

April 2013

FEDERAL
EMPLOYEES'
COMPENSATION ACT

Case Examples
Illustrate
Vulnerabilities That
Could Result in
Improper Payments or
Overlapping Benefits



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Why GAO Did This Study

In fiscal year 2012, the FECA program made more than \$2.1 billion in wage-loss compensation payments to claimants. FECA provides benefits to federal employees who sustained injuries or illnesses at work.

GAO was asked to examine whether examples of improper payments, potential fraud, or overlapping benefits could be found in the FECA program. This report identifies examples of these issues, what factors may contribute to these issues, and how, if at all, Labor could address them. GAO matched QW and unemployment files from five selected states with FECA payment files for the period of July 2009 to June 2010. GAO identified 530 individuals who received concurrent FECA compensation payments and wages of at least \$5,000 between July 2009 and June 2010. GAO also identified 50 individuals who received concurrent FECA compensation and UI benefits of at least \$5,000 each during the same period. GAO randomly selected up to seven recipients from each state for an in-depth review, for a total of 32 QW and 19 UI cases, respectively. These examples cannot be generalized beyond those presented. GAO also reviewed Labor's policies, guidelines, and procedures for managing claims.

What GAO Recommends

GAO recommends that the Secretary of Labor develop an effective mechanism to share FECA compensation information with states to help identify whether claimants are inappropriately receiving overlapping UI and FECA payments. In addition, Congress should consider granting Labor the additional authority it is seeking to access wage data to help verify claimants' reported income and help ensure the proper payment of benefits. Labor agreed to study the feasibility of sharing compensation information with the states.

View [GAO-13-386](#). For more information, contact Stephen M. Lord at (202) 512-4379 or lords@gao.gov.

FEDERAL EMPLOYEES' COMPENSATION ACT

Case Examples Illustrate Vulnerabilities That Could Result in Improper Payments or Overlapping Benefits

What GAO Found

GAO found examples of improper payments and indicators of potential fraud in the Federal Employees' Compensation Act (FECA) program, which could be attributed, in part, to oversight and data-access issues. GAO found examples of claimants' receiving overlapping FECA and unemployment insurance (UI) benefits, which may be allowable under certain circumstances, but could also be erroneous. GAO also found that FECA program requirements allow claimants to receive earnings, and earnings increases, without necessarily resulting in adjustment of FECA compensation. For example, of the 32 FECA case files reviewed, GAO found five instances where an individual's wage-earning capacity (WEC), which is used to determine FECA benefits, was not adjusted even though the individual earned substantially more than the wage that was originally used to calculate the WEC. In addition, two FECA claimants continued to receive private-employment salaries that were not subject to their WEC calculation. This is because, as currently written, program procedures allow claimants to receive increases in earnings, in certain circumstances, without adjustments to FECA compensation, and current law allows for claimants' earnings from dissimilar concurrent private employment at the time of injury to be exempt when determining FECA compensation. As discussed below, GAO identified challenges related to oversight and data access, which could result in improper payments or overlapping benefits.

GAO found that the Department of Labor (Labor) did not conduct a timely review of the medical activity reports of 4 of the 32 FECA claimants and did not complete a timely review of the employment activity reports of 2 claimants, which could potentially result in an improper payment or be an indicator of potential fraud in one case where a claimant did not respond to repeated Labor requests for the employment activity reports. Labor has taken some steps to enhance oversight of the program, such as developing measures to improve the periodic review of claimants' documentation.

- GAO found that 8 out of 32 claimants underreported employment wages in comparison to the state's quarterly wage (QW) reports. Labor does not have authority to directly access Social Security Administration (SSA) wage data to verify claimants' reported income; consequently, it relies on periodic self-reporting of income. GAO has previously identified this as a potential vulnerability that could increase the risk of claimants receiving benefits they are not entitled to. To address this, Labor proposed legislation allowing the agency to match SSA wage data with FECA files, but the proposal is still pending.
- GAO identified 19 cases where claimants were receiving overlapping UI and FECA benefits totaling over \$1.3 million. Four of these 19 claimants received more income from combined UI and FECA benefits than they would have received from their federal salary alone. Four of the five selected states in our review require the offset of UI benefits against FECA compensation payments. Because Labor does not have a process to share necessary data with states to identify overlapping FECA and UI payments, a mechanism to share FECA information with the states would help provide reasonable assurance that payments are being made properly.

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Abbreviations

CE	claims examiner
ECAB	Employees' Compensation Appeals Board
ETA	Employment and Training Agency
FECA	Federal Employees' Compensation Act
HHS	Department of Health and Human Services
IG	Inspector General
Labor	Department of Labor
NDNH	National Directory of New Hires
OWCP	Office of Workers' Compensation Programs
PER	Periodic Entitlement Review
QW	quarterly wage
SSA	Social Security Administration
TSA	Transportation Security Administration
UI	unemployment insurance
WEC	wage-earning capacity

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Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

April 3, 2013

The Honorable Thomas R. Carper
Chairman
The Honorable Tom Coburn
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate

The Honorable Susan Collins
Ranking Member
Special Committee on Aging
United States Senate

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
House of Representatives

The Honorable Claire McCaskill
United States Senate

The Federal Employees' Compensation Act (FECA) program provides workers' compensation coverage to approximately 2.8 million federal and postal employees for work-related injuries and illnesses. Benefits include wage-loss benefits, medical benefits, vocational-rehabilitation benefits, and survivors' benefits. In fiscal year 2012, the FECA program made more than \$2.1 billion in wage-loss compensation payments to claimants. The program, administered by the Department of Labor (Labor), provides benefits to federal employees who sustained injuries or illnesses while performing their federal duties. For those claims that are approved, employing agencies reimburse Labor for payments made to their employees, while Labor bears most of the program's administrative costs.

Labor's Office of Workers' Compensation Programs (OWCP) estimated that future actuarial liabilities for government-wide FECA compensation payments to those receiving benefits as of fiscal year 2012 would total over \$34 billion (this amount does not include any costs for workers added to the FECA rolls in future years); the U.S. Postal Service represents over 40 percent (approximately \$14.4 billion) of these estimated liabilities. Federal agencies' Offices of Inspector General (IG)

have identified programmatic deficiencies at the employing department and at Labor that may make the program vulnerable to fraud and abuse.¹ For these reasons, you asked us to investigate the oversight mechanism Labor has in place to prevent waste, fraud, or abuse in the FECA program. This report is a follow-up to our January 2012 report identifying potential vulnerabilities in the program's design and controls that could increase the risk for fraud and promising practices that could help to reduce the risk of fraud within the FECA program.² This report addresses the following question:

What examples, if any, of improper payments, potential fraud, or overlapping benefits can be found in the FECA program, what factors may contribute to these issues, and how, if at all, could Labor address these factors?

To answer this objective, we determined whether individuals potentially received improper payments, potentially committed fraud, or received overlapping payments by comparing FECA data to quarterly wage (QW) and unemployment insurance (UI) data from selected states. To do this, we drew a nonprobability sample from five selected states: California, Florida, Maryland, New York, and Virginia.³ To identify instances in which individuals received both FECA and QW benefits, we matched selected states' QW files with FECA beneficiaries for the period of July 2009 to June 2010. We then applied a minimum threshold of \$5,000 to the amount of both FECA benefits and QW earnings in order to identify a sample for further review. The threshold of \$5,000 was chosen in order to identify a sample that was significant and that would allow for in-depth analysis. Individuals may be allowed to receive concurrent FECA and QW earnings if a person is on partial disability, however in some cases receipt

¹For example, see Office of the Inspector General, Social Security Administration, *Federal Employees Receiving Both Federal Employees' Compensation Act and Disability Insurance Payments*, A-15-09-19008 (October 2010) and U.S. Department of Labor, Office of Inspector General—Office of Audit, *Mechanisms Used to Identify Changes in Eligibility Are Inadequate at the FECA District Office in Jacksonville, Florida*, 04-07-004-04-431 (Washington, D.C.: Sept. 28, 2007).

²GAO, *Federal Employees' Compensation Act: Preliminary Observations on Fraud-Prevention Controls*, [GAO-12-402](#) (Washington, D.C.: Jan. 25, 2012).

³The specific states were selected because of (1) the size of the census population within the state and, in part, (2) the proximity to the Washington, D.C., metropolitan area. This nonprobability sample is not representative of all states or FECA recipients.

of concurrent payments may be improper. We identified 530 individuals who had received concurrent FECA wage-loss compensation payments and wage payments of at least \$5,000 for the 1-year period (i.e., July 2009 to June 2010) We then randomly selected up to seven claimants from each of the five states for an in-depth review, for a total of 32 cases. Of the five states, California, Maryland, and New York had seven individuals selected randomly, Florida had six individuals, and Virginia had five individuals that met the criteria for selection. For these beneficiaries, we reviewed QW files from the selected states and FECA files from Labor. The specific findings from the selected cases cannot be generalized to other, or all, FECA claimants who also received quarterly wages.

To identify FECA claimants who concurrently received UI benefits, we obtained and analyzed UI files from the same selection of states. Under certain circumstances, individuals can legitimately receive FECA and UI concurrently, but claimants could also be receiving these overlapping benefits erroneously, which could signal potentially improper or fraudulent payments. We matched these claimants with the FECA files for this same period. As in our QW analysis, we then applied a minimum threshold of \$5,000 to the amount of both FECA and UI benefit payments. We identified 50 individuals who received concurrent FECA wage-loss compensation payments and UI benefits that exceeded the minimum threshold. We chose the \$5,000 threshold in order to identify a sample that was both significant and would allow for in-depth analysis. We then randomly selected up to seven claimants from each of the five states for an in-depth review, for a total of 19 cases.⁴ For these beneficiaries, we reviewed UI files from the selected states and FECA files from Labor. The findings from these specific cases cannot be generalized to other, or all, FECA claimants who also received UI benefits.

In addition, we conducted investigations of 3 of the 51 (19 UI and 32 QW) individual cases. We selected these cases through a two-stage process. First, we selected 8 cases for further investigation, 4 from California and 4 from Virginia. The cases were selected on the basis of the number of cases from each state, geographical proximity to Washington, D.C., and

⁴California had seven individuals selected randomly, Florida had five individuals, New York had four individuals, and Virginia had three individuals who met the criteria for selection. Maryland did not have any UI cases because none of the individuals met the \$5,000 threshold criteria for selection.

potential for fraud stemming from an initial file review.⁵ We determined that 3 required further investigations on the basis of a lack of supporting details in the FECA case files. The other five case files contained information that made it clear why the discrepancy occurred.

To identify factors that may have contributed to potentially improper or overlapping benefits, and how, if at all, Labor could address these factors, we conducted interviews with officials from Labor's OWCP and Employment and Training Agency (ETA), and reviewed prior Inspector General (IG) and GAO reports. We also reviewed Labor's oversight mechanisms, which establish policies, guidelines, and procedures for adjudicating and managing claims under the FECA program and compared them with those outlined in the *Standards for Internal Control in the Federal Government*.⁶

To determine the reliability of the FECA and state QW and UI data we received, we reviewed documentation related to these databases and interviewed officials responsible for compiling and maintaining relevant data. In addition, we performed electronic testing to determine the validity of specific data elements in the databases that we used to perform our work. We also reviewed detailed FECA and UI case files for the nongeneralizable selection of individuals who received concurrent FECA and QW or UI benefits. On the basis of our discussions with agency officials and our own testing, we concluded that the data elements used for this report were sufficiently reliable for our purposes.

We performed our work from June 2012 through March 2013 in accordance with generally accepted government auditing standards. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted our related investigative work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

⁵Maryland was not chosen because there were no cases of potential UI fraud in that state.

⁶GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

Background

Within Labor, the Division of Federal Employees' Compensation in the OWCP administers the FECA program, which provides wage replacement and medical benefits to federal employees who suffer partial or total disabilities resulting from work-related injuries and occupational diseases. OWCP is the central point where FECA claims are processed and eligibility and benefit decisions are made. Claims examiners (CE) at OWCP's 12 FECA district offices determine applicants' eligibility for FECA benefits and process claims for wage-loss payments.

FECA laws and regulations specify criteria for computing compensation payments. Using information provided by the employing agency and the claimant on a claims form, OWCP calculates compensation on the basis of a number of factors, including the claimant's rate of pay, the claimant's marital status, and whether or not the claimant has dependents. Eligible disabled employees generally receive 66-2/3 percent (or 75 percent if married or with dependents) of their basic salary, tax-free, plus medical-related expenses. When an injury results in partial disability, and the employee suffers a wage loss because of the disability, the claimant is entitled to monthly monetary compensation equal to 66-2/3 percent (or 75 percent if married or with dependents) of the difference between the claimant's monthly pay and his or her monthly wage-earning capacity (WEC).⁷

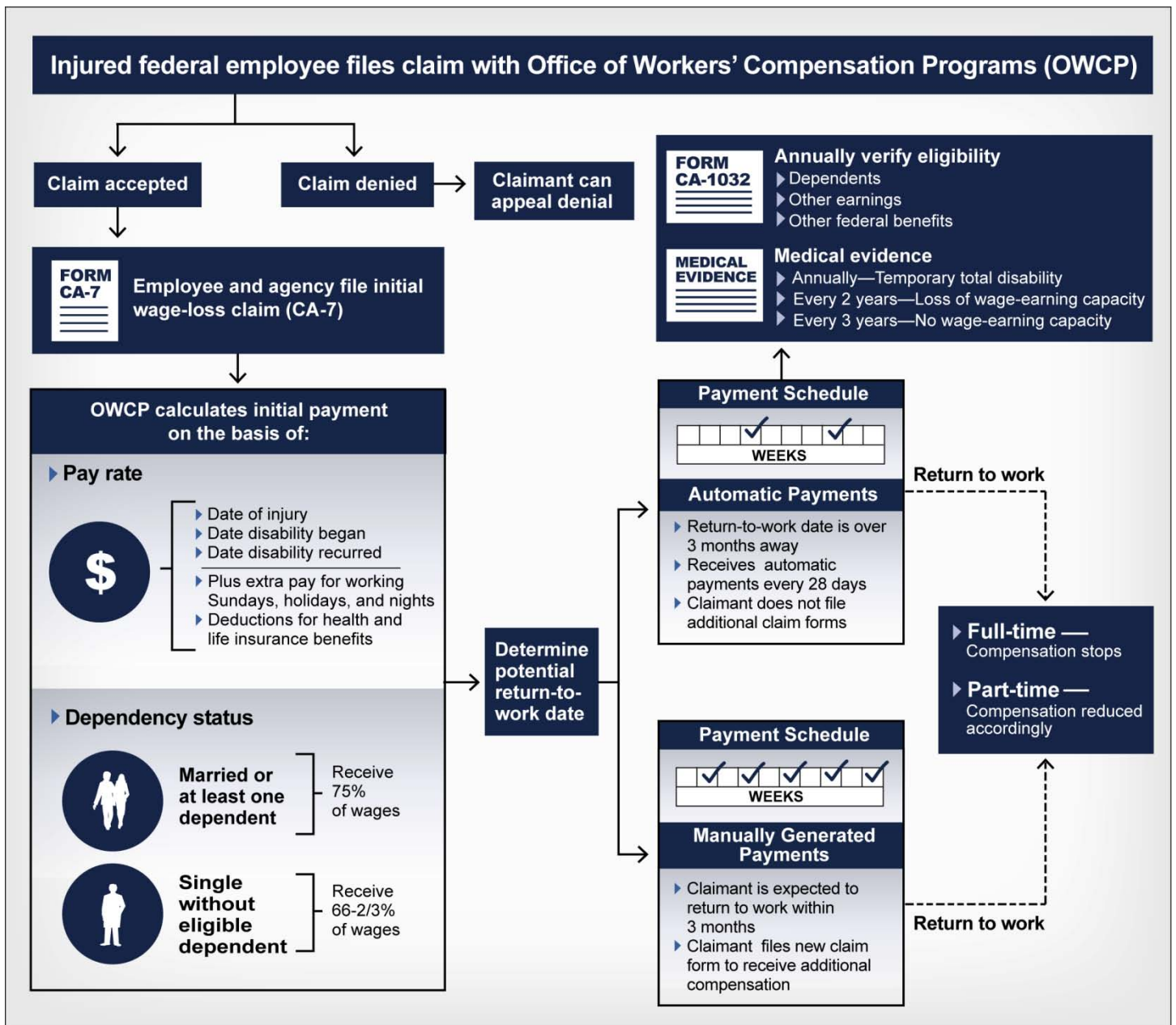
According to OWCP officials, initial claims received from employing federal agencies are reviewed by claims examiners to assess the existence of key elements. (See fig. 1.) The elements include evidence that the claim was filed within FECA's statutory time requirements; that the employee was, at the time of injury, disease, or death, an employee of the United States; that the employee was injured while on duty; and that the condition resulted from the work-related injury. If the key elements are in place, OWCP will approve a claim and begin processing bills for medical costs. After initial claim approval, additional reviews are done while a claim remains active to determine whether the claimant can continue to receive wage-loss compensation. Once a claim is approved, payments are sent directly to the claimant or provider. An employee can continue to receive wage-loss compensation for as long as medical

⁷WEC is an estimation of a worker's earnings capacity. It can be based on the employee's calculated earning capacity in current employment or based on constructed earning capacity if the individual is not employed (e.g., an estimation done by a rehabilitation specialist of an injured worker's earning capacity).

evidence shows that the employee is totally or partially disabled and that the disability is related to the accepted injury or condition. Specifically, a medical review is required annually for employees receiving temporary total-disability payments, every 2 years for claimants earning loss of WEC payments, and every 3 years for claimants on the periodic rolls who have been determined to not have any WEC.⁸ Employees receiving compensation for partial or total disability must advise OWCP immediately if they return to work, either part-time or full-time.

⁸Employees on the periodic rolls have total disabilities or injuries that have lasted or are expected to last for prolonged periods.

Figure 1: Federal Employees Compensation Act (FECA) Claims Process



Source: GAO (data); Art Explosion (images).

FECA Claimants Earning Wages

Claimants are required to self-report all employment wages, whether salaried or not, and self-employment. OWCP requires that all individuals on the periodic roll (both partial and total disability) complete Form CA-1032 on a yearly basis stating their income or whether their dependent status has changed. A new employer may also be requested to provide information regarding a claimant's employment and earnings. Labor can use this form to adjust the amount of FECA compensation. Employees must report even those earnings that do not seem likely to affect their level of benefits, such as concurrent income that an employee was receiving prior to his or her injury that was not directly related to the employee's federal employment.⁹ While earning income will not necessarily result in a reduced compensation, the FECA statute and implementing regulations stipulate that failure to report income may result in forfeiture of all benefits paid during the reporting period. To help verify income levels, Labor requests that FECA claimants provide it with their consent to access their Social Security Administration (SSA) earnings file; however, claimants are not required to provide Labor with their consent, and authorization to obtain such information is not required to receive compensation.¹⁰ In instances where Labor is authorized to collect earnings information from SSA by claimants, according to OWCP officials, SSA's earnings data may be as much as 2 years old,¹¹ which may hinder timely adjustments to compensation benefits.

FECA and UI Benefits

Established by the Social Security Act of 1935, the federal-state UI program generally temporarily and partially replaces the lost earnings of those who become unemployed through no fault of their own. To be eligible for UI benefits, unemployed workers must meet eligibility

⁹Employment income that an employee was receiving prior to his or her injury that was not related to the employee's federal employment is exempt from the calculation Labor uses to determine FECA compensation, as discussed in more detail later in this report.

¹⁰If the SSA authorization is not signed and returned and there is some indication in the file that the claimant may have earnings or work activity, the case may be referred to the IG for investigation to determine if the claimant has in fact earned wages for the period under consideration. Benefits may not be suspended for failure to complete this form, however, as authorization to obtain reports from SSA is not a requirement for receipt of compensation.

¹¹The data are older because, without a systemic data match, OWCP must obtain a release from the claimant and send this release to SSA along with a request for earnings statements for the period covered in the release—a cumbersome and time-intensive process.

requirements established by state laws that conform to federal law, including that they have worked recently, are involuntarily unemployed, and are able and available for work. Whereas federal statutes and regulations provide broad guidelines on UI eligibility, the specifics of UI eligibility are determined by each state. According to Labor’s Employment and Training Agency, all states require that a claimant must have earned a specified amount of wages, worked a certain number of weeks in covered employment, or must have met some combination of the wage and employment requirements within his or her base period. To be eligible for benefits, claimants must also be free from disqualification for acts such as voluntarily leaving without good cause, discharge for misconduct connected with the work, and refusal of suitable work.

However, the specific eligibility requirements regarding an applicant being “able and available for work” vary among the states. For example, a few states specify that a worker must be physically able, or mentally and physically able, to work. Likewise, while some states require that a worker must be available for work, other states require that a worker must be available for suitable work; still other states may find an individual able and available for work so long as any limitation due to illness, injury, or presence in the usual labor market does not constitute a withdrawal from the labor market. In addition to being able and available for work, all states require by law or by practice that a worker be actively seeking work or making a reasonable effort to obtain work. According to ETA, some states permit payment of benefits to sick or disabled individuals under certain circumstances, but there is nothing in their laws that prohibit a denial of benefits in those circumstances.

Examples of Improper Payments, Overlapping Benefits, and Potential Fraud Highlight the Importance of Data Sharing to Verify Benefit Eligibility

We found examples of improper payments, overlapping benefits, and potential fraud in the FECA program, which could be attributed, in part, to factors such as oversight and data-access issues. OWCP has taken some steps to enhance oversight of the FECA program; however, Labor lacks authority to directly access wage data, which limits its ability to verify self-reported wage information. In addition, OWCP does not have a process to access data needed to identify the extent that claimants are receiving overlapping FECA and UI benefits and does not report FECA claimant information to states, which increases the risk that FECA claimants are receiving overlapping benefits improperly.

Labor Is Taking Steps That Could Enhance Oversight of Eligibility Information

OWCP has designed additional oversight mechanisms to better monitor claimants' eligibility, which could help identify improper payments and potential fraud. To determine a claimant's eligibility for FECA, claimants who suffer partial or total disabilities resulting from work-related injuries are required to submit medical evidence to OWCP so it can determine the nature and extent of disability resulting from this condition and any changes to their condition that could affect continuing entitlement. Specifically, a CE is required to conduct a medical review annually for claimants on total disability receiving long-term compensation who are on the program's periodic rolls, every 2 years for claimants earning loss of WEC payments, and every 3 years for claimants who have been determined to not have any WEC. OWCP bears the burden of justifying the termination or modification of compensation benefits. Accordingly, OWCP must have medical evidence in order to support any change in compensation to a claimant.¹² Without up-to-date medical reports for claimants, OWCP lacks the necessary evidence to change compensation levels.

In addition, claimants are also required to submit an annual form (Form CA-1032) stating whether their income or dependent status has changed. The form must be signed to acknowledge evidence of benefit eligibility and to acknowledge that criminal prosecution may result from deliberate falsehood. OWCP's review of this annual form is especially important for claimants who are deemed to not have any WEC and, therefore, have less frequent medical reviews.

¹²According to OWCP, it can also modify a claimant's compensation due to FECA fraud, felony incarceration or documentation of a return to the claimant's previous employment.

Medical Evaluations

Example 1: Documentation Confirming Claimant's Eligibility Is Missing

A Transportation Security Administration (TSA) employee from California was diagnosed with Achilles tendonitis in 2003 when a piece of luggage fell above her left heel. The TSA employee returned to work for 3 months in 2004 but was later terminated for repeatedly being absent without leave. Beginning in 2003, the individual has been receiving about \$400 a month for wage-loss compensation. In 2009, approximately 4 years since a previous medical report had been reviewed, the claimant submitted a medical report. However, the report did not contain the OWCP-5c form and only indicated that physical therapy was warranted. The report gave no indication that the claimant needed to take time off, or was disabled because of the injury. In November 2010, the claims examiner wrote a letter to the claimant seeking clarification of whether the condition still warranted work restrictions. The file did not contain a response from the claimant's physician, and the claimant continued to receive her FECA compensation.

Source: GAO.

Our review of a nongeneralizable sample of 32 individual cases identified four claimants who were on partial disability,¹³ receiving payments for loss of WEC, but did not have evidence that OWCP obtained or reviewed the required medical reports every 2 years,¹⁴ as required.¹⁵ These individuals continued to receive FECA compensation benefits without evidence that their medical condition has not improved, which potentially could result in an improper payment.

For the 28 cases that had medical reports, we found that 14 cases did not include the Work Capacity Evaluation (OWCP-5c) form, which is not a mandatory form but is to be completed by a medical professional. According to OWCP, a narrative medical report may be more informative than the OWCP-5c and more helpful in determining a claimant's ability to earn wages. The purpose of the OWCP-5c form is to help clarify whether a claimant is capable of fulfilling his employment duties by identifying a claimant's specific work-tolerance limitation, where the accepted condition is musculoskeletal in nature. Without this form, it can be difficult to determine whether the claimant is capable of performing the job and whether employers can readily accommodate the medical condition. For all 14 cases, the claimant did suffer a musculoskeletal injury.

¹³The nongeneralizable sample of 32 individuals included 23 individuals who were on partial disability.

¹⁴Specifically, for these four individuals, Labor did not have evidence in their files of a medical activity report between the dates of July 2009 and May 2012.

¹⁵Individuals who are on partial disability are those who cannot return to their position at the time of injury (or earn equivalent wages) because of the work-related injury, but who are also not totally disabled for all gainful employment.

Income Certifications

Example 2: Labor Did Not Promptly Review Income Certifications

In 1991, a Navy employee who was on partial disability began receiving FECA benefits for a back injury. According to OWCP records, the claimant repeatedly failed to submit the required CA-1032. In July 2007, OWCP sent a letter to the claimant stating they had not received a completed form CA-1032 since 2003 and terminated benefits for 1 month before the claimant submitted requested forms. The claimant then began receiving benefits again. However, the claimant again failed to submit the required forms and in January 2009, OWCP sent another letter to the claimant requesting the completed CA-1032 and informed the individual that FECA benefit payments would be terminated if the form was not submitted within 30 days. OWCP eventually terminated benefits in October 2010, over a year later. According to the claimant, he did not fill out the forms because he was working and he had to address other personal priorities. Prior to the termination of benefits, the claimant was improperly receiving over \$700 in monthly FECA benefits and, according to wage data from the state, received about \$90,000 in annual wages in 2010 for working as a California state employee.

Source: GAO.

Our review identified 2 out of our sample of 32 FECA claimants who did not have evidence in their FECA file that OWCP reviewed their employment activity annually, as required.¹⁶ These two claimants continued to improperly receive higher FECA compensation benefits than warranted during our period of review because a timely adjustment was not made to their disability compensation. In addition, one claimant failed to submit the income certification, and OWCP did not promptly terminate benefits.

Labor and IGs from employing departments and agencies have consistently reported similar FECA program-management challenges and have linked increased program costs to improper payments. For example, Labor's oversight of the FECA program has been identified as a management challenge in prior work.¹⁷ As we previously reported, beginning with its 2004 Performance and Accountability Report, and every year since, Labor has indicated that adequately overseeing the FECA program was one of its chief management challenges, citing verifying beneficiaries' eligibility as one of the oversight difficulties that it faces.¹⁸ Moreover, IGs from employing agencies that participate in FECA have reported that certain policies and procedures did not exist, or when they did exist, they were not always followed by employing agencies. Most often these deficiencies were related to a lack of controls that would have enabled staff to verify beneficiaries' continued eligibility.

According to Labor officials, OWCP has recently taken steps to address oversight issues. For example, in response to recommendations we made in 2007, OWCP has implemented a Periodic Entitlement Review (PER) application that alerts CEs when medical evidence and annual income certifications need to be reviewed. The PER application has helped CEs identify individuals who have return-to-work potential so that they can be referred to vocational rehabilitation for additional assistance. In addition, in 2012 OWCP instituted two new PER timeliness reviews as part of its

¹⁶All cases on the periodic roll require completion of Forms CA-1032 and SSA-581 on a yearly basis.

¹⁷For example, see U.S. Department of Labor, Office of Inspector General—Office of Audit, *Mechanisms Used to Identify Changes in Eligibility Are Inadequate at the FECA District Office in Jacksonville, Florida*.

¹⁸GAO, *Federal Employees' Compensation Act: Status of Previously Identified Management Challenges*, [GAO-12-508R](#) (Washington, D.C.: Mar. 21, 2012).

performance measures.¹⁹ Finally, OWCP officials stated that they are in the process of establishing quality-assurance reviews of PER processing. As such, Labor will convene Accountability Review teams of program specialists to evaluate the quality of workload processing in its district operations. These evaluations are to scrutinize processed work, such as elements relating to fiscal and operational integrity. Accountability Review findings are to be reviewed by the relevant OWCP program director and corrective action plans will be developed, as necessary. In addition, according to OWCP officials, two new Quality Measures have been implemented in fiscal year 2013 to rate the accuracy of compensation benefit payments, and whether the factual and medical evidence of record supports the current level of benefits provided. According to Labor officials, OWCP plans to start conducting these reviews by the end of fiscal year 2013. In 2012, we reported that periodic reviews of FECA case files are a promising practice and can be used to help increase program officials' awareness of potential fraudulent activities.²⁰ Further, these controls are consistent with the detection and monitoring component of GAO's fraud-prevention framework,²¹ and could help to validate claimants' eligibility including medical conditions and income information. If implemented properly, these steps will assist OWCP in identifying cases for return-to-work potential and referral to vocational rehabilitation. In addition, verification of proper and accurate benefit levels will also support FECA program fiscal integrity.

¹⁹The first of the two PER measures indicates whether an initial review is completed within 60 days and results in either: (1) closure without need for further development, or (2) designation for further development. The second measure ensures that actions on cases that could not be closed within 60 days (i.e., those requiring further development) are completed and the PER is closed within 180 days of PER creation.

²⁰[GAO-12-402](#).

²¹GAO, *Hurricanes Katrina and Rita Disaster Relief: Prevention Is the Key to Minimizing Fraud, Waste, and Abuse in Recovery Efforts*, [GAO-07-418T](#) (Washington, D.C.: Jan. 29, 2007).

Labor Lacks Authority to Directly Access Wage Data, Which Limits Its Ability to Identify Improper Payments and Potential Fraud

Example 3: Claimant Did Not Provide SSA Verification Form

A U.S. Postal Service employee from New York injured her neck and back in 2007 while lifting an 8-pound package. OWCP accepted the injury as compensable for temporary total disability. The FECA claimant claimed that she received no wages in 2010 on the CA-1032 and did not submit the SSA verification form. OWCP requested this information several times from the claimant during the fiscal year. However, according to state wage data we reviewed, the claimant earned about \$40,000 in regular wages in 2010 at the same time that the claimant was receiving over \$2,300 in monthly FECA benefits. Had OWCP known about the claimant's wages, program requirements would have called for a reduction of the claimant's FECA benefits that the claimant was improperly receiving. In 2011, the U.S. Postal Service notified OWCP that the claimant went back to work, and at that time, the FECA benefits were terminated.

Source: GAO.

As we have previously reported, because Labor does not have statutory authority to directly access private or public wage data that is reported to SSA and the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH) database,²² OWCP relies heavily on claimants' self-reporting of earnings on the annual Form CA-1032 to identify potential fraud.²³ For example, while OWCP requests that FECA claimants provide it with consent to access their SSA earnings file, claimants are not required to provide OWCP with consent, and authorization to obtain such information is not required to receive compensation.

Our review of a nongeneralizable sample of 32 individual cases identified eight FECA claimants who had significantly underreported employment wages in comparison to the wages reported in the state's QW reports for the same period.²⁴ We also found that three claimants did not provide authorization to OWCP to access their SSA earnings file.²⁵

Our January 2012 report identified self-reported data as a potential vulnerability within the FECA program.²⁶ For example, individuals who are working can self-certify that they have no other income, and continue to remain in the program, as their statements are not verified. Moreover, Labor has no access to state data or HHS's NDNH data to determine if a claimant is receiving wages, which we have also previously identified as a potential vulnerability that could increase the risk of claimants receiving benefits they are not entitled to. In 2008, we recommended that Labor develop a proposal seeking legislative authority to enter into a data-matching agreement with HHS to identify FECA claimants who have earnings reported in NDNH, which provides more timely information than

²²NDNH is a national directory of employment information that contains, among other data, QW data on individual employees from records of state workforce agencies and federal agencies and is maintained by HHS.

²³[GAO-12-402](#).

²⁴We considered claimants to significantly underreport their incomes if they received more than \$10,000 in annual earnings than what was reported to Labor and the percentage difference between actual income and what was reported to Labor was at least 25 percent.

²⁵Of the 29 recipients that did provide consent, six files had documentation in their FECA file indicating that Labor received earnings information from SSA.

²⁶[GAO-12-402](#).

the SSA.²⁷ In response to our recommendation, OWCP officials stated that they studied whether to use NDNH and communicated with HHS, but determined that this would not be an effective solution because of cost issues, limited participation by employers in NDNH, and the likelihood that unreported earnings would not be listed. For example, OWCP officials stated that it would cost about \$1 million to implement an automated process for verifying wage information with NDNH. To help address the issue, OWCP officials reported ongoing negotiations over several years with SSA to develop a formal agreement that includes regular data matching to verify wage data so that Labor does not have to rely on obtaining consent to access SSA wage data from the claimant. A current agreement is being developed, though officials stated that these negotiations were still in the early stages.

Labor has also proposed legislative reforms to FECA that would enhance its ability to assist FECA beneficiaries and also enhance program oversight. As part of this reform, OWCP sought authority to match SSA wage data directly with FECA files. According to Labor OIG officials, to enhance its FECA program oversight, Labor OIG has also requested changes to legislation that would allow Labor to easily and expeditiously access NDNH wage records, so that its investigations can be more efficient and effective. However, at this time, Labor does not have direct access to the NDNH or SSA wage data. Having access to these data sources would allow Labor to verify claimants' self-reported employment income and better position the agency to identify potential fraud.

²⁷GAO, *Federal Workers' Compensation: Better Data and Management Strategies Would Strengthen Efforts to Prevent and Address Improper Payments*, [GAO-08-284](#) (Washington, D.C.: Feb. 26, 2008).

Some FECA Program Regulations and Policies Introduce Challenges to Identifying and Mitigating Potential Fraud and Waste

FECA Program Requirements Allow Claimants to Receive Earnings and Earnings Increases without Necessarily Resulting in Adjustment of FECA Compensation

Example 4: Substantial Difference between Actual Income and WEC

A U.S. Department of Health and Human Services (HHS) nurse from Virginia sustained injury to her lower back in 1989 while lifting a patient. Utilizing the WEC computation in the FECA file at the time of injury, the current monthly WEC would have been calculated at about \$1,600 (adjusted for inflation). Because the claimant was not deemed rehabilitated or retrained for a different job, the program regulations do not require the WEC to be adjusted and thus she is entitled to continue to receive over \$1,800 a month in FECA benefits even though she reported earnings of at least \$5,770 a month on the annual form CA-1032 as a registered nurse during 2010.

Source: GAO.

Because of case law and regulatory requirements, once OWCP calculates an individual's WEC, it remains in place unless the evidence establishes that there is a material change in the nature and extent of the injury-related condition; the claimant has been retrained, or otherwise vocationally rehabilitated; or it is established that OWCP's original determination was erroneous.²⁸ As a result, claimants could be earning more money than they were originally determined capable of earning but never have the WEC adjusted to account for the increase in wage earning capacity. According to program procedures, OWCP can modify the WEC if the claimant is earning 25 percent more than the current pay of the job for which the beneficiary was originally rated. However, to adjust the WEC, OWCP must demonstrate that customary criteria for modification is met such as the claimant is rehabilitated or self-rehabilitated, or evidence shows that the claimant was retrained for a different job. Of the 32 cases we reviewed, we found five instances where an individual's WEC was not adjusted even though the individual earned substantially more (at least 25 percent) than what was originally calculated as their WEC.²⁹ While this situation is allowable under FECA program requirements, it could be an indicator of potential waste in the FECA program.

²⁸An individual's WEC forms the basis for payment of compensation for partial disability.

²⁹According to Labor, three of the five cases did not meet the requirements for rehabilitation and therefore no adjustments were required to the WEC; in two of the cases, Labor stated that adjustment to the WEC may have been warranted.

Example 5: Nonadjustment of WEC for Income Earned from Secondary Employment at Time of Injury

A material handler for the Department of the Navy's shipyard in California injured his back while adjusting materials on the forks of a forklift in 1992. The federal employee was also employed as an actor, in movies and television, at the time of injury. He received FECA compensation of over \$2,000 a month in 2009 and 2010. He made \$54,000 as an actor during this period, however no reduction in the WEC was made for his acting salary because federal law stipulates that his income is exempt from the WEC calculation because it was dissimilar private employment that he was engaged in at the time of injury.

Source: GAO.

In addition, two FECA total-disability claimants continued to receive private-employment salaries that were not subject to the WEC. Earnings received from dissimilar private employment at the time of injury may not be used by Labor when determining an injured employee's pay rate for compensation purposes, and earnings from that same employment cannot be considered in determining the employee's WEC.³⁰ Thus, claimants are allowed to receive income, in some cases substantial income, while also receiving FECA compensation benefits.

FECA Program Statute Allows Claimants to Choose Their Own Physicians

Example 6: Claimant Submitted Medical Examination Report by Physician Not Qualified for Making Workers' Compensation Medical Reviews

A data conversion operator for the U.S. Postal Service in New York was diagnosed in 1997 as having bilateral carpal tunnel syndrome. The employee submitted a medical evaluation to OWCP in 2009 in which the physician stated that he does not perform workmen's compensation reviews. In addition, the physician did not complete the required Work Capacity Evaluation form (OWCP-5c) and indicated that the employee would not be returning for further examinations. Despite the lack of medical evidence to establish entitlement to continue compensation payments, OWCP accepted the documentation and continues to pay the employee \$578 a month in compensation payments, which are potentially improper because a proper examination was not performed.

Source: GAO.

The FECA program statute³¹ allows claimants to select their own physician, which we reported in 2012 to be a potential vulnerability.³² The regulation also requires examination by a physician employed or selected by the government only when a second opinion is deemed necessary by the government. As a result, as we previously reported, essential processes within the FECA program could be operating without a review conducted by a physician selected by the government. This potential vulnerability affects key control processes outlined in GAO's fraud-prevention framework in two areas: first, the lack of reviews when assessing validity of initial claims, and second, the lack of the same when monitoring the duration of the injury. Out of the 32 individual cases that we reviewed, 12 did not have a second opinion from a medical professional assessing the injury and possible work restrictions, and a physician selected by the government was not involved in making the disability determination. Without a second opinion, the federal government must rely on the physician of the claimant's choosing, which is a potential vulnerability in assessing the validity of the claim.

³⁰See, for example, *In the Matter of Burnett Terry and U.S. Postal Service*, 46 E.C.A.B. 457 (1995). The Employees' Compensation Appeals Board (ECAB) is an adjudicative body that hears appeals from FECA determinations by the Labor Department.

³¹5 U.S.C. § 8103(a).

³²[GAO-12-402](#).

Labor Lacks a Process to Identify Overlapping FECA and UI Benefits and Does Not Report FECA Claimant Information to States

Overlapping Benefits

While FECA claimants can be eligible to receive state UI benefits in addition to FECA benefits, Labor lacks a process to share the necessary data with states to determine whether FECA claimants may be improperly receiving overlapping benefits. Individuals may be eligible for both FECA and UI depending on the applicable state laws regarding UI eligibility, and federal law does not authorize an automatic reduction or potential elimination of benefits if a claimant receives both. For example, under FECA, an individual is encouraged to return to work. Upon returning to work, the individual's FECA compensation payment is supposed to be reduced or terminated. In certain circumstances these individuals may have returned to the workforce, for example, with partial disability, and subsequently been involuntarily terminated. These individuals may also meet the states' "able and available for work" criteria and thus also be eligible for UI benefits. As a result, some individuals may have a disability under federal law but still be able and available for work under state law, and thus are eligible to receive concurrent UI and FECA benefits.

However, claimants may be not eligible to receive both types of payments because their disability, especially for those receiving compensation for total disability, may render them unable and unavailable to work.³³ In February 2012, the Middle Class Tax Relief and Job Creation Act was enacted, which amended federal law and included a requirement that individuals claiming UI benefits be actively seeking work as a condition of some eligibility.³⁴ In addition, certain states, for example four of the five selected states in our review, require the offset of UI benefits against certain workers' compensation payments, including FECA.

³³ Temporary total disability is defined as the inability to return to the position held at the time of injury or earn equivalent wages, or perform other gainful employment, because of the work-related injury. An individual who is partially disabled is not able to return to the position held at time of injury or earn equivalent wages, but is not totally disabled for all gainful employment.

³⁴ Section 2101 of Pub. L. No. 112-96 (Feb. 22, 2012)

Example 7: Claimant Received More Income from UI and FECA Than Federal Employment Salary

A letter carrier for the U.S. Postal Service in California sustained an injury as a result of falling while walking up a wooden ramp in 2000. OWCP accepted the claim for bilateral knee internal derangement and lumbar strain. The claimant went back to work on limited-duty assignment in March 2009 and subsequently went on leave without pay 1 month later because accommodating work was not available. The claimant was subsequently discharged for inability to perform work to standards in 2009. After termination, the claimant's income increased to about \$4,800 a month (i.e., about \$2,800 per month in FECA benefits and an average of \$2,000 per month in UI benefits). The claimant continued receiving concurrent FECA and UI benefits for 2 years until 2011 when the UI benefits were exhausted.

Source: GAO.

Example 8: Potential Fraud in UI Benefits

A mail carrier for the U.S. Postal Service in rural Virginia did not disclose receiving monthly workers' compensation on her UI application that could have potentially reduced or eliminated her receipt of about \$18,000 in UI benefits in 2009 and 2010. This claimant also received about \$36,000 in FECA compensation during the same period. The employee was diagnosed with an aggravation of a right rotator cuff tear after her injury in 2002 when she had to use excessive force to open a mail box that was stuck shut and felt something pull in her right shoulder. Further, this individual also certified to not being a person with a disability on her UI application, but according to her FECA file also reported receiving Social Security Disability benefits totaling \$822 for the month of November in 2010.

Source: GAO.

Labor officials acknowledged that they do not have a process to share the necessary data to identify overlapping payments, which would help the ETA and the states identify the extent to which overlapping payments are not being offset. As previously reported, we have found that processes that rely heavily on self-reported data by claimants create potential vulnerabilities within the program. Without the ability to verify self-reported information on the receipt of other benefits, Labor may make overlapping payments contrary to the regulations governing the program.

Our review of a nongeneralizable sample of 19 individual cases identified claimants who received overlapping UI and FECA benefits totaling over \$1.3 million from January 2008 to June 2012. Four claimants who resided in states that require UI payments to be offset received more income from the combined UI and FECA benefits than they would have received from their federal salary alone. Some of these claimants were former FECA claimants who attempted to return to the federal agency to perform work within their medical restrictions. However, the claimants were subsequently discharged because they did not meet the federal agency requirements for continuing employment. As such, these claimants were entitled to their FECA benefits and they also applied for and received UI benefits that were not offset by their respective states.

According to OWCP officials, Labor does not systematically report information on claimants receiving FECA benefits to states, which would help states identify overlapping FECA and UI payments as well as UI payments that might need to be offset. Currently, states must rely on obtaining this information either directly from the UI applicant or UI applicant's recent employers.³⁵ As previously discussed, certain states use the workers' compensation amount, such as FECA, to reduce or eliminate the UI benefit amount. States utilize this information to determine whether the individual is actually "able and available for work." As such, all states must require claimants to certify that they are still meeting all UI eligibility criteria such as changes in employment status.

Labor is not required to and thus does not report FECA payments to NDNH, which is a primary mechanism that some states use to verify employee wage levels, because NDNH was established as a depository

³⁵Four of the five selected states require that applicants report workers' compensation payments, such as FECA, on their UI applications.

Example 9: Potential Fraud in UI Benefits

A letter carrier for the U.S. Postal Service in New York injured his left knee in 1984 and had been diagnosed with a tear of his medial meniscus. In July 2009, the letter carrier falsely stated on his UI application that his workers' compensation was terminated in the mid-1980s, which could have potentially reduced or eliminated his receipt of over \$24,000 in UI benefits in 2009 and 2010. FECA records indicate that he received over \$1,300 in monthly compensation, at the time of UI application, and concurrently received about \$36,000 in FECA benefits throughout the entire period. State wage data also confirm that this individual made over \$26,000 in wages in 2009 that were not clearly reported on annual certifications to OWCP.

Source: GAO.

for wage reporting that, among other things, enables state child-support agencies to be more effective in enforcing child-support orders. Were Labor to report FECA payments to this database, states would more easily be able to identify such payments in their review. Our review of a nongeneralizable sample of 19 individual cases identified nine claimants who potentially committed fraud or improperly obtained UI benefits because they did not properly disclose their FECA benefits to the state on their UI application, which could have potentially reduced or eliminated the UI benefit amount.³⁶

As previously discussed, limited access to necessary information is a potential vulnerability. Without information on individuals who are receiving federal workers' compensation payments, it is difficult for the states to identify those individuals and reduce or terminate the UI payments to them. As a promising practice we previously reported, Labor provides quarterly data extracts to employing agencies on wage-compensation payments, medical billing payments, and case-management data. Similarly, if OWCP reported FECA compensation data to the states (either directly or through NDNH), this could help federal and state agencies coordinate benefits and reduce the risk of overlapping payments.

We have previously reported on the importance of interagency collaborative mechanisms, such as sharing information across organizational boundaries, to achieve crosscutting program goals.³⁷ Further, although not a requirement, the value of greater information sharing between federal and state entities is demonstrated by the actions of some states that check the NDNH to determine if an applicant is working.³⁸ For example, by cross-matching UI claims against NDNH data, states can better detect overpayments to UI claimants who have gone back to work. While our sample of individuals who have received

³⁶California could not provide the UI application for five applicants because the records had been purged under the state's legal-record retention policy. Five of the 19 applicants did disclose the workers' compensation on the UI application (although one claimant who did receive workers' compensation subsequently stated that he did not).

³⁷GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

³⁸NDNH contains UI and wage data from state directories of new hires, state workforce agencies, and federal agencies.

overlapping FECA and UI benefits cannot be generalized to the entire population of FECA claimants, we did identify some claimants who potentially committed fraud or improperly obtained UI benefits because they did not properly disclose their FECA benefits to the state on their UI application. Thus, establishing a mechanism to share FECA compensation information with states to help identify whether claimants are inappropriately receiving overlapping UI and FECA payments, to the extent that it is cost-effective, could help provide ETA with greater assurance that individuals are receiving benefits in accordance with statute. We discussed this proposal with OWCP program officials in January 2013 and they agreed that sharing compensation data with the states may be beneficial, although they stated that they have never been asked to provide FECA compensation information previously.

Conclusions

With estimated future actuarial liabilities for government-wide FECA compensation payments at over \$34 billion as of fiscal year 2012, and in an era of scarce government resources, it is vital that Labor ensures effective stewardship of those resources. FECA and UI provide an important safety net for workers who have lost their income because of workplace injuries or unemployment. However, Labor and the states must continually monitor these claimants to ensure that they continue to be entitled to these benefits and that the benefits are adjusted to account for changes in claimants' wage earnings and for overlapping state UI payments. While in certain circumstances receiving concurrent UI and FECA benefits may be allowable, the cases we identified where claimants received concurrent UI and FECA benefits without Labor's knowledge could be an indicator of improper payments. A cost-effective mechanism to share FECA compensation information with states to help identify whether claimants are inappropriately receiving overlapping UI and FECA payments could help determine the extent that improper payments or potential fraud are occurring, which could help save taxpayer dollars. In addition, without the authority to access wage data, which both OWCP and Labor's OIG have sought, Labor's reliance on claimants' self-reported employment information limits the agency's ability to identify potential fraud.

Matter for Congressional Consideration

Congress should consider granting Labor the additional authority it is seeking to access wage data to help verify claimants' reported income and help ensure the proper payment of benefits.

Recommendation for Executive Action

We recommend that the Secretary of Labor assess the feasibility of developing a cost-effective mechanism to share FECA compensation information with states, such as reporting information to NDNH, to help identify whether claimants are inappropriately receiving overlapping UI and FECA payments.

Agency Comments and Our Evaluation

We provided a draft of this report to Labor for comment on February 28, 2013. Labor provided written comments on the draft, which can be found in appendix I. Labor agreed with the recommendation to assess the feasibility of developing a cost-effective mechanism to share FECA compensation information with the states, such as reporting information to NDNH, to help identify whether claimants are inappropriately receiving overlapping UI and FECA payments. Labor stated that it will undertake a review to determine whether such data sharing and reporting is feasible. However, Labor expressed concerns regarding the cost-effectiveness of such an approach. We agree that it will be important for Labor to assess the cost-effectiveness of such an approach when conducting its review. As stated in the report, some states check the NDNH database to verify employee wage levels. Thus, establishing a mechanism, such as reporting FECA compensation to NDNH, could provide a cost-effective way for states to identify whether claimants are inappropriately receiving overlapping UI and FECA payments, and could help provide ETA with greater assurance that individuals are receiving benefits in accordance with statute.


In its response, Labor also stated that since FECA contains no offset for UI benefits, a claimant may be entitled to receive both FECA and UI benefits under a particular state law, which would not be classified as receiving improper payments. We recognize, as stated in this report, that there may be certain situations where individuals are entitled to the concurrent receipt of FECA and UI benefits. However, it is also important to note that, as discussed in the report, claimants may not be eligible to receive both types of payments in some cases. For example, some claimants are not able to meet the “able and available” requirement for UI benefits because their disability, especially for those receiving compensation for total disability, may render them unable and unavailable to work. In addition, certain states, such as four of the five selected states in our review, require the offset of UI benefits against certain workers’ compensation payments, including FECA. In addition, Labor stated that one of our examples cited in our report—example 5—should not be classified as an improper payment because FECA program procedures allow a claimant to receive wages from two different employers and not have those wages affect the claimant’s WEC or ability to receive FECA

benefits. We agree that this is not an improper payment and did not classify it as such. As stated in the report, claimants are allowed to receive such income, in some cases substantial income, while also receiving FECA compensation benefits.

Labor also provided technical comments, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the Secretary of Labor, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff has questions about this report, please contact me at 202-512-4379 or LordS@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.

A handwritten signature in black ink that reads "Stephen Lord". The signature is written in a cursive, flowing style.

Stephen M. Lord
Director, Forensic Audits and Investigative Service

Appendix I: Comments from the Department of Labor

U.S. Department of Labor

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

File Number:



MAR 26 2013

Stephen M. Lord
Director, Forensic Audits and Investigative Service
U.S. Government Accountability Office
Washington, D.C. 20548

Dear Mr. Lord:

Thank you for the opportunity to comment on the GAO-13-386 study, entitled *Federal Employees' Compensation Act: Case Examples Illustrate Vulnerabilities That Could Result in Improper Payments or Overlapping Benefits*. The report highlights actions taken by the U.S. Department of Labor's Office of Workers' Compensation Programs (OWCP) in administering the Federal Employees' Compensation Act (FECA) and also references the Unemployment Insurance Program administered by the Department's Employment and Training Administration's Office of Unemployment Insurance (OUI).

The report describes instances where FECA claimants receive both FECA compensation and UI benefits or earnings from other employment. It is important to note that since FECA contains no offset for UI benefits, a claimant may be entitled under a particular state law to receive both FECA and UI benefits and not be classified as receiving improper payments. In addition, the report states that FECA program procedures allow a claimant to receive wages from two different employers and not have those wages affect that claimant's wage earning capacity or ability to receive FECA benefits. FECA program procedures in this instance are based on longstanding case precedents and requirements of the Employees' Compensation Appeals Board (ECAB). As ECAB case law would prohibit any reduction in Example 5 Non-adjustment of WEC for Income Earned from Secondary Employment at Time of Injury, this should not be included as an example of an improper payment.

The report includes one recommendation for the Secretary of Labor that requests that DOL develop an effective mechanism for sharing FECA compensation information with states to help identify whether claimants are inappropriately receiving overlapping UI and FECA payments. The report suggests that a way to accomplish this is for FECA to share information with the National Directory of New Hires (NDNH), the Department of Health and Human Services database, to assist the states in identifying individuals inappropriately receiving UI benefits. State UI agencies, either directly or through their State Directory of New Hires, provide quarterly reports to NDNH of all wages reported by employers to the UI agency. While new hires reporting may be less than complete and represents more of a snapshot approach, the NDNH database certainly contains more current information than does the Social Security Administration database, which OWCP uses in its administration of the FECA program. Although DOL will undertake review of this process to determine whether such data sharing and

**Appendix I: Comments from the Department of
Labor**

reporting is feasible, we remain concerned about the cost effectiveness of such an approach. In addition, as your report points out, FECA does not have the statutory authority to receive information from the NDNH to verify claimant employment status.

The Department is committed to program integrity and reducing improper payments. OWCP is updating its methodology for assessing and evaluating improper payments to enhance program integrity. We appreciate the opportunity to review and comment on this report as a part of these important efforts.

Sincerely,



Gary A. Steinberg, MBA
Acting Director,
Office of Workers' Compensation Programs

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