
**Hearing before the Subcommittee on Federal Workforce, U.S.
Postal Service and Labor Policy
Committee on Oversight and Government Reform
House of Representatives**



Oral Statement

Hearing on the Federal Employees Compensation Act Program

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Mr. Chairman and members of the subcommittee, thank you for the opportunity to discuss workers' compensation issues and reform. The Federal Employees Compensation Act (FECA) requires federal agencies to participate in the Department of Labor's (DOL) FECA program. DOL bills each agency annually for compensation paid and non-appropriated agencies also must pay DOL an annual administrative fee.

Eligible disabled employees receive 66 2/3 percent (or 75 percent with dependents) of their basic salary, tax-free plus, medical-related expenses. Also, FECA places no age limit on receiving benefits. This is substantially more than other employees receive when they retire. Though unintended, FECA has become a lucrative retirement plan.

The Postal Service is the largest FECA participant, paying more than \$1 billion in benefits and \$60 million in administrative fees annually, creating a long-term liability of \$12.6 billion. As of February 2011, the Postal Service had about 15,800 disabled employees. Over 8,700 were at least age 55, about 3,100 were at least age 65, and about 900 were between age 80 and 98.

Certain aspects of the program make it susceptible to fraud:

- The claimant's ability to change their story until their claim qualifies;
- The claimant's ability to hire a physician rather than use a plan physician to assess their injuries and condition;

- The program incentivizes DOL to collect larger fees if they approve more claims and lose budget dollars if they deny them;
- The lack of effective DOL case management; and
- Employers not being allowed to present or respond to evidence at hearings.

DOL has some fraud detection responsibility, but it's unclear to what extent. They advise agencies to actively manage their own programs, while still charging administrative fees. There is not a clear delineation of responsibility between **(1)** agency program managers and **(2)** their OIGs and **(3)** DOL and **(4)** its OIG in detecting fraud. Accordingly, there is significant risk that program oversight will be duplicative or not done.

Since October 2008, we have removed 476 claimants based on disability fraud, recovered \$83.5 million in medical and disability judgments, and halted significant future losses. In one investigation, a fraudulent claimant received \$142,000 in benefits while she was working as a real estate agent, and we had pictures of her hiking and bungee jumping. She even bought a boat named "Free Ride." Other investigations have found fraudulent claimants working as martial arts instructors, landscapers, hairdressers and mechanics.

Working with DOL is difficult. They control needed documents, but are often not responsive when we investigate cases. Additionally, they do not take timely

action when told that a claimant no longer qualifies for benefits. Even when a claimant is convicted, DOL is slow to terminate benefits.

- We gave DOL an investigative report in 2006 which found a claimant was exceeding his limitations. Even though the employee was willing to return to work, DOL did not reduce his benefits until 2011.
- Fourteen months ago we gave DOL an investigative report containing evidence of fraud by a disability claimant and a subsequent medical exam confirmed the claimant was able to return to work with no restrictions. Despite requests, DOL has taken no action and continues to pay benefits.
- Over a 5-year period one claimant submitted \$190,000 in unsupported mileage reimbursements that DOL paid without question.

Stress claims in particular are at high risk for fraud. If a doctor sees a correlation between stress and a claimant's work, the claim is often approved. In one instance, a claimant's emotional reaction to a change in work schedule was enough for DOL approval.

The OIG also investigates medical providers involved in criminal matters, including disability fraud and we have recovered \$78.5 million since FY 2009. Unfortunately, DOL provides no standardized billing guidelines for doctors, making it difficult to hold them accountable for fraudulent billings. If DOL instituted a system similar to Medicare's, prosecutors would be more inclined to take these cases.

From our reviews, the Postal Service would benefit from having its own workers' compensation program. Savings would be in the areas of reduced administrative fees, accurate assessment of claims by plan physicians, buyout options, mandatory retirements, immediate access to records, and improved accountability over case management.

FECA is in need of significant reform. Such reform could reduce the substantial risk for fraud and improve program efficiency and effectiveness, while protecting reasonable benefits for legitimate claimants.