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FEDERAL EMPLOYEES' COMPENSATION ACT

DOD Access to DOL Data Is Generally Sufficient, but Monitoring Timelines Could Help Return-to- Work Efforts

GAO Highlights

Highlights of [GAO-16-793](#), a report to congressional committees.

Why GAO Did This Study

DOD employs more than 720,000 civilians—approximately 35 percent of the federal civilian workforce—in an array of critical positions worldwide. DOD civilians who are injured or ill as a result of a work-related incident are covered under the DOL-administered FECA program. DOL, along with employing agencies like DOD, works to return injured employees to work and provides compensation for work-related disabilities. In 2015, about 90 percent of DOD's injured workers returned to work within 2 years of injury.

Senate Report 114-49 included a provision that GAO review DOD's use of the FECA program. This report analyzes (1) characteristics of DOD's 2015 FECA claimants and how they compared to non-DOD claimants and (2) the extent to which DOD experiences any challenges managing its FECA responsibilities and facilitating return-to-work outcomes.

GAO analyzed 2015 DOL data to identify characteristics, such as the age and benefit type, of FECA claimants, including those who received benefits that year (beneficiaries). GAO also analyzed relevant law, policies, and guidance on DOL and DOD's management of FECA, and interviewed DOL and DOD officials—including a nongeneralizable sample of DOD program officials.

What GAO Recommends

GAO recommends that DOD monitor timelines associated with significant FECA claims-management actions to identify the extent to which delays may occur and any known reasons, and communicate with DOL as appropriate. DOD agreed with the recommendation.

View [GAO-16-793](#). For more information, contact Brenda S. Farrell at (202) 512-3604 or farrellb@gao.gov, or Andrew Sherrill at (202) 512-7215 or sherrilla@gao.gov.

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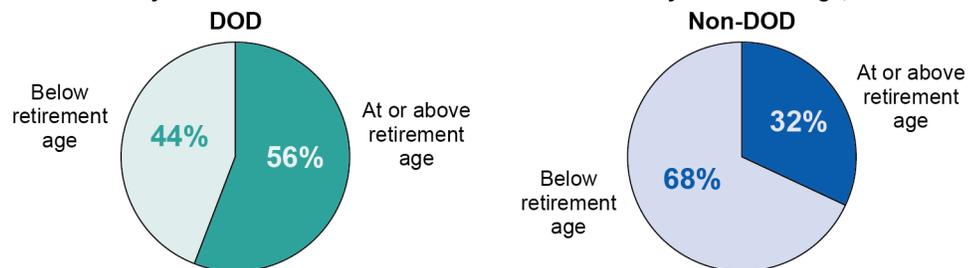
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What GAO Found

The Department of Defense's (DOD) 47,340 civilian employees who filed claims under the Federal Employees' Compensation Act (FECA) made up 17 percent of FECA claimants in 2015, and DOD total-disability beneficiaries (i.e., with no capacity to work) were generally older than those from the rest of government. About 35 percent of DOD beneficiaries received medical benefits only, and 31 percent received cash payments for injury or death—including the nearly 20 percent receiving partial- or total-disability benefits. About 56 percent of DOD total-disability beneficiaries were at or above their full Social Security Retirement age, compared to 32 percent of non-DOD beneficiaries (see figure).

Department of Defense (DOD) and Non-DOD Federal Employees' Compensation Act (FECA) Total-Disability Beneficiaries at or above Their Full Social Security Retirement Age, 2015



Source: GAO analysis of Department of Labor data. | GAO-16-793

Notes: Non-DOD refers to FECA recipients outside of DOD. Full Social Security retirement age ranges from 65 to 67, depending on birth year. FECA benefits are not subject to age restrictions.

DOD FECA officials that GAO interviewed generally had sufficient access to Department of Labor (DOL) data to manage their FECA responsibilities; however, they reported perceived delays with receiving certain decisions from DOL. As the administrator of FECA, DOL has responsibility and authority for managing all claims, but employing agencies have roles in returning employees to work. DOD FECA program managers, injury compensation specialists, and liaisons GAO interviewed reported experiencing some challenges in instances requiring DOL action or approval, such as determining whether a potential job is suitable in order to return an injured employee to work. According to DOD officials, in some instances such determinations have taken over a year, which could affect DOD as it must both hold the job unfilled and continue to pay compensation until a decision is made. According to DOL, this process can take several months due to the amount of information and communication required among the employing agency, the injured employee, DOL, and other parties, such as an employee's physician. Additionally, DOD has not monitored the timelines associated with requesting DOL action to determine the extent to which delays or related issues may exist across DOD, any known reasons for these issues, and any effect possible delays may have on DOD's return-to-work efforts. DOD officials said that such monitoring could help them understand any issues. DOL officials stated that if DOD experiences challenges, more information could help DOL find a solution. Without monitoring timelines, DOD is not positioned to identify the nature and extent of any problems, make any improvements, or communicate such issues to DOL.

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Abbreviations

DHS	Department of Homeland Security
DOD	Department of Defense
DODI	Department of Defense Instruction
DOJ	Department of Justice
DOL	Department of Labor
ECOMP	Employees' Compensation Operations and Management Portal
FECA	Federal Employees' Compensation Act
FERS	Federal Employees Retirement System
Interior	Department of the Interior
POWER	Protecting Our Workers and Ensuring Reemployment
USDA	United States Department of Agriculture
Treasury	Department of the Treasury
VA	Department of Veterans Affairs

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September 15, 2016

The Honorable John McCain
Chairman
The Honorable Jack Reed
Ranking Member
Committee on Armed Services
United States Senate

The Honorable Mac Thornberry
Chairman
The Honorable Adam Smith
Ranking Member
Committee on Armed Services
House of Representatives

The Department of Defense (DOD) employs more than 720,000 civilians—approximately 35 percent of the federal civilian workforce—in an array of critical positions worldwide.¹ These civilian employees play important roles in the defense of the nation, support critical department functions, and some work alongside uniformed service members in potentially challenging or hazardous occupations, where there is the chance for injury or illness. In instances where federal employees—including DOD civilians—become injured or ill as a result of a work-related incident, they are covered under the Federal Employees' Compensation Act (FECA) program.² The FECA program provides cash payments, medical care, and other benefits to employees who sustain disabilities resulting from work-related injuries or diseases, and also aims to return injured employees to work whenever possible. The FECA

¹Office of Personnel Management, *Historical Federal Workforce Tables*, accessed June 2, 2016, <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/federal-employment-reports/historical-tables/executive-branch-civilian-employment-since-1940/>. Data come from agency monthly submissions and cover total end-of-year civilian employment of full-time permanent, temporary, part-time, and intermittent employees, excluding the U.S. Postal Service, as of September 30, 2014.

²Codified at 5 U.S.C. §§ 8101-8193. Potential FECA beneficiaries also include other individuals, such as Peace Corps volunteers, as well as eligible survivors in case of a death of a federal employee.

program is administered by the Department of Labor's (DOL) Office of Workers' Compensation Programs. As of June 30, 2015, approximately 277,775 federal employees had submitted claims for FECA benefits over the preceding 12 months, and benefits paid during that period amounted to approximately \$3.1 billion.³

Employing departments and agencies, including DOD, play a critical role in assisting DOL's management of claims and are the program's first point of contact with the injured worker—notifying employees of their rights under FECA and submitting the initial claim.⁴ Program regulations allow employing agencies to controvert or otherwise contest facts presented in an injured worker's claim for FECA benefits. Once a claim has been accepted by DOL, employing agencies continue to play a role in the program, for example by monitoring the claim and assisting employees with their return to work once DOL determines that an injured employee can return to work.

In March 2012, we identified four areas of FECA management challenges reported in past reviews conducted by DOL and employing agencies' inspectors general.⁵ These challenges involve (1) oversight, (2) information technology, (3) legislative reform, and (4) other factors. For example, we found that federal agencies' inspectors general—citing ongoing program weaknesses mostly related to oversight—reported avoidable costs at agencies, which one department reported were as high as \$41 million in 2011. We further reported that, in an effort to alleviate the effect of management challenges, the inspectors general collectively

³FECA workers' compensation costs are assigned to employing agencies annually at the end of the fiscal accounting period for the program, referred to as the chargeback year, which runs from July to June. The most recent complete data available were for chargeback year 2015, so 2015 data referred to in this report cover July 1, 2014, to June 30, 2015.

⁴If employees are unable to return to their duties as a result of a traumatic injury, they are generally entitled to continuation of their regular pay from the employing agency for up to 45 calendar days. The intent of this provision is to eliminate interruption of the employee's income while DOL is processing the claim. If employees are still unable to return to work at the end of the 45 days, they are entitled to file a claim to begin receiving disability compensation.

⁵GAO, *Federal Employees' Compensation Act: Status of Previously Identified Management Challenges*, [GAO-12-508R](#) (Washington, D.C.: Mar. 21, 2012). We did not make any recommendations in that report.

made over 200 recommendations between 1994 and 2012, mainly to improve FECA oversight, and most of these recommendations have been implemented.⁶

Senate Report 114-49, accompanying S. 1376, the National Defense Authorization Act for Fiscal Year 2016, included a provision for us to review DOD's use of the FECA program.⁷ Specifically, this report evaluates (1) characteristics of DOD's 2015 FECA claimants and how they compare to those outside of DOD; and (2) the extent to which DOD experiences challenges managing its FECA responsibilities and facilitating return-to-work outcomes for injured employees.

For the first objective, we obtained and analyzed 2015 data from DOL's integrated Federal Employee Compensation System to identify characteristics of FECA claimants, including those receiving benefits (beneficiaries). We used these data to analyze the characteristics of claimants and beneficiaries from across DOD, including the military departments and all other defense agencies, and we compared them with non-DOD, government-wide populations.⁸ These data covered the period from July 1, 2014, through June 30, 2015.⁹ We chose these data because they were the most recent complete data available. We analyzed these data for the following characteristics of claimants and beneficiaries: (1) total- and partial-disability status, (2) age, (3) age at time of injury, (4)

⁶For more recent inspectors general recommendations to specific agencies' FECA programs, see: Office of Personnel Management, Office of the Inspector General, *Evaluation of the U.S. Office of Personnel Management's Oversight of the Federal Worker's Compensation Program*, 4K-RS-00-15-050 (Washington, D.C.: Mar. 29, 2016), and Department of Homeland Security, Office of the Inspector General, *Transportation Security Administration's Management of Its Federal Employees' Compensation Act Program*, OIG-15-118 (Washington, D.C.: Aug. 6, 2015).

⁷S. Rep. No. 114-49 at 224 (2015).

⁸The integrated Federal Employee Compensation System data we analyzed include claims that may not be associated with paid benefits in 2015, such as those that were under development or were denied.

⁹The DOL data set we analyzed does not provide information to allow us to determine the cumulative amount of time a claimant has received FECA benefits. Additionally, because the data set we analyzed is only reflective of FECA claimants from July 1, 2014, through June 30, 2015, it does not indicate whether these beneficiaries have been on disability continuously since the time of injury. Hence, these data may not account for any possible breaks in benefits, such as if an employee returned to work at any point.

number of years since injury, (5) type of benefit, and (6) benefit amount. We also analyzed the data for FECA beneficiaries over their full Social Security retirement age, based on their date of birth. We further analyzed the data regarding the specific population of total-disability beneficiaries since they represented a large proportion of DOD's total FECA cash payments.¹⁰ We assessed the reliability of the data elements we used by (1) electronically testing required data elements, (2) reviewing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. We determined that the data elements we used were sufficiently reliable for the purposes of our reporting objectives.

For the second objective, we obtained and analyzed relevant federal law, regulations, policies, procedures, and guidance for information on the FECA program and to identify the roles and responsibilities of DOL, DOD, and the Departments of the Army, Navy,¹¹ and Air Force.¹² We also analyzed these documents for information on the types of tools—including data and information, performance metrics, and documented time frames—that are available to DOD and military department FECA program managers who oversee the DOD FECA claims process and return-to-work efforts for DOD civilians. We also reviewed *Standards for Internal Control in the Federal Government* to identify performance measurement, monitoring, and communication mechanisms for effective

¹⁰DOL pays disability benefits (wage-loss compensation payments) to beneficiaries through a system based on the anticipated period of disability. Disability beneficiaries whose disability is expected to continue for the long term (more than 60–90 days) are listed on the periodic roll. Disability beneficiaries anticipated to be on disability for the short term (fewer than 60–90 days) are listed on the daily roll, as are those whose period of disability is unclear. Our analysis of total- and partial-disability beneficiaries concerns the long-term population (i.e., those placed on the periodic roll). In prior reports in which we discuss this population, we used the term long-term beneficiary.

¹¹The Department of the Navy includes the U.S. Marine Corps.

¹²These documents include, for example, 5 U.S.C., Chapter 81—Compensation for Work Injuries; DOL regulations at 20 C.F.R. §§ 10.0-10.916; policies and procedures such as DOL's Division of Federal Employees' Compensation *Procedure Manual* (FECA *Procedure Manual*); Department of Defense Instruction (DODI) 1400.25-V810, *DOD Civilian Personnel Management System: Injury Compensation*, (Apr. 16, 2009); and relevant military department-specific guidance and policies, including Department of the Army, Office of the Assistant G-1 for Civilian Personnel, *Implementing Guidance for Workers' Compensation under Federal Employees' Compensation Act (FECA)* (January 2015).

internal control.¹³ We interviewed knowledgeable officials within DOL's Office of Workers' Compensation Programs, the Defense Civilian Personnel Advisory Service within the Office of the Under Secretary of Defense for Personnel and Readiness, and the military departments about, among other things, (1) their roles in overseeing the FECA program—including reporting claims to DOL and managing efforts to return employees to work; (2) the sufficiency of access to data and information, and any related challenges; and (3) any challenges associated with managing DOD FECA claims and return-to-work efforts. In total, we interviewed three injury compensation specialists from each of the military departments (nine in total), three DOD Defense Civilian Personnel Advisory Service injury compensation liaisons, and officials from four FECA program offices—each of the military department program offices and the Defense Civilian Personnel Advisory Service, which has overall DOD responsibility for DOD human-resource areas, including workers' compensation. We interviewed these officials about their role in the day-to-day operations and management of the DOD FECA program, and what challenges, if any, they face returning employees to work.¹⁴ While the total number of injury compensation specialists interviewed does not constitute a generalizable sample of the approximate 800 total DOD injury compensation specialists, the four program offices and the liaisons we interviewed provide visibility of high-level issues for all the military departments and the majority of DOD employees, and taken together the officials we interviewed provide insights into DOD's FECA operations and reflect their specific concerns.

We conducted this performance audit from October 2015 to September 2016 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.

¹³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

¹⁴DOD injury compensation liaisons are members of the Defense Civilian Personnel Advisory Service who are colocated with the DOL district offices.

Background

Federal Employees' Compensation Act Program

The Federal Employees' Compensation Act (FECA) and its implementing regulations provide compensation for federal civilian employees who suffer disabilities resulting from work-related injuries or diseases.¹⁵ DOL's Office of Workers' Compensation Programs administers the FECA program through its 12 district offices located throughout the United States, and DOL claims examiners are responsible for directly managing cases. While DOL has sole authority to adjudicate all claims for compensation and make other determinations, the employing agency of the beneficiary has a role in the process. In particular, DOL provides FECA compensation—including cash and medical benefits—up front and then charges agencies a “chargeback” for the compensation provided to their employees. Employing agencies subsequently reimburse DOL each “chargeback year” from their next annual appropriation.¹⁶ Table 1 provides an overview of the types of FECA benefits.¹⁷

Table 1: Description of Federal Employees' Compensation Act (FECA) Program Benefits

Type of benefit	Description of benefit
Medical benefits	Medical services that are likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation. These services include surgery and hospitalization as well as medical appliances and supplies.
Disability benefits	Compensation paid for lost wages resulting from the employment-related injury, disease or illness.
<ul style="list-style-type: none"> • Total disability • Partial disability 	<ul style="list-style-type: none"> • When the employee is medically unable to perform gainful employment. • When the employee is capable of performing duties that are compatible with work limitations resulting from the injury, disease, or illness. The amount of compensation paid is commensurate with the employee's loss of wage-earning capacity.

¹⁵U.S.C. §§ 8101-8193. Regulations implementing the FECA program are provided at 20 C.F.R. §§ 10.0-10.916.

¹⁶Each year, DOL furnishes each agency with a “chargeback report”—a statement of payments made from July 1 to June 30 of each year from the Employees' Compensation Fund. The agencies include these amounts in their budget requests to Congress. The sums appropriated are deposited into the fund. For the purposes of this report, all DOL claimant, beneficiary, and benefit information we refer to as pertaining to 2015 is regarding the July 2014 to June 2015 chargeback year.

¹⁷The types of benefits provided by the FECA program are defined in DOL's FECA *Procedure Manual*, FECA Part 3, ch. 3-0100.

Type of benefit	Description of benefit
Schedule award	Compensation for permanent impairment of limbs or functions of the body; paid regardless of the employee's ability, and payable when the condition has reached maximum medical improvement.
Vocational rehabilitation	Vocational rehabilitation services are provided when an injured employee is unable to return to his or her previous work.
Death benefits	A range of benefits for the dependents of an employee whose death was employment-related is provided.
Miscellaneous benefits	Other benefits, including reimbursement for transportation costs incurred in obtaining medical treatment or rehabilitation services, or nursing and other paramedical services when they are likely to be beneficial.

Source: Statute and Department of Labor procedures. | GAO-16-793

DOL determines the level and type of FECA benefits based on various factors.¹⁸ For instance, disability benefits are paid to compensate for lost wages if DOL finds that an employment-related injury, disease, or illness impedes an employee's ability to work.¹⁹ If an employee is unable to perform any gainful employment, then he or she is considered totally disabled, and DOL calculates compensation as a proportion of the beneficiary's entire income at the time of injury. If an employee is unable to return to his or her previous job but is determined by DOL to be able to work in some capacity, then he or she is considered to be partially disabled, and compensation is based on any loss of wage-earning capacity as compared to the preinjury wages.

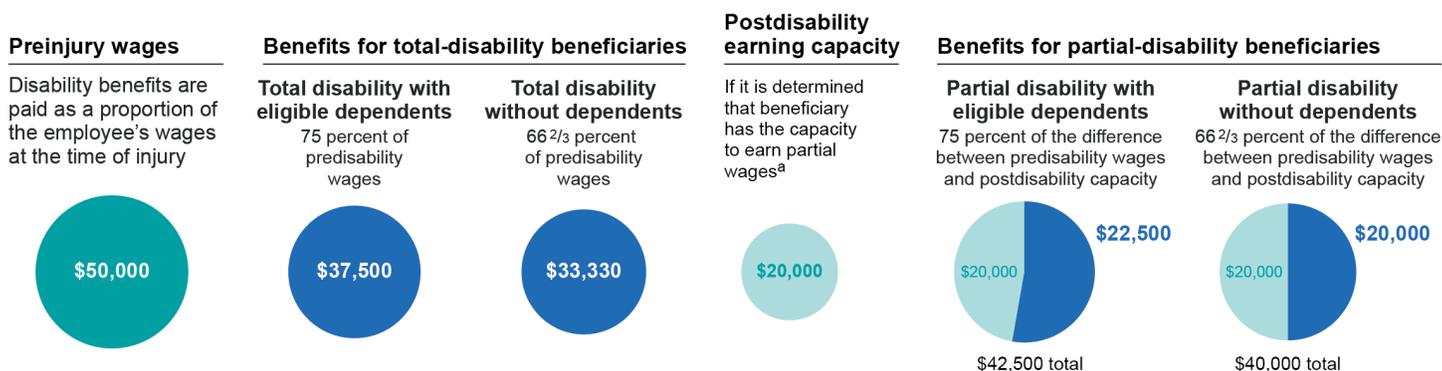
Total-disability FECA beneficiaries with eligible dependents receive 75 percent of their preinjury wages, and those without dependents receive 66-2/3 percent. Partial-disability FECA beneficiaries with eligible dependents receive a FECA benefit that is 75 percent of the difference between their preinjury and postinjury wage-earning capacity, and those

¹⁸If an employee disagrees with a DOL claims decision, he or she may request reconsideration by the DOL district office, a hearing before a DOL representative, or review by the Employees' Compensation Appeals Board. According to DOL, FECA is a nonadversarial system under which disputes are resolved through informal conferences or the administrative appeal process. Review by the independent Employees' Compensation Appeals Board is final and not subject to court review.

¹⁹Cash benefits are those paid for disability compensation for lost wages, schedule awards, and some death/survivor benefits.

without dependents receive 66-2/3 percent of the difference.²⁰ Additionally, benefits are adjusted annually for cost-of-living increases and are neither subject to age restriction nor taxed. See figure 1 for an example of how disability benefit payments are calculated.

Figure 1: Example of Federal Employees' Compensation Act (FECA) Program Disability Benefit Payment Calculation



Source: GAO analysis of FECA regulations and Department of Labor Office of Workers' Compensation Programs. | GAO-16-793

^aThe Department of Labor determines the level of earning capacity for partial-disability beneficiaries and calculates FECA benefits based on that amount, whether or not the beneficiary obtains employment and is earning that amount.

There are certain restrictions or offsets for FECA beneficiaries if they are eligible for or receive other federal benefits, such as from federal retirement plans or other disability benefits. For instance, while beneficiaries who receive medical benefits or schedule awards can receive federal retirement benefits concurrently, such as benefits under the Federal Employees Retirement System (FERS), beneficiaries receiving wage-loss compensation (i.e., disability benefits) must elect to

²⁰We refer to an employee's wages as being "at the time of injury" or as "preinjury" for ease of understanding, but DOL generally calculates disability benefits based on the pay rate of the job the beneficiary held at the time of injury (or date disability begins or date of recurrence, as applicable). Any increase in FECA benefits after that date is based on increases in the Consumer Price Index. The current rate of pay of the job held at the time of injury is used, however, when determining an employee's loss of wage-earning capacity (such as for partial-disability beneficiaries).

receive one or the other.²¹ However, FECA does not require beneficiaries to retire at a certain age and transition to their designated federal retirement program. FECA beneficiaries can continue receiving FECA compensation payments for as long as they remain unable to work due to a workplace injury. Beneficiaries who are eligible for both FECA and disability benefits from the Department of Veterans Affairs or the Social Security Administration face restrictions on concurrent benefits for the same injury.²² For instance, FECA beneficiaries receiving FECA and Social Security disability payments for the same injury will have their Social Security disability payments reduced by the amount of the FECA compensation.²³

DOD and the Military Department Roles in the FECA Program

Although DOL administers the FECA program, directly manages claims, and has sole approving authority, each military department and defense agency within DOD has a role in processing its respective FECA claims. Employing agencies like DOD and the military departments have a financial responsibility and other roles in managing claims and the employees' cases, such as in submitting new injury claims and subsequent wage-loss claims, providing continuation of pay, and identifying job opportunities for employees to return to work where possible.²⁴

²¹Most federal employees are automatically enrolled in a retirement system, either the Civil Service Retirement System for employees hired prior to 1984, or the FERS for employees hired thereafter. Both systems include a pension based on salary and years of service and the ability to contribute to the 401(k)-like Thrift Savings Plan, but the latter system has a greatly reduced pension, the addition of agency contributions to the Thrift Savings Plan, and Social Security benefits. FECA beneficiaries may not continue to contribute to the Thrift Savings Plan, but are entitled to any accrued funds. FECA beneficiaries may also receive Social Security retirement benefits; however, their FECA benefits are offset by the amount of Social Security benefits attributable to federal service.

²²The prohibition against dual payment of FECA and veterans' benefits applies to those cases where DOL has determined that the injury was sustained in civilian employment and the Department of Veterans' Affairs has determined that the same injury was caused by military service.

²³5 U.S.C. § 8116(d)(1).

²⁴Employees continue to receive their regular federal salary for 45 days immediately following traumatic injury. This "continuation of pay" is subject to existing withholdings, such as taxes, retirement contributions, and so forth. Any lost work time beyond 45 days is then covered by DOL-determined FECA benefits.

At DOD, the Defense Civilian Personnel Advisory Service is the central DOD entity responsible for civilian human resource management, including workers' compensation through the Injury and Unemployment Compensation Branch. It provides policies, guidelines, and assistance to each military department and the other DOD agencies, which directly process employee FECA claims in coordination with DOL. The Defense Civilian Personnel Advisory Service also employs DOD injury compensation liaisons across the United States that directly support the military departments and other DOD component agencies when processing claims and coordinating with DOL.

The military departments each oversee their FECA claimants. The Department of the Air Force, for example, has a workers' compensation and claims-management program located at the Air Force Personnel Center that manages all FECA claims across the department. The Department of the Navy—which includes the Marine Corps—oversees its FECA claims with compensation specialists spread across the Navy major commands and with major command program managers reporting to the Navy FECA program manager. Within the Department of the Army, each installation's Civilian Personnel Advisory Center has an injury compensation specialist who reports to the Civilian Human Resources Agency.

In addition to the FECA statute, as well as DOL regulations and procedures, DOD and the military departments follow Department of Defense Instruction 1400.25, volume 810, which establishes policies and procedures, provides guidance, delegates authority, and assigns responsibilities regarding civilian personnel management of injury compensation in DOD.²⁵ The military departments and other DOD FECA programs may use these documents to guide their FECA programs and, like the Air Force, not publish additional formal policy documents, or they may issue their own instructions or policies to further inform their FECA programs.²⁶ For example, the Army has documented implementing

²⁵DODI 1400.25-V810.

²⁶According to officials from the Air Force Personnel Center, which is responsible for Air Force FECA claims, there is a draft Air Force instruction, as well as internal guidance, but no published policy on which they rely other than the DOD Instruction.

guidance for its FECA program,²⁷ and the Navy has a Secretary of the Navy Instruction specific to the FECA program.²⁸

Information Systems to Process Claims

FECA claims are processed by DOL and employing agencies like DOD using automated systems, including the Employees' Compensation Operations and Management Portal (ECOMP), as well as some agency- and billing-specific systems. To provide information to DOL, such as medical files or other supporting documentation, claimants and employing agencies like DOD use ECOMP to conduct a variety of tasks related to claims management and to electronically upload documents, which DOL then reviews to make claims determinations and other decisions.

The Defense Civilian Personnel Advisory Service and military departments also use the Defense Injury and Unemployment Compensation System—a DOD-wide data application used as the internal source for department-related FECA information. This system gives DOD injury compensation specialists—the DOD counterparts that coordinate with DOL claims examiners—the ability to perform case management and data analysis functions by pulling a variety of DOL and DOD data. The system includes key personnel information and claims data for employees, including DOD payroll data and compensation costs, and regularly updated DOL data.

Returning Employees to Work under FECA

FECA, as with workers' compensation programs in general, attempts to balance the goals of providing adequate wage-loss benefits for employees injured on the job and also promoting return to work to minimize the need for continued benefits. DOL testified before the House Subcommittee on Workforce Protections in 2015 that over the past 5 years fewer than 2 percent of new injury cases—not all of which involved a significant period of disability—remained on the compensation rolls 2

²⁷Department of the Army, *Implementing Guidance for Workers' Compensation under Federal Employees' Compensation Act (FECA)* (January 2015).

²⁸SECNAV Instruction 12810.2, *Federal Employees' Compensation Act* (Dec. 11, 2009).

years after the date of injury.²⁹ Additionally, to further improve government-wide return-to-work rates, in July 2010 the President introduced the Protecting Our Workers and Ensuring Reemployment (POWER) Initiative, which created a new set of performance metrics toward the achievement of government-wide goals, including targets for returning injured employees to work.³⁰ In the 2015 testimony, DOL also noted that, as of fiscal year 2014, 88 percent of FECA claimants that suffered a significant period of disability had returned to work within the first year of injury and 91 percent returned to work by the end of the second year.³¹ To support this end, DOL provides vocational rehabilitation and other employment assistance. For example, DOL may offer vocational assessments and transferable skills analysis and training for injured employees.

While there is no universal agreement on the optimal level of workers' compensation benefits or incentives for injured workers to return to work, one can consider benefits in relation to take-home pay or retirement benefits for older beneficiaries since overly generous benefits could

²⁹*Reforming the Workers' Compensation Program for Federal Employees*, Hearing before the Subcomm. on Workforce Protections of the H. Comm. on Education and the Workforce, 114th Cong., 1st sess. (May 20, 2015) (statement of Leonard J. Howie, III, Director, Office of Workers' Compensation Programs, U.S. Department of Labor).

³⁰The POWER Initiative was a presidential initiative established for fiscal years 2011 through 2014 to expand efforts to measure performance, analyze data on severe injury and illness, and implement safety and health programs. The initiative applied to all executive-branch departments and agencies, and it expanded upon the previous presidential initiative, "Safety, Health, and Return-to-Employment," which ended at the end of fiscal year 2009. The POWER Initiative created seven goals for departments and agencies to track, including the percentage of employees who return to work within 2 years of their initial injury. In fiscal year 2013, DOL began monitoring an eighth goal regarding agency compliance with certain regulatory requirements for electronic forms submission. See DOL, Division of Federal Employees' Compensation, *POWER Initiative*, accessed June 3, 2016, <https://www.dol.gov/owcp/dfec/power/>.

³¹Most of DOD and military department civilians also return to work: According to DOL's POWER Initiative data for 2015, the Air Force, the Army, the Navy, and DOD (excluding the services) had return-to-work rates of 93.5, 92.7, 91.3, and 86.1 percent, respectively.

provide a disincentive to return to work.³² One possible disincentive is the greater rate of compensation for beneficiaries with at least one dependent. DOL has reported that most FECA beneficiaries fall into this category and receive 75 percent of their preinjury wages tax-free, which can in certain instances result in compensation greater than the injured worker's usual take-home pay. As FECA benefits do not have an age limit, a second potential disincentive to return to work may exist if FECA benefits are more generous than the retirement benefits that an individual would receive as a federal annuitant.³³

An incentive to return to work within the FECA program is the reduction of benefits for partial-disability beneficiaries, as noted in our prior work.³⁴ Specifically, benefits for partial disability are reduced based on wage-earning capacity by taking into account the income a beneficiary could earn—whether a beneficiary finds a job or not. As such, in order for an injured worker to maximize total income, he or she has an incentive to find work that meets his or her work capabilities.

In our 2012 work, we examined FECA benefit levels in relation to take-home pay and retirement benefits, as some policymakers raised questions about the level of FECA benefits, especially compared to

³²Policymakers can target wage replacement rates; however, there is no consensus on the appropriate wage replacement rate for workers' compensation programs, such as FECA. Such decisions involve balancing the goals of benefit adequacy and incentives to return to work. In 1972, the National Commission on State Workmen's Compensation Laws endorsed a move towards 80 percent of spendable pay or take-home pay. A 1998 GAO report on FECA also cited this 80 percent benchmark; see GAO, *Federal Employees' Compensation Act: Percentages of Take-Home Pay Replaced by Compensation Benefits*, [GAO/IGGD-98-174](#) (Washington, D.C.: Aug. 17, 1998). In 2004, a report by the National Academy of Social Insurance used two-thirds of gross wages as a target replacement rate for workers' compensation programs. See H. Allan Hunt, ed., *Adequacy of Earnings Replacement in Workers' Compensation Programs, A Report of the Study Panel on Benefit Adequacy of the NASI Workers' Compensation Steering Committee* (Washington, D.C.: 2004).

³³*Reforming the Workers' Compensation Program for Federal Employees*, Leonard J. Howie, III.

³⁴For more information on incentives for partial-disability beneficiaries returning to work in the context of prior proposed changes to the FECA program, see GAO, *Federal Employees' Compensation Act: Effects of Proposed Changes on Partial Disability Beneficiaries Depend on Employment After Injury*, [GAO-13-143R](#) (Washington, D.C.: Dec. 7, 2012). We did not make any recommendations in that report.

retirement benefits.³⁵ Using simulated scenarios based on 2010 FECA benefit data, we compared FECA benefits to wages and retirement benefits that would have been earned absent the injury. Our simulations showed that for 2010 total-disability beneficiaries, a median of 80 percent of take-home pay was replaced by FECA for non-U.S. Postal Service employees and a median of 88 percent for Postal employees.³⁶ Additionally, the median percentage of take-home pay replaced by FECA was 3 percentage points greater for beneficiaries with an eligible dependent than for those without eligible dependents.³⁷

Our comparison between simulated FECA benefits and retirement focused on the retirement benefits package under the current Federal Employees Retirement System (FERS), which consists of a pension based on years of service and salary, the 401(k)-like Thrift Savings Plan, and Social Security benefits. We conducted two separate analyses: The first represented retirement benefits in 2010 and the second represented retirement benefits in the future, based on employees' ability to contribute to the Thrift Savings Plan over the course of a more typical federal career of 30 years.³⁸ According to our simulations focused on 2010, the median FECA benefit package for total-disability retirement-age non-Postal beneficiaries was 32 percent greater than the comparable median retirement benefit package they would have received absent an injury.

³⁵GAO, *Federal Employees' Compensation Act: Analysis of Proposed Program Changes*, [GAO-13-108](#) (Washington, D.C.: Oct. 26, 2012); *Federal Employees' Compensation Act: Analysis of Proposed Changes on USPS Beneficiaries*, [GAO-13-142R](#) (Washington, D.C.: Nov. 26, 2012); and *Federal Employees' Compensation Act: Analysis of Benefits Associated with Proposed Program Changes*, [GAO-15-604T](#) (Washington, D.C.: May 20, 2015). We made no recommendations in these reports.

³⁶[GAO-13-108](#), [GAO-13-142R](#), and [GAO-15-604T](#). Our simulations were based on matching FECA beneficiaries with similar noninjured federal employees. In addition, the rates at which FECA replaced take-home pay were calculated based on 2010 take-home pay and account for missed income growth.

³⁷[GAO-13-108](#) and [GAO-13-142R](#).

³⁸Because FERS was not a mature retirement system at the time of our analysis, it is likely that our analysis of the 2010 data understated the potential FERS benefit. Specifically, in 2010, FERS had been in place 26 years and the median career length of retirees under this system was 16 to 18 years. In contrast, about 80 percent of federal retirees were under the prior Civil Service Retirement System and had an average of almost 30 years of federal service, according to the Office of Personnel Management in 2011.

For Postal employees, the median FECA benefit was 37 percent greater than the retirement package. However, our future-looking simulation found smaller differences. Specifically, in the 30-year-career scenario, we found that the median FECA benefit for total-disability non-Postal employees was on par or slightly below the simulated median FERS retirement package, and for Postal employees ranged from about 13 percent greater than the median retirement benefit to about 4 percent less, depending on how much the employee contributed to the retirement program.³⁹

³⁹In our scenarios we assumed a 6 percent rate of growth for the Thrift Savings Plan and conducted the simulations for two different contribution levels: a default scenario with no employee contribution but the employing agency contributes 1 percent to the Thrift Savings Plan, and a scenario in which the employee contributes 5 percent and the employing agency matches the contribution for a total of 10 percent. For more information, see [GAO-13-108](#), [GAO-13-142R](#), and [GAO-15-604T](#).

DOD Represented 17
Percent of All
Claimants
Government-Wide in
2015, and Total-
Disability DOD
Beneficiaries Were
Older Than Non-DOD
Beneficiaries

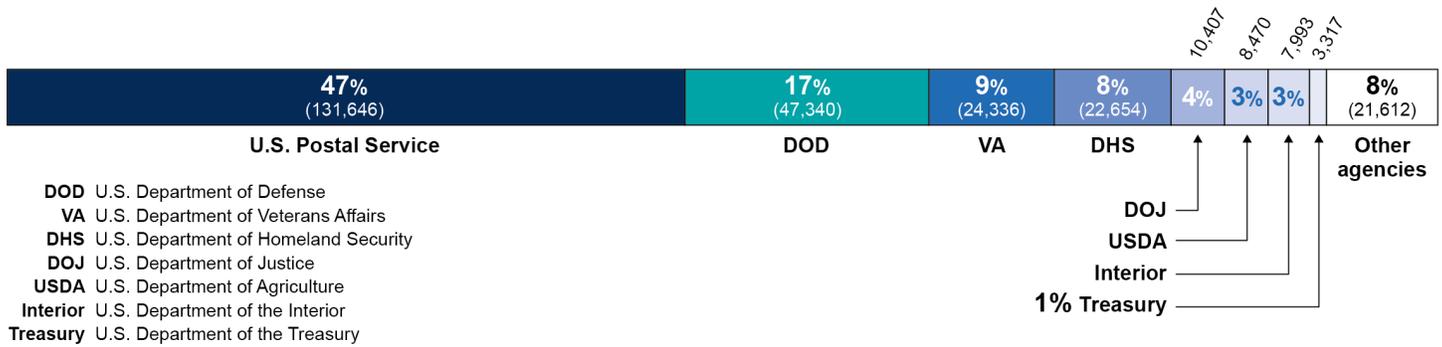
DOD Accounted for about
17 Percent of All FECA
Claimants, and DOD
Beneficiaries Received
Various Types and Levels
of Benefits

In 2015, DOD's FECA claimants represented 17 percent of all FECA claimants government-wide, and DOD beneficiaries received approximately \$553.7 million worth of benefits (see fig. 2).⁴⁰ In comparison, DOD's more than 720,000 employees represented about 35 percent of the federal civilian workforce.⁴¹ Overall in 2015, the FECA program paid more than \$3.1 billion in benefits and managed 277,775 claims, including 47,340 from DOD. The U.S. Postal Service had the largest number of claimants—approximately 132,000.

⁴⁰We use the term "claimant" to describe all individuals represented in DOL's data for 2015, which includes individuals who may have filed a claim but did not receive benefits between July 1, 2014, and June 30, 2015, since every case did not result in an approved benefit during that time. For individuals in the 2015 data who received a benefit, we use the term "beneficiary."

⁴¹Data are according to the Office of Personnel Management, *Historical Federal Workforce Tables*, for fiscal year 2014 (the most recent data available). The size of an agency is not an indicator of the proportion of its workforce who may be injured or receive FECA benefits, and other factors can affect the nature and type of work as well as the injuries that may occur.

Figure 2: Federal Employees' Compensation Act Claimants by Agency, 2015



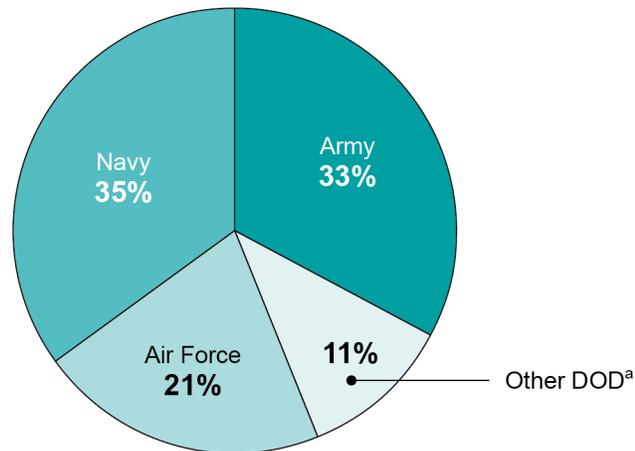
Source: GAO analysis of Department of Labor data. | GAO-16-793

FECA claimants were spread across DOD, and the military departments—which represent nearly 80 percent of DOD’s civilian workforce—had the vast majority of claimants.⁴² Specifically, the Navy and the Army each had about one-third of all of DOD’s FECA claimants in 2015 (see fig. 3), while the other, nonmilitary DOD entities—which include the Office of the Secretary of Defense and other DOD organizations—had the smallest total percentage of FECA claimants (11 percent).⁴³

⁴²Based on DOD data for fiscal year 2014, as of September 30, 2014.

⁴³For the purposes of this report, other DOD entities includes those not in the military departments or combatant commands with employees represented in the DOL data. These include the Office of the Secretary Defense; the DOD Office of the Inspector General; and defense agencies and field activities, such as the Missile Defense Agency, the Defense Intelligence Agency, and the National Security Agency, among others.

Figure 3: Department of Defense (DOD) Federal Employees' Compensation Act (FECA) Program Claimants by Military Department and Other DOD Entities, 2015



Source: GAO analysis of Department of Labor data. | GAO-16-793

^a“Other DOD” refers to DOD entities not in the military departments or combatant commands that have employees receiving FECA benefits, including the Office of the Secretary Defense; the DOD Office of the Inspector General; and defense agencies and field activities, such as the Missile Defense Agency, the Defense Intelligence Agency, and the National Security Agency, among others.

Types of FECA Benefits Paid to DOD Beneficiaries

DOD’s beneficiaries receive various types of benefits—such as disability benefits for wage-loss compensation on the daily and periodic roll, direct schedule award payments, or paid medical care, as shown in table 2. For example, in 2015 approximately 35 percent of DOD beneficiaries received medical benefits only, and about 20 percent received partial- or total-disability benefits.

Table 2: Distribution of Department of Defense (DOD) Federal Employees' Compensation Act Program Claimants by Case Status (as of June 30, 2015)

Claimant by case status	Number of DOD claimants	Percentage of DOD claimants
Daily (short-term) disability benefits ^a	2,570	5.4
Medical benefits only	16,679	35.2
Schedule award (e.g., cash benefits for loss of limb or loss of function)	1,208	2.6
Survivor (Death) benefits	1,147	2.4
Periodic partial-disability benefits ^a	2,893	6.1
Periodic total-disability benefits ^a	6,401	13.5
Other ^b	1,407	3.0

Claimant by case status	Number of DOD claimants	Percentage of DOD claimants
Closed case ^c	15,035	31.8
Total	47,340	

Source: GAO analysis of Department of Labor data. | GAO-16-793.

Note: When examining numbers of claimants, including beneficiaries, we are able to examine a single point in time (e.g., in this instance, June 30, 2015, for chargeback year 2015). Because of the way DOL maintains its data, it is not possible to know whether an individual claimant's case status changed within a given year. For example, some claimants with "closed" or "medical benefits only" status may have received another type of benefit earlier in the year and thus have those cumulative benefits in their records despite having a current case status that indicates they do not, or do not continue to, receive that benefit.

^aThe Department of Labor (DOL) pays disability benefits (wage-loss compensation benefits) through a system based on the anticipated period of disability. Disability beneficiaries anticipated to be on disability for the short term (fewer than 60–90 days) are listed on the daily roll. Disability beneficiaries whose disability is expected to continue for the long term (more than 60–90 days) are listed on the periodic roll.

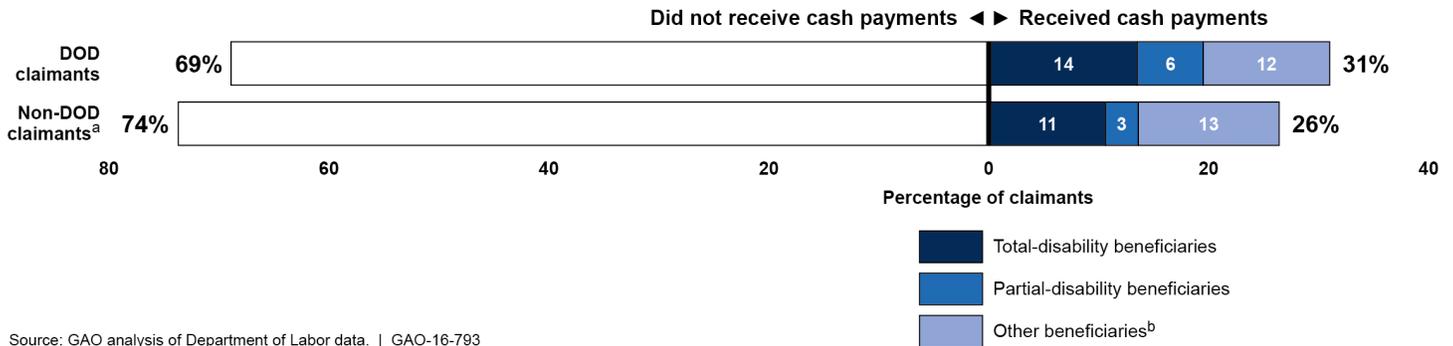
^bIncludes claims in the data system with various types of case-status descriptions, including administrative reviewed, reopened, case retired or awaiting retirement, claim under development, claim unreviewed, claim destroyed, and claims with overpayments.

^cClaims in the data system marked as closed for various reasons, including recovery and reemployment, denial of benefits, or completed payment of all benefits.

About 31 percent of DOD claimants received cash benefits in 2015, compared to 26 percent of non-DOD claimants (see fig. 4).⁴⁴ Across both groups, partial- and total-disability beneficiaries on the periodic roll made up the largest proportion of those receiving cash benefits.

⁴⁴According to the Defense Civilian Personnel Advisory Service, the type of work performed by DOD employees as compared to the rest of government is a contributing factor to why the proportion of benefits paid by DOD is higher relative to the rest of government. Specifically, a large proportion of the DOD workforce is in blue-collar occupations, with correspondingly more hazardous work and more fatalities, according to officials.

Figure 4: Distribution of Cash Payments among Department of Defense (DOD) and Non-DOD Federal Employees' Compensation Act (FECA) Claimants, 2015



Source: GAO analysis of Department of Labor data. | GAO-16-793

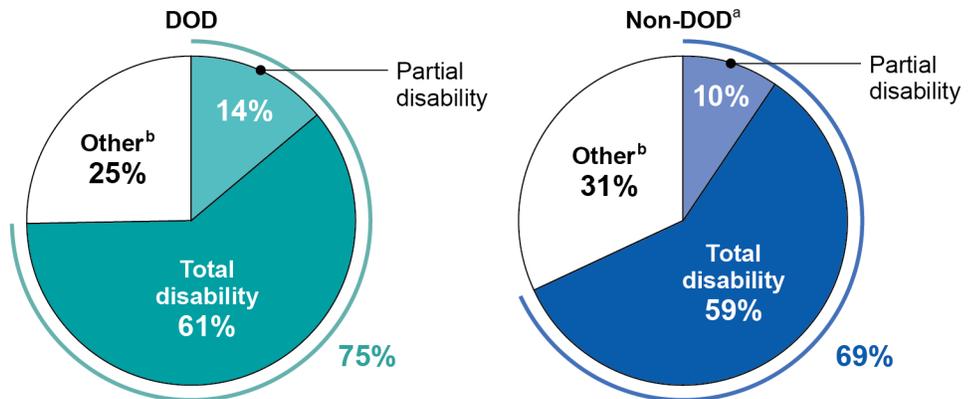
Note: Percentages of cash payments do not sum to due to rounding.

^aNon-DOD claimants refers to all covered 2015 FECA claimants outside of DOD.

^bOther beneficiaries include those receiving cash benefits for reasons other than total and partial disability, such as for schedule award cash benefits, for example for loss of limb, or short-term disability benefits.

In 2015, cash benefits totaled about \$400 million for DOD beneficiaries and \$1.6 billion for non-DOD beneficiaries. The majority of cash benefits were paid to total- and partial-disability beneficiaries on the periodic roll, as illustrated by figure 5. The total percentage of cash payments to these beneficiaries was slightly higher for DOD (75 percent) than for non-DOD agencies (69 percent).

Figure 5: Percentage of Department of Defense (DOD) and Non-DOD Federal Employees' Compensation Act (FECA) Cash Benefits Paid, by Beneficiary Type, 2015



Source: GAO analysis of Department of Labor data. | GAO-16-793

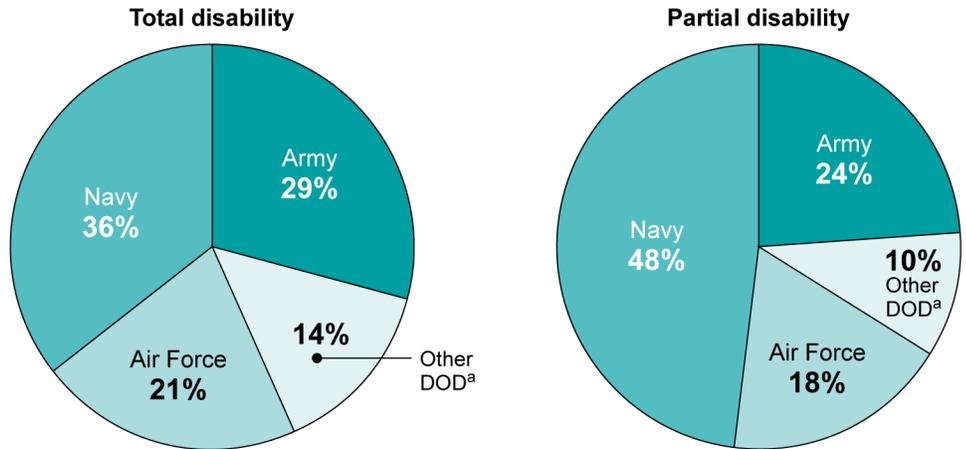
^aNon-DOD beneficiaries refers to all covered 2015 FECA beneficiaries outside of DOD.

Total- and Partial-Disability FECA Beneficiaries and Benefits across DOD

^bOther beneficiaries include those receiving cash benefits for reasons other than total and partial disability, such as for schedule award cash benefits, for example for loss of limb, or short-term disability benefits.

Total-disability beneficiaries constitute about 14 percent of all DOD FECA claimants in 2015, as represented in the DOL data (as illustrated earlier in fig. 4). Of these beneficiaries, the Navy and the Army had the highest percentages in DOD (see fig. 6); though, taken together these two military departments also constituted about 60 percent of the total DOD civilian workforce.⁴⁵ The Navy had the highest percentage of beneficiaries on the periodic roll, with 36 percent of DOD’s total-disability population and 48 percent of DOD’s partial-disability population.

Figure 6: Percentage of Federal Employees’ Compensation Act (FECA) Total- and Partial-Disability Beneficiaries across the Department of Defense (DOD), 2015



Source: GAO analysis of Department of Labor data. | GAO-16-793

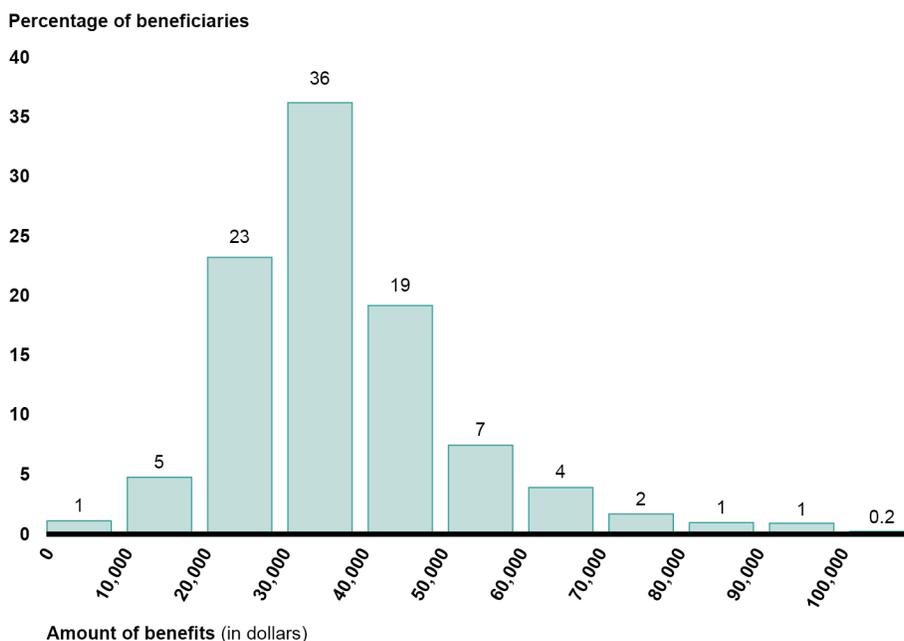
^a“Other DOD” refers to DOD entities not in the military departments or combatant commands that have employees receiving FECA benefits, including the Office of the Secretary Defense; the DOD Office of the Inspector General; and defense agencies and field activities, such as the Missile Defense Agency, the Defense Intelligence Agency, and the National Security Agency, among others.

Of DOD’s total-disability beneficiaries, the vast majority—approximately 85 percent—received less than \$50,000 in cash benefits in 2015 (see fig.

⁴⁵Data are according to Defense Civilian Personnel Advisory Service information, as of the end of fiscal year 2014.

7). In contrast, about 4 percent received a benefit of \$70,000 or more. The median cash benefit in 2015 for total-disability beneficiaries across DOD was just under \$36,000.⁴⁶

Figure 7: Cash Benefits Paid to Department of Defense (DOD) Federal Employees' Compensation Act Total-Disability Beneficiaries, 2015



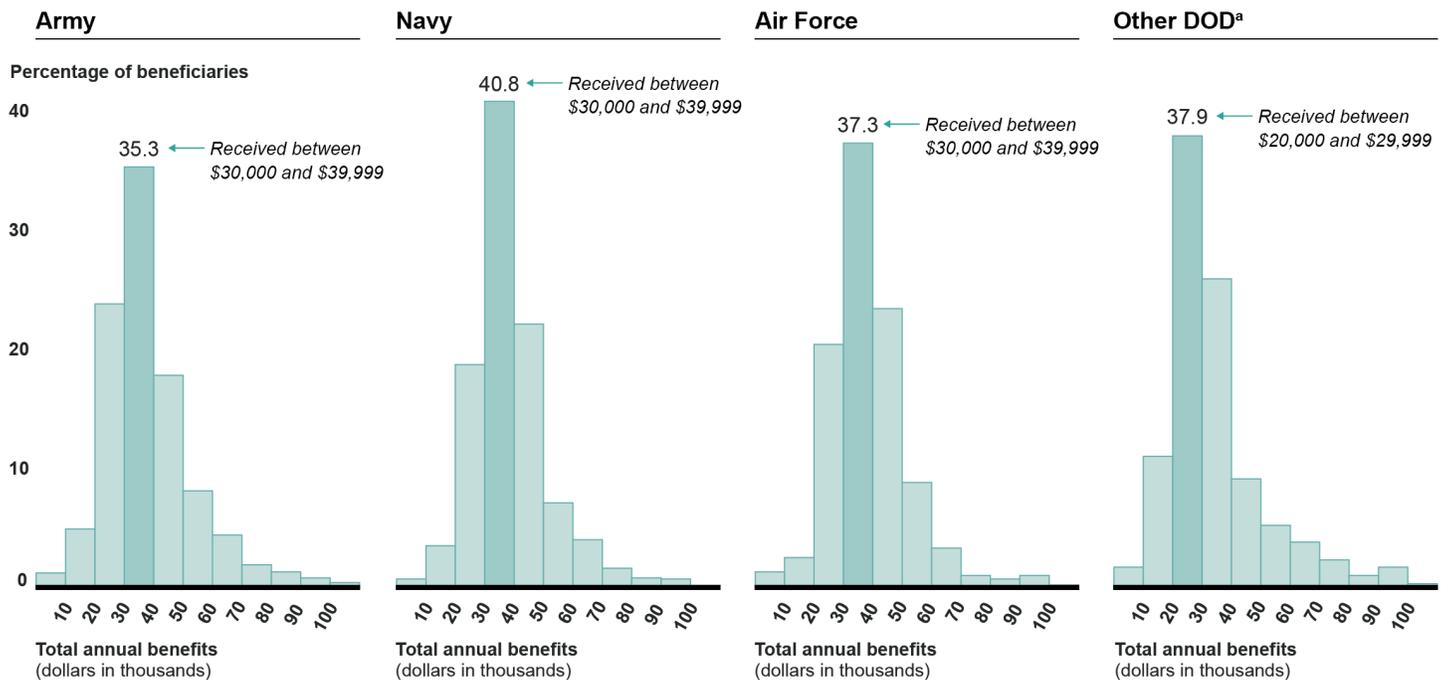
Source: GAO analysis of Department of Labor data. | GAO-16-793
 Note: Percentages may not sum to 100 due to rounding.

The distribution of cash benefits for DOD’s military departments generally mirrored the benefits for DOD overall, with the majority of all beneficiaries receiving less than \$50,000 per year (see fig. 8). The median cash benefit for total-disability beneficiaries in the military departments was

⁴⁶Cash benefits for DOD and non-DOD total-disability beneficiaries were similarly distributed in 2015. The median cash benefit for non-DOD total-disability beneficiaries was about \$39,000.

approximately \$36,000, while the median cash benefit paid to beneficiaries from the other DOD agencies was just under \$30,000.⁴⁷

Figure 8: Cash Benefits paid to Military Department and Other Department of Defense (DOD) Total-Disability Federal Employees' Compensation Act (FECA) Beneficiaries, 2015



Source: GAO analysis of Department of Labor data. | GAO-16-793

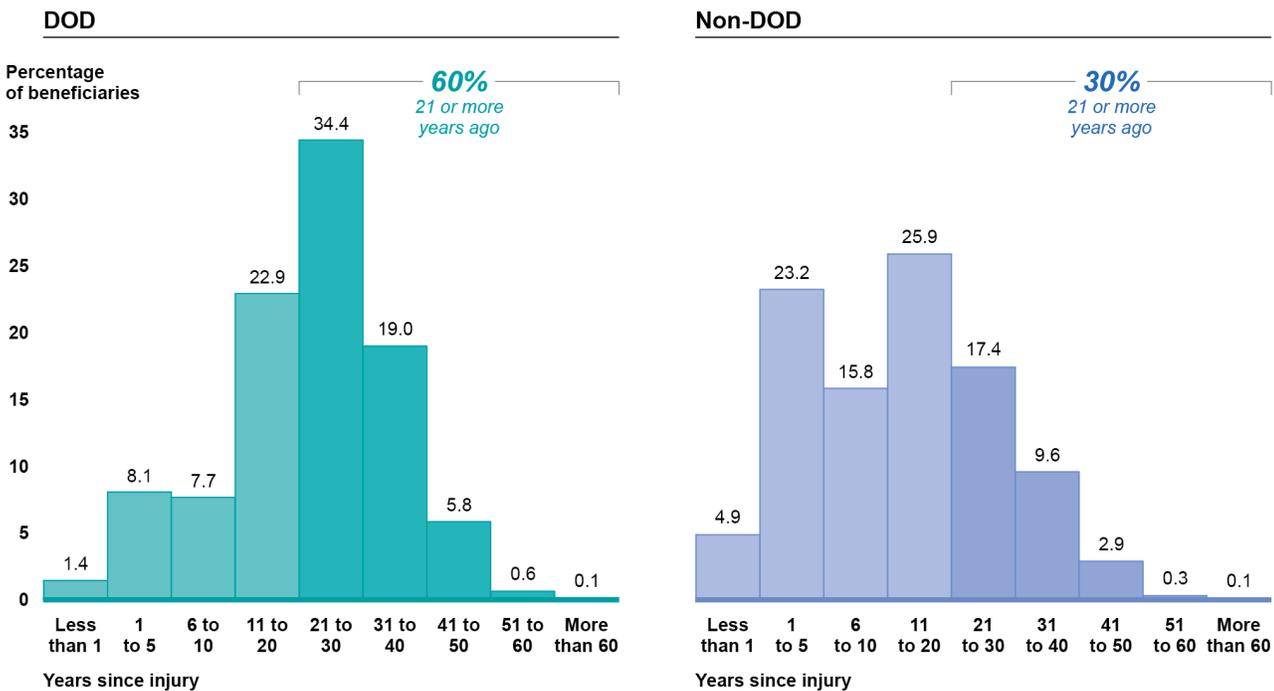
^a“Other DOD” refers to DOD entities not in the military departments or combatant commands that have employees receiving FECA benefits, including the Office of the Secretary Defense; the DOD Office of the Inspector General; and defense agencies and field activities, such as the Missile Defense Agency, the Defense Intelligence Agency, and the National Security Agency, among others.

⁴⁷The approximate median cash benefit amount for each of the services was as follows: Army, \$35,600; Navy, \$36,900; and Air Force, \$36,800.

DOD Total-Disability Beneficiaries Were Generally Injured Longer Ago and Constituted an Older Population Than Non-DOD Beneficiaries

A higher proportion of DOD total-disability beneficiaries sustained injuries longer ago than similar non-DOD beneficiaries in 2015. Specifically, as indicated in figure 9, about 60 percent of DOD total-disability beneficiaries sustained their injuries 21 or more years ago, as compared to about 30 percent of non-DOD beneficiaries.⁴⁸

Figure 9: Years since Injury for Department of Defense (DOD) and Non-DOD Federal Employees' Compensation Act (FECA) Total-Disability Beneficiaries, 2015



Source: GAO analysis of Department of Labor data. | GAO-16-793

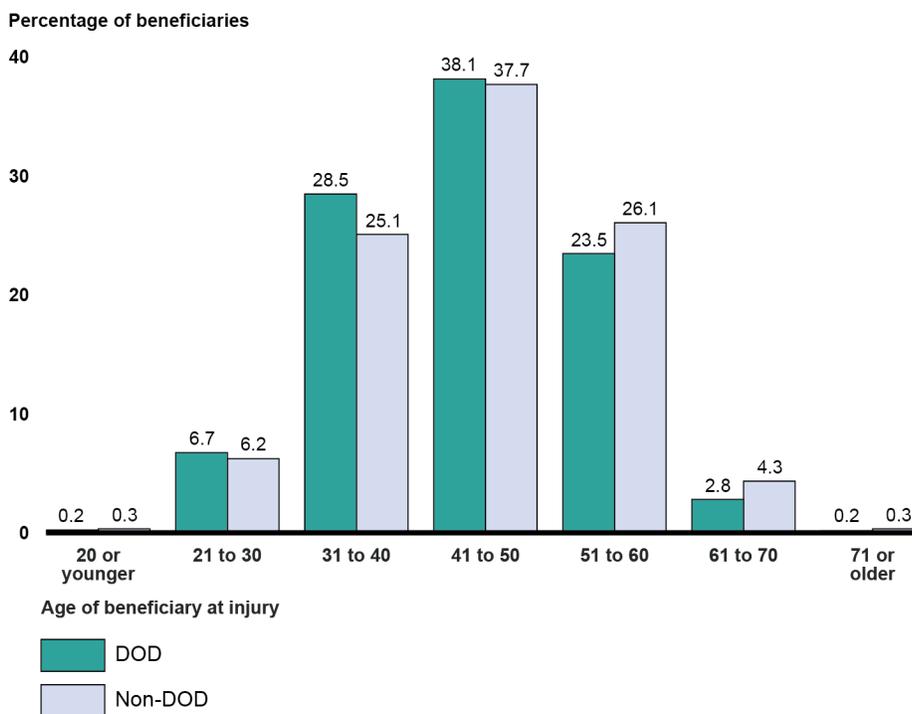
Notes: Non-DOD beneficiaries refers to all covered 2015 FECA beneficiaries outside of DOD. Percentages may not add up to 100 due to rounding.

While DOD total-disability beneficiaries, as of 2015 data, were injured longer ago than non-DOD beneficiaries, the two populations had similar

⁴⁸Determining the cause for the timing of DOD FECA beneficiaries' injuries was outside the scope of this engagement.

distributions with respect to age at the time of injury, as shown in figure 10. The median age at time of injury for these populations was 44 for DOD and 45 for non-DOD.⁴⁹ As a result of being similar ages as non-DOD beneficiaries at the time of injury but injured longer ago, DOD total-disability beneficiaries in 2015 were substantially older than those from the rest of government (see fig. 11). Specifically, about 60 percent of DOD total-disability beneficiaries were over the age of 65 as compared to about 35 percent of non-DOD beneficiaries. This difference may be attributable to the combination of DOD beneficiaries being injured longer ago but at similar ages to their non-DOD counterparts.

Figure 10: Age at Time of Injury for Department of Defense (DOD) and Non-DOD Federal Employees' Compensation Act (FECA) Total-Disability Beneficiaries

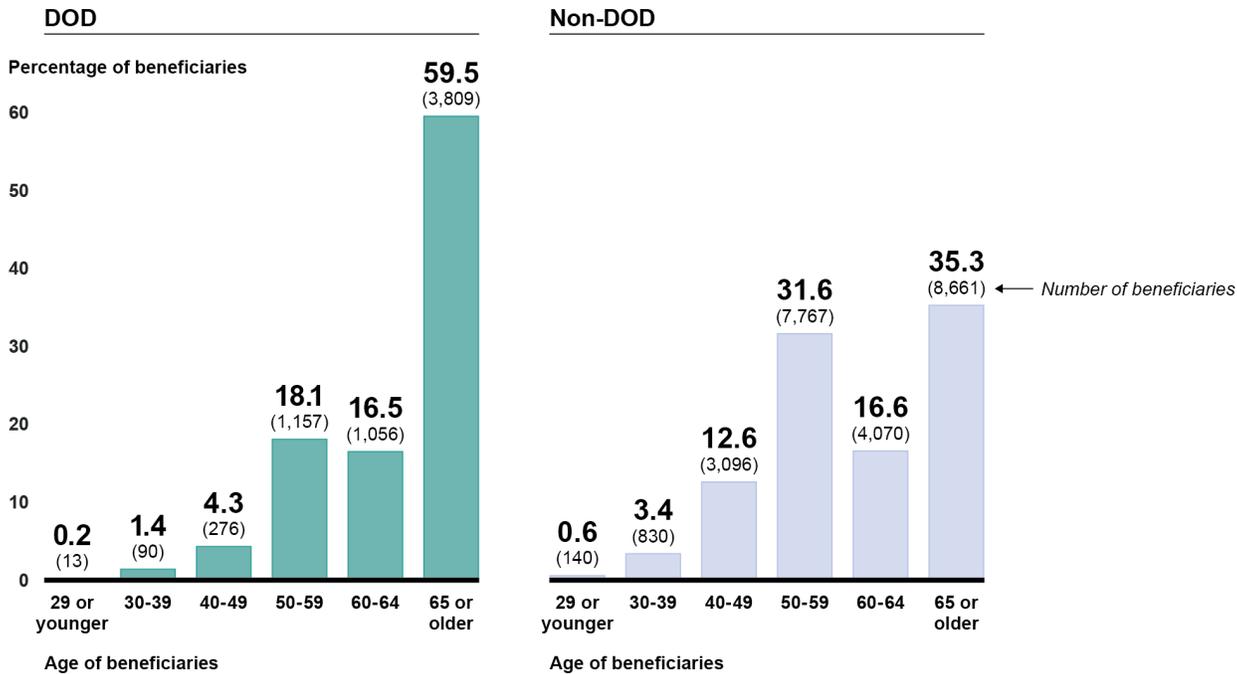


Source: GAO analysis of Department of Labor data. | GAO-16-793

Note: Non-DOD beneficiaries refer to all covered 2015 FECA beneficiaries outside of DOD.

⁴⁹The median ages for partial-disability beneficiaries at time of injury were also similar—about age 40 for DOD and 41 for non-DOD.

Figure 11: Age of Department of Defense (DOD) and Non-DOD Federal Employees' Compensation Act (FECA) Total-Disability Beneficiaries, 2015



Source: GAO analysis of Department of Labor data. | GAO-16-793

Notes: Non-DOD beneficiaries refer to all covered 2015 FECA beneficiaries outside of DOD. Percentages may not add up to 100 due to rounding.

In addition, about 56 percent of DOD beneficiaries were at or above their full Social Security retirement age, compared to 32 percent of non-DOD beneficiaries.⁵⁰ For more information on the age of DOD and non-DOD beneficiaries, as well as a discussion of total-disability beneficiaries at full Social Security retirement age, see appendix I.

⁵⁰The age at which an individual can receive full retirement benefits under the Social Security Act ranges from 65 to 67, depending on the individual's year of birth. DOD's population of partial-disability beneficiaries is also older than non-DOD beneficiaries—about 46 percent of DOD's beneficiaries and 34 percent of non-DOD agencies' beneficiaries are at or above their retirement age.

DOD Officials We
Interviewed Reported
Claims Data Are
Generally Available to
Process FECA
Claims, but Said They
Experience
Challenges
Regarding Process
Timelines

DOD Officials Report
Generally Sufficient
Access to FECA Claims
Data and Information
Necessary to Carry Out
Responsibilities

Most of the DOD injury compensation specialists, liaisons, and program offices we interviewed reported they had the necessary FECA-related information to effectively conduct their work. Specifically, 10 of the 12 injury compensation specialists and liaisons we spoke with, as well as three of the four program offices, reported that they generally have sufficient access to FECA claims data and information necessary for managing their respective FECA program, including facilitating return-to-work outcomes.⁵¹

ECOMP is DOL's web-based system for various claim-management tasks and is the source for filing and transmitting FECA claim information and documents. DOD began migrating to ECOMP from past systems in fiscal year 2015 and continues to adjust and increase access across the department, according to Defense Civilian Personnel Advisory Service officials. At the time we interviewed officials, the Defense Civilian Personnel Advisory Service and the military departments had general access to DOL's ECOMP system, and five injury compensation specialists and liaisons we interviewed specifically highlighted that ECOMP improves the ability to access relevant information and data. For

⁵¹The remaining officials mentioned that while they did not always have full access to information, they expect this to be resolved with full access to the systems, like ECOMP.

instance, ECOMP allows DOD personnel faster access to claims information, the ability to track the completion of certain documents, to electronically file more types of claims forms, and real-time access to claims documents. DOD has access to other DOL data and information through other systems, including DOD's internal Defense Injury and Unemployment Compensation System that also provides access to DOL claims information. In addition to case-specific data and information, through the POWER Initiative DOL began providing agency-level FECA program performance metrics, which it continues to make available on its website.⁵² Although the POWER Initiative officially ended in fiscal year 2014, as of June 2016 DOL continued to use these metrics to report agencies' performance. All of the military department FECA program managers we interviewed noted that they continue to monitor their POWER goals and use them as a performance metric.

Defense Civilian Personnel Advisory Service officials stated that the data they receive from DOL and other sources is extensive, though they added that there may be additional resources that could be useful for their work. For example, one liaison stated that additional access to certain information, such as data on non-FECA disability benefits managed by the Social Security Administration and the Department of Veterans Affairs, could allow them to more easily identify individuals potentially receiving other disability benefits.⁵³ Additionally, although the majority of

⁵²The POWER Initiative measured employing agencies' performance against goals in seven areas: (1) total case rate; (2) lost time case rate; (3) analysis of lost time injury and illness data; (4) timely filing of injury and illness notices; (5) timely filing of wage-loss claims; (6) lost production days; and (7) return to work (this goal was only monitored for 14 agencies). DOL started monitoring an eighth goal in fiscal year 2013—whether a federal agency has complied with regulatory requirements for electronic forms submission. See DOL, Division of Federal Employees' Compensation, *POWER Initiative*, accessed June 3, 2016, <https://www.dol.gov/owcp/dfec/power/>.

⁵³Federal law requires the Social Security Administration to reduce its disability insurance benefits for some individuals receiving workers' compensation, including FECA, to ensure an individual's total monthly benefit does not exceed a certain statutory limit based in part on an employee's preinjury average monthly earnings. See 42 U.S.C. § 424a(a) and 5 U.S.C. § 8116(d)(1). In 2015 we reported instances in which overpayments were not detected by the Social Security Administration, and we made several recommendations to help improve its ability to detect, prevent, and recover potential overpayments from concurrent FECA benefits, with which the Social Security Administration agreed. As of July 2016 these recommendations remain open. See GAO, *Disability Insurance: Actions Needed to Help Prevent Potential Overpayments to Individuals Receiving Concurrent Federal Workers' Compensation*, [GAO-15-531](#) (Washington, D.C.: July 8, 2015).

DOD officials we spoke with reported having generally sufficient access to conduct their case-management responsibilities, DOL and DOD officials stated that DOD is still in the process of rolling out ECOMP throughout DOD. For instance, according to Defense Civilian Personnel Advisory Service officials, not all components have had full access to a component of ECOMP that gives increased visibility over claimant documentation such as medical information.⁵⁴ For instance, at the time we interviewed officials, Army and Navy injury compensation specialists noted instances when medical documentation provided directly to DOL was not yet accessible to them. In these instances, injury compensation specialists must request hard-copy information directly from DOL claims examiners, such as having the DOD liaison physically retrieve hard-copy information. According to Defense Civilian Personnel Advisory Service officials, as of July 2016 the Army has full access to ECOMP so can determine whether or not updated information has been submitted. Officials expect the Navy to have full access to ECOMP by the end of fiscal year 2016.

DOD Does Not Internally Monitor Processing Timelines

The Defense Civilian Personnel Advisory Service and all three military department FECA program offices we spoke with reported experiencing challenges when requesting information, decisions, or other actions, such as suitability determinations and second-opinion requests, from DOL during the return-to-work process. However, because DOD does not monitor process timelines associated with such difficulties, the department cannot fully identify the nature, magnitude, or effects of problems it may be experiencing, or whether these issues, if any, are widespread. Moreover, without a full understanding of any issues that may exist, DOD is unable to communicate the scope of any such problems to DOL.

Employing agencies are responsible for returning employees to work, but DOL is responsible for determining whether a job offer is suitable to return an employee to work and to obtain a second opinion on an employee's medical condition or work capacity. Suitability determinations of job offers are needed when a claimant does not accept a job offer or accepts a job offer but does not return to work. According to the DOL FECA *Procedure Manual*, this process can involve a variety of considerations and

⁵⁴This element of ECOMP is called the Agency Reviewing Imaging, according to officials.

information that is submitted by multiple parties including the employing agency, the claimant, often the claimant's physician, and other medical referrals as necessary.⁵⁵ Second opinions may be requested by DOL to obtain an additional medical evaluation to clarify the claimant's condition, the extent of a disability, work capacity, or other issues.⁵⁶ During our review, 9 of the 12 injury compensation specialists and liaisons we spoke with, as well as all four of the program offices, reported experiencing some challenges pertaining to lengthy response times from DOL's claims examiners, such as when submitting requests to DOL for suitability determinations and second opinions. For instance, according to Defense Civilian Personnel Advisory Service officials, DOD has experienced what they perceive as lengthy periods waiting for suitability determinations from DOL, in some instances over a year. DOL officials told us that the process can take several months due to the exchange of information among each of the parties involved, including DOL, the employing agency (such as DOD), and the claimant. Additionally, the claimant is entitled to due process of between 20 and 45 days depending on the circumstances of the claim, according to DOL officials.

Defense Civilian Personnel Advisory Service officials stated that they understand it takes time to make decisions about claims, especially given the claims examiners' caseloads, and the amount of documentation they must review, including the required information they must collect from doctors and the claimant. However, waiting for such long periods,

⁵⁵For instance, after all relevant information is reviewed and a job offer is determined suitable, the DOL claims examiner confirms with the employing agency that the job remains available to the claimant. It is at that point that DOL advises the claimant that the job is suitable. From that point, the claimant has 30 days from the date of DOL's letter to accept the job or provide additional written explanation refusing it, which could result in additional documentation that DOL must review and continued correspondence with the claimant, prior to making a final job acceptance or benefit termination decision. See DOL, Division of Federal Employees' Compensation, *Procedure Manual*, FECA Part 2, Group 3—Case/Disability Management, ch. 2-0814.

⁵⁶According to the DOL FECA *Procedure Manual*, DOL is responsible for making suitability determinations and has authority to approve second-opinion requests. DOL determines whether a job is suitable or not, and it is responsible for continued correspondence with the claimant and employing agency. If DOL agrees a second opinion is warranted, DOL has responsibility to refer the case for a second opinion and subsequent referee examination if the results contradict previous evaluations. See DOL, Division of Federal Employees' Compensation, *Procedure Manual*, FECA Part 2, Group 3—Case/Disability Management, ch. 2-0600.

according to DOD officials, creates a hardship on the employing agency, as it must both keep the position open for the injured employee, as well as continue to pay the claimant until a decision is made. Although officials from the Defense Civilian Personnel Advisory Service and all three military department FECA program offices we spoke to cited the lengthy response times for suitability determinations as a difficulty they experience, officials did not provide further data or information on these instances, and Defense Civilian Personnel Advisory Service officials said such cases are not monitored across the department. Additionally, according to DOL officials, even after DOL has reached a decision there is often continued back and forth between DOL and the claimant to provide additional documentation, or between DOL and the employing agency in order to provide additional or revised documentation. According to DOD and DOL officials, they seek to resolve such delays or other issues at the case-management level—between the DOD injury compensation specialist and the DOL claims examiner—so the reasons for the delay may not be elevated to higher levels, or monitored across the department, if they are ultimately resolved.

In addition to concerns with response times for suitability determinations, three of the four FECA program managers we spoke with, as well as five injury compensation specialists, specifically cited the length of time it takes DOL to approve or process second opinions as a key challenge they perceive during the return-to-work process. For example, one program manager stated that when a second opinion medical evaluation is conducted, that evaluation is valid for 1 year, so if DOL does not review and act on the information in a timely manner it may result in the need for an additional medical evaluation. Further, according to that program manager, second-opinion evaluations can cost between \$2,000 and \$7,000, and this cost is borne by the employing agency, as well as the cost of a subsequent second opinion if the first one expires. However, this official did not provide specific examples or the frequency with which this issue occurred, and Defense Civilian Personnel and Advisory Service officials do not know the extent to which this may be a problem across the department. All three DOD liaisons we spoke with, as well as DOL, said that it is difficult to provide expectations for the amount of time it may take DOL to take action, in part because of elements outside of DOL's control, such as the scheduling of appointments and submission of medical documentation, and because every claim has its own set of facts and circumstances.

DOL procedures require claims examiners to respond to employing agencies within some established time frames, according to DOL officials,

but there is no established time frame within which they are required to make suitability determinations, approve a second-opinion request, or complete the review of related medical documentation. There are also instances, according to DOL officials, when a DOL claims examiner may not agree that a second opinion is appropriate. According to the DOL *FECA Procedure Manual*, however, employing agencies should expect to receive information from DOL relevant to the claim-management process, including prompt determinations on medical issues and the suitability of job offers when needed.⁵⁷ DOL officials stated that they generally expect to respond to agency requests from employing agencies within 30 days, and if they are aware of any overdue requests or issues with claims examiner performance they try to resolve them between the claims examiner and the employing agency at the lowest possible level, and the issue is only raised to the district office or higher if it is not resolved. Officials added that it is challenging to establish expected standard time frames for certain requests, such as suitability determinations, given the variability of requests and the specific circumstances and details of each case.

One of the ways DOD injury claims specialists seek information on suitability determinations and second-opinion requests, among other claims-related information, is through DOL's central phone system. Many of the DOD officials we spoke with cited the reliance on this phone system for direct communication as a complicating factor in attempting to discuss these and other information requests with DOL claims examiners. Specifically, 7 of the 12 injury compensation specialists and liaisons identified issues related to DOL's consistency and timeliness in responding to agency requests using DOL's centralized phone system.⁵⁸ For example, FECA program managers from all three military departments, as well as two injury compensation specialists, noted instances in which DOL either did not respond in a timely manner or never returned the phone call. The DOL *FECA Procedure Manual* requires that DOL claims examiners respond to phone calls within 2 work

⁵⁷DOL, Division of Federal Employees' Compensation, *Procedure Manual*, FECA Part 2, Group 3—Case/Disability Management, ch. 2-0600.

⁵⁸According to DOL officials, claims examiners also are not required to provide their direct extension to the employing agencies, in part to prevent the number of calls they receive from becoming overwhelming.

days, and DOL officials stated that leaving a voice-mail message is sufficient to meet this deadline. According to DOL officials, agency requests can be submitted to DOL claims examiners through ECOMP or via postal mail, in addition to DOL's central phone system. One DOD injury compensation specialist stated that, due to the challenges experienced in reaching a claims examiner by phone, it is more efficient to use ECOMP—which allows adding additional notes to previous entries into the system—to ensure the DOL claims examiner receives the updates. However, this specialist added that ECOMP does not convey whether or not the claims examiner has taken action on these follow-up requests.

All of the DOD officials we spoke with—12 injury compensation specialists and liaisons, as well as each of the military departments' FECA program offices, and FECA management at the Defense Civilian Personnel Advisory Service—highlighted difficulties with the communication timelines between DOD and DOL. However, while the military departments' program offices cover the majority of the FECA beneficiaries, we did not speak to a generalizable sample of the FECA program staff at DOD, and the officials we spoke with could only present their individual experiences. Further according to officials from the Defense Civilian Personnel Advisory Service, DOD has not monitored FECA program processes such as communication timelines and response times between DOD and DOL, nor has it tracked any known reasons or solutions to any related issues, on a department-wide basis across its approximately 800 FECA injury compensation specialist staff.

DOL officials stated that if DOD is experiencing ongoing challenges, more information about these challenges would be helpful to find a solution. They added that DOL has an open-door policy, and a number of existing mechanisms are intended to facilitate general communication between the employing agencies and DOL. For example, DOL officials stated that many issues are resolved at the claims examiner level, or after being elevated to the district-office level, and while district offices can track responsiveness and other issues in their district to identify any issues, this is not done across agencies. However, DOL and Defense Civilian Personnel Advisory Service officials noted that there is ongoing staff turnover among the DOD injury compensation specialists and DOL claims examiners. According to Defense Civilian Personnel Advisory Service officials, such turnover can make monitoring the claims process more difficult at the injury compensation specialist level, though they noted that the role of the DOD liaisons can mitigate this by providing continuity across the FECA program. According to DOD officials, the DOD liaisons

serve a key function in providing information to DOD injury claims specialists as well as facilitating communication at the DOL district-office level since they are colocated with DOL claims examiners at these offices and are able to be in more immediate contact.⁵⁹

Standards for Internal Control in the Federal Government state that ongoing monitoring should occur in the course of normal operations. Monitoring should assess the quality of performance over time and ensure that the findings are promptly resolved.⁶⁰ DOD has monitored high-level program metrics such as return-to-work rates and overall timelines, but Defense Civilian Personnel Advisory Service officials stated that particular claims-processing timelines—such as response times between DOD and DOL—are not specifically collected or monitored. According to Defense Civilian Personnel Advisory Service officials, DOD has internal mechanisms through which such monitoring or information gathering of the FECA process could occur, such as the function of liaisons in DOL district offices and installation-level working groups, as well as periodic program office-level meetings. Additionally, Defense Civilian Personnel Advisory Service officials stated that the increased access to ECOMP will provide further visibility of FECA claims and the decisions and actions that DOD is waiting for from DOL.

Based on our interviews with FECA program officials at DOD, issues such as difficulties contacting DOL claims examiners and lengthy response times occur between DOD and DOL. However, the extent to which this is a problem across the department is unknown. In our past work we have found that leading practices for results-oriented organizations state that it is important for organizations to have complete, accurate, and consistent

⁵⁹In addition to instances where issues may be resolved at the claims examiner or district-office level between DOD and DOL, DOL and DOD officials gave examples of higher-level, interagency communication mechanisms that may also be used to discuss high-level issues and share information. For example, under the POWER Initiative, periodic meetings of the POWER Return to Work Council were available for employing agencies to receive certain performance information from DOL and, according to the council's charter, to share best practices and lessons-learned specific to return-to-work outcomes, among other things. The council was to comprise the 14 agencies subject to goal 7 of the President's POWER initiative. Though the POWER Initiative's official term ended at the end of fiscal year 2014, DOL continues to host council meetings to continue to discuss overall return-to-work performance and issues across agencies.

⁶⁰[GAO-14-704G](#).

information to support decision-making.⁶¹ Further, leading practices for effective interagency collaboration state that frequent communication is a means to work across agency boundaries and prevent misunderstanding.⁶² Defense Civilian Personnel Advisory Service officials stated that monitoring information like response times could help them further understand any issues or problems they may experience and help inform future communication with DOL. DOL officials added that if there is an issue within DOD that is not being elevated or reported up their own chain of command, then DOL is likely unaware of the issue as well. Without monitoring or collecting information on issues DOD may experience, including any known reasons for or resolutions to delays, department leadership will not be positioned to identify and assess the nature of any problems, and make any appropriate internal improvements or external improvements in collaboration with DOL.

Conclusions

In 2015, DOD employees constituted nearly one-fifth of all FECA beneficiaries across the federal government—the highest number outside the U.S. Postal Service. DOD paid \$554 million in FECA medical and compensation benefits in 2015. Given the substantial monetary outlay this represents, DOD needs accurate information on the operation of the FECA program, including the timeliness of its various processes. Facilitating return-to-work outcomes can depend on timely job-suitability determinations. While not generalizable, our discussions with the military departments' injury compensation specialists, DOD liaisons, and FECA program managers indicate that the department may face challenges in its efforts to work with DOL to effectively manage DOD's FECA process. However, without monitoring the timelines associated with injury compensation specialists' processing of FECA claims—particularly the significant claims-management actions over which DOL has approving authority—the department is not positioned to identify the extent to which delays or inefficiencies are present, at what points in the process they

⁶¹See GAO, *Defense Infrastructure: Risk Assessment Needed to Identify If Foreign Encroachment Threatens Test and Training Ranges*, [GAO-15-149](#) (Washington, D.C.: Dec. 16, 2014).

⁶²GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012); *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005).

occur, or any reasons or resolutions for such issues. Such information would help DOD in managing its FECA responsibilities, and allow the department to communicate any appropriate concerns to DOL.

Recommendation for Executive Action

To help support DOD management of its FECA responsibilities, we recommend that the Secretary of Defense direct the Office of the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Secretaries of the military departments and other defense agency leaders, to monitor timelines associated with significant FECA claims-management actions in order to identify the extent to which delays or inefficiencies may be occurring and at what points in the process; to identify any known reasons for the delays; and to communicate this information to DOL as appropriate for consideration and action.

Agency Comments

We provided a draft of this product to DOD and DOL for comment. In its written comments, reproduced in appendix II, DOD agreed with our recommendation. DOL provided technical comments that were incorporated, as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, the Secretary of Labor, and other interested parties including the military departments and other defense agencies. In addition, this report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff has any questions regarding this report, please contact Brenda Farrell at (202) 512-3604 or farrellb@gao.gov, or Andrew Sherrill at (202) 512-7215 or sherrilla@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page

of this report. GAO staff who made major contributions to this report are listed in appendix III.



Brenda S. Farrell
Director
Defense Capabilities and Management

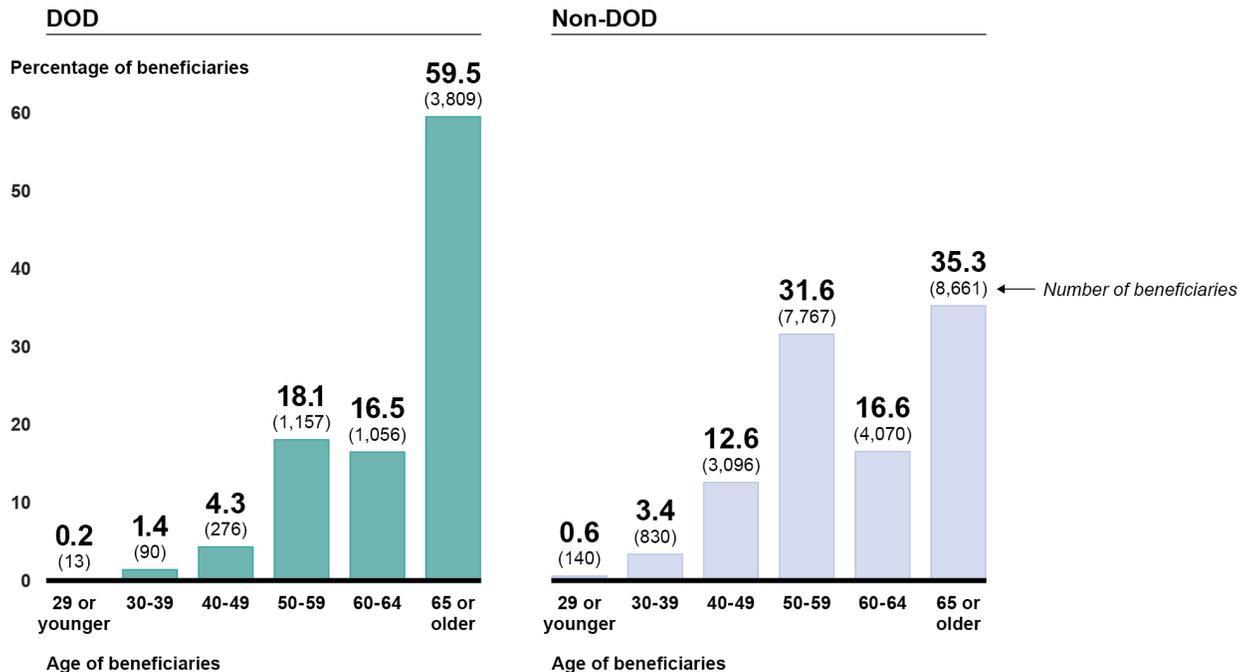


Andrew Sherrill
Director
Education, Workforce, and Income Security

Appendix I: Age of Total-Disability Beneficiaries and Full Social Security Retirement Age

In 2015, the Department of Defense (DOD) had a higher percentage of beneficiaries over the age of 65 than the rest of the beneficiary population, as illustrated in figure 11. DOD also had a higher proportion of total-disability beneficiaries at or above full Social Security retirement age (see fig. 12). About 56 percent of DOD beneficiaries were at or above their full Social Security retirement age, compared to 32 percent of non-DOD beneficiaries.¹

Figure 12: Age of Department of Defense (DOD) and Non-DOD Federal Employees' Compensation Act (FECA) Total-Disability Beneficiaries, 2015

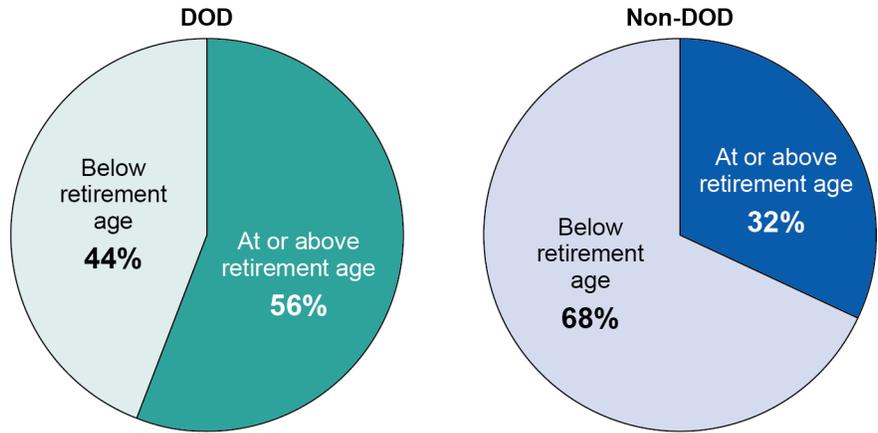


Source: GAO analysis of Department of Labor data. | GAO-16-793

Note: Non-DOD beneficiaries refers to all covered 2015 FECA beneficiaries outside of DOD.

¹The age at which an individual can receive full retirement benefits under the Social Security Act ranges from 65 to 67, depending on the individual's year of birth. For those born in 1937 and earlier, it is 65 years of age; for those born in years 1943–1954, it is 66; for those born in 1960 and later, the age is 67; for years of birth between these ranges, the applicable age is interpolated by 2 months per year of birth.

Figure 13: Department of Defense (DOD) and non-DOD Federal Employees' Compensation Act (FECA) Total-Disability Beneficiaries at or above Their Full Social Security Retirement Age, 2015

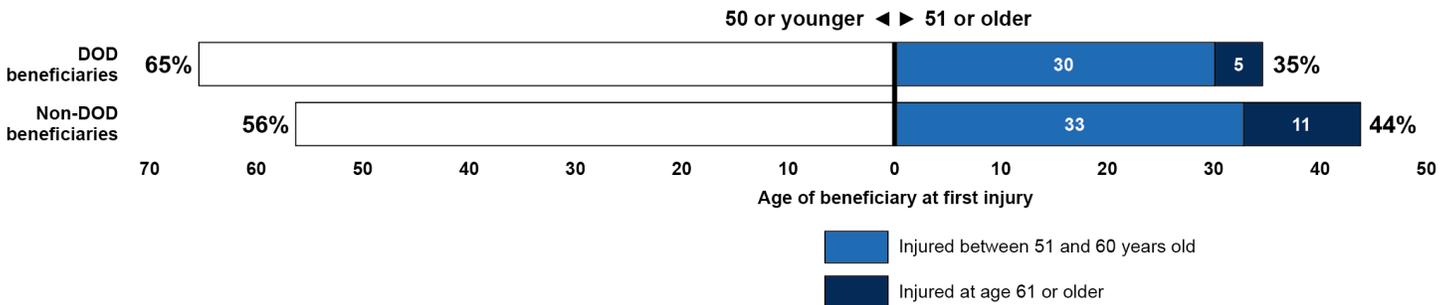


Source: GAO analysis of Department of Labor data. | GAO-16-793

Note: Non-DOD beneficiaries refers to all covered 2015 FECA beneficiaries outside of DOD.

Further, while DOD and non-DOD total-disability beneficiaries had similar median ages at time of injury, a greater percentage of DOD total-disability beneficiaries at or above their full Social Security retirement age were injured at age 50 or younger. As illustrated in figure 13, 65 percent of DOD beneficiaries at or above their full retirement age, and 56 percent of non-DOD beneficiaries, were age 50 or younger when injured.

Figure 14: Department of Defense (DOD) and Non-DOD Federal Employees' Compensation Act (FECA) Total-Disability Beneficiaries at or above Their Full Social Security Retirement Age in 2015, by Age at Time of Injury



Source: GAO analysis of Department of Labor data. | GAO-16-793

Note: Non-DOD beneficiaries refers to all covered 2015 FECA beneficiaries outside of DOD.

According to the data for 2015, DOD had a higher percentage of retirement age beneficiaries who were injured longer ago compared to beneficiaries in non-DOD agencies. However, these data are only reflective of FECA beneficiaries in chargeback year 2015—the period from July 1, 2014, through June 30, 2015—so no longer-term trends or conclusions may be drawn from these data. Further, DOL’s data system is not designed in a way that allows us to determine the cumulative amount of time a person has received FECA benefits, so we are unable to determine whether these beneficiaries have been on disability continuously since the time of injury. Hence, these data do not account for any possible breaks in benefits, such as if an employee returned to work during this time.

Appendix II: Comments from the Department of Defense



DEPARTMENT OF DEFENSE
DEFENSE CIVILIAN PERSONNEL ADVISORY SERVICE
4800 Mark Center Drive
ALEXANDRIA, VA 22350-1100

September 1, 2016

Ms. Brenda Farrell
Director, Defense Capabilities Management
U.S. Government Accountability Office
441 G Street, NW
Washington DC 20548

Dear Ms. Farrell,

This is the Department of Defense (DoD) response to the GAO Draft Report GAO-16-793, "FEDERAL EMPLOYEES' COMPENSATION ACT : DOD Access to DOL Data Is Generally Sufficient, but Monitoring Timelines Could Help Return-to-Work Efforts," dated August 12, 2016 (GAO Code 100369).

Attached is DoD's proposed response to the subject report. My point of contact is Taiwana Smith who can be reached at Christoph. J. Inserra.civ @ mail.mil. and phone 904-277-4156.

Sincerely,

A handwritten signature in black ink, appearing to read "Taiwana Smith".

Taiwana Smith
Chief,
Benefits & Work Life Programs Division

GAO DRAFT REPORT DATED AUGUST 12, 2016
GAO-16-793 (GAO CODE 100369)

**“FEDERAL EMPLOYEES’ COMPENSATION ACT: DOD ACCESS TO DOL DATA IS
GENERALLY SUFFICIENT, BUT MONITORING TIMELINES COULD HELP
RETURN-TO-WORK EFFORTS”**

**DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATION**

RECOMMENDATION 1: The GAO recommends that the Secretary of Defense direct the Office of the Under Secretary of Defense for Personnel and Readiness, in collaboration with the Secretaries of the military departments and other defense agency leaders, to monitor timeliness associated with significant FECA claim management actions in order to identify the extent to which delays or inefficiencies may be occurring and at what points in the process; any known reasons for the delays; and to communicate this information with DOL as appropriate for consideration and any action.

DoD RESPONSE: DoD concurs with the GAO recommendation. DoD will develop a process, in collaboration with component and defense agency FECA Program Managers, to identify which significant case management actions will initially be targeted for timeliness analysis; the method of communicating the case information; and the steps DoD will take with this information regarding process analysis, communication to DOL, and follow-up.

Appendix III: GAO Contacts and Staff Acknowledgments

GAO Contacts

Brenda S. Farrell, (202) 512-3604 or farrellb@gao.gov

Andrew Sherrill, (202) 512-7215 or sherrilla@gao.gov

Staff Acknowledgments

In addition to the above contacts, Vincent Balloon, Assistant Director; Nagla'a El-Hodiri, Assistant Director; David Ballard; James Bennett; Melinda Cordero; Michael Kniss; Kirsten Lauber; Tamiya Lunsford; Jonathon Oldmixon; James Rebbe; Sabrina Streagle; Anjali Tekchandani; Patrick Tierney; Jennifer Weber; Erik Wilkins-McKee; and Sally Williamson made key contributions to this report.

Related GAO Products

Disability Insurance: Actions Needed to Help Prevent Potential Overpayments to Individuals Receiving Concurrent Federal Workers' Compensation. [GAO-15-531](#). Washington, D.C.: July 8, 2015.

Federal Employees' Compensation Act: Analysis of Benefits Associated with Proposed Program Changes. [GAO-15-604T](#). Washington, D.C.: May 20, 2015.

Federal Employees' Compensation Act: Effects of Proposed Changes on Partial Disability Beneficiaries Depend on Employment After Injury. [GAO-13-143R](#). Washington, D.C.: December 7, 2012.

Federal Employees' Compensation Act: Analysis of Proposed Changes on USPS Beneficiaries. [GAO-13-142R](#). Washington, D.C.: November 26, 2012.

Federal Employees' Compensation Act: Analysis of Proposed Program Changes. [GAO-13-108](#). Washington, D.C.: November 26, 2012.

Federal Employees' Compensation Act: Status of Previously Identified Management Challenges. [GAO-12-508R](#). Washington, D.C.: April 27, 2012.

Federal Employees' Compensation Act: Benefits for Retirement-Age Beneficiaries. [GAO-12-309R](#). Washington, D.C.: February 6, 2012.

Federal Workers' Compensation: Questions to Consider in Changing Benefits for Older Beneficiaries. [GAO-11-854T](#). Washington, D.C.: July 26, 2011.

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