Table 3 - Number of Days Taken to Send SSA Report to OWCP District Offices			
Month Matched	**SSA Report Date**	**Date Sent to District Office**	**Number of Days from SSA Report Date to Date Sent to District Office**
January 2010	02/03/2010	03/22/2010	47
February 2010	03/02/2010	03/22/2010	20
March 2010	04/07/2010	04/12/2010	5
April 2010	05/19/2010	06/23/2010	35
May 2010	06/23/2010	06/24/2010	1
June 2010	07/29/2010	09/02/2010	35
July 2010	09/01/2010	09/02/2010	1
August 2010	09/16/2010	09/23/2010	7
September 2010	10/01/2010	11/10/2010	40
October 2010	12/02/2010	12/28/2010	26
November 2010	12/10/2010	12/28/2010	18
December 2010	01/14/2011	02/11/2011	28

Secondly, the OWCP National Office did not have a process to monitor the District Offices management of the death match results. Specifically, OWCP did not identify death match results that would indicate potential multiple overpayments or ensure that the District Offices took timely action to confirm the claimant's death and terminate the benefits.

Finding 4 — OWCP did not have sufficient control procedures to ensure that benefit payments are reduced for FECA claimants who are collecting SSA retirement benefits.

OWCP did not have sufficient procedures to ensure it reduced benefit payments for FECA claimants who had reached retirement age and were collecting SSA retirement benefits (Social Security). OWCP relied primarily on FECA claimants to self-report if they were collecting Social Security. As a result of not actively seeking out this information, OWCP is at risk of incurring overpayments because it does not know to reduce claimants' FECA benefits.

Section 8116(d)(2) of FECA requires that a claimant's continuing compensation benefits be reduced if he or she begins receiving Social Security based upon his or her age and federal service.

GAO's 2008 report recommended that OWCP take steps to ensure that wage-loss compensation payments for claimants covered by the federal retirement system were appropriately reduced by the amount of their SSA benefits that were attributable to their federal service. According to its February 2011 update to GAO, OWCP stated that in September 2009, it implemented a monthly batch process that automatically generates a notice to claimants as they approach their 65th birthday. In order to reduce potential

SSA dual benefit overpayments, the notice reminds claimants of their responsibility to report any retirement income they may be receiving so that OWCP can make the necessary adjustments to compensation. OWCP also annually sends form CA 1032 to claimants, which includes a request for them to report if they received retirement from SSA or the Office of Personnel Management. The OWCP reviews the responses for consideration of a reduction in compensation, and is supposed to suspend compensation payments if the claimant fails to return the CA 1032.

We observed that the OWCP District Office generated a monthly SSA Retirement List which showed all the claimants who were approaching retirement age. The District Office then identified claimants who would be eligible for Social Security under the Federal Employees Retirement System (FERS). The District Office mailed a letter to these claimants notifying them of the requirement to inform OWCP if they were currently or in the future receiving Social Security and that failure to report receipt of such benefits could result in an overpayment of FECA compensation subject to recovery.

We concluded that this process is not adequately designed because it is only sent once to the claimant when they are approaching retirement age and the process relies on the claimant to self report receipt of Social Security on the CA 1032. A more effective process would be to perform, on a regular basis, data matches with SSA of FECA claimants who are eligible for Social Security under FERS to determine if they are collecting dual benefits. However, this would require legislative authority.

Finding 5 — OWCP's enhancements to its training curriculums did not include improper payments.

GAO recommended OWCP determine what additional training claims examiners may need to improve payment accuracy. OWCP had not yet implemented additional training for claims examiners to detect and prevent improper payments and ensure payment accuracy. OWCP completed the development of the training on payment accuracy and officials told us they were in the process of developing training on improper payments. The proposed course content was not available for our review prior to completing our audit fieldwork. Training specifically focused on improper payments would provide OWCP with additional assurance that its claims examiners are effectively managing improper payments.

According to its February 2011 update to GAO, OWCP stated it completed a revision of the FECA procedure manual regarding payments which provided better reference materials for claims examiners. OWCP officials told us they prepared and implemented an on-line training curriculum that was available to all claims examiners to improve claims processing performance and payment accuracy.

We found the training OWCP cited was available on the OWCP intranet. However, no curriculum specific to improper payments was included in the training. OWCP did have a “coming soon” module entitled Overpayments and Adjustment, but officials could not provide details on the course material or when it would be available. We also noted that all claims examiners could take the training but it was not mandatory, and OWCP did not keep a record of who completed the training.

The GAO Standards for Internal Control in the Federal Government, on Control Environment, emphasizes the need for management to ensure all personnel maintain a sufficient level of competence to perform assigned duties and understand the importance of good internal controls.

Mandatory training to detect improper payments can assist in OWCP's efforts to improve payment accuracy.

Overall, we believe that the conditions described in Findings 2 through 5 can be attributed to OWCP not sufficiently emphasizing the importance of detecting and preventing improper payments. As a result, overpayments will go undetected such as the $690,000 in payments we identified that were made to deceased FECA claimants in CY 2010.

RECOMMENDATIONS

We recommend the OWCP Acting Director:

1. Develop a process for improper payment estimates that is compliant with IPERA.

2. Develop a program performance measure on payment accuracy.

3. Provide SSA death match reports to the District Offices in a timely manner and monitor those reports that show multiple payments made after claimants' date of death to verify timely action was taken to terminate benefits.

4. Develop effective procedures, including seeking legislative authority to conduct matches with SSA retirement records, to ensure that claimants who receive SSA retirement benefits are identified timely and their FECA benefits are adjusted accordingly.

5. Implement a requirement for training on improper payments for all claims examiners.

We appreciate the cooperation and courtesies that OWCP personnel extended to OIG during this audit. OIG personnel who made major contributions to this report are listed in Appendix E.

Elliot P. Lewis

Elliot P. Lewis
Assistant Inspector General
for Audit

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Appendices

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Appendix A

Background

FECA is a workers' compensation law covering more than 3 million federal and postal employees. It authorizes 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. FECA also provides for vocational rehabilitation of injured employees to facilitate their return to work. DOL's OWCP is charged with administering the FECA program. Within OWCP, the Division of Federal Workers' Compensation adjudicates new claims for benefits and manages ongoing cases; pays medical expenses and compensation benefits to injured workers and survivors; and helps injured employees return to work when medically able to do so. Benefits are paid from the FECA Special Benefits 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.

For FY 2010, the FECA program paid more than $1.9 billion in wage-loss compensation to claimants who were unable to work because of injuries incurred while performing their work duties, and more than $900 million for medical costs related to work injuries. According to the FY 2012 OWCP Budget justification, for FY 2010, there were approximately 127,500 new injury cases and more than 19,000 initial claims for wage loss compensation filed. Total beneficiaries paid in FY 2010 were 251,000. The following table provides FECA benefits paid from FYs 2007 to 2010.

Table 4 – Compensation and Medical Benefits Paid From the FECA Special Benefit Fund

	2007	2008	2009	2010
Compensation	$ 1,790,371,000	$ 1,842,130,000	$ 1,857,809,000	$ 1,930,115,000
Medical	$ 753,157,000	$ 789,271,000	$ 859,100,000	$ 926,701,000
Total	$ 2,543,528,000	$ 2,631,401,000	$ 2,716,909,000	$ 2,856,816,000

Since 2002, Congress enacted several laws to increase federal government efforts to reduce improper payments. In July 2010, the President signed into law the IPERA, as implemented by OMB Circular A-123. IPERA amended IPIA of 2002.

IPIA, (Public Law 107-300), enacted on November 26, 2002, required the heads of federal agencies to annually review all programs and activities they administer, identify those that may be susceptible to significant improper payments, estimate and report the annual amount of improper payments in those programs and activities, along with the corrective action plans developed and implemented to address the causes of improper payments, and submit the information to Congress before March 31 of the following year.

IPIA defines an improper payment as any payment that should not have been made or that was made in an incorrect amount (including under and overpayments) under statutory, contractual, administrative, or other legally applicable requirements. Improper payments also include payments to an ineligible recipient, payments for an ineligible service, duplicate payments, payments for services not received, and payments that do not account for credit for applicable discounts.

On November 20, 2009, the President issued Executive Order 13520 for the purpose of reducing improper payments by intensifying efforts to eliminate payment error, waste, fraud, and abuse in the major programs administered by the federal government. The Executive Order intended to reduce improper payments by boosting transparency, holding agencies accountable for reducing improper payments, and examining creative incentives for states and other entities to reduce improper payments.

IPERA of 2010 (Public Law 111-204), enacted on July 22, 2010, amended IPIA of 2002. It required the head of each federal agency to review agency programs and activities during the year following enactment and subsequently every 3 fiscal years to identify those that may be susceptible to significant improper payments. IPERA of 2010 defined "significant" to mean improper payments in program or activity payments in the preceding fiscal year that may have exceeded $100 million, or $10 million and 2.5 percent of program outlays (1.5 percent prior to FY 2013). IPERA also revised requirements for estimating improper payments by directing agency heads to produce statistically valid estimates of the improper payments in their agencies and to include such estimates in their annual financial statements. IPERA expanded the reporting requirements for describing the actions agencies took to reduce improper payments by including a statement of whether the agency had sufficient resources with respect to internal controls, human capital, and information systems and other infrastructure to prevent improper payments. IPERA also required a statement of reduction targets approved by OMB and coverage of specific criteria in agency reports on actions to recover improper payments.

OMB Circular A-123, Appendix C, contained the implementing guidance for IPIA and IPERA and required agencies to determine whether the risk of erroneous payments is significant. OMB Circular A-123 defined significant erroneous payments as annual erroneous payments in the program exceeding both 2.5 percent of program payments and $10 million. However, OMB may determine certain programs that do not meet the threshold requirements may still be subject to the annual reporting requirement. This would most likely occur in programs with relatively high annual outlays. OMB considered FECA one of a number of federal programs as being at a high risk of improper payments because of the amount of outlays, and therefore required DOL to report improper payment information on it. OMB required agencies to develop a statistically valid estimate of improper payments for all programs identified as susceptible to significant improper payments and prepare corrective action plans where the estimate exceeds $10 million in annual improper payments. OMB also requires agencies to report the improper payment results in their annual PAR.

OWCP reported the following improper payment results in its annual PAR for FYs 2005 to 2008:

Table 5 - DOL Reported FECA Estimated Improper Payments and Rates

FY	Estimated Improper Payments	Improper Payment Rate (Percent)
2005	$3,300,000	.13
2006	$ 722,000	.03
2007	$2,600,000	.10
2008	$ 500,000	.02

In FY 2009, OMB granted DOL relief from reporting for FECA because it documented two consecutive years of improper payments that were less than 10 million annually.[3] Barring any significant changes to legislation or funding, DOL will next be required to report on FECA in FY 2012.

DOL reported in the PAR for FYs 2005 to 2008, that the causes of improper payments consisted of the following:

- Incorrect or incomplete information submitted for the claims record (such as pay rate, night differential rate, retirement plan, etc.);
- OWCP errors including mistakes in judgment or interpretation in making decisions;
- miscalculations in making payments; and
- claimant fraud or misrepresentation.

In February 2008, GAO issued a report entitled Federal Workers' Compensation: Better Data and Management Strategies Would Strengthen Efforts to Prevent and Address Improper Payments.[4] The audit's objective was to assess OWCP's overall strategies for preventing, detecting, and recovering improper payments.

GAO concluded that OWCP had not established an effective strategy for managing improper payments in the FECA program. The agency did not sufficiently emphasize preventing, detecting, and recovering improper payments. None of the performance goals for the program addressed improper payments. Furthermore, OWCP did not collect the information it needed to accurately assess the FECA program's risk of improper payments, such as information on their magnitude and causes. Without such

[3] OMB Circular A123, Appendix C Part I, Section K, provides that if any agency program has documented a minimum of two consecutive years of improper payments that are less than $10 million annually, the agency may request relief from the annual reporting requirements for this program.
[4] Better Data and Management Strategies Would Strengthen Efforts to Prevent and Address Improper Payments, GAO-08-284, February 2008

data, OWCP could not focus on the most vulnerable areas. Our concerns have been included in our annual Management Challenges report for several years.

GAO recommended OWCP should revise its program performance measures to ensure increased emphasis on payment accuracy, adequate internal controls, and overpayment recoveries. Additionally, GAO recommended that OWCP collect more detailed information on improper payments, such as the causes of under and overpayments, and use these data to better identify improper payment risks and to address areas of high risk. GAO also recommended that OWCP take steps to reduce common causes of improper payments by requiring agencies to report to OWCP more timely when a FECA claimant returns to work, ensuring that its data match with SSA's death records is conducted regularly and consistently, taking steps to ensure that wage-loss compensation payments for claimants covered by the federal retirement system are appropriately reduced by the amount of their SSA benefits attributable to their federal service, seeking legal authority to enter into a data-matching agreement with the HHS to identify FECA claimants who have wage earnings reported in the NDNH and determining what additional training claims examiners may need to improve payment accuracy.

Appendix B

Objective, Scope, Methodology, and Criteria

Objective

The audit objective was to answer the following question:

> Has OWCP effectively addressed known weaknesses in detecting and preventing improper payments in the FECA program?

Scope

For the purpose of our audit, we considered the weaknesses GAO reported in 2008 in OWCP's overall strategies for detecting and preventing improper payments for the FECA program and OWCP's corrective action addressing GAO's recommendations. Specifically, our audit covered OWCP's methods for estimating and reporting improper payments, and measuring payment accuracy. The audit also covered OWCP's processes for identifying and managing the causes of improper payments, such as the use of the SSA death records for terminating benefits of deceased claimants, identifying unreported income and SSA retirement benefits by claimants, and training claims examiners on preventing improper payments. Our audit did not include OWCP's efforts to recover overpayments. We conducted the field work at OWCP's National Office in Washington, D.C. and at the District Office, in Philadelphia, Pa. The audit covered OWCP's internal controls in place and corrective actions taken in response to the GAO report, as of June 2011.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Methodology

In planning and performing our audit, we considered whether internal controls significant to the audit were properly designed and placed in operation. This included reviewing OWCP's policies and procedures related to identifying, estimating, reporting, and managing improper payments. We confirmed our understanding of these controls and procedures through interviews and case file review and analysis. We evaluated internal controls used by OWCP to address the weaknesses identified in the 2008 GAO report. Our consideration of OWCP's internal controls related to improper payments would not necessarily disclose all matters that might be significant deficiencies. Because of inherent limitations in internal controls, misstatements or noncompliance may nevertheless occur and not be detected.

We reviewed the annual PARs for DOL, SSA, and DVA. We also analyzed the results of OWCP's Accountability Reviews for FY 2010. We interviewed OWCP staff on the methods used for estimating improper payments and the status of the corrective action to address the recommendations made by GAO in it February 2008 audit report.

To determine if OWCP consistently performed a cross match between FECA claimants and SSA death records and timely terminated benefits for deceased claimants, we interviewed OWCP National Office and Philadelphia District Office officials to understand the matching process, and analyzed the results of data matches provided by SSA to OWCP for CY 2010. We performed tests of the data matches' authenticity by matching the computer-based records to each source record in iFECS. The results of matching these records confirmed that the data was accurate and valid and represented data that could be used in testing for claimant overpayments. The data was consistent in that there were results for all the months in 2010 for all the District Offices. We determined the data to be sufficient and appropriate for the purpose of our audit, which was to establish the population of cases where there was a match of the claimants' SSN to the SSA death files between January 1, and December 31, 2010.

Of the 815 FECA cases that appeared on SSA's death match report, 303 received multiple payments after the claimant's date of death. We selected our sample based on the risk in which an improper payment could have occurred because of untimely action by OWCP to stop benefits after the date of death. High-risk cases were cases where payments continued more than 60 days after the date of death; moderate risk were cases where multiple payments were made 60 days or less after the date of death; and low risk were cases where only one payment or no payments were made after the date of death. We tested 100 percent of the 32 high-risk cases, and judgmentally selected 10 of the 303 moderate-risk cases and 10 of the 512 low-risk cases. We then reviewed documents in the iFECS claimant case files.

To determine if OWCP developed and implemented improper payment reason codes we gained an understanding of the codes developed, and reviewed OWCP's summary of its analysis of the codes. We also observed how the codes were implemented in iFECS.

To determine the extent of claims examiner training we interviewed OWCP officials on the status of its implementation and reviewed training modules contained on OWCP's intranet.

Criteria

The Federal Employee Compensation Act, as amended, Title 5 of the United States Code, Chapter 81 – Compensation for Work Injuries

IPIA, Public Law 107-300, November 26, 2002

OMB Circular A-123, Appendix C, August 10, 2006

Executive Order 13520, Reducing Improper Payments and Eliminating Waste in Federal Programs, November 20, 2009

OMB Circular A-123, Appendix C, Part III, March 22, 2010

IPERA, Public Law 111–204, July 22, 2010

OWCP FECA Procedure Manual

Government Performance and Result Act of 1993

GAO Standards for Internal Control in the Federal Government, 1999

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Appendix C

Acronyms and Abbreviations

DOL	United States Department of Labor
DVA	Department of Veterans Affairs
FECA	Federal Employees’ Compensation Act
FERS	Federal Employees Retirement System
FY	Fiscal Year
GAO	Government Accountability Office
GPRA	Government Performance Results Act of 1993
HHS	U.S. Department of Health and Human Services
iFECS	Integrated Federal Employees’ Compensation System
IPERA	Improper Payments Elimination and Recovery Act of 2010
IPIA	Improper Payment Information Act
NDNH	National Directory of New Hires
OASDI	Old-Age, Survivors, and Disability Insurance
OIG	Office of Inspector General
OLRFI	Office of Labor Racketeering and Fraud Investigations
OMB	Office of Management and Budget
OWCP	Office of Workers’ Compensation Programs
PAR	Accountability and Performance Reports
SSA	Social Security Administration
SSN	Social Security Numbers
Social Security	Social Security Act Retirement Benefits
STAR	Systematic Technical Accuracy Review
UI	Unemployment Insurance

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Appendix D

OWCP Response to Draft Report

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs
Washington, D.C. 20210

File Number:

FEB - 2 2012

MEMORANDUM FOR: ELLIOTT P. LEWIS
Assistant Inspector General
For Audit

FROM: GARY A. STEINBERG for Doug Fitzgerald
Acting Director
Office of Workers' Compensation Programs

SUBJECT: Response to Audit of FECA Improper Payments
Draft Audit Report No. 03-11-002-04-31

Thank you for the opportunity to provide a response addressing the draft report's findings and recommendations as transmitted on September 19, 2011. Attached is a full response for Appendix D of the report as well as a summary of the OWCP response for inclusion in the body of the report.

If there are questions, please contact Cecily Rayburn at 693-0990.

Attachments

Cc: Michael Hill, OIG Audit Director

Working for America's Workforce

Improper Payments Audit – Management Response

February 2012

Summary OWCP Management Response:

OWCP will implement the requirements of the recently enacted Improper Payments Elimination and Recovery Act (IPERA). As evinced by the waiver received under the Improper Payments Improvement Act (IPIA), OWCP has an effective internal control structure to manage FECA payment accuracy. This is in strong contrast to the payment accuracy performance of certain other Federal agencies that make benefit payments. Given OWCP's long history of payment accuracy, the recommendation to implement management practices used by other federal agencies with very high improper payment rates as well as much larger benefit payments is not appropriate for OWCP. Other more appropriate tools are in place and routinely reviewed for improvement. The program's payment performance is evidence of the effectiveness of its practices. In keeping with program practices to improve its processes, OWCP will explore opportunities to incorporate additional payment reviews into the existing Accountability Review process as recommended by the OIG. Also in response to an OIG recommendation, the death match with SSA will be run weekly rather than monthly and procedures improved to ensure timely termination of benefits. Note that training for claims examiners on proper payments has been implemented on January 10, 2012 and additional training on overpayments will be released this calendar year. Legislative proposals to enhance data matching with SSA have been included in the President's Budget over the past few years. Without a change in legislation, the current process is all that is possible.

The OWCP Acting Director's response is included in its entirety as Appendix D.

Full Response for Appendix D:

As noted in the audit report, OWCP was granted a three-year waiver by the Office of Management and Budget (OMB) from publishing an official improper payments rate in FY2008. During the waiver period the program continued to monitor improper payments performance and also undertook many initiatives to improve what was recognized by OMB as a high level of performance in this important area. It is noted that additional improper payments guidance was issued during the waiver period, which will be taken into account when calculating the rate for FY2011. OWCP fully intends to adhere to all reporting requirements in order to properly track and report on improper payments, including the new IPERA guidance.

Despite the fact that OWCP was given a waiver from the IPIA/IPERA reporting requirements, the program has continued to far exceed the sampling requirements. According to the mandates of the updated IPERA guidance in OMB Circular A-123 Appendix C, a potential error rate of 3% would require a minimum sample size of 126 cases and a potential error rate of 4.5% would require a minimum sample of 186. Even using the highest error rate previously reported by DFEC (1.3%) would still only indicate a minimum sample of 56. As noted by the OIG, OWCP sampled 264 cases in FY2008 when last reporting of an erroneous pay rate, almost five times the requirement under the current guidance. Despite using a much larger sample size, the error rate was still found to only be 0.2%. As a result the program does not agree that the monetary unit sampling approach is invalid or that a far greater sample size is needed.

In addition, OWCP has historically reported rates of 1.3% (FY2005), 0.3% (FY2006), 1.0% (FY2007), and 0.2% (FY2008). The range of fluctuation between the numbers is a little more than one percent and can be largely attributed to systemic issues experienced with the new computer operating system (iFECS). Despite that fluctuation, OWCP has never approached the required reporting threshold of 2.5%. As a result the program does not rise to the level of "significant erroneous payments" per the required steps of Appendix C and would not even be required to perform the annual estimated amount of erroneous payments, much less take on an even greater sampling burden. Furthermore, the dollar amount of fraud and abuse reported by the OIG cannot be considered a valid measure of the efficacy of our improper payments measure since it is not known what period those recoveries covered, even though they were reported in a single year.

OWCP has historically had very low rates for improper payments. Program performance in this area was significant enough for OMB to grant the reporting waiver to OWCP during a time when improper payments were an especially sensitive issue. Since the time of the waiver, OWCP has created many additional systemic controls and significantly updated training materials in an effort to reduce improper payments even further. Additionally, the program is increasing internal auditing by moving the Accountability Review process to an annual, rather than bi-annual, cycle. Given past performance, improved tools and increased self-scrutiny, OWCP does not believe at this time that limited resources should be expended to achieve marginal improvements in payment accuracy at the expense of other mission critical needs. It is felt that high-level performance measures should be reserved to pursue improvements in mission-critical outcomes rather than procedural aspects of the program.

OWCP has always made great efforts to provide SSA death match reports to the District Offices in a timely manner, as well as monitor the reports to verify timely action was taken to terminate benefits. The program acknowledges that performance could still be improved in this area, and towards that end has increased the frequency of running the death match reports. Instead of a monthly match OWCP now performs it weekly to shorten the notice period of a claimant's death. This will reduce the number of payments that are issued in error by giving the district office a more prompt notice of a claimant's death.

OWCP acknowledges the advantages to a data-matching agreement with SSA and has been working for some time to make it a reality. The legislative proposal included in the President's 2012 Budget for FECA reform already contains provisions to allow data matching between SSA and OWCP. While principally focused on obtaining wage information, OWCP will also explore ways of creating a data match for retirement benefits. There may be additional hurdles to overcome by SSA to make this happen as this is largely a manual process at this time. There does not appear to be an automated database from which to obtain the information from SSA, which may prevent data matching.

In the area of training, OWCP has created a training module on improper payments which was released on January 10, 2012. The module addresses all areas of improper payments, from identifying the common types that occur to creating debts and following them through to collection. The module is available to the claims staff in the eLearning training environment. These are considered procedural reference materials for the claims staff. They are not intended as annual "refresher" training as many on-line materials tend to be. As a result, while review of the training materials is mandatory for all incoming claims staff, it is not for the existing journey-level claims examiners.

Appendix E

Acknowledgements

Key contributors to this report were Michael Hill (Audit Director), Daniel Pompilii (Audit Manager), Elisa Larosa, Eric Rann, Joseph Pomianek, and Ajit Buttar.

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