

**TESTIMONY OF
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**BEFORE THE
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UNITED STATES HOUSE OF REPRESENTATIVES**

“Strengthening the Safety Net for Injured Workers”

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Introduction

Chair Adams, Ranking Member Keller, and Members of the Workforce Protections Subcommittee, I am grateful for the opportunity to testify about how the U.S. Department of Labor’s (DOL) Office of Workers’ Compensation Programs (OWCP) is working to strengthen the safety net for injured workers.

Every day, OWCP employees touch the lives of thousands of injured or ill workers and their families by providing or overseeing the delivery of workers’ compensation benefits. Regardless of which group of workers they serve, OWCP’s four programs have a unifying mission – to protect the interest of workers who are injured or become ill on the job, their families, and their employers by making timely, appropriate, and accurate decisions on claims, providing prompt payment of benefits, and helping injured workers return to gainful work as early as is feasible.

Since I started as Director of OWCP in January 2021, I have worked to improve the ability of the Federal Employees’ Compensation (FECA), Longshore & Harbor Workers’ Compensation (Longshore), Coal Mine Workers’ Compensation (Black Lung), and Energy Employees Occupational Illness Compensation (Energy) programs to provide for the medical and financial security of covered workers. I am incredibly proud of what OWCP has accomplished during the first ten months of this administration despite the challenges of responding to an ever-evolving pandemic environment. During fiscal year 2021, the FECA

program processed 102,257 total claims, paying out \$788,959,059.74 in medical benefits and \$2,190,236,702.82 in compensation to injured workers; the Black Lung program processed 6,183 total claims, paying out \$30,449,773.45 in medical benefits and \$169,461,832.87 in compensation; and the Energy program processed 30,784 total claims, paying out \$1,103,741,105.09 in medical benefits and \$621,824,860.88 in compensation. During this challenging year, OWCP successfully incorporated unique, emerging workloads into the processing of claims, including, for the FECA program, resolving 21,396 claims related to COVID, and 78 claims related to the January 6 U.S. Capitol attack.

As you will hear in my testimony, our response to the COVID-19 pandemic has in many ways allowed OWCP to provide greater workplace flexibilities for our own workforce, to become more fiscally responsible, and to adopt policies which make it easier for claimants to access the benefits provided by our programs. Under the leadership of President Biden and Secretary of Labor Walsh, OWCP will continue our response to COVID-19 while we work to empower and support workers in every type of career and at every stage of life – morning, noon, and night.

OWCP Policies and Priorities

During the first months of my tenure, OWCP was faced with the unprecedented challenge of handling claims for law enforcement officers and other first responders injured during the January 6, 2021 attack on the U. S. Capitol Building. In order to be responsive to the unique claims presented as a result of the public service of this group of claimants, in accordance with longstanding policy, the FECA program established a task force to handle all claims arising from this event to provide consistent and timely handling of the claims of these workers. These claims included not only the immediate physical and psychological injuries, but also the even more challenging adjudication of claims related to delayed psychological injury resulting from the traumatic stress of those events. To date, seventy-eight claims have been received and seventy have been resolved.

OWCP has also been responsive to the evolving challenges presented by the COVID-19 pandemic. Remaining responsive to the changing nature of the pandemic in order to safeguard

our own workforce, while developing policies that reflect the current status of medical knowledge about COVID-19, has been a top priority for this administration.

At the onset of the COVID-19 pandemic in March 2020, the FECA program created a COVID-19 special claims handling process to handle COVID-related FECA claims from federal workers.¹ These COVID-related occupational disease claims proved difficult to establish a work-relationship under the general provisions of the FECA program. However, on March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARPA).² This new law made it easier for federal workers diagnosed with COVID-19 to establish coverage under FECA. Less than two months following passage of ARPA, the FECA program announced these changes and provided more detail on claims processing through *FECA Bulletin NO. 21-09: Processing FECA Claims for COVID-19 under the American Rescue Plan Act of 2021* (April 28, 2021).³ Since then, implementation of ARPA's FECA provisions for federal workers with COVID-19 has been a central focus of OWCP. The FECA program has conducted outreach to public sector unions and other groups, including the American Postal Workers Union (APWU), the American Federation of Government Employees (AFGE), the National Association of Letter Carriers (NALC), National Air Traffic Controllers Association (NATCA), and the Federal Law Enforcement Officers Association (FLEOA), to help ensure that federal workers are aware of the changes that make it easier to file a COVID-19 claim under FECA.

ARPA funding has allowed the FECA program to complete a hiring surge of over 170 new Claims Examiners (CE)s to handle the emerging COVID workload. However, under the steady leadership of President Biden, 90% of the federal workforce is now vaccinated against COVID-19, which has kept the number of federal workers who contract COVID to a minimum. OWCP is now in a strong position to support federal workers who contract COVID-19 in the workplace. Consistent with the President's emphasis on building back the federal workforce, claims examiners who are not required to handle ARPA workloads are being transitioned to the handling of FECA's base workloads which have been historically understaffed for its receipt base. This hiring surge also allows OWCP to be ready to quickly pivot its trained workforce to

¹ <https://www.dol.gov/agencies/owcp/FECA/regs/compliance/DFECfolio/FECABulletins/FY2020-2024#FECAB2101>

² [H.R.1319 - 117th Congress \(2021-2022\): American Rescue Plan Act of 2021 | Congress.gov | Library of Congress](https://www.congress.gov/bills/117/1319)

³ <https://www.dol.gov/agencies/owcp/FECA/regs/compliance/DFECfolio/FECABulletins/FY2020-2024#FECAB2109>

address possible further spikes in COVID claims. This strengthening of the FECA workforce is also helping to reduce the previously unmanageable workload in the FECA program, improve employee morale, increase program integrity and strengthen our ability to make decisions on claims, provide benefits and assist injured workers in the process of returning to work in a timely manner. Through all these programmatic changes, the FECA program has processed 21,396 COVID-19 related claims, accepted 18,483 of those claims, with only 175 unadjudicated claims as of November 18, 2021. For those accepted claims, OWCP has paid out \$9,653,073.01 in medical benefits and \$14,220,373.56 in compensation benefits for a total of \$23,873,446.57 in benefits to federal employees with work-related, accepted COVID-19 claims. This program has established itself as a model that other state jurisdictions could follow to see that occupational diseases such as COVID-19 can be accepted without significant impact on existing programs.

Moving forward, I will make sure that OWCP continues to process COVID-19 claims for federal workers in a timely manner and remains flexible and adaptive to developments in the pandemic. Already, we have started to collaborate with the Office of Disability Employment Policy (ODEP) at the U.S. Department of Labor to prepare for possible future implications of long COVID, or "Post-Acute Sequelae of SARS-CoV-2" (PASC) as it is otherwise known. The disabling effects of long COVID could have significant implications for both OWCP and workers' compensation systems across the country, and I will make certain that OWCP works to monitor, and prepare for, those potential challenges.

While COVID-19 caused OWCP to transition our workforce into a telework posture, and physical distancing created new challenges for our programs, upgrading and modernizing our systems and procedures was essential. For example, OWCP programs introduced expanded telehealth options for claimants. The Energy program issued temporary bulletins allowing claimants and providers to be paid for telemedicine appointments. The Energy program expects to make the allowance of telemedicine for routine care appointments permanent through the issuance of a Circular in fiscal year 2022. Another example is digitization of paper case files. Also in fiscal year 2021, the Energy Program completed a project to digitize all case files, making them available electronically to all claims staff. This eliminated paper case files, which assisted in the reduction of space, and allowed for greater flexibility for telework for claims staff. Similarly, the Black Lung program completed a multi-year initiative to transition to a fully digital claims environment and eliminate millions of pages of paper claim records in its eight

district offices in order to improve the efficiency and cost-effectiveness of program operations in fiscal year 2021. Additionally, OWCP will continue working to reduce wet signature requirements where possible. In fiscal year 2022, the Energy Program plans to develop a system whereby claimants will be able to submit initial claim forms and payment forms using a digital signature (which currently require wet signature). As we continue our response to COVID-19, I will make sure that OWCP continues to upgrade and modernize our service delivery systems.

Beyond our response to COVID-19, OWCP has also made progress on several key initiatives that will significantly strengthen service delivery and claimant experience, both important to the safety net for workers. The FECA program has now partially implemented new Pharmacy Benefits Management (PBM) services and is working to fully implement by the end of the calendar year. The benefits of this new PBM service are many. OWCP will benefit from the PBM's negotiated drug prices with pharmacies, leading to lower drug costs in FECA workers' compensation claims and correspondingly agencies' chargeback bills. The PBM will also provide a dedicated mail-order service that improves convenience for claimants and will implement additional drug safety checks and controls. These additional tools are important to safeguard against opioid misuse and potentially harmful drug interactions, an area in which OWCP has made strong progress. Additionally, the new PBM will provide a call center to handle inquiries from claimants, pharmacies, and prescribers. Claimants will have more access to discuss medication related problems with nurses and treatment options with specialized physicians. At this point, I am pleased to say that we have also solicited similar PBM services for the Energy and Black Lung programs, and OWCP is currently reviewing proposals related to that solicitation. We plan to award these contracts in fiscal year 2022 and implement in fiscal year 2023. Overall, this is an initiative that I am very excited about because I believe it will greatly improve our support to OWCP claimants and simultaneously reduce costs for taxpayers.

Similarly, OWCP is now completing market research on a solicitation to combine medical bill processing services with physician network services. This change will move OWCP programs further towards industry standard bill-processing and increase the number of physicians available to treat injured and ill workers served by OWCP.

Lastly, OWCP continues to develop and implement the Employee Compensation Operations and Management Portal (ECOMP). In January 2020, the Office of Management and Budget (OMB) published a memorandum to the heads of executive departments and agencies

announcing the creation of the Protecting Employees, Enabling Reemployment (PEER) Initiative to improve federal workplace safety and health, which mandated ECOMP as the single portal for claims filed under FECA. Over the past several years, ECOMP has been significantly enhanced to provide additional functionality for stakeholders in all OWCP programs. Injured workers in the FECA, Energy, and Longshore programs have real time access to their claims, and claimant representatives in the FECA and Longshore programs, such as attorneys and union representatives, also have access to OWCP claim files, ensuring complete transparency for all parties. ECOMP also now provides near real-time communication between federal agency personnel, claimants, and FECA claims examiners, which has quickened the delivery of benefits to injured and ill federal workers and assists those workers returning to work. In the coming year, OWCP will make further modifications to ECOMP to track ARPA claims data for transparency. Additionally, OWCP hopes to make additional equity-focused enhancements to ECOMP including expanded gender-identity options for users and increased ability for users to voluntarily report demographic information. I believe that ECOMP is already an excellent tool for agencies and claimants, and I will make sure ECOMP continues to improve during this administration.

I have also been fully supportive of this administration's emphasis on diversity, equity, inclusion, and accessibility. In 2021, President Biden signed three Executive Orders related to diversity, equity, inclusion and accessibility: *Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (January 20, 2021),⁴ *Executive Order on Establishment of the White House Gender Policy Council* (March 8, 2021),⁵ and *Executive Order on Diversity, Equity, Inclusion and Accessibility in the Federal Workforce* (June 15, 2021).⁶ In response to these Executive Orders, I have pushed OWCP to take a closer look at equity in both our program services and our agency operations. Externally, OWCP will look to identify areas in which our programs can improve the outreach and support we provide to underserved communities. For example, both our Black Lung and Energy programs helped to formulate an Intergovernmental Navajo Outreach Task Force to better deliver benefits and services to this underserved community.

⁴ [Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government | The White House](#)

⁵ [Executive Order on Establishment of the White House Gender Policy Council | The White House](#)

⁶ [Executive Order on Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce | The White House](#)

Alongside this focus on equity, I have also made building a diverse, model federal workforce a top priority at OWCP. Recently, OWCP has started a new process to share hiring announcements with affinity groups and other diversity and equity-focused groups to help the agency attract diverse applicant pools for open positions. Also, after completing 36 town halls with OWCP employees, we acted on the feedback received in those discussions by creating a new career mentorship program, expanding training options for OWCP employees, improving Front Office communications with agency staff, convening a working group to make OWCP a safe and welcoming workplace, launching a Director's Awards program to recognize employee excellence, and placing more robust emphasis on the Federal Employee Viewpoint Survey (FEVS). Thanks to OWCP's investments and robust performance management systems, employees in all our programs shifted seamlessly to a telework posture in response to COVID-19, while maintaining a high standard of service delivery to injured and ill workers. All these efforts to build a diverse, model federal workforce will improve OWCP's ability to provide the best service possible to the workers we serve in each of our programs.

Finally, I am very excited to highlight two very important initiatives that I think will make a big impact on the ability of OWCP to support injured and ill workers. For the past few months, OWCP has been looking at the unique challenges faced by federal firefighters in establishing causation during the workers' compensation claims development process for occupational disease claims. After several meetings with key stakeholders and after consulting with the National Institute for Occupational Safety and Health (NIOSH), OWCP hopes to put in place an improved process for handling the FECA claims of federal firefighters. After implementing any new process aimed to better support federal firefighters in OWCP programs, I would be committed to maintaining an open dialogue on how we can continue to improve and further refine the process. In addition, OWCP recently began implementing a similar special claims process for a subset of federal workers with unique occupational circumstances; in collaboration with the Department of Defense, the State Department, and the White House National Security Council (NSC), we developed, and will be issuing, guidance on processing claims for Anomalous Health Incidents (AHIs) under FECA. AHIs relate to federal civilian employees, predominantly overseas, who have reported a series of sudden and troubling sensory events such as sounds, pressure, or heat concurrently or immediately preceding the sudden onset of symptoms such as headaches, pain, nausea, or disequilibrium. OWCP recognizes the unique

disagree with the determinations of the program concerning authorization or collateralization required in order to self-insure. Over the past ten months, OWCP has performed a comprehensive review of the existing self-insurance structure and the impact of changes made to the self-insurance process by the previous administration. That detailed review is now complete. Self-Insurance has been included on the DOL regulatory agenda and we will be moving forward with an NPRM in the coming months. Seven coal mine operators have appealed self-insurance authorization decisions made by OWCP during the previous administration. We are currently in the process of reviewing these appeals.

We remain committed to doing everything we can to protect the Trust Fund against further liabilities from under-secured self-insured operators, through a fair and efficient process.

Conclusion

In the past 10 months, OWCP has handled emerging issues such as COVID-19 and the Capitol attack, while still charting a path toward resolution of longstanding concerns, such as those surrounding self-insurance and the Black Lung Disability Trust Fund. We have also taken steps to improve the employment experience for our valuable workforce by increasing telework, adding programs to recognize exceptional performance and taking steps to expand, recognize, and value the diversity of our workforce and our stakeholders. I am honored to be able to lead OWCP as we tackle these challenges and thank you again for the opportunity to testify today and discuss how the Office of Workers' Compensation Programs is working to strengthen the safety net for injured and ill workers. I look forward to your questions.