

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE INSPECTOR GENERAL**

**DEPARTMENT OF
EMPLOYMENT SERVICES
WORKERS' COMPENSATION PROCESSES –
RESOLUTION OF DISPUTED CLAIMS**

Special Evaluation

July 2007



**CHARLES J. WILLOUGHBY
INSPECTOR GENERAL**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



July 31, 2007

Ms. Summer Spencer
Acting Director
D.C. Department of Employment Services
District of Columbia Government
64 New York Ave. N.E., Suite 3000
Washington, D.C. 20002

Dear Ms. Spencer:

Enclosed is our final *Special Evaluation - Department of Employment Services (DOES) Workers' Compensation Processes - Resolution of Disputed Claims*. Comments from DOES on the inspection team's 10 findings and 14 recommendations are included in the report.

In addition, we have enclosed *Compliance Forms* on which to record and report to this Office any actions you take concerning each recommendation. These forms will assist you in tracking the completion of action(s) taken by your staff, and will assist this Office in its inspection follow-up activities. We track agency responses to all conditions cited, and compliance with recommendations made in our reports of inspection. We request that you and your staff establish response dates on the forms and advise us of those dates so we can enter them on our copies of the *Compliance Forms*. We know that in some instances, things beyond your control such as budget decisions impact on trying to set specific deadlines. We request, however, that you assign *target dates* based on whatever knowledge and experience you have about a particular issue. Please ensure that the *Compliance Forms* are returned to the OIG by the response date, and that reports of "Agency Action Taken" reflect actual completion, in whole or in part, of a recommended action rather than "planned" action.

We appreciate the cooperation shown by you and your employees during the inspection and look forward to your continued cooperation during the upcoming follow-up period. If you have questions or require assistance in the course of complying with our recommendations, please contact me or Edward Farley, Deputy Assistant Inspector General for Inspections and Evaluations at (202) 727-9249.

Sincerely,

Charles J. Willoughby
Inspector General

CJW/ld

Enclosure

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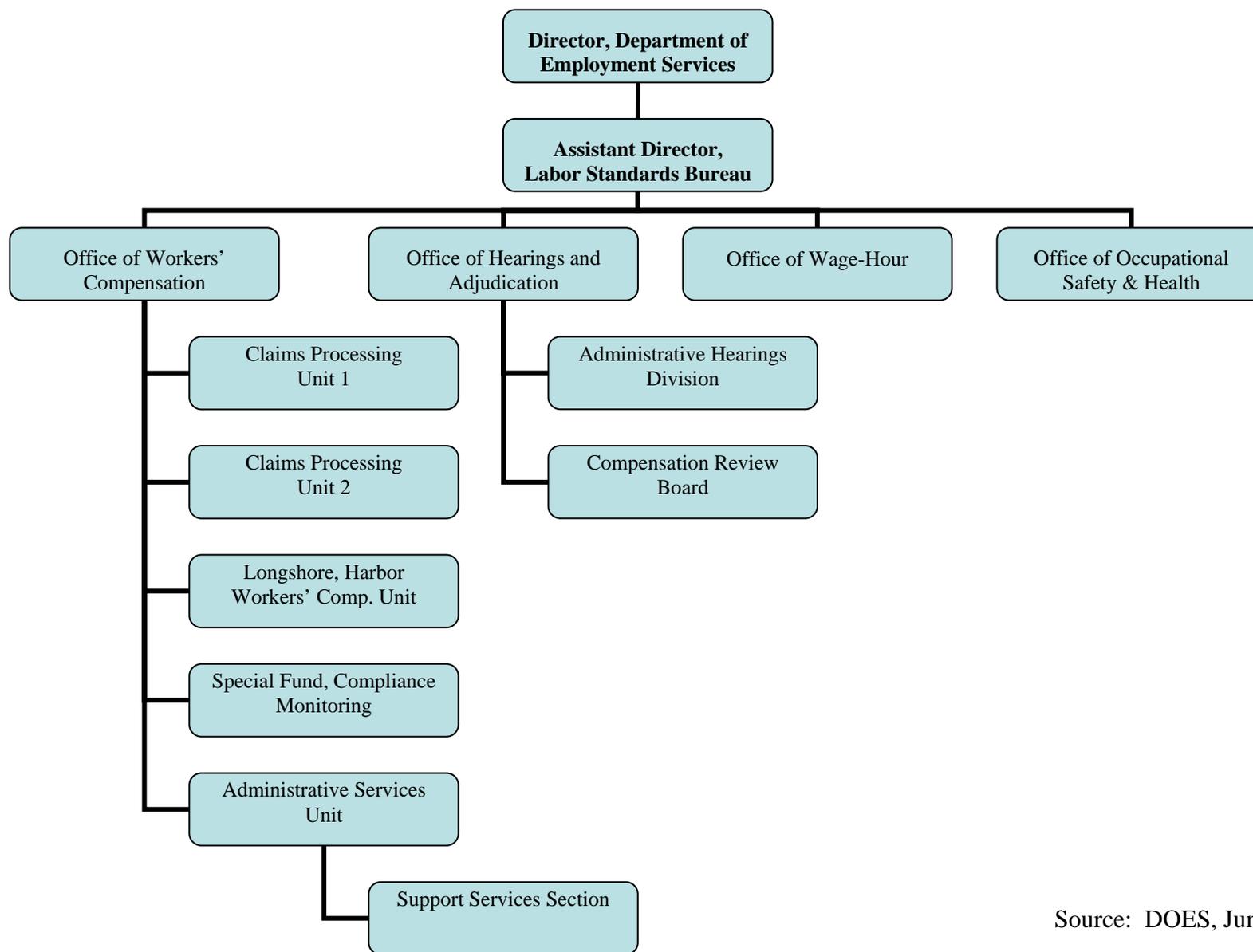
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ORGANIZATION CHART

**DEPARTMENT OF EMPLOYMENT SERVICES:
ORGANIZATION OF THE LABOR STANDARDS BUREAU**



Source: DOES, June 2006

ACRONYMS

ACRONYMS

ACRONYMS

ADA	Americans with Disabilities Act
AFGE	American Federation of Government Employees
AHD	Administrative Hearings Division
ALJ	Administrative Law Judge
CRB	Compensation Review Board
DCP	Disability Compensation Program
D/DOES	Director/Department of Employment Services
DHR	D.C. Department of Human Resources (the former D.C. Office of Personnel)
DOES	Department of Employment Services
GAO	U.S. Government Accountability Office
I&E	Inspections and Evaluations Division
LSB	Labor Standards Bureau
OIG	Office of the Inspector General
ORM	Office of Risk Management
OWC	Office of Workers' Compensation

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

Background and Perspective

The Inspections and Evaluations Division (I&E) of the District of Columbia (District) Office of the Inspector General (OIG) evaluated the timeliness and impartiality of the Department of Employment Services' (DOES) processes for resolving disputed private sector workers' compensation claims. Former D.C. Councilmember Kathleen Patterson requested the special evaluation in response to an anonymous letter she received alleging deliberate delays by DOES employees and bias against injured workers. I&E initiated fieldwork for the special evaluation in June 2006.

Located within the Labor Standards Bureau (LSB) of DOES, the Office of Workers' Compensation (OWC), the Administrative Hearings Division (AHD), and the Compensation Review Board (CRB) decide disputed workers' compensation cases. Employers or their workers' compensation insurance carriers typically pay claims without disputing them. When disputes do occur, the OWC holds informal conferences between claimants¹ and employers and/or their insurance carriers to determine whether an employer or their insurance carrier must pay a claim and, if so, the amount of the claim. If informal conferences are unsuccessful, disputing parties may request formal hearings through the AHD. AHD and OWC decisions can then be appealed to the CRB. The units within the LSB that deal with disputed workers' compensation claims have approximately 71 full-time employees.

Scope and Methodology

The evaluation team (team) interviewed DOES employees, surveyed DOES workers' compensation staff (see Appendix 2 for sample questionnaire), reviewed documents, and observed key work processes. Documents reviewed included agency policies and procedures, internal reports and memoranda regarding agency performance, training records, DOES employee grievances, and performance evaluation records. The team observed the agency's electronic document management system, as well as computer systems used to track cases and employee performance. The team surveyed a sampling of outside attorneys identified by agency staff as frequently representing various parties in workers' compensation proceedings before DOES.² The scope of this special evaluation did not include the Disability Compensation Program (DCP),³ the program through which injured District government employees seek assistance.

¹ Claimants are individuals who request payment for medical treatment and/or compensation for wages lost due to work-related injuries.

² The team sent survey questions to 10 attorneys who have represented numerous claimants before DOES, and received 4 responses. The team also contacted 10 other attorneys who have represented employers and/or their insurance carriers, and received 4 responses.

³ In 2001, the Office of Risk Management (ORM) assumed responsibility for administering the DCP. Many stakeholders erroneously believe that DOES is still responsible for processing claims submitted by D.C. government employees and continue to contact DOES with inquiries and complaints. DOES typically responds to DCP complaints and inquiries with a form letter that refers the complainant/inquirer to ORM.

EXECUTIVE SUMMARY

All DOES employees were cooperative and responsive throughout the evaluation. This evaluation report contains 10 findings and 14 recommendations.

Note: DOES reviewed the draft of this report prior to publication, noted its agreement or disagreement with each recommendation, and provided comments following some OIG recommendations. Agency responses are published verbatim. The OIG does not correct an agency's grammatical or spelling errors, but does format an agency's responses in order to maintain readability of OIG reports. Such formatting is limited to font size, type, and color, with the following exception: if an agency bolds or underlines text within its response, the OIG preserves these elements of format.

OIG inspections and evaluations comply with standards established by the President's Council on Integrity and Efficiency, and pay particular attention to the quality of internal control.⁴

Findings and Recommendations

The team found no evidence to support allegations of deliberate delays or bias against injured workers in deciding disputed claims. The team found that while most DOES employees seek to resolve disputed workers' compensation claims timely and fairly, their efforts have been negatively affected by: a) staffing shortages that have caused delays; b) inconsistencies in the way disputed claims are processed; c) inadequate resources to perform their jobs; d) supervisors who are not available to provide assistance; and e) ineffective case tracking systems. A large majority of DOES employees expressed a commitment to fairness and timeliness in resolving disputed workers' compensation claims.

The team found that the OWC was successful in meeting its FY 2006 goal for issuing Memoranda of Informal Conference, but noted that the OWC is not tracking some key processes and has insufficient procedures for others. The team also found a significant backlog of unresolved cases in the AHD, some with decisions more than a year late. The CRB, however, succeeded in eliminating a large case backlog that it inherited at its creation, and was up-to-date. DOES managers stated that they attempt to improve work processes by soliciting input from a taskforce of workers' compensation attorneys who work outside the agency.

Several employees informed the team that the District of Columbia government-leased building that houses LSB offices is not adequately handicapped accessible, and may be in violation of the Americans with Disabilities Act. The team reported this matter separately to DOES management and to the Executive Office of the Mayor's Office of Risk Management for evaluation.

A complete list of findings and recommendations is included at Appendix 1.

⁴ "Internal control" is synonymous with "management control" and is defined by the Government Accountability Office as comprising "the plans, methods, and procedures used to meet missions, goals, and objectives and, in doing so, supports performance-based management. Internal control also serves as the first line of defense in safeguarding assets and preventing and detecting errors and fraud." STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, Introduction at 4 (Nov. 1999).

EXECUTIVE SUMMARY

Key Findings

DOES has mechanisms in place to ensure that workers' compensation processes are impartial. Attorneys who represent clients with matters before DOES described agency processes as impartial. (Page 11) The OWC, AHD, and CRB work to ensure that claims examiners and Administrative Law Judges (ALJs) fairly apply the District's workers' compensation law, which purposely includes additional protections for claimants. DOES mechanisms to ensure impartiality include: random assignment of cases; impartial scheduling of conferences and hearings by staff members who are not familiar with claim information; managerial review of recommendations and decisions; and an appeals process. A majority of attorneys interviewed described workers' compensation processes in the OWC, AHD, and CRB as impartial. **Recommendation:** None.

Employee survey and interviews highlighted numerous operational concerns as well as areas of strength. (Page 12) A significant number of employees cited inconsistencies in the administration of disputed claims, inadequate training and resources to do their jobs, and deficiencies in systems used to track claims. Almost half of all employees responding to our survey were unaware of District government regulations against retaliation for reporting illegal or unethical acts. In addition, employees noted dissatisfaction with how work was distributed and managed, the sufficiency of policies and procedures, and the quality of the work environment. A strong majority of DOES employees indicated that DOES is committed to the fair, expeditious resolution of workers' compensation claims, and treats claimants, employers, and insurance companies fairly. **Recommendations:** (a) That the Director of DOES (D/DOES) ensure that all employees are adequately informed of protections for District employees who report illegal or unethical actions. (b) That the D/DOES develop and implement a plan, with the input of employees and their union, to address areas of concern identified in the survey such as insufficient resources, fair distribution of assignments, supervisor availability, and insufficient policies and procedures. (c) That the D/DOES identify and provide additional training opportunities for non-managerial employees in the OWD, AHD, and CRB.

Administrative Hearings Division has a significant backlog of cases in which decisions were more than a year late. (Page 17) The AHD has not met timeliness standards for issuing decisions on disputed claims. For fiscal year (FY) 2006, the AHD's performance fell just short of its key results goal of resolving 80% of requests for formal hearings within 120 working days. In addition, as of December 2006, decisions in 69 cases were over a year late. Interviewees stated that the delays are due to vacancies in ALJ and support staff positions. According to interviewees, DOES has difficulty hiring qualified ALJs because ALJs and attorneys in other District agencies receive higher salaries. Interviewees also stated that the District of Columbia Department of Human Resources (DHR) affords residency preferences greater weight than the District Personnel Manual (DPM) requires. The team's survey of attorneys who practice workers' compensation law in the District revealed concerns about the AHD's timeliness in issuing decisions in remanded⁵ cases, a performance measure that the AHD is not tracking. In

⁵ A remanded case is one that an appeals body has returned to a lower body with instructions for additional action or proceedings.

EXECUTIVE SUMMARY

addition, the AHD's case tracking software is outdated, which jeopardizes its ability to preserve information electronically for past cases. **Recommendations:** (a) That the D/DOES ask DHR to clarify in writing its interpretation and application of residency preferences with respect to DOES' ALJ positions. (b) That the D/DOES evaluate and quantify the need for additional paralegals, support staff, and law clerks within the AHD and attempt to expeditiously fill existing vacancies and any new positions. (c) That the D/DOES work with DHR to bring the pay scale for AHD ALJs in line with the pay scale applied to other District ALJs. (d) That the D/DOES ensure that the AHD database is transferred to a current database application in order to protect the integrity of data, as well as to improve performance tracking and reporting capabilities. (e) That the D/DOES establish a time frame for disposing of remanded cases and ensure that the AHD tracks and efficiently disposes of these cases.

Compensation Review Board eliminated a large, inherited backlog and was current on new cases. (Page 20) The CRB eliminated the backlog of cases it inherited from the Office of the D/DOES and was issuing timely decisions on new cases. However, the CRB may face the loss of some ALJs due to pay inequities and, consequently, a backlog might again become a problem. Replacing CRB ALJs may be problematic; AHD ALJs have no financial incentive to apply for CRB positions because they are paid at the same salary and grade. **Recommendation:** That the D/DOES work with the DHR to make the pay scale for CRB ALJs commensurate with that of other District appellate-level ALJs.

Timeliness of the Office of Workers' Compensation Processes

OWC met its FY 2006 goal for issuing timely Memoranda of Informal Conference. (Page 24) The OWC met its only key results measure: issuing 75% of Memoranda of Informal Conference within 20 working days of the Informal Conference. However, the OWC does not have written policies and procedures regarding the time frame for scheduling informal conferences. In addition, the OWC is not tracking its timeliness in scheduling informal conferences and other key OWC functions. The OWC plans to automate workflow tracking, but its current databases do not track office-wide performance of primary functions. **Recommendations:** (a) That the D/DOES expeditiously update the OWC procedures manual to include an explicit deadline for holding informal conferences. (b) That the D/DOES explore the feasibility of using the automated case management system to track all major OWC functions, including processing claims documents, scheduling informal conferences, and issuing Memoranda of Informal Conference. (c) That the D/DOES evaluate the costs and benefits of improving existing OWC databases to allow for better monitoring until workflow tracking is fully automated.

Other Management Issues

There is no comprehensive system for tracking complaints received by DOES. (Page 28) One DOES employee is responsible for tracking complaints concerning workers' compensation claims. This employee tracks only complaints from the Mayor's office, the Council of the District of Columbia, and members of Congress. There is no dedicated point of

EXECUTIVE SUMMARY

contact or system for tracking complaints from other sources. Although complaints from public officials are maintained in paper files, there is no searchable database or spreadsheet to track complaints lodged with the office. **Recommendation:** That the D/DOES acquire or develop a system to track complaints from all stakeholders from receipt through resolution.

OWC rarely uses mediation to resolve disputed cases. (Page 28) The OWC does not make full use of mediation as a tool to resolve workers' compensation claims. Employees stated that implementation of a mediation program has taken a backseat to the current focus on process automation and document scanning. However, increasing the number of cases resolved through mediation would reduce the number of cases requiring formal hearings, and would consequently allow the AHD to improve its timeliness. **Recommendation:** That the D/DOES finalize mediation regulations and train claims examiners in mediation as planned.

**OVERVIEW OF WORKERS'
COMPENSATION PROCESS**

OVERVIEW OF WORKERS' COMPENSATION PROCESS

Background

The Department of Employment Services (DOES) Labor Standards Bureau (LSB) manages the workers' compensation process for private sector employees who are injured in the District. According to the Office of Workers' Compensation (OWC) Annual Report for fiscal year (FY) 2005, DOES received 10,165 private sector workers' compensation claims.⁶ As part of the LSB, OWC claims processing units receive initial claims forms and related paperwork. Claimants are individuals who request payment for medical treatment and/or compensation for wages lost due to work-related injuries. Examiners in the claims processing units hold informal conferences in an effort to resolve disputes among employers, insurance carriers, and claimants.

Claims and Adjudication Process

When a private sector worker is injured on the job, both the worker and employer must report the injury to the OWC. Title 7 DCMR §§ 209.2 and 210.2 state that an employer has 14 working days after learning of an injury to begin voluntary payment, or to contest the claim by notifying the OWC and the claimant of its intention to not pay the claim. According to OWC's FY 2005 Annual Report, employers paid 90% of claims without contesting them.

Informal Conferences. In many contested cases, claimants request informal conferences in the OWC. These conferences address issues such as whether workers' compensation covers a particular injury, or the amount and type of benefit a claimant should receive. At any point during the informal conference process, a party may request a formal hearing and terminate the informal proceeding. If the claimant and the employer, or its insurance carrier, do not reach an agreement before or during the informal conference, the claims examiner evaluates the information presented by both parties, and issues recommendations in a document called a Memorandum of Informal Conference (Memorandum). Title 7 DCMR § 219.22 states that parties have 34 working days after a Memorandum is issued to contest its recommendations and request a formal hearing; otherwise, the OWC Memorandum becomes a binding compensation order.

Disputants may bypass the informal conference process entirely in favor of a formal hearing, a right which claimants are informed of prior to the commencement of an informal conference.

Formal Hearings. Claimants, employers, or insurance carriers who are not satisfied with the informal conference process can request a formal hearing through the Administrative Hearings Division (AHD) in the LSB. According to the AHD's Chief Administrative Law Judge (ALJ), 750 to 800 requests for formal hearings are made annually. ALJs stated that disputing parties frequently reach settlements and cancel scheduled hearings, often after ALJs have expended significant preparation time. The AHD proceedings are *de novo*, which means that the AHD hears cases from the beginning without consideration for what occurred during informal

⁶ DOES annually reports the total number of claims and other information to the Council of the District of Columbia as required by D.C. Code § 32-1502 (2001).

OVERVIEW OF WORKERS' COMPENSATION PROCESS

conferences held in the OWC. After the formal hearing, the ALJ hearing the case will issue a decision in the form of a compensation order.

Appeal Process. Disputants can appeal compensation orders issued by the OWC and the AHD to the LSB's Compensation Review Board (CRB). A CRB review is limited to an examination of a case's evidentiary record to determine whether decisions are based on substantial evidence, and whether they are in accordance with applicable law. The CRB can uphold, reverse, or remand a decision. Parties can appeal CRB decisions to the District of Columbia Court of Appeals.

**Findings and
Recommendations:**

KEY FINDINGS

KEY FINDINGS

1. DOES has mechanisms in place to ensure that the administration of workers' compensation cases is impartial. Attorneys who represent clients with matters before DOES described agency processes as impartial.

District regulations speak to a fundamental responsibility of the OWC and AHD to ensure fairness. Title 7 DCMR § 219.8 states, “The Office [of Workers’ Compensation] shall attempt to resolve disputes with respect to a claim in a manner designed to protect the rights of the interested parties at the earliest practicable date.” Title 7 DCMR § 223.5 further states, “[T]he procedures at the hearing generally, except as this chapter otherwise expressly provides, shall be in the discretion of the Hearing or Attorney Examiner and of the nature so as to afford the parties a reasonable opportunity for a fair hearing.”

The DOES Labor Standards Bureau (LSB) has various mechanisms in place to ensure that claims examiners and ALJs fairly apply workers’ compensation law and DOES procedures. These mechanisms include the random assignment of cases, impartial scheduling, managerial review of decisions, and an appeals process. In addition, employees emphasized in interviews and survey responses that the OWC, AHD, and CRB function and are managed independently from each other to ensure impartiality. The only interaction among units is that the AHD and the OWC provide case records to the CRB. Interviewees also stated that DOES management consistently emphasizes the importance of impartiality and the need to render decisions based on evidence. DOES management provided the inspection team with documentation of claims examiners’ and ALJs’ compliance with District financial disclosure regulations, which are intended to prevent conflicts of interest.

Eight of 20 attorneys contacted by the team completed a survey that included questions about the impartiality of the OWC, AHD, and CRB in administering disputed claims. The majority, which included equal numbers of claimants’ attorneys and attorneys for employers and insurance carriers, indicated their belief that DOES decisions were impartial.

Impartial Case Assignment

The random assignment of cases contributes to impartiality by ensuring that parties cannot select claims examiners or ALJs who they believe will favor them. The team observed the systems that the OWC, AHD, and CRB use to assign cases. The OWC computer system automatically generates unique claim numbers and assigns claims to examiners based on the claim number’s last two digits. For example, one claims examiner receives all claims that end in 00 through 05. In the AHD, an administrative staff member who has no knowledge of case specifics assigns new cases each week to ALJs on a rotating basis to ensure random distribution. Finally, the Chief ALJ in the CRB randomly assigns cases to panels of judges. The CRB has a Chief ALJ and four other ALJs who sit in three-judge panels to review cases, and each ALJ serves as panel chair for an equal number of cases.⁷

⁷ The Chief ALJ chairs fewer panels than other ALJs due to managerial responsibilities.

KEY FINDINGS

Impartial Scheduling of Conferences and Hearings

The team found that the system for scheduling informal conferences, formal hearings, and appeals is impartial. DOES interviewees stated that hearings and reviews are scheduled for the earliest available date regardless of whether they were requested by claimants, employers, or insurance carriers. According to DOES staff, the administrative employees who schedule informal conferences and formal hearings are not familiar with the details of the cases. Consequently, claimants, employers, and insurance carriers cannot receive unjustified expedited scheduling, nor be subjected to deliberate, unnecessary delays. Interviewees said that DOES impartially considers requests to postpone proceedings, such as requests for postponement to obtain additional medical evaluations, and does not grant postponements if they would cause unnecessary delay and harm to claimants. Workers' compensation attorneys surveyed were generally satisfied with the scheduling of informal conferences, formal hearings, and CRB reviews.

Safeguards During Case Review Processes

DOES' administration of disputed workers' compensation claims has multiple levels of review, and the appeals process ensures that cases can be overturned if they are not based on evidence or do not comply with the law. OWC and AHD managers review decisions prior to issuance. CRB ALJs who served in the AHD cannot review decisions for cases they ruled on while in the AHD. D.C. Code § 32-1521.01(b)(2001) requires that CRB decisions be made by majority vote in three-judge panels. Prior to the establishment of the CRB, individuals in DOES' Office of the General Counsel were responsible for appellate review of workers' compensation decisions, an arrangement that, according to interviewees, created a significant backlog of cases needing appellate review. The practice of using panels of ALJs to make decisions in the CRB represents an additional safeguard to impartiality, and an improvement in efficiency.

Recommendation:

None.

2. Employee survey and interviews highlighted numerous operational concerns as well as areas of strength.

In addition to conducting interviews, the team administered an anonymous and confidential written survey to DOES employees in order to solicit opinions regarding the timeliness, accuracy, and impartiality of claims processing, general management practices, and the work environment. (See Appendix 2.) Seventy-one employees in OWC, AHD, and CRB received the survey, and 45 (63%) responded. The survey results identified perceived weaknesses and strengths in the administration of the workers' compensation program. The results also reflected employee perceptions and concerns about some personnel management issues.⁸

⁸ The percentages in the paragraphs below have been rounded for ease of reading.

KEY FINDINGS

Areas of Operational Weaknesses

a. Significant numbers of employees indicated problems in disputed claims processing and adjudication areas.

Survey response percentages to some questions indicate employee concerns. For example, 36% of respondents expressed unfavorable opinions with respect to the consistency with which employees perform functions related to disputed claims. Forty-two percent of employees responded negatively when asked whether they received adequate training. Forty-four percent of responding employees did not feel they had the resources needed to perform their job. Fifty-six percent of responding employees felt that management acts quickly to correct problems with disputed claims, but another 24% did not know.

b. Some employees are apparently unaware of protections against retaliation for reporting illegal or unethical acts.

In response to the anonymous letter forwarded to the OIG from former D.C. Councilmember Patterson, which alleges that DOES management retaliates against outspoken staff members, two survey questions probed the topic. Forty-two percent of those surveyed agreed with the statement, “Employees who report or identify illegal and/or unethical actions are protected.” However, 20% disagreed, and 36% did not know. The survey asked employees who disagreed with this statement to explain why they disagreed with it, but none described any instances of retaliation. In response to the statement, “I am aware of the District’s policy that protects employees against retaliation for reporting illegal and/or unethical actions,” 51% agreed. However, 27% disagreed and 20% did not know, meaning that 47% of respondents were not aware of the District’s policy.

c. Responses show dissatisfaction with training, the work environment, employee morale, and insufficient policies and procedures.

Survey respondents, as noted above, as well as interviewees identified a need for additional training to improve employee performance. DOES records suggested that training specific to workers’ compensation for non-supervisory claims examiners and ALJs was limited in FY 2005 and FY 2006. OWC managers, but not OWC claims examiners, attended national workers’ compensation conferences. Many employees participated in courses focused on topics such as Management Supervisory Service requirements, diversity, and computer applications.

Forty-seven percent of survey respondents indicated that they did not have sufficient written policies and procedures. DOES managers stated that they are updating the OWC procedures manual. The team found that the CRB had very few written policies and procedures.

Employees’ negative responses to some survey questions and their written comments indicate dissatisfaction with the DOES work environment. Almost half of employee responses (49%) said that assignments are not fairly distributed or manageable. Respondents (47%) also cited a lack of clearly written policies and procedures covering duties and responsibilities, and 33% claimed a lack of supervisor availability. Interviewees noted that high caseloads in OWC

KEY FINDINGS

and AHD strained claims examiners and ALJs. Employees' written comments on the survey revealed that a substantial minority felt dissatisfied with their supervisors and believed they were not appropriately recognized for their work. In addition, some interviewees and survey respondents expressed frustration with the low productivity and motivation of other colleagues, particularly in claims processing units of the OWC.

The U.S. Government Accountability Office (GAO) report *Human Capital: Practices that Empowered and Involved Employees* (GAO-01-1070, September 2001) identified best practices that federal agencies are using to improve productivity and employee relations. According to this report, "[i]nvolving employee unions, as well as involving employees directly, is crucial to achieving success. . . . Obtaining union cooperation and support through effective labor-management relations can help achieve consensus on the planned changes, avoid misunderstandings, and more expeditiously resolve problems that occur."⁹ The information contained in this report may provide DOES with an opportunity to work with all of its employees and the AFGE to improve relations and productivity.

Area of Strength

d. A clear majority of employees believes DOES is committed to the fair and expeditious resolution of workers' compensation claims.

The highest percentages resulting from the OIG survey were from *favorable* responses to statements concerning fair treatment and timely actions on behalf of claimants, employers, and insurance companies: DOES is committed to a fair resolution of claims (89%); DOES is committed to quickly resolving claims (76%); claimants are treated fairly in compensation disputes (73%); and employers and insurance companies are treated fairly (71%).

Complete results of the multiple-choice questions from the OIG survey are shown in Table 1 on the following page.

⁹ *Id.* at 12.

KEY FINDINGS

**Table 1: Results¹⁰ of Survey
Administered to DOES Workers' Compensation Employees**

Question	Favorable	Unfavorable	Do Not Know	No Response
1. There are clear written policies and procedures that cover all aspects of my duties and responsibilities.	46.7%	46.7%	6.7%	0.0%
2. There is consistency in how different DOES employees perform functions related to disputed workers' compensation claims.	44.4%	35.6%	20.0%	0.0%
3. DOES employees who deal with disputed workers' compensation claims have adequate training to carry out their jobs.	44.4%	42.2%	13.3%	0.0%
4. There is effective coordination among the Office of Workers' Compensation, the Administrative Hearings Division, and the Compensation Review Board in relation to disputed workers' compensation claims. ¹¹	37.8%	33.3%	22.2%	6.7%
5. DOES employees who deal with workers' compensation know the time frames governing their work.	66.7%	20.0%	11.1%	2.2%
6. I have the resources that I need to do my job.	53.3%	44.4%	0.0%	2.2%
7. Assignments are fairly distributed and are manageable.	51.1%	48.9%	0.0%	0.0%
8. My supervisor is available to assist with work related issues.	62.2%	33.3%	0.0%	4.4%
9. I am aware of the District's policy that protects employees against retaliation for reporting illegal and/or unethical actions.	51.1%	26.7%	20.0%	2.2%
10. Employees who report or identify illegal and/or unethical actions are protected.	42.2%	20.0%	35.6%	2.2%
11. DOES treats claimants fairly when dealing with workers' compensation disputes.	73.3%	15.6%	8.9%	2.2%
12. DOES treats employers and/or insurance companies fairly when dealing with workers' compensation disputes.	71.1%	13.3%	13.3%	2.2%
13. DOES is committed to fairly resolving disputed workers' compensation claims.	88.9%	4.4%	4.4%	2.2%
14. DOES is committed to quickly resolving disputed workers' compensation claims.	75.6%	15.6%	4.4%	4.4%

¹⁰ Percentages for some categories do not total 100.0 due to rounding.

¹¹ Many employees commented that the three divisions are purposely separated to ensure impartiality and that the only coordination needed was for the AHD and the OWC to provide case records to the CRB.

KEY FINDINGS

DOES's Response, as Received:

Agree with Comment: Training opportunities during this calendar year have been identified.

3. The AHD had a significant backlog of cases in which decisions were more than a year late.

Time Frames for Formal Hearings

D.C. Code § 32-1520 (c) (2001) states that the AHD has 90 days to hold a formal hearing after receiving a request for one, and that the ALJ for the case has 20 days after the hearing to issue a decision in the form of a compensation order. DOES managers said that issuing a decision within 20 days of a hearing is not realistic because the ALJ hearing the case often must wait up to 10 working days after the hearing for a transcript of the proceedings. In addition, an ALJ may keep the record open after a hearing to allow parties to submit additional evidence.

Recent Performance Results

The team found that the AHD had a significant backlog of cases. According to a memorandum from the Chief ALJ of the AHD, as of June 30, 2006, the AHD had a total of 104 private sector cases that had not been resolved within 120 working days. As of December 20, 2006, decisions in 41 of its backlogged cases were over 1 year late. A majority of workers' compensation attorneys surveyed stated that delays in AHD decisions after hearings are held are the greatest problem in DOES' administration of workers' compensation processes.

For FY 2006, the AHD's goal was to resolve 80% of cases within 120 working days of receiving an application for a formal hearing. According to DOES documents provided to the team, for FY 2006 the AHD resolved 79% of 769 cases within 120 working days.

Staffing and Compensation Problems

DOES managers and employees, as well as workers' compensation attorneys who deal with DOES, stated that the AHD backlog is due to staffing problems. DOES documents showed that 6 of 11 ALJ positions in the AHD were vacant for most of 2005. DOES anticipated that the addition of four recently hired ALJs will improve the AHD's timeliness. However, two ALJ positions, including that of the Chief ALJ, were still vacant as of December 2006. ALJs and outside attorneys interviewed stated that the AHD also needs more paralegals. The AHD also had one vacant administrative support position as of December 2006.

DOES managers and other interviewees expressed frustration with the District of Columbia Department of Human Resources' (DHR) hiring process. DOES management expressed frustration particularly with DHR's interpretation of residency requirements and the low qualifications of many ALJ position applicants referred to DOES by DHR. DOES

KEY FINDINGS

management said that DHR would not let the agency hire a well-qualified, non-resident for an ALJ position if there was a resident who met the minimum qualifications for the position. Several interviewees said that the D.C. area has a relatively small population of workers' compensation attorneys, who, according to DOES, often are the best ALJ candidates, and that restricting hiring to D.C. residents eliminates many qualified candidates from consideration. DOES management said that the agency is continuing to work with DHR to resolve these concerns.

Interviewees stated that the establishment of the CRB exacerbated the AHD's staffing problems, because three of the most knowledgeable ALJs from the AHD transferred to the CRB when it was created in 2005.¹³

Interviewees also said that the comparatively low pay of DOES' ALJs creates a barrier to attracting and retaining qualified ALJs. ALJs in the AHD and CRB are paid less than attorneys and other ALJs elsewhere in the District government. Workers' compensation ALJs are on the Career Service pay scale, while most other District ALJs and attorneys are on the Legal Service pay scale. ALJ positions require more expertise and experience than attorney positions. Workers' compensation ALJs are not part of the Office of Administrative Hearings (OAH), which holds most administrative hearings in the District and uses the Legal Service pay scale, because workers' compensation law requires specialized legal expertise. According to the National Association of Administrative Law Judges, "[g]enerally, administrative law judges should, within a jurisdiction, be uniformly titled and comparably classified and compensated, regardless of the type of cases they hear."¹⁴ One DOES employee stated that some workers' compensation ALJs were seeking ALJ positions with higher salaries outside the agency.

Recent increases in the Career Service pay scale did not equalize pay among ALJs. The salary increases that AHD and CRB ALJs received did not result in parity with Legal Service salaries. Many Career Service employees, including AHD and CRB ALJs, were moved down in step to the closest level that would provide at least a 3% increase over their previous salary.¹⁵ In addition, Legal Service salaries are greater than Career Service salaries for the same grades for FY 2006 and FY 2007.

Management stated that there is potential for alleviating some of the ALJs' workload by creating a program that would use law students as clerks in the OWC, AHD, and CRB.

¹³ D.C. Code § 1521.01(a)(2)(2001) requires the CRB to select its ALJs from the Office of Hearings and Adjudication (OHA), which consists of the AHD and the CRB.

¹⁴ NATIONAL ASSOC. OF ADMINISTRATIVE LAW JUDGES, SURVEY OF ADMINISTRATIVE LAW JUDGE SALARIES (1997), reprinted in ADMINISTRATIVE PROCEDURE DATABASE (Florida State University College of Law 2001), available at <http://www.law.fsu.edu/library/admin/salsurvey.html> (last accessed Oct. 24, 2006)

¹⁵ See Release, D.C. Department of Human Resources, Most Non-Union Employees to Receive Pay Parity Salary Increases (Sept. 18, 2006), available at <http://newsroom.dc.gov/show.aspx/agency/dcop/section/2/release/8782/year/2006>.

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Other Areas Needing Improvement

The AHD uses a database of case information to monitor the percentage of cases that are resolved within 120 working days. This 120-working-day period is the AHD's only key results measure. It begins when the AHD receives a request for a formal hearing and ends when the AHD issues a written decision. The AHD produces quarterly reports for the D/DOES showing the number of backlogged private and public sector cases,¹⁶ the length of time they are overdue, and the ALJ responsible for each case.

The AHD's data tracking system is outdated. In addition, AHD management does not track the timeliness of cases remanded by the CRB, Office of the D/DOES, and the D.C. Court of Appeals.¹⁷ Staff members said that the AHD case-tracking database uses software that no longer has technical support through the manufacturer, has limited analytic capability, and does not automatically generate reports. The Chief ALJ can only use the database to prepare basic reports. In addition, the AHD is at risk of losing data unless it switches to a more current, reliable application. AHD employees said an IT contractor hired by DOES attempted to transfer data to another application, but could not transfer the information for many past cases.

Employees stated that the AHD does not track the timeliness of the AHD as a whole in issuing decisions for remanded cases. They stated that remanded cases at DOES are a lower priority than new cases, do not have a statutory deadline, and are not included in the key results measure for the AHD. One workers' compensation attorney expressed frustration with the AHD's backlog of remanded cases.

Recommendations:

- a. That the D/DOES ask DHR to clarify in writing its interpretation and application of residency preferences with respect to DOES' ALJ positions.

Agree Disagree

- b. That the D/DOES evaluate and quantify the need for additional paralegals, support staff, and law clerks within the AHD and attempt to expeditiously fill existing vacancies and any new positions acquired.

Agree Disagree

DOES's Response, as Received:

Agree with Comment: Since the date of this Special Evaluation, the Administrative Hearings Division (AHD) has increased the number of full time equivalent (FTE) Administrative Law Judge (ALJ) positions to fourteen (14), and are currently staffed at that level. AHD

¹⁶ The public sector cases, which are disability compensation cases involving D.C. government employees, represent a small percentage of the AHD's total caseload.

¹⁷ When an appeals body remands a case, it sends it back to a lower body with instructions for additional action or proceedings.

KEY FINDINGS

anticipates an increase in ALJ/FTEs to not less than sixteen (16) in fiscal year 2008. AHD also anticipates an increase in paralegal support FTEs from two (2) to not less than four (4).

- c. That the D/DOES work with the DHR to bring the pay scale for AHD ALJs in line with the pay scale applied to other District ALJs.

Agree Disagree

DOES's Response, as Received:

Agree with Comment: DOES Administrative Law Judges are excluded from the Legal Service (LS); and, therefore, are paid in accordance with the DS pay scale. As such, DOES ALJs are paid at a lower rate than their counterpart at the Office of Administrative Hearings, who are paid in accordance with the LS pay scale.

- d. That the D/DOES ensure that the AHD database is transferred to a current database application in order to protect the integrity of data, as well as to improve performance tracking and reporting capabilities.

Agree Disagree

- e. That the D/DOES establish a time frame for disposing of remanded cases and ensure that the AHD tracks and efficiently disposes of these cases.

Agree Disagree

DOES's Response, as Received:

Agree with Comment: AHD currently uses the time frames established for compensation orders for resolution of remands from the Board. Use of this standard allows the ALJ to review the decision and remand order of the Board, determine what (if any) further proceeding is necessary, collect additional evidence or schedule a supplemental hearing (if necessary), close the record and issue the order on remand. In all instances, the expectation is that an order will issue promptly following the Hearing Record Close Date.

4. The CRB eliminated a large backlog and was current on new cases.

In 2004, the City Council created the CRB to improve DOES' appellate review of workers' compensation decisions, a function that was previously the responsibility of the General Counsel within the Office of the D/DOES. The CRB began reviewing cases in February 2005, eliminated the backlog of cases it received from the Office of the D/DOES and, during the period of the inspection, was current on new cases.

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Case Review Time Frames

Once it receives an application for review, the CRB must retrieve the official record of the case and give the other party an opportunity to respond. According to Title 7 DCMR § 259.4, the OWC or the AHD has 7 working days after a request for a review to provide the official record of the case to the CRB.

Title 7 DCMR § 259.6 states:

When the Clerk has received the official record of the case and the response from the party(ies) opposing the Application for Review, but in no event later than fifteen (15) working days from the date of receipt of the Application for Review, the Clerk of the [Compensation Review] Board shall certify to the Chief Administrative Appeals Judge that the appeal is perfected.

Interviewees stated that once the appeal is perfected,¹⁸ it is assigned to a panel of ALJs for consideration. D.C. Code § 32-1521.01(d)(3) states that a panel is to “[m]ake its disposition within 30 days of being assigned the application for review.” According to the Mayor’s FY 2007 budget, the CRB will implement in FY 2007 a key results measure goal of deciding 80% of cases within 45 working days from the date of an appeal (i.e., the date on which the application for review is filed.)

Performance Results

According to DOES documents, in early 2005 the CRB inherited 233 cases from the Office of the D/DOES. The CRB eliminated that backlog by September 30, 2006. Cases received during the third quarter of FY 2006 were resolved in approximately 37 working days. Some workers’ compensation attorneys surveyed said that the CRB is resolving new requests for review rapidly. Interviewees stated that the establishment of the CRB was a positive development. The CRB is issuing decisions more rapidly than its predecessor, the Office of the D/DOES.

Case Tracking Mechanisms

The team reviewed the mechanisms that the CRB had in place to monitor its disposition of cases. The CRB creates quarterly reports for the D/DOES regarding both its progress in reducing backlogged cases and its resolution of current cases. The team also observed the CRB case-tracking database. The database included dates on which requests for review were received, when the CRB received evidentiary records, when cases were assigned to panels, and when cases were resolved.

¹⁸ ALJs stated that appeals are “perfected,” meaning ready for review, once the CRB has received the official record for the case and the party not requesting the review has either submitted a response or has failed to respond within 15 working days.

KEY FINDINGS

Area Needing Improvement

Salary issues increase the risk that the CRB will not be able to recruit and retain ALJs. Pay discrepancies between workers' compensation ALJs and ALJs elsewhere in District government may affect CRB's retention of these employees. One DOES employee indicated that some CRB ALJs were seeking higher paying positions. The Chief ALJ of the CRB expressed concern that the CRB ALJs were at the same grade as senior AHD ALJs even though the CRB is a higher judicial level. Consequently, there is no financial incentive for ALJs to increase their productivity in the AHD in hopes of receiving a promotion to the CRB. These recruitment and retention problems have the potential to diminish the CRB's timeliness.

Recommendation:

That the D/DOES work with DHR to make the pay scale for CRB ALJs commensurate with the pay scale for other District appellate-level ALJs.

Agree _____ **X** _____ Disagree _____

DOES's Response, as Received:

Agree with Comment: DOES Administrative Law Judges are excluded from the Legal Service (LS); and, therefore, are paid in accordance with the DS pay scale. As such, DOES ALJs are paid at a lower rate than their counterpart at the Office of Administrative Hearings, who are paid in accordance with the LS pay scale.

**Findings and
Recommendations:**

**TIMELINESS OF OFFICE OF
WORKERS' COMPENSATION
PROCESSES**

TIMELINESS OF OFFICE OF WORKERS' COMPENSATION PROCESSES

The team examined the timeliness of the OWC, AHD,¹⁹ and CRB in administering workers' compensation cases. Although timeliness is important to all stakeholders, it is particularly important to injured workers. Many workers' compensation claimants have no income because they are unable to work, and delays in claims processing and hearing decisions prevent them from receiving payments necessary to their livelihood.

5. The OWC met its FY 2006 goal for issuing timely Memoranda of Informal Conference.

Document Processing and Informal Conference Time Frames

Title 7 DCMR § 219.8 states: "The Office [of Workers' Compensation] shall attempt to resolve disputes with respect to a claim in a manner designed to protect the rights of the interested parties at the earliest practicable date." The OWC policies and procedures manual states that the average time for scanning claim forms, supporting documentation, and related correspondence into the document management system should be 48 hours or less. There is no statutory requirement governing when informal conferences should be held, but OWC managers stated that the office has a self-imposed deadline of holding a conference within 30 calendar days of a request. OWC has a policy that a Memorandum of Informal Conference should be issued to the parties within 20 working days after the conference.

Performance Results

According to DOES documents, the OWC regularly meets its goal of issuing 75% of Memoranda of Informal Conference within 20 working days of the date of the informal conference. In FY 2005, the OWC timely issued 91% of 872 Memoranda of Informal Conference. In FY 2006, the OWC issued 86% of 716 Memoranda of Informal Conference within 20 working days.

Mechanisms to Track Timeliness

The OWC has mechanisms in place to track the timeliness of some of its functions. It tracks the percentage of Memoranda of Informal Conference issued within 20 working days, which is one of the key results measures for DOES. OWC employees enter into a database the dates informal conferences were held and the dates Memoranda of Informal Conferences were issued in order to calculate the elapsed time.

The OWC also tracks each claims examiner's timeliness and productivity. According to DOES employees, each claims examiner has an electronic task list showing assignments and due dates. DOES supervisors monitor these task lists, which automatically alert them to overdue items. Claims examiners have 10 working days to complete Memoranda of Informal Conference within the 20-working-days goal of the OWC. This is to ensure that supervisors have adequate time to review the recommendations before they are issued to the disputing parties. The OWC provided the team with the documentation used to evaluate the timeliness of claims examiners'

¹⁹ The timeliness of AHD processes is examined in the Key Findings section of this report.

TIMELINESS OF OFFICE OF WORKERS' COMPENSATION PROCESSES

completion of Memoranda of Informal Conference, approval of lump-sum settlements, and review of stipulations.²⁰ The OWC monitors individual claims examiners' performance, but not office-wide performance, with respect to timely review of lump-sum settlements and stipulations.

The OWC is in the process of computerizing many of its systems in order to speed claims processing. DOES employees stated that the OWC has made substantial progress in automation over the past 5 years. One DOES employee said, "You have to understand where we used to be in our processes in order to understand our excitement about automation." The OWC had been heavily paper-based, with "millions of pieces of paper," and an outdated mainframe computer system. According to its procedures manual, the OWC receives 1,000 to 2,000 pieces of mail per day, but document imaging has improved the process. The electronic document storage system allows OWC employees to find documents quickly and reduces the number of lost documents.

The team observed the scanning and storing of claim forms (such as employers' first reports of injuries) and supporting documents (such as medical reports) into the OWC computer system. Clerical employees scan forms, enter additional data into the system, and create electronic labels or identifiers to index supporting documents. OWC employees are then able to retrieve specific claims and documents by searching the database using fields such as the claimant's name, date of injury, or type of injury.

The OWC plans additional automation that will allow claimants and employers to submit reports of injury and other forms directly to DOES using the Internet. This will reduce data entry demands on OWC personnel. DOES also plans to track workflow automatically to allow supervisors to better monitor productivity and to quickly obtain the status of an individual claim. Supervisors will have an electronic system to review, comment on, and approve claims examiners' recommendations for Memoranda of Informal Conference.

Areas Needing Improvement

The OWC case management system does not measure the timeliness of key functions except for the issuance of Memoranda of Informal Conference. For example, the OWC does not track how long it takes to scan claims documents and enter claims information, although OWC managers stated that they believe most documents are processed within 2 days of receipt. Additionally, the OWC does not track the length of time between a request for an informal conference and the date of the conference, and has no mechanisms for doing so. OWC managers said that they believe most informal conferences are held within the office's stated goal of 30 calendar days, although there is no system for tracking this information or verifying this statement. DOES managers stated that the OWC is in the process of revising its procedures manual, and that the updated manual will include the 30-day time frame for holding informal conferences.

²⁰ A lump-sum settlement is an agreement between the parties for the employer or insurance carrier to make one payment to resolve a claim. A stipulation is an agreement between parties regarding one or more aspects of a case that has other areas in dispute.

TIMELINESS OF OFFICE OF WORKERS' COMPENSATION PROCESSES

The team observed OWC employees using computer-based tools to track the timeliness of some tasks. However, OWC databases do not have the capacity to create reports on office-wide timeliness in processing claims documents or in scheduling informal conferences. An OWC supervisor manages the databases but lacks the time and technical expertise necessary to improve them. Interviewees stated that planned improvements to the automated system should give the OWC the capacity to track office-wide performance for more functions than currently in place.

Recommendations:

- a. That the D/DOES expeditiously update the OWC procedures manual to include an explicit deadline for holding informal conferences.

Agree Disagree

- b. That the D/DOES explore the feasibility of using the automated case management system to track all major OWC functions, including the processing of claims documents, the scheduling of informal conferences, and the issuance of Memoranda of Informal Conference.

Agree Disagree

DOES's Response, as Received:

Agree with Comment: Tracking all major functions is included in the next phase of the development of the Integrated Compensation Information System (ICIS).

- c. That the D/DOES evaluate the costs and benefits of improving existing OWC databases to allow for better monitoring until workflow tracking is fully automated.

Agree Disagree

DOES's Response, as Received:

Disagree with Comment: The RFQ for the completion of the Integrated Compensation Information System was issued June 13, 2007 and closes on June 27, 2007. The scope of work encompasses the objectives of the recommendations in both b. and c. above. To develop further databases outside of ICIS at this point would be duplicative and not cost effective.

**Findings and
Recommendations:**

OTHER MANAGEMENT ISSUES

OTHER MANAGEMENT ISSUES

6. There is no comprehensive system to track complaints received by DOES.

The team found that DOES has no database or other comprehensive system for tracking complaints it receives concerning its administration of the workers' compensation program. One DOES employee is responsible for responding to complaints that the Mayor, D.C. Council members, and members of Congress direct to DOES. This employee stated that there are paper files for these complaints, but there is no computerized tracking tool. There was no designated point of contact or tracking system for complaints that are not from public officials. Having a database for all workers' compensation complaints would allow DOES to track patterns of complaints, and help ensure that complaints are not overlooked or lost. Such a system could include the dates complaints are received; names of complainants; whether complainants are claimants, employers, or insurance carriers; descriptions of complaints; dates complaints are resolved or if complaints are not resolved; and who was responsible for resolving each complaint.

Recommendation:

That the D/DOES acquire or develop a comprehensive, searchable system to track stakeholders' complaints from receipt through resolution.

Agree _____ **X** _____ Disagree _____

7. OWC rarely uses mediation to resolve disputed cases.

Several DOES employees and workers' compensation attorneys stated that DOES should fully implement a mediation program to improve its effectiveness in resolving claims without the need for formal hearings. Interviewees stated that the OWC could engage in mediation as part of the informal conference process to reach an agreement between the parties, but that the OWC functions mainly in a quasi-judicial capacity. In the current informal conference process, claims examiners weigh the evidence from both sides and issue recommendations. Mediation would assist parties in reaching agreements that satisfy both sides, and reduce the number of cases in which parties request formal hearings because they were dissatisfied with the outcomes of informal conferences. The OWC rarely mediates because it lacks mediation procedures and employees who have the appropriate training. Parties request formal hearings in most of the cases that the OWC hears in informal conferences.

According to an OWC manager, DOES was planning to add mediation to OWC's services. The OWC completed draft mediation regulations with the input of stakeholders. DOES staff said that the agency had not finalized the proposed regulations and had not trained claims examiners in mediation because the automation project was the OWC's main priority. Increasing the number of cases that the OWC resolves through mediation would reduce the number of cases that go through the AHD's longer formal hearing process, which had a substantial backlog of cases.

OTHER MANAGEMENT ISSUES

Recommendation:

That the D/DOES finalize mediation regulations and train claims examiners in mediation as planned.

Agree _____ **X** _____ Disagree _____

DOES's Response, as Received:

Agree with Comment: Mediation is a topic currently under discussion with the workers' compensation stakeholders' taskforce. It appears that the feeling of the attorneys is that mediation should be a mandatory step in the formal hearing process, similar to the way that it is accomplished in many of the court systems. Further, it is questionable that mediation could be made compulsory at the OWC (informal) level and would therefore remain voluntary. In summary, the outcome of the consensus between the stakeholders and DOES representatives will determine the direction of mediation in the adjudication process.

APPENDICES

APPENDICES

Appendix 1: List of Findings and Recommendations

Appendix 2: Sample Employee Survey

APPENDIX 1

APPENDICES

Key Findings:

1. **DOES has mechanisms in place to ensure that the administration of workers' compensation cases is impartial. Attorneys who represent clients with matters before DOES described agency processes as impartial.**

No recommendations.

2. **Employee survey and interviews highlighted numerous operational concerns as well as areas of strength.**

- a. **Significant numbers of employees indicated problems in disputed claims processing and adjudication areas.**

- b. **Some employees are apparently unaware of protections against retaliation for reporting illegal or unethical acts.**

That the DOES ensure that all employees are adequately informed of protections for District employees who report illegal or unethical actions.

- c. **Responses show dissatisfaction with training, the work environment, employee morale, and insufficient policies and procedures.**

That the D/DOES develop and implement a plan, with the input of employees and their union, to address areas of concern identified in the survey such as insufficient resources, fair distribution of assignments, supervisor availability, and insufficient policies and procedures.

That the D/DOES identify and provide additional training opportunities for non-managerial employees in the OWD, AHD, and CRB.

- d. **A clear majority of employees believe DOES is committed to fair and expeditious resolution of workers' compensation claims.**

3. **Administrative Hearings Division had a significant backlog of cases in which decisions were more than a year late.**

- a. That the D/DOES ask DHR to clarify in writing its interpretation and application of residency preferences with respect to DOES' ALJ positions.

- b. That the D/DOES evaluate and quantify the need for additional paralegals, support staff, and law clerks within the AHD and attempt to expeditiously fill existing vacancies and any new positions acquired.

- c. That the D/DOES work with the DCOP to bring the pay scale for AHD ALJs into line with that for other District ALJs.

APPENDICES

- d. That the D/DOES ensure that the AHD database is transferred to a current database application in order to protect the integrity of data, as well as to improve performance tracking and reporting capabilities.
- e. That the D/DOES establish a time frame for disposing of remanded cases and ensure that the AHD tracks and efficiently disposes of these cases.

4. Compensation Review Board eliminated a large backlog and was current on new cases.

That the D/DOES work with DHR to make the pay scale for CRB ALJs commensurate with the pay scale for other District appellate-level ALJs.

Timeliness of the Office of Workers' Compensation Process:

5. Office of Workers' Compensation (OWC) met its FY 2006 goal for issuing timely Memoranda of Informal Conference.

- a. That the D/DOES expeditiously update the OWC procedures manual to include an explicit deadline for holding informal conferences.
- b. That the D/DOES explore the feasibility of using the automated case management system to track all major OWC functions, including the processing of claims documents, the scheduling of informal conferences, and the issuance of Memoranda of Informal Conference.
- c. That the D/DOES evaluate the costs and benefits of improving existing OWC databases to allow for better monitoring until workflow tracking is fully automated.

Other Management Issues:

6. There is no comprehensive system to track complaints received by DOES.

That the D/DOES acquire or develop a comprehensive, searchable system to track stakeholders' complaints from receipt through resolution.

7. OWC rarely uses mediation to resolve disputed cases.

That the D/DOES finalize mediation regulations and train claims examiners in mediation as planned.

APPENDIX 2

APPENDICES

YOU ARE NOT REQUIRED TO PUT YOUR NAME ON THIS SURVEY

The Office of the Inspector General (OIG), Inspections and Evaluations Division, is conducting this survey as part of a special evaluation of how DOES resolves disputed private sector workers' compensation claims. Use the legend below in answering the survey items. Write any comments that you have next to each question or on a separate sheet. Your comments will be kept anonymous, so be as candid as possible and feel free to address any issue not covered by the survey. Your clear, detailed comments will help the OIG team accurately understand your perspective.

PLEASE COMPLETE BOTH SIDES OF EACH PAGE, PLACE IT IN THE ATTACHED ENVELOPE, SEAL IT, AND RETURN IT TO OUR OFFICE BY:

1. MAILING IT TO THE OFFICE OF THE INSPECTOR GENERAL, INSPECTIONS AND EVALUATIONS DIVISION, 717 14TH ST., NW, SUITE 500, WASHINGTON, DC 20005; or
2. PLACING IT IN AN OIG LOCKBOX (ONE IS LOCATED IN THE RECEPTION AREA NEAR THE ELEVATORS ON THE WEST SIDE OF THE SECOND FLOOR OF 64 NEW YORK AVE., NE); or
3. GIVING IT DIRECTLY TO AN OIG INSPECTOR.

ALL SURVEYS SHOULD BE RETURNED BY MONDAY, JULY 10, 2006

Legend: A. STRONGLY AGREE B. AGREE C. DISAGREE
 D. STRONGLY DISAGREE E. DON'T KNOW

1. There are clear written policies and procedures that cover all aspects of my duties and responsibilities.
2. There is consistency in how different DOES employees perform functions related to disputed workers' compensation claims.
3. DOES employees who deal with disputed workers' compensation claims have adequate training to carry out their jobs.
4. There is effective coordination among the Office of Workers' Compensation, the Administrative Hearings Division, and the Compensation Review Board in relation to disputed workers' compensation claims.
5. DOES employees who deal with workers' compensation know the timeframes governing their work.

APPENDICES

Legend: A. **STRONGLY AGREE** B. **AGREE** C. **DISAGREE**
 D. **STRONGLY DISAGREE** E. **DON'T KNOW**

- 6. I have the resources that I need to do my job.

- 7. Assignments are fairly distributed and are manageable.

- 8. My supervisor is available to assist with work related issues.

- 9. I am aware of the District's policy that protects employees against retaliation for reporting illegal and/or unethical actions.

- 10. Employees who report or identify illegal and/or unethical actions are protected. (If you disagree, please explain.)

- 11. DOES treats claimants fairly when dealing with workers' compensation disputes. (If you disagree, please explain.)

- 12. DOES treats employers and/or insurance companies fairly when dealing with workers' compensation disputes. (If you disagree, please explain.)

APPENDICES

Legend: A. STRONGLY AGREE B. AGREE C. DISAGREE
 D. STRONGLY DISAGREE E. DON'T KNOW

13. DOES is committed to fairly resolving disputed workers' compensation claims.

14. DOES is committed to quickly resolving disputed workers' compensation claims.

15. Systems are in place to ensure that management is aware of any problems, such as errors or delays, in handling disputed workers' compensation claims. (If you disagree, please explain.)

16. Management acts quickly to correct problems in resolving disputed workers' compensation claims. (If you disagree, please explain.)

17. The system for tracking disputed workers' compensation claims is accurate. (If you disagree, please explain.)

18. The system for tracking disputed workers' compensation claims collects all of the information it should. (If you disagree, please explain.)

APPENDICES

Please write your responses to the following questions.

19. When do delays occur in DOES processes for resolving and hearing disputed workers' compensation claims?

20. How should DOES improve how it resolves workers' compensation claims (including through informal conferences, formal hearings, and the Compensation Review Board)?

Additional comments:

Thank You

