

January 2012

**FEDERAL  
EMPLOYEES'  
COMPENSATION ACT**

**Preliminary  
Observations on  
Fraud-Prevention  
Controls**



**G A O**

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**United States Government Accountability Office**  
Washington, DC 20548

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January 25, 2012

Congressional Committees

According to the Department of Labor (Labor), in fiscal year 2010 about 251,000 federal and postal employees and their survivors received wage-loss compensation, medical and vocational rehabilitation services, and death benefits through the Federal Employees' Compensation Act (FECA) program. Administered by Labor, the FECA program provides benefits to federal employees who sustained injuries or illnesses while performing their federal duties. Employees must submit claims to their employing agency, which are then reviewed by Labor. 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. Wage-loss benefits for eligible workers—including those who are at, or older than, retirement age—with total disabilities are generally 66.67 percent of the worker's salary (with no spouse or dependent) or 75 percent for a worker with a spouse or dependent. FECA wage-loss compensation benefits are tax free and not subject to time or age limits.

Labor's Office of Workers' Compensation Programs (OWCP) estimated that future actuarial liabilities for governmentwide FECA compensation payments to those receiving benefits as of fiscal year 2011 would total nearly \$30 billion (this amount does not include any costs for workers added to the FECA rolls in future years). In 2010, the United States Postal Service (USPS) Inspector General (IG) reported that USPS alone had more than \$12 billion of the \$30 billion in estimated actuarial FECA liabilities. In April 2011, the USPS IG testified that USPS had removed 476 claimants from the program based on disability fraud since October 2008 and recovered more than \$83 million in judgments. Given the significant projected outlays of the governmentwide FECA program and prior USPS IG findings of fraud, you asked us to provide preliminary observations on our ongoing work examining FECA fraud-prevention controls and discuss related prior work conducted by us and other federal agencies. We will continue to review the identified issues and report more fully on our findings at a later date.

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To provide these preliminary observations on governmentwide FECA fraud-prevention controls, we reviewed Labor's annual performance and accountability reports, the FECA procedures manual and internal controls, OWCP's accountability reviews, relevant agencies' Office of Inspector General reports, and applicable laws and regulations. We interviewed officials at OWCP headquarters and officials responsible for managing the FECA program at six federal agencies that employ FECA claimants: USPS, United States Navy (Navy), Department of Veterans Affairs (VA), United States Army (Army), Department of Homeland Security (DHS), and United States Air Force (Air Force). We selected these employing agencies because they had the highest total amount of FECA expenditures in fiscal year 2010 among federal agencies. Combined, these employing agencies represent 73 percent of total FECA program future liabilities as of September 30, 2011. Because these employing agencies are not representative of the entire FECA program, our findings cannot be generalized beyond these six agencies. This report's findings are primarily based on document reviews and discussions with agency officials. As such, we have not validated whether controls discussed in this report are actually being consistently followed or are effective. On November 9, 2011, we issued a statement for the record to the Senate Committee on Homeland Security and Governmental Affairs detailing our preliminary observations on FECA fraud prevention controls.<sup>1</sup> We also discussed our key findings with agency officials and incorporated their comments into the statement where appropriate. Those findings and comments are included in this report.

We conducted this portion of our ongoing performance audit from June 2011 through January 2012, 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.

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<sup>1</sup>GAO, *Federal Employees' Compensation Act: Preliminary Observations on Fraud-Prevention Controls*, [GAO-12-212T](#) (Washington, D.C.: Nov. 9, 2011).

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## Results in Brief

Our work to this point has identified several promising practices that could help to reduce the risk of fraud within the FECA program. The promising practices link back to fraud-prevention concepts contained in GAO's Fraud Prevention Framework and Standards for Internal Control in the Federal Government,<sup>2</sup> and include agencies' use of full-time staff dedicated to the FECA program, periodic reviews of claimants' continued eligibility, data analysis for potential fraud indicators, and effective use of investigative resources. These promising practices have already resulted in successful investigations and prosecutions of FECA-related fraud at some agencies, and could help to further enhance the program's fraud-prevention controls. However, our preliminary work has also identified several potential vulnerabilities in the program's design and controls that could increase the risk for fraud. Specifically, we found that limited access to necessary data is potentially reducing agencies' ability to effectively monitor claims and wage-loss information. In addition, agencies' reliance on self-reported data related to wages and dependent status, lack of a physician selected by the government throughout the process, and difficulties associated with successful investigations and prosecutions all potentially reduce the program's ability to prevent and detect fraudulent activity. Labor and employing agencies generally agreed with the preliminary findings presented in this report and provided technical comments, which were incorporated into this report. We plan to follow up on the promising practices and potential vulnerabilities as part of our ongoing work, although our progress has been slowed by difficulties in accessing certain databases.

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<sup>2</sup>GAO, *Hurricanes Katrina and Rita Disaster Relief: Prevention Is Key to Minimizing Fraud, Waste, and Abuse in Recovery Efforts*, [GAO-07-418T](#) (Washington, D.C.: Jan. 29, 2007); and *Internal Control: Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

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## Background

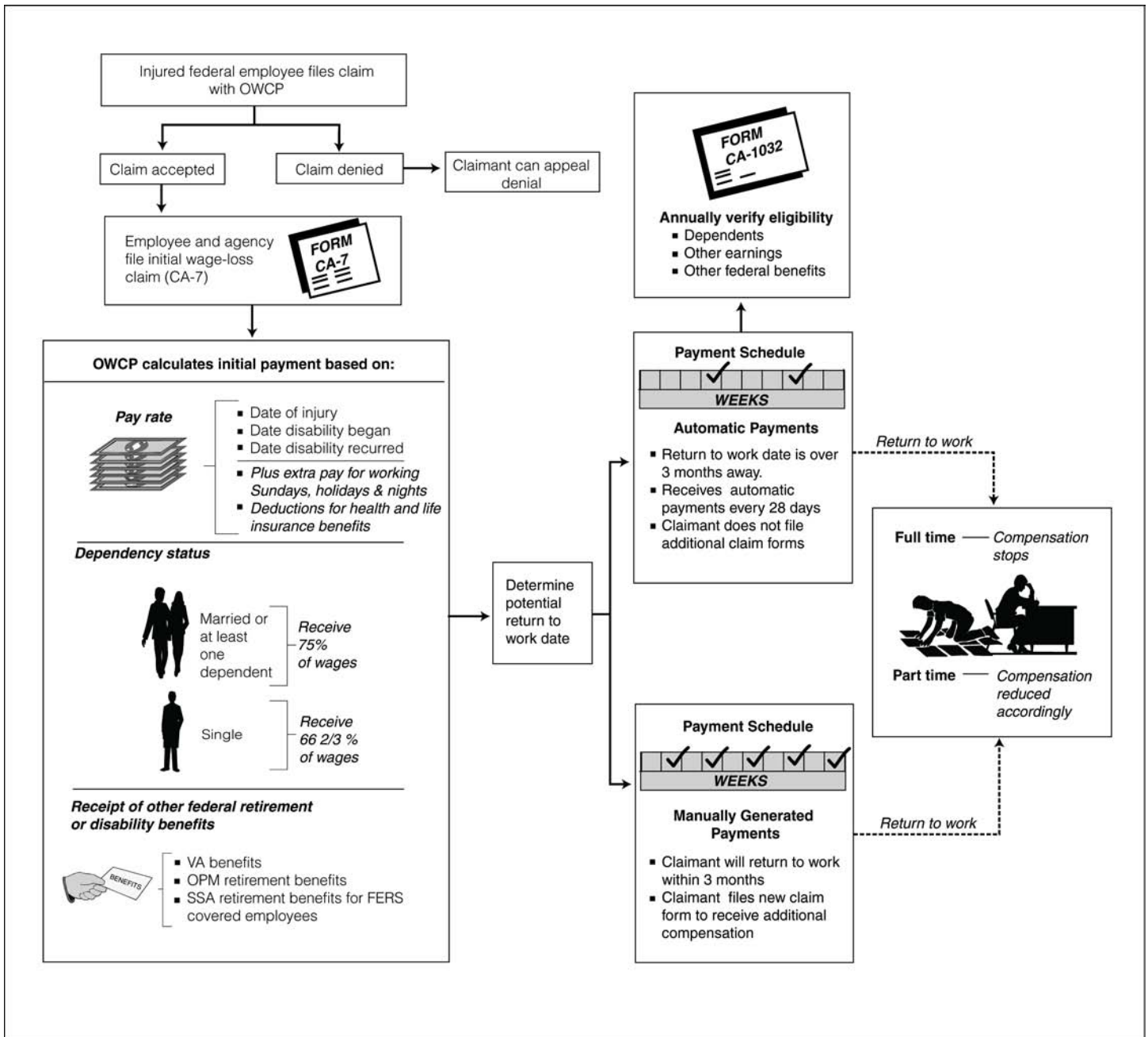
The FECA program covers over 2.7 million civilian federal and postal employees in more than 70 agencies, providing wage-loss compensation and payments for medical treatment to employees injured while performing their federal duties.<sup>3</sup> FECA claims are initially received at the employing agency, then forwarded to Labor's OWCP where eligibility and payment decisions are made. Every year, employing agencies reimburse OWCP for the amounts paid to their employees in FECA compensation during the previous year. Certain government corporations and USPS also make payments to Labor for program administrative fees.<sup>4</sup> Figure 1 displays the standard process for FECA claims reviews and payments by OWCP.

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<sup>3</sup>5 U.S.C. §8101, et seq.

<sup>4</sup>Mixed-ownership government corporations such as the Federal Deposit Insurance Corporation are required to provide additional funds to cover their share of the costs of administering the program for their employees. See 5 U.S.C. §8147(c).

**Figure 1: FECA Claims Process**



Source: GAO analysis; images, Art Explosion.

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OWCP is the central point where FECA claims are processed and eligibility and benefit decisions are made. Claims examiners 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 complex criteria for computing compensation payments. Using information provided by the employing agency and the claimant on a claims form, OWCP calculates compensation based on a number of factors, including the claimant's rate of pay, the claimant's marital status, and whether or not the claimant has dependents. In addition, claimants cannot receive FECA benefits at the same time they receive certain other federal disability or retirement benefits, or must have benefits reduced to eliminate duplicate payments. For example, Social Security Administration (SSA) disability benefits are reduced if an individual is also receiving FECA payments.

According to OWCP officials, initial claims received from employing agencies are reviewed to assess the existence of key elements. 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, and 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 reimbursements for medical costs. After initial claim approval, additional reviews are done while a claim remains active if the claim exceeds certain dollar thresholds. Once a claim is approved, payments are sent directly to the claimant or provider. An employee can continue to receive compensation for as long as medical evidence shows that the employee is totally or partially disabled and that the disability is related to the accepted injury or condition. OWCP considers claimants who are not expected to return to work within 3 months to be on its periodic rolls for payment purposes.<sup>5</sup> OWCP officials review medical evidence annually for claimants on total disability receiving long-term compensation who are on the program's periodic rolls, and every 3 years for claimants on the periodic rolls who have been determined to not have any wage-earning capacity. Claimants are also required to submit an annual form (CA-1032) stating whether their income or dependent status has changed. The form must be signed to

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<sup>5</sup>Employees on the periodic rolls have total disabilities or injuries that have lasted or are expected to last for prolonged periods.



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acknowledge evidence of benefit eligibility and to acknowledge that criminal prosecution may result if deliberate falsehood is provided. If questions arise about medical evidence submitted by the claimant, OWCP can request a second medical examination be performed by a physician of its choosing.

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## Observations from Preliminary Work Identify Promising Practices and Potential Vulnerabilities

Our preliminary observations indicate that employing agencies and Labor have instituted some promising practices that may help reduce fraudulent FECA claims, yet potential vulnerabilities continue to exist. We plan to determine the effect of these practices in our future work. GAO's Framework for Fraud Prevention, Detection, and Prosecution, developed during previous program audits, emphasizes that comprehensive controls are necessary to minimize fraud, waste, and abuse within any federal program, including FECA.<sup>6</sup> GAO's Standards for Internal Control in the Federal Government<sup>7</sup> also outlines key control practices that are integral parts of an effective control environment. The promising practices and potential vulnerabilities below relate to issues raised in these guidelines.

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### Promising Practices

We have identified several promising practices that employing agencies and Labor have implemented that may help to reduce fraudulent FECA claims. We are planning to look further into these practices as part of our ongoing work.

#### Dedicated Full-Time Staff

Three employing agencies informed us that they employed dedicated, full-time FECA program staff including injury compensation specialists and other staff, which, according to officials, helps staff gain program knowledge and expertise. It also allows program staff to specialize in FECA claims and reviews without having to perform additional duties. Agencies with full time staff may be able to dedicate resources to training them in fraud prevention, which is a positive practice noted in GAO's fraud-prevention framework. GAO's Standards for Internal Control in the Federal Government<sup>8</sup> also specifically mentions that appropriate, competent personnel are a key element to an effective control

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<sup>6</sup>[GAO-07-418T](#).

<sup>7</sup>[GAO/AIMD-00-21.3.1](#).

<sup>8</sup>[GAO/AIMD-00-21.3.1](#).

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environment. Officials from one employing agency with this structure stated that having dedicated and experienced FECA staff allows them to conduct more aggressive monitoring of long-term workers' compensation cases. Labor officials agreed that agencies that can devote dedicated full time resources are positioned better to manage the program. Examples include the following:

- FECA staff in one Navy region reported having an average of 15 years of program experience, which they said helps them to identify specific indicators of potential fraud.
- According to the Air Force, it has specific teams that specialize in reviewing FECA claims at different phases of the claims process.
- USPS officials also stated they assign staff full time to manage FECA cases.

In addition, in 2008, we recommended that the Secretary of Labor direct OWCP to take steps to focus attention on the recovery of FECA overpayments, such as determining whether having fiscal staff dedicated to recovering overpayments would increase its recovery.<sup>9</sup> Labor stated that it carefully evaluated having fiscal staff dedicated to recovering overpayments. However, given the integral involvement of claims examiners in overpayment processing, the unavailability of fiscal staff to undertake this specialized activity, and expected continued budget constraints, Labor believes that keeping this function with claims examiners is the most cost-effective debt-collection strategy.

## Periodic Reviews

Officials at five employing agencies and Labor have instituted periodic reviews of active FECA claims, which may improve overall program controls. Specifically, several agencies reported that annual reviews of FECA case files were used to help increase program officials' awareness of potential fraudulent activities. These controls fall within the detection and monitoring component of GAO's fraud-prevention framework and could help to validate claimants' stated medical conditions, income information, and dependent information. GAO's Standards for Internal Control in the Federal Government also states that monitoring activities, such as comparisons of different data sets to one another, can help to encourage continued compliance with applicable laws and regulations.

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<sup>9</sup>GAO, *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).

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Agency officials stated that these types of reviews assist with identifying claimants who are not eligible to continue to receive FECA benefits. According to agency staff:

- Labor requires long-term claimants to submit updated claim documentation about wages earned and dependent status for annual reviews. While much of the information provided on the CA-1032 is self-reported, the requirement for annual submissions can help identify necessary changes to benefits. In addition, Labor officials stated they also perform regular medical-claim reviews depending on the status of a case.
- Staff at one Navy regional office send annual questionnaires to claimants to determine if information, including income and dependent status, is consistent with annual documentation submitted to Labor.
- A DHS component agency sends periodic letters to claimants asking about their current status. If DHS determines that action should be taken, DHS then sends a letter to Labor requesting the claim be closed.
- Under DOD policies, Air Force, Army, and Navy staff are required to conduct an annual review of selected long-term claim files and medical documentation to determine whether claimants are receiving compensation benefits they are entitled to and identify claimants who are fit to return to work.
- The Air Force has developed quarterly working groups to review all paid compensation benefits.
- USPS performs periodic reviews of claimant data. USPS IG officials identified a claimant who fraudulently claimed \$190,000 in mileage reimbursements for travel to therapy almost every day for 5 years, including weekends and holidays.<sup>10</sup>

## Data Analysis

Officials from employing agencies and Labor stated that their program staff conducted data analysis, such as comparisons of mileage claims to medical bills, to verify information submitted by claimants. Agencies also reported using available data sources to verify whether claimants should continue to receive FECA benefits. Similar to the periodic reviews previously discussed, these controls fall within the monitoring component of GAO's fraud-prevention framework and could help to validate claimants' self-reported income and medical-condition information. Data

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<sup>10</sup>United States Postal Service, Office of the Inspector General, *Postal Service Workers' Compensation Program Audit Report*, HR-AR-11-007 (Washington, D.C.: Sept 30, 2011).

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sources reviewed ranged from federal agency data to other publicly available information. Agencies also conduct reviews of claimant physician and prescription drug payments to identify fraud. Specifically, according to agency officials:

- Labor gives each employing agency access to its Agency Query System (AQS), which allows agencies to electronically review information on FECA claims, including current claims status, wage-compensation payment details, and medical-reimbursement details.
- Labor officials also stated they provide at least quarterly, and for some employing agencies weekly, extracts from their data system that give employing agencies information on wage-compensation payments, medical-billing payments, and case-management data.
- The Navy reviews pharmacy bills, medical-diagnosis codes, and mileage-reimbursement details from the AQS system on a case-by-case basis to determine whether physician claims are related to the injury sustained by the claimant and to identify whether mileage for physician visits was reimbursed on days when the claimant did not visit a physician.
- Navy officials use publicly available state government information to identify claimants who owned and received income from their own businesses. For example, one public records search found that a FECA claimant was an active owner of a gentleman's club while he was fraudulently receiving FECA wage-loss benefits.
- Officials from employing agencies and Labor stated that they reviewed SSA's Death Master File periodically to identify benefits erroneously dispersed to deceased individuals' survivors. Specifically, Labor said it conducts monthly data matches with SSA's Death Master File records and plans to revise the forms used in survivors' claims to gather Social Security numbers for survivors and beneficiaries, enabling Labor to match all FECA payees with SSA death records.
- VA has developed a process that allows the agency to track prescription drug usage claims and identify anomalies.

#### Agency Utilization of Investigative Resources and Prosecutions

Four employing agencies reported that using investigative resources by investigating potential fraud cases helped to increase program controls. The Navy FECA component has assigned responsibilities to staff that investigate and help prosecute fraudulent FECA claims, while the Air Force has designated staff that refers allegations to its Office of Special Investigations. USPS program officials reported that they refer potential fraud cases internally to USPS IG officials for investigation and prosecution. The investigation and effective prosecution of claimants

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fraudulently receiving benefits is a key element in GAO's fraud-prevention framework. While these activities are often the most costly and least effective means of reducing fraud in a program, the deterrent value of prosecuting those who commit fraud sends the message that fraudulent claims will not be tolerated. Examples of the effective integration of investigative resources provided by these employing agencies include the following:

- The Air Force discussed its plan to hire staff in early fiscal year 2012 to conduct background investigations and surveillance of claimants to determine whether they are entitled to receive FECA benefits.
- The USPS IG reported that since October 2008 it identified and facilitated terminating benefits for 476 claimants who were committing workers' compensation fraud, and recovered over \$83 million in medical and disability judgments.
- Navy officials stated that their internal investigators' work at one region led to 10 convictions from 2007 to 2011 and an \$8.6 million cost-avoidance to the agency.
  - One individual received monthly workers' compensation payments after falsely denying that he had outside employment and outside income while claiming total disability that prevented him from working. Interviews with former employers uncovered that this claimant had been employed and been paid over \$100,000 per year while he was receiving benefits. This individual was sentenced to 18 months in prison, 3 years supervised probation, and \$302,380 in restitution for making a false statement to obtain FECA benefits.
  - Another individual collected FECA benefits made out to his father for 4 years after his father was deceased. This individual was sentenced to 5 years of probation and full restitution in the amount of \$53,410.
- DHS officials within the Transportation Security Administration stated they have successfully used an internal affairs unit consisting of seven staff members to examine and respond to fraud, waste, and abuse cases and make referrals to investigators. The investigators then conduct video surveillance and examine data to find potential fraud.
- A recent Labor IG testimony cited numerous Labor IG investigations that have been conducted over the years focusing on FECA claimants who work while continuing to receive benefits, and on medical or other service providers who bill the program for services not rendered.

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## Potential Vulnerabilities

Our preliminary observations also identified potential vulnerabilities in the FECA program fraud-prevention controls that could increase the risk of

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claimants receiving benefits they are not entitled to. Again, we plan to examine these potential vulnerabilities as part of our ongoing work.

## Limited Access to Data

We found that management of the FECA program could be affected by limited access to necessary data. Specifically, agency officials stated the program lacked proper coordination among federal agencies and that there was limited or no access to data sources that could help reduce duplicate payments. For example, Labor does not have authority to compare private or public wage data with FECA wage-loss compensation information to identify potential fraud. This prevents agencies from verifying key eligibility criteria submitted by claimants, such as income. GAO's fraud-prevention framework emphasizes effective monitoring of continued compliance with program guidelines, and outlines how validating information with external data can assist with this process. Specific potential vulnerabilities identified in the area included the following:

- Program officials at Labor and the employing agencies do not have access to payroll information included in the National Directory of New Hires (NDNH) and federal employee payroll data, which could help reduce duplicate payments by identifying unreported income.<sup>11</sup> In a previous report, we recommended that Labor develop a proposal seeking legislative authority to enter into a data-matching agreement with the Department of Health and Human Services (HHS) to identify FECA claimants who have earnings reported in the NDNH.<sup>12</sup> However, Labor officials stated that they investigated using NDNH and communicated with HHS, but determined that this would not be an effective solution due to cost issues, limited participation by employers in the NDNH, and the likelihood that illegitimate earnings would not be listed. As an alternative, Labor recently provided testimony proposing legislative reforms to FECA that would enhance its ability to assist FECA beneficiaries. As part of this reform, OWCP sought authority to match Social Security wage data with FECA files. OWCP currently is required to ask each individual recipient to sign a voluntary release to obtain such wage information. According to Labor, direct authority would allow automated screening to assess

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<sup>11</sup>NDNH is a national directory of employment information that contains, among other data, quarterly wage data on individual employees and is maintained by the Department of Health and Human Services (HHS).

<sup>12</sup>[GAO-08-284](#).

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whether claimants are receiving salary, pay, or remuneration prohibited by the statute or receiving an inappropriately high level of benefits. It would be important to assess whether access to Social Security wage data is an effective alternative to access to NDNH data, and we plan to assess this as part of our ongoing work.

- Navy and Air Force officials cited difficulty coordinating with VA to determine whether individuals are receiving disability benefits for the same conditions related to FECA claims. This information is key for employing agencies to assess whether claimants received duplicate benefits for the same injuries under both VA disability benefits and FECA benefits. VA commented that privacy concerns related to providing beneficiary data to external agencies has affected coordination.
- An employing agency official stated that Labor does not provide them with remote access to the claimant's annual certification form CA-1032, which would be useful for their periodic review efforts. However, Labor does allow employing agency officials to view the CA-1032 forms if the officials come to a Labor district office. The CA-1032 form contains information on a claimant's income and dependent status, which is useful when employing agencies review claims files for continued eligibility. We raise this issue because, as stated above, the Navy utilizes information submitted to Labor as part of its periodic review efforts.
- A 2010 SSA IG audit found individuals receiving duplicate benefits for SSA and FECA. According to the SSA IG, development of a computer-matching agreement with Labor and its FECA payments database would allow SSA to reduce the number of duplicate SSA payments by verifying the accuracy of payment eligibility. According to the SSA IG report, the agreement has not been finalized with Labor due to changes in personnel at SSA.

#### Reliance on Self-Reported Data

Our preliminary observations identified program processes that relied heavily on data self-reported by claimants that is not always verified by agency officials. Not verifying information concerning wages earned and dependent status reported by claimants creates potential vulnerabilities within the program. For example, individuals who are working can self-certify that they have no other income, and continue to remain on the program while their statements are not verified. Prior reports by us and Labor's IG have shown that relying on claimant-reported data could lead to overpayments. For example:

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Physicians Selected by the  
Government Not Present at Key  
Control Points

- A 2008 GAO report found that Labor relied on unverified, self-reported information from claimants that was not always timely or correct.<sup>13</sup> Specifically, the annual CA-1032 forms submitted to Labor to determine whether a beneficiary is entitled to continue receiving benefits relies on statements made by the claimant that are not verified.
- A 2007 Labor IG report also found that an OWCP district office did not consistently ensure that claimants returned their annual form CA-1032 or adjust benefits when the information reported by claimants indicated a change in their eligibility.<sup>14</sup> Labor agreed with the findings of this report.
- During fiscal year 2004, claimants and beneficiaries continued to receive compensation payments even though they had not provided required timely evidence of continuing eligibility.
- In one case, the claimant's augmented payment rate was not reduced even though the claimant reported that his spouse was no longer a dependent.

According to Labor officials, a new case-management system was deployed after the Labor IG audit field work was conducted, which addresses some of the issues raised in the Labor IG report.

Our preliminary observations found that FECA program regulations allow claimants to select their own physician, and also requires examination by a physician employed or selected by the government only when a second opinion is deemed necessary by the government. We found this could result in essential processes within the FECA program operating without reviews by physicians 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. However, the addition of a government physician into the process does not necessarily mitigate all risks, and costs associated with additional medical reviews would need to be considered. For example, there may be difficulties in successfully obtaining information from physicians representing the government's

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<sup>13</sup>[GAO-08-284](#).

<sup>14</sup>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).



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interest. Specifically, a prior GAO report found challenges in obtaining sound or thorough evidence from physicians approved by Labor in Black Lung Benefits Program claims for miners.<sup>15</sup> Our report also noted that physicians stated that guidance provided by Labor for effectively and completely documenting their medical opinions was not clear, which resulted in the challenges in providing useful information to Labor concerning Black Lung claims. Details of this potential vulnerability include the following:

- Labor, not the claimant's employing agency, determines if a second opinion is necessary. Employing-agency officials, including officials from DHS and USPS stated that there have been instances where Labor failed to respond to their requests to have a second-opinion examination performed at the employing agencies' request even though the costs would be borne by their agencies. We did not verify these claims. Labor officials stated that its claims examiners are trained to review files and make the appropriate case-management decision on the need for a second opinion. In addition, they stated that resources associated with second opinions include significant time and effort for a claims examiner to review a file, document the need for a second opinion, and determine the specific issues to be reviewed by the physician. Finally, Labor officials noted that numerous requests by employing agencies for second opinions can put a strain on the limited number of physician staff it uses for these examinations.

#### Difficulties Associated with Investigations and Prosecutions

Officials at multiple employing agencies covered in our work to date stated that they faced difficulties successfully investigating and prosecuting fraud. GAO's fraud-prevention framework states that targeted investigations and prosecutions, though costly and resource intensive, can help deter future fraud and ultimately save money. We plan to follow up with agency IG and United States Attorney officials to gain their perspective on FECA fraud cases as part of our ongoing work. Details offered by employing-agency program officials included the following:

- Officials at DOD stated that their investigative units do not normally invest resources in FECA fraud cases because national defense, antiterrorism, and violent crimes cases are higher priorities.

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<sup>15</sup>GAO, *Black Lung Benefits Program: Administrative and Structural Changes Could Improve Miners' Ability to Pursue Claims*, [GAO-10-7](#) (Washington, D.C.: Oct. 30, 2009).

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- USPS officials also stated that, in their experience, limited resources at United States Attorneys offices means that those attorneys will often not prosecute cases with an alleged fraud of less than \$100,000. According to these officials, many of their strong allegations of fraud and abuse fall below this amount when estimating the cost of fraud that has already occurred.
  - In addition to the challenges noted above related to fraud investigations, in 2008, we recommended that OWCP take steps to focus attention on recovering FECA overpayments. Specifically, we recommended considering reducing the dollar threshold for waiving overpayments as OWCP's overpayment processing data system develops additional capabilities. With respect to reducing the waiver threshold, Labor declined to consider reducing the dollar threshold while their current processing data system was developing additional capabilities to recover overpayments.

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## GAO's Plans to Further Assess Controls and Perform Data Analysis as Part of Ongoing Work

We plan to follow up on these promising practices and potential weaknesses as part of our ongoing review of FECA fraud-prevention controls. We will also determine whether duplication of benefits and other problems within the FECA program may have contributed to specific cases of fraud and abuse or other program vulnerabilities and develop illustrative case studies as appropriate. To complete this work, we have attempted to obtain access to NDNH data. However, HHS has denied access to the NDNH database because they assert that we do not have authority to obtain NDNH data, despite the fact that we have a broad right of access to all federal agency records.<sup>16</sup> HHS' denial of access has slowed the progress of this engagement reviewing federal beneficiary fraud and abuse and has limited our ability to assess the potential vulnerability of the FECA program to fraud and abuse at a national level. Although we have been able to obtain some of the data from a number of states, we have not received complete data from all states contacted. Legislation that is currently pending in the House and Senate (H.R. 2146, S. 237) would refute HHS' erroneous interpretation of our statutory access rights and would ensure that we have access to the NDNH and can complete our congressionally requested work in a timely manner.

In addition to our fraud-prevention work in the FECA program, we are conducting two other program-related engagements. Those engagements

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<sup>16</sup> 31 U.S.C. § 716(a).

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focus largely on issues related to retirement-age FECA beneficiaries. The results of that work will also be reported separately.

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## Agency Comments and Our Evaluation

On November 9, 2011, we issued a statement for the record to the Senate Committee on Homeland Security and Governmental Affairs detailing our preliminary observations on FECA fraud prevention controls.<sup>17</sup> At that time, we discussed our key findings with Labor and officials at the six employing agencies. Labor and the employing agencies generally agreed with the preliminary findings and provided technical comments, which were incorporated into the statement. Those findings and associated technical comments are included in this report.

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We are sending copies of this report to the Secretaries of Labor, Defense, Homeland Security, Veterans Affairs, the Postmaster General, and interested congressional committees. In addition, this report is also available at no charge on the GAO website at <http://www.gao.gov>. If you have any questions concerning this report, please contact Gregory D. Kutz at (202) 512-6722 or [kutzg@gao.gov](mailto:kutzg@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.



Gregory D. Kutz  
Director  
Forensic Audits and Investigative Service

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<sup>17</sup>[GAO-12-212T](#).

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