

Congress holds a FECA reform hearing



Regional Workers' Compensation Assistant Coby Jones

On May 6, the House Education and the Workforce Subcommittee on Workforce Protections held a hearing on “FECA Reform and Oversight, Prioritizing Workers, Saving Taxpayer Dollars.” Witnesses included the inspectors general for the Postal Service and the Department of Labor, an analyst for the Congressional Research Service, and NALC President Brian L. Renfro.

The proposed legislative reforms that were discussed come in large part from the May 11, 2023, USPS OIG audit report titled “Workers’ Compensation Update.” Most would have a harmful effect on our injured members. They include:

1. Limiting the dollar amount and duration of benefits.
2. Allowing settlements and buyouts.
3. Requiring the use of generic drugs.
4. Standardizing the compensation rate to 66.66 percent for all employees regardless of dependent status.
5. Converting claims for disability to a lower benefit requiring employees to opt for the U.S. Office of Personnel Management annuity at age 65.
6. Allowing the Postal Service to provide a list of medical providers that employees must choose from.
7. Allowing apportionments to be factored in for on-the-job injuries or illnesses.

President Renfro testified forcefully against those proposals that would harm our members¹. He noted that most of these proposals would unconscionably shift the costs of the injured or disabled worker’s injury from the federal government to the injured worker, their family and society at large.

He stressed in particular how lowering benefits at age 65 fundamentally misunderstands both how Federal Employees’ Compensation Act (FECA) benefits are paid and the effects that the permanent loss of a job due to disability has on an employee’s career earnings. FECA compensation does not increase at a rate comparable to pay increases an individual would have received through step increases or promotions (career

growth) if they had not been injured. The only increase in disability benefits is the result of an annual adjustment based on the consumer price index.

In addition, Federal Employees Retirement System (FERS) employees receiving compensation through the Office of Workers’ Compensation Programs do not earn Social Security credits nor can they receive matching employer contributions to their Thrift Savings Plan accounts. These are key components of any FERS retirement. While Congress tried to remedy this in part when it provided for an enhanced annuity in 2003, injured employees who have been separated do not benefit from this legislative remedial patch, nor do they earn service-year credits. And employees who are injured and separated before becoming vested in the federal retirement system would be left destitute with no retirement at all.

President Renfro also testified that requiring injured workers to select physicians from a list provided by the Postal Service would be inherently unfair to the injured worker. The Postal Service has huge incentives for claims to be denied in order to meet its budgetary and efficiency goals. This is why the Postal Service challenges most claims, even in cases of straightforward traumatic injuries. Physicians hired and paid for by the Postal Service would similarly have strong incentives to find against injured workers, since their livelihoods would depend on continued postal employment.

Renfro called the proposal to require apportionment in FECA cases a “rat’s nest.” Requiring apportionment—the division of how much of an employee’s disability is due to a work-related injury and how much is due to a pre-existing disability—to be factored into the claims process goes against decades of Employees’ Compensation Appeals Board precedent. It also would become a factor in almost every occupational disease case, since these usually involve degenerative conditions such as osteoarthritis and ligament tears. Apportionment would be both complex and highly subjective. Doctors would have to take into account the injured worker’s family history, age, weight, genetic predisposition, previous injuries, recreational activities, household chores, prior work history, etc.

We have seen cases from states that apportion causality where different doctors associated with the case have apportioned causality with wildly different results. Requiring apportionment in FECA cases could lead to endless conflicts of medical opinions, additional medical reports, the scheduling of referee opinions and, of course, a lot of otherwise unnecessary litigation through

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¹ The NALC supports requiring the use of generic drugs when practicable. Renfro in his testimony noted that this really is no longer an issue since OWCP implemented such a policy in 2021 through *FECA Bulletin 21-07* (March 9, 2021) and *FECA Bulletin 22-02* (Nov. 23, 2021).

MDA Summer Camp

MDA Summer Camp is oftentimes referred to as a child's "best week of the year!" It's an experience of a lifetime for them and for many NALC members.

It is a magical place of complete inclusion, empowerment, exploration and growth. The magic is in the experience of trying something new, developing friendships that last a lifetime, learning to self-advocate and harnessing potential.

Each summer, kids and young adults with neuromuscular disease attend these life-changing overnight camps around the United States—at no cost to their families, thanks to the brothers and sisters like you who raise thousands of dollars for camps. Campers are able to go swimming, zip-lining, horseback riding and dancing under a disco ball, all while gaining valuable life skills.

MDA Summer Camp creates a world of possibilities for children living with neuromuscular disease. Camp gives kids a chance to discover new interests while gaining self-confidence, making lifelong friendships and experiencing the independence of being away from home. Thanks to generous donors and partners, MDA provides a safe, inclusive summer camp experience.

Camp offers a variety of activities and programs such as arts and crafts, sports and games, traditional camp activities and more. Every activity is adapted to meet each individual's needs and abilities. Dedicated and trained camp counselors are available to help campers

with activities of daily living and personal care.

You can become a camp volunteer. If you're 17 or older and available for a multi-day residential camp, MDA would love for you to apply to join them as a volunteer counselor or medical staff member. Volunteer counselors are by campers' sides day and night so that they can do all the fun activities that summer camp offers. Medical team members supervise and maintain the health and well-being of the campers by administering medications, delivering first aid, and more.

This year the MDA/NALC Winners Incentive Trip has returned. The winners will be traveling to Camp Lake, WI, June 16-18. On June 17, they will be participating in the Sponsor Day at the Salvation Army Wonderland Camp. Pictures and more will be coming from this Winners Incentive Trip.

Summer Camp registration is now open to both campers and volunteers. And children can still attend virtually or in person. For more information, please visit mda.org/summer-camp or contact MDA at 800-572-1717 or camp@mdausa.org. You also can go to mda.org/summercamp/camper to see where the camps are being held.

Just a reminder: If you want any of your branch events to be shared, please send them to mda@nalc.org or social@nalc.org to be posted on social media.

Please send copies of all allocation forms and checks to the NALC Region 9 office so that we can properly give your branch the correct credit for this year, 2025.

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the appeals process, leading to delayed claim acceptance and postponed treatment. It is doubtful that this recommendation would lead to efficiency and cost reductions.

Finally, the members of the committee from the majority party and the USPS inspector general spent much of the hearing asserting that fraud runs rampantly out of control within the FECA program. This is not true. The NALC at the national level recognizes that fraud within FECA programs exists and encourages efforts to root it out. But it does not exist at the exaggerated and inflated level claimed by these participants at the hearing. According to the

testimony of Luiz Santos, acting inspector general at the DOL, levels of fraud within OWCP are similar both to other government health care programs such as Medicare, Medicaid and Tricare, and to private insurance and other health benefits programs. This is consistent with our own experience. While no level of fraud should be acceptable, contrary to the picture painted by some at the hearing, it certainly is not spiraling out of control.

In recent months, we have seen overstatements of fraud, waste and abuse used as a pretext for gutting or demolishing humanitarian and remedial federal programs that assist thousands and even millions of people in need. This should not happen with the FECA.