



Highlights of [GAO-04-516](#), a report to Chairman, Committee on Finance, U.S. Senate

## Why GAO Did This Study

Subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 allows the Department of Energy (Energy) to help its contractors' employees file state workers' compensation claims for illnesses determined by a panel of physicians to be caused by exposure to toxic substances while employed at an Energy facility.

This report examines the effectiveness of the benefit program under Subtitle D and focuses on four key areas: (1) the number, status, and characteristics of claims filed with Energy; (2) the extent to which Energy policies and procedures help employees file timely claims for these state benefits; (3) the extent to which there will be a "willing payer" of workers' compensation benefits, that is, an insurer that—by order from or agreement with Energy—will not contest these claims; and (4) a framework that could be used for evaluating possible options for changing the program.

## What GAO Recommends

Energy generally agreed with GAO recommendations that the agency take additional steps to expedite the processing of claims through its physician panels, enhance its communications with claimants, improve its case management data and its capabilities to aggregate these data to address program issues, and consider developing a legislative proposal to address the willing payer issue.

[www.gao.gov/cgi-bin/getrpt?GAO-04-516](http://www.gao.gov/cgi-bin/getrpt?GAO-04-516).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robert E. Robertson at (202) 512-7215 or [robertsonr@gao.gov](mailto:robertsonr@gao.gov).

# ENERGY EMPLOYEES COMPENSATION

## Even with Needed Improvements in Case Processing, Program Structure May Result in Inconsistent Benefit Outcomes

### What GAO Found

During the first 2½ years of the program, ending December 31, 2003, Energy had completely processed about 6 percent of the more than 23,000 cases that had been filed. Energy had begun processing nearly 35 percent of the cases, but processing had not yet begun on nearly 60 percent of the cases. Further, insufficient strategic planning and systems limitations complicate the assessment of Energy's achievement of goals related to case processing, as well as goals related to program objectives, such as the quality of the assistance provided to claimants in filing for state workers' compensation.

While Energy got off to a slow start in processing cases, it is now processing enough cases that there is a backlog of cases waiting for review by a physician panel. Energy has taken some steps intended to reduce this backlog, such as reducing the number of physicians needed for some panels. Nonetheless, a shortage of qualified physicians continues to constrain the agency's capacity to decide cases more quickly. Consequently, claimants will likely continue to experience lengthy delays in receiving the determinations they need to file workers' compensation claims. In the meantime, Energy has not kept claimants sufficiently informed about the delays in the processing of their claims as well as what claimants can expect as they proceed with state workers' compensation claims.

GAO estimates that more than half of the cases associated with Energy facilities in 9 states that account for more than three-quarters of all Subtitle D cases filed are likely to have a willing payer of benefits. Another quarter of the cases in these 9 states, while not technically having a willing payer, have workers' compensation coverage provided by an insurer that has stated that it will not contest these claims. However, the remaining 20 percent of the cases in these 9 states lack willing payers and are likely to be contested. This has created concerns about program equity in that many of these cases may be less likely to receive compensation. Because of data limitations, these percentages provide an order of magnitude estimate of the extent to which claimants will have willing payers. These estimates could change as better data become available or as circumstances change, such as new contractors taking over at individual facilities. The estimates are not a prediction of actual benefit outcomes for claimants.

Various options are available to improve payment outcomes for the cases that receive a positive physician panel determination, but lack willing payers. While not recommending any particular option, GAO provides a framework that includes a range of issues to help the Congress assess options if it chooses to change the current program. One of these issues in particular—the federal cost implications—should be carefully considered in the context of the current and projected federal fiscal environment.