OVERSIGHT OF THE MANAGEMENT OF THE OFFICE OF WORKERS' COMPENSATION PROGRAMS: ARE THE COMPLAINTS JUSTIFIED?

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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OVERSIGHT OF THE MANAGEMENT OF THE OFFICE OF WORKERS' COMPENSATION PROGRAMS: ARE THE COMPLAINTS JUSTIFIED?

THURSDAY, MAY 9, 2002

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:03 a.m., in room 2154, Rayburn House Office Building, Hon. Stephen Horn (chairman of the subcommittee) presiding.

Present: Representative Horn.

Staff present: J. Russell George, staff director and chief counsel; Bonnie Heald, deputy staff director; Earl Pierce, professional staff member; Justin Paulhamus, clerk; Conn Carroll, clerk of the Subcommittee on Criminal Justice, Drug Policy and Human Resources; David McMillen, minority professional staff member; and Jean Gosa, minority clerk.

Mr. HORN. A quorum being present, this hearing of the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will come to order.

Today the subcommittee is continuing its continuing examination of the Office of Workers' Compensation Programs, administered by the U.S. Department of Labor. This program was established in 1916 under the Federal Employees Compensation Act to handle compensation claims for injured Federal workers and employees in a non-adversarial manner.

In fiscal year 2000, the program received approximately 174,000 new injury claims and paid out approximately $2.1 billion in medical and death benefits to nearly 273,000 Federal employees who suffered work-related injuries. Despite the laudable efforts of this office, the subcommittee has heard countless complaints about the program, from lost case files and long delays in the appeals process to unresponsive claims examiners. This is the subcommittee's fourth hearing on this subject.

Despite these hearings and numerous telephone calls and letters from this subcommittee, injured workers and their representatives say the problems continue. They say that case files are still being lost, which has no excuse for that. Telephone calls are still not being returned, and they're just impossible. And cases are still unresolved. Meanwhile, these Federal employees are without compensation and their medical bills continue to mount.

In response to these complaints, the subcommittee requested the General Accounting Office to conduct an examination of the management practices and customer service at the Office of Workers' Compensation Programs. Today we will discuss the findings of that study and what changes may be needed to improve this vital program. It is imperative that Federal employees know that if they are injured on the job, they will receive appropriate assistance from their employer, the Federal Government, in a timely way.

I welcome each of our witnesses today and I look forward to your testimony. As you know, these are investigating committees and we do swear in all of the witnesses and any of your assistants that will be whispering in your ear, please include them. The clerk will note the names, for those at the table and those behind the table. So if you will stand and raise your right hands, and have your aides back there also, and the clerk will get the names.

[Witnesses sworn.]

Mr. HORN. The clerk will note that the affirmation of the oath has occurred.

We will now move with the U.S. General Accounting Office. We have with us George S. Stalcup, Director, Strategic Issues; and Bernard L. Ungar, Director, Physical Infrastructure, U.S. General Accounting Office. We look forward to your summary, and we will get into questions after all the witnesses have made their presentation.

So Mr. Stalcup, go to it.

STATEMENT OF GEORGE H. STALCUP, DIRECTOR, STRATEGIC ISSUES, U.S. GENERAL ACCOUNTING OFFICE

Mr. STALCUP. Thank you, Mr. Chairman. We appreciate the opportunity to testify today on selected aspects of the Office of Workers' Compensation Programs, which has been for a number of years a particular focus of this subcommittee.

We're here today in response to your request that we conduct two separate reviews; one to examine issues associated with the claims adjudication process; and second, to assess certain aspects of compensation claims submitted by Postal Service employees. We have provided the committee with full statements. Mr. Ungar and I would now like to briefly summarize those statements, starting with my discussion of the adjudication process, then Mr. Ungar will talk about the review of Postal Service claims.

As requested, we focused on four primary dimensions of the OWCP claims adjudication process. First, we looked at the rates of initial claim decisions that, once appealed by the claimant, are reversed or remanded back to the district office and reasons why. Second, we looked at timeframes for notifying claimants about the outcomes of hearings on their appeals. Third, we looked at whether physicians used by OWCP are board certified, State licensed and hold appropriate medical specialties. Last, we looked at how OWCP monitors customer satisfaction and potential claimant fraud.

When a claim is denied, the claimant has three avenues of recourse. They may request an oral hearing or review of the written record by the Branch of Hearings and Review. They also may request reconsideration by a different claims examiner within the

district office. Finally, they may ask for a review by the Employees Compensation Appeals Board [ECAB].

We found that approximately 31 percent of the claims decisions appealed by the claimants were either reversed or remanded. Some reversals and remands were due to additional evidence being submitted by the claimant. However most, 25 percent of all claims appealed, were a result of other reasons, such as a question about or problem with the initial evaluation of information or a problem with the management of the case file. When a claim is initially denied but later upon appeal determined to have been valid, the effect is a delay in the benefits to the claimant. Further, the claimant may have to incur additional expenses during the appeals process. It is therefore important that improper denials be minimized.

OWCP takes a number of steps to monitor remands and reversals. Among other things, they review ECAB decisions and prepare periodic circulars and bulletins to claims examiners with examples of problems and suggested corrective actions. While such information is important, we believe there may be an opportunity for OWCP to more systematically track reasons for remands and reversals and their underlying causes. Such information, coupled with the steps OWCP is already taking, could help it identify actions that might reduce the frequency of remands and reversals.

Regarding our second objective, the Federal Employee Compensation Act [FECA] specifies that claimants will be notified of hearing outcomes "within 30 days of the hearing." In setting target timeframes for such notification, OWCP has factored in time for producing hearing transcripts, for both the claimant and the employing agency to comment, and for the claimants to submit additional evidence. OWCP can also grant extensions if necessary.

Considering these factors, OWCP has set a target of notifying 96 percent of the claimants of hearing outcomes within 110 days of the original hearing dates. We found they notified 92 percent within this 110 day period.

For our third objective, we found that at least 94 percent of second opinion physicians and 99 percent of referee physicians were board certified. Similarly, we found that at least 96 percent of second opinion physicians and 99 percent of referee physicians were State licensed. We also estimate, that 98 percent of all physicians held appropriate specialties for the injuries and illnesses they were evaluating.

To monitor customer satisfaction, OWCP has about annually surveyed claimants by mail. More recently, they have also conducted focus groups of employing agencies and, in 2001, hired a contractor to perform a telephone survey of claimants. OWCP has received mixed results on these written surveys, higher in some areas, lower in others. The most recent written survey results available to us, those for year 2000, showed a 52 percent customer satisfaction rate with the workers' compensation program as a whole.

In monitoring potential fraud, the Labor Inspector General relies on a number of sources. One source involves OWCP claims examiners who look for certain indicators or red flags. The IG will look at questionable cases and carry out the appropriate investigation activity. From 1998 to 2001, the IG investigated approximately 500

claims resulting in 212 indictments and 182 convictions of claimants and/or physicians.

This concludes my portion of the testimony.

[NOTE.—The report entitled, "Office of Workers' Compensation Programs, Further Actions Are Needed to Improve Claims Review," may be found in subcommittee files.]

[The prepared statement of Mr. Stalcup follows:]

United States General Accounting Office

GAO

Testimony

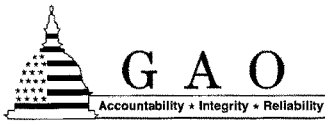
Before the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations, Committee on Government Reform
House of Representatives

For Release on Delivery
At 10:00 a.m. EDT
Thursday,
May 9, 2002

OFFICE OF WORKERS' COMPENSATION PROGRAMS

Further Actions Are Needed to Improve Claims Review

Statement of George H. Stalcup, Director
Strategic Issues



GAO-02-725T

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to testify today on issues regarding the Department of Labor's Office of Workers' Compensation Programs (OWCP). During fiscal year 2000, OWCP paid compensation totaling about $2.1 billion in medical and death benefits and received approximately 174,000 new injury claims. Issues related to OWCP have been, for a number of years, a particular focus of this subcommittee. I am here today in response to your request that the we examine selected issues associated with OWCP's claims' adjudication process, which has been the subject of previous hearings before your subcommittee. We believe the report we are issuing to you today and our testimony will provide a further understanding of the federal government's employee compensation program.

As you requested, we looked at selected aspects of OWCP's process for adjudicating claims appeals. In summary, we found the following:

- Approximately one in four appealed claims' decisions are reversed or remanded to OWCP district offices for additional consideration and a new decision because of questions about or problems with the initial claims decision.

- In response to the Federal Employees Compensation Act's (FECA) requirement on the timing for informing claimants of hearing decisions, OWCP has established a goal of informing 96 percent of claimants within 110 days of the date of the hearing. Our sample showed that it provides notification to 92 percent of claimants within this period.

- Nearly all physicians used by OWCP to provide opinions on injuries claimed were board certified and state licensed, and were specialists in areas that appeared to be consistent with the injuries they evaluate.

- OWCP has used mailed surveys and more recently telephone surveys and focus groups, to measure customer satisfaction. Those efforts have shown mixed results. Finally, the Labor inspector general is primarily responsible for monitoring potential fraud within OWCP's workers compensation program and uses the claims examiners as one source in identifying potentially fraudulent claims.

In addressing the objectives, we reviewed a statistical sample of more than 1,200 of the estimated 8,100 appealed claims for which a decision was rendered by the Branch of Hearings and Review (BHR) or the Employees

Compensation Appeals Board (ECAB) during the period from May 1, 2000, through April 30, 2001.

How the Claims Process Works

As you know, FECA[1] authorizes federal civilian employees compensation for lost wages and medical expenses for treatment of injuries sustained or for diseases contracted during the performance of duty. A worker's compensation claim is initially submitted through the employee's agency to an OWCP district office and is evaluated by a claims examiner. The examiner must first determine whether the claimant has met each of the following five criteria for obtaining benefits:

- The claim must have been submitted in a timely manner. An original claim for compensation for disability or death must be filed within 3 years of the occurrence of the injury or death.
- The claimant must have been an active federal employee at the time of injury.
- The injury, illness, or death had to have occurred in a claimed accident.
- The injury, illness, or death must have occurred in the performance of duty.
- The claimant must be able to prove that the medical condition for which compensation or medical benefits is claimed is causally related to the claimed injury, illness, or death.

Because medical evidence is an important component in determining whether an accident described in a claim caused the claimed injury and if the claimed injury caused the claimed disability, workers' compensation claims are typically accompanied by medical evidence from the claimant's treating physician. Considerable weight is typically given to the treating physician's assessment and diagnosis. However, should the OWCP claims examiner conclude that a better understanding of the medical condition is needed to clarify the nature of the condition or extent of disability, the examiner may obtain a second medical assessment of the claimant's condition. In such instances, a second-opinion physician, who is selected

[1] 5 USC 8101, et seq.

by a medical consulting firm contracted by an OWCP district office, reviews the case, examines the claimant, and provides a report to OWCP.

If the second-opinion physician's reported determination conflicts with the claimant physician's opinion regarding the injury, the claims examiner determines if the conflicting opinions are of "equal value."[2] If the claims examiner considers the two conflicting opinions to be of equal value, OWCP appoints a third or "referee physician" to evaluate the claim and render an independent medical opinion.

Claims may be approved in full or part, or denied. When all or part of a claim is denied the claimant has three avenues of recourse for appeal: (1) an oral hearing or a review of the written record by the Branch of Hearings and Review (BHR), (2) reconsideration of the claim decision by a different claims examiner within the district office, or (3) a review of the claim by the Employees Compensation Appeals Board (ECAB). While OWCP regulations do not require claimants to exercise these three methods of appeal in any particular order, certain restrictions apply that, in effect, encourage claimants to file appeals in a specific sequence—first going to the BHR, then requesting another review at the OWCP district office, and finally involving the ECAB.

[2] OWCP's procedures manual state that to determine if the medical evidence is of equal value, each physician's opinion is to be considered against the following factors: (1) whether the physician involved in the case is a specialist in the appropriate field relevant to the claimant's injury or illness, (2) whether the physicians' opinions are based upon a complete and accurate medical and factual history, (3) the nature and extent of findings on examination of the claimant, (4) whether the physicians' opinions are rationalized, and (5) whether the physicians' opinions are stated unequivocally and without speculation.

Evaluation Problems, Case File Mismanagement, and New Evidence Are Reasons Appealed Claims Decisions Are Reversed or Remanded

From May 1, 2000, to April 30, 2001, decisions were rendered by BHR or ECAB on approximately 8,100 appealed claims. We found that BHR and ECAB affirmed an estimated 67 percent of these initial decisions as being correct and properly handled by the district office, but reversed or remanded an estimated 31 percent of the decisions[3]–25 percent because of questions or problems with OWCP's review of medical and nonmedical information or management of claims files, and the remaining 6 percent because of additional evidence being submitted by the claimant after the initial decision.

About one-fourth of the appealed claims decisions were reversed or remanded due to OWCP evaluation problems or claims file mismanagement

We found that about one in four appealed claims decisions during our period of review were reversed or remanded because of questions about or problems associated with the initial decision by the OWCP district office. These included problems with (1) the initial evaluation of medical evidence (e.g., physicians' examinations, diagnoses, or x-rays) or nonmedical evidence (e.g., coworker testimonies) or (2) management of the claim file (e.g., failure to forward a claim file to ECAB in a timely manner). Problems in evaluating medical evidence frequently involved, for example, an OWCP district office failing to properly identify medical conflicts between the conclusions of the claimant's physician and OWCP's second-opinion physician, and therefore not appointing a referee physician as required by FECA. OWCP has interpreted the FECA requirement for referee physicians to apply only when the opinions of the claimant's and second-opinion physicians are of equal value, that is, when both physicians have rendered comparably supported findings and opinions.

Some remands and reversals resulted from OWCP failing to administer claims files in accordance with FECA or OWCP guidance for claims management. The guidance includes (1) a description of the information that is to be maintained in the claim file and transmitted by OWCP to the requestor (i.e., BHR or ECAB) and (2) requires claims files to be transmitted within 60 days after a request is received. Failure to meet this 60-day requirement was one of the more common deficiencies in claims file management. For example, ECAB initially requested a claim file for one

[3] The remaining 2 percent of the decision summaries we examined did not include information regarding what decision was reached on the claimant's appeal or the rationale for the decision.

injured worker from OWCP on April 29, 2000. On December 19, 2000 (almost 8 months later), ECAB notified OWCP that the claim file had not been transferred and that if the file was not received within 30 days, ECAB would issue orders remanding the claim decision to the relevant district office for "reconstruction and proper assemblage of the record." As of March 12, 2001—more than 10 months after the initial ECAB request —the claim file had still not been transferred and the decision was remanded back to the district office. We estimate that 4 percent of appealed decision were reversed or remanded by BHR or ECAB because of claim file management problems.

For claims that were initially denied at a district office and then decisions were reversed by BHR or ECAB due to problems identified with the initial evaluation of evidence or mismanagement of claims files, there are delays in claimants receiving benefits to which they were entitled. According to OWCP, the average amount of time that elapsed from the date an appeal was filed with BHR or ECAB until a decision was rendered was 7 months and 18 months, respectively, in fiscal year 2000. Thus, when an initial claims decision is reversed upon appeal, while claimants are provided benefits retroactively to the date of the initial decision, claimants may be forced to go without benefits for what can be extended periods and may have to incur additional expenses during the appeals process, such as representatives' fees, that are not reimbursable.

New Evidence Submitted After OWCP Rendered Decision Also Result in Reversals and Remands

We also found that 6 percent of appealed claims decisions were reversed or remanded because of new evidence being submitted by the claimant after the initial decisions were made. OWCP regulations allow claimants to submit new evidence to support their claims at any time up until 30 days—or more with an extension—after the BHR hearing or review of the record occurs.[4] Additional evidence could include medical reports from different physicians or new testimonial evidence from coworkers that in some significant way were expected to modify the circumstances concerning the injury or its treatment and make the previous decision by OWCP now inappropriate. Upon appeal of the earlier district office decision, the BHR representative determines whether any new evidence is sufficient to remand the decision back to the district office for further review, or to reverse the initial decision.

[4] Most reversals and remands resulting from claimants submitting new evidence were made by BHR.

OWCP Has Taken Some Actions to Identify and Address the Causes of Reversals and Remands

OWCP officials told us that several actions are taken to monitor remands and reversals. For example, ECAB decisions are reviewed and advisories are prepared to call claims examiners' attention to select ECAB decisions which represent a pattern of district office error or are otherwise instructive. Where more notable problems are identified through ECAB reviews, OWCP informed us that a bulletin describing correct procedures may be issued or training might be provided. While OWCP similarly monitors reasons for BHR reversing and remanding claims decisions, this information is not as routinely disseminated to claims examiners as is done for information on ECAB decisions.

Clearly, these actions are providing some information on reasons for remands and reversals. However, this information is not providing a full picture of the underlying reasons for remands and reversals occurring at their current rates and what actions might be taken to address those factors. For example, OWCP might detect that district offices are failing to appoint referee physicians when required. OWCP might then notify district offices that such a problem was occurring. However, with the information currently available, it would not be able to identify the nature or frequency of specific underlying reasons, such as (1) how often are inexperienced claims examiners not sufficiently aware of the requirement for a referee physician when a conflict of equal value occurs or (2) how often are examiners experiencing difficulty in determining whether two physicians' opinions are of equal value? Not knowing the frequency with which reasons for remands and reversals are occurring, or the specific underlying causes, it would be difficult for OWCP to identify actions that might be taken to address the problem.

We believe that OWCP should examine the steps it currently takes to determine whether more can be done to identify and track remands and reversals—including improper evaluation of evidence and mismanagement of claim files—and address their underlying causes.

OWCP officials told us that they have not conducted such an overall examination of its current process, adding that they instead rely on adjustments to their current monitoring and communication process (circulars and bulletins) based on available information.

OWCP Has Established a Hearing Standard That Allows 110 Days For Claimant Notification

FECA requires that OWCP notify claimants in writing of hearing decisions "within 30 days after the hearing ends." In interpreting this provision of the act, OWCP has allowed time for certain actions to take place, such as claimant and employing agency reviews of and comment on hearing transcripts. Accordingly, in setting guidelines, the BHR director told us that the hearing record is not closed until two separate but concurrent processes are completed: (1) printing of the hearing transcript and review of the transcript by both the employee and the employee's agency, which can take from as few as 25 days to as many as 47 calendar days or more from the hearing date and (2) opportunity for the claimant to submit new evidence for 30 days following the date of the hearing, and longer if the claimant needs additional time (regulations allow the OWCP hearing representatives to use their discretion to grant a claimant a one-time extension period, which may be for up to several months).

Considering these factors, OWCP has established two goals for the timing of notifying claimants of final hearing decisions: (1) notifying 70 to 85 percent of the claimants within 85 calendar days and (2) informing 96 percent of claimants within 110 calendar days following the date of the hearing. Based upon our review of the applicable legislation, we determined that OWCP has the authority to interpret the FECA requirement for claimant notification in this manner.

Of an estimated 2,945 appealed claims for which BHR rendered a decision on a hearing during our review period, notification letters for an estimated 2,256 (77 percent) were signed by OWCP officials within 85 days of the date of the hearing and an estimated 2,716 (92 percent) of the claims were signed within 110 days of the hearing date.[5] OWCP officials signed an estimated 158 (5 percent) of the claimants' notification letters from 111 to 180 days after the hearing date and 70 claims (2 percent) from 181 days to more than 1 year after the hearing date.[6]

[5] Our analysis reflects only appeals for which necessary dates were available in the claim decision files. We estimate that the dates we used to determine the length of time required to provide decision information to a claimant were available in the decision files for 95 percent of the BHR appeals with hearings.

[6] The percentages of claim decision notifications signed within 110, 111 to 180, and 181 days or more of the hearing date do not total 100 percent due to rounding.

OWCP's Physicians Were Board Certified, Licensed, and had Specialties Consistent with the Injuries Examined

OWCP referee physicians in our sample were nearly all board certified and state licensed. We also found that OWCP's second opinion and referee physicians had specialties that were appropriate for claimant injuries examined.

Most of OWCP's Physicians were Board Certified and Have State Medical Licenses

Although neither FECA nor OWCP's procedures manuals require second-opinion physicians to be board certified, the procedures manual provides that OWCP should select physicians from a roster of "qualified" physicians and "specialists in the appropriate branch of medicine." The manual further requires that for referee physicians "the services of all available and qualified board-certified specialists will be used as far as possible." The manual allows for using a noncertified physician in special situations.

Based on our statistical sample, we estimate that at least 94 percent of OWCP's contracted second-opinion physicians and at least 99 percent of the contracted referee physicians were board certified.[7] In making these determinations, we relied primarily on information from the American Board of Medical Specialties (ABMS), the umbrella organization for the approved medical specialty boards in the United States. For the remaining 6 and 1 percent of the second-opinion and referee physicians in our sample, respectively, information we reviewed was not sufficient to determine whether they were or were not certified.

Although neither FECA nor OWCP regulations specifically require either second-opinion or referee physicians to be licensed by the state in which they practice, OWCP officials stated that OWCP has the expectation that all physicians will have valid state medical licenses. Based on our sample of physicians, we estimated that at least 96 percent of the second-opinion physicians and at least 99 percent of the referee physicians had current

[7] We were only able to search for board certification and licensing for—and consequently only included in our sample—those physicians for whom we could identify a first and last name and an area of medical specialty from the appealed claims decisions summaries. Our estimates regarding board certification and licensing cover about 63 percent of second-opinion and 85 percent of referee physicians.

state medical licenses. For the 4 and 1 percent of the remaining physicians respectively, we did not have sufficient information to determine their licensing status.

Second-Opinion and Referee Physicians had Specialties that were Relevant to Injuries Evaluated

We also estimated that 98 percent of OWCP's second-opinion and referee physicians had specialties that appeared to be relevant to the types of claimant injuries they evaluated. While there is no specific requirement related to physician specialties, OWCP officials told us that a directory is used to select referee physicians—with appropriate specialties—to examine the type of injury the claimant incurred.

For assistance in reviewing relevancy of physician specialties, we contracted with a Public Health Service (PHS) physician. With that assistance, we were able to review our sample of claimants' injuries and the board specialties of the physician(s) who evaluated them to determine if the knowledge possessed by physicians with a specific specialty would allow them to fully understand the nature and extent of the type of injury evaluated.[8]

Several Methods Are Used to Identify Customer Concerns and Potential Claimant Fraud

OWCP uses surveys of randomly selected claimants and focus groups to monitor the extent of customer satisfaction with several dimensions of the claims program, including responsiveness to telephone inquiries. Claims examiners and employing agencies are among the inspector general's (IG) primary information sources for identifying potentially fraudulent claims. When such potential fraud is detected, the IG will investigate the circumstances and, if appropriate, prosecute the claimants and others involved.

[8] We were not able to attempt to evaluate the appropriateness of the physician's specialty in comparison to the injury for some claims because the claims decisions summaries did not contain the type of injury or the physician's specialty. We estimate that the information needed to evaluate the appropriateness of the specialty was available in the appealed claims decision summaries we used for an estimated 61 percent of second-opinion physicians and 83 percent of referee physicians.

Customer Satisfaction with the Claims Process

OWCP obtains information concerning customer satisfaction with the handling of claims through surveys of claimants and conducting focus groups with employing agencies. Since 1996, OWCP has used a contractor to conduct customer satisfaction surveys via mail about once each year to determine claimants' perceptions on several aspects of the implementation of the workers' compensation program. For example, the surveys ask claimant's about their satisfaction with overall service, as well as questions about selected aspects of the program, such as whether claimants knew their rights when notified of claims decisions, and whether or not they receive written responses to claimants' inquiries in a timely manner.[9] Because the questionnaires we reviewed did not include questions specific to the appealed claims process, it was not clear whether any respondents based their responses on experiences encountered when appealing claims.

In the 2000 survey, customers indicated a 52 percent satisfaction rate with the overall workers compensation program, and a 47 percent dissatisfaction rate.[10] The level of claimant satisfaction indicated in their responses for selected aspects of the program have been largely mixed (i.e., more positive responses for some questions and more negative responses for other questions). For example, survey responses in fiscal year 1998 showed that 34 percent of the respondents were satisfied with the timeliness of responses to their written questions to OWCP concerning claims, while 63 percent were not, and 35 percent were satisfied with the promptness of benefit payments, while 26 percent were not. Based on these and previous survey results, OWCP created a committee to address several customer satisfaction issues, including determining if the timeliness of written responses could be improved.[11]

In fiscal year 2001, OWCP took two additional steps to measure customer satisfaction. First, OWCP used another contractor to conduct a telephone survey of 1,400 claimants focused on the quality of customer service

[9] The claimants were selected on a random sample basis and the surveys were conducted in 1996, 1997, 1998, and 2000.

[10] The remaining 1 percent did not provide information on overall satisfaction level.

[11] Prior GAO testimony, U.S. General Accounting Office, *Office of Workers' Compensation Programs: Goals and Monitoring Are Needed to Further Improve Customer Communications*, GAO-01-72T, (Washington D.C.: Oct. 3, 2000) addresses deficiencies in the goals OWCP set for customer satisfaction and the evaluative data collected for measuring progress in improving customer satisfaction.

provided by the district offices. As of March 25, 2002, a contractor was still evaluating the results of this survey. Second, OWCP held focus group meetings with employing agency officials in the Washington, D.C., and Cleveland, Ohio, district offices jurisdictions. An OWCP official stated that this effort provided an open forum for federal agencies to express concerns with all aspects of OWCP service. In the Washington D.C., focus group, employing agency officials expressed their belief that some of the claims approved by OWCP did not have merit, while in the Cleveland, Ohio focus group, employing agencies expressed frustration about not being informed of OWCP claims decisions.

The DOL IG Monitors Potential Claimant Fraud

The Department of Labor's IG—using information from claims examiners and other sources—monitors, investigates, and prosecutes fraudulent claims made by federal workers. The IG's office provides guidance to claims examiners for identifying and reporting claimant fraud, including descriptions of situations or "red flags" that could indicate potentially fraudulent claims. Red flags include such items as excessive prescription drug requests and indications of unreported income. DOL's *Audits and Investigations Manual* requires claims examiners and other employees to report all allegations of wrongdoing or criminal violations—including the submission of false claims by employees—to the IG's office.

Once a potentially fraudulent claim is identified, the IG will review information submitted by the claimant, coworkers, physicians, and others. If appropriate, based on this review, the IG will also conduct additional investigations. According to the Office of the Inspector General, approximately 600,000 workers' compensation claims were filed with district offices from fiscal years 1998 through 2001. During this time, the IG opened 513 investigations of claims that involved potential fraud. Of these, 212 led to indictments and 183 resulted in convictions against claimants and/or physicians.[12]

In summary, based on our sample, one out of four initial claims decisions were either reversed or remanded upon appeal because of questions about or problems with either OWCP's evaluation of medical and nonmedical evidence or improper management of claims files.

[12]A number of the cases involved more than one claimant or physician.

While OWCP monitors and disseminates some information on BHR and ECAB remands and reversals, we believe that OWCP should examine the steps it is now taking to determine whether more can be done to identify and track specific reasons for remands and reversal and in so doing better address underlying causes. OWCP comments and our related responses are detailed in our report.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or other subcommittee members may have.

Mr. HORN. Thank you very much for that.

Now Mr. Bernard Ungar is going to testify on a different way. Mr. Ungar.

STATEMENT OF BERNARD L. UNGAR, DIRECTOR, PHYSICAL INFRASTRUCTURE, U.S. GENERAL ACCOUNTING OFFICE

Mr. UNGAR. Mr. Chairman, I'm pleased to be here today to discuss Workers' Compensation Program benefits for Postal Service Employees. I'm accompanied today by our team that worked on this assignment and is continuing to do so: Sherrill Johnson, Michael Rives, Fred Lyles, Melvin Horne, who's not here, and John Vocino. They're going to help bail me out when you give me the tough questions to answer, hopefully.

When we met with you last year, you expressed a great deal of concern about the level of service that constituents were receiving from the workers' compensation program. Since the Postal Service constitutes such a large part of this program, you asked us to focus on the Postal Service and determine to what extent Postal Service employees were getting the service to which they were entitled to. In response to that, we focused on two questions during our review. One, whether USPS employees are submitting the evidence required for an eligibility determination, and second, the time required by the Postal Service and the Department of Labor to make entitlement decisions as well as decisions for compensation and schedule awards.

Our work is still in progress. The results that we are presenting today are preliminary. They are not yet complete, we still have a great deal of analytical work to do, as well as discussions with the Department of Labor and the Postal Service officials.

In brief, we randomly sampled about 500 cases from all OWCP districts for chargeback year 1998. We found that essentially all the employees from the Postal Service did submit the required evidence eventually.

Regarding the median processing times for establishing entitlement and approving wage loss compensation payments, there are two separate processes: one for entitlement and one for compensation. The Postal Service supervisors in this case met all the requirements in terms of the time requirements for getting the claim information to OWCP.

For traumatic injuries, our preliminary data—and I want to emphasize that this data is preliminary—indicates that the median processing times for OWCP would appear to exceed the performance standards for entitlement decisions and for compensation decisions laid out in Labor's guide. We did not determine, however, the extent to which our cases that we're reporting on include those types of cases which aren't subject to the performance standard. There are two types of cases—administratively closed cases and schedule awards—that would not be counted in the time processing period. Again, because of the short time we had for the hearing, we did not have enough timeframe to go back and determine the extent to which our cases had those types of situations.

With respect to median processing times for entitlement and compensation for wage loss decisions for occupational diseases, our preliminary data indicate that OWCP met its standards for entitle-

ment decisions. However, it does not have a standard for occupational disease claims for compensation.

It's important to point out, and I want to emphasize this, that we are reporting the median times because of the shortness of time that we had to analyze the results. That means that half the cases would have exceeded the median time. Some of these cases could have been beyond program requirements or performance standards.

Finally, I'd like to mention that we have not yet had an opportunity to determine the extent to which USPS employees may have gone without income while they were waiting for payment. We plan to do so, however, as we complete our review. From the case files that we reviewed, it does appear that many have continued working, received continuation of pay for up to 45 days, or gone on paid leave. Therefore, it would appear as though many did not go without pay for the period of time they were waiting. But this we hope to get to in greater detail as we complete our review.

Mr. Chairman, that completes my summary.

[The prepared statement of Mr. Ungar follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations, Committee on Government Reform
House of Representatives

For Release on Delivery
At 10:00 a.m. EDT
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U.S. POSTAL SERVICE

Workers' Compensation Benefits for Postal Employees

Statement of Bernard L. Ungar, Director
Physical Infrastructure Issues

GAO-02-729T

STATEMENT

U.S. Postal Service

Workers' Compensation Benefits for Postal Service Employees

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to testify on the Department of Labor's (DOL) Office of Workers' Compensation Program's (OWCP) administration of the Federal Workers' Compensation Program (WCP) as it pertains to Postal Service employees. In fiscal year 2000, Postal Service employees accounted for about one-third of both the federal civilian workforce and the $2.1 billion in total WCP costs. Postal Service employees also submitted about one-half, or about 85,000, of the claims during that year to OWCP for new work-related injuries. Because U.S. Postal Service employees account for such a large portion of the WCP, you asked us to determine whether Postal Service employees were receiving the benefits to which they were entitled in a timely manner. We provided an initial response to your request on December 21, 2001.[1]

Among other things, we reported that about 7 percent of the Postal Service's approximately 901,000 total employee workforce filed an annual average of 82,594 WCP claims during the period we reviewed. Of these claims, about 88 percent were approved and about 12 percent were denied annually. We also reported that the automated file records indicated a wide variance in the time between the date of injury and (1) the date of OWCP's decision regarding the claimant's entitlement to benefits[2] and (2) the date of OWCP's first compensation or schedule award

[1] U.S. General Accounting Office, Administration of the Workers' Compensation Program by the Postal Service and the Department of Labor, (Washington, D.C.; December 21, 2001).

[2] WCP provides for payment of several types of benefits, including compensation for wage loss, schedule awards, medical and related benefits, and vocational rehabilitation services for conditions resulting from injuries sustained or occupational disease or illness contacted in performance of duty while in the service of the United States. WCP also provides for payment of monetary compensation to specified survivors of an employee whose death results from work-related injury or disease and for payment of certain burial expenses.

payment.[3] However, the automated records we reviewed did not contain the specific information we needed to identify how long it took the injured employees, Postal Service supervisors, and OWCP claims examiners to make and process WCP claims; nor did the records indicate the amount of time, if any, during which injured employees were without income while waiting for decisions regarding their claims.

For our current review, we agreed to

- determine the extent to which Postal Service employees provided all of the evidence required by OWCP regulations for establishing the claimants' entitlement to WCP benefits; and

- identify the length of time taken by the claimant, Postal Service, and OWCP, where applicable, to perform the step-by-step process to (1) establish the claimant's entitlement to benefits; and (2) subsequently apply for, approve, and make the first payments for compensation or schedule awards. Where applicable, we also compared these times to program requirements or performance standards.

We have not completed our analyses, but we are able to provide for this testimony some preliminary data on compensation for wage loss and schedule awards for injuries or diseases that occurred or were recognized as job-related during the 12-month period beginning July 1, 1997. Because our review is still in process, the data we are presenting should be viewed as preliminary. We plan to complete our data analyses, discuss the results with Postal Service and OWCP officials, and provide a final report to you later this summer.

Results in Brief

The preliminary results of our work so far indicate that the Postal Service employees covered by our review who had job-related traumatic injuries or occupational diseases almost always

[3] An injured employee can claim compensation as a (1) wage replacement benefit for lost wages, (2) schedule award if the employee has a permanent impairment to a member or function of the body, or (3) both.

provided to OWCP the evidence required to make a determination on their entitlement to benefits.[4] In about 2 percent of the cases, OWCP found that evidence was missing for one or more of the elements required by OWCP regulations. However, the length of time taken to process claims to determine a claimant's entitlement to WCP benefits or to approve or deny claims for compensation varied widely even though all of the cases are subject to the same OWCP processing standards.[5] Because of this variance, we are using the median time to report the results of our analyses to compensate for the extreme cases. The median time means that 50 percent of the cases were processed at median time or less and 50 percent of the cases were processed in more time than the median during the period covered by our review. Accordingly, 50 percent of the cases greater than the median may or may not have met OWCP program requirements or processing standards.

The preliminary data indicated the following regarding the median time to process (1) claims establishing entitlement to WCP benefits and (2) claims for compensation for wage loss and schedule awards.

Specifically, for median claims processing times for establishing entitlement to WCP benefits:

- Postal Service employees and Postal Service supervisors met the applicable time frames set forth by OWCP regulations to process these claim forms for both traumatic injuries and occupational diseases.

- OWCP claims examiners took 59 days to process traumatic injury claims after receiving the notice of injury claim forms from the Postal Service. OWCP's annual operational plan's performance standards state that this process should take 45 days for all but the most complex cases. However, our data may include "administratively closed" cases, which could

[4] WCP allows for two types of work-related injuries for which benefits and services can be claimed: "traumatic injury" and "occupational disease or illness." Traumatic injury means a condition of the body caused by a specific event or incident, or series of events or incidents, within a single day or work shift. Such condition must be caused by an external force, including stress or strain, that is identifiable as to time and place of occurrence and member or function of the body affected. Occupational disease or illness is a condition produced by the work environment over a period longer than a single day or work shift.
[5] Unless stated otherwise, calendar days are used throughout this statement.

mean that the overall processing time for these cases is overstated.[6] Prior to this hearing, we did not have time to consider what portion, if any, of our traumatic injury claims were administratively closed for any period of time, but plan to do so when we complete our data analysis. For occupational disease claims, our data showed that OWCP processed these forms within the 6- to 12-month time limit for simple to complex occupational disease cases set by OWCP's performance standards.

Regarding the median time to process compensation claims for wage loss or schedule award:

- The case files did not contain the information that would enable us to determine whether the claims for compensation were prepared and filed by the employees within the time frame set forth by OWCP regulations.

- Once a traumatic injury or occupational disease claim form for compensation was prepared and submitted to the Postal Service supervisor, the supervisor completed the agency portion of the forms and transmitted them to OWCP within the time limit set forth by OWCP regulations.

- OWCP claims examiners took 23 days to process traumatic injury compensation claims for wage loss and schedule awards. OWCP's performance standard for these claims, excluding schedule awards, state that all payable claims should be processed within 14 days, as measured from the date of receipt to date payment is entered into OWCP's automated compensation payment system. Prior to this hearing, we did not have the time consider what portion of our cases were claims for schedule awards nor their impact, if any, on the claims processing times. We plan to do so when we complete our analysis. For occupational disease claims, our data showed that upon receipt, OWCP claims examiners took 22 days to

[6] OWCP officials told us that OWCP permits certain, uncontested types of injury claims–those having medical bills totaling less than $1,500, no claims for compensation, and no potential third-party liability after payment of any outstanding medical bills–to be closed without formal adjudication to establish a claimant's entitlement to WCP benefits. If any of these factors change, then formal adjudication begins. Thus, processing time for such cases may prolong the overall processing time because of the "down time"
experienced before the claim for compensation is received by OWCP.

make the initial payment for the approved claims. OWCP did not establish an administrative performance standard for occupational disease claims.

Finally, the preliminary results of our case file review indicate that during the time between the date of injury or recognition of the disease as job-related to the date of the first compensation payment, injured employees often (1) continued working in a light-duty capacity, (2) received continuation of pay (COP)[7], while absent from work for up to 45 days, or (3) went on paid annual or sick leave until the point at which they actually missed work and their pay stopped. We have not had time to determine prior to this hearing how many, if any, employees went without income while waiting for their first compensation payment or whether annual or sick leave was restored after compensation was approved.

Scope and Methodology

Before presenting additional preliminary results, I would like to provide some information on our scope and methodology. Specifically, we are interviewing key OWCP and Postal Service officials in Washington, D.C., to discuss and collect pertinent information regarding the employees' claims for WCP eligibility and for compensation for lost wages and schedule awards. Additionally, we collected and reviewed a total of 483 Postal Service employee WCP case files located at the 12 OWCP district offices throughout the country. For the 12-month period beginning July 1, 1997, we randomly selected the claims and obtained case file records for injuries that occurred or were recognized as job-related during this period on the basis of the type of injury involved: traumatic or occupational; and on the basis of their approval or nonapproval for WCP benefits and compensation or schedule award payments. We chose this period of time because we believed it was current enough to reflect ongoing operations, yet historical enough for most, if not all, of the claims to have been decided upon. Also, in discussing the preliminary results, we generally present our analyses of claim processing times in terms of the "median" time to process cases covered by our review. This means that 50 percent of the cases were

[7] COP is a WCP benefit that is intended to provide workers income while their claims for WCP benefits are being processed by OWCP. COP is not considered WCP compensation.

processed in the median time or less, and 50 percent of the cases were processed in more time than the median.

We did our work from January to May 2002 in accordance with generally accepted government auditing standards. We have not had enough time to fully analyze all of the data we collected, including analyzing the total percentage of claims processed within specified processing standards, or to fully discuss the data with Postal Service or OWCP officials. Accordingly, we are limiting our discussion to median time intervals between the major steps in the WCP claims process up until the time of the decision on the claim and initial compensation payment. Among other things, prior to this hearing, we did not have the time to (1) pinpoint and evaluate specific problems that may have affected the time to process the cases we reviewed, (2) address issues OWCP raised on how the claims processing times might be affected by "administrative closures" or schedule awards, or (3) evaluate numerous other factors that may have affected overall claims processing. Our work has not included an analysis of any time involved in the appeal process of any claim we reviewed, nor did we evaluate the appropriateness of OWCP's decisions on approving or denying the claims. More detail about our sampling plan is presented in appendix I.

Background: Employing Agencies Partner With OWCP to Administer WCP

Although OWCP is charged with implementing the WCP, there is a federal partnership between OWCP and the employing federal agencies for administering the WCP. In this partnership, federal agencies, including the Postal Service, provide the avenue through which injured federal employees prepare and submit their notice of injury forms and claims for WCP benefits and services to OWCP. Additionally, employing agencies are responsible for paying normal salary and benefits to those employees who miss work for up to 45 calendar days, during a 1-year period, due to a work-related traumatic injury for which they have applied for WCP benefits. After receiving the claim forms from the employing agencies, OWCP district office claims examiners review the forms and supporting evidence to decide on the claimant's entitlement to WCP benefits or the need for additional information or evidence, determine the benefits and services to be awarded, approve or disapprove payment of benefits and services, and manage and

maintain WCP employee case file records. If additional information or other evidence is needed before entitlement to WCP benefits can be determined, OWCP generally corresponds directly with the claimant or the WCP contact at the applicable Postal Service locations.

Evidence Required by OWCP Regulations to Determine Entitlement to WCP Benefits Is Nearly Always Provided

OWCP regulations require that evidence needed to determine a claimant's entitlement to WCP benefits meet five requirements. These requirements are as follows:

(1) The claim was filed within the time limits specified by law.

(2) The injured or deceased person was, at the time of injury or death, an employee of the United States.

(3) The injury, disease, or death did, in fact, occur.

(4) The injury, disease, or death occurred while the employee was in the performance of duty.

(5) The medical condition for which compensation or medical benefits is claimed is causally related to the claimed job-related injury, disease, or death.[8]

Such evidence, among things, must be reliable and substantial as determined by OWCP claims examiners. If the claimant submits factual evidence, medical evidence, or both, but OWCP determines the evidence is not sufficient to meet the five requirements, OWCP is required to inform the claimant of the additional evidence needed. The claimant then has at least 30 days to submit the evidence requested. Additionally, if the employer–in this case, the Postal Service–has reason to disagree with any aspect of the claimant's report, it can submit a statement to OWCP that specifically describes the factual allegation or argument with which it disagrees and provide evidence or arguments to support its position.

[8] For wage loss benefits, the claimant must also submit medical evidence showing that the condition claimed is disabling.

According to the files we reviewed, about 99 percent of the Postal Service employees' traumatic injury claims contained evidence related to the five requirements set by OWCP regulations. About 1 percent of the traumatic injury claims were not approved, according to the case files we reviewed, because evidence was not provided for one or more of the requirements. About 97 percent of the claims filed by Postal Service employees for occupational disease claims contained evidence related to the five requirements. The remaining claims, or about 3 percent, did not include all of the required evidence. Generally, the evidence not provided for both types of claims pertained to either (1) the employee's status as a Postal Service employee or (2) whether the claim was filed within the time limits specified by law. We did not evaluate OWCP's decisions regarding the sufficiency of the information provided.

Median Processing Time to Determine Entitlement to WCP Benefits

During the period covered by our review, OWCP regulations required an employee who sustained a work-related traumatic injury to give notice of the injury in writing to OWCP using Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/ Compensation," in order to claim WCP benefits. To claim benefits for a disease or illness that the employee believed to be work-related, he or she was also required to give notice of the condition in writing to OWCP using Form CA-2, "Notice of Occupational Disease and Claim for Compensation." Both notices, according to OWCP regulations, should be filed with the Postal Service supervisor within 30 days of the injury or the date the employee realized the disease was job-related.[9] Upon receipt, Postal Service officials were supposed to complete the agency portion of the form and submit it to OWCP within 10 working days if the injury or disease was likely to result in (1) a medical charge against OWCP, (2) disability for work beyond the day or shift of injury, (3) the need for more than two appointments for medical examination/or

[9] Generally, the employee has up to 3 years from the date of the injury to establish his or her entitlement to OWCP benefits.

treatment on separate days leading to time lost from work, (4) future disability, (5) permanent impairment, or (6) COP.[10]

OWCP regulations, during the period covered by our review, did not provide time frames for OWCP claims examiners to process these claims. Instead, OWCP's operational plan for the period specified performance standards for processing certain types of WCP cases within certain time frames. Specifically, the performance standard for processing traumatic injuries specified that a decision should be made within 45 days of its receipt in all but the most complex cases. The performance standards for decisions on occupational disease claims specified that decisions should be made within 6 to 12 months, depending on the complexity of the case.

The case files we reviewed indicated that the length of time taken to process a claim–from the date of traumatic injury or the date an occupational disease was recognized as job-related to the date the claimant's entitlement to benefits was determined–varied widely. For example, we estimate that 25 percent of the claims were processed in up to 48 days for traumatic injury and in up to 78 days for occupational disease. We estimate that 90 percent of the claims were processed in up to 307 days for traumatic injury and in up to 579 days for occupational disease. Finally, we estimate that 50 percent of the claims were processed in up to 84 days for traumatic injuries and in up to 136 days for occupational disease. Specifically, Postal Service employee claims for injuries or diseases covered by our review took the median times shown in table 1 to complete.

[10] If none of these conditions exist, the employer is supposed to retain the CA-1 and CA-2 as a permanent record in the Employee Medical Folder in accordance with Office of Personnel Management guidelines.

Table 1: Median Length of Time to Process Claims to Determine Entitlement to WCP Benefits for Injuries or Diseases Recognized as Job-Related During the Period July 1, 1997, through June 30, 1998

Points in time during the process to apply for and determine entitlement to WCP benefits	OWCP regulations or performance standards	Estimated median time to complete steps
Traumatic injury		
Date of traumatic injury to date injured Postal Service employee prepared notice of injury form	30 days	1 day
Date Postal Service employee prepared notice of injury form to date Postal Service supervisor signed form		1 day
Date Postal Service supervisor signed notice of injury form to date OWCP received form	10 working days	9 calendar days
Date OWCP received notice of injury form to date of notice that entitlement to benefits has been established	45 days	59 days[a]
Occupational disease		
Date of occupational disease recognized as job-related to date Postal Service employee signed notice of occupational disease form	30 days	23 days

Date Postal Service employee signed notice of occupational disease form to date Postal Service supervisor received notice of occupational disease form		3 days
Date Postal Service supervisor signed notice of occupational disease form to date OWCP received form	10 working days	11 calendar days
Date OWCP received notice of occupational disease form to date of notice that entitlement to benefits has been established	6 to 12 months	63 days

[a] Median processing time includes time to process both claims for wage loss and claims for schedule awards.

Source: GAO analysis of OWCP data

The median elapsed time taken by Postal Service employees and Postal Service supervisors met the applicable time frames set forth in OWCP regulations. As shown in table 1, the median time taken by Postal Service employees to prepare and submit the claim forms needed to make a determination on their entitlement to WCP benefits for traumatic injuries to the Postal Service supervisor was 2 days from the date of the injury, well within the 30-day time frame set by OWCP regulations. For occupational disease, Postal Service employees signed and submitted the notice of disease form to the Postal Service supervisor in a median time of 26 days from the date the disease was recognized as job-related, or 4 days less than the 30-day time frame set by OWCP regulations. Upon receipt, the Postal Service supervisor then took up to a median time of 11 calendar days–also within the time limit of 10 working days set forth in the regulations–to complete the form and transmit it to OWCP.

Also as shown in table 1, once OWCP received the form from the Postal Service, our preliminary data showed that OWCP claims examiners processed these notice of injury forms for traumatic injuries in a median time of 59 days to determine a claimant's entitlement to WCP benefits. As mention earlier, the performance standard for these types of cases was 45 days, or 14 days less than the time our data showed. According to OWCP officials, the 59-day median processing time inappropriately included the time during which certain types of claims were "administratively closed," then reopened later when a claim for compensation was received. We plan to determine the effect to which these types of claims may have affected the processing

times as we complete our review. For occupational disease claims, the data showed that OWCP processed these forms at the median time of 63 days, which was within the 6 to 12-month time frame for simple to complex occupational disease cases specified by OWCP's performance standards.

Median Processing Time to Approve and Make First Compensation Payments

During the period covered by our review, OWCP regulations stated that when an employee was disabled by a work-related injury and lost pay for more than 3 calendar days, or had a permanent impairment, the employer is supposed to furnish the employee with Form CA-7, "Claim for Compensation Due to Traumatic Injury or Occupational Disease." This form was used to claim compensation for periods of disability not covered by COP as well as for schedule awards. The employee was supposed to complete the form upon termination of wage loss–the period of wage loss was less than 10 days or at the expiration of 10 days from the date pay stopped if the period of wage loss was 10 days or more–and submit it to the employing agency. Upon receipt of the compensation claim form from the employee, the employer was required to complete the agency portion of the form and as soon as possible, but not more than 5 working days, transmit the form and any accompanying medical reports to OWCP.

For the period covered by our review, OWCP regulations did not provide time limits for OWCP claims examiners to process these claims. Instead, OWCP's annual operational plan for the period of our review specified a performance standard for processing wage loss claims. Specifically, the performance standard stated that all payable claims for traumatic injuries–excluding schedule awards–should be processed within 14 days. This time frame was to be measured from the date OWCP received the claim form from the employing agency to the date the payment was entered into the automated compensation payment system. No performance standard was specified for occupational disease compensation claims.

The case file data showed that the processing time--from the date the claim for compensation was prepared to the date the first payment was made--varied widely. For example, we estimate that to process 25 percent of the claims, it took up to 28 days for traumatic injuries and up to 32 days for occupational disease. To process 90 percent of the claims, it took up to 323 days for traumatic injury and up to 356 days for occupational disease. To process 50 percent of the claims, it took up to 49 days for the traumatic injuries and up to 56 days for the occupational diseases. Specifically, the median times to process the claims for compensation for the traumatic injury and occupational disease claims covered by our review are shown in table 2.

Table 2: Median Length of Time to Process Claims, Step by Step, for Compensation for Injuries and Diseases, Recognized as Job-Related During the Period July 1, 1997, through June 30, 1998

Points in time to apply, review, and approve first compensation payment	OWCP regulations or performance standards	Estimated median time for steps to be completed
Traumatic injury		
Date of traumatic injury to date Postal Service employee signed claim for compensation	[a]	135 days
Date Postal Service employee signed claim for compensation to date Postal Service supervisor signed claim		7 days
Date Postal Service supervisor signed claim to date OWCP received claim	5 working days	4 calendar days
Date OWCP received claim for compensation to date of first compensation payment made	14 days	23 days
Occupational disease		
Date occupational disease was recognized as job-related to date Postal Service employee signed claim for compensation form	[a]	320 days
Date Postal Service employee signed the claim for compensation to date Postal Service supervisor signed the claim		11 days
Date Postal Service supervisor signed claim to date OWCP received claim	5 working days	7 calendar days
Date OWCP received compensation claim to date payment entered into automated compensation payment system	Standard not provided	22 days

[a] Data were not available for us to determine whether claimants filed for compensation within the time frame set forth in OWCP regulations. Specifically, the regulations provide that once entitlement to WCP benefits is established, the claimant should

submit a claim for compensation up to 10 days from the day pay stops. Prior to this hearing, we were not able to obtain the information regarding the time the claimant's pay stopped. We plan to do so and perform the analysis in our final report.

Source: GAO analysis of OWCP data.

The case files we reviewed did not contain the information that would have enabled us to determine whether the claims for compensation were prepared and filed by the employees within the time frame set forth by OWCP regulations. However, as shown in table 2, once a claim was prepared, at the median time, we found that after receipt of a claim for compensation for a traumatic injury, the Postal Service supervisor completed the agency portion of the form and transmitted it to OWCP in 4 calendar days, which was less than the 5 working days required by OWCP regulations. For occupational disease compensation claims, we found that upon receipt of the claim form from the employee, the Postal Service supervisor took 7 calendar days, which was also within the 5 working day requirement imposed by OWCP regulations, to transmit the claims to OWCP.

As also, as shown in table 2, once OWCP received a traumatic injury compensation claim form, the median time for OWCP claims examiner to process the claim was 23 days, which was longer than the 14 days specified by OWCP's performance standard--excluding schedule awards. However, our data included claims for schedule awards. As mentioned earlier, prior to this hearing we did not have time to evaluate the effect that schedule awards might have had on the median processing time. We plan to do so in our analysis for the final report. For occupational disease claims, our data showed that upon receipt, OWCP claims examiners, at the median processing time, took 22 days to make the initial payment for the approved claims. OWCP did not specify a performance standard for occupational disease claims.

Finally, our preliminary analysis of case file data showed that during the time between the date of injury or recognition of a disease as job-related, injured employees often (1) continued working in a light-duty capacity, (2) received COP while absent from work, or (3) went on paid annual or sick leave until the time they actually missed work and their pay stopped. In fact, the data showed that the median elapsed time from the date the injury occurred or the disease was

recognized as job-related to the beginning date of the compensation period was 98 days for traumatic injuries and 243 days for occupational disease claims.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you or other Members of the Subcommittee may have.

Contacts and Acknowledgements

For further information regarding this testimony, please contact Bernard Ungar, Director, or Sherrill Johnson, Assistant Director, Physical Infrastructure Issues, at (202) 512-4232 and (214) 777-5699, respectively. In addition to those named above, Michael Rives, Frederick Lyles, Melvin Horne, John Vocino, Scott Zuchorsky, Maria Edelstein, Lisa Solomon-Wright, Brandon Haller, Jerome Sandau, Jill Sayre, Sidney Schwartz, and Donna Leiss made key contributions to this statement.

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Appendix I

SAMPLE PLAN

The population from which we selected our sample reflects Postal Service employees who, as of June 30, 2001, submitted claims for compensation for lost wages or schedule awards (Form CA-7) for injuries that occurred, or were recognized as job-related, during the 12-month period beginning July 1, 1997. In order to report results for traumatic injury and occupational disease claims, and to report results on claims of both types whether compensation was paid or not, we stratified our population into the following four strata on the basis of information from the sample frame:

1. The employee filed a "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation (Form CA-1) and received payment for compensation of lost wages or a schedule award.
2. The employee filed a "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation (Form CA-1) and did not receive payment for compensation of lost wages or a schedule award.
3. The employee filed a "Notice of Occupational Disease and Claim for Compensation (Form CA-2), and received payment for compensation.
4. The employee filed a "Notice of Occupational Disease and Claim for Compensation (Form CA-2), and did not receive payment for compensation.

The size of the population in each of these four strata was 3,872; 1,232; 2967; and 873, respectively. The number of usable sample cases obtained from each of the four strata was 198, 106, 143, and 96, respectively. We initially selected somewhat higher numbers of sample cases. If we were not able to obtain the file for a particular sample case, we substituted cases from the additional randomly sampled cases.

We followed a probability procedure to obtain the 484 usable claim files in total from the four strata. Of the 543 claims files, 483 were usable (173, 97, 127, and 86 in each strata, respectively. The 95 percent confidence interval for proportion estimates of the total population was no greater than plus or minus 5 percentage points. The 95 percent confidence interval for proportion estimates applied to individual strata was no greater than plus or minus 10 percentage points. Confidence levels for other types of estimates, such as averages, medians, and totals, depended on the variability of the sample values. We used SAS and SUDAAN software to make population projections.

Mr. HORN. Well, thank you very much for that. Did you find any aspect of the Post Office not helping the people with the forms or anything else? It seemed to look like, hey, if you want to be in this organization, which is a corporation now, you ought to not be seen as having too liberal? Was there any truth to that?

Mr. UNGAR. Mr. Chairman, we didn't quite look at that issue. I think from the median timeframes, the Postal Service supervisors, at least from the cases that we sampled, seemed to process these fairly quickly. But we really didn't look at the issue of to what extent the employees would be receiving help or not receiving help from the Postal Service itself.

Mr. HORN. OK. We'll have a little more with that later.

And we will now go with Shelby Hallmark, the Director of Workers' Compensation Programs for the Department of Labor. Mr. Hallmark.

STATEMENT OF SHELBY HALLMARK, DIRECTOR, WORKERS' COMPENSATION PROGRAM, DEPARTMENT OF LABOR

Mr. HALLMARK. Thank you, Chairman Horn, for inviting us to speak about the FECA program this morning. I'd ask that my written testimony be made part of the record, I'll try to summarize briefly this morning.

Mr. HORN. All of the written things automatically go in when you start talking and summarizing.

Mr. HALLMARK. Just as an overview, I believe we are making progress in the FECA program to address a range of issues. We've been pursuing a long-term strategic plan aimed at transforming the program into a responsive customer focused service delivery system. That transformation is not yet complete, but many steps have been taken in the right direction. We're moving to a paperless environment that will reduce lost case files. We are implementing a comprehensive communications redesign effort, which includes new phones, call centers, improved surveying, etc. We are completely renovating our computer support system, that should come online next year. We are outsourcing our medical bill processing system, also expect to do that next year. And we've raised the bar on our quality index measure that is used to ensure that adjudications are done right the first time.

While we are still in the midst of all these construction projects, we hold ourselves accountable on a wide range of performance measures for timeliness, quality and effectiveness at the program and employee level. And we do that on a continual basis, as well as carrying out challenging GPRA and government-wide goals.

We've been able to maintain these performance levels during the past year, despite the loss of staff to our new Energy Employees Compensation Division, despite the impact of September 11th and the anthrax attacks. The latter caused 2,000 claims to be filed by Federal employees, and renewed our focus on the importance of this program.

We welcome the two GAO studies that have just been reported on that followed from previous discussions of this subcommittee. In general, these reports find confirmation of our view of the areas that are reviewed. We're particularly pleased with the finding re-

garding high quality medical evaluations, that system is working and improving.

With regard to the study on timeliness in the postal area, we are certainly very keen on further analysis of that type of timeframe. One or two points I'd like to make that I've got charts for this morning, and we may be able to discuss those later on in the comment period. With respect to the adjudication of new traumatic injuries, Mr. Stalcup mentioned the question of our administrative closure. This chart shows that 50th percent of the cases in the GAO study were completed in 84 days. When the short form or limited approval status is taken into consideration, that 50 percentile changes to 17 days. That's the way the system actually works. Bills are being paid. We believe that is the true measure of timeliness in this area.

Likewise on occupational disease cases, the 50 percentile data that GAO arrived at was 136 days. That is influenced very strongly by the day that the injured worker chooses as the point at which the occupational exposure occurred. If you take the date that we received the claim from Postal Service, the 50th percentile is now 59 days.

Perhaps most importantly, on the last chart here, when you talk about timeliness of wage loss claims, the 50th percentile GAO found was 49 days, clearly too long. But if you take out the complicated schedule award cases, which often take quite a long time to develop, the median time is 33 days for wage-loss cases, and OWCP's portion of that time, once we get the claim, is only 15 days, which is within our standard.

We believe that these things need to be studied further. But one area that we'd like to comment on importantly is that the Postal Service portion of this time is important to avoid wage loss between continuation of pay and the beginning of OWCP compensation.

The last report, which I'll try to summarize very quickly, talks about the remand and reversal rate. We have concerns about the findings of that report, which we've responded to GAO. We believe it underestimates the percentage of cases that result from new evidence having been produced, and therefore over-estimates the number of remands that result from OWCP errors. We also believe that the report under-estimates the level of OWCP's monitoring of these issues at present.

We believe we have an effective appellate process, both at the hearings and review level and the Employee Compensation Appeals Board. We do not believe that the remand/reversal rate of either of those bodies is excessive in light of the complex nature of the matters being reviewed, and especially at the hearings and review level in terms of the introduction of new evidence and argument, which is the primary reason for that entire process. We go into great detail in my written testimony about our concerns about that issue and I would be glad to answer further questions about it. But suffice it to say that, in our view, the overwhelming reason for remands and reversals is often the introduction of new evidence, as opposed to error in the original decisions.

Nevertheless, we will continue to review and monitor the cases that come out of our appellate process and to improve that process as GAO has recommended, and to focus on our quality index, which as I indicated before is intended to reach a correct decision in the first place, whether or not the claimant in fact appeals that decision. I would be glad to answer questions later on.

[The prepared statement of Mr. Hallmark follows:]

STATEMENT OF
SHELBY HALLMARK, DIRECTOR
OFFICE OF WORKERS' COMPENSATION PROGRAMS
EMPLOYMENT STANDARDS ADMINISTRATION
UNITED STATES DEPARTMENT OF LABOR

Before the

SUBCOMMITTEE ON
GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT, AND
INTERGOVERNMENTAL RELATIONS
COMMITTEE ON GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES

MAY 9, 2002

Opening

Mr. Chairman, Members of the Subcommittee, thank you for inviting me to appear today to discuss the status of the Federal Employees' Compensation program, and to address specific evaluations the program presented in the two recent General Accounting Office (GAO) reports. The Office of Workers' Compensation Programs has for several years now been pursuing a strategic plan aimed at transforming the program from a paper-bound, bureaucratically focused adjudication system into a responsive, customer-focused, service delivery system. While that transformation is not complete, many steps have been taken in that strategic direction, and I believe the Office has reason to be proud of our accomplishments.

The past nine months have given us a renewed sense of the importance of making sure that the FECA program is delivered effectively for injured Federal workers. Since September 11, OWCP has received nearly 2,000 claims related to the tragedies at the World Trade Center, at the Pentagon, and the subsequent anthrax exposures. Those events resulted in the deaths of 56 Federal civilian employees. Many of the workers who were physically injured or experienced psychological trauma from these events are still under care for the physical and emotional aftermath.

Our staff has a heightened sense of responsibility to fellow Federal employees and has devoted special attention and care to those who were directly impacted by the terrorist events. It is of note that many of our staff in New York City, whose building was in the quarantined area of South Manhattan and many of whom witnessed first hand the terrible events at the World Trade Center, returned to work on September 13, despite the fact that transportation to the area was shut down, the area was blocked off by police, and dust and smoke continued to flow from the collapsed towers.

These employees walked two miles from the nearest train station to get to work, not knowing whether they would be allowed to enter, to ensure that victims of the disaster and other FECA beneficiaries received the help the program is intended to provide without interruption.

OWCP staff worked hard to respond quickly to the myriad of situations and process the claims created by the September 11 attack and the subsequent anthrax exposures. The Department of Labor website was instrumental in providing up to date information clarifying FECA coverage and anthrax issues, as well as responding to rapidly changing situations and a variety of employee concerns.

OWCP has undertaken a number of major initiatives to improve its service. Increased funding for FECA in Fiscal Years 2000-2002 has permitted us to move forward on a number of fronts: electronic case file management, a series of communication system improvements, a long-term project to replace our automated claims support system, quality initiatives, and plans to outsource and centralize the handling of incoming mail and medical bill processing. Most of these efforts are still in progress and in some cases the eventual benefits of the investment has not yet been reaped. Our employees, customers, and stakeholders sometimes perceive these changes as disruptive, but we are confident that the various projects are moving the program in the right direction, and the FECA staff has done a tremendous job of maintaining current services while many of their support systems are "under construction."

Imaging and Communications

We are particularly proud of the progress made to move from a paper-driven process to an all-electronic operation. We recently implemented a contract with ACS, Inc., to receive and image almost all FECA incoming mail and this will also help reduce the anthrax related disruption to the mail. We now image letters, forms and medical bills as they are received. This means that when a program staff answers the telephone to field questions on a recent case, all the relevant documents are at his or her fingertips. Case files are always available for review and never "lost." Any question about a doctor's report or claims examiner's decision could be answered without delay or searching for the paper file in the office. Having images of all case documents on-line will also improve the timeliness and responsiveness of the appeals process.

The next major step, to be accomplished within the next 12-18 months, is the outsourcing of all OWCP medical bill processing to address certain long-standing problems inherent in the FECA legacy mainframe bill processing system. The contractor-operated system will greatly improve our ability to respond quickly and effectively to provider and claimant inquiries about bill issues, which currently comprise about 30 percent of the roughly two million calls received in our district offices each year. By removing the commercial functions involved in bill handling from the district offices, we expect to dramatically improve our staff's capacity to deliver the core services to FECA customers and stakeholders.

Our concentrated effort to improve communications and customer service began in earnest in 1999. A district office partnership group came together in 2000 to study and improve local telephone practices, and a Communications Steering Committee was formed the following year with representatives from each district to research more wide-reaching changes. With the receipt

of substantial new resources in FY 2001, we were able to accelerate the effort. During the past two years we replaced all the telephone equipment in our offices with modern systems that can route callers to both "live" and automated help, and advise managers when call queues are full. We have virtually eliminated busy signals on our main customer service lines. With these new resources, we are moving steadily toward a standard level of customer response for all 12 FECA offices. We established broad customer service goals for customer access, timely responses, courtesy and accuracy of information, and the offices are gradually improving in terms of these new measures. District offices are required to ensure that callers do not experience busy signals when contacting district offices, have access to either a live person or voice mail from 9 a.m. to 4 p.m., and receive knowledgeable, accurate and courteous assistance. Regional offices are required to submit plans on how they will meet these goals, as well as quarterly reports on the status of their performance.

As one of the recent GAO studies notes, we have expanded customer satisfaction measurement to include a baseline telephone survey of recent claimant callers to the office and focus groups of employing agency representatives, to provide further insight into how we can interact effectively with these groups. We expect to add outreach to congressional office staff and to repeat the call-back survey this year.

We have also added new information sources for callers and improved existing ones. Two toll-free information services are provided, one that gives automated information from our data bases about medical payments, compensation payments and cases statuses, and another that provides access to trained customer service representatives who give live, basic information about how to file and how to contact the district office. By calling 1-866-692-7487, injured workers and their representatives can access automated information on the Interactive Voice Response (IVR) line concerning case file status, compensation payments, bill payments, reimbursement of treatment and travel expenses, and authorization of physical therapy. Medical service providers can also access case file status and the status of the bills they have submitted for payment. Automated medication authorization and real-time electronic billing have also been implemented for pharmacies that have Internet access. Thirty-one thousand (31,000) providers and claimants use the IVR each month.

In 2001, a new district office position of Communications Specialist was created to continue the communication teams' work. Communications Specialists ensure that each office's communications practices conform to national goals and regional plans by reviewing daily reports on caller access and hold times, sampling written correspondence with regard to clarity and tone, surveying callers to determine whether issues were resolved and service was courteous, and developing improvement plans in those areas where goals are not met. The Communications Specialists also regularly sample customer satisfaction with service by calling recent callers to the office. A national office employee has also been designated as the Communications Project Leader to coordinate the efforts of these Specialists and to facilitate improvement strategies. We have also engaged a consultant firm to study our present level of service and advise us on whether our resources are deployed in the most beneficial and efficient way.

In FY 2001, we adopted better procedures and mechanisms for responding to medical authorization requests from providers and claimants. Our record this quarter is 92.8 percent of medical authorization requests answered within 3 days, while 92.5 percent of all other calls are answered within 3 days.

Our accountability review process (an intensive quality review of each district office's work by a nationally-led team) has been modified this year to include sampling to determine whether district office communications and written decisions are of good quality and written so that the claimant can understand them. The results are factored into our Quality Index, which is one of OWCP's primary measures of quality across district offices. A written communications module was added to the Basic Claims Examiner training course. Mandatory telephone training was developed for and completed by all newly hired examiners; an advanced version of this training will be delivered to experienced examiners by the end of the year.

Other service measures including timely payment/accomplishments

Meanwhile, we have worked hard to maintain basic services to customers, including timely decisions on cases, timely payment of benefits, timely action on reconsideration and hearing requests, low inventories of undecided cases, and prompt payment of medical bills. As noted above, the turbulence resulting from converting to electronic case file handling, the institution of outsourced mail handling, the impact of staff losses to the EEOICPA program, and disruption caused by the anthrax events and subsequent security measures affecting U.S. Government mail, especially in the Washington area have made maintenance of day-to-day program performance levels a challenge for OWCP staff. Nevertheless, the vast majority of OWCP's performance standards and goals continue to be met. Thanks to an active program of using nurses to help injured workers negotiate a safe return to work in coordination with their doctors and employers, we have reduced the average number of "lost production days" in serious cases from 189 days in 1997 to 163 days in the most recent quarter. In addition, we are pleased that our multi-year effort to increase the timeliness with which the employing Federal agencies submit the initial notice of injury (CA-1 or 2) and claims for wage-loss compensation (CA-7) has had some success. Since 1997, the percentage of agencies'submitting their CA-1/2 within 14 days has improved from 41 percent to 55 percent. CA-7 timeliness, measured in terms of submission within seven days, increased from 32 percent to 41 percent. Agency performance in this area is critical for OWCP to be able to provide quality services to newly injured workers, and correlates directly with the speed of return to work.

GAO Initial Findings on U.S. Postal Service FECA Claimants

GAO's review, some initial findings from which were shared with OWCP late last week, reviews the process of making initial decisions and payments to U.S. Postal Service claimants from the submission of the injury notice or claim to the OWCP decision or payment check. Although we believe that GAO's draft results are incomplete, their effort to look systematically at this important area is welcome. The final report should assist us in working with the Postal Service on our goals for timely transmission of forms and early assistance to employees so that payment delays are avoided.

In considering GAO's findings on timely adjudication by OWCP, it is important to know that in the 1980s, OWCP adopted a policy of giving limited approval to most traumatic injury cases where medical bills did not exceed $1500, the employer did not dispute the claim, and no wage loss claim was filed. This policy saves examiner's time for developing more serious or disputed claims, and permits claimants to receive Continuation of Pay (COP) and medical care for minor injuries with no delay. Cases that meet the criteria are placed in this category and recorded in the system within a day or two of receipt in the office. If a wage loss claim arrives later, the case is automatically triggered for review and adjudication by a claims examiner. This could occur long after the notification of injury, as long as the medical bills being submitted do not exceed the $1500 threshold. Meanwhile we view these cases as accepted, insofar as all claimed benefits (COP and medical care) are being provided to the claimant. Once the case is reopened and triggered for adjudication, it is tracked against OWCP's timeliness standard for adjudication of reopened cases.

Cases that are controverted by the agency, or have certain indicators prompting special handling (such as potential third-party liability) are immediately scheduled for adjudication and subject to the standard of adjudication within 45 days of receipt in the office.

The following table displays "reopened" cases and initially adjudicated cases separately, and better illustrates the timeliness of adjudicating traumatic injury claims filed by employees of the United States Postal Service between July 1, 1997 and June 30, 1998. (All tables below are based on the time period of the GAO report and should include the cases that were sampled by GAO):

TABLE 1A: Traumatic Injury Cases: Immediately Adjudicated vs. Limited Approval Cases Later Reopened for Full Adjudication.

TRAUMATIC INJURY CASES	25TH PERCENTILE	50TH PERCENTILE	90TH PERCENTILE
GAO Data (time from Date of Injury to Date of Adjudication) selected sample	**43 days**	**84 days**	**307 days**
Time from Date of Injury to Date of Full Adjudication, cases requiring immediate full adjudication.	**39 days**	**50 days**	**149 days**
Time from Date of Injury to Date of Full Adjudication, limited approval cases which reopen later for full adjudication	**45 days**	**88 days**	**306 days**

Table 1B: Traumatic Injury Cases: Limited Approval Cases Which Never Required Full Adjudication

***Time from Date of Injury to Date of Approval all limited approval cases which never required full adjudication**	**10 days**	**14 days**	**33 days**

These data were not included by GAO in their study, but represent 58 percent of all USPS Traumatic Injury claims received during the study period.

The GAO Report also reviewed the timeliness of adjudicating occupational disease claims. Like their analysis of traumatic injury claims, the GAO used the "date of injury" reported on form CA-2 as the point at which the process should be measured. Frequently this is the date on which the employee first noticed the symptoms of illness, was diagnosed by the doctor, or first attributed it to work. For instance, a Postal employee may gradually realize that he or she has sustained carpal tunnel syndrome due to continuous work over a period of years on certain machines. OWCP will capture the first date of exposure to the machines as the date of injury, although the employee may not file the claim until several months or years later. This allows OWCP to compensate the claimant for all medical care and lost time occurring from the time exposure began. GAO's report counts from this "date of injury" to the date of adjudication in their analysis, and consequently, does not accurately reflect the actual time spent processing the claim by USPS or OWCP. Our database analysis confirms GAO's time distribution for these periods. Table 2, below reports both GAO's results and the period of time from OWCP's receipt of the notice of occupational disease (CA-2) to the date of adjudication, a better reflection of OWCP's processing time, particularly at the 90th percentile.

TABLE 2—Occupational Disease: Time From Receipt To Adjudication.

OCCUPATIONAL DISEASE CASES	25TH PERCENTILE	50TH PERCENTILE	90TH PERCENTILE
GAO Data (time from Date of Injury to Date of Adjudication)	**78 days**	**136 days**	**579 days**
Time from Date Received by OWCP to Date of Adjudication	**33 days**	**59 days**	**148 days**

Perhaps most interesting is GAO's effort to study the time from a Postal employee's completion of CA-7 claims to the date of OWCP's payment of compensation. This is an area that has not been studied in detail and where we are most eager to improve responsiveness to the claimant, not only to prevent extended wage loss but because the receipt and payment of the first claim is a trigger for nurse intervention and return to work efforts.

However, not all initial claims for compensation are for wage loss. In some cases, claimants will not suffer wage loss, but will encounter some degree of permanent impairment compensable by

schedule award. Schedule awards are not payable until maximum medical improvement is achieved, although claimants often file claims prior to attaining maximum improvement. OWCP requires a special medical evaluation following American Medical Association criteria to determine the degree of impairment that is the basis of the award, and this frequently requires a second, independent evaluation, which adds time to the process. Wage loss compensation may be paid while the schedule award claim is being developed, but often the claimant is back at work and not in a wage loss status. Although data distinguishing these cases are not available at this time, schedule awards represent roughly 14 percent of cases in the GAO sample.

GAO correctly recognizes that both the employer and OWCP share the responsibility for ensuring timely payment of compensation to an injured employee. Because record keeping and other administrative tasks take time, we encourage the employer to anticipate wage loss and actively solicit the forms needed for uninterrupted payment. Our regulations at 20 CFR 10.111 provide that, when an employee is disabled by a work-related injury and loses pay for more than three calendar days, or has a permanent impairment or serious disfigurement as described in 5 U.S.C. 8107, the employer shall furnish the employee with Form CA-7 for the purpose of claiming compensation. If the employee is receiving continuation of pay (COP), the employer should give Form CA-7 to the employee by the 30th day of the COP period and submit the form to OWCP by the 40th day of the COP period. If the employee has not returned the form to the employer by the 40th day of the COP period, the employer should ask him or her to submit it as soon as possible. On receipt of Form CA-7 from the employee, or someone acting on his or her behalf, the employer shall complete the appropriate portions of the form. As soon as possible, but no more than five working days after receipt from the employee, the employer shall forward the completed Form CA-7 and any accompanying medical report to OWCP.

The draft GAO report indicates that the U.S. Postal Service, in the sample considered, is forwarding the material within four to seven days. While this would be ideal, this has not been the typical experience of OWCP. It appears that GAO has designated the period from the date the claimant signs the form until the date the Postal Service supervisor signs as delays attributable to the claimant, or a combination of the claimant's actions and those of the Postal Service. OWCP has found that this delay is more likely due to delays involving the employing agency's processing procedures, and we continue to work with USPS to lessen this period. It is vital to both avoiding interruption of the claimant's income and to the success of the re-employment process that all parties involved in claim submission proceed as rapidly as possible to ensure a proper payment result for the customer

GAO Report GAO-02-637

The GAO report "Further Actions are Needed to Improve Claims Review" (GAO-02-637) examined selective aspects of the OWCP adjudication process. Specifically,

- the extent to which OWCP is using certified and licensed physicians to provide opinions on injuries claimed and whether the physicians' areas of specialty appear to be consistent with the injuries they evaluate;

- methods OWCP uses to identify customer satisfaction and potential claimant fraud;

- the extent to which OWCP is complying with the Federal Employees' Compensation Act's (FECA) requirement to inform claimants within 30 days about the outcomes of appeal hearings; and

- the frequency and primary reasons why appealed claims decisions are reversed or remanded to OWCP district offices for additional consideration.

In three of these four areas the GAO report comments on OWCP policy and performance without arriving at recommendations for improvement.

We are pleased that in nearly all the cases in its large sample, GAO was able to positively confirm that second opinion and referee specialists are Board certified in an appropriate specialty, and that none were found to lack this credential. This is an area where OWCP has worked hard to ensure objectivity and high quality evaluations, and the finding demonstrates we have made good progress here.

The GAO report comments on some of OWCP's extensive work to improve customer services in the Federal Employees' Compensation Program and on our cooperation with DOL's Office of Inspector General to identify potential claimant fraud. As to customer satisfaction, we appreciate the GAO's recognition that OWCP has taken steps to survey customer satisfaction over the past few years, and will continue to develop and implement corrective action plans in light of the findings of those surveys.

In addition, we consider the monitoring of potential claimant fraud an essential part of the OWCP program and appreciate the acknowledgment by the GAO report that a cooperative relationship exists with the DOL's Inspector General for this purpose.

With respect to the timely delivery to claimants of appeals decisions following a hearing, we note that the report finds that OWCP has authority for its interpretation of the FECA requirement in this area (which is based on longstanding Employees' Compensation Appeals Board precedent), and that we are meeting or approximating our timeliness standards (e.g., that nearly all decisions are issued within 110 days of the hearing date) 92 percent of the time.

Remand/Reversal Rate

The one area where the report arrives at a recommendation relates to the reversal/remand rate on appeals. In summary, we believe that, due to limitations on the team's review of relevant case data, the report (1) underestimates the impact of new or newly argued evidence, (2) correspondingly overestimates the degree to which remands/reversals reflect erroneous judgement on the part of district offices, and (3) based on this misinterpretation of the data, incorrectly concludes that the OWCP process for review and remediation of errors revealed by remands/reversals is inadequate.

Hearings and Review Process

Under FECA, claimants who receive an adverse decision from the district office have an extensive array of due process rights, including three kinds of appeal: reconsideration, a hearing, or review by the Employees' Compensation Appeals Board (ECAB). Since GAO has raised questions about the quality of district office decisions and the outcomes of the appeals processes in its report and in today's testimony, I should say at the outset that we are quite proud of our hearing process (as implemented by OWCP's Branch of Hearings and Review (H&R)), and the record of due process that it demonstrates. A face-to-face hearing is scheduled by OWCP for any claimant who, within 30 days of receiving a decision from a district office, chooses that appeal option. The hearing process gives the claimant an opportunity to make his or her case in person, to add written or oral evidence to the record, to have a representative present, to call witnesses if they are judged to be relevant, to comment on the transcribed testimony and to add evidence to the record after the oral hearing is concluded. The hearing representative is obligated to make sure that the claimant understands the office's written decision and the kind of evidence that is necessary to reach a different result. Evidence may be added to the record with the request, at the hearing, or at any time thereafter until the hearing record is closed. The face-to-face hearing allows the hearing representative to assess credibility, a duty the ECAB has noted in its decisions to be of utmost importance. Thus, the claimant's testimony may be the most important element in this process.

Since medical evidence is often crucial to these decisions, is constantly evolving, and falls along a continuum of interpretation in any case, a reasonable level of remands and reversals should be expected. We believe the outcomes of the H&R process in fact demonstrate a robust and independent evaluation of cases – an effective protection of claimant rights – not a demonstration of district office "error."

It should be obvious from this brief description of the hearing process that the complete record on which the hearing examiner's decision is based is always a different and fuller record than the one available to the OWCP district office at the time of its decision. A similar principle applies with respect to the other review processes carried out by H&R staff. Both remands/reversals resulting from review of the file before hearing, and remands/reversals following a "review of the written record," often as not involve the review of evidence or argument not available to the district office.

Notwithstanding these facts, the GAO team concluded that only about 20 percent of remands/reversals relate to submission of new evidence, and found that 80 percent of such decisions reflect a finding of district office "error." However, determining the primary cause for a given H&R remand/reversal – error vs. new evidence – would require a much fuller and more nuanced review than GAO undertook, and in many cases would be subject to substantial controversy even among FECA experts. The methodology used by the GAO team in studying hearing outcomes resulted in a very partial review, and led the team to categorize as "findings of error" decisions which in fact reflected the impact of new evidence or argument. The GAO investigative team confined itself to reading only the decisions issued by the hearing examiner at the end of the process. Written decisions are generally a few pages summarizing the evidence and conclusions of law. Neither the case files nor the hearing transcripts were examined by the

GAO team, and without that context the decision itself may offer little or no help as to whether the crucial evidence was newly received, or reinterpreted by the hearing representative based on new argument.

For example, a decision by the Hearing Representative to weigh the claimant's personal testimony (submitted orally at a hearing or in writing in the appeal request) more heavily than the written statement of the employer does not necessarily indicate an error of evaluation on the part of the district office. (It is worth noting that the team apparently entirely excluded from their sample one category of remands/reversals. When a case arrives in H&R, it may already contain the crucial missing evidence that led the district office to a denial decision. Claims examiners sometimes review those files and remand the case immediately where there is no need to proceed with a hearing given the new evidence submitted following the denial. These decisions were not included in the team's sample.)

GAO also conflated remands and reversals and found that both indicated that the district office was in error. A remand does not reverse the denial and direct the examiner to pay the denied benefit. It may, for example, direct the examiner to ask further questions of the reporting physician, after which the district office issues a new decision that considers the doctor's further response. The new decision may reinstate the original denial or award the benefit. Remands for additional development far outnumber reversals. The ratio is 2 remands for every reversal for hearing decisions, and 3:1 for ECAB decisions. Since after further development, the district office may reach substantially the same decision after taking account of the new information with further case development, the validity of remands as an error indicator is further eroded.

Table 3 below provides the actual outcomes from H&R for-FY 2001. Consistent with the actual procedures we have described, all H&R decisions in which a hearing was held reflect new evidence or argument, as do better than half of the other remand/reversals. Given this analysis, and the variable ultimate outcomes of remands, we believe these data reflect a rather typical appellate outcome for a program of this type rather than a problematic error rate.

Table 3
Branch of Hearings and Review
Decisions by Disposition
Excluding Procedural Denials of Hearing,
Withdrawals and No-Shows
FY 2001

Affirmations	66.2%
Remand Before Hearing	7.3%
Reversal Before Hearing	4.7%
Remand After Hearing	10%
Reversal After Hearing	8%
Remand, Review of the Record	3.3%
Reversal, Review of the Record	3.4%

Percentages may not add up to 100% due to rounding.

Table 4
ECAB Decisions by Disposition
FY 2001

Affirm	66%
Affirm/ Remand	3.1%
Remand	14.6%
Reverse	4.7%
Withdraw/ Dismiss	11.8%
Remand for Failure to Produce Case Record	0.7%

Percentages may not add up to 100% due to rounding.

Employees' Compensation Appeals Board (ECAB)

Table 4 presents data on outcomes from the ECAB during FY 2001. The Board conducts the highest-level appellate review of FECA decisions, and is an independent body outside of OWCP. ECAB does not accept changes to the record. Even at the ECAB, however, the claimant has an opportunity to submit written arguments and/or to present oral argument. The percent of appeals reversed or remanded by the ECAB may be the closest thing to an indicator of district office oversight or error (for this reason this smaller subset of decisions – roughly one-third the volume of H&R decisions - is monitored more closely and formally by OWCP). Even here, however, the ECAB may be taking a new position on an issue that has not previously been considered, and may essentially be establishing a new interpretation of the FECA. Only a careful review of the context can determine the nature of the remand or reversal. (Even when no new ground is broken in an ECAB decision, the Board and its legal staff have the benefit of an extensive period to review the facts and legal argument in each case, as well as any pleadings or oral argument filed on behalf of the claimant or OWCP. It should not be surprising, nor is it always an indication of initial error, that in some percentage of cases, especially in complex areas of the law, the Board will arrive at a different conclusion than a claims examiner did in the first instance.) The earlier comment regarding the variable ultimate outcomes of remands (as opposed to reversals) is applicable to ECAB decisions as well.

The report characterizes four percent of cases as due to "mismanagement of claim files." This phrase is not defined, and only one example is offered, of the need to reconstruct a case because it was not forwarded promptly to the Board. (The investigators did not determine the source of the administrative problem.) With no definition and only one example, the phrase "mismanagement" appears to be unsupported. In any case, OWCP's move to a completely imaged case record will improve our ability to timely transfer files to both the H&R and the ECAB, eliminating mailing delays and the small percentage (less than one percent of ECAB decisions according to our data) of cases lost in the mail or via misfiling.

GAO's report concludes with a recommendation that OWCP reexamine the remand/reversal rate and monitor its "underlying causes." While we believe (as discussed earlier) that GAO has overestimated the contribution of OWCP error to the remand/reversal rate, we note that we already monitor board and hearing decisions and are committed to continuing and enhancing that monitoring process.

OWCP uses the outcomes of the appeals process as guides. They are carefully cataloged, disseminated, and used to extract training topics and policy advice. Staff of the Division of Federal Employees' Compensation policy branch studies every decision of the Employees Compensation Appeals Board. Precedent-setting decisions and decisions which evidence a pattern of error become the basis of FECA Bulletins, FECA procedure manual revisions, accountability review manual items, and nationally-developed training courses. Quarterly FECA Circulars summarizing important decisions and areas needing more attention are published. Managers in the Branch of Hearings and Review evaluate every decision of the Branch, give guidance to district offices when local patterns of error are detected, and report to the FECA

Director on problems and trends. Reports breaking out H&R decisions by issue, remand, and reversal rate are provided to district offices, allowing regional managers to compare outcomes across offices and utilize that information to target training needs.

Remands and reversals from H&R and ECAB are returned for action to the district office where action is required on a short time frame. They are reviewed by the District Director, or a designee, to determine whether individual mentoring of the examiner is needed. Topics that appear to have been widely misunderstood or reflect new policy or precedent are added to the agendas of local training classes.

We believe we have effective systems in place for monitoring the results of the two appellate systems and making changes to procedures and targeting training efforts to address problems and trends identified. Nevertheless, as recommended by the GAO report, we will continue to review and enhance our systems for ensuring case decision quality, including our utilization of appeals outcomes. We will also continue to focus on overall case adjudication quality - especially through our goal to increase our Quality Index as measured by our accountability review process - to assure that all claimants, whether or not they subsequently exercise their appeal rights, receive an accurate, understandable decision.

OWCP is committed to continual improvement of its processes and performance, through improved technology, balanced goal setting, measurement of timeliness and productivity, employee training, and constant attention to quality of decisions. The areas which GAO has studied, and on which this Subcommittee has chosen to focus over the years, are of paramount importance to us, as is the responsiveness and courtesy of our district office staff. We will make every effort to improve our record of timeliness and fairness in awarding benefits to injured employees.

Thank you again for this opportunity to discuss OWCP's FECA program. We are committed to improving the way FECA services are delivered to each Federal employee who is injured or incurs an occupational illness.

Mr. HORN. Thank you.

We will now move ahead to the Inspector General. That's the Honorable Gordon S. Heddell, Inspector General, Department of Labor. Please proceed.

STATEMENT OF GORDON S. HEDDELL, INSPECTOR GENERAL, U.S. DEPARTMENT OF LABOR

Mr. HEDDELL. Good morning, Mr. Chairman. Thank you for inviting me to testify in my capacity as the Inspector General of the U.S. Department of Labor.

I am pleased to address some of the management and operational concerns that my office has noted during the course of our audit, investigation and evaluation activities involving the Federal Employees Compensation Act program. I will summarize my full statement and ask that it be entered into the record.

Mr. HORN. They're automatically in once you are presented.

Mr. HEDDELL. Thank you.

Mr. Chairman, as you know, FECA is a large worker disability compensation program that serves over 200,000 claimants each year. Not surprisingly, my office receives complaints about this program from claimants, from other agencies, and from Members of Congress regarding the administration of this program. Typically, these concerns include dissatisfaction with assigned physicians, disagreement with appeals decisions, calls not being returned, and medical bills not being paid promptly. We also receive information about claimants and providers who abuse the system.

Over the years, the OIG has provided oversight of this program and has identified a number of inefficiencies, vulnerabilities, and customer service problems. It's important to note, however, that OWCP management has been responsive to our findings and that most of our recommendations to improve the program have in fact been implemented.

Because of the size of the FECA program and its potential for abuse by claimants and medical service providers, the OIG has focused its attention on identifying and investigating fraudulent claims. Over the last 4 fiscal years, for example, we have opened 513 FECA investigations. Our investigations during this same period resulted in 212 indictments, 183 convictions, and over $79 million in criminal, civil, and administrative penalties. We currently have 401 open FECA investigations.

Our audits and evaluations, on the other hand, have generally been directed toward the program's internal controls, customer service, and performance measures. For example, in September 2000, my office issued an audit report on OWCP's internal controls. As part of this audit, we conducted a cross-match of FECA roles with Social Security Administration earnings records and with State wage records to determine whether FECA claimants earned wages while receiving benefits. Among our findings was that 905 of the 27,050 claimants in our sample had total earnings of $2.9 million and that almost 5 percent of the Social Security numbers were incorrect. Unfortunately, because we did not have access to individual earnings information on the claimants who showed income, it was not possible to review their claims to determine

whether the earnings were reported or whether there was potential fraud or over-payment.

Three years ago, the OIG conducted a review of the surveys that OWCP uses to measure customer satisfaction. We concluded that OWCP's survey procedures were flawed and did not provide accurate and useful information. Our report made several recommendations in the areas of survey design, customer service measurement, sampling, response rate, and survey operations. OWCP reported that our recommendations have been incorporated into its customer satisfaction survey development process.

In another evaluation relative to customer service, the OIG reviewed some specific allegations of anti-claimant bias regarding the acceptance of initial claims for benefits, determination of benefits, and the appeals process. Our review did not confirm evidence of these allegations. Instead, we found that the agency was committed to improving service to claimants and ensuring the cost-effective administration of the program. Our recent audit of the FECA program's performance measures did in fact disclose needed improvements.

While we found that the Employment and Standards Administration had developed and implemented a strategic annual performance plan reflecting its mission, and that it had outcome-based goals, we also found that ESA needed to develop a system to identify the full cost of achieving reported performance to provide a more comprehensive picture of program accomplishments.

In my full statement, I also discuss our investigative work and a number of legislative recommendations that we believe would improve the administration of this program. In conclusion, Mr. Chairman, we consider FECA to be an important program that needs to operate as effectively and efficiently as possible. We will continue to work with the Department and the Congress to this end.

This concludes my testimony. I would be glad to answer any questions that you may have. Thank you.

[The prepared statement of Mr. Heddell follows:]

STATEMENT OF GORDON S. HEDDELL
INSPECTOR GENERAL
U.S. DEPARTMENT OF LABOR
BEFORE THE COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS
U.S. HOUSE OF REPRESENTATIVES
MAY 9, 2002

Good morning, Mr. Chairman and members of the Subcommittee. Thank you for inviting me to testify today in my capacity as the Inspector General of the U.S. Department of Labor. I am pleased to address some of the management and operational concerns that my Office has noted during the course of our audit, investigation and evaluation activities involving the Federal Employees' Compensation Act (FECA) program.

Overview of the FECA Program

As you know, FECA is a comprehensive workers' compensation law that covers some three million Federal and postal employees. It is designed to provide medical benefits, income replacement, and certain supportive services to employees receiving work-related injuries or -- in the case of death -- survivor benefits to family members. The Office of Workers' Compensation Programs (OWCP) administers FECA and is responsible for making eligibility determinations as well as ensuring that appropriate payments are made. Benefits are paid from the Employees' Compensation Fund, which primarily is funded through a system of chargebacks to the Federal agencies that employ those injured workers. The efficient and effective operation of the FECA program consequently affects the budgets and workforces of all Federal agencies. OWCP anticipates receiving an estimated 160,000 new claims this year, in addition to the approximately 56,000 cases of long-term disabled workers (and survivors) currently on its periodic rolls. This year, FECA

expenditures are expected to total over $2.2 billion.

Due to the size and importance of this injury compensation program, the OIG has devoted significant resources over the years to FECA oversight, especially in detecting and preventing fraud and abuse within the program and identifying systemic vulnerabilities. These vulnerabilities can lead to inefficiencies, loss of Federal funds, and a means by which able Federal employees can continue to collect benefits without having real incentives to return to work.

OIG's Oversight of the FECA Program

During the last twenty years, the OIG has evaluated and audited many aspects of the management and operation of FECA, enabling us to identify various weaknesses and inefficiencies that can hinder its service to its customers. As a result of these audits, investigations and evaluations, my Office has made numerous recommendations for improving this program. We are pleased to note that many of them have been implemented. Nevertheless, there are others that remain -- including several longstanding, important legislative recommendations that I will describe later in my testimony.

While we recognize that the FECA program serves more than 200,000 claimants each year, we also note that we receive complaints through our hotline and other referrals regarding OWCP. Many of these complaints concern dissatisfaction with the assigned physician, dissatisfaction with appeals decisions, complaints about calls not being returned or medical bills not being paid, and complaints about the timeliness of payments. Other contacts to our hotline provide information about individual claimants and providers who abuse the system. Mindful of these hotline complaints, as well as concerns that have been

forwarded to us directly by other agencies and Members of Congress, in the past we have reviewed some of OWCP's processes, its payment integrity, as well as aspects of its customer service.

FECA Fraud

Because of the multi-billion dollar size of this program and its potential for abuse by unscrupulous claimants and medical service providers, we have focused significant OIG resources on identifying and investigating fraudulent FECA claims. For fiscal years 1998 through 2001, for example, the OIG opened 513 investigations involving FECA. In addition, OIG investigations led to 212 indictments and 183 convictions in FECA-related cases during this period. There were also over $79 million in criminal, civil, and administrative penalties. Criminal fraud within the FECA program generally falls within three categories:

- Claimant fraud committed by individuals who are not truly injured and/or disabled as claimed or who were injured but have recovered.
- Claimant fraud committed by individuals who are not reporting, or are under reporting, their outside employment income to OWCP, which can affect their wage earning capacity and the level of benefits that are paid.
- Fraud committed by service providers -- including doctors, clinics, pharmacists, physical therapists, medical technicians, and medical equipment providers -- who have billed the Government for services that were not rendered, filed multiple bills for the same procedure, billed for non-existent illnesses or injuries, or overcharged for services.

The following OIG cases illustrate the nature of some of the our recent investigations:

- An OIG investigation disclosed that a physician and seven co-conspirators defrauded OWCP, the Texas Workers' Compensation Insurance Fund, and

private insurance companies handling personal injury and workers' compensation cases of millions of dollars. The physician -- who owned and operated several medical-related businesses in Texas, Mexico, and the Cayman Islands -- was ordered to pay over $35 million in restitution and forfeitures for his role in a scheme to defraud OWCP and the other insurance programs by submitting false and excessive billings. He also was sentenced to 14 years' imprisonment for conspiracy, five years' imprisonment for mail fraud, and two years' probation.

The physician's accountant was sentenced to eight years in prison for money laundering, five years' imprisonment for mail fraud, two years' probation, and ordered to pay $500,000 in restitution and forfeitures. The physician's brother, an attorney, was sentenced to two and a half years' imprisonment, two years' probation, and ordered to pay $383,500 for his role in the scheme.

- A former civilian carpenter for a military base in North Carolina was sentenced to a year in prison, three years' probation, and was ordered to pay over $338,000 in restitution. He had falsely reported annually that he was unable to work and that he was not working when, in fact, he had been working as a contractor in a home repair business for more than 20 years while receiving FECA disability benefits.

- A former Department of Defense firefighter must pay $113,000 in restitution after pleading guilty earlier this year to one count of wire fraud. He was indicted after an OIG investigation discovered that he had not reported his self-employment as a landscaper and snow plow operator that resulted in unreported earnings of over $150,000. The former firefighter had suffered an on-the-job injury and began receiving FECA benefits in 1997.

In addition to the OIG's investigations, my Office has conducted audits and evaluations of the FECA program. These cover internal controls, customer service, and performance measures.

Internal Controls

During the course of its annual financial audits of the Department, the OIG has found that OWCP's benefit payment computations are generally accurate. In an audit issued in September 2000, the OIG examined OWCP's internal controls and conducted

a crossmatch of FECA rolls with Social Security Administration (SSA) earnings records to determine whether FECA claimants earned wages while receiving long-term total disability compensation. Furthermore, we determined whether automated crossmatches with Federal or state wage records could assist OWCP in identifying potential claimant fraud or overpayments; and whether internal controls adequately ensured that claimant wages were detected and benefit amounts were adjusted accordingly.

We found that while 905 of the 27,050 claimants in our sample had total earnings of $2.9 million, almost 5 percent of the Social Security numbers were incorrect. Unfortunately, we did not have access to individual information on the 905 claimants who showed income, and therefore, it was not possible to review their claims to determine whether the earnings were reported or whether there was potential fraud or overpayment.

We also crossmatched the FECA rolls with Unemployment Insurance wage data from six states. We uncovered a total of 33 potential fraud cases, representing a potential cost avoidance totaling $6.1 million over 10 years.

The Department does not currently have legislative authority to conduct these routine crossmatches of data without going through a cumbersome procedure. Nonetheless, we concluded that running these types of automatic crossmatches on a routine basis could provide a cost-effective tool to ferret out dishonest claimants, which would be would be less expensive administratively than the Department's existing methods, which were largely manual, and would provide better assurance of claimants' continued eligibility. Among other things, we recommended that legislation be pursued to allow OWCP to conduct a computer crossmatch between the Social Security numbers of FECA claimants on the periodic roll and earnings reported to SSA; and to take appropriate

action, such as termination or reduction of benefits, if warranted, on all cases with earnings. *(Automated Crossmatches With SSA Would Result in Program Savings -- September 28, 2000)*

Customer Service

- An OIG review of OWCP's customer service surveys three years ago concluded that OWCP's survey procedures were methodologically flawed and therefore did not provide accurate and useful information. The report made several recommendations in the areas of survey design, customer service measurement, sampling, response rate, and survey operations. OWCP reported that our recommendations have been incorporated into its customer satisfaction survey development process. *(Review of Federal Employees' Compensation Program's Customer Service Surveys for the Employment Standards Administration -- May 17, 1999)*

- The OIG conducted a review of some specific allegations by an individual of systemic, anti-claimant bias with respect to the acceptance of initial claims for benefits, the termination of benefits or the appeals process. Our overall review, including the District Office interviews that we conducted at that time, did not confirm evidence of these allegations. On the contrary, it found evidence of a balanced commitment by the agency to both improving the quality of service to claimants and ensuring the cost-effective administration of the program. *(Review of FECA Program Administration -- July 2, 1998)*

Performance Measures

- An OIG audit of the FECA program's performance measures found that management controls over performance data reporting, appropriateness, description, and definition could be improved. Also, a system to identify the full cost of achieving reported performance, which would provide a more comprehensive picture of program accomplishment, has not been developed. However, we did find that ESA had developed and implemented a strategic and annual performance plan that reflects its mission with outcome-based goals.

> We recommended that ESA establish a performance goal for customer satisfaction that includes employing agencies. We also recommended that ESA define "lost production days," define how the quality index score is calculated, and develop written procedures describing how the goals are computed and reported. Finally, we recommended that management establish a time line for developing and placing in operation a system that links costs with performance measures and the budget. ESA generally concurred with our findings and recommendations and has thus far implemented three of our five recommendations. *(Audit of the Federal Employees' Compensation Act Performance Measures System -- March 29, 2002)*

In addition, to the FECA-related audits, investigations, and evaluations that we have already completed, we currently have 401 open investigations involving claimants and service providers. Further, we are currently planning an evaluation in OWCP focusing on an analysis of complaints received concerning FECA.

Legislative Recommendations for Improving the FECA Program

Mr. Chairman, as I indicated earlier in my testimony, the OIG is recommending several legislative changes to improve the management and operation of the FECA program. Should these legislative changes be enacted, they have the potential to reduce the number of minor continuation-of-pay injuries being reported. Furthermore, their enactment will reduce incentives within the current FECA program to getting on (and remaining on) the disabled rolls -- long after reaching an appropriate retirement age. Finally, they will provide OWCP with enhanced methods to detect and eliminate fraudulent claims or payments, and improve OWCP's ability to more effectively manage its remaining caseload. Several of our legislative recommendations address the following issues:

- Return the three-day waiting period (before FECA benefits can start) to the beginning of the 45-day continuation-of-pay process. This would require employees to use any accrued sick leave, annual leave, or leave-without-pay for that three-day waiting period, before their FECA benefits could begin.

(Should the claim be approved by OWCP, any leave used during this three-day waiting period would be restored.)

A return to the earlier (pre-1974) procedure would help to discourage the filing of so many minor claims. (Under the current process, the waiting period is at the end of the claims process, which provides no disincentive to file a claim.)

- OWCP only can access Social Security earnings information if granted permission by the claimant. Claimants who are defrauding the FECA program by not reporting their outside employment income are unlikely to willingly grant authority to access information on their earnings, especially since refusal to grant such authorization has no adverse impact on the claim.

  Granting authority to the Department to access Social Security wage records will measurably assist the Department in identifying and investigating those particular FECA claimants.

- Current FECA beneficiaries are not required to "retire" at any age. Instead, beneficiaries may remain on the disability rolls until they die. Indeed, there is a strong incentive to remain on the rolls, since FECA's tax-free benefits may be greater than either their taxed earnings from work or their Federal retirement benefits would be.

  Thus, we recommend a statutory change that would move long-term disability claimants into a form of retirement (such as through an OWCP-administered annuity program) after claimants reach a pre-determined age.

Conclusion

Mr. Chairman, as I indicated earlier, we consider FECA to be an important program that needs to operate as effectively and efficiently as possible -- both for the population that it serves, as well as for the American taxpayer. We will continue to work diligently with the Department and the Congress to ensure that this occurs. This concludes my testimony. I would be glad to answer any questions you or the other Subcommittee members may have.

Mr. HORN. Thank you.

Just let me go with one question right now. Do you have easy access to the Social Security numbers as an Inspector General? Or is there some concern where Social Security doesn't want its records made available? How does that process work for you?

Mr. HEDDELL. Mr. Chairman, the Department in fact does not currently have legislative authority to conduct what we call routine cross-matches between wage data and FECA benefits. Automated cross-matches with Federal and State wage records could greatly assist OWCP in identifying potential claimant fraud. The system as it exists right now, OWCP can only access Social Security earnings information if granted permission by the claimant themselves. Claimants who are defrauding the FECA program by not reporting their outside employment income are unlikely to willingly provide this authorization to OWCP, because it could adversely affect them if they are doing something that's illegal.

On the other hand, the policy is that denying this Social Security information by the claimant doesn't jeopardize their claim in any way at all. So yes, sir, it would be extremely helpful to have legislation in this area that would allow the Department access to Social Security Administration wage data.

Mr. HORN. Mr. Stalcup, does the General Accounting Office think that's a good recommendation?

Mr. STALCUP. Our work was not focused on that specific issue. I know that our office does have a position on that which I can definitely provide.

Mr. HORN. It makes sense to me, and we ought to give the Inspector General just that authority.

So we will now go on to our last two, and we thank you for coming, because I know it was the last minute and we appreciate your coming here. Ronald E. Henderson is Manager of the Health and Resource Management of the U.S. Postal Service. With him is Richard K. West, the General Counsel and Assistant Inspector General for congressional oversight and legal service for the U.S. Postal Service. Go ahead.

STATEMENT OF RONALD E. HENDERSON, MANAGER, HEALTH AND RESOURCE MANAGEMENT, U.S. POSTAL SERVICE

Mr. HENDERSON. Good morning, Mr. Chairman and subcommittee members. I appreciate this opportunity to share information with you about the workers' compensation program as it affects the U.S. Postal Service.

With one of the largest workforces in the United States, comprising hundreds of thousands of employees working in a wide variety of positions in post offices, mail processing facilities, administrative offices and on virtually every street in every neighborhood in the Nation, the Postal Service well recognizes the value of the Federal Employees Compensation Program managed by the Office of Workers' Compensation Programs.

The men and women of the Postal Service have historically worked through extreme weather conditions, including floods, blizzards, earthquakes and other natural calamities to deliver on the fundamental right of all Americans, no matter who, no matter where, to affordable, universal mail service. As you know, over the

last 8 months, our people have been challenged as never before. They have bravely faced the threat of bioterrorism through the mail, and in the last week, the extreme danger of pipe bombs placed in customer mail boxes across several Midwestern States.

In administering the provisions of the act within the Postal Service, it is our policy to ensure the prompt and accurate processing of all workers' compensation claims for all eligible employees. We maintain an active and far-reaching program to accomplish this. Similarly, it is our goal to provide meaningful and productive work within any medical limitation to injured workers who are able to return to work. We also work closely with the Office of Workers' Compensation Programs to find suitable work outside the Postal Service, to the extent possible, for injured employees who may not be able to return to postal duties, but who are capable of returning to the workforce in an active capacity.

While the cost of pain and suffering cannot be calculated on a monetary scale, the benefits provided to employees who become ill or injured as a result of their Postal Service employment do come with specific costs. This fiscal year, we project the compensation medical costs will reach approximately $800 million. This figure represents an approximately 11 percent increase over last year. It is a figure that has been steadily rising over the last 5 years.

It is important to place this figure in its proper framework. Our rise in compensation costs does not track similar to a rise in accidents. This fiscal year we expect that our OSHA injury illness rate will decline by at least 10 percent below last year's figures. For the same period, attrition will reduce our complement of career employees by some 20,000. This comes on the heels of a reduction of almost 12,000 career employees in 2001 and 10,000 in fiscal year 2000. A reduced accident rate involving fewer employees should reduce workers' compensation costs.

The Postal Service is very clear in its understanding of the relationship between a strong safety program and a healthy workforce. Beyond our own efforts to reduce costs through effective case management, we are grateful for the help of others. We appreciate the significant and successful efforts by the Postal Service Office of Inspector General to identify and eliminate fraudulent practices and practices by healthcare providers in connection with the workers' compensation program. Similarly, the effects of the Postal Inspection Service in pursuing fraud by claimants continues to protect the Postal Service assets.

The work of both organizations is important to maintain the integrity of a program that is so important to our employees, their families and communities. Throughout their financial recovery efforts, the Office of Inspector General and the Postal Inspection Service are minimizing the costs of this program to the households and businesses of America. After all, it is the users of the mail who ultimately pay for the program through their purchase of postal products and services.

As we have seen, our accident rate is decreasing at the same time that we are seeing a double digit increase in workers' compensation costs. Considered within the context of the overall financial condition of the Postal Service, this trend is disturbing. This year, the Postal Service is projecting net loss in the range of $1.5

billion, and this year we project a mail volume decline of 6 billion pieces, the largest in our history.

Congress and the Comptroller General of the United States, recognizing the extremely difficult financial position of the Postal Service, asked us to develop a comprehensive transformation plan. This plan addresses the actions we can take within the constraints of current legislation to protect our ability to provide universal mail service to the Nation. The plan also identified the short and long-term legislative changes needed for the continuation of a successful national postal system.

Ultimately, we believe that the American public will benefit most from a postal service that is operated as a commercial-government enterprise. While we've examined other structural models, including privatization and a return to the 1960's model of a heavily subsidized government agency, we do not believe these models best serve the interests of the Nation or provide service at a cost they will be willing to pay.

Because our transformation plan is comprehensive, it does not address in detail changes to our own internal practices and potential changes to the administration of the Federal Employees Compensation Act, though protecting interests and rights of postal employees who suffer from job related injuries and illnesses. At the same time, these changes can bring considerable relief to the dramatic upward pressure we have been experiencing in connection with program costs.

Our plan identifies the following strategies we believe can reduce injury compensation costs. No. 1, expand the preferred provider organizational program. Two, moving Federal Employees Compensation Act recipients to a FECA annuity at age 65. Three, encourage OWCP to revise regulations to permit the employer to have direct contact with the treating physician.

Four, private sector out-placement of injured Postal Service employees and the creation of new internal positions to accommodate injured workers, such as the baggage checkers positions with the Department of Transportation. Five, greater interagency cooperation to attain organizational objectives.

In summary, the Postal Service supports the objectives of the Federal Employees Compensation Act, yet we believe the elements of the act as now administered result in unnecessary costs that substantially contribute to the Postal Service's deteriorating financial condition. We also believe that many of these costs could be reduced with no harm to injured employees.

Mr. Chairman, I appreciate the opportunity to share these proposals with you today. It is my hope that my comments provide you and the members of the subcommittee with understanding of the challenges faced by the Postal Service in connection with workers' compensation costs. I'll be pleased to answer any questions you might have.

[The prepared statement of Mr. Henderson follows:]

STATEMENT OF
RONALD E. HENDERSON
MANAGER, HEALTH AND RESOURCE MANAGEMENT
UNITED STATES POSTAL SERVICE
BEFORE THE
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY,
FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS
OF THE
COMMITTEE ON GOVERNMENT REFORM
MAY 9, 2002

Good morning, Mr. Chairman and Subcommittee Members.

I appreciate this opportunity to share information with you about the workers' compensation program as it affects the United States Postal Service.

With one of the largest workforces in the United States, comprising hundreds of thousands of employees working in a wide variety of positions in post offices, mail processing facilities, administrative offices and on virtually every street in every neighborhood in the nation, the Postal Service well recognizes the value of the Federal Employees Compensation program managed by the Office of Workers' Compensation Programs (OWCP).

The men and women of the Postal Service have historically worked through extreme weather conditions, including floods, blizzards, earthquakes and other natural calamities to deliver on the fundamental right of all Americans – no matter who, no matter where – to affordable, universal mail service. And, as you know, over the last eight months, our people have been challenged as never before. They have bravely faced the threat of bioterrorism through the mail and, in the last week, the extreme danger of pipe bombs placed in customer mailboxes across several Midwestern states.

The job descriptions of letter carriers, clerks, mail handlers, postmasters and supervisors do not call for them to be heroes. Yet, that is what they are. They work to support our historic mission of binding the nation together – through good times and bad. They continue a legacy of unmatched and uninterrupted public service that goes back to the first days of our republic. They are the messengers of the rich and the poor; of the great cities and the smallest towns; of a nation that depends on daily mail service to support the economic, business, social and informational needs of its people.

Regrettably, whether through external attacks or simply during the course of their normal, everyday duties, postal employees are injured on the job. The wisdom and the foresight of Congress in enacting the Federal Employees' Compensation Act in the 20th century have ensured that injured postal and federal employees do not suffer financially as a result of those injuries or illnesses – whether through loss of pay or the costs of treatment. The Postal Service recognizes and fully supports the important protections provided to our employees by the Act.

In administering the provisions of the Act within the Postal Service, it is our policy to ensure the prompt and accurate processing of all workers' compensation claims for eligible employees. We maintain an active and far-reaching program to accomplish this. Similarly, it is our goal to provide meaningful and productive work, within any medical limitations, to injured employees who are able to return to work. We also work closely with the Office of Workers' Compensation Programs to find suitable work outside of the Postal Service, to the extent possible, for injured employees who may not be able to return to postal duties but who are capable of returning to the workforce in an active capacity.

While the costs of pain and suffering cannot be calculated on a monetary scale, the benefits provided to employees who become ill or injured as a result of their Postal Service employment do come with specific costs. This fiscal year, we project that compensation costs will reach approximately $800 million. This figure represents an 11 percent increase over compensation costs of $731 million in fiscal year 2001. It is a figure that has been steadily rising over the last five years.

It is important to place this figure in the proper framework. Our rise in compensation costs does not track a similar rise in accidents. Quite to the contrary. This fiscal year, we expect that our OSHA injury/illness rate will decline by at least 10 percent below last year's figures. For the same period, attrition will reduce our complement of career employees by some 20,000. This comes on the heels of a reduction of almost 12,000 career employees in 2001 and 10,000 in fiscal year 2000. A reduced accident rate involving fewer employees reduces workers' compensation costs.

The Postal Service is very clear in its understanding of the relationship between a strong safety program and a healthy work force. And, beyond our own efforts to reduce costs through effective case management, we are grateful for the help of others. We appreciate the significant and successful efforts by the Postal Service's Office of Inspector General to identify and eliminate fraudulent practices and charges by health care providers in connection with the workers' compensation program. Similarly, the efforts of the Postal Inspection Service in pursuing fraud by claimants continue to protect Postal Service assets.

The work of both organizations is important to maintaining the integrity of a program that is so important to our employees, their families and their communities. And, through their financial recovery efforts, the Office of Inspector General and the Postal Inspection Service are minimizing the costs of this program to the households and businesses of America. After all, it is the users of the mail who, ultimately, pay for the program through their purchase of postal products and services.

As we have seen, our accident rate is decreasing at the same time that we are seeing a double-digit increase in workers' compensation costs. Considered within the context of the overall financial condition of the Postal Service, this trend is disturbing. This year, the Postal Service is projecting a net loss in the range of $1.5 billion. And this year we project a mail volume decline of six billion pieces – one of the largest in our history.

Significant reductions in staffing and workhours, the postponement of other expenditures and the early implementation of a rate increase will help us to keep this year's loss as low as possible. This will be our third consecutive year of net losses.

Congress and the Comptroller General of the United States, recognizing the extremely difficult financial position of the Postal Service, asked us to develop a comprehensive Transformation Plan. The Plan addresses the actions we can take within the constraints of current legislation to protect our ability to provide universal mail service to the nation. The Plan also identified the short- and long-term legislative changes needed for the continuation of a successful, national postal system.

Ultimately, we believe the American people will benefit most from a Postal Service that is operated as a commercial government enterprise. While we examined other structural models – including privatization and a return to the 1960s model of a heavily subsidized government agency – we do not believe these models would best serve the interests of the nation or provide service at costs it would be willing to pay.

Because our Transformation Plan is comprehensive, it does address, in detail, changes to our own internal practices and potential changes to the administration of the Federal Employees' Compensation Act that will protect the interests and rights of postal employees who suffer from job-related injuries and illnesses. At the same time, these changes can bring considerable relief to the dramatic upward pressure we have been experiencing in connection with program costs.

Our Plan identifies the following strategies that we believe can reduce injury compensation costs:

1. **Expand the Preferred Provider Organization Program**

   The Postal Service believes that significant cost reductions can be achieved by expanding the preferred provider organization (PPO) program with First Health throughout the organization. First Health, through its hospital and physician network, is able to reduce medical fees below what those of OWCP scheduled fees. This effective relationship is now operating in areas served by four of the OWCP's twelve district offices. It presently reaches 50 percent of our injured employees. The program will be expanded nationwide by July 1, 2002.

   This is a powerful example of the results that can be achieved through joint cooperation with OWCP

2. Moving Federal Employees' Compensation Act recipients to FECA annuity at age 65

Employees who receive benefits through OWCP receive either two-thirds or three-quarters of their basic salary, based on their dependent status. In many cases, these compensation payments can be as much as 25 percent more than what the employee would receive in comparable retirement payments through the Office of Personnel Management.

For example, if we compare two individuals at the same pay grade (EAS-13), one receiving workers' compensation payments and one who selects optional retirement from the active workforce, we find a disturbing disparity. Over a ten-year period, the retired individual, receiving a monthly annuity payment through the Office of Personnel Management, would receive $185,000 less than the other employee, who is otherwise eligible but who chooses not to retire and continues to receive compensation payments through OWCP. And, for the individual in the latter category, an annuity based on a higher earnings history results in a higher survivor annuity. This disparity in payment actually serves as a disincentive to retire, driving up workers' compensation costs for the Postal Service.

The Postal Service needs relief in the form of a Federal-Employees'-Retirement-Act-managed retirement program. It would provide the same payments, and present the Postal Service with the same costs, as those provided through the Office of Personnel Management. Such a program would cover all present and former Postal Service employees over the age of 65 and who are on the compensation rolls of OWCP.

Similarly, a payment disparity exists for the same two employees in the years before retirement. If the injured employee began receiving compensation benefits in 1993, a conservative estimate shows that payments would have exceeded the salary of the working employee by 1997.

3. **Encourage OWCP to revise regulations to permit the employer to have direct contact with the treating physician**

Prior to January 1999, the Postal Service had the ability to contact an injured employee's treating physician directly – either by telephone or in person. That immediate and interactive contact gave postal managers the opportunity to explain limited duty assignments, respond to questions, and discuss and offer options to accommodate injured employees who, if they were unable to perform their regular jobs, might be capable of performing other productive duties within any physical limitations. This personal interaction also helped to reduce paperwork and some associated medical costs.

Changing this regulation to again permit direct access to the treating physician would assist the injured employee in a speedy – but safe – return to the work environment, if warranted.

4. **Private sector outplacement of injured Postal Service employees and the creation of new internal positions to accommodate injured workers.**

Under certain conditions, FECA regulations call for outplacement of rehabilitated, injured federal employees to positions in the private sector. OWCP supervises this activity through its Vocational Rehabilitation Program. It is the Postal Service's responsibility to identify injured

employees whose medical condition will not permit them to return to work in postal positions and begin to initiate the rehabilitation process.

As noted earlier, the Postal Service is proceeding with a major reduction in career positions. Some 40,000 positions will have been eliminated from fiscal year 2000 through the end of fiscal year 2002. This, combined with the continued deployment of automation equipment, severely reduces the number of available assignments for all employees – whether injured or not.

The Postal Service is quickly approaching a situation in which there will no longer be sufficient positions to accommodate injured employees, which could require the outplacement of a larger number of injured employees. Unfortunately, the existing rehabilitation process is lengthy. It involves conducting vocational testing to establish a wage earning capacity and a training program that can last from 90 days to two years. We believe injured employees can be served better through an accelerated rehabilitation process that will expeditiously outplace injured employees in private sector positions.

5. Interagency cooperation to attain organizational objectives

The role of the Postal Service is vastly different from that of the Office of Workers' Compensation Program. However, the Postal Service is dependent on the activities of OWCP to support its role in connection with providing necessary services for injured employees.

There can be occasions, however, in which the goals of the two organizations may – through no conscious design – conflict. One example is the FECA program objective of speed in processing compensation claims and medical bills. While this is an enviable goal and one that the

Postal Service fully supports, it has been found to result in unnecessary costs and administrative burdens for the Postal Service.

Accordingly, we propose an initiative with OWCP to develop joint strategies that support the achievement of both organizations' goals without undue expense or program delay for either party. Success in this area could result on payment of claims in a timely manner, with the reduced possibility of duplicate payments and unbundling of medical expenses.

In summary, the Postal Service fully supports the objectives of the Federal Employees' Compensation Act. While it remains our goal to continue to provide a safe and healthy workplace for all of our employees, we are pleased that the provisions of the Act provide for the medical care and financial needs of employees who experience job-related illnesses or injuries.

Yet we believe that elements of the Act, as now administered, result in unnecessary costs that substantially contribute to the Postal Service's deteriorating financial condition. We also believe that many of these costs can be reduced with no harm to injured employees.

Other strategies, such as changes to the "three-day waiting period," which are now the subject of much discussion throughout the government, also offer the potential for savings, not only for the Postal Service, but for all federal agencies. We encourage continuing dialog on this subject.

Mr. Chairman, I appreciate the opportunity to share these proposals with you today. It is my hope that my comments provide you and the member of the Subcommittee with an understanding of the challenges faced by the Postal Service in connection with workers' compensation costs.

I would be pleased to answer any questions you might have.

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Mr. HORN. Mr. West.

STATEMENT OF RICHARD WEST, GENERAL COUNSEL AND ASSISTANT INSPECTOR GENERAL FOR CONGRESSIONAL, OVERSIGHT AND LEGAL SERVICES, U.S. POSTAL SERVICE

Mr. WEST. Good morning, Chairman Horn. I appreciate the opportunity to discuss the work of the Office of Inspector General regarding the administration of the Postal Service's Workers' Compensation Program.

In my statement, I will highlight our efforts to help the Postal Service identify better ways to administer its program. Our office is particularly interested in giving postal employees the assistance they need and helping postal management control costs. As you know, the Postal Service's financial condition is getting worse. Since 1998, their workers' compensation costs have increased by 29 percent.

Controlling these costs is a major concern, but so is the health and safety of postal employees, particularly in light of the recent anthrax attacks, where two postal employees died, others were infected and thousands exposed. Concerns about this threat continue, but as shown by the recent discovery of pipe bombs in mail boxes, postal employees risk their health and safety on a daily basis. Sadly, these injuries can result in significant costs to both employees and the Postal Service.

Turning to the work we have performed since our inception in 1997, we have already initiated over 100 investigations involving healthcare fraud, as well as a number of audits of Postal's efforts in the workers' compensation area. We also have a hotline through which employees can report concerns about the program.

Perhaps our biggest challenge in performing audits and investigations in this area is the outdated, manually driven processes used to track and manage the program. Until these processes are automated and streamlined, it will be difficult for us to perform effective oversight.

Generally, our work falls into two categories. The first is program administration. As you would expect, with so many employees in so many places, some managers and supervisor do not handle workers' compensation claims appropriately, regardless of senior management's best efforts.

For example, in response to a congressional request, we found that an employee who was struck by a postal vehicle on postal property and dragged outside that property was denied the opportunity to file an injury compensation form until approximately 1 year after her injury. Local postal management originally refused to provide her with the form, stating that they did not consider the accident to have occurred on postal property. Fortunately, in the course of our work, postal management provided her the necessary form and processed her claim.

The second category of our work is in controlling costs. One way to do so is to prevent and detect fraud by medical providers. For example, we participated in a multi-agency undercover investigation that resulted in the debarment of six physicians from providing services to the Office of Workers' Compensation Programs. Specifically we identified fraudulent billing and payments for postal

employees who were treated at medical clinics operated by these physicians. This fraud also involved billings for non-existent or ghost patients.

One of the most effective ways to reduce workers' compensation claims is to ensure the health and safety of postal employees. For example, one audit disclosed unsafe conditions in a post office, including fire hazards and falling debris. After viewing our video report, I could not imagine anyone would ask an employee to work under these conditions. When we showed this video report to senior management, they took immediate corrective action.

To improve program administration, employees must feel free to contact us to report fraud, waste, abuse or mismanagement without fear of retaliation. Since our inception, we have worked to improve protections because postal employees are not covered by the Federal Whistleblower Act.

Finally, we are excited about our partnership with the Department of Labor Office of Inspector General to look at ways we can work together to address the crucial issues facing the workers' compensation program. We believe our combined efforts will result in program improvements at the Postal Service and throughout the Federal Government.

Thank you for the opportunity to testify before the subcommittee. And I welcome any questions.

[The prepared statement of Mr. West follows:]

Statement of

Richard West, General Counsel and Assistant Inspector General

for Congressional, Oversight and Legal Services

United States Postal Service

Before the

House Committee on Government Reform

Subcommittee on the Government Efficiency, Financial Management

and Intergovernmental Relations

May 9, 2002

Chairman Horn and Members of the Subcommittee, I appreciate this opportunity to discuss the work of the Postal Service Office of Inspector General (OIG) on the Postal Service workers' compensation program administration. In this testimony, I will discuss OIG efforts to help the Postal Service identify ways to better administer its workers' compensation program so that postal employees receive needed assistance and to control escalating costs to ensure the viability of the program. With your permission, I would like to submit my full statement for the record.

With over 850,000 employees, the Postal Service represents the largest participant in the federal workers' compensation program and accounts for approximately one third of the total federal workers' compensation costs. The Postal Service accounted for approximately $731 million of the $2.1 billion expended by the federal government for workers' compensation in FY 2001. This is a

considerable expense for an agency that recorded a $1.7 billion net loss in FY 2001 and expects to lose approximately $1.5 billion in FY 2002. Because of the current financial position of the Postal Service, controlling workers' compensation costs is a high priority for Postal Service management.

Since 1998, annual Postal Service workers' compensation costs have increased by 29 percent from $567 million to $731 million. Unlike other federal agencies, these costs are paid from postal revenues and directly impact the Postal Service's net income. Many external factors that are beyond the control of the Postal Service have contributed to these escalating costs, including the high cost of prescription drugs; new, expensive medical procedures; and the aging of the Postal Service workforce. Additionally, the processing and delivery of mail remains a labor-intensive operation highly susceptible to workplace injuries. Because of these factors, the Postal Service faces a significant challenge to contain workers' compensation costs. These costs have been a contributing factor in the deteriorating financial condition of the Postal Service.

As a result of the Postal Service's financial condition, the General Accounting Office placed the Postal Service on its high-risk list. To respond to the issues presented, the Postal Service published a Transformation Plan, which was delivered to Congress in April. The plan includes a strategy containing many proposals to reduce workers' compensation costs by amending the Federal Employees'

Compensation Act. We are in the process of evaluating the plan to determine what assistance we can provide.

The health and safety of postal employees must be of paramount importance to postal management. Workplace safety has always been a concern, but at no time in its 200-year history has the concern been so great as when our nation's postal system was contaminated with anthrax in the fall of 2001. Two postal employees died, others were infected, and thousands were exposed. Fortunately, there have been no other bioterrorist incidents, but concerns remain about the long-term effects of anthrax medications, as well as the constant fear of another bioterrorist attack. This past weekend yet another threat arose — pipe bombs in rural mailboxes. Sadly, this presents yet another danger to the health and safety of postal employees. Unfortunately, this could also increase in the Postal Service workers' compensation costs.

The Postmaster General has demonstrated leadership in protecting the health and safety of postal employees during the anthrax crisis. He publicly stated: "The safety and health of our employees is our foremost concern . . .. We absolutely do not want to risk placing any postal employees in danger. By assuring the safety of our employees, we can assure the safety of our customers." We will continue to monitor and independently report on progress in this area to ensure the Postal Governors and Congress know what is being done to protect employees.

Before we discuss our efforts in the workers' compensation area, we would like to point out that performing audits or investigations in this area is extremely difficult because both the Postal Service and the Department of Labor use antiquated and manually driven processes to track and manage their programs. Until the processes are automated and streamlined, effective oversight of the program will be difficult, at best.

The OIG uses a variety of methods to obtain information about the Postal Service's administration of the workers' compensation program. One method used is the OIG Hotline, which provides a vital and confidential communications link between the OIG and individuals who contact the Hotline to report allegations of fraud, waste, abuse, and mismanagement. Since our inception in 1997, we have processed 355 Hotline allegations about the Postal Service workers' compensation area. The OIG also has responded to numerous Congressional inquiries about the Postal Service workers' compensation program. We analyze these allegations and inquiries to identify systemic issues in the workers' compensation area as well as, on occasion, looking at individual complaints.

Our analysis of systemic trends helps us to plan audits to address issues related to the Postal Service's administration of its workers' compensation program. Our audits in this area have resulted in improvements in medical privacy, controlling costs, and timely processing of injury claims. In addition to conducting audits, the OIG

investigates allegations of fraud involving healthcare providers who are paid by the Postal Service for medical services rendered to postal employees. To date, the OIG has initiated over 100 investigations involving healthcare fraud. In addition, the Inspection Service, a management arm of the Postal Service, has the responsibility for investigating alleged workers' compensation fraud committed by employees.

The results of OIG's work fall into two categories: program administration, and controlling costs and combating fraud.

Program Administration

With so many employees in so many places, some managers and supervisors do not handle workers' compensation claims appropriately, regardless of senior postal management's best efforts. The following examples, although isolated, illustrate our point. Further, in each of these cases, our involvement resulted in postal employees receiving needed assistance.

- In response to a Congressional request, we found that an employee who was struck by a postal vehicle on postal property and dragged outside the property was denied the opportunity to file an injury compensation form until one year after her injury. Local postal management originally refused to provide her the

form, stating they did not consider the accident to have occurred on postal property. As a result of our inquiries, postal management provided her the necessary form and processed her claim.

- As a result of a Hotline allegation, we reviewed the timely submission of injury claims at one of the Postal Service's 85 districts. We found that postal supervisors did not submit injury claim forms a timely manner to the Postal Service workers' compensation processing system for one-third of 703 injury claims we reviewed. Untimely submission can adversely impact employee morale and delay benefit payments. Management's proposed acceptable corrective actions.

- During the course of other audit work, we found the Postal Service was misusing and not safeguarding confidential medical information contained in workers' compensation files. In some instances, these were psychiatric records. We found that this information was used against employees in unrelated administrative actions. As a result of OIG work, the Postal Service has taken steps to ensure that proper procedures are followed and employees' privacy is maintained.

Controlling Costs and Combating Fraud

Controlling workers' compensation costs is not only beneficial to the Postal Service, but also ensures the viability of the program on which employees rely. The following examples illustrate our point. Further, our involvement helped preserve the integrity of the program and combat fraud.

- We estimated that overpayments totaling almost $1 million had not been properly credited to the Postal Service's account in 2 of the 10 Postal Service Areas. We determined this was caused by a lack of coordination between the Department of Labor and the Postal Service. As a result of our work, the Postal Service initiated actions to follow-up on previously identified overpayments postalwide, and to ensure that the appropriate credit is received. As you know, unlike other federal agencies, these claims are paid from postal revenues and directly impact the Postal Service's net income.

- We participated in a multi-agency undercover operation that resulted in the debarment of six physicians from providing services under the Office of Workers' Compensation Program. Specifically, the OIG assisted in identifying fraudulent billings and payments for Postal Service employees who were treated at medical clinics operated by these physicians. This scheme also involved billings for non-existent, or "ghost," workers.

- During an investigation, the OIG identified fictitious doctors who billed insurance companies on behalf of postal employees

without their knowledge, and also attempted to file fraudulent workers' compensation claims on behalf of Postal Service employees. As a result, we have expanded these investigations nationwide and are working with the Department of Labor OIG to identify and prosecute fraudulent providers.

Commitment to Postal Employees

One of the most effective ways to control costs in the workers' compensation area is to ensure the health and safety of employees. The OIG has performed work in the following areas to improve workplace safety and reduce employee injury.

- An OIG review, originating from a Hotline complaint, found that local Postal Service management at a processing and distribution center did not promptly cease operations of unsafe mail processing equipment or warn employees of safety hazards. As a result, employees were exposed to potential hazards including electrical shock and fire. Subsequently, Postal Service management issued a directive to all districts reemphasizing the importance of complying with Postal Service safety policies.

- A Hotline allegation resulted in an OIG audit that disclosed unsafe conditions in a postal facility including: electrical and fire hazards, deteriorating lead-based paint, falling debris from ceilings, an unsafe water supply, antiquated electrical systems,

and a lack of fire suppression and working alarm systems. We found that the facility was considered a low priority to receive renovation funds even though postal management was aware of the health and safety issues that may have resulted in risk of injury and increased liability, including workers' compensation costs As a result of this audit, management took proper corrective action.

- Acting on information received from a Hotline source, OIG reviewed structural deficiencies at a renovated postal facility and found that the roof posed a potential safety risk and required immediate attention. It was determined that the roof could not support the design load and that any additional weight or stress brought onto the roof by snow, rain, or wind could result in its collapse. As a result, management took immediate action to temporarily relocate the employees, and thus avoided significant potential injury to employees and related workers' compensation liability.

As illustrated by many of our previous examples, it is imperative that postal employees feel free to contact the OIG to report waste, fraud, abuse, or mismanagement of the workers' compensation program without fear of retaliation from management. Since its inception, the OIG has worked closely with the Postal Service and Congress to address this issue. The OIG is working with the Postal Service to enhance whistleblower protection for all postal employees and to

make it similar to federal government employee safeguards under the Whistleblower Protection Act.

The past few months have brought a renewed interest by the Bush administration in controlling workers' compensation costs. We look forward to working with the Department of Labor OIG to address program improvements and to prevent and detect fraud, waste, abuse, and mismanagement. In addition we are continuing to work with postal management to identify program areas where we can be of assistance.

As we have seen in the past 6 months, the challenges to the Postal Service and its workers' compensation program continue to change. Therefore, it is essential that the Postal Service continuously improve the program so that it can respond quickly and efficiently to provide benefits to injured employees. The OIG will continue to be an independent voice to monitor that the workers' compensation program is fairly administered and cost effective, and to prevent and detect fraud, waste, abuse and mismanagement.

Thank you for this opportunity to testify before the Subcommittee.

Mr. HORN. Well, thank you. I did see that 1 year bit in No. 7, I think, on your page. When that was discovered, did you feel that the people in the regions that have responsibilities for this, as well as the central aspect of administration, have a lot of faith in the Postmaster General? I just couldn't believe that somebody would get away with that. Don't give them any forms. I mean, that's just crazy.

Do you feel that's now going through the administrative hierarchy of the Postal Service? Did they get the message?

Mr. WEST. We found this to be an isolated example. We have no indication that there's any kind of systemic problem. Like I said in my testimony, whenever we bring issues to senior postal management, we found them very responsive to take corrective action.

Mr. HORN. Does the General Accounting Office, now that they've heard all this, have any thoughts on it?

Mr. STALCUP. I would like to take a moment, Chairman Horn, to talk about OWCP's disagreement with our report and testimony. Again, in the aspect of the report with which they disagree, one of their primary assertions was that we overstated the number of cases that were remanded for reasons other than new evidence, and therefore understated the amount of remands and reversals related to new evidence being introduced.

OWCP adds in its response to our report that the BHR summary decisions that we looked at, as well as other information, were not adequate for us to make that conclusion. We disagree with that. To determine the specific reasons, as we were asked to do by you, for remands and reversals, we carefully reviewed decision summaries for BHR appeal decisions and published decisions by the ECAB. These documents are those that are used to notify the claimants of the reasons for the remands and reversals. Those reasons were very clear to us upon our examination.

For example, when an item was reversed or remanded because of new evidence being introduced, the common phrase used was "because claimant submitted relevant and pertinent evidence not previously considered by this office." This occurred in 6 percent of the cases that we reviewed. The reasons for other reversals and remands were equally clear, and it was for other than new evidence being introduced.

OWCP also believes that we inappropriately completed our analysis of remands and reversals. Again, we disagree. Our report distinguishes clearly between a remand, which may or may not result in a reversal, and a reversal, which is actually a changed decision. In categorizing reasons for all remands and reversals, as we were requested to do, using such a combined indicator is entirely appropriate.

A couple other quick points. OWCP states that we have concluded that their process is inadequate. That's not the case. OWCP is doing a number of things well. We offer some ideas that we believe they might consider in determining whether additional information can be identified that would better enable them to address the current remand and reversal rate and get at some of those underlying causes.

Finally, OWCP points out that the BHR process is an effective protection of claimant rights. We couldn't agree more. Our concern

is the appeals process becoming a point of reliance on their part to ultimately arrive at a correct decision.

Mr. HORN. Mr. Ungar.

Mr. UNGAR. Mr. Chairman, I'd just like to point out that from the Postal Service's perspective, and this certainly probably applies to other agencies, although maybe not to the same extent as was indicated by the Postal Service witnesses, the Postal Service is in a very difficult financial situation, with increasing losses over the last couple of years. And it faces very significant liabilities.

With respect to the Workers' Compensation Programs, we were surprised the other day to hear that while the total program costs for the Postal Service was about $1 billion last year, this year they're estimating it could go as high as $1½ billion, which is a huge increase.

So the Postal Service, as well as other agencies, has this balancing act to, on the one hand, assure that the employees get the services to which they are entitled, and on the other hand, to make sure that the program costs are controlled. So to the extent that issues are raised in terms of the framework for the program and the ability of agency officials like Inspector Generals to have access to the necessary information to do thorough reviews, I think we would certainly support those kinds of assessments and action where appropriate on those kinds of issues.

Mr. HORN. Well, I would think that the whole purpose for the workers' compensation in labor is to get it in one place for the whole executive branch and should we change it? In other words, if you have so many problems in the Postal Service or Defense or wherever, which is where I think most of them are, where should they be?

And that would probably have much more attention if some of the larger departments had to put their own budget and get a nick out of it to pay these claims. Have you taken a look at that thought?

Mr. UNGAR. Well, they do pay the claims, Mr. Chairman. The agencies reimburse the Department of Labor for the cost of the program as well as for the administrative costs. So it's not a question of the agencies not paying. Because they do do that. It's a question, I think, of making sure that only those people who are entitled, are actually receiving the benefits and maybe even taking a look at the benefit structure to determine whether, given what the situation is today, it's still appropriate in all cases.

Mr. HORN. Well, how about it, Mr. West, Mr. Henderson? Would you like to have the whole program in the Postal Service?

Mr. HENDERSON. That appears to be my question, I suspect. Would we like to run our own program, Mr. Horn?

Mr. HORN. Right. You were made as independent as we could.

Mr. HENDERSON. I think we would welcome the challenge and the opportunity if it was presented to us. However, that shouldn't be construed as an indictment against the present administration at OWCP. Because I believe that they are running the program at a highly professional level, given the structure and the laws that they're running within.

Mr. HORN. OK. Any other thoughts, Mr. West?

Mr. WEST. It probably would give us some more work, but other than that, we have not looked at the issue. So we really don't have any comment on it.

Mr. HORN. Well, take a look at it, and we'll have a little space in the hearing record to see what you think about it.

Mr. WEST. We will do that.

Mr. HORN. OK. Now, Mr. Hallmark, you've heard all the testimony. Would you like to add something to the record as to whether you don't like what you heard or did like what you heard. [Laughter.]

Mr. HALLMARK. As I said earlier, we are appreciative of GAO's investigating these issues, because they are complex and deserving of study. I think in both cases the reports were undertaken and completed in a very short timeframe. There are reasons why that becomes a difficulty that leads to some of, I think, the disagreement issues.

If I could just respond very briefly to Mr. Stalcup's comment. I think we do have an underlying disagreement with regard to the methodology they used in evaluating especially our hearing and review cases. They looked at the decisions, as he's indicated, they read the decision with respect to the reasoning presented in the decision for an overturn, for a remand or reversal.

But the writer of those decisions is not focused on making a determination as to what the cause necessarily was in terms of whether it was OWCP's original error or a reinterpretation of the evidence or new evidence. They may specify, as in some cases, apparently 6 percent of the sample, that there was new evidence presented.

But in every hearing case, there is always a fuller record, because the individual claimant has a right to go and persuade the hearing representative about the evidence that's already before him or her. That interpretation of what the claimant presents in terms of, for example, credibility, is something that goes into the hearing representative's decisionmaking. While there may or may not have been new evidence adduced in that particular case, the hearing representative is in fact influenced by what has been presented by the claimant directly. That's why we have the process.

So we would argue that even though the decision itself might not say the reason why this case is being remanded is because I believe, on hearing what the claimant's argument is, that the district office didn't fully interpret the claimant's position properly, in fact, that is what's going on in many of these decisions. So the 25 percent number that Mr. Stalcup has presented we believe is just not accurate.

But in general, I would say that especially with regard to the timeliness measures that Mr. Ungar reported on, we think it's very important that those issues be addressed and that the full timeframe from when the individual is injured to when the process is completed be looked at and analyzed in all its different parts. We look at our data, including the data I presented in my chart, we look at that data very, very closely.

If I could point out, the data that GAO is reporting on is a 500 case sample. The data I have presented is every single case presented by the Postal Service during the year that was being stud-

ied. So in the case of traumatic injuries, that was 64,688 cases. We capture every single event. That's the level of detail we go to, because we are very, very focused on making this thing happen quickly.

Mr. HORN. Could you explain that in the title up there, the CA–7, is that California something?

Mr. HENDERSON. I know that is your home State, sir. That is a claim form number which dates probably from around 1960. I'm not sure exactly what the CA stands for. But the CA–7 is the form that's filed by the individual once they have a need for wage loss compensation, after, typically they have been receiving continuation of pay from the Postal Service. This is the point at which interruption of income can occur.

If the Postal Service is paying continuation of pay, we are meanwhile paying medical benefits. If the person's disability lasts longer than 45 days, then they need to submit that CA–7, the Postal Service needs to process it and get it to us. If there's a delay in that process, then the individual doesn't have a check coming in from Postal Service nor do they have one coming from the OWCP. And when that period is elongated, clearly these individuals are not being well served, and those cases become very difficult and very problematic for the reason that we can all understand.

We think that it needs to be worked very, very closely from both sides. We think our side of the process is working pretty well. Oftentimes we don't have enough push from the agency, and this is not a Postal Service problem particularly, they are in the middle of all the pack of agencies, but there's not enough push on the agency to say, OK, COP is getting close to end, let's get that CA–7 in hand so there won't be an interruption of income.

That's something I think that the Postal Service is aware of and is working on. But it's a complex issue. And it's one that we have to continue to struggle with.

Mr. HORN. Let me ask the Inspector General of Labor, Mr. Heddell. You mentioned this fraud case in Texas that involved millions of dollars. How unusual is this type of fraud? Do you have much fraud like that, or was this the biggest case you've ever had?

Mr. HEDDELL. Mr. Chairman, we in fact receive allegations of fraud and misconduct regarding the FECA program on a fairly regular basis. As I indicated, we currently have 401 cases under active investigation. I can tell you that our hot line receives several calls per week. Many of those calls involve allegations of fraud and/or misconduct.

Many of those calls, of course, are from claimants who simply have received an adverse decision. They provide us with information either because they don't feel that their claim has been handled as they would have liked it to have been handled, or in some cases, it's information directly alleging some kind of fraud, whether it's against the individuals at OWCP making the decision or, in the case of the true criminal investigation, such as the one you've referred to, we may receive documented evidence.

Where we receive documented evidence of possible criminal activity, we refer that to my Office of Investigations. And we're very active in that area, and do a considerable amount of work.

Mr. HORN. Was that because doctors were committing fraud or the consumer?

Mr. HEDDELL. There's actually three general categories that fraud normally would fall into. One would be the area of claimant fraud, where an employee claims to be injured when in reality he or she is not. There are instances where a claimant has in fact been injured and has received medical treatment and is no longer injured, but continues to claim an injury. There are claimants who in fact claim injury and are working, receiving compensation for work but not advising OWCP, so that an adjustment can be made.

And then there are medical service providers such as doctors, pharmacists, or clinics, who provide medical equipment, for instance, and other medical services, and who defraud the system by code violations. For instance, they may change the code on a medical form to reflect a treatment for a particular patient that would bring in a greater revenue to that physician or they may have a patient for whom they prescribe aggregate diagnoses or treatment, versus let's say one particular code.

So they will design or modify the medical coding system in such a way as to reap the greatest amount of financial benefit to themselves in an illegal manner.

Mr. HORN. Mr. Heddell, and to the presenters, you've made some interesting proposals in terms of legislative recommendations. One was return the 3-day waiting period before FECA benefits can start to the beginning of the 45-day continuation of pay process. This would require employees to use any accrued sick leave, annual leave, or leave without pay for that 3-day waiting period before the FECA benefits could begin. Should the claim be approved by the OWCP, any leave used during this 3-day waiting period would be restored.

Then there's an earlier, pre-1974 procedure, that would help to discourage the filing of so many minor claims. Under the current process, the waiting period is at the end of the claims process, which provides no disincentive to file a claim. Then the second to last, current FECA beneficiaries are not required to retire at any age. Instead, beneficiaries may remain on the disability rolls until they die. Indeed, there is a strong incentive to remain on the rolls, since FECA's tax-free benefits may be greater than either their taxed earnings from work or their Federal retirement benefits would be.

And thus, you note we recommend a statutory change that would move long-term disability claimants into a form of retirement such as through an OWCP-administered annuity program after claimants reach a predetermined age. Anything you want to add to that? Because then I want everybody to tell me whether they like the idea or don't like the idea. So do you want to add any to this?

Mr. HEDDELL. I certainly would like to, Mr. Chairman. The OIG strongly supports the concept of Congress reinstating a 3-day waiting period before the continuation of pay period begins. Clearly, in our opinion, this would discourage frivolous claims.

In terms of beneficiaries remaining on the OWCP rolls for long periods of time, we would also recommend that the Congress establish a retirement age for beneficiaries, whereby at a particular age

benefits would be adjusted, and some form of annuity, probably administered by the OWCP, would kick in.

Mr. HORN. OK. Any thoughts on this, Mr. Henderson, Mr. West?

Mr. HENDERSON. The Postal Service also agrees that a 3-day waiting period would be beneficial financially. And also to reduce the number of claims that probably wouldn't be filed otherwise. It would also put us much on par with many State programs.

In terms of an annuity, that would be beneficial, because at this time, for some people it's actually much more beneficial to be on compensation than to take a retirement. And we don't think that being on compensation should be an advantage, it should be equal to an employee who works 30 years but was fortunate enough not to be injured. We'd like those to be leveled out at the retirement age.

Mr. HORN. Mr. West, anything else?

Mr. WEST. No.

Mr. HORN. You mean a lawyer that says no? [Laughter.]

Mr. WEST. It's hard to get that short answer out of a lawyer.

Mr. HORN. That's right.

Mr. WEST. We just feel that our mission is to monitor the Postal Service. This is really a Department of Labor program, so it would not be appropriate for us weigh in on this issue.

Mr. HORN. You are independent. You don't have to worry about anybody.

OK, let's ask GAO. Do you see any light in some of Mr. Heddell's proposals?

Mr. UNGAR. Yes, Mr. Chairman. We think they should be considered. And particularly as they affect the cost of the program.

One other issue that I don't think was specifically mentioned, although it may be in a written statement, is that we have reported over the years on workers' compensation programs. Some of the reports deal with the retirement issue and whether eligibility should continue afterward. Another issue is the percent of pay that's reimbursed, either two-thirds or 75 percent.

So another issue that might be worthwhile looking at is the additional percent of reimbursed pay due to whether an individual has dependents or not. I'm not suggesting that they definitely be changed, but at least they ought to be looked at in the context of possible legislative changes to the program.

Mr. HORN. Now, Mr. Hallmark, you've had people on one side and the other. What do you think on this?

Mr. HALLMARK. As it happens, the administration is on record as being prepared to present a FECA legislation proposal that would address both of the issues that Mr. Heddell has recommended, as well as possibly other features. It's being considered now, that package is under review in the administration.

So those are, I believe there will be legislative proposals shortly in those areas.

Mr. HORN. Great. Glad to hear it. So it's over in OMB being circulated around the executive branch.

Mr. HALLMARK. That's right, sir.

Mr. HORN. To see if it conforms with the program of the President. Good. That will be progress.

Now, let me just go through a few of these things to get a decent record here one way or the other. To all of the participants, let's see, Mr. Ungar, in your report, you mentioned numerous times that you were not given enough time to complete your report. How long has the General Accounting Office been working on this project, and when do you expected to complete your work and issue a report?

Mr. UNGAR. We started in January, sir. As I indicated, this was a random sample that involved all district offices in OWCP. So I think we would like to propose to have our work completed in September. What I'd like to do though is emphasize that our results are preliminary now, as we indicated. I think Mr. Hallmark has raised some very good issues. We did not have an opportunity, because of the speed of getting our data collected and analyzed, to exclude the types of cases that he's mentioning.

One in particular, on the administratively closed cases, I'd just like to make a few points there very briefly. One, when we went to the hard file cases, it was not clear which of those cases, from the information we saw, were administratively closed. So we're going to have to work with his people to really identify those in the next several weeks.

Second, I'm not sure that the statistical population information that's there is comparable to the sample that we're taking in terms of what it represents. So we'll have to work with his folks on that. Third, I presume that he's dealing with the automated data when he's using the entire population. We did find during our review that there were a number of errors in the automated system compared to the hard file records that we reviewed. So we didn't want to rely too heavily on the automated files.

So we would like to have enough time to make sure that we square away with the OWCP folks on making sure we have accurate data and understanding of what these timeframes are. So I would think in September we'd be able to get you a final report, if that's reasonable in your view.

Mr. HORN. Do you have enough data today to accurately comment on the Postal Service's role in the Office of Workers' Compensation Programs?

Mr. UNGAR. Mr. Chairman, I believe that when we have enough time to analyze the data we have, we will be able to be more precise as to what particular steps are taking the most time and whether it's in the Department of Labor or whether it's at the Postal Service.

Mr. HORN. In your testimony you mention that there is in some cases a dramatic variance in the time it takes for the OWCP to process claims. What do you attribute this to?

Mr. UNGAR. Well, that's what we'll try to find out. Of course, a lot of these cases——

Mr. HORN. So you're saying it's a matter of time?

Mr. UNGAR. Yes, we need time to analyze it. All of these cases are of varying complexity, from very simple to very complex. But in terms of what stages of the process may be bottlenecks, that's what we hope to identify as we further analyze the data, and then get with both Postal Service and OWCP folks to iron that out and try to develop definitive information on that.

Mr. HALLMARK. If I could interject, Chairman Horn.

Mr. HORN. Sure.

Mr. HALLMARK. In the area, for example, of wage-loss claims, the CA–7, if a case involves a schedule award, that schedule award would be for permanent impairment and we would need to get an assessment of exactly what the degree of impairment is. That usually requires that the employee get a new medical evaluation that says, OK, the shoulder impairment is 12 percent or 20 percent or 50 percent. That has to occur after the individual has reached what we call maximum medical improvement. And that in fact could be a matter of months or even years after the individual files that claim.

So the claim could run from a matter of being doable within a week or a few days to a matter of months or years, depending on the complexity of the issues at hand. That is unfortunately the nature of this kind of program.

Mr. HORN. OK. Any other thoughts anybody's like to—I'm going to try one more here with the preferred provider organization program. The Postal Service believes that significant cost reductions can be achieved by expanding the preferred provider organization program with the First Health throughout the organization. First Health, through its hospital and physician network, is able to reduce medical fees below those of OWCP's schedule fees.

This effective relationship is now operating in areas served by four of the OWCP's 12 district offices. It presently reaches 50 percent of our injured employees. The program will be expanded nationwide on July 1, 2002. This is a powerful example of the results that can be achieved through joint cooperation with OWCP.

How do you feel about that? Do you agree with them?

Mr. HALLMARK. Are you asking me, sir?

Mr. HORN. Yes.

Mr. HALLMARK. Yes, we have been working with the Postal Service for about a year on the particular project that is being referred to there with the PPO. We are, I think, very close in our conversations with the Postal Service to further expanding that program. I believe our next step will be to expand to all the rest of the eight sites that are not currently operating in this fashion. Ione of several cooperative projects OWCP runs, works with Postal Service on.

I would say, in response to a comment that Mr. Ungar made earlier, Postal Service more than any other agency is keenly aware of the costs of these kinds of cases. They work harder, I think, than all the other agencies because of that economic concern. And in that respect, they are often our most cooperative partner in a whole range of activities associated with FECA cases.

Mr. HORN. Moving Federal Employees Compensation Act recipients to FECA annuity at age 65, just on a yes or no, you like the idea, right?

Mr. HENDERSON. Yes.

Mr. HORN. OK. Anybody not want that? OK, we'll assume they're all yeses.

We have a vote on the Floor, so we're going to have to break this up. But we would, when you get back in your taxi or whatever to get back to the executive branch, if you have some good ideas, just send them to us. We'll put it at this point in the record.

I want to thank our witnesses. This subcommittee has been examining this problem for more than 5 years. And I'm uncertain that much progress has been made to improve the situation for hundreds of Federal workers who deserve better. When workers who have been injured on the job seek the assistance they are entitled to, they should be given the best service possible. The Federal Government should be setting the highest standard.

Undoubtedly, new computers and new telephone systems will help resolve some of these problems. But all the technology in the world doesn't force OWCP employees to treat injured employees, regardless of the merit of their claims, courteously, respectfully and in a timely manner. This is clearly a management problem that has been allowed to fester.

I think that sort of sums it up, and I'll wait for the rest of the GAO on the case studies.

I want to thank the people that helped put this hearing together. The gentleman on my left will not be on our staff, and we wish he could, but this will be his last hearing as a member of the professional staff of our subcommittee. He's leaving to join the staff of the American University School of Law, as well as becoming a student there. More lawyers. [Laughter.]

Earl, good luck. You're a great guy.

And J. Russell George, the Staff Director and Chief Counsel, is right behind there. President Bush has nominated him and he's just waiting for the Senate to call.

Bonnie Heald, the Deputy Staff Director, is right next to him. And next to her is my chief of staff, Mr. Bartell. And the majority clerk, he has, I hope, the NCAA basket height, and that's our hard working majority clerk, Justin Paulhamus. Conn Carroll, majority clerk, Subcommittee on Criminal Justice, Drug Policy and Human Resources also helped in this. And Clair Buckels, our fellow on our staff from the American Political Science Association.

Minority staff, right back here, is Jean Gosa, the clerk, and David McMillen, minority professional staff. And if you want to file a statement, we'll clean that one up.

Court Reporter, Mary Ross. Thank you, Mary. We appreciate it.

With that, I wish you well.

[Whereupon, at 11:57 a.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

[Additional information submitted for the hearing record follows:]

GOVERNMENT RELATIONS

June 21, 2002

Mr. Justin Paulhamus, Clerk
Subcommittee on Government Efficiency
Financial Management and
Intergovernmental Relations
B-373 Rayburn House Office Building
Washington, DC 20515-0001

Dear Mr. Paulhamus:

Thank you for your letter of June 10 to Mr. Ronald Henderson explaining the process for editing the testimony he provided at the hearing on "Oversight of the Management of the Office of Workers' Compensation Program: Are the Complaints Justified?" held on May 9.

According to Mr. Henderson, the transcript is accurate with the exception of a remark in the section starting on line 934. Mr. Henderson did not make that remark. He suggest that, perhaps, the remark was made by Shelby Hallmark.

If you have any questions, please give me a call at 202/268-3420.

Sincerely,

Judy de Torok
Acting Manager, Legislative Policy and
Strategy Development

cc: Tom Sharkey
Ron Henderson

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-3500

Michele M. Buckley
8324 Silver Trumpet Drive
Columbia, MD 21045
410-772-8981
May, 16, 2002

Committee on Government Reform
Subcommittee on Government Efficiency,
Financial Management, and
Intergovernmental Relations
B373 Rayburn House Office Building
Washington, D.C. 20515
To the Attention of: Justin Paulhamus
RE: Oversight of the Management of the Office of Workers' Compensation Program:
"Are the Complaints Justified?"

Dear Sir,

I am a federal worker for the U.S. Department of Defense in the State of Maryland who has had numerous problems with the Office of Workers' Compensation Program (OWCP) after filing two Worker's Compensation (WC) claims.

One case started out as an on-the-job traumatic injury and ended up as an occupational disease and a permanent disability. A paint exposure at work on August 28, 1998 has turned my entire life upside down. Since the paint exposure, all chemicals, be they cleaners, fragrances, gasoline fumes or paints quickly cause me to become totally incapacitated (severe breathing problems, unable to walk, unable to speak, memory loss, etc.) unless I supplement heavily on vitamins, amino acids, eat only organic foods, and carry portable oxygen at all times for emergency use. Since I have become disabled by the paint exposure, I have had to go through the tremendous emotional and financial turmoil of a legal battle with my employer through an Equal Employment Opportunity complaint due to harassment and discrimination. Most of my bills for that claim have not been paid. I have been footing the bill for most of my needed care so that I can keep working. Because of the nature of my disability, prescription drugs are often not effective and cause severe adverse reactions. Medical insurance will not pay for the supplementation needed in order to stabilize the severity of my condition. This is despite the fact that $1,000+ blood tests proved that I have severe vitamin, mineral, and amino acid deficiencies. OWCP claimed they only would pay for injury directly linked to the paint exposure, but after receiving a lengthy report from my physician explaining how the paint exposure contributed to my numerous health problems – OWCP has not informed me of the status of my claim for almost a year now. I lost many hours of my own leave because of the short number of days permitted by the OWCP. Because I have no reasonable buffer of available leave to take care of myself during acute phases of my disability, I have been forced to go to work and endanger myself in order to provide for my family.

Another case was an on-the-job traumatic injury where I fell down and suffered a concussion and neck strain on January 30, 2001. Since that injury, I have been suffering from severe to moderate vertigo triggered by simple bending over or loud sounds. OWCP took over four months to even inform me that they needed more information before considering the claim. Then OWCP took over two more months before accepting the claim and then another two months before I received the acceptance letter. But, OWCP did not follow through in paying for all my medical bills. The acceptance letter indicated that chiropractic treatment, if prescribed by a doctor would be paid. Since all medications failed to curb the severity of the vertigo, (because of severe blurred vision and other adverse reactions, or they did not work) the only treatment enabling me to return to work was chiropractic treatment being that it was easing the vertigo attacks just enough to allow me to at first, work 5 hours a day, then 6 hours a day, then 7 hours a day, and finally 8 hours a day. My general practitioner and a physiatrist both recommended and prescribed physical therapy with the chiropractor. I needed to get back to work immediately because OWCP set a small limit on the number of days they would give me paid leave for my injury. The physiatrist then referred me to a neurologist for further testing. I was told by my WC representative at work to wait for approval from OWCP to see the neurologist. However, after suffering a severe vertigo attack at work from a loud sound, the physician in my employer's medical center, demanded that I see the neurologist with or without the approval of OWCP. The WC representative at work tried to contact the OWCP claims officer numerous times, and after a month received a verbal confirmation that supposedly the brain scan ordered by the neurologist was approved and the chiropractic care was approved and that a letter stating that, had already been sent to me. I do not know if the OWCP claims officer said that, because my chiropractor had contacted Senator Barbara Mikulski's office regarding my claim, which still had not been paid. But, to date, I have not received that letter. Now, I am being pressured by my own insurance company and doctors for the non-payment of my WC claim. Throughout this entire claim process, my employer's WC representatives have been calling and sending letters to the OWCP claims officer 2-3 times per week without much response.

Timeliness of filing my claim for both WC cases is not an issue on my part. They were both filed within 1-2 days after the traumatic injury occurred.

My physicians are now refusing to take any federal WC claims because they have had other patients with federal WC that also have bills that are not being paid and they cannot afford to take all of us for free.

I thought the goal of OWCP claims was to help the employee get back to work as soon as possible in the same capacity as before the injury. In both of my cases, it was only by my sheer will, that I found ways to get myself back to work sooner and thereby had to foot most of the medical costs myself. OWCP acted like I could put my life on hold – my basic right to provide for my family - while they took their grand old time considering my cases, only in the end to refuse to pay bills even after the claims were accepted.

I am so dismayed by my experience with OWCP that I hope I do not ever have to file another WC claim. In an effort to accomplish that, I have been vigilantly trying to ensure that my employer does not cause me to be in situations where I could incur more injuries – a task that is not easy for one employee to do in a big governmental agency.

Thank you for allowing me the opportunity to submit my statement to the Subcommittee for the record.

Sincerely,

Michele M. Buckley

Michele M. Buckley

U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210

JUN 24 2002

The Honorable Stephen Horn
Chairman, Subcommittee on Government
Efficiency, Financial Management and
Intergovernmental Relations
House Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your invitation to testify on May 9, 2002, on the Office of Inspector General's (OIG) oversight activities involving the Office of Workers' Compensation Programs (OWCP). At the conclusion of the hearing, you asked the panel to submit to the Subcommittee any further recommendations on how to improve the Federal Employees' Compensation Act (FECA) program. Listed below are areas of concern we have regarding the FECA program not mentioned in my testimony, and recommendations for improvement.

- Reports of poor customer service and unnecessary processing delays.

  We understand that customer complaints are unlikely to stop completely as there will continue to be claimants that will be unhappy, particularly when their claims are denied. However, we believe that better communication between OWCP and their claimants, as well as customer service training for front-line employees, will help reduce unnecessary delays as well as the number of complaints.

- OWCP fraud detection activities need to be enhanced.

  We believe more can be done by OWCP to maximize its existing resources so that FECA fraud detection activities can be enhanced. Toward that end, we recommend that OWCP: 1) establish a formal fraud detection and abatement program; 2) designate an OWCP official with responsibility for coordination with law enforcement agencies regarding suspected fraud; and 3) ensure that claims examiners undergo fraud awareness training.

- New computer imaging system needs to be evaluated to ensure it is meeting customer and staff needs.

  OWCP has developed a new system called "OWCP Automated System for Imaged Support" (OASIS) that converts paper documents to electronic images and manages claimants' cases as electronically "imaged" documents. While this is a positive step toward streamlining and expediting the FECA claims process, we recommend that OWCP evaluate this new system to ensure it is meeting the needs of both customers and OWCP staff. In addition, OWCP should continue to assess other ways they can enhance their information technology systems.

As I mentioned in the hearing, I believe that FECA is an important program that must operate as effectively and efficiently as possible. While OWCP has made progress in these areas, we will continue to work with them and the Congress to ensure that problems are adequately addressed. If you have any questions, or need assistance on this or any other matter, please do not hesitate to contact me at (202) 693-5100.

Sincerely,

Gordon S. Heddell

Gordon S. Heddell
Inspector General