

Appendix D

OWCP Response to Draft Report

U.S. Department of Labor

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



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

FROM: GARY A. STEINBERG *Gary Steinberg*
Acting Director
Office of Workers' Compensation Programs

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

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

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

Attachments

Cc: Michael Hill, OIG Audit Director

Working for America's Workforce

Improper Payments Audit – Management Response

February 2012

Summary OWCP Management Response:

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

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

Full Response for Appendix D:

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

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

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

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

OWCP has always made great efforts to provide SSA death match reports to the District Offices in a timely manner, as well as monitor the reports to verify timely action was taken to terminate benefits. The program acknowledges that performance could still be improved in this area, and towards that end has increased the frequency of running the death match reports. Instead of a

monthly match OWCP now performs it weekly to shorten the notice period of a claimant's death. This will reduce the number of payments that are issued in error by giving the district office a more prompt notice of a claimant's death.

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

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