Congress holds FECA reform hearing

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During the May 6 House Education and Workforce Subcommittee on Workforce Protections hearing on "FECA Reform and Oversight, Prioritizing Workers, Saving Taxpayer Dollars," members of the Republican majority and the USPS OIG promoted adopting the "best practices" from state injury compensation programs as a way to reform the Federal Employees' Compensation Act (FECA). While the phrase "best practices" might suggest that those at the hearing were seeking to improve the FECA, it's simply a euphemism for proposals that would gut it, reduce benefits and make the claims process more complicated and adversarial. President Renfroe, in both his remarks and later his submissions to the subcommittee, strongly opposed these proposals.

When Congress passed the FECA in 1916, it represented landmark social legislation. Congress has fine-tuned it through amendments over the years (most recently in 2006) to better achieve its remedial intent. Since its passage, it has opened the door for state programs and has served as a model for them to emulate.

The FECA represents a social compact between the federal government and its workers. Under the FECA, a federal employee who is injured at work or who sustains an occupational disease has no right of action against (can't sue) the United States for the effects of the injury or disease other than the right to receive the benefits provided by the FECA. The Act is the exclusive remedy.[1] Because of this, benefits were designed to be simple and generous in exchange for taking away a federal employee's right to sue their employer. In our view, the severe proposals put forward at the hearing undercut this social compact.

In addition, the assertions made at the hearing that adopting the "best practice" policies of state injury compensation programs would save money are contradicted by the Department of Labor's (DOL) own data. According to DOL research, the federal program runs more efficiently and at a significantly lower cost than state programs (almost 25 percent):

> The administrative cost of the services provided by the Federal Employees' Compensation Act (FECA) Claims Administration is very low. Overhead is just 4% of benefits, and Federal workers' compensation costs are only 1.8% of total Federal and Postal payrolls, compared to 2.3% for private insurance and state funds.[2]

And the DOL accomplishes this while providing benefits that in general are more generous than state programs. It seems to us that states should be emulating the "best practices" of the FECA.

There have been comprehensive studies over the last 10 years that document how state workers' compensation program reforms have negatively affected American workers through the erosion of their benefits.[3] These reforms in large part have been driven by business interests and aimed at reducing costs for employers and insurers.

Many states implemented caps on wage replacement and medical benefits, resulting in lower compensation for injured workers. In some cases, permanent disability benefits were drastically cut, even for workers with severe injuries. For example, in California, reforms passed in 2004 under SB 899 significantly reduced permanent disability benefits for many injured workers, leading to benefit reductions of up to 70 percent in some cases.[4]

A 2015 investigation by media outlets ProPublica and NPR found that states across the nation were dismantling their workers' compensation systems, with often-disastrous consequences for many of the hundreds of thousands of workers who suffer serious injuries at work each year. Many cases led to poverty, with injured workers losing their cars and homes. Injured workers often must battle against denied care, thus delaying recovery.[5]

In 2015, 22 states had set arbitrary time limits for wage-replacement benefits. As of 2025, this has increased to 25 states.

States also have tightened the requirements for proving that an injury or illness was work-related, es-

(continued on page 47)

1 5 USC § 8116(c) and § 8128.

2 dol.gov/agencies/owcp/FECA/about

3 See for example: Grabell, Michael, and Lena Groeger. "The Demolition of Workers' Comp." ProPublica, March 4, 2015; American Public Health Association. "The Critical Need to Reform Workers' Compensation." Nov. 7, 2017. (www.propublica.org/article/the-demolition-of-workers-compensation)

4 National Council on Compensation Insurance (NCCI), *Workers Compensation Reform: SB 899 in California*, 2005

5 See Grabell and Groeger above.

in serving as mentors can submit their names to the postmaster or branch president, or their designees, for consideration to be selected. Mentors will then be jointly selected by the applicable NALC national business agent and USPS district manager.

When practicable, the mentor will participate in the mentee's tour of the delivery unit, introducing the new employee to colleagues and providing them with an overview of the workroom floor. The mentor and mentee also should meet regularly, as needed, to discuss the mentee's experiences and to address any work-related concerns or issues the mentee may be experiencing. Additionally, the mentor should provide encouragement and advice to the new employee regarding their performance and ability to adapt to the requirements of being a city letter carrier. During the first 120 calendar days of a mentee's employment as a city letter carrier, whenever possible, topics and results of any discussions related to the performance of a mentee should also be shared with the mentor.

Mentor and mentee participation in the program is voluntary. Mentors conduct their duties on the clock and are paid at their normal pay rate. While NALC and USPS have a joint expectation that mentoring relationships will last for a period of four calendar months, the mentorship can be terminated by either the mentor or mentee at any time. In these circumstances, when practicable, efforts will be made to jointly assign a new mentor to the newly hired employee. Once mentors are jointly selected by the NALC and USPS, they will be provided with a training program to provide them with the skills necessary to properly mentor new letter carriers.

This program was a huge success in the pilot locations that implemented it and complied with the requirements. Retention rates, employee satisfaction, workplace culture and employee availability skyrocketed, positively affecting all employees in those delivery units. To read more about the program, the MOU begins on page 258 of the 2023-2026 National Agreement, which can be found on the NALC website. Additionally, an article that explains the program in detail has been published in the special National Agreement issue of the *NALC Activist*. To read the newest edition of the *NALC Activist*, go to nalc.org/activist.

FECA reform hearing (continued)

(continued from page 44)

pecially for cumulative or occupational diseases. This has made it more difficult for workers to qualify for benefits. The 2015 ProPublica and NPR investigation found that several states, including Florida and Texas, had raised the burden of proof on workers, requiring more extensive medical evidence and documentation.[6]

Reforms often included the imposition of treatment guidelines and provider networks that limited the medical care available to injured workers. These rules frequently delayed or denied necessary treatment. In some states, including Texas and California, reforms allowed insurers to require injured workers to use company-selected doctors and follow rigid treatment guidelines, which often prioritized cost control over recovery.[7]

Clearly, these state "best practices" would betray the trust of the social compact embodied by the FECA and would run roughshod over its remedial intent. FECA reform should prioritize the prompt adjudication of cases and the timely provision of benefits and medical treatment. A focus on these priorities in the long run would achieve greater savings than any of the proposed state "best practices."

It's been our experience—and the DOL has the data to back this up—that the quicker the injured worker gets their claim accepted and receives appropriate treatment, the sooner and more likely it is that they will return to work. Delays in claims adjudication and the resulting postponement of treatment exponentially reduces the chances of the injured worker returning to their pre-injury employment and undermines the FECA's stated purpose of rehabilitating injured workers so that they become productive members of the workforce and society.

6 ibid.

7 Spieler, Emily A., and John F. Burton Jr. "The Lack of Correspondence Between Work-Related Disability and Receipt of Workers' Compensation Benefits." *American Journal of Industrial Medicine*, Vol. 55, No. 6, 2012 (onlinelibrary.wiley.com/doi/full/10.1002/ajim.21034).