

Executive Summary

The Federal Employees' Compensation Act (FECA) provides compensation benefits to federal civilian employees for disability due to personal traumatic injury¹ or disease² sustained while in the performance of duty. The FECA program is administered by the Office of Workers' Compensation Programs (OWCP), a component of the Employment Standards Administration (ESA) with the United States Department of Labor (DOL).

The Department of Labor reports the cost of providing FECA benefits has risen dramatically since 1990 causing concern and prompting federal agencies to review their Workers' Compensation Program (WCP). In 2007, for example, total U.S. Government FECA benefit cost rose nearly 38 percent to over \$2.6 billion from about \$1.9 billion in 1997. Comparatively, at the National Archives and Records Administration (NARA) the annual FECA benefit costs increased 83 percent from \$645,611 in 1998 to nearly \$1.2 million in 2008.

We audited NARA's WCP to determine whether management controls were efficient and effective to ensure that appropriate benefits accrued to injured employees, costs were adequately managed and controlled, and FECA guidelines were met. Overall, we found serious deficiencies in NARA's WCP due to a lack of adequate program oversight and effective program management. The lack of a centralized, well managed WCP resulted in the program being vulnerable to fraud, waste and abuse. The deficiencies found prevented NARA from meeting the intent of FECA. Specifically we found; (1) long-term case files were not monitored/managed; (2) a formal Return-to-Work program was not developed; (3) NARA did not verify compensation benefits reported on chargeback cost reports³; (4) Continuation of Pay (COP)⁴ benefits were not consistently monitored; (5) NARA's WCP lacked comprehensive written policies and procedures; (6) NARA lacked guidance and training for NARA personnel involved in the WCP; (7) case files were both missing and not adequately documented; and (8) employee claims were not processed timely. Additionally, clear assignment of WCP roles and responsibilities were not established to ensure NARA's WCP was properly administered.

As a result of these weaknesses, we identified claimants who were receiving long-term compensation for up to 30 years despite failing to meet FECA guidelines⁵ for providing

¹ A traumatic injury is an injury caused by an external force and is identifiable by time and place of occurrence, as well as the part of the body affected. In addition, it must be caused by a single event, or series of events, occurring during a single day or work shift.

² An occupational disease is defined as a condition produced in the work environment over a period longer than one workday or shift. It may result from systemic infection, repeated stress or strain, exposure to toxins, poisons, or fumes, or other continuing conditions of the work environment.

³ DOL provides federal agencies quarterly and annual reports, Detailed Chargeback Billing Lists, summarizing workers' compensation expenses incurred for each employee.

⁴ To avoid disruption of an employee's income, the employee's agency continues to pay his/her regular wages for up to 45 days. This initial timeframe is referred to as the Continuation of Pay (COP) period.

⁵ Title 20, part 10, section 506 of the Code of Federal Regulations (20 CFR 10.506) allows the employing agency to monitor the medical status of injured employees so they can be returned to work at an appropriate time. Generally long-term cases may be medically evaluated on an annual basis.

medical documentation to support continued program eligibility. We identified claimants who were not offered limited duty when capable; and when permanent restrictions existed, not recommended for vocational rehabilitation in a timely manner. In addition, NARA did not verify its workers' compensation chargeback reports or COP payments to ensure claimants were paid accurately. We found several overpayments of compensation benefits; in one case an employee was over paid \$35,685.

The lack of oversight and program management given to NARA's WCP contributed to the 83 percent rise in program costs over the last ten years. Cognizant management officials attributed these programmatic failures to an overall lack of oversight by responsible parties in prior years and the associated decentralization of program responsibility.

Management, recognizing the need to improve WCP oversight and program management, initiated discussions and corrective measures during the course of this audit. We have made six recommendations for action necessary to address the findings identified in this report and to assist management in improving program stewardship and reducing NARA WCP costs.

Background

The FECA as amended, 5 U.S.C. 8101 et seq., provides benefits to federal civilian employees for disability due to personal traumatic injury or disease sustained while in the performance of duty. The FECA program provides for payment of several types of benefits, including compensation for wage loss, schedule awards⁶, and medical and vocational rehabilitation services. The basic rate of compensation for injured employees with no dependents is 66.67 percent of gross wages, increasing to 75 percent if employees have one or more dependents. All workers' compensation benefits are tax free, and there is no mandatory retirement age for employees collecting benefits.

The Department of Labor's (DOL) Employment Standards Administration (ESA), Office of Workers' Compensation Programs (OWCP) has primary responsibility for the FECA and is responsible for adjudicating new claims for benefits to injured employees and assisting injured employees' return to work. For OWCP to determine workers' compensation eligibility, the injured employee must provide medical and factual evidence to establish five basic elements: (1) the claim was filed within the time limits set by the FECA; (2) the injured or deceased person was an employee of the United States government at the time of injury; (3) the injury, disease, or death did occur; (4) the employee was in the performance of duty when the injury, disease, or death occurred; and (5) the medical condition found was causally related to the claim injury, disease, or death. DOL regulations for the FECA are contained in Title 20 of the Code of Federal Regulations.

OWCP FECA costs are financed by the Employees' Compensation Fund (Fund). Workers' compensation costs are assigned to employing agencies annually at the end of the fiscal accounting period, which runs from July to June. Each year, OWCP furnishes each agency with a "chargeback report" which is a statement of payments made from the Fund on account of injuries to its employees. The agencies include these amounts in their budget requests to Congress. The sums appropriated are deposited into the Fund.

While OWCP has final authority with regard to approving and paying workers' compensation claims, the employing agency also bears certain responsibilities, such as ensuring appropriate agency personnel understand their FECA responsibilities; notifying injured employees of their rights and obligations under FECA; initiating the claim and ensuring timely notification to OWCP; providing and tracking COP; helping employees return to work as soon as possible; and monitoring the employee's medical status until a physician states the employee can return to work. Guidance for these individual agency responsibilities is contained in OWCP's publication CA-810 Injury Compensation for Federal Employees, A Handbook for Employing Agency Personnel.

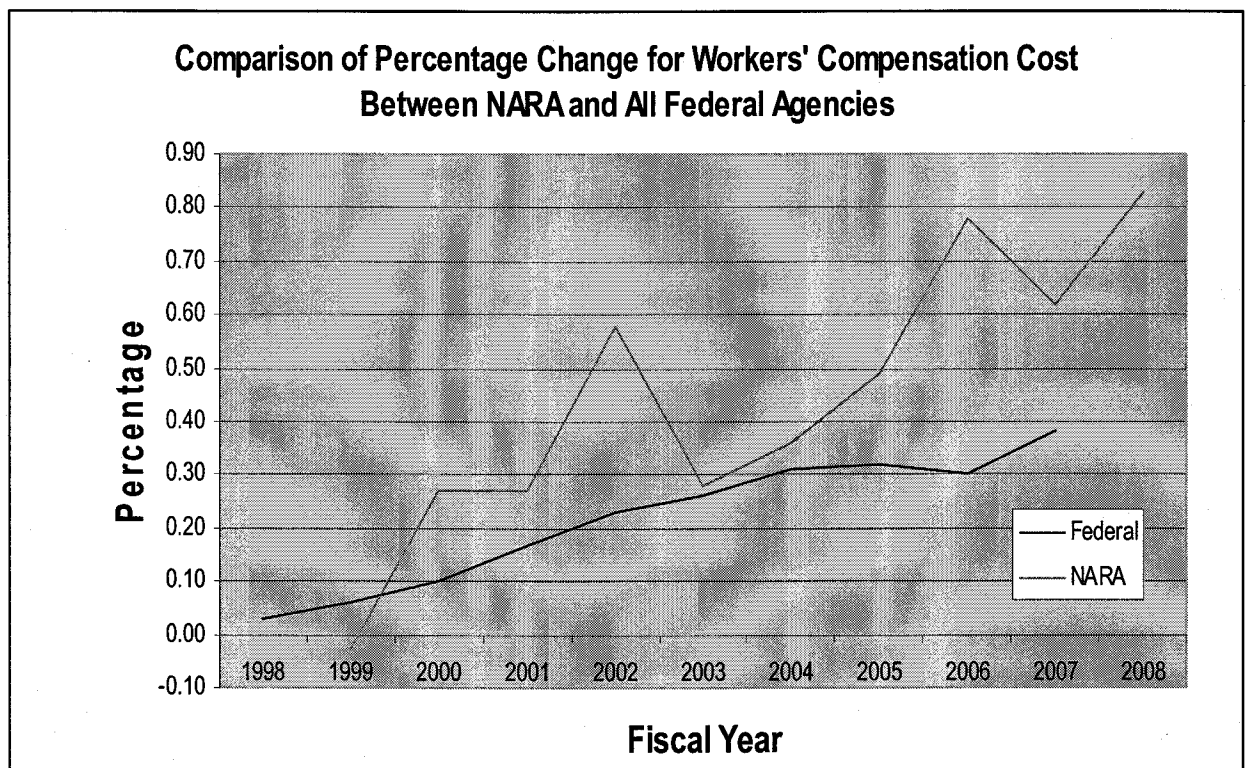
Current processing and management of NARA's WCP cases at Regional Records Centers are the responsibility of the respective Administrative Officer (AO). In the Washington DC area and at Presidential Libraries, this function resides with an assigned Employee

⁶ A schedule award is a form of compensation for specified periods of time for the permanent loss, or loss of use, of certain members, organs, and functions of the body.

Relations Specialist (ERS) in the Human Resources Services Division, Employee Relations and Benefits Branch (NAHR). The ERS also provides advice as needed to the AO's.

The Department of Labor reports the cost of providing FECA benefits has risen dramatically since 1990 prompting federal agencies to review the effectiveness of their Workers' Compensation Programs. From 1997 to 2007 total U.S. Government FECA benefit costs rose nearly 38 percent to over \$2.6 billion from about \$1.9 billion. For fiscal year 2007, DOL reports approximately 134,000 FECA recipients with 38 percent (51,000) recipients on the periodic roll.⁷

Comparatively, at NARA the annual FECA benefit costs increased 83 percent from \$645,611 in 1998 to nearly \$1.2 million in 2008. NARA has 190 claimants with 16 percent (31) recipients on the periodic role.



To address the concern over rising FECA costs, the Departments of Labor and Commerce co-sponsored a symposium for Offices of Inspectors General (OIGs) and drafted protocols for audits, inspections, evaluations, and investigations of FECA programs

⁷ The periodic roll is compensation for wage loss reserved for cases that involve clearly defined and well established long-term disability, early in the life of the case.

government-wide to provide a more coordinated approach for conducting FECA-related work. This audit was conducted as part of the renewed emphasis by the OIG community.

Audit Objectives

The overall objectives of this audit were to determine whether management controls were adequate for ensuring (1) the efficiency, effectiveness, and integrity of NARA's WCP and (2) NARA complied with established FECA regulations.

Specifically, this audit assessed whether NARA adequately addressed its WCP responsibilities including:

- Ensuring FECA responsibilities were understood by pertinent agency personnel.
- Notifying injured employees of their rights and obligations under FECA.
- Controverting inappropriate COP and/or questioning claims.
- Initiating FECA claims and ensuring timely notification to OWCP.
- Providing and tracking COP if employees are unable to work.
- Assisting employees with returning to work as soon as possible by providing light or modified work duties.
- Monitoring the medical status of injured employees to ensure they are able to return to work as soon as possible.
- Reviewing the chargeback report.

Scope/Methodology

To determine whether NARA was effectively managing its WCP, we reviewed applicable laws and guidance on the FECA program including the Federal Employees' Compensation Act, as amended (5 U.S.C. 8100 et seq.); Title 20 Part 10 of the Code of Federal Regulations; Department of Labor Publication CA-810, *Injury Compensation for Federal Employees*; applicable audit reports by other Inspectors General; and additional pertinent background materials.

To gain an understanding of the management controls related to NARA's WCP we conducted interviews with key personnel within the Office of the Assistant Archivist for Administration (NA), specifically, the Human Resources Division (NAH) located at Archives II in College Park, Maryland. We developed a questionnaire and conducted phone interviews to obtain key information on program oversight and case management efforts performed at the regional record centers.

Our audit covered claims activity that included new claims filed and benefits paid for existing claims from July 2004 through June 2008. We sampled and reviewed 34 of 190 current workers' compensation case files. The sample cases represented \$835,147, or 71 percent of the \$1,180,643 in FECA medical and compensation costs incurred by NARA in fiscal year 2008. To ensure the case file reviews were reliable and consistent, we developed a master checklist. The master checklist addressed such issues as the existence

of a case file, the presence of key forms, and other documentation needed to support continued eligibility including the date of the last case file review that would indicate any recent effort to reduce costs to the U.S. Government.

This performance audit was conducted in accordance with generally accepted government auditing standards (GAGAS) between April 2008 and September 2008. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Findings and Recommendations

NARA's Management of its Workers' Compensation Program Lacks Effective Program Oversight and Adequate Program Management

A lack of stewardship has adversely impacted the efficiency, effectiveness and integrity of NARA's Workers' Compensation Program (WCP). Cognizant NARA officials agree that this condition exists because responsible parties in prior years failed to identify policies and procedures, guidance, and an efficient organizational structure necessary to support FECA compliance. Specifically, NARA did not develop an efficient organizational structure by assigning centralized program responsibility for its WCP. Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government*, states organizational structure provides the management framework for a good internal control environment and that a program's organizational structure should clearly define key areas of responsibility. NARA's decentralized structure has resulted in a program that is, in effect, not being managed. The effect of this systemic, ongoing failure is that NARA's WCP program has not met its objectives to the detriment of NARA employees and agency operations. The program is vulnerable to fraud and abuse and is not meeting the needs of those for whom the Act was crafted.

Our audit revealed that NARA's WCP has been both decentralized and improperly managed for years. The Human Resources Services Division (NAH) did not have an assigned employee providing direct oversight over NARA's entire WCP. Rather, NAH assigned an Employee Relations Specialist (ERS) to manage only the WCP cases in the greater Washington DC area and at the Presidential libraries. The ERS WCP duties did not extend to the Office of Regional Records Services (NR) where currently 62 percent of NARA's annual workers' compensation cost resides. This function resided with the respective regional Administrative Officer (AO). The audit identified that neither the AOs nor prior responsible ERS had the necessary training and expertise in FECA laws, duties and requirements⁸.

At the inception of our audit, the ERS position responsible for the WCP in the greater Washington DC area and the Presidential libraries was vacant⁹. NAH, recognizing that NARA did not have effective management controls over its WCP, recently hired an ERS with extensive workers' compensation case management experience to: (1) provide NARA-wide guidance to the regional WCP programs principally managed by the Administrative Officers; and (2) manage and provide oversight of WCP cases at central office and at the Presidential Libraries.

⁸ Moreover, as outlined in the ERS position description, the ERS assigned to manage WCP cases in the greater Washington DC area and at the Presidential libraries was also responsible for other duties. In addition, the most recent incumbent of the ERS position had worked only on a part-time basis.

⁹ The current Employee Relations Specialist reported for duty on January 8, 2008. Additionally, the Chief of Employee Relations and Benefits (NAHR) and the Director of NAH were also in transition. As a result, the current Director of NAH requested the audit be delayed.

However, we found that the new ERS did not have sufficient time, resources and authority to ensure NARA's WCP operated in a manner consistent with requirements and provisions of the Act. The ERS position description did not provide clear assignment of oversight responsibilities for NARA's WCP and that the ERS's duties were restricted to the DC area and Presidential Library FECA claims. Further, the ERS's performance standards did not (1) address duties related to workers' compensation emphasizing the ERS's accountability for the outcome of NARA's WCP or (2) contain performance standards to measure progress in management of workers' compensation cases or reduction of WCP cost.

While the recent staffing of an ERS with WCP experience is a positive change, the PD of the ERS includes other work duties and limits the time to perform and manage FECA-related issues. This constraint when paired with aforementioned limitations raises impediments to NARA's ability to provide sufficient WCP oversight and management.

The Director of NAH who assumed her position on January 6, 2008, indicated the current decentralized program structure was a carryover from when NARA was part of the General Services Administration (GSA). The Director of NAH agreed NARA needs to centralize processing and managing of its WCP. She stated, "centralization would be one of many issues we will want to examine in the context of trying to strengthen and improve NARA's workers' compensation program." The NAH Director committed her support for the work of the OIG in this area and believes the outcome will prove useful in addressing incumbent program deficiencies she recently inherited.

NR senior management officials believe the centralization of WCP responsibilities and duties would likely result in better decision making and associated cost reductions. Further, they agreed a centralized WCP structure would address the less than desirable situation—regional AOs who are over tasked and under trained. The AOs interviewed readily admitted they lacked required knowledge of FECA program management and were unable to fully commit to the needs of their regional WCP because of competing priorities. Senior NR management and the AOs interviewed agreed that removing program management responsibility from the regional field offices and centralizing the management responsibility at NAH would be a more effective program structure.

The lack of a centralized, well managed WCP has resulted in the program being vulnerable to fraud, waste, and abuse and prevents NARA from meeting the intent of the FECA. Specifically;

- 1) long-term case files are not monitored/managed to reduce costs and expedite the injured employee's return to work.
- 2) NARA lacks a formal return-to-work program offering injured employees light duty options that are appropriate, productive, and in compliance with FECA requirements;
- 3) verification protocols are not effectively performed to ensure proper payment of chargeback benefits;

- 4) NARA does not consistently monitor COP payments to ensure appropriate payment as established by FECA guidelines;
- 5) comprehensive written policies and procedures do not exist to effectively establish appropriate management controls;
- 6) NARA personnel responsible for the WCP have not been properly trained to ensure injured employee needs are met and program costs are controlled;
- 7) case files were missing and those maintained lacked adequate documentation; and
- 8) employee claims were not processed timely.

Long-Term FECA Cases Were Not Consistently Reviewed and Monitored

Long-term case activity and related files were not monitored or managed in order to take advantage of opportunities to ensure program integrity, reduce costs and expedite the injured employee's return to work.¹⁰ This failure also served to expose NARA to the risk of WCP related fraud and abuse.

Our review disclosed that NARA's annual FECA benefit costs nearly doubled from approximately \$600,000 in 1998 to nearly \$1.2 million in 2008. Over 60 percent of this cost is attributable to employees with long-term disabilities placed on OWCP's periodic role. During the course of our review we reviewed 19 long-term cases to determine the frequency of file reviews and medical monitoring (see Table 2 on page 11).¹¹ Of the 19 cases reviewed, we found:

- Only four cases had been reviewed in fiscal year 2008 (21 percent); most long-term injury cases had not been managed in over five years.
- Three NARA case files had not been updated in over ten years and four case files were reported as missing.
- Only seven case files (37 percent) had second opinion medical evaluations; most cases did not have updated medical evaluations.

Furthermore, many of the cases can be categorized as "red flag cases" as they meet criteria that highlight potential fraud and abuse of the WCP to the detriment of NARA and the taxpayer. We identified eight red flag cases (42 percent) based on the infrequency of medical expenses or the type of medical care documented.

The GAO has reported FECA provides injured employees with very generous benefits which critics believe create an incentive for abuse by employees extending their claims even though they may be able to return to work. These benefits include tax-free

¹⁰ 20 CFR 10.506 states, an "employer may contact the employee at reasonable intervals to request periodic medical reports addressing his or her ability to return to work." However, OWCP is required to review the medical evidence for long-term disability cases according to the designated pay/case status code: (1) PR cases, re-employment or earning capacity has not been determined, are reviewed annually; (2) PW cases, reduced compensation reflecting a partial wage earning capacity or actual earnings, are reviewed every two years; and (3) PN cases, formally determined to have no wage earning capacity or re-employment potential for an indefinite future, are reviewed every three years.

¹¹ We reviewed NARA case files and OWCP's on-line inquiry system, Agency Query System (AQS) to determine the date of the latest file review and medical update.

payments of up to 75 percent of earnings. Moreover, there is no mandatory retirement age for employees collecting FECA benefits. Consequently, those who, in effect “retire on the FECA” will generally receive greater amounts than career employees who retire normally.

Case Example: In November 1993, an employee was accepted into the WCP for temporary post-traumatic stress disorder. Three years later a medical re-evaluation found that “there is no evidence of post-traumatic stress disorder...this patient is employable at her current job.” The referee medical opinion states the employee should, “be disabled from all employment with the Federal Government and specifically with the National Archives, but would not preclude the possibility of alternative employment outside the Federal Government.” The last documentation of case management is dated April 14, 1997. NARA has since paid nearly \$538,000 in taxpayer’s funds on this case over the last ten years without any vestiges of attention or scrutiny.

NOTE: The "X's" in this table are redactions pursuant to FOIA exemption b(6)

Table 2: Long-Term Case Status, Last File Review, and Medical Documentation

Location of Claim	Current Age	Date of Injury	Duration of Claim (yrs)	Total WCP Costs for FY 2008	Case Status	Last File Review	Medical Status (AQS Medical Billing Data)
XXX	XXX	XXX	18	59,869.04	PR-1994	1997	No medical evaluations. 97% for pharmaceuticals and social worker. This is a red flag case.
XXX	XXX	XXX	10	24,167.51	PR-1998	2001	No medical evaluations. 85% for pharmaceuticals and medical supplies. There are only 7 doctor visits. This is a red flag case.
XXX	XXX	XXX	10	52,332.72	PR-2002	Missing	No medical evaluations. All medical is pharmaceuticals—\$7,300. This is a red flag case.
XXX	XXX	XXX	19	33,035.30	PN-1999	Missing	No medical evaluations. 95% for pharmaceuticals; 3 doctor visits. This is a red flag case.
XXX	XXX	XXX	12	11,212.44	PR-1997	2000	No medical evaluations. Regular Physician visits.
XXX	XXX	XXX	14	17,727.51	PR-1999	2000	No medical evaluations. 80% medical is for pharmaceuticals. This is a red flag case.
XXX	XXX	XXX	17	7,501.95	PN-2001	1998	No medical expenses have been paid since 2001. This is a red flag case.
XXX	XXX	XXX	31	29,908.50	PW-2000	Missing	Second Opinion 2007; no other medical bills listed for 8 years. This is a red flag case.
XXX	XXX	XXX	28	147,398.19	PN 2001	1999	No medical evaluations. Regular Physician visits.
XXX	XXX	XXX	4	22,694.40	PR-2006	2008	Vocational rehabilitation -8/28/06; second opinion 6/11/2008; no medical paid during the 2 year gap. The second opinion stated the employee could return to work, however, Dayton does not have suitable light duty work.
XXX	XXX	XXX	6	12,579.86	PR-open	2007	Vocational rehabilitation (5/2008) and 2nd opinion (1/2008).
XXX	XXX	XXX	4	5,110.62	PW-2007	2005	Vocational rehabilitation -9/2006; 2nd opinion 3/2006; only 3 doctor visits since 2006. This is a red flag case.
XXX	XXX	XXX	9	16,462.44	PW-2005	2008	No second opinion evaluations. Regular Physician visits.
XXX	XXX	XXX	6	6,941.50	PW-2004	2008	No medical evaluations; only 3 medical supply invoices. This is a red flag case.
XXX	XXX	XXX	7	21,673.81	PN-2006	Missing	Medical evaluation 3/2005. Past due on 3 year re-evaluation.
XXX	XXX	XXX	5	24,798.89	PR-2006	2007	Vocational rehabilitation (2008); carpal tunnel hand surgery (2007); 2nd opinion (2006).
XXX	XXX	XXX	3	35,345.44	PR-2007	2008	Psychologist bi-weekly; contract nurse thru 4/2006; 2nd opinion 5/2007. Should request a treatment plan.
XXX	XXX	XXX	30	20,986.76	PR-1988,	1995	No medical evaluations. There are over 60 physician and pain rehabilitation visits.
XXX	XXX	XXX	4	59,056.67	PR-2004	2004	Second opinion 2007; 2008 primarily physical therapy.
				608,803.55			

PR cases should be reviewed annually; PW cases should be reviewed every two years; and PN cases should be reviewed every three years.

NARA Lacks a Return-to-Work Program for Injured Employees

NARA has not developed a formal return-to-work (RTW) program for eligible employees covered under NARA's WCP.¹² Therefore, the intent of the WCP is being violated by NARA as some participants are not being offered the opportunity to work while the program itself is subject to abuse. A return-to-work program is an effective tool to help minimize FECA costs. Without such a program, NARA is exposed to the risk of paying compensation benefits to employees who are able to return to work, but are not offered the opportunity. Our audit revealed the following problems associated with NARA's lack of a RTW program:

- *NARA has not developed guidance for creating productive light and limited duty positions.* The lack of established limited duty work guidelines has resulted in NARA: (1) not accommodating a work restriction, thereby, paying a work capable employee to stay at home until they reach full recovery; or (2) accommodating a work restriction without regard for operational productivity.¹³

During our review of case files, we found examples where NARA paid FECA benefits to employees who were able to work. In one such case, a NARA record center employee sustained an injury requiring surgical intervention. The employee's doctor instructed that she could return to work, with restrictions, shortly after her surgery. Initially, the record center indicated they would accommodate her restrictions on a temporary basis. However, they did not offer her accommodation because she intended to apply for disability retirement. NARA paid this employee nearly \$29,000 while she waited for her disability retirement approval.

- *NARA does not have a policy guiding the number of permanent restricted duty positions it can accommodate, nor does it medically monitor WCP participants on limited duty status to identify those that have fully recovered from their injuries.* As a result several record centers have employees who have been on restricted duty for a number of years reducing the ability to accommodate a newly injured employee with temporary productive limited duty work.¹⁴

¹² OWCP Publication CA-810 states agencies should identify jobs suitable for injured employees, take steps to reemploy recovered or recovering employees as soon as the medical evidence shows that is possible, and to monitor the medical status of employees on limited duty for potential full recovery.

¹³ NR's *Rocky Mountain Region Program Review* dated September 4, 2007 states NRG has incurred financial losses due to higher costs for staffing due to, in part, Workers' Compensation cases and light duty restrictions. Further, record center AOs and Regional Directors we interviewed identified several employees on limited duty status that were not productive.

¹⁴ OWCP's Publication CA-810 states agencies should monitor the medical status of limited duty employees for their ability to return to full capacity work so that an agency can accommodate a newly injured employee with work restrictions,

Regional record center AOs report there are very few limited duty work opportunities available. Thus, record centers should address whether permanent limited duty positions should be offered while monitoring the medical progress of those already in limited duty positions. These RTW program guidelines would ensure newly injured employees have an opportunity to recover from their injuries.

- *NARA does not actively refer injured employees with permanent work restrictions to OWCP's vocational rehabilitation program.* Since regional record centers indicate they do not have long-term limited duty positions available, NARA must place those employees with permanent injuries into OWCP's vocational rehabilitation program as soon as possible. This will allow the injured employee to be out-placed with another employer and will reduce WCP costs to NARA. Because many NARA AOs are unfamiliar with the OWCP process, we found cases where NARA passively waits for OWCP to begin the vocational rehabilitation process. In one such case an injured NARA employee recovered from her injuries, but had permanent work restrictions directed by her doctor. NARA did not return this employee back to work because it lacked a permanent restricted capacity position and did not request OWCP place this employee in a vocational rehabilitation program. NARA paid compensation benefits for one year, at a cost of \$45,000, before OWCP placed this employee in a vocational rehabilitation program and the employee was placed with another federal agency.
- *Injured employees returning to work on restricted duty are not given written job offers to describe job expectations in accordance with their doctor's orders.* FECA law and guidance provided by DOL clearly state specific duties and physical requirements of accommodation be presented in writing within two business days of the job offer¹⁵ and copies sent to OWCP for review and approval. The lack of written job offers exposes NARA and employees to risk as employees on restricted duty may be performing work which is not suitable. The AOs interviewed stated they were not aware that FECA required written job offers when returning an injured employee with restrictions back to work.

Finally, injured employees were not advised of their rights and responsibilities at the time of injury. By law, the employing agency is required to promptly notify an injured employee of their rights and responsibilities including the responsibility to return to work when they are able. By neglecting to inform injured employees of their rights and responsibilities, NARA has missed an opportunity to clearly communicate its expectation that an injured employee take all necessary action to expedite their return-to-work.

NARA Did Not Verify Quarterly Chargeback Billing Reports

¹⁵ 20 CFR 10.507; Title 20 CFR (b) (c) (d); and CA-810, 8-4 (b) (d).

NARA routinely failed to verify its FECA-related chargeback bills from DOL.¹⁶ Thus, increasing the risk errors could go undetected. This deficiency resulted in erroneous program payments.

Based upon GAO Report 08-284, dated February 2008, entitled *Federal Workers' Compensation; Better Data and Management Strategies Would Strengthen Efforts to Prevent and Address Improper Payments*, NARA cannot place reliance solely upon OWCP to provide accurate chargeback reports. In the 2008 report, GAO states OWCP has not established an effective strategy for managing improper payments in the FECA program and overpayments occurred because OWCP relies on unverified, self-reported information from claimants which is not always timely or correct. As illustrated in the case example below, the deficiencies cited in this report came to fruition when an injured NARA employee's automatic benefit payments were not canceled by OWCP upon her return to work.

Case Example¹⁷: An injured employee, on periodic roll status, was overpaid \$6,521.85 because OWCP paid full disability benefits concurrent with NARA's part-time compensation. This employee returned to work with limited hours as instructed by her physician. It took OWCP over two years before the error was detected at which time a complex collection process was initiated. Had NARA cross-referenced the chargeback billing report to disability payment information provided by DOL's AQS on-line access, NAH would have likely detected this error.

NARA's quarterly chargeback billing statements are maintained by the Financial Services Division, Budget Branch (NABB). NABB budget personnel have procedures ensuring employees listed on NARA's chargeback billing statement are actually NARA employees. However, disability compensation rates received by the injured employee are not reviewed for accuracy. During the initiation of an injury claim the employing agency will report to OWCP the injured employee's current rate of pay. Currently, there are no established procedures to verify OWCP correctly computes the subsequent benefit from information provided by the employing agency. Furthermore, should an employee return-to-work or die, there is no verification or procedure that terminates periodic roll (automatic) payments.

Continuation of Pay Benefits Were Not Consistently Monitored

Continuation of Pay (COP)¹⁸ benefits were not consistently monitored resulting in overpayments to NARA employees claiming work-related injuries. The intent of the

¹⁶ OWCP Publication CA-810 states each agency receives a quarterly report listing all cases and costs that should be used to identify and correct errors before these charges appear on the annual chargeback billing statement.

¹⁷ Auditors found other OWCP errors identified by OWCP and reported to NARA. Auditors did not independently review compensation rates for benefits including Schedule Awards because the case files did not contain adequate documentation to do so.

¹⁸ The Office of Workers' Compensation Programs Publication CA-810 states; "the FECA provides that an employee's regular pay may continue for up to 45 days of wage loss due to disability and/or medical treatment after a traumatic injury."

COP provision is to avoid interruption of the employee's income while their case is being adjudicated. Failure to ensure the accuracy and integrity of COP payments resulted in erroneous and excessive disbursements of NARA funds as OWCP does not pay COP; rather, these benefits are paid and tracked by the claimant's employer.

We found several instances where COP was paid beyond the 45 day statutory limit¹⁹ including a case where a NARA employee was inadvertently paid for 204 days, at a cost to the government of \$29,163.60, while simultaneously receiving disability pay. We informed NAH of this overpayment and NAH began working with OWCP and GSA to recover these funds from the employee.

NARA Lacks Comprehensive WCP Written Policies and Procedures

NARA has not developed written WCP policies and procedures. Current officials with WCP duties and responsibilities agreed the complexity of the workers' compensation program warrants written guidance. The effect of not having WCP guidance has contributed to the inconsistent and ultimately deficient program oversight and administration.

In response to an OIG generated questionnaire and subsequent interview, AOs informed the auditors that they lacked necessary guidance from NAH to effectively return employees back to work.

Attributes of a well documented and defined WCP would include, but not be limited to, the following: (1) defined program structure and clear assignment of program roles and responsibilities; (2) written guidance and training for NARA personnel involved in the WCP; (3) development of a return-to-work program clearly identifying productive limited duty assignments; (4) case management protocols for long-term injuries; (5) verification procedures for COP benefits and chargeback cost reports; and (6) management control tools to include a master list of active cases and claimant case file control logs.

Workers' Compensation Training for Responsible Officials is Often Lacking

NARA did not provide appropriate WCP training to supervisors and regional AOs involved with handling workers' compensation cases. During the audit we found the WCP training received by the regional AOs was infrequent, ineffective and did not address the core WCP management principles necessary to effectively reduce FECA benefit costs.²⁰ Specifically, the auditor's identified that of the eleven AOs interviewed:

¹⁹ This condition resulted from errors and confusion as to the technical computation of the allowance. The responsibility for this calculation, per the AOs interviewed, has been relegated to individual supervisors and timekeepers and thus prone to error.

²⁰ The DOL training classes attended by the AOs, *The Basic Compensation Specialist Workshop*, did not address WCP management, rather, it was an OWCP form processing overview and training course. DOL offers an *Advanced Compensation Specialist Training* course that addresses management-level issues such as light and limited duty assignments and re-employment of long-term disabled employees.

three Regional Record Center AOs²¹ have not received any workers' compensation training; five AOs received training over four years ago; and, one AO reported her training was over 13 years ago. Only two regional AOs have had DOL sponsored training within the past two years. The regional AOs interviewed readily admit they lacked the specialized knowledge necessary to fully manage and administer their regional WCP.

Additionally, the AOs interviewed stated supervisors did not have adequate training and suggested NAH require supervisory level training. NAH officials stated they have recognized the need for more workers' compensation training for both AOs and supervisors. Since April 2008 NAH has been conducting on-site training. Sites visited and AOs trained by NAH Employee Relations Specialist include: the Atlanta Records Center (NRC), Denver Records Center (NRG), and Suitland. The NRG AO, NRC AO, and NRC Regional Director reported to the auditors that their level of workers' compensation knowledge greatly improved as a result of the recent training provided. In addition, NAH officials stated they have revised the Introduction to Supervisor Training course and resource materials by adding WCP training materials.

Some Case Files Missing While Those Located Lacked Documentation

NARA lacks a master inventory list identifying NARA's active workers' compensation cases. Given this deficiency, OIG auditors were still able to request 34 WCP case files for review.²² Of this sample population, 23 percent were identified as missing. Those that could be produced were routinely disorganized and incomplete thereby hindering useful case review and management.

NAH did not have a master inventory list of workers' compensation claims for case status tracking purposes. WCP case files were not centrally located at NAH. Case files were disbursed between central office where NAH managed case files and the regional offices where AOs managed WCP cases. As a result, NAH could not ensure all WCP case files had received attention. Without an inventory log: (1) opportunities to identify critical management actions are missed and/or neglected; and (2) case files are not inventoried or tracked.

We requested thirty four case files for our review, eight of these files were identified as missing (23 percent). Prior to our audit, NAH (the office ultimately responsible for NARA's WCP) was not aware any files were missing. At the cessation of field work, these files remained missing.

The DOL does not define the content an agency is to maintain in their internal case files. Lacking definitive criteria, the auditors sought to identify whether OWCP case files were

²¹ One of the three included the AO for the Dayton/Kingsridge Federal Records Centers (NRD). NRD currently has more workers compensation claims than NARA's other record centers.

²² OWCP Publication CA-810 states that an agency should establish a recordkeeping system which will enable it to maintain copies of claim forms, medical reports, correspondence with OWCP, and other materials related to each compensation claim in an orderly fashion.

maintained in a consistent format and contained up-to-date information necessary to support the work of oversight officials and independent review/audit. The auditors defined that individual case files do not contain a standard case control or file log, rather content is unstructured and disorganized, thus impeding ability to review and analyze case activity and status. Likewise, documents that would be helpful to include were not required and were not incorporated in the files. Examples of documents that were not housed in the files and the benefit that would result from their inclusion follow:

1. *Injury investigations were not thoroughly conducted (all but one case file).* A well-documented injury investigation is essential for substantiating or raising doubts about the validity of claims. Although this generally involves obtaining third-party witness statements and providing a detailed description of the time, place, and cause of the injury, we found these elements were missing in all but one case file.
2. *Medical status reports were not used to request information from doctors on long-term disability cases (See finding titled Long-Term FECA Cases were Not Consistently Reviewed and Monitored on page 9).*
3. *Form CA-1032, Claim for Continuance of Compensation under the Federal Employees' Compensation Act was not included in claim files (all case files).* On an annual basis, FECA regulations require OWCP verify continued eligibility of claimants receiving automatic monthly compensation. Among other things, the Form CA-1032 requires the injured employee to inform OWCP of any current earnings or other federal benefits and any change in their dependents that would affect their continuation of benefits, or at least, their rate of benefits. If the claimant fails to return this annual certification within a specified time period, federal regulations require OWCP to suspend compensation benefits until the certification is returned.²³
4. *Agency Query System (AQS) case status updates was not found in case files (most case files).* Another useful tool for verifying accuracy of claimant benefits is OWCP's on-line inquiry system, AQS. The AQS is a secured Internet site that provides access to authorized agency personnel on their FECA injury claims. Available data includes current claims status, as well as, compensation and medical payment histories. Unlike the chargeback billing report that shows totals for compensation

²³ Social Security Administration's (SSA) Office of the Inspector General found that nearly seven percent of claimants OWCP identified with no wage-earning capacity actually had earnings reported to SSA. In response, DOL reported that: "...Claims Examiners are not consistently following up with claimants to ensure that a Form CA-1032 is received annually for each claimant, as applicable; however, payments continued to be made to non-responsive claimants."

and medical payments, the AQS provides detailed payment amounts. We found very few printed AQS inquiries in NARA's claimant files.

5. *Communication with the injured employee was not documented in case files (most cases files).* We noted that very few case files included documentation highlighting communication with the injured employee. The Office of Workers' Compensation Programs Publication CA-810, *Injury Compensation for Federal Employees*, Chapter 9, Section 9-3 states federal agencies should "stay in touch with injured employees while they are receiving compensation." When case management and communication with an injured employee is not maintained there is increased risk of fraud and abuse.
6. *Personnel form SF-50s was not found in case files (all case files).* Personnel form SF-50s should be included in the case file to provide documentation and verification of: (1) NARA employment at the time of injury; (2) correct program cost codes for budget/accounting purposes; (3) rate of pay reported to OWCP; and (4) other personnel changes affecting OWCP benefits such as cost of living increases, health benefit deductions, and retirement election.

Workers' Compensation Claims Were Not Processed Timely

DOL reports 30 percent of the 33 claims NARA submitted in the third quarter of fiscal year 2008 were not timely.²⁴ Late claim submissions can result in delayed compensation benefits and medical bill payments. More importantly, timely claim submission reduces NARA's costs by allowing earlier initiation of case management actions designed to expedite injury recovery and return to work.

As part of the Safety, Health and Return-to-Employment (SHARE) Initiative, President Bush directed federal agencies to establish goals and track performance in four major areas critical to financial cost management of accidents in the federal workplace. One of the four critical areas targeted for performance improvement is the timely reporting of injuries and illnesses.

OWCP, using information provided by the employing agency, determines timely submission of a workers' compensation claim for each federal agency. The most recent DOL report indicates 86 percent of claims are filed timely by all federal agencies combined. However, NARA's most recent timely rating of 70 percent is below the national average and below NARA's stated SHARE initiative goal of 77 percent.

During the NAH Workers' Compensation presentation at the Administrative Conference held at Archives II on April 22, 2008, several AOs stated they were not aware of DOL's requirement to have claim forms submitted within 10 days and requested NAH provide

²⁴ Federal regulations require the employing agency to complete and transmit Forms CA-1 and CA-2 to OWCP within 10 working days after receipt from the employee.

written guidance to document the FECA process they should follow. The NAH Employee Relations Specialist stated many regional AOs were not aware of proper claim form preparation and did not indicate the correct date a claim was received. In her opinion, stating the incorrect date could result in a claim being identified as "late" by OWCP.

Recommendations:

In order to strengthen the integrity and controls over NARA's WCP we recommend that the Acting Assistant Archivist for Administration direct the Director of the Human Resources Services Division to:

1. Develop and define an appropriate organizational structure for NARA's WCP. Specifically:
 - a. Determine whether, given the number of cases and available resources, the management and administration of NARA's WCP should be centralized or decentralized.
 - b. Provide the necessary NAH personnel to develop and manage NARA's Workers' Compensation Program.
 - c. Define the roles and responsibilities of those involved with NARA's WCP and develop (1) Position Descriptions accurately describing major areas of responsibility and (2) performance measures and employee performance standards encouraging effective management of NARA's WCP.
 - d. Develop an appropriate training program for personnel involved with NARA's WCP. This training should be documented when completed and refresher training should be provided on a periodic basis.
2. Review all NARA's current long-term case files and develop an action plan to bring these files current by (1) contacting OWCP and requesting key case documentation missing from NARA files, (2) obtaining second opinion medical reports where appropriate and (3) instituting a quarterly review of all case files.
3. Develop a return-to-work program that addresses actions such as: (a) when to offer short-term or permanent restricted job duties; (b) defining and identifying a pool of productive limited short-term duty positions to be used for newly injured employees; (c) efficient and timely referral to DOL's vocational rehabilitation program when permanent restrictions cannot be accommodated; (d) periodic monitoring of medical restrictions for those offered limited duty work; and (e) compliance with FECA laws such as notifying injured workers of their rights and responsibilities and putting job offers in writing for limited duty positions.
4. Verify Workers' Compensation benefits by;
 - a. Developing procedures to promptly and continuously verify, validate, and document DOL's quarterly chargeback reports for accuracy and propriety including procedures to resolve any discrepancies.

- b. Developing processes to track and monitor NARA's continuation of pay benefits by including procedures such as: (a) coordinating with GSA Payroll Division to develop a COP benefits report; (b) developing a COP tracking information sheet to be included in each disability case file; (c) developing reconciliation procedures comparing the GSA COP benefits paid report to the COP tracking information sheet; (d) developing corrective action procedures for overpayments. These procedures should be included in NARA's comprehensive written policies and procedures for its WCP.
 - c. Ensuring COP overpayments identified in this report are recovered.
5. Develop comprehensive written policies and procedures for NARA's Workers' Compensation Program. These written policies and procedures should address FECA regulations ensuring NARA meets its responsibilities.
6. Develop case management protocols and include these procedures in NARA's comprehensive written policies and procedures document (see recommendation #2 above). Specifically:
 - a. Develop procedures to periodically review long-term cases, minimally on a quarterly basis, by maintaining contact with the injured employee and requesting updated medical reports.
 - b. Develop a master listing of all NARA's active workers' compensation cases. This listing should highlight the current status of the case and identify dates when critical case actions need to be completed.
 - c. Develop a case file control log/checklist to ensure case files contain all necessary documentation which would allow verification of beneficiary eligibility and proper authorization of benefit payments.
 - d. Develop monitoring procedures to ensure timely submittal of claims to OWCP.
 - e. Identify missing case files and reconstruct these files as appropriate.



National Archives and Records Administration

8601 Adelphi Road
College Park, Maryland 20740-6001

Date: February 27, 2009

To: Susan Ashtianie, Director
Policy and Planning Staff (NPOL)

From: Richard Judson, Acting Assistant Archivist for Administration

Subject: Audit of NARA's Workers' Compensation Program

This memorandum responds to the Office of Inspector General (OIG) draft report entitled "Audit of NARA's Workers' Compensation Program." I have reviewed the report and concur with the recommendations contained therein.

The Office of Administration is committed to improving NARA's Workers' Compensation Program (WCP) and to reducing the agency's WCP costs. I look forward to receiving the OIG's final audit report and thank the OIG audit staff for the collaborative spirit in which they approached this audit.



RICHARD JUDSON
Acting Assistant Archivist for Administration