

## BRIEFLY...

March 31, 2016

### **OWCP AND ECAB DID NOT MONITOR THE REPRESENTATIVES' FEES PROCESS TO PROTECT FECA CLAIMANTS FROM EXCESSIVE FEES**

#### **WHY OIG CONDUCTED THE AUDIT**

The Office of Inspector General received a Senate request that expressed concerns regarding the processes established to protect federal workers from paying excessive representation fees when they file workers' compensation claims.

The Federal Employees' Compensation Act (FECA) provides workers' compensation coverage to 3 million federal and postal workers for employment-related injuries and occupational diseases. FECA allows a claimant to authorize an individual to represent them before the Office of Workers' Compensation Programs (OWCP) during the claims process and before the Employees Compensation Appeals Board (ECAB) during the appeals process. FECA permits the representative to charge fees for the services provided and the FECA claimant is solely responsible for paying those fees. While FECA does not limit the amount a representative may charge, the law does require OWCP or ECAB to approve the fees to protect claimants from paying excessive fees.

#### **WHAT OIG DID**

Our objective was to determine the following:

Did OWCP and ECAB ensure represented claimants and appellants were properly protected from paying excessive fees to their representatives?

#### **READ THE FULL REPORT**

To view the report, including the scope, methodologies, and full agency responses, go to <http://www.oig.dol.gov/public/reports/oa/2016/03-16-001-04-431.pdf>

#### **WHAT OIG FOUND**

OWCP and ECAB did not ensure represented claimants and appellants were properly protected from paying excessive fees to their representatives. The two agencies had policies and procedures in place for the use of representation, including authorizing the representation and the submission, review, and approval of representatives' fees, but did not properly manage key aspects of the process. OWCP did not notify claimants and representatives of the regulations and requirements regarding legal fees and OWCP and ECAB did not obtain and approve legal fee applications.

OWCP did not obtain the required fee applications in 44 percent (12 of 27) of the OWCP claim files tested because OWCP did not notify claimants or their representatives of the requirement to file an application. When fee applications were not submitted, OWCP did not follow up to obtain them. While representatives who do not submit fee applications are subject to fines or imprisonment not to exceed one year, or both, OWCP could not demonstrate it ever pursued such actions. OWCP officials stated these conditions occurred because activities related to fee applications were a low priority as the fees did not impact disability determinations or involve the use of government funds.

ECAB notified appellants and their representatives of the requirement to file fee applications; however, less than two percent did so. ECAB did not follow up with noncompliant representatives to obtain the applications. ECAB stated it was unaware the number of legal fee applications filed was as low as our analysis showed.

#### **WHAT OIG RECOMMENDED**

We made recommendations to the Director of OWCP and the Chairperson of ECAB regarding actions needed to improve management of the agencies' fee application processes.

OWCP and ECAB agreed with their statutory responsibility to protect FECA claimants and appellants from paying excessive fees for representation. However, OWCP expressed concern that continuously monitoring fee approval compliance would require enormous resources that could adversely impact FECA benefit delivery.