

**TESTIMONY OF CHARLES J. WILLOUGHBY  
INSPECTOR GENERAL**

**BEFORE THE D.C. COUNCIL  
COMMITTEE ON WORK FORCE DEVELOPMENT AND  
GOVERNMENT OPERATIONS**

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

**JUNE 11, 2007**

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Good afternoon Chairperson Schwartz and members of the Committee. I appreciate the opportunity to appear before the Committee on Work Force Development and Government Operations to testify concerning the Office of the Inspector General's (OIG) audits of the District of Columbia Employee Disability Compensation Program.

Accompanying me today are William J. DiVello, Assistant Inspector General for Audits and LaDonia Wilkins, Audit Director. As you are aware, the OIG has completed two audits of the Disability Compensation Program. The first audit, entitled "Audit of the Third Party Administrator's Subcontractor Costs for the District of Columbia Employee's Disability Compensation Program," was issued on March 9, 2007, and the second audit, entitled "Audit of the District of Columbia Employee Disability Compensation Program," was issued on April 23, 2007.

The Disability Compensation Program was included in our Fiscal Year (FY) 2007 Audit and Inspection Plan due to complaints alleging inappropriate management practices by

the Office of Risk Management (ORM) and the Third Party Administrator (TPA) relative to the Disability Compensation Program.

My testimony today will describe the audit objectives, scope, and methodology; summarize the conclusions reported in our audit reports; and outline the recommendations made to the ORM and the current status of those recommendations.

### **OBJECTIVES, SCOPE, AND METHODOLOGY**

Our audit objectives were 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, and whether the TPA complied with the terms of its contract with the District of Columbia. To accomplish this objective, we evaluated the adequacy of the ORM's processes for granting, paying, and administering employee disability claims; assessed the adequacy of internal controls over the disability claims process to ensure that the Disability Compensation Program was operating efficiently and effectively; and evaluated the adequacy of management over disability case file documentation to support underlying claims data.

We held interviews and discussions with ORM management and administrative staff to gain a general understanding of the policies, procedures, and other controls used to manage and oversee the TPA. We observed and interviewed TPA employees to gather information on the claims process. We also conducted interviews with the 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 Compensation Program. Additionally, we had several meetings with advocates for injured workers. We also took into consideration allegations made by past and present disability compensation claimants of inappropriate management practices by ORM and the TPA for the Disability Compensation Program. However, our audits did not evaluate the merits of any specific person's claim.

The scope of our audit consisted of a review of disability compensation claims open as of February 5, 2006. There were 2,299 open claims that received disability compensation payments and services totaling \$25,303,725. Between July 1, 2005, through March 31, 2006, there were 2,107 disability compensation claims closed. We randomly selected a statistical sample of 92 open and 92 closed disability compensation claims for our review.

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

The first audit I will discuss is the Audit of the District of Columbia Employee Disability Compensation Program. This audit focused on ORM's management of the Disability Compensation Program. The audit found that the Disability Compensation Program continued 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.

Additionally, 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 Compensation Program and, therefore, failed to reduce program costs by as much as \$3.3 million. We also found that claimants who had returned to work, or were collecting retirement benefits, continued to receive disability compensation payments. As a result, we estimated that Disability Compensation Program losses totaled 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 claimants' health and/or life insurance benefits, resulting in claimants having no assurance that their health and/or life insurance benefits were properly accounted for or whether insurance coverage was active or had lapsed.

### **ALLEGATIONS MADE BY PAST AND PRESENT DISABILITY COMPENSATION CLAIMANTS**

We received six allegations of inappropriate management practices by ORM and the TPA for the Disability Compensation Program from past and present disability compensation claimants. The six allegations are as follows:

1. ORM and the TPA required disability compensation claimants to attend two or more additional medical examinations in order to obtain an opinion that was contrary to the medical opinion of the claimant's treating physician. This allegation was not substantiated.
2. ORM and the TPA terminated and denied disability compensation benefits without justification or supporting evidence, and claimant's benefits were terminated when they reached age 62. This allegation was not substantiated.

3. ORM and the TPA caused claimants to lose their Civil Service Retirement Status and these claimants were denied the opportunity to retire under the Civil Service Retirement System. This allegation was not substantiated.
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. This allegation was substantiated.
5. ORM and the TPA lost claim files. This allegation was not substantiated.
6. ORM did not respond to requests for reconsideration within 30 days. This allegation was substantiated.

Thus, we were able to substantiate two of the six allegations.

### **ORGANIZATIONAL COLLABORATION**

During the course of our audit, we identified key agencies that could be an asset to ORM and the TPA in operating the Disability Compensation Program effectively and efficiently. These agencies are the District of Columbia's Department of Human Resources (DHR); Office of Pay and Retirement Services (OPRS), Office of the Chief Financial Officer; and the Department of Employment Services (DOES). DHR, 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 Compensation Program by claimants. DHR can also 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.<sup>1</sup> In addition, maintaining continuous communication with employers<sup>2</sup> could be an effective tool in returning claimants to the work force as soon as medically feasible. ORM should also encourage employing agencies to be more involved in their injured employees' cases and not allow agencies to forget their employees.

### **SUMMARY OF RECOMMENDATIONS**

We directed eight recommendations to ORM to improve the conditions noted during our audit, implement essential internal controls, and reduce inappropriate and unnecessary costs to the Disability Compensation Program. The recommendations center, in part, on improving oversight of the TPA's administration of the Disability Compensation Program and ensuring that all disability claims are adequately managed. Elements of increased oversight include reducing Disability Compensation 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, in order to detect employees receiving dual payments. Other oversight actions include requiring claimants to acknowledge in writing their understanding that District 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.

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<sup>1</sup> 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.

<sup>2</sup> Employers are the agencies where the claimants were employed prior to sustaining a work-related injury.

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

### **MANAGEMENT'S RESPONSE**

ORM's written response to the draft report concurred with six of the recommendations and disagreed with Recommendations 1 and 6. Recommendation 1 pertained to ORM conducting a one-time review of all open claims to prioritize and identify cases where additional case management efforts could return employees to work or otherwise remove them from the Disability Compensation Program, and Recommendation 6 pertained to including in the Initial Determination notices the claimant's benefits that would continue while the claimant receives disability compensation. We asked ORM to reconsider its position on Recommendations 1 and 6. On May 23, 2007, ORM provided additional information outlining corrective action pertaining to Recommendations 1 and 6, and now generally agrees with our recommendations.

### **AUDIT OF THE TPA'S SUBCONTRACTOR COSTS FOR THE DISTRICT OF COLUMBIA EMPLOYEE'S DISABILITY COMPENSATION PROGRAM**

The second audit I will discuss is the Audit of the TPA's Subcontractor Costs for the District of Columbia Employee Disability Compensation Program. This audit focused on the contract between ORM and the TPA.

Our audit determined that the TPA did not comply with the terms of its contract. An analysis of subcontractor charges reported to and paid for by ORM revealed that the charges were unallowable. The subcontractor charges were for services covered under the \$9.4 million contract between ORM and the TPA and were, therefore, unallowable. Additionally, ORM paid the subcontractor costs without identifying whether those charges were allowable. We estimated that as much as \$370,000 of subcontractor costs may be recoverable.

### **SUMMARY OF RECOMMENDATIONS**

We directed three recommendations to ORM, which focused on: (1) determining the amount of unallowable charges paid for by the District to the subcontractor and recouping those monies; (2) requiring that subcontractor costs be reported separately from disability compensation payments and medical costs in order for ORM to better identify and manage subcontractor costs; and (3) establishing procedures to ensure that the TPA requests approval for services that are allocated to loss adjustment expenses, prior to initiating services.

### **MANAGEMENT'S RESPONSE**

ORM's written response to the draft report disagreed with our recommendations. ORM did not concur with Recommendations 1 and 2, and its response to Recommendation 3 did not contain enough information to determine whether corrective actions met the intent of the recommendations. In its response, ORM contended that the subcontractor was hired at the inception of the contract to provide nurses to conduct reviews of the claim

files. However, the Office of Contracting and Procurement maintained that there were no agreements with any companies (i.e., subcontractors) other than the TPA. Therefore, we concluded ORM's actions to enter into an agreement with the subcontractor were inappropriate. ORM stated that all costs are identified by vendor on the pre-fund<sup>3</sup> report and all costs are identified on each claimant's file. Our position remains that subcontractor costs should be reported separately from the disability compensation costs and medical costs of claimants in order for ORM to better identify and manage subcontractor costs. Lastly, ORM stated that the TPA's requests for allocated loss adjustment expenses will be forwarded to the Acting Disability Compensation Manager for prior approval. We contend that ORM did not address what controls would be put into place to ensure that all allocated loss adjustment expenses are approved by ORM prior to initiating those services. ORM has been asked to reconsider its position on Recommendations 1 and 2 and provide additional information regarding corrective action for Recommendation 3 within 60 days of the issue date of the report. We are awaiting ORM's response to our request to resolve these outstanding issues and will continue to work with ORM and the Executive Office of the Mayor to reach final resolution of the recommendations.

This concludes my testimony and we will be happy to respond to any questions that you may have.

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<sup>3</sup> The pre-fund report is prepared weekly by the TPA and submitted to the District for payment. The report provides the names of injured workers and medical providers entitled to payment from the Disability Compensation Fund.