

**STATEMENT OF GORDON S. HEDDELL
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BEFORE THE COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT
AND INTERGOVERNMENTAL RELATIONS
U.S. HOUSE OF REPRESENTATIVES
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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 Programs*)

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:

- C **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.)

- C **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.

- C 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.