



OFFICE OF
**INSPECTOR
GENERAL**
UNITED STATES POSTAL SERVICE

Postal Service Workers' Compensation Program

Audit Report

September 30, 2011

Report Number HR-AR-11-007



OFFICE OF
**INSPECTOR
GENERAL**
UNITED STATES POSTAL SERVICE

HIGHLIGHTS

September 30, 2011

Postal Service Workers' Compensation Program

Report Number HR-AR-11-007

IMPACT ON

Postal Service Workers' Compensation Program

WHY THE OIG DID THE AUDIT:

Our objective was to determine whether U.S. Postal Service workers' compensation claims are handled effectively and efficiently to ensure employees entitled to benefits appropriately receive them and to identify opportunities to reduce workers' compensation costs and improve service.

WHAT THE OIG FOUND:

Postal Service workers' compensation claims are not always handled effectively and efficiently. Specifically, Federal Employees' Compensation Act (FECA) reform is needed to improve the Federal Workers' Compensation Program by implementing controls and efficiencies used in the private sector. Also, opportunities exist to improve management of claims in the three districts we reviewed, strengthen billing guidelines for providers, reduce program abuses, and revise the methodology used to determine the Postal Service's administrative fee. The Postal Service could save approximately \$335 million a year if it implements cost-containment practices used in the private sector.

WHAT THE OIG RECOMMENDED

We recommended the vice president, Employee Resource Management,

Continue pursuing legislative changes to FECA by implementing best practices for increasing program effectiveness and efficiencies and reducing costs. Request the secretary of Labor to implement internal controls to enhance the Department of Labor's (DOL) handling of the Office of Inspector General reports of investigation; and revise the method used to determine the administrative fee to ensure it reflects actual costs to administer the workers' compensation program. Finally, we recommended additional training.

WHAT MANAGEMENT SAID:

Management agreed with the recommendations to pursue legislative changes to FECA, stating this in process. Management also agreed with the recommendation to provide training. However, they disagreed with recommendations to request changes to allow employing agencies to present evidence at hearings, clarify responsibilities for fraud detection, and establish a 45-day response time on cases.

AUDITORS' COMMENTS:

We consider management's comments responsive to three of our recommendations. We plan to request joint working group meetings with DOL and DOL Office of Inspector General to address the other recommendations.

[Link to review the entire report](#)



September 30, 2011

MEMORANDUM FOR: DEBORAH M. GIANNONI-JACKSON
VICE PRESIDENT, EMPLOYEE RESOURCE
MANAGEMENT

E-Signed by Mark Duda
VERIFY authenticity with e-Sign


FROM: Mark W. Duda
Deputy Assistant Inspector General
for Support Operations

SUBJECT: Audit Report – Postal Service Workers’
Compensation Program
(Report Number HR-AR-11-007)

This report presents the results of our audit of the Postal Service Workers’ Compensation Program (Project Number 10YR001SA000).

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact Andrea Deadwyler, director, Human Resources and Security, or me at 703-248-2100.

Attachments

cc: Anthony J. Vegliante
Corporate Audit and Response Management

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Introduction

This report presents the results of our audit of the U.S. Postal Service Workers' Compensation Program (Project Number 10YR001SA000). Our objective was to determine whether Postal Service workers' compensation claims are handled effectively and efficiently to ensure employees entitled to benefits appropriately receive them and to identify opportunities to reduce workers' compensation costs and improve service. This audit was self-initiated as a result of the Postal Service's rising workers' compensation costs and long-term liabilities. The audit addresses financial risk. See [Appendix A](#) for additional information about this audit.

Postal Service employees are covered by the Federal Employees' Compensation Act (FECA). Enacted in 1916, FECA provides various types¹ of benefits to civilian federal employees who sustain injuries or an occupational disease as a result of their employment. FECA also provides monetary benefits to qualified survivors if a work-related injury or disease causes an employee's death. FECA compensation benefits are tax-free. The base rate is 66 2/3 percent of the injured employee's salary if there are no dependents or 75 percent if there is at least one dependent. FECA does not have age or time limits on benefits. Benefits are payable as long as a physician certifies the condition or disability continues. FECA has not been significantly reformed in 35 years.

The Department of Labor's (DOL) Office of Workers' Compensation Programs (OWCP) administers FECA and determines the injured workers' eligibility for benefits. The DOL provides direct compensation to providers, claimants, and beneficiaries. However, the Postal Service later reimburses the DOL for its workers' compensation claims. Additionally, the Postal Service and other agencies not funded by appropriations must also pay the DOL a fee to administer the program for their employees. For chargeback year² 2010, the Postal Service paid the DOL over \$1 billion for workers' compensation claims and about \$61 million for administrative fees, which represented 94 percent of total administrative fees paid by "Fair Share" agencies.³

The Postal Service is the largest FECA participant. As of June 2011, the Postal Service had about 16,214 disabled employees on the periodic roll,⁴ which included 9,554 people age 55 and over; 3,389 people age 65 and over; and 928 people age 80 and over. The oldest Postal Service FECA participant was 99.

¹ Benefits include wage replacement, medical treatment, and vocational rehabilitation.

² The chargeback year (July 1 through June 30) is the period when the DOL bills agencies for OWCP benefits.

³ FECA requires the Postal Service and non-appropriated agencies to pay the DOL its fair share of the cost of administering the workers' compensation program as determined by the secretary of Labor.

⁴ Employees who are receiving workers' compensation benefits and have disabilities that are expected to be permanent or prolonged (60-90 days).

Conclusion

We found that Postal Service workers' compensation claims are not always handled effectively and efficiently by the DOL and the Postal Service. Specifically, we determined FECA reform is needed to improve the federal workers' compensation program by implementing controls and efficiencies used in the private sector. Additionally, opportunities exist to improve the management of workers' compensation claims, strengthen billing guidelines for providers, and reduce program abuses.

We also found that the method used to determine the Postal Service's administrative fee should be revised to better reflect the actual cost for the DOL to administer the program. Lastly, in our analysis of the new claims acceptance rates for DOL compared to that of the Social Security Administration (SSA), we found the DOL's average 5-year acceptance rate for new claims was 85 percent compared to the SSA's 40 percent acceptance rate for Social Security Disability Insurance (SSDI). FECA reform and enhanced claims management could result in significant savings for the Postal Service and improve service while protecting benefits for eligible employees. Our benchmarking results revealed the Postal Service could save approximately \$335 million dollars a year if it implemented the cost-containment practices employed in the private sector.

FECA Reform

FECA has not been significantly reformed in 35 years and lacks many of the cost-containment practices state governments and the private sector use to control workers' compensation costs.

We performed analysis and benchmarked to identify best practices for reducing workers' compensation costs. Global Insight benchmarked with four third-party administrators (TPAs) and one private organization. The benchmarking results revealed that Postal Service workers' compensation costs far exceeded private sector costs. Specifically, the Postal Service's average workers' compensation cost per employee workhour was 95 cents compared to the private sector range of 42 to 67 cents. If the Postal Service can reduce its workers' compensation expense per hour worked from 95 to 67 cents, it would save about \$335 million dollars a year.

This difference in costs exists because FECA lacks many of the cost-containment practices state governments and the private sector use to limit workers' compensation benefits and control workers' compensation costs including:

- Maximum time and benefit limits.
- Settlement and buyout options.
- Employer selected physicians.
- Enhanced return to work and rehabilitation programs.

Further, we determined efficiencies would be gained through mandatory use of generic drugs and recovery of continuation of pay (COP) benefits in third-party liability cases. Although generic drugs are generally lower in cost than brand name drugs, FECA allows Postal Service employees with approved workers' compensation claims to choose either brand name or generic drugs. Also, FECA does not allow the Postal Service to recover COP benefits in third-party cases.

Maximum Time and Benefit Limits

Benchmarking results revealed that all 50 states have their own rules and regulations for administering workers' compensation programs, which serve as the governing body for the private sector.⁵ In general, state statutes vary slightly from one another. Each benchmarking participant indicated that state statutes regulate the following:

- Benefit duration for Temporary Total Disability (TTD)
- Benefit duration for Partial Permanent Disability (PPD)
- Percentage of salary paid for TTD and PPD
- Maximum weekly benefit for TTD and PPD
- Timeframes for accepting or rejecting claims
- Timeframes for paying claims

For example, three of the five most populous states had maximum time limits for receiving workers' compensation benefits. Four of the five most populous states have maximum compensation rates of 66 2/3 percent tax-free and do not provide additional compensation for dependents. Conversely, FECA provides two levels of compensation payments and its maximum rate is 75 percent tax-free for claimants with dependents. Further, FECA does not have age or time limits for receiving benefits.

Settlement and Buyouts

When claimants' conditions are expected to be long-term or permanent, settlements and buyouts are commonly used by the private sector to reduce workers' compensation costs and long-term liabilities. For example, benchmarking results revealed that one company settled 906 of 5,400 active workers' compensation cases. FECA does not allow settling of workers' compensation cases except for those that involve third-party liability. Revising FECA to allow the Postal Service to settle claims could reduce the number of claimants on periodic rolls and overall workers' compensation costs and long-term liabilities.

Employer-Selected Physicians

Benchmarking results and our analysis showed that a majority of TPAs and private companies require claimants to use their networks of selected physicians.

⁵ Employers are required to follow the workers' compensation rules that apply in their state.

TPAs select physicians who have experience in handling workers' compensation cases, using the following criteria:

- Are designated as a workers' compensation physician.
- Have medical credentials.
- Have experience handling workers' compensation cases.

In addition to cost savings, some of the benefits TPAs and the private sector have realized from using selected physicians include timely communication, trusted physician assessments, and improved claims management. Currently, FECA allows claimants to choose their own physicians. As a result, the Postal Service could be exposed to a higher risk of fraud and increased workers' compensation costs.

Mandatory use of employer-selected physicians streamlines the process for managing workers' compensation cases, reduces the potential risk for fraud, and provides services that focus on returning employees to work.

[Return to Work](#)

We found that both the Postal Service and the private sector use return-to-work programs to reduce the length of time claimants are out of work as a result of work related injuries. Although FECA addresses return to work, it only allows permanently disabled employees to participate in vocational rehabilitation programs. The DOL is proposing changes to FECA that would allow all injured workers to participate in vocational rehabilitation services, where appropriate, as early as 6 months after their injury.

Further, according to a Postal Service official, allowing the Postal Service to initiate its own vocational rehabilitation process independent of OWCP would increase the number of claimants participating in the program and reduce workers' compensation costs. The earlier a claimant is involved in a vocational rehabilitation program, the greater likelihood of a successful return to work.

[Generic Drugs](#)

FECA allows claimants to receive reimbursement for the cost of brand name drugs and does not limit reimbursement to the generic drug rate, which is generally lower. Our analysis showed that brand name drugs can cost up to 80 percent more than their generic equivalent. Currently, FECA allows Postal Service employees with approved workers' compensation claims to choose either brand name or generic medications. Postal Service officials estimate that if FECA limited reimbursement to the cost of the generic equivalent, where applicable, the Postal Service could save approximately \$9 million a year.

Third-Party Liability

FECA does not allow recovery of COP benefits in third-party cases. COP pay is intended to avoid interruption of pay while claims are adjudicated and provides claimants with a continuation of their regular pay for up to 45 calendar days of wage loss due to disability and/or medical treatment after a traumatic injury. In fiscal year (FY) 2010, the Postal Service paid over \$36 million in COP costs. The 1974 "Continuation of Pay" provision of FECA prohibits recoveries of COP benefits in third-party cases. As a result, the Postal Service is not allowed to recover COP benefits paid to the claimant and recovered from a third party.

A 1980 Memorandum of Agreement between DOL and the Postal Service authorized the Postal Service to pursue recoveries in FECA claims involving a liable third party.⁶ The agreement established that the Postal Service or its employees may pursue third-party cases except the following, which are administered by the DOL:

- Injuries resulting in employee death.
- Incidents that injure multiple employees.
- Injuries that occur outside U.S. or Canada.
- Injuries where the third party is a common carrier.
- Injuries where malpractice or product liability is involved.
- Occupational illness.

Both the Government Accountability Office (GAO) and the DOL have proposed FECA reform to allow recovery of COP benefits in third-party cases. Reforming FECA to allow the Postal Service to recover COP benefits would help reduce workers' compensation costs.

DOL Claims Management and Responsiveness to OIG Investigative Reports

The DOL is not always responsive to our reports of investigations for fraudulent workers' compensation claims. Specifically, our agents stated that it is difficult to work with the DOL and that DOL officials are reluctant to provide needed information during investigations. Additionally, the DOL does not always take timely or appropriate action when our agents provide documentation demonstrating fraud or that a claimant is not entitled to workers' compensation benefits as evidenced below.

- We provided the DOL with a report of investigation (ROI) in 2006 that found a claimant was exceeding medical limitations and willing to return to work. However, the DOL did not reduce the claimant benefits until 2011.

⁶ A third-party liability case exists when an employee's compensable injury or death results from circumstances which create a legal liability on some party other than the U.S.

- An investigation and subsequent medical exam revealed a claimant could return to work with no restrictions. Despite repeated requests from the agent, the DOL took about 14 months to issue the claimant a Notice of Proposed Termination.
- In numerous cases the DOL did not consider video evidence showing claimants exceeding their medical restrictions or provide the evidence to the claimant's doctor for use in determining their eligibility to continue receiving workers' compensation payments. For example:
 - In 2008, we submitted video evidence to the DOL showing a claimant exceeding medical limitations and requested an independent medical examination (IME). The DOL did not initially provide the video evidence to the doctor for the IME. When we discovered the DOL did not provide the report and video for the exam, we asked again that it be submitted as an addendum. When the doctor reviewed the video evidence, he agreed that the claimant could return to work and the Postal Service offered him a position. Ultimately, the claimant refused to return to work and continues to receive benefits.
 - In February 2010, we submitted a ROI to the DOL prompting it to schedule the claimant for a follow-up exam. The DOL continued to pay benefits although the claimant did not attend the follow-up exam. In late 2010, the claimant did attend the follow up exam and was found to be capable of returning to work. However, despite several contacts by our agents to the DOL since that exam, the DOL has not taken any action to terminate the claimant's benefits.

Further, the DOL has repeatedly requested that our agents conduct investigations jointly with the Office of Inspector General's (DOL OIG) agents to prevent the release of investigative information to the claimants. Unless our agents work the cases jointly with the DOL OIG, the DOL releases investigative information to the claimant (such as videos or other material used to build an investigative case), which can jeopardize the investigation. According to the Privacy Act,⁷ FECA claimants are entitled to their case records upon request. Additionally, the DOL's policy states that most investigative documents are releasable as a part of the case file. However, the DOL has established a protocol⁸ for U.S. Postal Service Office of Inspector General (OIG) investigating agencies that allows it to maintain investigative information in a separate file, which prevents the claimant from having access to the investigative records during investigations. The DOL does not always confirm that the investigation is complete prior to placing the investigative information in the case file, which leads to the release of the investigative information prior to the conclusion of the investigation. If all DOL offices implemented this protocol, it would reduce the risk of investigative records being released to claimants during investigations. Because we plan to address this issue directly with the DOL, we are not making a recommendation in this report.

⁷ Claimants' case files are protected under the Privacy Act of 1974, 5 U.S.C. § 552a.

⁸ FECA Circular 08-04, *Division of Federal Employees' Compensation Protocol Statement-OIG Audits, Evaluations, and Investigations*, dated March 31, 2008.

We believe many of the difficulties we have experienced working with the DOL exist because there is no clear delineation of responsibilities for detecting fraud among the DOL, the DOL OIG, the OIG, and the Postal Service. The DOL requires their claims examiner to review case files for indications of fraud. If fraud is identified, the claims examiner is responsible for notifying the DOL OIG, but is not required to notify the agency or the agency OIG. When a claims examiner detects potential fraud, it is not clear what role the DOL, the DOL OIG, the agency, and the agency OIG have in the investigative process.

In addition, the DOL maintains exclusive control over case files and is not always willing to provide needed documents during investigations. The DOL's protocol⁹ requires advance notice to review case files, but the wait time could be up to 3 weeks. Additionally, the DOL's protocol establishes that case files could be scanned and provided on compact discs; however, there are no timelines for providing the information. Although the DOL has procedures for FECA investigations, it does not implement these procedures in all of its district offices and the procedures do not include timeliness requirements for the DOL to respond to investigating agencies, which could impede an investigation. We plan to address the issues regarding access to case files directly with the DOL and are not making a recommendation in this report.

The OIG has the authority and responsibility to investigate workers' compensation fraud for Postal Service employees. Specifically, beginning October 2008 through April 2011, the OIG identified and facilitated terminating benefits for 476 claimants who were committing workers' compensation fraud. They have recovered \$83.5 million in medical and disability judgments and halted significant future losses. For example:

- In one investigation a claimant received \$142,000 in fraudulent workers' compensation benefits. The Postal Service Office of Investigations captured pictures of the claimant hiking, bungee jumping, and enjoying the boat they purchased and named "Free Ride." The claimant was convicted of fraud.
- In another investigation, a claimant claimed \$190,000 in mileage reimbursements for travel to therapy almost every day for 5 years, including weekends and holidays. However, the DOL never questioned any of the reimbursement requests, even though there were no medical services to justify the claims.

The DOL OIG has jurisdiction to investigate all workers' compensation fraud because the DOL is statutorily authorized to administer FECA benefits. The OIG and DOL OIG share jurisdiction to investigate fraud related to Postal Service workers' compensation claims. Further, the DOL and the Postal Service also have responsibilities for detecting workers' compensation fraud.¹⁰ Although there are shared responsibilities for detecting

⁹ *Protocol for OIG Audits, Inspections, Evaluations, and Investigations of the FECA Program*, Circular 08-04, effective March 31, 2008; and FECA Circular 09-05, *Release of Documents from Federal Employees' Compensation (FECA) Files*, effective August 26, 2009.

¹⁰ DOL must monitor claims for fraud and abuse. Additionally, Postal Service supervisors and Health and Resource Management (HRM) personnel must evaluate workers' compensation claims for fraud and abuse and report suspicious claims to the Postal Service OIG.

and investigating fraud, the DOL has sole authority to approve or deny claims and investigating agencies are not able to present evidence in a claims hearing. In addition, there is no requirement for the DOL to respond to OIG ROIs.

Since there is no clear delineation of responsibilities or comprehensive standard procedures for handling ROIs, the Postal Service is exposed to significant risk that fraudulent claimants will go undetected for prolonged periods and investigative efforts could be duplicated.

Provider Compliance Program

The DOL does not have a provider compliance program similar to Medicare,¹¹ which makes it difficult to prosecute providers for fraudulent billings. The Department of Justice regularly declines criminal and civil cases because the DOL lacks the policies or guidance designed to prohibit abuse. In a current investigation involving a specific billing code for pain management services, the assistant U.S. attorney is reluctant to include charges for these particular services because the DOL does not have comprehensive billing guidelines. According to our investigative analysis of billing records, we suspect the provider is fraudulently billing for services not provided in the amount of \$8.2 million.

A provider compliance program for workers' compensation would give providers clear guidelines for billing and establish criteria for criminal and civil cases against medical providers who may fraudulently bill the DOL for workers' compensation claims. Establishing a provider compliance program could reduce fraudulent billings and provide prosecutors criteria to establish fraud.

Administrative Fees

The DOL bases the administrative fee it charges the Postal Service on a percentage of total FECA benefits paid and not actual costs to administer the Postal Service workers' compensation program. FECA requires the Postal Service and other agencies not funded by appropriations to pay the DOL their "Fair Share" of OWCP administrative expenses. The secretary of Labor determines the "Fair Share" methodology, which is based on a percentage of total workers' compensation benefits paid, and is generally about 5 to 6 percent. FECA does not allow the Postal Service the option to negotiate this fee or the methodology for calculating it.

For chargeback years 2008, 2009, and 2010 the Postal Service paid the DOL about \$53 million, \$56 million, and \$61 million in administrative fees, respectively. The \$61 million paid in 2010 represented 94 percent of total administrative fees paid by "Fair Share" agencies.

¹¹ Medicare has a compliance program that assists them in developing guidance for providers. The compliance program includes conducting internal monitoring and auditing; implementing compliance and practice standards; designating a compliance officer; conducting training and education; responding appropriately to detected offenses and developing corrective action; and enforcing disciplinary standards through well-publicized guidelines.

The DOL's methodology to calculate agencies' "Fair Share" for FECA administrative expenses does not consider actual costs associated with processing various FECA benefits. Additionally, there is no direct correlation between the administrative fees charged and actual costs for claims management. According to a Postal Service official, the time and cost to administer new claims is generally higher than the cost to administer continuation of benefits for individuals permanently disabled. Revising the methodology could reduce workers' compensation costs and ensure the fees are more related to the services provided by the DOL.

Postal Service Claims Management

Opportunities also exist for the Postal Service to improve its management of workers' compensation claims in the three districts we reviewed. Postal Service policy¹² requires responsible officials to ensure claimants have properly completed claims and other medical forms and correspondence¹³ and to seek and offer limited-duty assignments to capable claimants. However, 69 percent of the case files we reviewed (103 of 150) for the Chicago, Philadelphia, and Seattle Districts did not contain consistent and relevant claims forms, medical documentation, or correspondence. Table 1 summarizes the results of our case file analysis.

Table 1: Case File Analysis

District	File did not have consistent and relevant claims forms, medical documentation, or correspondence	File did not have evidence employees received the rights and responsibilities form	File did not have evidence personnel sought limited-duty assignment for employees with restrictions
Chicago	(26 of 50) 52%	(27 of 50) 54%	(10 of 50) 20%
Philadelphia	(35 of 50) 70%	(20 of 50) 40%	(9 of 50) 18%
Seattle	(42 of 50) 84%	(32 of 50) 64%	(13 of 50) 26%
Total	(103 of 150) 69%	(79 of 150) 53%	(32 of 150) 21%

Source: OIG Analysis

We found that responsible HRM personnel and supervisors in the three districts we reviewed did not have sufficient training for handling workers' compensation cases. For example:

¹² Handbook, EL-505, *United States Postal Service Injury Compensation*, October 1995.

¹³ Required forms include CA-1, Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay; CA-2, Notice of Occupational Disease and Claim for Compensation; and CA-20, Attending Physician's Report.

Table 2: Employee Training Records Analysis

	Did not receive limited-duty and rehabilitation training	Did not receive claims management training	Did not receive OWCP Employee Health and Safety training
HRM Personnel	(7 of 12) 58%	(7 of 12) 58%	(2 of 12) 17%
Supervisors	(0 of 13) ¹⁴ 100%	(5 of 13) 38%	(5 of 13) 38%

Source: OIG Analysis

HRM personnel also stated they did not have adequate time or resources to conduct case management properly. As a result, the Postal Service is at risk of overpaying workers' compensation costs.

Although the Postal Service recovered about \$8.9 million in third-party liability cases,¹⁵ we found that Postal Service personnel did not always handle potential third-party liability cases in accordance with policy.¹⁶ In 32 of 38 cases we reviewed in three districts, we found the following:

- Seven of 38 case files did not contain evidence that the Postal Service assessed liability or conducted any investigation.
- In 14 cases the claimant did not respond to the Postal Service's Notice of Potential Third-Party Liability¹⁷ and in 13 of these cases the Postal Service did not take the required action to follow-up on and pursue the case.
- In 11 cases the Postal Service did not take the required action to pursue the claim following assignment by the claimant.

According to Postal Service officials, significant turnover in district-level human resources staff have resulted in untrained and inexperienced staff handling third-party recoveries. Specifically, we found that 9 of 12 HRM specialists in the Chicago, Philadelphia, and Seattle Districts had not received training related to third-party recoveries in the last 3 years. Additionally, HRM officials stated that staffing turnover and changes have caused specialists to prioritize claims management responsibilities, and pursuing third-party recoveries was often not a priority.

HRM officials have acknowledged the importance of pursuing third-party recoveries and taken steps to help ensure the proper handling of these claims. For example, Seattle

¹⁴ According to Postal Service officials, supervisors, and managers received some limited-duty and rehabilitation training which was not recorded in their training records.

¹⁵ Recoveries from 1,686 claims for the period October 2008 through April 2011.

¹⁶ Handbook EL-505, October 1995.

¹⁷ The Postal Service uses Postal Service Form 2562, Injury Compensation Program, Notice of Potential Third Party Claim, to obtain information necessary to pursue recoveries from liable third parties.

District HRM personnel, in coordination with the Western Area, conduct periodic audits of third-party claims to determine the status of claims and follow up as necessary. Chicago District HRM personnel review a select number of third-party cases every month to determine their status and ensure recovery is actively pursued. Postal Service Headquarters recently designated an official at headquarters to help monitor and seek third-party recoveries. Because management is increasing efforts to pursue third-party liabilities, we are not making a recommendation regarding prioritization of resources. Improved handling and pursuing of third-party liability cases will ensure the Postal Service receives reimbursement for these claims.

New Claims Acceptance Rates

Lastly, we performed an analysis of the claims acceptance rates for the DOL compared to that of the SSA and reviewed the differences in requirements and benefits. In contrast to the SSA, the DOL approves the majority of new claims. Specifically, the DOL's average 5-year acceptance rate for new claims was 85 percent compared to the SSA's 40 percent acceptance rate for SSDI. With FECA, medical evidence is required to prove the claimant has a work-related injury or disease and the claimant receives benefits prior to claim approval. Alternatively, the SSA requires medical evidence to establish that the claimant is expected to be totally disabled for at least 12 months and the claimant does not receive benefits prior to claim approval.

SSDI is a federally run benefits program that provides aid to people who are unable to achieve gainful employment due to a permanent disabling condition. SSDI is funded by the Social Security tax, therefore, any person who qualifies as disabled according to the definition provided by the SSA and who has paid Social Security taxes long enough to achieve sufficient work credits can qualify for SSDI. SSDI compensation is based on individual earnings and work credits. The OWCP is a non-adversarial program, which provides medical care, wage loss compensation, and rehabilitation services. Employee compensation is tax-free. The individual base rate is 66 2/3 percent of the injured employee's salary or 75 percent if there is at least one dependent. Table 3 compares requirements and benefits for the federal workers' compensation program and SSDI.

Table 3: Comparison of Federal Workers' Compensation and SSDI

	Workers' Compensation	Social Security Disability Insurance
Eligibility	<ul style="list-style-type: none"> ▪ Claimant must be a U.S. government employee. ▪ Claimant must have a work-related injury or disease. ▪ Claim must be filed within 3 years of the date of injury¹⁸ or date of awareness for occupational disease. 	<ul style="list-style-type: none"> ▪ Claimant must have worked and paid into the program (payroll taxes) for 5 of the last 10 years. ▪ Claimant's disability must be expected to last at least 1 year or result in death. ▪ Claimant can no longer perform the work they performed in their old job and unable to adjust to new work because of their medical condition.
Benefits	<ul style="list-style-type: none"> ▪ After 3-day waiting period claimant can receive COP benefits up to 45 days.¹⁹ ▪ Compensation: 66 2/3 percent of employee's base salary (tax-free) or 75 percent if there is at least one dependent. ▪ Medical services ▪ Vocational rehabilitation 	<ul style="list-style-type: none"> ▪ Compensation is based on individual earnings and work credits.²⁰
Waiting Period	<ul style="list-style-type: none"> ▪ Medical benefits are covered immediately ▪ Three-day waiting period for COP 	<ul style="list-style-type: none"> ▪ Five-month waiting period before the claimant receives benefits. If approved, benefits paid retroactively.
Acceptance Rate	<ul style="list-style-type: none"> ▪ Eighty-five percent average 5-year acceptance rate for new claims. 	<ul style="list-style-type: none"> ▪ Forty percent average 5-year acceptance rate for new claims.
Benefit Duration	<ul style="list-style-type: none"> ▪ No age or time limits for benefits. 	<ul style="list-style-type: none"> ▪ Benefits terminate when a claimant reaches full retirement age as defined by the SSA.
Appeals Process	<ul style="list-style-type: none"> ▪ Oral and/or written hearings held by the Branch of Hearings and Review ▪ Reconsideration request to the OWCP district office ▪ Appeals reviewed by Employee Compensation Appeals Board 	<ul style="list-style-type: none"> ▪ Reconsideration ▪ Administrative hearing ▪ Review by SSA Appeals Council ▪ Federal District Court

Source: DOL and SSA

¹⁸ Claim must be filed within 3 years of the date of injury, except where the official superior had actual knowledge of the injury within 30 days of its occurrence.

¹⁹ Traumatic injury only.

²⁰ Eligible claimants can also receive vocational rehabilitation services provided through community organizations that receive grants from SSA.

Recommendations

We recommend the vice president, Employee Resource Management:

1. Continue to pursue legislative change to transform the Federal Employees' Compensation Act into a modernized workers' compensation program that includes best practices for increasing program effectiveness and efficiencies and reducing costs.
2. Pursue legislative change to amend Federal Employees' Compensation Act to allow recovery of continuation of pay benefits in third-party cases.
3. Pursue legislative change to reform Federal Employee Compensation Act to allow employing agencies to present evidence at hearings when fraud is alleged.
4. Request the secretary of Labor or designee to:
 - Clearly define organizational responsibilities for detecting workers' compensation fraud.
 - Establish requirements for Department of Labor to respond to reports of investigations within 45 days after receiving them.
 - Establish a provider compliance program.
 - Revise the method used to determine the administrative fee to ensure the fee is based on actual costs to administer Postal Service Workers' Compensation Program.
5. Develop mandatory and refresher training for Postal Service officials responsible for workers' compensation to ensure they are aware of their roles and responsibilities for workers' compensation.

Management's Comments

Management agreed with recommendations 1 and 2 and stated the recommendations support their current actions to pursue legislative changes that would increase efficiencies and reduce costs. Management further stated that Employee Resource Management is working closely with Postal Service Government Relations to assist the OWCP with their legislative agendas. They have also met with members of Congress and provided them with pertinent data to assist in drafting legislative proposals regarding recovery of COP benefits. Management stated these matters must be addressed through Congress; therefore they cannot provide a firm implementation date.

Management disagreed with recommendation 3 and stated that, although the employing agency is not permitted to testify during the hearing, FECA provides ample opportunities for the agency to provide documentation and evidence deemed pertinent to the

decision-making process. Management partially agreed with recommendation 4 and stated that the secretary of Labor has clearly defined organization responsibilities for detecting fraud and policies are in place to respond to inquiries from employing agencies and their designated representatives. The responsibilities and procedures to respond to inquiries were communicated in a bulletin issued to the OWCP, employing agencies, and OIG personnel. Additionally, attempts were made to establish a joint working group between the DOL OIG and Postal Service OIG to address these matters.

Management agreed to request the secretary of Labor or designee to establish a provider compliance program and stated that current legislation does not provide enforcement authority to the OWCP. However, regulations approved by the Office of Management and Budget address the provider exclusion process and will make it easier to exclude providers identified as using incorrect billing methods or fraudulent practices. Management stated this will be a continuing effort. Management also agreed to request the secretary of Labor to revise the methodology used to determine the administrative fee. Management stated they are committed to contacting the secretary of Labor or designee to address the fair share calculation method and explore changes that would more accurately reflect the cost associated with administering claims for injured Postal Service workers. The target completion date is Q1, FY 2012.

Management agreed with recommendation 5, stating they recognize the need to provide responsible staff with updated training. They are currently adding training material to the Postal Service Learning Management System to enable them to better monitor the staff's training activities. The target completion date is Q4, FY 2012. See [Appendix B](#) for management's comments in their entirety.

Evaluation of Management's Comments

We consider management's comments responsive to recommendations 1, 2, and 5 and corrective actions should resolve the issues identified in the report. Regarding recommendation 3, we recognize the employing agency can provide written evidence to support its fraud cases during hearings. However, the ability to provide oral testimony during the hearing to counter the claimant's testimony would enhance the employing agencies' abilities to substantiate its fraud claims. Regarding management's comments related to portions of recommendation 4, we disagree that the secretary of Labor has clearly defined responsibilities for detecting fraud. The DOL requires their claims examiner to review case files for fraud and to notify the DOL OIG if fraud is suspected. However, the examiner is not required to notify the employing agency or the agency OIG. Further, it is not clear what role the DOL, the DOL OIG, the agency, and the agency OIG have in the investigative process. We also disagree that the DOL has requirements in place for responding to OIG ROIs. We plan to request quarterly joint working group meetings with the DOL and the DOL OIG to address the issues management disagreed with in recommendations 3 and 4. We consider management's comments responsive to recommendation 4 with regard to the provider compliance program and administrative fee. Management's planned corrective actions should resolve the issues identified.

The OIG considers all recommendations significant, and therefore requires OIG concurrence before closure. Consequently, the OIG requests written confirmation when corrective actions are completed. These recommendations should not be closed in the Postal Service's follow-up tracking system until the OIG provides written confirmation that the recommendations can be closed.

Appendix A: Additional Information

Background

Postal Service employees are covered by FECA. The DOL OWCP administers FECA and determines the injured worker's eligibility for benefits. The DOL provides direct compensation to providers, claimants, and beneficiaries. However, the Postal Service later reimburses the DOL for all workers' compensation claims, including an administrative fee through a process known as "charge-back billings." The Postal Service's workers' compensation costs for chargeback year 2010 were over \$1 billion and administrative fees were approximately \$61 million.

Enacted in 1916, FECA provides medical, compensation, death, and other benefits, such as vocational rehabilitation, and nursing services to civilian federal employees who sustain injuries including occupational disease as a result of their employment with the federal government. FECA also provides monetary benefits to qualified survivors if a work-related injury or disease causes an employee's death. FECA compensation benefits are tax-free. The base rate is 66 2/3 percent of the injured employees salary if there are no dependents or 75 percent if there is a least one dependent. FECA does not have age or time limits on benefits.

The OWCP has the exclusive authority, except as otherwise provided by law, for the administration, implementation, and enforcement of FECA. Its main responsibility is to determine whether the claimant is entitled to benefits under FECA. The OWCP administers FECA through 12 district offices across the U.S. Each district office is headed by a district director, who is responsible for office functions. Additionally, each district office has two or more supervisory claims examiners or claims managers who are responsible for the operation of individual claims units. Claims units, staffed with senior claims examiners and claims examiners, are primarily responsible for rendering decisions and managing OWCP claims.

The primary role of the Postal Service's Workers' Compensation Program is to assist injured workers with completing and submitting compensation claims to the OWCP and to facilitate injured employees return to the workplace. The senior vice president, Human Resources, and the manager, Safety and Risk Management, are responsible for establishing policies and procedures for the Postal Service's Workers' Compensation Program.

Area human resources managers implement the Postal Service's Workers' Compensation Program and oversee area-wide program activities to ensure compliance with national policies and guidelines. Additionally, HRM analysts in the area offices keep headquarters management advised of the status of the agency and OWCP initiatives, provide technical assistance, and manage and oversee cost-reduction initiatives. Nationally, the Postal Service's Workers' Compensation Program is administered by various personnel located in district and selected satellite offices, including district HRM managers and HRM specialists. First-line supervisors are responsible for performing

claims management immediately following an injury, including investigating the circumstances surrounding the injury. The injured employee or person acting on behalf of the employee is responsible for filing the initial claim forms within the specified timeframes.

The OIG has the authority and responsibility to investigate workers' compensation fraud for Postal Service employees. The DOL OIG has jurisdiction to investigate all workers' compensation fraud because the DOL is statutorily authorized to administer FECA benefits. The OIG and the DOL OIG share jurisdiction to investigate fraud related to Postal Service workers' compensation claims. Further, the DOL and the Postal Service also have responsibilities for detecting workers' compensation fraud.

Objectives, Scope, and Methodology

Our objectives were to determine whether Postal Service workers' compensation claims are handled effectively and efficiently to ensure employees entitled to benefits appropriately receive them and to identify opportunities to reduce workers' compensation costs and improve service.

We reviewed the Postal Service's Workers' Compensation Program and identified opportunities to reduce costs and improve service. To accomplish our objective, we reviewed applicable policies and procedures and interviewed responsible Postal Service officials to gain an understanding of their roles and responsibilities for workers' compensation. We also reviewed training records from the Postal Service's Learning Management System to determine whether key personnel responsible for the workers' compensation program received workers' compensation training.

We statistically sampled 150 workers' compensation case files in the Chicago, Philadelphia, and Seattle Districts to determine whether the related claims were handled appropriately. Additionally, we reviewed the Postal Service's workers' compensation expenses for chargeback years 2008 through 2010. We also reviewed the DOL's methods for determining fair share administrative fees and their protocols for handling OIG reports of investigation.

We conducted a comparative analysis between the DOL and SSA eligibility requirements, benefits, and approval rates for workers' compensation programs and SSDI. Additionally we contracted with a firm to benchmark industry best practices for reducing workers' compensation costs and improving service. We also assessed internal controls related to workers' compensation program to identify control weaknesses.

We conducted this performance audit from March through September 2011 in accordance with generally accepted government auditing standards and included such tests of internal controls as we considered necessary under the circumstances. Those 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. We discussed our observations and conclusions with management on August 16, 2011, and included their comments where appropriate.

We assessed the reliability of workers' compensation data by interviewing Postal Service officials knowledgeable about the data; reviewing existing information about the data and the system that produced it; and comparing the data with hard-copy workers' compensation files. We discussed the training records with applicable officials. We determined that the data was sufficiently reliable for the purposes of this report.

Prior Audit Coverage

Report Title	Report Number	Final Report Date	Monetary Impact	Report Results
<i>Retirement for U.S. Postal Service Employees on Workers' Compensation</i>	HR-MA-11-001	4/22/2011	\$37.8 million annually or \$378 million over 10 years	If FECA were reformed to convert compensation to 50 percent of the employee's monthly pay when they reach retirement age, the Postal Service could save \$378 million over 10 years. The OIG recommended and management agreed to continue to pursue legislative change to reform FECA to reduce workers' compensation benefits for retirement age employees.

<p><i>Workers' Compensation Liability Estimate</i></p>	<p>FT-MA-11-002</p>	<p>12/23/2010</p>		<p>The OIG found that the Postal Service's workers' compensation liability was significantly higher than that of comparable private sector companies. Management could improve the workers' compensation model by ensuring that personnel who develop the liability estimate better understand the model, including the assumptions made, the analyses conducted, and the rationale for the methods used. The OIG provided three recommendations regarding improvements to the model. Management agreed to consider further alternatives for calculating the liability.</p>
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<p><i>OWCP's Jacksonville and New York District Offices Need to Improve Monitoring of Re-Employment Status of Claimants</i></p>	<p>04-09-004-04-431</p>	<p>9/29/2009</p>	<p>The DOL OIG found that the OWCP needs to improve its process for monitoring claimants in the "re-employment status not yet determined." In 11 percent of the cases (13 of 119), claims examiners did not perform critical required activities such as referring claimants for nursing or vocational rehabilitation services. Also, claims examiners did not make necessary referrals or conduct proper follow-up for medical examinations in 45 percent of the cases reviewed (54 of 119). Untimely case management was attributed to insufficient supervisory oversight. Management agreed to both recommendations to improve case management.</p>
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<p><i>Federal Workers' Compensation: Better Data and Management Strategies Would Strengthen Efforts to Prevent and Address Improper Payments</i></p>	<p>GAO-08-284</p>	<p>2/2008</p>		<p>The GAO found the OWCP lacked an effective strategy for managing the risks of improper payments because it has not emphasized preventing, detecting, and recovering improper payments or collected information needed to assess the program's risk of improper payments. None of the agency's performance goals for the FECA program addressed improper payments. The GAO issued four recommendations to strengthen the OWCP's efforts to prevent and address improper FECA payments. DOL disagreed with many of the GAO's findings and conclusions; however, the agency described several actions being taken that were consistent with the recommendations.</p>
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Appendix B: Management's Comments

DEBORAH GIANNONI-JACKSON
VICE PRESIDENT
EMPLOYEE RESOURCE MANAGEMENT



September 19, 2011

SHIRIAN HOLLAND,
ACTING DIRECTOR, AUDIT OPERATIONS

SUBJECT: Postal Service Workers' Compensation Program
(Report Number HR-AR-11-DRAFT)

This memorandum responds to the subject audit report dated September 2, 2011. The audit report concludes a second review of potential legislative changes and process improvements directed at reducing the costs associated with on the job injury claims.

Recommendation 1: Continue to pursue legislative change to transform the Federal Employees' Compensation Act into a modernized workers' compensation program that includes best practices for increasing program effectiveness and efficiencies and reducing costs.

Management Agrees with this Recommendation.

Management Response/Action Plan: The report supports the actions already underway, through Employee Resource Management (ERM), to support legislative changes that would increase efficiencies and reduce costs. Employee Resource Management is working closely with Government Relations on this agenda.

Target Implementation Date: As this is a matter that must be addressed through Congress, no firm implementation date can be established.

Responsible Official: Linda DeCarlo, Director Safety and Health

Recommendation 2: Pursue legislative change to amend Federal Employees' Compensation Act to allow recovery of continuation of pay benefits in third-party cases.

Management Agrees with this Recommendation.

Management Response/Action Plan: Employee Resource Management has provided support to legislative proposals allowing the recovery of continuation of pay through the third party subrogation process. We have provided data to the Office of Workers' Compensation Programs to assist them in pursuing their legislative agenda and have met with members of Congress to assist in drafting legislative proposals that would address this issue.

Target Implementation Date: As this is a matter that must be addressed through Congress, no firm implementation date can be established.

Responsible Official: Linda DeCarlo, Director Safety and Health

Recommendation 3: Pursue legislative change to reform Federal Employees' Compensation Act to allow employing agencies to present evidence at hearings when fraud is alleged.

Management Disagrees with this Recommendation.

Management Response/Action Plan: The Office of Inspector General was asked to provide clarification on this recommendation. Employee Resource Management has established that agency personnel can already provide evidence in support or in argument with a claim for benefits under the Federal Employees' Compensation Act. Although the agency is not permitted to testify during a hearing, the Act provides that the agency can provide written response to the transcript and has ample opportunities prior to the completion of the adjudication process to provide any documentation or evidence that it feels is pertinent to the decision making process. As no additional clarification was received, we can not agree to the recommendation.

Recommendation 4: Request the Secretary of Labor or designee to:

This recommendation is divided into four topics. Each item is addressed below.

1. Clearly define organizational responsibilities for detecting workers' compensation fraud.

Management Disagrees with this Recommendation.

Management Response/Action Plan: The Secretary of Labor has clearly defined organization responsibilities for detecting workers' compensation fraud. The Department of Labor, Office of Inspector General is mandated to perform this task and to work with all federal agencies in their individual pursuits of fraud recovery. A Bulletin was issued to every OWCP employee, employing agency representative and OIG personnel regarding the fraud process.

2. Establish requirements for Department of Labor to respond to reports of investigations within 45 days after receiving them.

Management Disagrees with this Recommendation.

Management Response/Action Plan: There are existing policies in place to respond to inquiries from employing agencies and their designated representatives. A Bulletin was issued to every OWCP employee, employing agency representative and OIG personnel regarding the fraud process. Attempts have been made to establish a joint working group between the DOL OIG and the USPS OIG in order to address these matters. To date, the parties have not met to address these concerns.

3. Establish a provider compliance program.

Management Agrees with this Recommendation.

Management Response/Action Plan: The OIG has indicated that they are seeking a compliance program similar to that which is provided through Medicare. The program proposed includes conducting internal monitoring and auditing, implementing compliance and practice standards, designating a compliance officer, conducting training and education, responding to detected offenses and developing corrective action and enforcing disciplinary standards through well-publicized guidelines.

The recommendations established in this report will require a two part approach to address. The current legislation does not provide any enforcement authority to the Office of Workers' Compensation Programs. New regulations recently approved by OMB have addressed the provider exclusion process and will now make it easier to have those providers who have been identified as using incorrect billing methods or fraudulent practices can be excluded based on a DOL OIG recommendation.

Employee Resource Management supports the need to establish protocols to capture billing issues and will continue to work with the DOL as issues are identified. Regular meetings and/or teleconference discussions have already been established and will continue.

Target Implementation Date: Continuing Efforts

Responsible Official: Linda DeCarlo, Director Safety and Health

4. Revise the method used to determine the administrative fee to ensure the fee is based on actual costs to administer Postal Service Workers' Compensation Program.

Management Agrees with this Recommendation.

Management Response/Action Plan: Employee Resource Management is committed to contacting the Secretary of Labor and/or her designees to address the Fair Share calculation method and explore changes that would more accurately reflect the costs associated with administering claims for USPS injured workers. ERM will work with Finance to address the matter.

Target Implementation Date: Quarter 1, FY 12

Responsible Official: Linda DeCarlo, Director Safety and Health

Recommendation 5: Develop mandatory and refresher training for Postal Service officials responsible for workers' compensation to ensure they are aware of their roles and responsibilities for workers' compensation.

Management Agrees with this Recommendation.

Management Response/Action Plan: Employee Resource Management recognizes the need to provide updated training materials to all staff responsible for the USPS workers' compensation program. We are currently working to add training materials to the Learning Management System. With the improved classes available through LMS, we will be better able to monitor the training activities of our staff.

Target Implementation Date: Quarter 4, FY 12

Responsible Official: Robert Souhrada, Manager OWCP Programs

This report and management's response do not contain information that may be exempt from disclosure under the Freedom of Information Act (FOIA).


fw Deborah Giannoni-Jackson

cc: Megan Brennan
Anthony J. Vegliante
Joseph Corbett
Marie Therese Dominguez
Sally K. Haring
Corporate Audit Response and Management