question (above).*

### **Medical Opinions**

**Would OWCP consider requiring a second opinion examination before accepting a claim for any stress or mentally related claims?**

*While we recognize that emotional claims present unique challenges, we are not holding these claims to a different medical standard to establish entitlement.*

**What process is in place to ensure follow-ups and second medical opinion requests are handled in a timely manner?**

*All of our second opinion examinations are scheduled through a contracted broker. The terms of the contracts with the brokers require timely scheduling, and therefore we experience little delay in this area. Referee examinations must be scheduled on a rotational basis, in the interest of fairness and impartiality. Therefore, we are more limited in that we must conform to the selected physician's schedule.*

**What is being done to expedite second opinion examinations and Independent Medical Examinations, which take several months to schedule?**

*See response to previous question (above).*

**Would OWCP consider suspending benefits pending receipt of medical documentation, 1032s, proof of death second opinions, etc., instead of continuing payments and sending subsequent requests?**

*We do stop payments on report of death. When claimants fail to attend a second opinion examination, we are required to give them due process. We give them an opportunity to explain why they did not attend the appointment. We do generally send a second notice for 1032s prior to suspension, in the event that the request was not received or if we mishandled the claimant's response. It is not our interest*

*to cause unnecessary financial hardship, and because ongoing benefits have been ruled to be a property right, stringent due process requirements must be observed.*

**Would OWCP release medical documentation to an Investigator or Agency Workers' Compensation Specialist to enable them to present their viewpoint or rebuttal to a claim or hearing?**

*As previously noted, the employer does not have the authority to evaluate the medical evidence; this function is solely the responsibility of the Department of Labor. We will share the case record if the medical evidence is being investigated for suspected fraud, or if the medical report is relevant to an offer of suitable work.*

**OWCP Policies and Procedures**

**What steps have been taken to ensure that required documents, such as the form 1032, go to the claimant in a timely manner?**

*In the IF ECS system, 1032s are now automatically generated in batches based on the claimants' month of birth. The system also generates reminders to the claims examiner when the 1032 has not been returned by the claimant within the required time period.*

**How many claims examiners does OWCP have to handle FECA cases?**

*Approximately 600.*

**What kind of information can we get from the District Offices? How much can they assist us? What can we learn from a medical examiner who is working the case?**

*In an established investigation, we can provide the opportunity to review the case, copies of case records and histories of medical bill and compensation payments. Employers are restricted in the manner in which they can contact the attending physician. We suggest you contact our responsible claims examiner before any contact with a physician.*

**Whom should we contact when we do not receive timely responses to our requests from OWCP staff?**

*Each district office has a designated member of management serving as the OIG point of contact for the district office.*

**What kind of investigative report would OWCP prefer to see?**

*As noted above, a program policy statement is forthcoming regarding interactions with the OIG. We are going to ask that investigators differentiate between investigations that demonstrate claimants who may be misrepresenting their physical abilities and those investigations where claimants are failing to disclose earnings or work activity.*



**What is the proper procedure to obtain OWCP personnel to testify at a trial?**

*Through the designated point of contact for the district office.*

**With A-76 a vital component of this administration's management agenda, what is OWCP doing to analyze the feasibility of privatizing the benefit payment programs within OWCP? What benefits and problems are associated with privatizing this function?**

*OMB has already determined that the decision-making work of DFEC claims examiners is inherently governmental. IT support services, the payment of medical bills and authorization of medical procedures, the operation of our central mailroom, the scheduling of medical appointments, and nurse and rehabilitation counselor services are all performed through contracts with private sector providers.*

*The other OWCP benefit programs have differing profiles in terms of inherently governmental work, and A-76 analyses and contracting out have been addressed in accordance with the individual circumstances in each program. The Energy program recently conducted two A-76 competitions, with each being won by the "Most Efficient Organization" (which in one case consisted of a combination of government and contract staff).*

## **Periodic Roll Management**

**Can you provide a point of contact information for getting an old case into the period roll management program?**

*Cases on the periodic roll stay in the universe of cases managed in the PRM unit. If there is question about the status of a particular claim, please consult with the designated responsible claims examiner.*

## **Returning Employees to Work**

**A U.S. government-wide approach to bringing temporary workers back to work would help, especially when temporary jobs no longer exist - or only exist on a cyclical basis (i.e., one agency may not have a job to offer within 100 miles of the claimant, but another agency in the area may have something). Could there be a centralized placement type of operation?**

*While we would commend any effort to place injured workers in suitable light duty positions, we do not have placement authority within the employing agencies. Individual agencies are encouraged to seek creative ways to identify employment opportunities for such seasonal workers in other components or jobs within the agency or department, but OPM has not imposed any interdepartmental requirement to hire or consider such employees.*



**Could there be a government-wide program to identify seasonal jobs? (Commerce has quite a cadre of seasonal employees who are hired for the Census.)**

*See response to previous question (above).*

**There are instances government-wide where employees receive benefits but find that their jobs are no longer there when they return to work. Seasonal employment is one example. What solution does OWCP have for these employees?**

*DFEC determines continuing benefit entitlement based on the medical evidence of disability. When a claimant is deemed to have returned to pre-injury status, entitlement to workers' compensation ceases. Whether the date of injury job remains in existence is not a factor to consider in determining entitlement. Where some continuing partial disability does exist, OWCP works with the employee and the employing agency to affect return to work; if the prior employer has no suitable positions, OWCP will seek placements with other employers. Since this involves creating new employment ties, and sometimes training or other assistance, the success rate for such efforts is lower than where the original employer can offer a job.*

**Can OWCP modify their procedures to enable a vocational rehabilitation nurse to be assigned to a claimant after 45 days after the date of injury, if the employee has and wants to work?**

*Procedures do not need to be modified as this already occurs on a regular basis. In fact, nurses work with the claimants telephonically during the 45 day COP period prior to any entitlement to wage loss benefits from our program.*

## **Recommendations for FECA Reform**

**On May 14, 2004, U.S. Department of Labor (DOL) Assistant Inspector General for Audit, Elliot P. Lewis, testified before the Subcommittee on Worker Protections, U.S. House of Representatives Committee on Education and the Workforce. He proposed three changes to improve the integrity of the FECA program:**

- **Move claimants into a form of retirement after a certain age if they are still injured;**
- **Return a 3-day waiting period to the beginning of the 45-day continuation-of-pay process to require employees to use accrued sick leave or leave without pay before their benefits begin; and**
- **Grant authority to DOL to directly and routinely access Social Security wage records in order to identify claimants defrauding the program.**

**What is the status of those recommendations?**

*The recommendations are still pending. They appear as legislative recommendations in the DOL Office of Inspector General's [Semiannual Report to Congress for October 1, 2005-March 31, 2006, page 44.](#)*

**Our agency plans to conduct a review of controls over FECA compensation and medical benefits expenses. We would like to obtain access to the Agency Query System (AQS) as well as obtaining additional medical documentation as needed. Whom do we contact at the Department of Labor to help us get set up in the system?**

*You may contact Mr. Ed Duncan in the Office of Workers' Compensation Programs (OWCP) at 202-693-0924 or email: [Duncan.Edward@dol.gov](mailto:Duncan.Edward@dol.gov). However, your individual agency coordinator must sign the application for a password verifying to OWCP that the user has a legitimate need for access to AQS.*

**How do we obtain a complete listing of claims, on record with the OWCP, that have been filed by agency employees? We will be using this list as a comparison to information maintained by agency management as well as to assist in the OIG's sample selection of cases to review.**

*Contact your agency's Human Resources Department. They receive a complete listing with the chargeback report that OWCP sends to each agency.*