

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

**AUDIT OF THE DISTRICT OF
COLUMBIA EMPLOYEE DISABILITY
COMPENSATION PROGRAM**



**CHARLES J. WILLOUGHBY
INSPECTOR GENERAL**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



April 23, 2007

Kelly Valentine
Interim Chief Risk Officer
Office of Risk Management
One Judiciary Square
441 4th Street N.W., Suite 800
Washington, DC 20001

Dear Ms. Valentine:

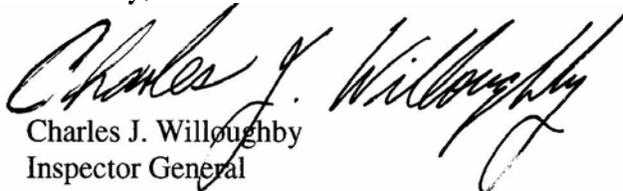
Enclosed is the final audit report summarizing the results of the Office of the Inspector General's (OIG) Audit of the District of Columbia Employee Disability Compensation Program (OIG No. 06-1-07BG).

As a result of our audit, we directed eight recommendations to the Office of Risk Management (ORM) for necessary action to correct the described deficiencies. We received a response from ORM to the draft report on April 2, 2007. ORM concurred with six of the eight recommendations and disagreed with Recommendations 1 and 6.

We have re-examined our facts and conclusions and determined that the report is fairly presented. Accordingly, we ask that ORM reconsider its position on Recommendations 1 and 6. Additionally, we request that ORM provide us target completion dates for planned corrective actions on Recommendations 1, 6, and 8 and a more specific completion date for Recommendation 2 within 30 days of the date of this report. The complete text of ORM's response is included in exhibit C.

We appreciate the cooperation and courtesies extended to our staff during the audit. If you have questions, please contact William J. DiVello, Assistant Inspector General for Audits, at (202) 727-2540.

Sincerely,


Charles J. Willoughby
Inspector General

CJW/ws

Enclosure

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**AUDIT OF THE DISTRICT OF COLUMBIA
EMPLOYEE DISABILITY COMPENSATION PROGRAM**

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EXECUTIVE SUMMARY

OVERVIEW

The District of Columbia Office of the Inspector General (OIG) has completed an audit of the District of Columbia Employee Disability Compensation Program (Disability Comp Program). This audit was included in our *Fiscal Year (FY) 2007 Audit and Inspection Plan*. The audit was initiated due to complaints alleging inappropriate management practices by the Office of Risk Management (ORM) and the Third Party Administrator (TPA) of the Disability Comp Program.

The overall audit objective was to determine whether rules published by the District concerning the termination, suspension, and reduction of disability compensation benefits for District employees were followed.

CONCLUSIONS

The audit found that the Disability Comp Program continues to be at risk for significant fraud, waste, and abuse. We found that the TPA failed to adequately manage disability claims. Specifically, the TPA failed to review and monitor claims for continued eligibility, perform timely follow-up and appropriate case management actions, and conduct supervisory reviews on processed claims. In addition, ORM did not exercise sufficient management oversight to ensure that the TPA efficiently and effectively managed disability claims. As a result, the TPA missed opportunities to return disability claimants to the workforce or remove them from the Disability Comp Program and, therefore, failed to reduce program costs by as much as \$3.3 million annually.

We also found that claimants who had returned to work, or who were collecting retirement benefits, continued to receive disability compensation payments. As a result, we estimate that the Disability Comp Program losses total as much as \$1.1 million annually due to inappropriate disability compensation payments.

Lastly, we found that ORM and the TPA lacked procedures to account for claimant's health and/or life insurance benefits. As a result, claimants had no assurance that their health and/or life insurance benefits were properly accounted for or whether their health and/or life insurance coverage was active or lapsed.

A list of the complainants' allegations and the results of our review of each allegation is shown in Exhibit B.

On September 28, 2006, we issued Management Alert Report (MAR) No. 06-A-11 to inform the ORM Interim Chief Risk Officer that subcontractor costs had been improperly charged to the District by the TPA. In the MAR, we recommended that ORM: (1) determine the amount of unallowable charges paid by the District and recoup the payments made for unallowable nurse case management services from the TPA; (2) require that subcontractor

EXECUTIVE SUMMARY

costs be reported separately on the pre-fund report from disability compensation payments and medical costs; and (3) establish procedures to ensure that the TPA requests prior approval for services that are allocated loss adjustment expenses prior to initiating services. This report is the second of two audits covering the Disability Comp Program.

ORGANIZATIONAL COLLABORATION WITH OTHER DISTRICT AGENCIES

The Disability Comp Program is a city-wide program that needs the cooperation of all District agencies in order to operate effectively and efficiently. During the course of our audit, we identified key agencies that could be an asset to ORM and the TPA in administering the Disability Comp Program. These agencies are the District of Columbia's Office of Personnel (DCOP); the Office of Pay and Retirement Services (OPRS), Office of the Chief Financial Officer; and the Department of Employment Services (DOES). In addition, maintaining continuous communication with employers¹ could be an effective tool in returning claimants to the work force as soon as medically feasible.

DCOP, OPRS, and DOES can provide ORM with reliable information to provide efficient services to claimants, as well as prevent fraud and abuse of the Disability Comp Program by claimants. DCOP can provide the TPA with each claimant's salary, elected benefits, and current employment status. OPRS can confirm if a claimant is receiving a salary from the District while collecting disability compensation. Additionally, DOES can confirm whether a claimant, who is no longer employed with the District, is receiving unemployment compensation, which would be grounds for terminating the claimant's disability compensation.²

A continuous dialogue with claimants' employers is essential, especially in determining whether claimants can return to work. ORM should continuously communicate to employers the importance of offering light and modified duty to those claimants who can return to work with restrictions. ORM should also encourage employing agencies to be more involved in their injured employees' cases and not allow agencies to forget their claimants. This is a challenge for ORM because the employing agency is often unaware of the cost of claimants who remain on disability for many years.

¹ Employers are the agencies where the claimants were employed prior to sustaining a work-related injury.

² An individual receiving disability compensation payments has made a claim that due to a work-related injury he/she is unable to work. In order to file and receive unemployment compensation, the unemployed individual must be physically able to work, available to work, and actively seeking employment. *See* (D.C. Code § 51-109) (2001). Therefore, an individual who files for unemployment while receiving disability compensation is no longer eligible for disability compensation.

EXECUTIVE SUMMARY

SUMMARY OF RECOMMENDATIONS

We directed eight recommendations to ORM to improve the conditions noted, initiate essential internal controls, and reduce inappropriate and unnecessary costs to the Disability Comp Program. The recommendations center, in part, on improving the oversight of the TPA's administration of the Disability Comp Program and ensuring that all disability claims are adequately managed. Elements of increased oversight include reducing Disability Comp Program costs related to fraud and abuse by disability claimants and establishing procedures to perform periodic verification checks of payroll records at OPRS, as well as retirement records at the U.S. Office of Personnel Management, to detect employees receiving dual payments. Other oversight actions include requiring claimants to acknowledge in writing their understanding that the District's laws prohibit receipt of salary or other compensation from the District of Columbia while receiving disability payments, prior to the city initiating disability compensation payments.

Additionally, we recommended that ORM address the lack of accounting of disability claimants' health and/or life insurance benefits and provide disability claimants with a record that shows the pay deductions for health and/or life insurance benefits.

A summary of the potential benefits resulting from the audit is shown in Exhibit A.

MANAGEMENT'S RESPONSE AND OIG COMMENTS

On April 2, 2007, ORM provided a written response to the draft report. ORM concurred with six of the recommendations and disagreed with Recommendations 1 and 6.

We have re-examined our facts and conclusions and determined that the report is fairly presented. Accordingly, we ask that ORM reconsider its position on Recommendations 1 and 6. Additionally, we request that ORM provide us target completion dates for planned corrective actions on Recommendations 1, 6, and 8 and a more specific completion date for Recommendation 2 within 30 days of the date of this report.

The complete text of ORM's response is included in exhibit C.

INTRODUCTION

BACKGROUND

The Disability Comp Program was established by the District of Columbia Merit Personnel Act (D.C. Law 2-139) to pay compensation to District employees (or their survivors) injured or killed while in performance of official duties, excluding uniformed police and fire personnel. Pursuant to D.C. Code § 1-623.02 (Supp. 2006), compensation is not paid to employees whose injury or death is caused by: (1) willful misconduct of the employee; (2) the employee's intention to bring about the injury or death of himself or herself or of another; or (3) the intoxication of the injured employee.

Administration of the Disability Comp Program. In fiscal year (FY) 2004, the administrative functions of the Disability Comp Program were transferred to ORM. Disability compensation hearings and adjudication functions are overseen by the Department of Employment Services (DOES). ORM employs five full-time employees to administer the Disability Comp Program, which is headed by a Program Manager. Additionally, two claim specialists provide technical supervision, support, and guidance to contractor staff, and one reconsideration specialist is responsible for the receipt, review, and final dispensation of all requests for reconsideration of initial claims determinations pursuant to statutory authority.

The Disability Comp Program also has a return-to-work specialist who maintains a Job Bank to ensure that District claimants capable of returning to work have opportunities to return to viable employment based upon their skill sets and physical abilities.

Third Party Administrator. In June 2005, the District awarded a 3-year contract, valued at \$9,438,987, to a contractor to serve as the TPA. As the TPA, the contractor conducts the day-to-day operations of the Disability Comp Program, which encompasses accepting and investigating claims, making eligibility determinations, and providing nurse case management services.³

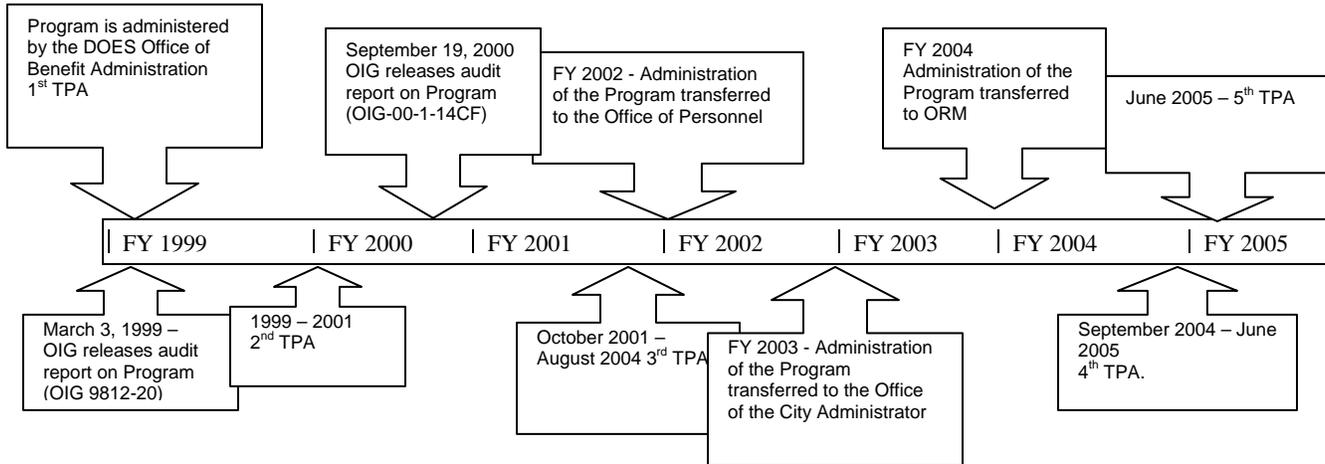
Specific services, such as field and vocational case management, additional medical examinations, and private investigations are considered allocated loss adjustment expenses. Allocated loss adjustment expenses are services agreed upon by ORM and the contractor to be charged at actual cost and paid for by the District directly to providers on a claim-by-claim basis. Therefore, these expenses are not covered in the \$9.4 million contract.

History of the Disability Comp Program. Historically, the Disability Comp Program has experienced its share of problems. In the past 7 years, the Disability Comp Program has been under the administration of four agencies and managed by five different TPAs. The timeline below reflects major changes in the administration of the Disability Comp Program over the past 7 years.

³ Nurse Case Management is the ongoing process of closely monitoring the treating physician's diagnosis, recommendation for treatment, disability status, and return-to-work projection.

INTRODUCTION

Timeline of the Past 7 Years of the Disability Comp Program



Disability Compensation Fund. Disability Comp Program operating costs are maintained separately from ORM under the disability compensation fund. The fund covers lost wages of injured employees, medical expenses related to workplace injuries, the cost of five full-time employees assigned to administer the Disability Comp Program, and the cost of the TPA contract. Table I below shows the cost of the Disability Comp Program over the past 4 years.

Table I. Breakdown of the Cost of the Disability Comp Program Over 4 Years

Disability Compensation Funding				
Actual FY 2004	Actual FY 2005	Approved FY 2006	Proposed FY 2007	Total Estimated Cost FYs 2004 through 2006
\$30,611,429	\$29,012,727	\$30,280,800	\$30,280,000	\$120,184,956

Disability Claims. As of October 18, 2006, there were 1,747 open disability claims. For the purpose of a statistical sample, we used the universe of open disability claims as of February 5, 2006, which was 2,299 claims. Table II below provides an aging schedule of the open disability compensation claims.

Table II. Breakdown of Time Disability Compensation Claims Have Been Open

AGING SCHEDULE OF OPEN CLAIMS AS OF FEBRUARY 5, 2006							
TOTAL CLAIMS	0 TO 6 MONTHS	6 MONTHS TO 1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS	OVER 5 YEARS
2,299	502	262	447	237	102	89	660
100%	22%	11%	19%	10%	5%	4%	29%

INTRODUCTION

OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objective was to determine whether rules published by the District of Columbia concerning the termination, suspension, or reduction of disability compensation benefits for District employees were being followed. To accomplish this objective, we evaluated the adequacy of the process for granting, paying, and administering employee disability claims by ORM; assessed the adequacy of internal controls over the disability claims process to ensure that the Disability Comp Program was operating efficiently and effectively; and evaluated the adequacy of management over disability case file documentation to support underlying claims data. The audit did not evaluate the merits of any specific claimant's claim.

We held interviews and discussions with ORM's management and administrative staff to gain a general understanding of the policies, procedures, and other controls used by ORM to manage and oversee the TPA. We observed and interviewed the TPA's employees to gather information on the claims process. We also conducted interviews with the District Office of the Attorney General's staff assigned to handle disability compensation cases and with disability compensation claimants to gather background information on the Disability Comp Program.

We obtained information from the Office of Contracting and Procurement relating to the TPA contract. We also obtained information from OPRS and the U.S. Office of Personnel Management (OPM) to verify the current employment and retirement status of claimants.

We reviewed records and documentation during the audit period covering July 1, 2005, to March 31, 2006. To evaluate the adequacy of the process for granting, paying, and administering employee disability compensation claims, we reviewed a statistical random sample of open and closed disability compensation claims. We used Audit Command Language (ACL) software, a data analysis technology tool, to calculate the sample sizes for both the open and closed claims. In determining sample size, we used 95 percent as the confidence level, +/- 10 percent as the desired precision, and 4 percent as the expected error rate. Accordingly, the population size (universe) for the open disability compensation claims was 2,299 as of February 5, 2006, and 2,107 for the closed disability compensation claims, which were closed between July 1, 2005, and March 31, 2006.

Based on the sample parameters, we randomly selected 92 claims out of 2,299 disability claims, open as of February 5, 2006. The 2,299 open claims received disability compensation payments and services totaling \$25,303,725 during the period December 12, 2004, through January 26, 2006.

We used a series of criteria to evaluate the adequacy of the process for granting, paying, and administering employee disability compensation claims. Specifically, we determined whether:

INTRODUCTION

- all open files were reviewed as the case dictates, but at a minimum of every 30 days;
- all necessary investigations to substantiate initial and continuing eligibility for benefits were conducted;
- ongoing claimants' disabilities were supported by medical documentation;
- supervisor conducted reviews at least every 90 days on open, active claims;
- determinations on necessity of private investigations, additional medical examination, and vocational rehabilitation were documented;
- claimants with civil service status were not prevented from retiring under the civil service retirement system; and
- the claimant's treating physician's medical opinion was accorded greater weight over other opinions, absent compelling reasons to the contrary.

In addition, we determined whether ORM provided adequate oversight of the TPA to ensure the TPA's compliance with the terms of the contract, and that an effective records management system was in place to file and maintain both open and closed claim files.

Based on the sample parameters, we also randomly selected a sample of 92 out of 2,107 closed disability compensation claims, closed between July 1, 2005, and March 31, 2006. We reviewed the 92 sampled closed claims to determine if ORM and the TPA adhered to the District's laws and regulations governing the termination of disability compensation benefits. Our review of the sample claims included a review of data contained in the TPA's e-Team system and individual disability compensation claim folders.

Part of our audit required us to rely on computer-based data. An assessment of the reliability of this information was made by comparison testing of selected data elements to documentation in the claim files. Based on our comparison testing, we concluded that the automated information was sufficiently reliable. This audit was conducted in accordance with generally accepted government auditing standards and included such tests as we considered necessary.

Prior OIG Audits. During the past several years, the OIG has performed two audits on the administration of the Disability Comp Program. The first audit report, Audit of the Department of Employment Services Disability Compensation Overpayments (Report No. 9812-20), released on March 3, 1999, identified several deficiencies in the management of the Disability Comp Program. Specifically, we found that DOES had overpaid claimants approximately \$2.1 million in disability claims as a result of: (1) claimants and their employing agencies failing to notify the Disability Comp Program when claimants returned to work; (2) paying claimants the incorrect rates; (3) lack of communication between DOES and OPM, which allowed claimants to receive dual payments from the Disability Comp Program and OPM; and (4) untimely follow-up with employees agencies to determine the

INTRODUCTION

employees' disability status when such information from the affected agencies was not forthcoming.

The second audit report, Audit of the Disability Compensation Program within the Department of Employment Services (Report No. OIG-00-1-14CF), released on September 19, 2000, disclosed that the Disability Comp Program lacked efficiency and effectiveness under the administration of DOES and had an increased risk of waste, fraud, and abuse. Specifically, we found that the Disability Comp Program, under the administration of DOES, lacked: (1) controls over the Disability Comp Program's payment system resulting in overpayments of at least \$1 million to program beneficiaries and medical providers; (2) adequate oversight and monitoring of duties performed by contractors, resulting in ineffective case management and increased overall program cost; (3) a risk management program to address issues such as benchmarking, claims subrogation, and claims transfer from disability to retirement; and (4) implementation of the recommendations from the OIG's March 1999 audit.

FINDINGS AND RECOMMENDATIONS

FINDING 1: CASE MANAGEMENT

SYNOPSIS

The Disability Comp Program continues to be at risk for significant fraud, abuse, and payments of unnecessary costs. Our review found that claimants who had returned to work, or who were collecting retirement benefits, continued to receive disability compensation payments. This condition occurred because ORM did not have effective procedures to detect claimants who returned to work, or claimants who were collecting retirement benefits.

Additionally, we found that the TPA failed to adequately manage active disability compensation claims. Specifically, the TPA failed to: (1) perform reviews and monitor claims to determine continued eligibility; (2) perform timely follow-up and appropriately manage case actions on active claims; and (3) conduct supervisory reviews of claim files. These conditions occurred because ORM did not provide the necessary oversight regarding the TPA’s management of the Disability Comp Program and did not enforce the terms of the TPA contract. As a result, ORM and the TPA missed opportunities to return disability claimants to the workforce or remove them from the Disability Comp Program and reduce costs by as much as \$3.3 million annually.

DISCUSSION

We randomly selected 92 out of 2,299 open disability compensation claims for review. Table III below provides a breakdown of the types of claims we reviewed.

Table III. Summary of the Types of Disability Claims Reviewed

Status of Open Claims ⁴						
No. of Inactive Claims ⁵	No. of Claims on Temporary Disability	No. of Claims on Permanent Disability	No. of Specific Loss Claims ⁶	No. of Other Open Claims ⁷	No. of Claims Receiving Death Benefits	No. of Open Claims
47	26	1	4	11	3	92

⁴ “Open claims” are claims that are receiving medical services and/or disability compensation or have not been resolved.

⁵ “Inactive claims” are claims that have had no reported activity over a period of time, but remain open because no action has been taken to close the claim.

⁶ “Specific loss claims” are claims that have been deemed irresolvable and will continue to receive disability compensation until the claimant’s death. Specific loss claims were initially labeled temporary disability claims; however, the District has been unable to return claimants to the workforce or take case management action to terminate their benefits.

⁷ “Other claims” include medical only claims and claims awaiting a final reconsideration or hearing decision.

FINDINGS AND RECOMMENDATIONS

Out of the 92 sampled claims, we identified case management⁸ deficiencies in 64. These deficiencies included insufficient reviews and monitoring of disability compensation claims to determine continued eligibility, untimely follow-up and case management action, and lack of supervisory review of claimant files. We also found claimants who had returned to work, or were receiving retirement benefits, and continued to receive disability compensation payments.

Based on the results of our sample, we estimate that case management deficiencies resulted in potential unnecessary and inappropriate costs involving between 310 and 380 claims, totaling between \$2.7 and \$3.3 million annually.⁹

These costs could have been avoided if the TPA provided adequate case management, as stipulated in the TPA contract. The TPA is required to proactively monitor all claims while they remain open. Specifically, the TPA contract under Section C.5.18 (Diary/Plan of Action/File Management) provides:

- C.5.18.1 The Contractor [TPA] shall maintain a diary on all open files. Contractor shall diary and review all open files as the case dictates, but at a minimum every 30 days.
- C.5.18.2 The Contractor shall review Temporary and Total Disability (TTD) files on a monthly basis.
- C.5.18.3 The Contractor shall develop a plan of action in the file with a timeline that provides information on how the claim adjuster intends to move the claim to closure.
- C.5.18.4 The Contractor shall ensure that the Claims Supervisor document his or her activities to the claim file on a continuing basis.
-
- C.5.18.6 The Contractor shall obtain notarized income verification and continuing disability statements annually on all open cases where disability extends beyond one year.

⁸ “Case management” is the process of proactively monitoring a claim while it remains open. This process includes, but is not limited to, the initial investigation to determine compensability; ongoing medical case management; following up with the doctors for current medical reports and disability status; and an aggressive plan of action to bring the file to conclusion.

⁹ Based on a 95 percent confidence level and a sample precision of +/- 10 percent, we projected that out of the 2,299 open claims, there are between 310 and 380 claims containing case management deficiencies with potential unnecessary and inappropriate costs totaling from \$2,742,559 and \$3,352,017 annually.

FINDINGS AND RECOMMENDATIONS

Additionally, the TPA contract under Section C.5.4.1 (Investigations) states:

The Contractor shall conduct all necessary investigations to substantiate initial and continuing eligibility for benefits and shall ensure against overpayments and fraud.

Lack of Reviews and Monitoring of Claims. The TPA put the Disability Comp Program at risk for potential abuse and fraud by failing to adequately review and monitor disability compensation claims. The TPA is required to conduct reviews of all open claim files at a minimum of every 30 days to determine continued eligibility. This involves the TPA communicating with claimants, employers, and treating physicians to determine the status of each claimant. Also, the TPA must verify the claimant's income; make activity determinations;¹⁰ perform surveillance checks; schedule and perform additional medical examinations; and determine whether rehabilitation services are necessary.

During our review of the claims, we found that 16 out of the 92 sampled claims had not been reviewed or monitored by the TPA to determine continued eligibility. As a result, the status of those claimants was unknown. Based on the results of our sample, we estimate that as many as 429 claims lacked reviews by the TPA.¹¹

Out of the 16 claims that lacked reviews and monitoring by the TPA, we found that 12 should have been closed because of no activity, and 1 claim should have been terminated because the claimant returned to work. Due to the limitations of our audit, we could not determine the status of the other three claimants.¹²

The following is an example of a claim that lacked any reviews by the TPA, which resulted in the claimant being overpaid \$36,000.

- An employee with the Youth Rehabilitation Services injured his hand on September 25, 2004, while in performance of his official duty. The employee returned to work May 11, 2005; however, neither the employee nor the employer notified the Disability Comp Program of the employee's return to work. The employee received more than \$36,000 over a 15-month period after returning to work. During our period of review, we found no evidence that the TPA performed a review of the file. The disability compensation payments were finally stopped when we provided audit evidence to the TPA that the employee had returned to work.

¹⁰ To determine whether the claimant is engaged in activity, or whether the claimant is unable to perform based on the claimed disability.

¹¹ Based on a 95 percent confidence level and a sample precision of +/- 10 percent, we projected that out of the 2,299 open claims, between 351 and 429 claims were not reviewed or monitored by the TPA.

¹² Our audit tests were limited to detecting employees who returned to their pre-injury employer. We did not contact claimants, treating physicians, or conduct investigations to determine if claimants were employed outside of the District.

FINDINGS AND RECOMMENDATIONS

The lack of claim reviews and monitoring placed these claims at risk for potential abuse and fraud. Based on the results of our sample, we estimate that the Disability Comp Program lost as much as \$893,871 annually in potential inappropriate costs due to the lack of claim reviews and monitoring by the TPA.¹³

Untimely Follow-Up Reviews and Case Management Actions. Out of the 92 sampled claims, 24 were not reviewed within the minimum 30-day review period, resulting in untimely follow-up reviews of open claim files and a lack of appropriate case management action. We found that the lack of timely follow-up reviews and case management actions exposed the Disability Comp Program to unnecessary costs. Based on the results of our sample, we estimate that as many as 657 claims lacked timely follow-up and case management action.¹⁴

The following are examples of untimely follow-up and deficient case management action on two claims:

1. On February 2, 1994, an employee sustained bruises around the neck and shoulders while in performance of his official duty with the Department of Corrections when metal trays fell and stuck him. The employee has been off work and receiving temporary disability for more than 12 years after sustaining bruises to his neck and shoulder area. In 1996, an additional medical examination found that the employee had reached maximum medical improvement and could return to work without restrictions. The medical examination report noted that given the patient's history of two years of disuse to the upper extremities because of severe pain, some disuse atrophic changes should have been evident to the shoulder musculature or extremities. Although, the patient stated that he was unable to raise his arms above shoulder level, the physician found that the patient had developed muscular masses about his shoulders and arms, which suggested that the patient had been utilizing his upper extremities sufficiently to maintain tone and strength.

In 1997, the TPA, under contract at that time, determined that the employee was no longer temporarily disabled and reduced the employee's disability compensation to \$399 every 2 weeks. After the employee failed to participate in vocational rehabilitation paid for by the District, the TPA performed no further case management action on the claim. As of March 27, 2006, we could not find any evidence that the current TPA had performed a follow-up review on this claim. From September 1997 through March 2006, the claimant received approximately \$96,558.

¹³ Based on a 95 percent confidence level and a sample precision of +/- 10 percent, we projected that out of the 2,299 open claims, between 83 and 101 claims receiving disability compensation were not reviewed or monitored by the TPA. We estimated that these claims were valued between \$731,349 and \$893,871 annually.

¹⁴ Based on a 95 percent confidence level and a sample precision of +/- 10 percent, we projected that out of the 2,299 open claims, between 537 and 657 claims lacked timely follow-up and case management action.

FINDINGS AND RECOMMENDATIONS

2. On March 1, 2002, a District of Columbia Public Schools employee developed pain in her back and neck while moving classroom furniture. The employee remained off work and began collecting disability compensation. On June 29, 2002, the employee resigned and on July 11, 2002, began collecting unemployment, while continuing to receive disability compensation.¹⁵

On February 3, 2005, an additional medical examination was performed and concluded that the employee was capable of returning to her pre-injury employment full-time, having reached maximum medical improvement in connection with the March 1, 2002, injury. The physician also concluded that the patient did not require ongoing treatment.

As of March 27, 2006, the employee has received approximately \$59,467 from the Disability Comp Program. The TPA, however, has failed to follow-up on the results of the additional medical examination or perform any other case management action to determine continued eligibility.

The lack of timely follow-up and other case management actions put the District at risk for potential fraud, abuse and unnecessary costs to the Disability Comp Program. In our opinion, the lack of medical evidence to support claimed injuries should have generated more aggressive case management action by the TPA. Based on the results of our sample, we estimate that the Disability Comp Program is losing as much as \$2,458,146 annually by paying unnecessary costs due to the TPA's failure to perform timely follow-up reviews and case management actions.¹⁶

Lack of Supervisory Reviews. TPA's D.C. Government Claim Procedure Manual, section entitled "Supervisory Reviews," states at page 58: "Supervisors will review all new claims upon receipt (same business day) and maintain a diary on any claim exceeding the examiners pre-assigned authority level. All open active claims will be reviewed at least every 90 days and open inactive claims every 180 days."

Additionally, the section entitled "Supervisory Diary Review," page 61, states:

The supervisor's initial diary should be set at 21 days to review such items as: timely contacts, coverage, mail, initial reserves, filing process and payment of benefits. A 30-day follow-up review should

¹⁵ By filing for unemployment, the employee asserted that she was physically able to work.

¹⁶ Based on a 95 percent confidence level and a sample precision of +/- 10 percent, we projected that out of the 2,299 open claims, between 228 and 278 claims receiving disability compensation lacked timely follow-up and other appropriate case management actions by the TPA. We estimated that these claims were valued between \$2,011,210 and \$2,458,146 annually.

FINDINGS AND RECOMMENDATIONS

address the adjusters' adherence to "Best Practice Performance Standards", which include investigation, compensability determination, subrogation opportunities, established reserves, plan of action and any previous instructions given.

We found that several of the claims in which we noted case management deficiencies had no supervisory review performed by the TPA. Out of the 92 sampled claims, 57 lacked evidence of a supervisory review. Many of the case management deficiencies noted above may have been identified and corrected had supervisory reviews been performed.

Lack of Procedures. Our review found that claimants continued to receive disability compensation payments after returning to work and while receiving retirement benefits. ORM lacked procedures to detect claimants who returned to work or were collecting federal government retirement benefits while receiving disability compensation payments. For example, there were no procedures to communicate or share information with OPM to detect claimants who filed and were collecting retirement benefits. Additionally, there were no procedures requiring ORM to verify with OPRS that claimants receiving disability compensation were not receiving a salary from the District.

Out of the 92 sampled claims, we identified 4 claimants who returned to work and continued to receive disability compensation. We also identified 1 individual out of the 92 sampled claims that collected disability retirement from OPM while receiving disability compensation from the Disability Comp Program. These conditions were also reported in two OIG audit reports on the Disability Comp Program approximately 7 years ago.

To prevent and detect these conditions, we recommended in the Audit of the Department of Employment Services Disability Compensation Overpayments (OIG No. 9812-20), dated March 3, 1999, that controls be put in place to detect dual disability and payroll payments to disabled employees who returned to work, and that procedures be implemented in conjunction with OPM to prevent the occurrence of dual disability payments by DOES and OPM. Yet, ORM did not implement either of these recommendations when the Disability Comp Program was transferred under its administration. As a result, the Disability Comp Program continues to be at risk for fraud, abuse, and unnecessary costs. Based on the results of our sample, we estimate that the Disability Comp Program lost as much as \$1,117,339 annually in inappropriate costs.¹⁷

¹⁷ Based on a 95 percent confidence level and a sample precision of +/- 10 percent, we projected that out of the 2,299 open claims, there are between 103 and 127 claimants inappropriately receiving disability compensation. We estimate that these claims are valued between \$914,187 and \$1,117,339 annually.

FINDINGS AND RECOMMENDATIONS

RECOMMENDATIONS, MANAGEMENT RESPONSES, AND OIG COMMENTS

RECOMMENDATION 1

We recommended that the Interim Chief Risk Officer, Office of Risk Management, in coordination with the TPA:

1. Conduct a one-time review of all open claims to prioritize and identify those cases where additional case management efforts could return employees to work or otherwise remove them from the Disability Comp Program.

ORM RESPONSE

ORM disagreed with Finding and Recommendation 1. ORM stated that at the onset of the TPA contract, the TPA was instructed to conduct a complete review of all open claim files. ORM further states that as a result of the TPA's complete review of the claims, they dispute the OIG's conclusion that case management deficiencies identified in the audit resulted in a range of potential unnecessary and inappropriate costs of between 310 and 380 claims totaling between \$2.7 and \$3.3 annually.

In addition, to demonstrate ORM's and TPA's successful management of the Disability Comp Program, ORM stated that the Disability Comp Program had overpaid \$1,135,483 to claimants between the periods 1997 to present, and due to efforts by ORM and the current TPA, \$42,892 has been recovered.

In conclusion, ORM emphasized the reduction in open claims since the inception of the contract with the TPA as evidence that the TPA has been actively reviewing claims. From September 2005 to February 2007, the number of open indemnity cases and medical cases only has decreased by 35% and 85%, respectively.

OIG COMMENT

ORM's response did not meet the intent of the recommendation. We disagree with ORM's statement that the TPA conducted reviews of all open claims at the onset of the TPA contract and that Recommendation 1 has been satisfied based on the reduction of open claims. Our audit found that as of March 31, 2006, the TPA had yet to perform reviews on 16 statistically selected claims to determine claimants continued eligibility. Throughout the audit, we informed ORM and the TPA about our audit findings concerning the lack of reviews and monitoring of claims.

FINDINGS AND RECOMMENDATIONS

In addition, we are puzzled by ORM's acknowledgment that the Disability Comp Program overpaid \$1.1 million to claimants since 1997 as a result of mismanagement, but failed to acknowledge the potential unnecessary and inappropriate costs attributable to the case management deficiencies identified in our audit.

In response to ORM's statement on the reduction of claims, we believe the reduction of claims is partly attributable to the closure of numerous inactive claims. Of the 92 sampled claims, 47 (51 percent) were inactive claims. Therefore, we estimate that of the 2,299 open claims as of February 5, 2006, between 1,055 and 1,289 claims were inactive, and should have been closed. We do recognize the efforts that the TPA has put forward to purge the open claims of the numerous inactive claims; however, we recommend that the TPA should also focus efforts on identifying those claims where additional case management efforts could return employees to work or otherwise remove them from the Disability Comp Program, in order to minimize the District's risk to unnecessary and inappropriate costs.

We re-examined our facts and conclusions and determined that the report is fairly presented. We request that ORM reconsider its position on Recommendations 1 and review all open claims to prioritize and identify those cases where additional case management efforts could return employees to work or otherwise remove them from the Disability Comp Program.

RECOMMENDATION 2

We recommended that the Interim Chief Risk Officer, Office of Risk Management, in coordination with the TPA:

2. Perform quarterly verification checks of disability compensation recipients by reviewing OPRS payroll records and records available from OPM for the civil service retirement system.

ORM RESPONSE

ORM generally agreed with the recommendation and will coordinate with the Office of the Chief Technology Officer and the Office of the Chief Financial Officer to establish a linkage between the District's financial accounting and payroll system to eliminate duplicate payments to employees. In addition, ORM will attempt to develop protocols between ORM, the Office of Pay and Retirement Services, and the U.S. Office of Personnel Management to address any issues regarding payment of disability and retirement benefits. ORM will have all procedures in place by FY 2008.

OIG COMMENT

We consider ORM's actions to be responsive, satisfying the intent of the recommendation.

FINDINGS AND RECOMMENDATIONS

RECOMMENDATION 3

We recommended that the Interim Chief Risk Officer, Office of Risk Management, in coordination with the TPA:

3. Immediately refer all cases of employees who improperly received dual payments to the OIG Investigations Division in accordance with Sections 1803.8 - .9 of the District Personnel Manual.

ORM RESPONSE

ORM generally agreed with the recommendation and will supply the OIG and the District's Office of the Attorney General (OAG) with the current list of overpayments. ORM will also work out a plan of action that includes the OIG's and OAG's legal and investigative assistance on the overpaid claims and other claims as they are presented.

OIG COMMENT

We consider ORM's actions to be responsive, satisfying the intent of the recommendation.

RECOMMENDATION 4

We recommended that the Interim Chief Risk Officer, Office of Risk Management, in coordination with the TPA:

4. Prior to initiating disability compensation payments, require claimants to acknowledge in writing that they understand that D.C. law prohibits receipt of salary or other compensation (excluding the exceptions noted under D.C. Code § 1-623.16 (2001)) from the District of Columbia while receiving disability compensation, and that failure to comply with this mandate could subject them to administrative action as well as criminal prosecution.

ORM RESPONSE

ORM agreed with the recommendation and has created a letter that will be sent to all claimants with the initial set of compensation forms for their review and signature.

OIG COMMENT

We consider ORM's action to be responsive, satisfying the intent of the recommendation.

FINDINGS AND RECOMMENDATIONS

FINDING 2: QUARTERLY PERFORMANCE AUDITS
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SYNOPSIS

Our review of the Disability Comp Program found that ORM did not exercise sufficient management oversight of the TPA's contract activities to ensure that the TPA effectively complied with contract oversight requirements. This condition occurred because ORM did not conduct quarterly performance audits of the claim files. As a result, ORM had no assurance that the TPA was providing services in a manner that was consistent with contractual terms, or that the TPA limited potential financial risks posed by inappropriate disability compensation claims.

DISCUSSION

When ORM took over the administration of the Disability Comp Program in FY 2004, it assumed responsibility for correcting previous management mistakes and ensuring that the Disability Comp Program was managed efficiently and effectively as it moved forward. This required ORM to oversee the TPA's management of the Disability Comp Program and ensure that claims were reviewed and monitored to determine each claimant's continued eligibility for disability compensation, and that other appropriate case management actions were performed. However, we found that ORM did not exercise sufficient management oversight of the TPA's contract activities.

The TPA contract requires ORM to conduct quarterly performance audits of the claim files to ensure that the TPA is in compliance with performance standards outlined therein. Section B.3.5.1 of the TPA contract states:

At the end of every consecutive three (3) months or calendar quarter, personnel from [ORM] will conduct a retrospective performance audit of a random sample of claims. The audit will commence within ten (10) business days of the end of the quarter and conclude in no more than ten (10) business days thereafter. The District will use the results of this audit to determine the extent to which the Contractor merits a performance-based incentive or disincentive pursuant to Section C.6.

Quarterly Performance Audits. The TPA contract provides a list of performance measures and standards that the TPA is to meet. Based on the results of the performance audits, the TPA either earns an incentive fee, increasing the contract payment, or a disincentive, reducing the TPA's contract payment. We found that ORM did not perform the quarterly

FINDINGS AND RECOMMENDATIONS

performance audits or take advantage of the performance-based incentives or disincentives. As a result, ORM was unaware that the TPA was providing inadequate case management and, therefore, missed opportunities to identify and act on correcting or eliminating inadequate case management practices by the TPA.

During our audit, ORM performed one evaluation of the TPA's performance. This evaluation was dated March 2, 2006, and noted several concerns with the processing and managing of claims. Specifically, ORM found that the TPA failed to: (1) conduct thorough investigations in a timely manner; (2) provide sufficient documentation in the claim files; (3) perform timely eligibility determinations; and (4) conduct supervisory reviews of claim files. Even though ORM officials found that the TPA was not meeting performance standards, they did not utilize the contract's disincentive language to reduce the TPA contract payment. As a result, the District lost the opportunity to reduce the contract price or otherwise provide an incentive for the TPA to initiate corrective measures.

RECOMMENDATION, MANAGEMENT RESPONSE, AND OIG COMMENT

RECOMMENDATION 5

We recommend that the Interim Chief Risk Officer, Office of Risk Management:

5. Immediately begin performing quarterly performance audits of TPA as required by the contract and use the audit results to enforce the incentive and disincentive provisions in the TPA contract.

ORM RESPONSE

ORM agreed with the recommendation and will complete quarterly audits on the TPA's performance going forward. The next audit is scheduled for April 2007.

OIG COMMENT

We consider ORM's action to be responsive, satisfying the intent of the recommendation.

FINDINGS AND RECOMMENDATIONS

FINDING 3: CLAIMANT HEALTH AND LIFE INSURANCE BENEFITS

SYNOPSIS

Claimants were not properly informed of health and life insurance payments and coverage. Specifically, claimants were not provided with a record of the benefits paid on their behalf. We attribute this condition to a lack of policies and effective procedures for notifying claimants of the benefit payments deducted from compensation payments or when actions were taken to effect changes in coverage. As a result, some claimants had no assurance whether payments for benefits were properly accounted for and submitted or that claimants had active health and/or life insurance benefits coverage.

DISCUSSION

Our audit disclosed a deficiency with the accounting of claimants' benefits. Claimants that exceeded the continuation of pay period¹⁸ and began to collect disability compensation from the Disability Comp Program were entitled to continue their benefits while receiving disability compensation. Health and/or life insurance premiums were deducted directly from the claimant's disability payment and forwarded to the D.C. Office of Personnel; however, claimants were not provided with a record of the benefits that were paid on their behalf. As a result, some claimants were unaware that the TPA was not paying their benefits. We did note that claimants whose benefits were being paid were provided a statement annually showing cost of living adjustments and increases in benefit premiums.

Health and Life Insurance Benefits. We found that the TPA does not provide a record to claimants of the health and/or life insurance benefits paid or not paid on their behalf. This lack of accounting for benefits resulted in serious concerns by claimants and their families and could potentially create hardship for claimants in the future, especially when benefit payments stop and health and/or life insurance coverage is terminated.

During a meeting with injured workers, we were provided with a copy of a pay stub that claimants receive along with their disability check. The pay stub provides no information on the claimant's elected benefits or deductions made from the claimant's disability payment.

¹⁸ The continuation of pay period is the time period that the claimant's employing agency will continue to pay the claimant his or her salary. This period is 21 or 45 days, depending upon a claimant's date of hire. After the continuation of pay period expires, the claimant begins receiving disability compensation payments from the Disability Comp Program.

FINDINGS AND RECOMMENDATIONS

During our audit, we observed one situation in which a claimant died and the claimant's family was struggling to file for the claimant's life insurance because the TPA had no record of the claimant having life insurance. Apparently, the TPA did not deduct life insurance from the claimant's disability compensation payment and, at some point, the life insurance coverage terminated. Additionally, the TPA never provided the claimant with a record of the benefits the claimant was receiving or of any notice that life insurance payments were not deducted and that coverage ceased. Because the claimant died, there were no avenues to verify if the claimant knew that her life insurance coverage had lapsed.

We also identified another claim in which the Report of Injury form and initial pay stub provided to the TPA showed that the claimant had health and life insurance prior to the date of injury. However, when we reviewed the file, we found that the payments for health and life insurance benefits were not deducted from the claimant's disability compensation payment. We could not find any record of the claimant declining to continue his benefits. The TPA's adjuster responsible for the claim could not provide an explanation as to why the claimant's benefits were not continued.

The lack of accounting for claimant's benefits has created and has the potential to create further serious problems for claimants and ORM. To avoid potential future problems, claimants should be provided with a record of pay deductions for health and/or life insurance benefits and a notice of any changes in coverage or benefits.

RECOMMENDATIONS, MANAGEMENT RESPONSES, AND OIG COMMENTS

RECOMMENDATION 6

We recommend that the Interim Chief Risk Officer, Office of Risk Management, amend the TPA contract to require that the TPA:

6. Include in the Initial Determination notices the claimant's benefits that would continue while the claimant receives disability compensation.

ORM RESPONSE

ORM stated that the information is included in the Initial Determination notices currently mailed to claimants.

OIG RESPONSE

We disagree with ORM's response that the information is included in the Initial Determination notices. We re-examined the Initial Determination notices in our audit sample and the generic Initial Determination notice provided as an attachment with ORM's response

FINDINGS AND RECOMMENDATIONS

and determined that the Initial Determination notices do not state the claimant's benefits that would continue while the claimant receives disability compensation.

We request that ORM reconsider its position on Recommendation 6 and include in the Initial Determination notice of the claimant's benefits that would continue while the claimant receives disability compensation.

RECOMMENDATION 7

We recommend that the Interim Chief Risk Officer, Office of Risk Management, amend the TPA contract to require that the TPA:

7. Notify claimants in writing of any changes to their disability payments, such as cost of living increases and increases in health and life insurance premiums.

ORM RESPONSE

ORM generally agreed with the recommendation and has sent out notifications confirming no benefit elections to those claimants that elected to opt out of health and life insurance benefits.

OIG COMMENT

We consider ORM's action to be responsive, satisfying the intent of the recommendation.

RECOMMENDATION 8

We recommend that the Interim Chief Risk Officer, Office of Risk Management, amend the TPA contract to require that the TPA:

8. Provide claimants with a record that shows the pay deductions for health and life insurance benefits.

ORM RESPONSE

ORM generally agreed with the recommendation and is working with the TPA to determine if deductions can be included on the stub. Additionally, ORM is also pursuing the possibility of transferring the life and health benefits responsibility to the District's Department of Human Resources.

OIG COMMENT

We consider ORM's action to be responsive, satisfying the intent of the recommendation.

**EXHIBIT A: SUMMARY OF POTENTIAL MONETARY
 BENEFITS RESULTING FROM AUDIT**

Recommendation	Description of Benefit	Amount and Type of Benefit	Estimated Completion Date	Status¹⁹
1	Efficiency and Economy. Ensures that resources are focused on those cases where additional case management efforts could return employees to work or otherwise remove them from the Disability Comp Program.	Monetary Reduce costs by as much as \$3,352,037	TBD	Unresolved
2	Internal Control, Economy, and Efficiency. Detects disability recipients collecting a salary from the District and retirement benefits from OPM.	Monetary Reduce costs by as much as \$1,136,789	TBD	Open
3	Internal Control. Ensures those cases involving fraudulent activities are prosecuted.	Non-Monetary	April 2, 2007	Closed
4	Internal Control. Ensures claimants' acknowledgment of D.C. law regarding receipt of dual compensation and deters future violations.	Non-Monetary	April 2, 2007	Closed
5	Internal Control and Efficiency. Identifies systemic weaknesses and improves policies, procedures, and internal controls.	Non-Monetary	April 2, 2007	Closed

¹⁹ This column provides the status of a recommendation as of the report date. For final reports, “**Open**” means management and the OIG are in agreement on the action to be taken, but action is not complete. “**Closed**” means management has advised that the action necessary to correct the condition is complete. If a completion date was not provided, the date of management’s response is used. “**Unresolved**” means that management has neither agreed to take the recommended action nor proposed satisfactory alternative actions to correct the condition.

**EXHIBIT A: SUMMARY OF POTENTIAL MONETARY
 BENEFITS RESULTING FROM AUDIT**

Recommendation	Description of Benefit	Amount and Type of Benefit	Estimated Completion Date	Status
6	Internal Control and Efficiency. Ensures the TPA has identified the claimant's benefits that would continue while the claimant is receiving disability compensation.	Non-Monetary	TBD	Unresolved
7	Efficiency. Ensures claimants are provided with a record of changes to their disability compensation payments.	Non-Monetary	April 2, 2007	Closed
8	Efficiency. Ensures claimants are provided with a record of the benefits paid on their behalf.	Non-Monetary	TBD	Open

EXHIBIT B: ALLEGATIONS AND AUDIT RESULTS

At the start of the audit, we received complaints from past and present disability compensation claimants who made six allegations of inappropriate management practices by ORM and the TPA for the Disability Comp Program.

We substantiated two of the six allegations and identified other problems that form the basis of the findings in our report. Specific results of each allegation follow.

Allegation 1: ORM and the TPA required disability compensation claimants to attend two or more additional medical examinations in order to obtain an opinion that is contrary to the medical opinion of the claimant's treating physician. Additionally, some claimants alleged that ORM and the TPA used specific doctors that would opine only in favor of ORM and the TPA.

Audit Results: The allegation was not substantiated.

We found that ORM and the TPA were not requiring claimants to attend multiple medical examinations to obtain an opinion that was contrary to the treating physician's medical opinion. Out of the 92 sampled open claims reviewed, only 7 claimants were referred for additional medical examinations. Additionally, these seven claimants were only referred for one additional medical examination.

Of the seven additional medical examinations, only one overturned the treating physician's medical opinion. However, the medical opinion that resulted from this additional medical examination favored the claimant.

We also found no similarities among the doctors used to perform the additional medical examinations. In fact, each of the seven claimants visited a different doctor. We also noted that the TPA referred claimants to doctors who specialized in the respective area in which the claimant sustained the work-related injury. As a result, if a claimant sustains multiple work-related injuries, he/she may be referred to more than one doctor for an additional medical opinion.

Allegation 2: ORM and the TPA terminated and denied disability compensation benefits without justification or supporting evidence, and that claimants' benefits were terminated when they reached age 62.

Audit Results: The allegations were not substantiated.

We reviewed 92 closed claims²⁰ to verify that claims terminated and denied were properly justified and supported by evidence. Out of the 92 closed claims reviewed, only 2 were

²⁰ Closed claim files are claims that have been terminated, denied, or are no longer in need of medical services or disability compensation.

EXHIBIT B: ALLEGATIONS AND AUDIT RESULTS

terminated and 21 were denied claims. The remaining 69 claims were closed because of no activity on the claim. We found no evidence of improper termination or improper denial of disability compensation. Table IV below shows a breakdown of the closed claims reviewed.

Table IV. Summary of the Results of Closed Claims Reviewed

Results from Review of Closed Claims					
Justification	No. of Closed Claims Terminated	No. of Closed Claims Denied	No. of Inactive Claims	Evidence to Support Justification	No. of Closed Claims
Claim abandoned	0	17	0	Yes	17
Injury not work-related	0	4	0	Yes	4
No activity	0	0	69	Yes	69
Reached maximum medical improvement	1	0	0	Yes	1
Elected retirement	1	0	0	Yes	1
	2	21	69		92

We found no evidence that claimants were improperly terminated from the Disability Comp Program when they reached retirement age. There are approximately 230 claimants over the age of 62 receiving disability compensation.

Allegation 3: ORM and the TPA caused claimants to lose their Civil Service Retirement Status (CSRS)²¹ and these claimants were denied the opportunity to retire under CSRS system.

Audit Results: The allegation was not substantiated.

We sought evidence of claimants with CSRS status prior to their date of injury, who lost their CSRS status while receiving disability compensation and were denied the opportunity to elect retirement over disability. We found that claimants did not lose their CSRS status while they received disability compensation, nor were they denied the opportunity to retire.

CSRS employees in the Disability Comp Program have the option to file for disability retirement or continue to receive disability compensation. However, they cannot elect to receive both at the same time. Our review of the open claim files found that some CSRS employees elected to remain in the Disability Comp Program rather than file for disability retirement because the Disability Comp Program's compensation was significantly greater than their retirement annuities. Claimants who receive disability compensation from the Disability Comp Program receive 66 2/3 percent of their monthly pay, or 75 percent if they have dependents. In addition, claimants receive cost-of-living adjustments. Conversely, the

²¹ District employees hired by the District of Columbia Government before October 1, 1987, are subject to the provisions of the CSRS retirement program, which is administered by OPM. CSRS provides retirement, disability, and survivor benefits to most federal civilian employees.

EXHIBIT B: ALLEGATIONS AND AUDIT RESULTS

retirement annuity claimants would receive the lower of 40 percent of the highest 3 years' average salary or the earned annuity they would receive if their length of service were extended to age 61. The D.C. Code does not contain language that requires disability compensation claimants to retire when they reach retirement age; therefore, claimants may receive disability compensation payments until their death.

Allegation 4: ORM and the TPA terminated claimants' life and health insurance benefits without notifying claimants, and failed to provide claimants with records of the benefit premiums paid.

Audit Results: The allegation was substantiated.

We found that there was a lack of accounting for claimants' benefits. We addressed this issue in Finding 3.

Allegation 5: ORM and the TPA lost claim files.

Audit Results: The allegation was not substantiated.

Although we found no evidence that ORM and the current TPA misplaced claim files, it is conceivable that claim files were misplaced inadvertently during the transition of the Disability Comp Program over the past 7 years. As depicted in the timeline on page 2, the Disability Comp Program has been under the administration of four agencies and five TPAs.

We found no exceptions in ORM's and the TPA's maintenance of open and closed claim files. We reviewed the maintenance of the 184 claim files to determine if ORM and the new TPA had developed an effective managerial system to maintain both open and closed claim files. In December 2005, the TPA began imaging all information related to the claims and maintaining all claim files electronically. ORM has access to the TPA's eTeam System,²² which allows ORM to obtain detailed claim information and view images of documents and payments made on claims via the Internet.

Allegation 6: This complaint alleged that ORM did not respond to requests for reconsideration within 30 days.

Audit Results: The allegation was substantiated.

²² The eTeam System is an online, client-based inquiry system provided by the TPA for its clients' use and is available 24 hours a day, 7 days a week.

EXHIBIT B: ALLEGATIONS AND AUDIT RESULTS

D.C Code § 1-623.24(a-4) (Supp. 2006) provides:

(1) A claimant who disagrees with a decision of the Mayor or his or her designee under subsection (a) of this section shall have the right to request reconsideration of that decision within 30 days after the issuance of the decision. . . .

(2) The Mayor or his or her designee shall provide a written decision on the reconsideration request within 30 days of receipt of the request. If the Mayor or his or her designee fails to make a written reconsideration decision within this period, the claim shall be deemed accepted, and payment of compensation to the claimant shall commence on the 31st day following the date the request was filed. If the Mayor or his or her designee later makes an award against payment of compensation, payment shall cease immediately. . . .

Out of the 92 open and 92 closed claims reviewed, 7 claimants filed for reconsideration of decisions regarding disability compensation issues. Of the seven claimants, three received responses to their requests for reconsideration beyond the 30-day limit. We could not determine why these three requests for reconsideration were not processed within 30 days; however, we noted that ORM did respond to all the requests for reconsideration included in our sample.

EXHIBIT C: ORM RESPONSE TO DRAFT REPORT



Kelly L. Valentine
Interim Director

DISTRICT OF COLUMBIA GOVERNMENT DC OFFICE OF RISK MANAGEMENT

March 30, 2007

Charles J. Willoughby
Inspector General
Office of the Inspector General
717 14th Street, N.W., Suite 800
Washington, DC 20005

RE: Draft Audit of the District of Columbia Employee Disability Compensation Program (OIG No. 06-1-07BG)

Dear Mr. Willoughby:

The following will respond to the recommendations of the Office of Inspector General's (OIG) Draft Audit of the District of Columbia Employee Disability Compensation Program (DCORM), (OIG No. 06-1-07BG). This audit was dated February 26, 2007 and noted various deficiencies including eight specific recommendations. Our response is provided using these recommendations as a framework.

- 1. Conduct a one-time review of all open claims to prioritize and identify those cases where additional case management efforts could return employees to work or otherwise remove them from the Disability Comp. Program.**

By way of history, the management of the Disability Compensation Program has been shifted between various agencies and entities within the District Government. Prior to the creation of the District of Columbia Office of Risk Management, disability compensation claims were managed by the Department of Employment Services and then to the Department of Personnel in 2002. Pursuant to the terms of the Reorganization Plan of 2003 this responsibility was transferred to the newly established District of Columbia Office of Risk Management. It should further be noted that various Third Party Administrators were also used during this period in the administration of the program. The transition of claims files and financial information during these various transitions was not smooth. Unfortunately both claim files and significant data was lost in the process. In June of 2005 DCORM entered into a three year contract with Third Party Administrator, _____, to administer the program. At the onset of their contract and as part of their transition they were instructed to conduct a complete review of all open claim files. The adjusters were advised to determine if appropriate determinations regarding compensability, determination of loss time benefits, payments and current continued benefits were accurate.

As a result of the complete claims review we respectfully dispute OIG's Audit Findings and Recommendations that **"Based on the results of our sample, we estimate that case management deficiencies resulted in potential unnecessary and inappropriate costs**

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EXHIBIT C: ORM RESPONSE TO DRAFT REPORT



Kelly L. Valentine
Interim Director

DISTRICT OF COLUMBIA GOVERNMENT DC OFFICE OF RISK MANAGEMENT

March 30, 2007

Charles J. Willoughby
Inspector General
Office of the Inspector General
717 14th Street, N.W., Suite 800
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EXHIBIT C: ORM RESPONSE TO DRAFT REPORT



Kelly L. Valentine
Interim Director

DISTRICT OF COLUMBIA GOVERNMENT DC OFFICE OF RISK MANAGEMENT

involving between 310 and 380 claims totaling between \$2.7 and \$3.3 million annually.” It was determined after a review of the files that a total of \$1,135,483.26 in overpayments were made during the administration of the program. This amount covers a period from 1997 to present. These overpayments occurred as a result of claims mismanagement by various District Agencies and three Third Party Administrators. Of the \$1,135,483.26:

- \$166,304.36 is attributable to TPA No. 1,
- \$470,998.61 is attributable to TPA No.2,
- \$195,526.24 is attributable to TPA No. 3,
- and \$302,653.74 is attributable to TPA No. 4., by default of the prior TPA’s mismanagement.

A total of \$42,892.65 has been recovered to date due to the efforts of DCORM and CMI/Sedgwick. The agency is in litigation with TPA No. 2 regarding their outstanding amount; OAG is handling that matter for us. TPA No. 4 has agreed to reimburse DCORM for overpayments occurring as a result of their prolong transition and therefore their inability to properly review claims in a timely manner.

Further evidence of DCORM’s and CMI’s success in managing the claim files and getting employees back to work is confirmed by the following: As of the September 2005 loss runs, there were 2108 open indemnity claims and 793 open medical only claims for a total of 2901 open claims. Of the 2108 indemnity claims, 884 injured employees were receiving some type of disability payment totaling \$722,921.77.

Loss Runs as of February 2007 indicate a total of 1365 open indemnity cases and 119 open medical only claims for a total of 1484 open claims. Of the 1365 open indemnity cases, 573 injured employees were receiving some type of disability payment. The February 21, 2007 pre-fund report indicated these payments totaled \$495,657.63. Respectively, this shows a 35% reduction in the number of open indemnity cases, with a 35% reduction in the number of cases where injured employees were receiving benefits and an 85% reduction in the number of open medical only cases.

These results show dramatic decreases in the number of open cases and the number of injured employees receiving benefits since the inception of the contract with CMI/Sedgwick. As such we believe that recommendation one has been satisfied. We will continue to conduct audits of CMI/Sedgwick and pursue the collection of overpayments from employees and former TPA’s.

- 2. Perform quarterly verification checks of disability compensation recipients by reviewing OPRS payroll records and records available from OPM for the civil service retirement system.**

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Kelly L. Valentine
Interim Director

DISTRICT OF COLUMBIA GOVERNMENT DC OFFICE OF RISK MANAGEMENT

In conjunction with OCTO and CFO, DCORM will coordinate establishment of a linkage between the S.O.A.R. system and the District's payroll system to eliminate duplicate payments to employees expeditiously. This will immediately eliminate the possibility of an employee getting both payments after returning to full or part-time duty after an injury. We are also trying to develop protocols between DCORM, OPRS and OPM to address any issues regarding payment of Disability and Retirement. We agree with OIG that these are important issues to reduce instances of overpayments, fraud and other abuses. We will continue to coordinate this effort and will have all of these procedures in place by Fiscal Year 2008. In the interim DCORM and CMI/Sedgwick continue to gather information regarding claimants payments by individual checks and balances with DCOP, OPM and OPRS.

3. Immediately refer all cases of employees who improperly received dual payments to the OIG Investigations Division in accordance with Sections 1803.8 - .9 of the District Personnel Manual.

As outlined above we are pursuing reimbursement from individual claimants as well as various Third Party Administrators. We agree with this recommendation and will continue to coordinate our efforts with OIG and OAG by supplying them with the current list of overpayments and working out a plan of action that includes their legal and investigative assistance on these and other claims as they are presented.

4. Prior to initiating disability compensation payments, require claimants to acknowledge in writing that they understand that D.C. law prohibits receipt of salary or other compensation (excluding exceptions noted under D.C. Code 1-623.16 (2001)) for the District of Columbia while receiving disability compensation, and that failure to comply with this mandate could subject them to administrative action as well as criminal prosecution.

DCORM agrees with this requirement and has created a letter that will be sent to all claimants with the initial set of compensation forms for their review and signature. See attached.

5. Immediately begin performing quarterly performance audits of TPA as required by the contract and use the audit results to enforce the incentive and disincentive provisions in the TPA contract.

DCORM completed its first quarterly audit in November of 2005. After this audit and further review of the Third Party Administrator claims administration, DCORM established a client service plan (CSP) to serve as a reference for DCORM and representatives of the Third Party Administrator for claims handling guidelines above and beyond basic claims handling techniques. The second audit took place in December of 2006. It should be noted that the

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Kelly L. Valentine
Interim Director

DISTRICT OF COLUMBIA GOVERNMENT DC OFFICE OF RISK MANAGEMENT

appropriate enforcement of the CMI/Sedgwick contract provisions are presently being resolved with CMI/Sedgwick as part of the disincentive provisions. We will complete quarterly audits going forward in compliance with contractual requirements. The next audit is scheduled for April 2007.

6. Include in the Initial Determination notices, the claimant's benefits that would continue while the claimant receives disability compensation.

DCORM includes this information in the Initial Determination notices to claimants. See attached.

7. Notify claimants in writing of any changes to their disability payments, such as cost of living increases and increases in health and life insurance premiums.

DCORM currently provides written notifications related to deductions to all claimants regarding annual premium increases and the associated adjustments to their compensation rates. Effective Fiscal Year 2007, written notifications confirming no benefit elections were also sent to those who elected to opt out of health and life benefits. See attached.

8. Provide claimants with a record that shows the pay deductions for health and life insurance benefits.

As indicated above DCORM currently provides written notifications related to deductions to all claimants, regarding annual premium increases and the associated adjustments to their compensation rates. The complaints received by claimants on this issue references our ability to include these deductions on the actual pay-stub received bi-weekly. DCORM is currently investigating this process with SunTrust Bank and CMI/Sedgwick to determine if this can be included on the stub. We are also pursuing the possibility of transferring the Life and Health benefits function back to DCOP as they are more equipped to manage the process.

In conclusion it should be noted that fact gathering for this OIG report commenced in the second quarter of Fiscal Year 2006. As you aware, BDO Seidman, LLP conducted an audit of the Disability Compensation Program in the first quarter of Fiscal Year 2007. As a result of the extensive management reform efforts undertaken and completed in FY 2006, management of the Disability Compensation Program went from a reportable condition in the FY 2005 CAFR, to an advisory comment in the FY 2006 CAFR.

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Kelly L. Valentine
Interim Director

DISTRICT OF COLUMBIA GOVERNMENT DC OFFICE OF RISK MANAGEMENT

Thank you for the opportunity to provide a formal response to your recommendations. If you have any questions regarding these responses please contact me at 202.727.8600.

Sincerely,

Kelly Valentine
Interim Chief Risk Officer

Cc: Honorable Adrian M. Fenty, Mayor
Honorable Carol Schwartz, Chairperson, Committee on Work Force Development and
Government Operations
Dan Tangherlini, City Administrator

EXHIBIT C: ORM RESPONSE TO DRAFT REPORT



**Government of the District of Columbia
Office of Risk Management
Disability Compensation Program**

Kelly Valentine -
Interim Chief Risk Officer

**NOTICE OF DETERMINATION REGARDING
ORIGINAL CLAIM FOR COMPENSATION
Form NOC**

Date of this Notice: March 30, 2007

Employee Name:
Address:
Claim Number:
Social Security Number:
Date of Injury/Illness:
D.C. Government Agency:

Why You Have Received This Notice

*Your Disability Compensation Claim is hereby **ACCEPTED**.*

(Explain injury, reason for acceptance, and body parts accepted here)

Continuation of Pay (COP) is authorized for up to (insert # of COPdays) days if your absence is prescribed by an OCCUNET PPO Participating Physician and directly related to injuries sustained in the above referenced accident.

Medical expenses for the above injuries arising from this accident and performed by and / or prescribed by a treating OCCUNET PPO Physician and directly related to the injuries sustained in the above referenced accident are compensable.

In order to guarantee payment of medical expenses, all medical treatment must be authorized by the Disability Compensation Program and provided or directed by an OCCUNET PPO Physician. An OCCUNET PPO authorized physician in your area can be found by calling 1-800-368-8002, ext. 5944.

What You Should Do Now

Read this notice. If you disagree with our decision, act now. You may either (choose one):

1. **Request reconsideration** of our decision by following the instructions below, or
2. **Appeal** this notice by following the instructions below and as provided in the Act, D.C. Code § 1-623.24 (2001).

What You Should Do If You Disagree With This Notice

If you disagree with this notice, you must act now by either (choose one): (1) Requesting reconsideration as provided below. If you fully comply with all instructions below, including all deadlines, your payments will be extended for thirty days during the reconsideration process. Or (2) appealing this notice to: **Chief, Office of Hearings and Adjudication, Department of Employment Services, 64 New York Avenue, N.E., Suite 2101, Washington, D.C. 20002**, as provided in D.C. Code, 2001 Ed. § 1-623, *et seq.* The payments, however, will not be extended during the appeal process.

How to Request Reconsideration

You must do two things if you choose to request reconsideration:

1. Mail or deliver the enclosed Request for Reconsideration Form so that **the form is received in the Office of Risk Management no later than the 30th day after the date of this notice. Requests for reconsideration shall not be**

D.C. Disability Compensation Program
Phone: (202) 727-8600 Fax: (202) 727-8319

441 4th Street NW, Suite 800S, Washington, DC 20001
Form NOC (rev. 12-15-04)

EXHIBIT C: ORM RESPONSE TO DRAFT REPORT

accepted by facsimile or e-mail. If a request for reconsideration is hand-delivered, the Office of Risk Management shall provide a dated receipt to the claimant.

2. Mail the supporting documentation and your specific reasons for requesting reconsideration so that the information is received in the Office of Risk Management no later than the 30th day after the date of this notice.

The date when the Office of Risk Management receives your documentation is very important.

- If you comply with the above mailing dates, your disability compensation claim and related payments we are making to you will be extended for 30 days from the date of the notice or until a timely Request for Reconsideration has been decided by the ORM, whichever is earlier.
- If you submit your request for reconsideration on or after the 31st day after the date of this notice your request will be considered untimely and the Office of Risk Management shall deny the Request for Reconsideration as untimely without ruling on the merits.

Here are some important things to know about preparing your request for reconsideration:

- Your request must be legibly written or typed and specifically state why you believe your claim should remain open with continuing payments.
- Include in your request all documents, information, medical reports and related material to support your position.
- Send original documents (not copies) if they were given to you.
- You may wish to review and copy the public portion of the file related to your claim at the office of our third party administrator. You must pay for copies at the rates currently charged by our third party administrator. You may schedule an appointment for this review by calling the telephone number at the top of this notice.
- When you have prepared your request, mail it to the **Claims Bureau Manager, Office of Risk Management, 441 – 4th Street NW, Suite 800 South, Washington, D.C., 20001**. Faxes and e-mail submissions will not be accepted.

If the reconsideration of your claim does not change our decision to close your claim and related payments, you may still appeal this notice as provided in the D.C. Code, 2001 Ed. § 1-623. The payments related to this claim will not be extended during the appeal process.

Please note, District of Columbia law provides for disability compensation payments only to claimants who meet the requirements for receiving such payments. Any payments made to you after we determine that you no longer meet those requirements may be subject to recoupment or collection activity against you after all reconsideration and appeal processes have been concluded, or the time within which you may seek reconsideration or appeal have expired, whichever is later. The amount subject to recoupment or collection activity against you will be increased if payments are extended due to your filing of a request for reconsideration that is untimely denied.

Claim Representative

Claim Supervisor

Cc: Office of Risk Management

D.C. Disability Compensation Program
Phone: (202) 727-8600 Fax: (202) 727-8319

441 4th Street NW, Suite 800S, Washington, DC 20001
Form NOC (rev. 12-15-04)

EXHIBIT C: ORM RESPONSE TO DRAFT REPORT

Government of the District of Columbia
UNIFORM REQUEST FOR REVIEW OF ELIGIBILITY DETERMINATION

ISSUED BY THE D.C. DISABILITY COMPENSATION PROGRAM (FORM UNA-1)

PLEASE READ CAREFULLY. You have received a Notice of Determination in which the Disability Compensation Program has made an Eligibility Determination about your claim. If you are dissatisfied with it, you may use this form to request either: (1) a formal hearing (appeal) before the Department of Employment Services (DOES) or (2) reconsideration by the Office of Risk Management (ORM). DOES and ORM are separate agencies whose review processes provide different rights and obligations. **REGARDLESS OF WHICH TYPE OF REVIEW YOU SEEK, YOU MUST FILL OUT THIS FORM COMPLETELY AND COMPLY WITH THE APPLICABLE DEADLINE. IF THIS FORM IS FORWARDED, THERE IS NO GUARANTEE IT WILL BE RECEIVED AT D.O.E.S. IN TIME FOR AN APPEAL.**

Step 1 - TELL US ABOUT YOURSELF

Printed Name (Do Not Sign Here) _____ Claim Number _____ Social Security No. _____ "Date of this Notice" in Form NOD _____
 Street Address _____ Apt. No. _____ City _____ State _____ Zip _____ Daytime Phone No. _____
 Employer/Agency Name _____ Street Address: _____

Step 2 - TELL US ABOUT YOUR REPRESENTATIVE (IF YOU HAVE ONE)

Printed Name of Your Attorney, Union Rep., or Other Representative _____ Phone No. _____ Additional Phone No. (optional) _____
 Street Address _____ Suite No. _____ City _____ State _____ Zip _____

Step 3a - OFFICE OF RISK MANAGEMENT - REQUEST FOR RECONSIDERATION (Part 1) (Skip if you are requesting a formal hearing (appeal))

1. SIGN HERE: _____ Signature _____ Date _____

2. MAIL this form (no faxes) to: Office of Risk Management, Claims Bureau Manager, 441-4th Street, N.W., Suite 800 South, Washington, D.C. 20001. Obtain proof of mailing and delivery from the Post Office. This is only part 1 of your request for reconsideration; you are strongly encouraged to submit part 2.

3. DEADLINE: This form must be received in the Office of Risk Management no later than the 30th day after "Date of this Notice" in your Notice of Determination.

Step 3b - DEPARTMENT OF EMPLOYMENT SERVICES - FORMAL HEARING (APPEAL) (Skip if you are requesting reconsideration)

1. SIGN HERE: _____ Signature _____ Date _____

2. MAIL or DELIVER this form to: D.C. Department of Employment Services, Labor Standards Bureau, Office of Hearings & Adjudication, 64 New York Ave., N.E., Suite 2100 Washington, D.C. 20002. If mailed, obtain proof of mailing and delivery from the Post Office.

3. DEADLINE: This form must be received no later than the 30th day after "Date of this Notice" in your Notice of Determination.

Form UNA-1 (rev. 12-16-04) (Multi-Agency Form)

EXHIBIT C: ORM RESPONSE TO DRAFT REPORT



**Government of the District of Columbia
Office of Risk Management
Disability Compensation Program**

Acknowledgement to Report All Salary and Earned Pay While on TTD Benefits:

With certain exceptions, D.C. Official Code § 1-623.16 (2001) prohibits receiving salary, pay or remuneration of any type at the same time you are receiving Temporary Total Disability payments. You MUST report in writing to the Office of Risk Management any pay, salary, or remuneration you are receiving FROM ANY SOURCE at the same time you are being paid Temporary Total Disability benefits. Failure to report this information to the Office of Risk Management may subject you to administrative action up to and including possible criminal prosecution.

By signing and dating the document below, you acknowledge and understand that all pay, salary, or remuneration you are receiving at the same time you are being paid Temporary Total Disability MUST be reported in writing to the Office of Risk Management in writing at this address:

DC Office of Risk Management
441 4th Street NW, Suite 800S
Washington, DC 20001

Printed Name:

Social Security #:

Claim Number:

Date of Injury:

Signature: _____

Date: _____

EXHIBIT C: ORM RESPONSE TO DRAFT REPORT



**Government of the District of Columbia
 Office of Risk Management
 Disability Compensation Program**

Kelly Valentine -
 Interim Chief Risk Officer

**NOTICE OF CHANGE IN HEALTH
 BENEFIT RATES
 Form NOH**

Sent via Regular Mail

Date of this Notice:
Claim Number:
Social Security Number:
Date of Injury/Illness:

Why You Have Received This Notice:

Health Insurance Premium Rates have changed for 2007. This increase in the portion of Health Insurance Premiums that you pay will result in a reduction in your benefit rate. An explanation of this change in your benefit rate follows below.

Note: *Your Adjusted Benefit Rate is calculated by subtracting your Health, Life, and Miscellaneous deductions from your Unadjusted Benefit Rate.*

The changes in Health, Life, and Miscellaneous deductions from 2006 to 2007, as well as your new Check Amount and the amount of the reduction in future checks is shown in the table below. The **Adjusted Benefit Rate** in the **2007 Rates** column will be the amount of your future payments.

	2006 Rates	2007 Rates
Unadjusted Benefit Rate	\$0.00	\$0.00
Health Insurance Deduction -	\$0.00	\$0.00
Basic Life Insurance Deduction -	\$0.00	\$0.00
Life A Deduction -	\$0.00	\$0.00
Life B Deduction -	\$0.00	\$0.00
Life C Deduction -	\$0.00	\$0.00
Miscellaneous Deduction -		
Adjusted Benefit Rate =	\$0.00	\$0.00
Total Change In Benefits from 2006 - 2007		\$0.00

We hope that this fully explains the modifications made to your benefits starting during the pay period of January 7th – January 20th, 2007. Should you have any questions regarding your Health or Life deductions, please contact Lana Craven at (202) 727-9413.

Should you have any other concerns, please contact the undersigned Claims Examiner at (202) .

Sincerely,

Claim Representative

D.C. Disability Compensation Program
 Phone: (202) 727-8600 Fax: (202) 727-8319

441 4th Street NW, Suite 800S, Washington, DC 20001
 Form NOH (rev. 01-17-04)

EXHIBIT C: ORM RESPONSE TO DRAFT REPORT



Government of the District of Columbia
Office of Risk Management
Disability Compensation Program

Kelly Valentine –
Interim Chief Risk Officer

Date

Name
Address
City, State zip

RE: DC Disability
Injury date:
Claim #:

Dear :

This office is conducting a review of all DC Disability Compensation claims to ensure the accuracy of benefits allowed under this Program.

Our review concludes that no deductions are being withheld from your bi-weekly compensation check for Health Insurance and/or Life Insurance. We ask that you complete, sign and return the enclosed form to the address on this letterhead. You should maintain a copy of this letter and form for your records.

Please return the form within 10 days from the date you receive this letter.

Feel free to contact this office at 202-216-4700 should you have further questions in regards to this matter.

Sincerely,

Claim Representative

Enclosure

EXHIBIT C: ORM RESPONSE TO DRAFT REPORT

RE: Claimant's name
Date of Injury
Claim #

___ I agree that I do not have or wish to have health insurance or life insurance under DC Government, Disability Compensation Program.

___ I agree that I do not have Health Insurance or wish to have health insurance under DC Government, Disability Compensation Program.

___ I agree that I do not have Life Insurance or wish to have life insurance under DC Government, Disability Compensation Program.

***** OR *****

UPON REVIEW OF MY RECORDS:

___ I elected to have both Health Insurance and Life Insurance. The plans I elected are indicated below.

Health Plan _____
Life Insurance Option _____

___ I elected to have Health Insurance only. The plan I elected is indicated below.

Health Insurance Plan _____

___ I elected to have Life Insurance only. The plan I elected is indicated below.

Life Insurance Option _____

See supporting documentation attached.

Print Name _____

Signature _____ **Date** _____