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Office of Inspector General—Office of Audit

**EMPLOYMENT STANDARDS
ADMINISTRATION**



OWCP's JACKSONVILLE AND NEW YORK DISTRICT OFFICES NEED TO IMPROVE MONITORING OF RE-EMPLOYMENT STATUS OF CLAIMANTS

Date: September 29, 2009
Report Number: 04-09-004-04-431

BRIEFLY...

Highlights of Report Number 04-09-004-04-431, to the Assistant Secretary for Employment Standards

WHY READ THE REPORT

The Federal Employees' Compensation Act (FECA) program provides wage loss compensation and payments for medical treatment to Federal employees who are injured in the performance of their duties. The Office of Workers' Compensation Programs (OWCP) refers to claimants who receive automatic monthly payments as being on the "periodic roll." Claims examiners in twelve District Offices are responsible for (1) proactively managing cases on the periodic roll until the claimant either returns to work, is found to be entitled to reduced compensation, or it is determined the claimant has no re-employment potential for an indefinite future, and (2) complying with requirements to refer claimants for other services, such as nursing or vocational rehabilitation services.

During fiscal year 2007, OWCP made nearly \$1.8 billion in wage-loss compensation payment to injured Federal employees. At the end of fiscal year 2007, 51,125 claimants were receiving regular monthly wage-loss compensation payments from OWCP.

WHY OIG DID THE AUDIT

The OIG conducted the audit to determine if OWCP provided adequate oversight of claimants whose reemployment status had not yet been determined.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2009/04-09-004-04-431.pdf>

September 2009

OWCP's Jacksonville and New York District Offices Need to Improve Monitoring of Reemployment Status of Claimants

WHAT OIG FOUND

OWCP needs to improve its process for monitoring claimants in the "reemployment status not yet determined" category on the FECA program periodic roll. In 13 (11 percent) of the 119 cases OIG reviewed, Jacksonville and New York claims examiners did not perform critical required activities such as referring claimants for nursing and vocational rehabilitation services to determine if claimants could return to work in some capacity. We also noted other indications that OWCP was not performing adequate monitoring in 54 (45 percent) of the 119 cases reviewed. Specifically, claims examiners did not take necessary actions, such as referrals for medical examinations and/or did not act on examinations that had already occurred. Of these 54 cases, 40 (74 percent) claimants were not provided a significant intervention action for 6 months or longer.

Furthermore, we noted 20,236 (or 37 percent) of 54,674 claimants as of June 30, 2008, were on the periodic roll and their re-employment status had not yet been determined, including 2,860 claimants (14 percent) who had been on the periodic roll for 15 years or longer.

We attribute the ineffective and untimely case management to insufficient district office supervisory oversight and supervisors not requiring claims examiners to use the OWCP integrated Federal Employees Compensation System (iFECS) Reminder Feature.

WHAT OIG RECOMMENDED

We made two recommendations to the Assistant Secretary for Employment Standards to improve case management for FECA claimants in the reemployment status not yet determined category. The Acting Assistant Secretary for Employment Standards stated that the agency plans to take actions to enhance claims examiners' ability to manage cases in a timely manner.

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U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210



September 29, 2009

Assistant Inspector General's Report

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Acting Assistant Secretary
for Employment Standards
U.S. Department of Labor
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The Office of Inspector General (OIG) conducted a performance audit of the Employment Standards Administration, Office of Workers' Compensation Programs (OWCP) oversight of claimants who are on the periodic roll without their reemployment status having yet been determined.

The Federal Employees' Compensation Act (FECA) program provides wage loss compensation and payments for medical treatment to Federal employees who are injured in the performance of their Federal duties. During fiscal year 2007, OWCP made nearly \$1.8 billion in wage-loss compensation payments to injured Federal employees (claimants) and processed 19,104 initial wage loss claims. At the end of fiscal year 2007, 51,125 claimants were receiving regular monthly wage-loss compensation payments from OWCP.

Claims examiners at OWCP's 12 district offices determine applicants' eligibility for FECA benefits and process claims for wage loss payments. When a claimant is determined eligible for wage-loss compensation, the claimant is placed on the roll. OWCP refers to claimants who receive automatic monthly payments as being on the "periodic roll." Claims examiners are responsible for (1) proactively managing cases on the periodic roll until the claimant either returns to work, is found to be entitled to reduced compensation, or it is determined the claimant has no re-employment potential for an indefinite future and (2) complying with requirements to refer claimants for other services, such as nursing or vocational rehabilitation services.

Our audit focused on FECA claimants categorized as "re-employment or wage-earning capacity not yet determined." In other words, OWCP has not determined whether these claimants' disabilities are permanent or whether the claimants can return to work. Based on OWCP's definition for this category, we determined this category should be "temporary" because the claimants are being paid compensation and OWCP has not determined whether the claimants' disabilities are permanent.

Our audit objective was to determine if OWCP provided adequate oversight of claimants whose re-employment status had not yet been determined.

The audit covered current OWCP practices, policies, and procedures in place at the time of our audit fieldwork. We selected 119 cases, 62 from the Jacksonville District Office and 57 from the New York City District Office, from 3,716 FECA claimants (See Exhibit, page 13) who had been on the periodic roll in the re-employment status not yet determined category for at least 1 year but not more than 3 years as of June 30, 2008. We reviewed cases to determine if OWCP ensured claims examiners proactively managed these cases and complied with requirements to refer claimants for other services. To identify examples of claimants with untimely case management actions, we searched the periodic roll to identify all claimants in the re-employment status not yet determined category as of June 30, 2008.

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 and 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. Our objective, scope, methodology, and criteria are detailed in Appendix B.

Results In Brief

OWCP needs to improve its process for monitoring claimants in the re-employment-status-not-yet-determined category on the FECA program periodic roll. Specifically, in 13 (11 percent) of the 119 cases reviewed, claims examiners did not perform critical required activities, such as referring claimants for nursing and vocational rehabilitation to determine if claimants could return to work in some capacity. We also noted other indications that cases were not receiving adequate monitoring. For example, in 40 (34 percent) of 119 cases reviewed, claims examiners did not take timely actions for 6 months or longer, such as referrals for second opinions or referee medical examination, when appropriate, and/or the claims examiner had not acted on examinations that had already occurred. Furthermore, we noted that as of June 30, 2008, 20,236 of 54,674 claimants (37 percent) were on the periodic roll in the temporary re-employment status-not-yet-determined category, and 2,860 claimants (14 percent) had been in this temporary category for 15 years or longer.

In addition, claims examiners did not inform claimants of their reinstatement rights to the jobs they held when they became injured in 109 of 115¹ cases reviewed.

We attribute the ineffective and untimely case management to insufficient district office supervisory oversight of claims processing and supervisors not requiring claims examiners to use the OWCP integrated Federal Employees Compensation System (iFECS) Reminder Feature. The lack of proactive case management increases the risk claimants will continue receiving full benefits in the temporary, re-employment-not-yet-

¹We sampled 119 claimants, 62 in Jacksonville and 57 in New York; however, in 4 instances (3 in Jacksonville and 1 in New York), we found it either was not necessary to send a letter or the claimant did not have reinstatement rights.

determined category when they should have returned to work or their compensation should have been reduced. Effective and timely case management will better ensure claimants only receive benefits they are due.

AGENCY RESPONSE

In response to our draft report, the Acting Assistant Secretary for Employment Standards stated that OWCP's Division of Federal Employees' Compensation has already created periodic roll management units in several district offices and is developing a report that will track the frequency at which periodic roll cases are reviewed. The report is intended to alert and prompt claims examiners to take necessary actions on periodic roll cases. In cases where no action has been taken within a specified period of time, a reminder in the iFECs will be sent to the claims examiner, prompting the examiner to take action. The Acting Assistant Secretary stated that the report and the new reminders will greatly enhance the claims examiners' ability to manage periodic roll cases in a timely manner.

The agency's response is included in its entirety as Appendix D.

OIG CONCLUSION

The actions taken and planned by the Division of Federal Employees' Compensation should help improve the timeliness of actions needed to proactively manage cases in the re-employment-not-yet-determined category.

RESULTS AND FINDINGS

Objective – Did OWCP provide adequate oversight of claimants whose re-employment status has not yet been determined?

Finding 1 – OWCP did not always provide adequate oversight of claimants who were on the periodic roll without their re-employment status having yet been determined.

OWCP needs to improve its process for monitoring claimants on the FECA program periodic roll in the category of re-employment status has not yet been determined. Specifically, in 13 (11 percent) of the 119 cases reviewed, Jacksonville and New York claims examiners did not perform critical required activities such as referring claimants for nursing and vocational rehabilitation services to determine if claimants could return to work in some capacity. We also noted other indications that OWCP was not performing adequate monitoring in 54 (45 percent) of the 119 cases reviewed. Specifically, claims examiners did not take necessary actions, such as referrals for second opinions or referee medical examinations and/or did not act on examinations that had already occurred. Of these 54 cases, 40 (74 percent) claimants were not provided a significant intervention action for 6 months or longer.

Furthermore, we noted 20,236² (or 37 percent) of 54,674 claimants as of June 30, 2008, were on the periodic roll and their re-employment status had not yet been determined, including 2,860 claimants (14 percent) who had been on the periodic roll for 15 years or longer. We also noted the Jacksonville and New York OWCP districts had a combined total of 7,536 of the 20,236 claimants whose re-employment status had not yet been determined. Of the 7,536 claimants, Jacksonville managed 4,825 claimants, of which 3,205 (66 percent) were in this status for more than 3 years. As of June 30, 2008, these 3,205 claimants had averaged more than 11 years in this status and had been paid gross compensation of nearly \$111 million for the year ended June 30, 2008. Furthermore, the New York District managed 2,711 claimants, of which 1,544 (57 percent) were in this undetermined re-employment status for more than 3 years, and averaged more than 8 years, and had been paid gross compensation of nearly \$53 million.

We attribute the ineffective and untimely case management to insufficient district office supervisory oversight of claims processing and supervisors not requiring claims examiners to use the OWCP iFECS Reminder Feature.³

The absence of adequate management oversight to ensure timely and effective case management and the failure to refer claimants to appropriate services, such as nursing or vocational rehabilitation, increases the risk that claimants will remain in the re-employment-not-yet-determined category and will receive unallowable compensation. Effective case management can provide opportunities to remove claimants from this category and into another periodic roll category that may reduce the amount of compensation paid or result in the removal of the claimant from the periodic roll and to re-employment.

Claimants Not Always Referred for Services

The Division of Federal Employees' Compensation (DFEC) Procedure Manual⁴ (Procedure Manual) directs that cases should be referred to OWCP nurse services if they have been accepted within 90 days of submission. The Procedure Manual⁵ also directs that cases should be referred for vocational rehabilitation services once the claimant has stable, well-defined work limitations that allow him or her to work eight hours per day. A limited placement can be made for placement services with the prior employer if the claimant can work four hours per day and the employer may be able to offer a modified job. However, claims examiners did not perform critically required activities to include referring claimants for nursing or vocational rehabilitation services. Specifically, claims examiners failed to refer 13 (11 percent) of 119 claimants tested for OWCP's nurse services and/or vocational rehabilitation services when such referrals would likely have benefited the claimants. The timely use of these services would have

²See Exhibit 1.

³The Reminder Feature allows claims examiners to set up reminders of needed case actions at regular intervals.

⁴Procedure Manual Chapter 2-806-8.b, entitled "Nurse and Vocational Rehabilitation Services", effective 2005.

⁵Procedure Manual Chapter 2-0813-5.c, entitled "The case will be referred to the Rehabilitation Specialist", effective 2005.

better ensured claimants received necessary medical treatment and assistance in returning to work.

For example, a Jacksonville claimant suffered an injury in March 2006 and began to receive wage-loss compensation beginning in July 2006. The claimant was not referred to a nurse to help manage the claimant's disability as required. The case was not referred for a second opinion until November 2006, 7 months after the injury occurred. Similarly, in New York, a claimant suffered a head injury in May 2006 and began receiving compensation in July 2006. The claimant was not referred for nurse services and the case was not referred for a second opinion examination until April 2007, 10 months after the injury occurred. The second opinion report indicated the claimant was ready to return to gainful employment; however, the claims examiner did not refer the claimant for needed vocational rehabilitation services.

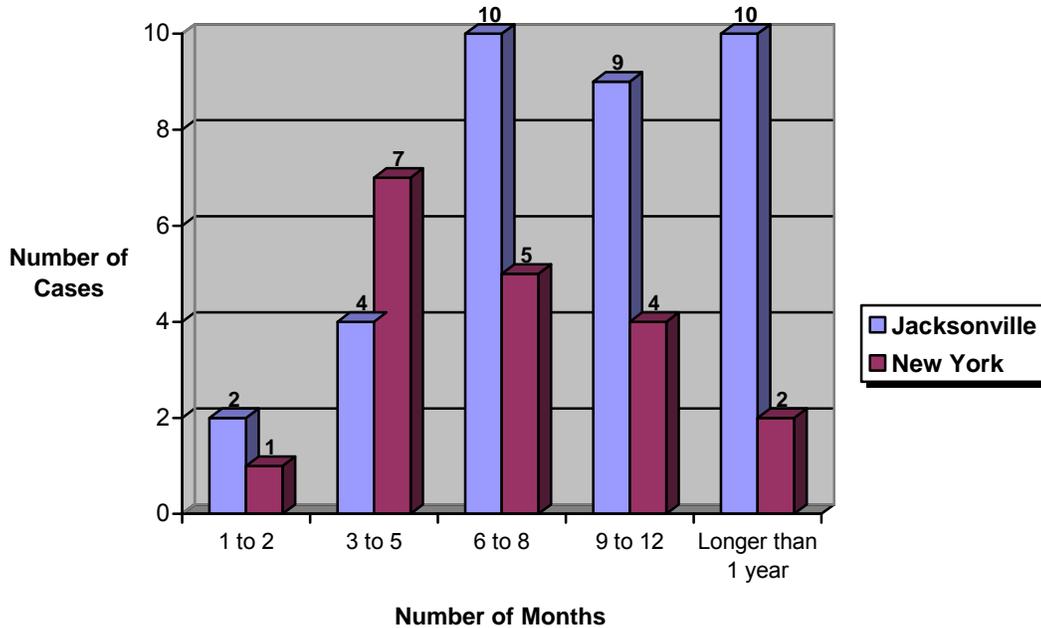
Timely Actions Not Always Taken

Cases were not receiving adequate monitoring in the Jacksonville and New York District Offices. Specifically, interventions directed toward removing cases from the periodic roll were not always taken. In both offices, claims examiners did not take timely actions, such as referrals for second opinions or referee medical examinations when appropriate, and/or without acting on examinations that had already occurred in 54⁶ (45 percent) of 119 cases tested, often allowing cases to go long periods of time without a significant intervention action directed toward removing the claimants from the periodic roll. In 40⁷ (74 percent) of the 54 cases (or 34 percent of the 119 cases), claims examiners allowed the cases to go without significant intervention actions for 6 months or longer. The chart below shows the length of time the 54 cases were not provided with a significant intervention action.

⁶ Jacksonville had 35 cases and New York had 19 [35 + 19] for a total of 54.

⁷ Jacksonville had 29 cases and New York had 11 [29 + 11] for a total of 40.

Length of Time Cases Were Not Provided With Significant Intervention Actions



Jacksonville and New York claims examiners did not actively manage the 54 cases as required by the Procedure Manual. The Procedure Manual⁸ requires that claims examiners actively manage the case until the claimant returns to work, a loss-of-wage-earning-capacity decision is issued, or a finding of no-wage capacity is made. However, claims examiners did not actively manage 35 (56 percent) of the 62 tested cases in Jacksonville. Those 35 claimants received approximately \$1.3 million in gross compensation for the year ended June 30, 2008, or an average of nearly \$37,000 per claimant. Of this number, 29 (83 percent) were not actively managed for a period of 6 months or longer.

In New York, claims examiners did not actively manage 19 (33 percent) of 57 tested cases. Those 19 claimants received approximately \$700,000 in gross compensation for the year ended June 30, 2008, or an average of nearly \$37,000 per claimant. Of this number, 11 (58 percent) were not actively managed for a period of 6 months or longer.

In addition to the Procedure Manual’s requirement to actively manage cases, claims examiners’ performance standards at both the Jacksonville and New York District Offices require the claims examiners to either actively or proactively manage cases, taking action every 30 days or as appropriate to facilitate a return to work or resolution of the case. Our audit found that claims examiners in Jacksonville and New York did not timely perform one or more of the following intervention actions:

⁸Procedure Manual Chapter 2-0600-3.e, entitled “Bring the Case to Resolution,” effective 2005.

- Refer claimants for a second opinion or referee medical examination
- Follow up on a second opinion or referee medical examination
- Refer claimants for nurse services or for vocational rehabilitation services
- Refer claimants for, or follow up on, functional capacity evaluations
- Prepare formal loss of wage-earning capacity decisions
- Follow up on job offer from the prior employer

For example, a Jacksonville field nurse filed a report with the claims examiner indicating that the claimant might be ready to return to work in some limited-duty capacity, but the employing agency would need written work limitations. The claims examiner did not act on the report and the case remained inactive until the claimant was referred for a second opinion examination almost 2 years later (21 months). Jacksonville officials did not provide specific reasons as to why this occurred, but indicated that Jacksonville claims examiners are assigned heavy case loads and manage cases that may require a lot of time.

In New York, a claimant refused a job offer from his prior employer, but the claims examiner waited 4 months before referring the claimant for a second opinion examination to assess the legitimacy of the claimant's job refusal. The second opinion report indicated the claimant could be retrained for another suitable occupation.

The Jacksonville and New York District Directors told us claims examiners are encouraged to use the iF ECS Reminder Feature to set up 30-day call for actions such as following up on second opinion examinations; however, use of the Reminder Feature is not required. In addition, a Jacksonville claims examiner told us that referrals and monitoring of claimant services is done through use of the iF ECS Reminder Feature, and that feature can be set to alert the claims examiner at intervals such as 30, 60, 90, or 120 days, or up to 10 months.

The lack of active case management and failure to follow established procedures occurred because there was (1) insufficient management oversight and (2) no requirement to use the iF ECS Reminder Feature. In contrast, more robust case management and the full use of available resources and tools like the iF ECS Reminder Feature would get claimants back to work faster, which would save dollars by reducing compensation payments.

In response to our draft report, the Acting Assistant Secretary for Employment Standards stated that OWCP's Division of Federal Employees' Compensation has already created periodic roll management units in several district offices. He also stated that the agency believes it can address the need to improve management of cases in the employment-not-yet-determined category by developing a report that tracks the frequency at which these cases are reviewed. The report will prompt claims examiners to take the next necessary action. Additionally, new iF ECS reminders will prompt the claims examiners to take action in cases where no action has taken place within a specified period of time.

Finding 2 – OWCP did not always inform claimants of their reinstatement rights.

Jacksonville and New York claims examiners did not always inform claimants whose re-employment status had not yet been determined, of their reinstatement rights to the jobs held when they became injured. Specifically, the claims examiners failed to mail the 10-month letter, as required by the Procedure Manual, to 109 (95 percent) of 115⁹ claimants' cases we tested. The Procedure Manual¹⁰ discusses the claimants entitlement to the job held at the date of injury for one year after wage loss began, and requires the claims examiner advise the claimant in writing of those rights. However, Jacksonville claims examiners failed to mail letters to 53 (90 percent) of 59 claimants, and New York claims examiners failed to mail all 56 letters. Each claimant had been on the periodic roll for at least one year prior to our review, and consequently, the letter should have been mailed.

The Jacksonville and New York Districts claims examiners' failure to mail the letters was due to a lack of adequate training. Also, management did not ensure the letters had been sent as part of their routine supervisory oversight of cases. As a result, claimants may not have been aware of their reinstatement rights before those rights expired. However, subsequent to our having raised this issue with the Jacksonville and New York District Directors, they informed us that they had provided training¹¹ to their staffs on the 10-month letter and will perform periodic reviews to ensure that letters have been mailed. Consequently we are not making a recommendation regarding the 10-month letter.

Recommendations

We recommend that the Assistant Secretary for the Employment Standards Administrations (ESA) direct the Director of the Office of Workers' Compensation Programs (OWCP) to require the Jacksonville and New York District Directors to:

1. Create a specialized workgroup to (a) identify cases in the re-employment-status-not-yet-determined category that need immediate case management; (b) determine the intervention(s) that may be needed for those identified cases; and (c) execute actions, as needed, to reduce compensation payments and/or remove claimants from this periodic roll category.
2. Implement a requirement that claims examiners use the integrated Federal Employees' Compensation System (iFECs) Reminder Feature to alert them when to (a) consider or reconsider referring claimants to a second opinion specialist, (b) follow up on referrals to nurse or vocational rehabilitation services, (c) follow up on pending medical reports, and (d) mail 10-month letters.

⁹We sampled 119 claimants, 62 in Jacksonville and 57 in New York; however, in 4 instances (3 in Jacksonville and 1 in New York), we found it either was not necessary to send a letter or the claimant did not have reinstatement rights.

¹⁰Procedure Manual Chapter 2-0600-9, entitled "Ten-Month Letter", effective 2005.

¹¹The Jacksonville District provided training on February 11, 2009, and New York District provided training on February 12, 2009. Both districts plan to provide regular training on the 10-month Letter in the future.

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



Elliot P. Lewis
Assistant Inspector General
for Audit

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Exhibit

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Exhibit

**FECA Gross Compensation
Claimants Whose Current Status is Re-employment Status Not Yet Determined
Year Ended June 30, 2008**

District Office	Total Claimants	Gross Compensation	Claimants Classified as Re-employment Status Not Yet Determined For At Least 1 Year But Not More Than 3 Years	Gross Compensation
Jacksonville	4,825	\$156,419,166	794	\$29,215,189
San Francisco	3,021	94,771,494	648	22,381,683
New York	2,711	83,113,616	514	18,204,148
Dallas	2,399	65,447,445	496	16,938,927
Washington	1,911	63,137,248	266	10,008,837
Boston	1,270	36,786,765	217	7,237,711
Cleveland	1,198	35,507,524	181	6,377,300
Philadelphia	1,102	34,167,880	234	8,504,663
Chicago	704	20,360,664	113	4,255,284
Seattle	616	18,720,428	126	4,790,955
Denver	332	9,801,766	90	3,159,740
Kansas City	117	3,765,221	30	1,174,815
National Office ^a	30	1,054,380	7	330,796
Totals	20,236	\$623,053,597	3,716	\$132,580,048

^a National Office is not a district office

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Appendices

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Background

OWCP had its origins in an organization established in 1916 to administer claims under FECA. The FECA program provides workers' compensation coverage to about three million Federal and Postal workers, including wage replacement and medical and vocational rehabilitation benefits for work-related injury and occupational disease.

Within OWCP, DFEC is charged with the responsibility of managing the FECA program. DFEC operations are performed nationwide in 6 regions and 12 district offices and those operations include adjudicating new claims; ongoing case management; payment of medical expenses; compensation benefits to injured workers and survivors; and assisting injured employees' return to work when they are medically able to do so. During fiscal year 2007, OWCP made nearly \$1.8 billion in wage-loss compensation payments to injured Federal employees and processed 19,104 initial wage-loss claims. At the end of fiscal year 2007, 51,125 claimants were receiving regular monthly wage-loss compensation payments from OWCP.

The Periodic Roll

Once a claimant is determined eligible for wage-loss compensation, the claimant is placed on the roll. Claimants who have clearly-defined and well-established, long-term disabilities that are identified early in their workers' compensation cases should be placed on the periodic roll. Payments made on the periodic roll provide an efficient method of ensuring that regular monthly payments are given to injured workers. The claims examiner retains responsibility for case management, which is intended as a comprehensive approach used to ensure case evidence remains current, all suitable medical care is provided to perhaps minimize the length of disability, and that appropriate use is made of nursing and rehabilitation services. The claims examiner must actively manage the case until the claimant returns to work, was found to be entitled to reduced compensation, or was found to have no re-employment potential for an indefinite future.

Nursing and Vocational Rehabilitation Services

In situations where a case has been accepted within 90 days of its submission, the claims examiner should refer it for OWCP nurse services to assist in medical management and return to work. In situations where the case has not been accepted within 90 days, the claims examiner should consider referral to nurse services if such services would likely be beneficial. Once accepted for nurse services, the OWCP staff nurse selects and manages the field nurse. A field nurse is typically a contract nurse whose engagement involves working closely with OWCP office staff, claimants, physicians in the community, and employing agencies to assist in the return to work effort.

A claimant should be referred for vocational rehabilitation services once he or she has stable, well-defined work limitations, which allow for an eight-hour work day. A limited referral may be made for placement services with the previous employer if the claimant can work at least four hours per day and the previous employer may be able to offer a modified job. If placement-with-previous-employer services do not succeed in returning the claimant to work, the claimant is moved to the plan development phase of vocational rehabilitation. Development of the plan usually involves assessing the claimant's interests and abilities, and testing and assessing the labor market. The plan is developed toward placement with a new employer, training, or placement with short-term assisted re-employment.

Subsequent to plan development and any training, the claimant may receive placement-with-new-employer services. These services may last 90 days, with additional 90-day extensions being granted for claimants making a good effort to obtain a job. If the placement efforts are successful, the claimant is monitored for an additional 60 days before a formal decision is made regarding the claimant's wage-earning capacity. If the placement efforts fail and the job titles and expected wages identified during plan development are found to be viable, the claims examiner is to prepare a pre-termination or pre-reduction notice addressing the claimant's wage-earning capacity based on the targeted employment. If no rehabilitation plan can be developed or there are no suitable jobs in the claimant's commuting area, the claims examiner should consider assigning the case to the determined-to-have-no-wage-earning capacity or re-employment-potential category.

Second Opinion and Referee Examinations

The claimant's attending physician is the primary source of medical evidence in most cases; however, in certain circumstances, the use of a second opinion examination may be appropriate. Typically, the claims examiner initiates the use of second opinion examinations; however, the assigned registered nurse may also recommend a second opinion examination, and the claims examiner should act promptly on such a recommendation. Second opinion examinations are required in certain categories of cases where the claimant remains disabled for six months after the disability from work begins. The use of second opinions is advisable when there is a need for a rationalized opinion regarding causal relationship, the need for surgery, the length of disability, or seemingly inappropriate or prolonged medical treatment.

Referee examinations may be used to resolve a conflict of medical opinion. The use of a referee physician is only appropriate in cases where there is a disagreement between the opinions of an attending physician and a second opinion specialist or a district medical advisor.

Appendix B

Objective, Scope, Methodology and Criteria

Objective

Did OWCP provide adequate oversight of claimants whose re-employment status has not yet been determined?

Scope

The audit scope was a performance audit of FECA claimants whose current status was coded as “on the periodic roll; re-employment or earning capacity has not yet been determined”¹² as of June 30, 2008, and whose current status date was between July 1, 2005, and June 30, 2007. Based on the definition of this category, we concluded that OWCP has not yet determined whether these claimants’ disabilities are permanent or whether the claimant is ready to return to work. By this definition, we determined that the category should be “temporary” because the claimants are being paid compensation but OWCP has not yet determined whether the claimed disability is permanent. The scope of the associated FECA compensation payments was for the year ended June 30, 2008. The audit focus was on OWCP’s management oversight of claims examiners and whether claims examiners consistently managed claimants whose re-employment status has not yet been determined. Our field work was conducted at the following OWCP district offices:

Jacksonville District Office
400 West Bay Street, Room 826
Jacksonville, Florida 32202

New York District Office
201 Varick Street, Room 740
New York, New York 10014

In planning and performing our audit, we considered OWCP’s internal controls by obtaining an understanding of the program’s internal controls, determining whether internal controls had been placed in operation, and assessing control risk in order to determine our procedures for achieving our objective. Specifically, we looked at preventive controls that were designed to ensure sufficient case management of claimants whose re-employment status has not yet been determined, and proper referrals for nurse and vocational rehabilitation services.

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 and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence

¹²For the purposes of this report, we refer to this category as “re-employment status not yet determined.”

obtained provided a reasonable basis for our findings and conclusions based on our audit objective.

Methodology

We evaluated OWCP internal controls pertaining to the oversight and management of claimants whose re-employment status had not yet been determined, and assessed the reliability of FECA claimant data maintained in iFECS. We reviewed OWCP policies and procedures; reviewed reports on iFECS controls; conducted tests to assess the accuracy of iFECS data; and reviewed internal monitoring reports. We interviewed OWCP officials at the Jacksonville and New York District Offices. We reviewed applicable laws and regulations for compliance requirements at the National and district office level. We reviewed the Division of Federal Employees' Compensation Procedure Manual and identified sections that were relevant to our audit objective.

OWCP provided us with the FECA National Case Management File and the Automated Compensation Payment System data files for the year ended June 30, 2008. We used the National Case Management File to establish the universe of claimants who were on the periodic roll with a current status of re-employment-status-not-yet-determined as of June 30, 2008, and whose current status date was between July 1, 2005, and June 30, 2007. The National Case Management File and the Automated Compensation Payment System data files are extractions from the iFECS.

We used Audit Command Language software to search the National Case Management file and identify 54,674 cases on the periodic roll, as of June 30, 2008. Of the total periodic roll cases, we found 20,236 included the current status of re-employment-status-not-yet-determined, and 3,716 of the 20,236 were within our scope (current status code date between July 1, 2005, and June 30, 2007).

District Office	Number of Cases in our Scope
Jacksonville	794
San Francisco	648
New York	514
Dallas	496
Washington	266
Philadelphia	234
Boston	217
Cleveland	181
Seattle	126
Chicago	113
Denver	90
Kansas City	30
National Office ^a	7
Total	3,716

Fieldwork was conducted at the OWCP National Office and at two district offices (Jacksonville and New York). The Jacksonville and New York district offices were selected because our preliminary assessment indicated these two offices may not be effectively moving claimants from the re-employment-status-not-yet-determined category on the periodic roll.

We selected Jacksonville because it both manages the highest number of cases meeting our criteria with 794 cases (or 21 percent of the total cases meeting our criteria) and the percentage of cases in the re-employment-not-yet-determined category were tied with New York at the second highest at 69 percent. We selected New York because it both manages the third highest number of cases meeting our criteria with 514 cases (or 14 percent of the total cases meeting our criteria) and percentage of cases in the re-employment-not-yet-determined category were tied with Jacksonville at the second highest at 69 percent.

To test whether OWCP officials provided adequate oversight at Jacksonville and New York, we tested 119 cases (62 in Jacksonville and 57 in New York) within our scope, and assessed whether the claims examiner provided timely case management actions and complied with relevant requirements; such as, referring claimants to nurse or vocational rehabilitation services, mailed the required 10-months letter, or ensured that annual medical and requests for earnings reports were received.

Our sample design included one strata based on the current status type of re-employment-status-not-yet-determined as of June 30, 2008, and a current status date between July 1, 2005, and June 30, 2007. We selected samples from the universes of 794 and 514 cases meeting our scope in Jacksonville and New York respectively. We used the Audit Command Language random sampling tool to select 124 cases from

Jacksonville and 114 from New York. Due to time and resource considerations, we only tested half of the samples from each location; therefore, we did not project the results of our tests.

Criteria

We used the following criteria to perform this audit:

- Federal Employees Compensation Act (FECA)
- 20 Code of Federal Regulations (CFR):
 - Part 1 - Performance of functions
 - Part 10 - Claims for compensation under the Federal Employees' Compensation Act, as amended
 - Part 25 - Compensation for disability and death of non-citizen Federal employees outside of the United States
- The Division of Federal Employees' Compensation Procedure Manual:
 - Part 2 - Claims
 - Part 3 - Medical

Acronyms and Abbreviations

CFR	Code of Federal Regulations
ESA	Employment Standards Administration
DFEC	Division of Federal Employees' Compensation
FECA	Federal Employees' Compensation Act
iFECS	integrated Federal Employees' Compensation System
OIG	Office of Inspector General
OWCP	Office of Workers' Compensation Programs

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Agency Response

U.S. Department of Labor

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



SEP 21 2009

Elliot P. Lewis
Assistant Inspector General for Audit
U.S. Department of Labor
Office of Inspector General
Washington, D.C. 20210

Dear Mr. Lewis:

Thank you for the opportunity to comment on report number 04-09-004-04-431, in which your office reviewed the Division of Federal Employees' Compensation's (DFEC) oversight of claims on the periodic roll. The report includes two recommendations for DFEC and I would like to share my comments on your suggestions.

The first recommendation was that DFEC create a specialized workgroup to (a) identify cases in a "PR" status (re-employment or earning capacity not yet determined) that need immediate case management; (b) determine the intervention that may be needed for those identified cases; and (c) execute actions, as needed, to reduce compensation payments and/or remove claimants from this periodic roll category.

Although DFEC has already created periodic roll management units in several district offices, ideas for improving the management of cases in a PR status are always appreciated. Toward that end, we believe that by developing a report that tracks the frequency at which PR cases are reviewed, claims examiners can be alerted and prompted to take the next necessary action. In cases where no action has taken place within a specified period of time, a reminder in the Integrated Federal Employees' Compensation System (iFECS) will be sent to the claims examiner, prompting them to take action. These reminders will also be available through an on-line query tool. It should be noted that the new reminders and this report will greatly enhance the claims examiners' ability to manage these cases in a timely manner.

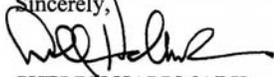
The second recommendation in your report was that DFEC implement a requirement that claims examiners use the iFECS "reminder" feature to alert them when to (a) consider or reconsider referring claimants to a second opinion specialist; (b) follow up on referrals to nurse or vocational rehabilitation services; (c) follow up on pending medical reports; and (d) mail the 10-month letters.

I believe that the new reminders and report described above, which are intended to be accessible to claims examiners and their supervisors, will address the first three items in this recommendation. To address the recommendation pertaining to the 10-month letter, we are developing a specific reminder that will prompt the claims examiner to issue the

letter at the appropriate juncture in the case. I have instructed DFEC management to create these reminders and corresponding reports by March 1, 2010.

Again, I appreciate the opportunity to review and comment on the report.

Sincerely,



SHELBY HALLMARK
Acting Assistant Secretary
Employment Standards Administration

Appendix E

Acknowledgements

Key contributors to this report were Paula Denman (Audit Director), Mark Sanderson and Travis Williams.

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