The Federal Inspectors General (IG) Symposium—Federal Employees' Compensation Act (FECA) Program: Building a Coordinated Approach to the IG Community's FECA-Related Work

U.S. Department of Labor

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Note: All materials from the symposium are available on the Department of Labor OIG Internet at http://www.oig.dol.gov/fecasymposium.htm. Please refer to the material, especially the slides, for more detailed information on the presentations that are summarized in this report.

Symposium Report

Co-sponsored by the Inspectors General of the U.S. Departments of Labor and Commerce, about 150 OIG auditors, inspectors, evaluators, and investigators attended the symposium on the Federal Workers' Compensation Program. The goal of the meeting was to engage the IG community in a more coordinated and collaborative approach to doing work related to the FECA Program.

OPENING REMARKS

Inspectors General Gordon S. Heddell (Labor) and Johnnie E. Frazier (Commerce) opened the symposium by sharing their goals and expectations for the event.

Mr. Heddell and Mr. Frazier agreed that the IG community needed a more coordinated and collaborative approach to FECA-related work because of the IG community's role in overseeing the integrity of this more than $2.4 billion-a-year program. Mr. Heddell noted that rising government costs for FECA had prompted Federal agencies and their OIGs to find better ways to reduce costs, return people to work, and identify and prevent fraud in the program.

A key objective of the symposium, Mr. Heddell said, was to understand the respective roles and responsibilities of DOL and the employing agencies in managing the FECA program, and to use this information to implement a more strategic approach for using OIG resources to ensure its integrity, efficiency and effectiveness.

Johnnie E. Frazier acknowledged that initially he was skeptical about pursuing work on the FECA program. He said that Department of Commerce staff did not effectively manage the program, and that supervisors did not understand their responsibilities. While "there is plenty of blame to go around, there are also solutions." He emphasized that before IGs focused blame on Labor's Office of Workers' Compensation Programs (OWCP) for problems in the FECA program, they should first look at how the program operates in their agencies and their own "OIG shops."

HISTORY AND OVERVIEW OF FECA PROGRAM

Shelby Hallmark, Director of the Office of Workers' Compensation Programs (OWCP) and Stephanie Semmer, Chief, OWCP's Branch of Technical Assistance, talked about OWCP's efforts to better manage FECA cases and return people to work, pending FECA reform legislation, and the roles and responsibilities of both OWCP and employing agencies in containing FECA costs.

<u>OWCP Initiatives to Reduce FECA Costs</u>

One of the major performance goals for OWCP is the return-to-work of injured employees which is measured in the average Lost Production Days (LPDs). Shelby Hallmark presented graphs that showed reductions in LPDs. The data reflect recent initiatives by OWCP to reduce the number of FECA wage-loss disability days paid by the agency within the first year of disability.

In FY 1992, OWCP implemented a Periodic Roll Management (PRM) program that has generated over $1.6 billion in savings. The purpose of this program is to improve case management of individuals on the long-term FECA rolls to determine continued eligibility for benefits. OWCP currently has 120 FTEs assigned to the project.

Another key initiative is the President's Safety, Health, and Return to Employment (SHARE) program. Under SHARE, Federal agencies set goals to reduce workplace injury rates, increase the timeliness of notifying DOL of the injuries, and reduce LPDs. OWCP is charged with assisting Federal agencies in achieving two of the SHARE goals—increasing timeliness of injury reporting, and reducing LPDs due to work injury.

<u>Getting Recovered Workers Reemployed</u>

A persistent challenge for OWCP is to get recovering injured workers back on the job. Economic trends and workplace reorganization in some Federal agencies have reduced job availability to FECA claimants. For example, the U.S. Postal Service, which makes up nearly 40 percent of all FECA cases, has reduced its workforce as a result of automation and a decline in mail volume. Consequently, there are fewer light-duty jobs available for FECA claimants who may be able to return to work, but in a limited capacity. OWCP continues to make returning workers to employment a top priority.

Fraud Detection

Due to OWCP's workload (600 claims examiners in 12 offices handling 150,000 new cases a year), the agency cannot be "on the front line" in FECA fraud detection. However, when OWCP claims examiners see information that may suggest fraud, OWCP refers it to the OIG. Director Hallmark emphasized that OWCP's main job is to adjudicate the FECA claims. OWCP relies on the Federal employing agencies to be the "eyes and ears" for fraud detection.

Need for Legislative Reform

Legislative reform has been proposed which will assist OWCP's focus on improving case management to ensure that only eligible individuals receive benefits, legislative reform may be needed to address some weaknesses in the program.

Some elements of the FECA's current structure create disincentives to return-to-work. For example, the basic rate of FECA compensation often is more than the employee's pre-injury take home pay. One of the proposed reform measures calls for setting compensation at 70 percent for all claimants, rather than the current varied and higher rate schedule.

Another major disincentive to return to work is that current law gives long-term FECA claimants over retirement age a choice between Federal retirement system benefits and FECA benefits. Most claimants choose FECA benefits because they are more generous. A recovering FECA claimant who goes back to work risks finding that his or her retirement income will be less than if he or she stayed on FECA.benefits.   The proposed reform provides for a "conversion benefit" for retirement age claimants that would set the FECA benefit at the OPM retirement level when a claimant reaches retirement age.

Another consideration for FECA reform concerns equity issues such as the waiting period provision. The original purpose was to discourage Federal employees from filing for FECA benefits for injuries from which they would recover more quickly. Under current law, the waiting period is not applied until after the worker has received the full 45 days provided under FECA's "continuation of pay" (COP) provision. Moving the waiting period to the beginning could help reduce costs to FECA program administration.

Other FECA reform measures include updating disfigurement and burial payments to reflect inflation and paying all schedule awards at an average salary rate and simultaneously with wage-loss benefits.

Current claimants would be "grandfathered" if these reforms are enacted.

Overview of FECA Program Administration

Stephanie Semmer, Chief of Technical Assistance for OWCP's Division of Federal Employees' Compensation (DFEC), described the primary benefits provided under the FECA; OWCP's procedures for claims processing; efforts to contain OWCP costs; and roles and responsibilities of both OWCP and Federal agencies. She also provided information on DOL Internet resources for learning more about the FECA program.

Passed by Congress in 1916, the FECA provides compensation benefits to civilian employees of the Federal Government for disability due to personal injury or disease sustained in the performance of their duties.

The OWCP, through its Division of Federal Employees' Compensation (DFEC), administers the program, which is financed by the Employees' Compensation Fund—including money appropriated by Congress and contributions from employing agencies. Agencies incur costs for the FECA program through the "chargeback" system. Under the "chargeback," costs of compensation for work-related injuries are assigned to agencies for each fiscal accounting period, which runs from July through June. OWCP sends each agency a quarterly report showing all cases and costs for which charges will appear on the yearly chargeback bill.

The FECA provides several types of benefits, including COP, wage loss compensation, vocational rehabilitation and medical benefits and supplies. OWCP is the adjudicating agency and makes the final determination as to whether an employee is eligible for FECA benefits. The decision to award benefits is based on both the factual and medical evidence. If the employing agency questions the validity of a claim, it should report the results of any investigation to OWCP and support their allegations with specific factual evidence. OWCP relies upon the medical evidence provided by doctors who have examined and treated the employee to determine whether the condition is work-related.

OWCP vs. Agency Responsibilities

OWCP's main responsibilities are to process and adjudicate FECA claims. Once a claim is adjudicated, OWCP examiners are responsible for a range of case management activities.

By contrast, employing agencies have responsibilities to report injuries properly and timely and enforce safety in the workplace. First, agencies should challenge questionable claims. Agencies also play a major role in containing FECA costs by maintaining contact with the employee, helping recovering employees return to work, and accommodating light duty work, when possible.

Audience Questions

Attendees posed several questions to the OWCP presenters about fraud detection, adjudication, vocational rehabilitation and other processes related to OWCP's management of the FECA program.

The DOL OIG is compiling these and other written questions that attendees submitted, and will be posting the questions and answers on the DOL OIG Internet at *http://www.oig.dol.gov/fecasymposium.htm.*

PROPOSED PROTOCOL FOR FECA AUDITS, INSPECTIONS, EVALUATIONS AND INVESTIGATIONS

Elliot P. Lewis, Assistant Inspector General for Audit, U.S. Department of Labor, outlined a proposed protocol for coordinating Federal IG work on the FECA program. The idea for the protocol evolved from ongoing FECA program work by the Federal IG Investigators Forum, and current or proposed audit and inspection work from several IGs, including Commerce, the Social Security Administration, and the U.S. Postal Service.

The objective of the proposed protocol is to provide a coordinated approach to conducting FECA-related work and to promote collaboration across the OIG community.

The proposed protocol describes a "clearinghouse review process" that the Federal Audit Executive Council (FAEC) Audit Committee would lead. The FAEC would review potential OIG audits and evaluations on the FECA program that may be crosscutting and/or could result in recommendations to officials outside the employing agency, especially those in OWCP.

The protocol outlines suggested roles and responsibilities for the PCIE/ECIE, DOL-OIG and other Federal OIGs. It describes the type of FECA program data currently available to Federal agencies, OWCP's current rules and process for release of FECA program data to outside agencies, and suggests how OIGs could make special data requests. The protocol includes a discussion and chart describing different reporting options for OIGs doing FECA-related work.

Once finalized, the protocol would apply to all OIG FECA-related work beginning on or after July 1, 2006.

Comments from the Inspectors General community on the proposed protocol should be sent no later than April 28, 2006, to hill.michael@oig.dol.gov.

OIG PERSPETIVE ON FECA – Past, Present and Future Work

Michael Hill, Philadelphia Regional Inspector General for Audit, U.S. Department of Labor, reviewed recent OIG and Government Accountability Office reports that called for action by employing agencies, OWCP, and officials from the executive and legislative branches of the Federal Government. The reports included recent work by OIGs representing the Departments of Labor, Commerce, and Veteran Affairs; Social Security Administration and the U.S. Postal Service.

Examples of findings include inadequate monitoring by the employing agency of medical status and long-term cases; missed opportunities to return employees to work; improper payments related to schedule awards; and claimants earning and failing to report non-Federal wages.

Some findings support the ongoing discussion about the need for FECA reform in order to save costs, especially proposals to move permanently disabled FECA claimants to the Federal retirement system.

Current OIG FECA-related work is focusing on wage crossmatch (SSA); data mining (DOL); ineligible dependents (DOL); fee schedule and adjudication (USPS); and comprehensive evaluation of agency workers' compensation program (Commerce).

WHERE DO WE GO FROM HERE?

Elliot P. Lewis described current PCIE/ECIE efforts to promote information-sharing across the Federal IG community, which might include best practices; inventory of recent audits, evaluations and inspections; and audit guides. The PCIE/ECIE is working to identify possible legislative changes (i.e., retirement vs. FECA) and specific projects (i.e., adjudication process).

The Federal Workers' Compensation Forum—an effort led by the USPS OIG—is focused on giving OIG investigators tools and resources to support their pursuit of FECA fraud cases. Examples of these capacity-building initiatives include data mining for fraud profiles and developing an investigative database of medical providers. The Forum is also working with OWCP to offer FECA fraud training throughout the IG Investigative Academy.

The main "next steps" after the symposium are to:

- Publish questions and answers from the event
- Finalize the protocol
- Submit ideas for future work to Michael Hill (hill.michael@oig.dol.gov)

CLOSING REMARKS

Johnnie E. Frazier, Department of Commerce IG, noted that the presenters had echoed an important lesson for all OIGs---“look at your own shops first!” He described that his agency’s evaluation of DOC’s workers’ compensation program found a “mess”—that now has been turned into a “message.” He emphasized return-to-work programs, use of automated systems to track and monitor cases, and increased safety awareness. Involving front-line supervisors is key; they are a crucial link in helping to detect FECA fraud.

Mr. Frazier also encouraged agencies to develop innovative solutions. At Commerce, he noted, Departmental managers have already begun to make major changes to improve management of its FECA program, including provision of training and outreach to agency managers and development of light duty assignments to bring people back to work. OIG investigators are also pursuing a number of cases referred by OIG inspectors and the Department of Labor. He also commended the IG community for taking coordinated actions to improve the workers' compensation program.

Gordon Heddell, Department of Labor IG, urged the group to comment on the proposed protocol to guide the OIG community in pursuing various types of audits and evaluations of the FECA program. He noted that it reflects collective thinking about considering the impact of potential findings and who has the authority to implement recommendations. He urged the IG community to consider these factors in deciding which OIG should take the lead in conducting and reporting of FECA-related work.