



**Statement of Patricia A. Dalton
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U.S. Department of Labor
Before the House Committee on Government Reform
Subcommittee on Government Management, Information, and
Technology
U.S. House of Representatives**

Good morning Mr. Chairman and members of the Subcommittee. Thank you for inviting the Office of Inspector General (OIG) to testify on our work in the Federal Employees' Compensation Act (FECA) program. Specifically you requested our views on customer service provided by the Office of Workers' Compensation Programs (OWCP), the agency responsible for administering FECA, and on the appeals process administered by the Employees' Compensation Appeals Board (ECAB). I am here in my capacity as Acting Inspector General to present the views of the OIG, which may not necessarily be representative of those of the Department of Labor.

Background – Federal Employees’ Compensation Act

The U.S. Department of Labor administers several programs and statutes designed to provide and protect the benefits of workers. FECA is a comprehensive workers’ compensation law covering some 3 million Federal and postal employees. It is designed to provide 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. OWCP is responsible for making eligibility determinations and for the initial reconsideration if a claim is denied. Benefits are paid from the Employees’ Compensation 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. In its FY 2001 budget justification, OWCP stated that in FY 2000, they will receive approximately 165,000 new cases in addition to over 40,000 cases on their periodic rolls. This year, FECA expenditures are expected to total about \$2 billion.

Background – Employees’ Compensation Appeals Board

The Employees’ Compensation Appeals Board (ECAB) is a three member, independent, quasi-judicial body that has been delegated exclusive jurisdiction by Congress to hear and make final decisions on FECA determinations appeals. ECAB is independent of OWCP, and its jurisdiction is strictly appellate and extends to questions of fact and law. ECAB renders decisions that are binding upon OWCP and must be accepted and acted upon by OWCP.

It is important to note that after an adverse decision has been appealed and affirmed by OWCP and ECAB, the claimant may repeatedly petition OWCP for reconsideration of the same issue, if the claimant has additional documentation. According to its FY 2001 budget justification, ECAB will receive approximately 2,800 appeals in FY 2000. Moreover, the budget justification states that a total of 4,546 FECA appeals were pending before ECAB at the beginning of FY 2000, and that approximately 3,450 appeals are projected to have some action taken during FY 2000.

OIG Activities Relating to FECA

Over the last two decades, the OIG has made it a priority to effect positive changes and reduce vulnerabilities within the FECA program through our audits, investigations, and evaluations. The OIG's work has disclosed weaknesses that can lead to inefficiencies, ineffectiveness, or loss of Federal funds. I would like to note that OWCP has been very responsive to our recommendations. The work that the OIG has performed has led to many substantial and positive changes within OWCP. I will now discuss some of our most significant reviews to illustrate our efforts related to customer service, program integrity, and due process issues.

FECA Customer Service and Program Integrity

Mr. Chairman, our reviews have identified and made recommendations to improve a number of customer service and program integrity issues in the FECA program. In turn, OWCP has recognized the need to implement changes in response to our concerns. In fact, in its Strategic Plan, OWCP states its recognition that injured workers should be served by a fair, swift, and people-oriented compensation system. One of OWCP's performance goals is to "increase customer satisfaction with FECA services by 10%, as measured by a customer satisfaction survey."

Draft Audit on Crossmatches between FECA and Social Security Wage Information

Our most recent audit to improve overall program effectiveness looked at whether FECA claimants earned wages while receiving long-term total disability compensation; whether automated crossmatches with Federal or state wage records could assist OWCP in identifying potential claimant fraud or overpayments; and whether internal controls ensured that claimant wages were detected and benefit amounts were adjusted. Our audit involved 27,050 FECA claimants who had received total disability compensation for the entire Calendar Year 1996. Of those claimants, we found that 905 of them had total earnings of \$2.9 million. The OIG concluded that automated crossmatches with SSA would result in program savings including reduced compensation, medical, and administrative costs. The DOL-OIG also recommended that OWCP crossmatch Social Security wage data with their records for work status monitoring. OWCP, however, cannot institute this recommendation without a change in the law. This audit is currently in draft.

President's Council on Integrity and Efficiency FECA Review

Mr. Chairman, part of effective customer service is the need for all Federal agencies to provide supportive services to help employees return to work when appropriate. In 1996, under the leadership of the DOL-OIG, the President's Council on Integrity and Efficiency (PCIE) issued a Consolidated Report on FECA. This report summarized the results of audits conducted by 13 participating Inspectors General regarding agencies' effectiveness in managing their workers' compensation program. Each participating

Inspector General was responsible for follow-up on specific recommendations they made to agency officials. The report disclosed that:

- C Employing Federal agencies generally needed to improve the management of the workers' compensation programs;
- C Nine of 10 employing agencies did not have effective return-to-work programs and the PCIE concluded that employing agencies were not effectively monitoring the work status of injured employees;
- C Seven out of 10 OIG's reported that agency workers' compensation files were out of date or missing altogether. Moreover, there was a perception in many agencies that claimants receiving compensation from OWCP were no longer the agencies' concern;
- C Twelve of the 13 employing agencies were not adequately verifying their FECA chargeback cost reports, which reconcile chargebacks between OWCP and employing agencies. Most agencies had concluded that it was not cost effective to verify the chargeback reports, therefore, many employing agencies were paying more in FECA costs than was necessary; and
- C Five of the IG's reviewed FECA claim forms processing and all five found that their agencies were not processing the forms in a timely manner. As a result, many injured employees had no income while waiting for their FECA benefits to begin.

While the DOL-OIG has not conducted a follow-up audit, we are aware of several new initiatives that agencies are implementing that relate to some of the PCIE recommendations. For example, several Departments have instituted electronic filing to submit claims directly to OWCP. In addition, OWCP also has initiated the Early Nurse Prevention Program to help claimants return to work as soon as appropriate, thereby reducing costs in the program.

Customer Service Evaluation

In addition to the PCIE Report, we reviewed OWCP's 1995–1998 FECA customer service surveys. We analyzed the surveys' methodology in order to determine its accuracy and usefulness in providing sound information about customer service. Although OWCP has made efforts to improve the surveys each year, our analysis revealed the existence of methodological flaws in several areas, including survey design, measurement of customer service, sampling, response rate, and survey operations. As a result, we made a number of recommendations to enhance the accuracy of the data by improving the survey methodology and thus help OWCP judge and improve the quality of customer service provided. The agency agreed with most of our recommendations and incorporated them in its subsequent survey.

Medical Reimbursements and Authorization of Surgical Requests

Another customer service issue that we have reviewed is that of medical reimbursements and authorization of surgical requests. In 1999, the OIG issued an evaluation of the timeliness of claimant reimbursement for out-of-pocket medical expenses and requests for surgical authorizations in OWCP. Our review found that OWCP surpasses its "95 percent" 60-day performance standard by paying 96.9 percent of claimant-submitted bills within 60 days, although it falls short of the "90 percent" standard in 28 days by paying 82.1 percent of claimant-submitted bills within 28 days. OWCP stated that it implemented an automated bill review system to increase the percentage of claimant-submitted bills paid. In this review, we also examined OWCP's handling of requests for non-emergency surgery. We found that OWCP had not set a performance standard in this area and recommended that the agency do so. In its

response to the evaluation, OWCP stated that this was not feasible at the time the evaluation was issued. They indicated that response times vary greatly, depending on the type of request, and it would be difficult for them to track the information required under their current information system. However, OWCP stated that it is analyzing the issue and, by FY 2001, will determine whether it needs a new standard.

Financial Statement Audits

In addition, Mr. Chairman, each year, the OIG is required to audit DOL's financial statements. In the most recent report, we continued to note weaknesses related to several areas of the FECA program. For example, we identified the need for improvements in verifying the continuing eligibility of claimants. The audit disclosed that FECA does not have policies and procedures in place to ensure that documents are requested and received on a timely basis. This is necessary to confirm a claimant's continuing eligibility or, in the case of an investigation, to determine a claimant's intent to defraud the program.

Improper Medical Provider Billings

Mr. Chairman, we have also focused significant attention to identifying program integrity weaknesses that can have a bearing on customer service because resources are diverted away from serving legitimate claimants. In 1997, we issued a report which revealed that millions of dollars are being lost annually because of improper or abusive medical provider billings. In that report, we recommended that OWCP procure a commercial system to screen medical billings for code manipulation and pursue

collection actions, if warranted. These screenings are critical to quickly identify inappropriate claims. In its FY 2001 budget justification, OWCP indicated that it has implemented a commercial software system to screen incoming medical bills for duplicate charges and/or abusive billing practices.

The Appeals Process

The Subcommittee has also asked that we provide our views regarding the FECA appeals process. Mr. Chairman, we believe that central to the success of any compensation program is the need to ensure that the appropriate amount of benefits be given to the appropriate people for the appropriate time frame. Complimentary to this is the need to ensure an effective, timely mechanism to protect the due process rights of individuals, while protecting the integrity of the program. While our work has predominately focused on customer service and program integrity issues, we have briefly looked at this area.

Employees' Compensation Appeals Board

In 1995, the OIG issued a report that examined a sample of FECA claims that had been appealed to ECAB. As I mentioned earlier, ECAB is the Appeals Board for FECA claimants. Our survey of 100 FECA claims noted that each claim had an average of 5 decisions per claim, meaning that, on average, each recipient had appealed their case 5 times. Of the 528 decisions on the 100 sample claims, the Board agreed with 89

percent of OWCP's prior decisions. Based on this, and the fact that claimants can repeatedly appeal adverse decisions, the OIG recommended that ECAB and OWCP reevaluate the current FECA claims and appeal adjudication processes and develop an action plan, including legislative proposals, where necessary, to better capture performance and cost information, and to reduce the costs and adjudication times for these claims.

ECAB recently indicated that it had reduced its backlog and that the average time it takes to adjudicate a case had been reduced from 24 to 16 months. However, the OIG has not audited this latest information.

Recommendations to Improve the FECA Program

Mr. Chairman, as I have stated previously, OWCP has consistently worked with us to improve the efficiency of the FECA program and decrease the level of fraud and abuse. Even though the OIG has made great strides to increase the efficiency and effectiveness of the FECA program, there are still issues that need to be addressed. In the past, the OIG has made recommendations to strengthen the program. Some of these are administrative in nature and can be resolved by OWCP, but there are other solutions that are legislative or budgetary in nature. These include changing the continuation of pay period, establishing a retirement age for beneficiaries, adding a wage reporting requirement for total disability recipients, and verifying employment information by using the new hire or Social Security databases.

Conclusion

In conclusion Mr. Chairman, our work involving FECA has served to help the program to be more effective and to work more efficiently. As demonstrated by our findings and recommendations our efforts have focused on helping to improve service provided to FECA claimants while ensuring the integrity of the program. This concludes my written statement and I would be pleased to answer any questions you or the other members of the Subcommittee may have.