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The Federal Employees' Compensation Act provides for two types of disability payments--monthly payments for loss of wages for as long as the disability continues, and scheduled awards for certain permanent disabilities. The Federal Employees' Compensation Program has grown substantially since 1970 and, if benefit payments continue to increase at the same rate, annual benefit costs will reach $1 billion by 1980. A review of the program revealed that: benefits were awarded without a showing of causal relation between the employee's disability or death and his or her employment; there was ineffective monitoring of disability status and the need for rehabilitation of employees receiving extended compensation; there are changes needed in management and operating procedures so that administration of the program can be improved; there are problems with staffing, including the selection and training of claims examiners; compensation benefits increased substantially because of the Office of Workers' Compensation Programs' change in its formula for hearing impairment compensation; and there is a need to establish causal relationship between occupational noise exposure and permanent hearing impairment. Improvements in the program should be made by improving the training and selection of the staff and by establishing appropriate standards, systems, and procedures to correct deficiencies. The Director, Office of Management and Budget, should determine whether it would be advisable to amend the act to place specific monitoring and vocational rehabilitation responsibilities in the employing agencies. (Author/HTW)

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UNITED STATES GENERAL ACCOUNTING OFFICE
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STATEMENT OF
GREGORY J. AHART, DIRECTOR
HUMAN RESOURCES DIVISION
UNITED STATES GENERAL ACCOUNTING OFFICE
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, HEALTH AND SAFETY
OF THE
COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

Mr. Chairman and Members of the Subcommittee, we are pleased to be here today to discuss the results of our review of the Department of Labor's administration of the compensation benefits program for injured Federal employees which is authorized by the Federal Employees' Compensation Act. Our discussion today will focus primarily on the results of our review of the program and our suggestions for improving its administration. We expect to issue a comprehensive report to the Congress on the results of our review sometime early this summer. Another report to the Congress on the need to change the hearing impairment criteria to ensure proper payment under the act should be released within a few weeks.

We undertook work on Federal employees' compensation because, despite the fact that the number of civilian employees of the Federal Government has remained fairly constant during recent years, the Federal Employees' Compensation Program has grown dramatically. From fiscal year 1970 through fiscal year 1977:

--injuries reported by employees increased by 72.1 percent, from 120,625 to 207,615;

--claims increased by 70.3 percent, from 17,795 to 30,301;

--persons drawing compensation for extended periods increased by 90 percent from 23,462 to 44,576; and

--benefits paid increased by 315.1 percent, from $131.5 million to $545.8 million.

If the amount of benefits paid continues to increase at the rate of increase experienced during recent years, the Department of Labor estimates annual benefit costs will amount to $1 billion by 1980.

BACKGROUND

The Federal Employees' Compensation Act, as amended (5 U.S.C. 8101), was enacted in 1916 to provide for compensation benefits to Federal employees injured or killed while performing their duties.

Benefits provided under the act include (1) the medical, surgical, and hospital treatment required by the injury; (2) assistance in obtaining medical, employment, and vocational rehabilitation services; and (3) compensation for temporary or permanent disability caused by the injury. Also, if death results from an injury sustained in the performance of duty, the act provides for reasonable funeral expenses and compensation to surviving dependents. Under the act, the term injury includes occupational diseases.

Compensation for temporary or permanent disability currently provided under the act includes compensation for loss-of-wages up to 75 percent of the employee's average monthly pay.[1/] Compensation however, can not exceed 75 percent of the maximum pay for a GS-15 (currently $47,025) and can not be less than the lesser of 75 percent[1/] of the minimum pay for a GS-2 (currently $7,035) or the amount of the employee's actual pay.

The money allowances provided by the act are of two kinds: (1) monthly payments for loss of wages for as long as the disability continues and (2) scheduled awards. A scheduled award is provided for certain permanent disabilities, including hearing loss and loss of use of other bodily functions or members, such as vision or portions of the limbs. Benefits for scheduled awards are calculated in the same manner as those paid for other parital or total

1/66-2/3 percent for employees without dependents.

disabilities, but are paid for a specified period of time for a specific loss. For example, an award of 244 weeks' compensation is payable for the loss of a hand. Scheduled awards are payable whether or not the impairment results in a loss of wages.

The program is administered by the Office of Workers' Compensation Programs (OWCP) within the Department of Labor's Employment Standards Administration. In addition to OWCP's national office, there are 14 district offices located throughout the United States, which are primarily responsible for processing claims for payment under the program. The Branch of Special Claims in the national office is responsible for examining, developing, and adjudicating claims of any unusually complex or confidential nature, regardless of the geographical location of occurrence of the injury. In addition, a special Hearing Loss Task Force was established during 1976 in the national office to aid in adjudicating the backlog of hearing loss claims filed before January 1976.

To obtain benefits under the act, an employee must report to the employing agency and OWCP any injury sustained as a result of employment. Upon receipt of a claim from an injured employee, the district office reviews the evidence submitted, and may request any additional evidence necessary to determine whether the injury or illness was work related and the employee is eligible for benefits under the act. If the district office approves the claim, it must provide for the necessary medical treatment and compensation to the employee.

A claimant not satisfied with the decision on his claim may obtain a review by, or a hearing before, OWCP's Branch of Hearings and Review. Claimants may further appeal

their cases--either as to eligibility or the amount of award--to the Employees' Compensation Appeals Board which is is a 3-member quasi-judicial body appointed by the Secretary of Labor.

SCOPE OF REVIEW AND OVERVIEW

Our review was conducted at OWCP's national office in Washington, D.C. and at its district offices in Jacksonville, Florida; San Francisco, California; and Chicago, Illinois. We reviewed a sample of cases at each district office. We also reviewed hearing loss cases in the Washington, D.C., Jacksonville, and San Francisco district offices.

I will discuss our findings in some detail, but in summary we found that:

--benefits were awarded without a showing of causal relation between the employee's disability or death and his or her employment,

--there was ineffective monitoring of the employees' disability status and the need for rehabilitation of employees receiving extended compensation,

--there are changes needed in management and operating procedures so that administration of the program can be improved,

--there are problems with staffing including the selection and training of claims examiners,

--compensation benefits increased substantially because of OWCP's change in its formula for hearing impairment compensation, and

--there is a need to establish causal relationship between occupational noise exposure and permanent hearing impairment.

Included as attachments to this statement are cases from our samples which demonstrate the effect of the weaknesses in program administration. The cases in our sample where our auditors questioned the adequacy of medical evidence were reviewed in detail by our consultant, a medical doctor, who expressed his opinion as to whether the medical evidence appeared adequate.

BENEFITS AWARDED WITHOUT ADEQUATE EVIDENCE SHOWING THAT DISABILITY OR DEATH WAS CAUSED BY EMPLOYMENT

In 96 cases (about 41 percent) of the 233 cases which we reviewed, OWCP awarded benefits without establishing, in accordance with the agency's own criteria, that the employee's disability or death was caused by his or her Federal employment. Because OWCP's recordkeeping system precluded our taking statistically valid samples, the results of our

review of cases can not be reliably projected to all benefits awarded by OWCP. However, our review indicates that many Federal employees may have received workers' compensation benefits to which they were not entitled.

Labor's criteria require that the claims examiner obtain a medical opinion that is fortified with rationale in determining if an employee's disability or death is causally related to an injury sustained in the performance of duty. This medical opinion should be in definite and certain terms and without speculation as to causal relation. Furthermore, opinions as to the causal relation should be obtained from appropriate specialists before approving any claim involving such conditions as malignancies, heart disease, respiratory problems, neurosis, and other similar conditions.

In this regard, the Employees' Compensation Appeals Board in its decisions, which are precedent setting, has consistently ruled (1) that compensation may not be awarded on the basis of surmise, conjecture, speculation, or a claimant's unsupported belief of causal relation and (2) that a physician's opinion setting forth causal relation in terms of possibility is speculative and insufficient.

The District Medical Director may assist the claims examiners by (1) expressing an opinion on causal relation, (2) interpreting submitted medical reports, and (3) reviewing the adequacy of the rationale contained in the medical reports. According to Labor's

regulations the Medical Director may suggest or direct that additional factual evidence be obtained before a conclusion is reached on causal relation. The Medical Director may not, however, decide the facts, make factual conclusions, or recommend acceptance or rejection of claims. These decisions are the responsibility of claims examiners.

Our review of 233 cases showed, in our opinion, that awards were made to claimants in 35 cases without adequate medical evidence, 51 cases without adequate medical rationale, and 10 cases with unresolved conflicting medical evidence. Most of the discrepant awards involved claims based on the employees' contentions that diseases, neuroses, and orthopedic disorders were caused by their work. (See cases A, B, and C on pages 32, 34, and 36, respectively.)

As opposed to most traumatic injuries, where the relation between the work and the injury is often clear, the question of causal relation between the work and various diseases, neuroses, and orthopedic disorders is more often obscure. Answering that question requires that OWCP have, in addition to information about the employee's physical or mental condition, detailed and specific information about his or her working conditions and work history, about pre-existing medical or mental conditions which might have caused the disability or death, and about possible causes in the employee's private life. In the cases we questioned, the claims examiners did not obtain that kind of information. Instead, they tended to accept the

employees' contentions of causal relation and the unsupported statements of the employees' private physicians.

In addition, we reviewed nine cases which were rejected by the district offices and appealed to the Branch of Hearings and Review in OWCP's national office where the district offices' decisions were overturned. Primarily, we reviewed these cases because improperly founded reversals by the Branch were frequently cited by district office personnel as a cause influencing their inadequate development of claims. We selected six of the nine cases from examples provided by district office personnel. The remaining three cases were taken from our random samples of cases decided by the district offices.

The nine cases which we reviewed support the contentions of the district office claims examiners who say that the Branch, in reversing their decisions to reject claims for lack of causal relation, does not adhere to the established criteria for determining causal relation. In seven of the nine cases, in our opinion, the preponderance of evidence did not support a finding of causal relation in accordance with the established criteria. (See case D, page 38.)

Overall statistics which we obtained on the Branch's actions in fiscal years 1971 through 1976, however, do not support the contentions of some claims examiners that the Branch reverses most decisions which are appealed by the claimants. They show,

instead that over the 6-year period, in cases involving the determination of causal relation, the Branch reversed 41 percent of the district office decisions but that there has been a steady decline in the percentage of reversals--from 54 percent in fiscal year 1971 to 30 percent in fiscal year 1976. The percentage of district office decisions sustained increased from 29 percent in fiscal year 1971 to 37 percent in fiscal year 1976, but fluctuated in the intervening years.

INEFFECTIVE MONITORING OF INJURED EMPLOYEES' PROGRESS AND NEED FOR VOCATIONAL REHABILITATION

The three OWCP district offices which we visited, during our review of the administration of the act, did not systematically review the condition and status of injured employees who had been receiving compensation for extended periods of time to determine whether such persons remained eligible for the benefits they were receiving or whether they might benefit from vocational rehabilitation services.

We randomly selected a total of 102 cases from the periodic (long term) disability rolls at the three district offices. We reviewed those cases to determine whether periodic medical progress reports were being obtained, whether wage earning capacity determinations were being made, and whether injured employees were being referred for vocational rehabilitation services.

Because our samples were not representative of the total universe of OWCP's periodic disability rolls, we can not project the results of our review. We believe, however, that our review demonstrates that OWCP is not effectively monitoring its continuing compensation cases.

Periodic Medical Progress Reports Not Obtained

Labor regulations state that attending submit medical reports at approximately mor all cases of serious injury or disease, wit period over which such reports should be ma Procedure Manual provides that claims exami should obtain medical progress reports at 6 intervals during the first 2 years of disab has no specific criteria for obtaining medi after the first 2 years of disability.

Periodic medical reports evaluating an condition in respect to his or her work-rel essential if OWCP is to know whether compens should be continued, modified, or terminated employee's ability to work. Our review show reports were not obtained on a current basis page 43.)

Of the 86 cases we reviewed which had b disability rolls for over 2 years, 58 cases rolls from 2 to 4 years, 25 cases from 5 to three cases from 10 to 14 years. We found t

--of the 58 cases, the claims examiners any medical reports for 26 of the cas preceding our review and had not rece reports on eight other cases since th placed on the rolls;

--of the 25 cases, the claims examiners had not received any medical reports for 20 of the cases in the year preceding our review and had not received any medical reports on two other cases since the employees were placed on the rolls; and

--of the three cases, the claims examiners had not received any medical reports for two of the cases in the year preceding our review.

Inadequate Wage-Earning Capacity Determinations

The act provides that the compensation payable to an employee who is partially disabled as a result of a work-related injury shall be a specified percentage of the difference between the injured employee's regular pay and his or her wage-earning capacity. OWCP's Federal Procedure Manual provides that the claims examiner will initiate action to determine an injured employee's wage-earning capacity after total disability ceases.

In 58 of the 102 cases in our sample, OWCP had not made wage-earning capacity determinations as required. But eight determinations were in process at the time of our review. OWCP did make wage-earning capacity determinations in the remaining 44 cases. In seven of the 44 cases, OWCP found that the employees had wage-earning capacities and reduced their compensation accordingly. The remaining 37 determinations resulted in findings that the employees did not have wage-earning capacities and their compensation was continued at the total disability rate.

Based on the information in the files at the time the wage-earning capacity determinations were made, we questioned

the validity of 18 of the 44 determinations either because the information was not sufficient to support the determinations made or because there was conflicting evidence concerning the employee's capacity for work. We believe that in six cases OWCP should have redetermined the employee's wage-earning capacity, and in 12 cases, OWCP's monitoring activity had not been sufficient to permit it to know whether earlier determinations remained valid. (See case F, page 44.)

Inadequate Vocational Rehabilitation Efforts

The act provides that an employee who is permanently disabled as a result of a work-related injury may be directed to undergo vocational rehabilitation and that the compensation of an employee who refuses to undergo rehabilitation when so directed may be reduced.

OWCP's Federal Procedure Manual requires district office vocational rehabilitation specialists to review cases in which injured employees may benefit from such services. Further, the manual states, "It is imperative that rehabilitation activity begin at the earliest possible time before mental and physical lethargy destroy the motivation of the injured employee."

We found that generally cases were not reviewed for vocational rehabilitation potential until they were placed on the periodic disability roll. Many of the more complicated cases were not placed on the periodic roll for months after the date of injury.

In our opinion, the criteria of OWCP's Federal Procedure Manual required that vocational rehabilitation specialists review 89 of the 102 cases in our sample. They had reviewed 70.

The vocational rehabilitation specialists determined that the injured employees could benefit from vocational rehabilitation services in only 15 of the 70 cases. At the time of our review, three of these 15 cases were still in the process of being evaluated for vocational rehabilitation services. In eight of the remaining 12 cases, there was no indication that the employees had even responded to OWCP's efforts to refer them for vocational rehabilitation services. In none of the 12 cases had the vocational rehabilitation services provided resulted in the employees returning to work or a reduction of his or her compensation. (See case G, page 45.)

The average lapse of time between the date of injury and the date the vocational rehabilitation specialists reviewed the cases was 15 months in Jacksonville, 21 months in Chicago, and 22 months in San Francisco.

In the 55 cases where the vocational rehabilitation specialists determined that the injured employees could not benefit from vocational rehabilitation services, we questioned the determinations in 34 cases. In 20 of the 34 cases, we believe the files contained evidence that services might help the employee to return to work, and in the other 14 cases, we believe the files did not contain sufficient evidence on which to base an informed decision.

Also, in 12 of the 13 cases in which OWCP's criteria did not require review by the vocational rehabilitation specialists, we believe that review would have been desirable and that appropriate vocational rehabilitation services may have benefited the injured employees. These were cases in which the employee, though not found to be permanently disabled, had been receiving compensation for extended periods of temporary disability.

MANAGEMENT WEAKNESSES IN PROGRAM ADMINISTRATION

In our opinion, some significant changes in the management and the procedural policies of OWCP will have to precede any significant improvement in the agency's administration of the act.

No Onsite Investigation Of Claims

In its efforts to obtain the information which it needs to determine causal relation and whether employees are entitled to continuing compensation, OWCP personnel rarely have first-hand knowledge about whether the employee is really disabled. They also do not have first-hand knowledge about whether (1) a physician is objective and has reasonably accurate knowledge of the employee's work environment, (2) the employee is motivated to return to work, (3) the employee is receiving the medical and rehabilitation services he or she may need to hasten recovery and return to work, and (4) the employing agency understands either the extent of the employee's ability to work or its responsibility for assisting the employee to return to gainful employment.

OWCP operates primarily through the mail. There is little face-to-face contact between OWCP personnel and the injured employees, their families, physicians, and employers. Compounding the problem of OWCP's through-the-mail method of operation is the fact that most of its correspondence is by forms and form letters--which are quite unlikely to deal effectively with all the peculiarities of individual situations.

In contrast, representatives of State agencies and insurance companies told us that they consider immediate, close, continued, and personal contact with disabled individuals and their families, physicians, and employers as an essential ingredient in effective claims development and effectively reemploying disabled workers. For example, Florida has employed, in various parts of the State, rehabilitation nurses whose duties include personal contact with injured workers to assess more realistically their medical needs, socio-economic background, and family problems. State officials believe that this approach helps maintain the worker's motivation and a work-oriented attitude. If vocational rehabilitation is required, work is begun early to identify potential problems and to assist in meeting the employee's needs.

Representatives of several insurance companies told us that the key to successfully returning injured employees to work lies in personally contacting the employee as soon as possible after the injury--most of the companies try to contact the employee within 24 hours--and in maintaining frequent personal

contact with the employee, the attending physician, and the employer throughout the period of recuperation. This frequent personal contact, they said, is necessary to maintain the employee's motivation to return to work, and to influence the employee's medical recovery and rehabilitation.

In the past, OWCP had claims examiners who made onsite investigations of questionable claims. As the workload increased, however, the investigator "slots" were discontinued in an effort to speed the processing of claims. Claims examiners and supervisory claims examiners told us that the loss of the investigators has adversely affected OWCP ability to determine causal r lation.

Federal Agency Monitoring Efforts

Within the Federal community, the Tennessee Valley Authority (TVA) has achieved beneficial results with a self-initiated reemployment program which owes much of its success to its emphasis on early, personal contact with, and individualized treatment of, injured employees. During the first few days following employees' injuries, TVA nurses visit the the injured employees when needed to provide information and to establish a helping, supportive relationship which continues throughout the rehabilitation process. The primary purpose of the program is to hasten maximum recovery of injured employees and to return them to their former or alternate jobs.

TVA reported that in fiscal year 1976 it provided rehabilitation counseling and job placement assistance to 378

injured employees, and that 140 of these individuals were placed in jobs. TVA estimated that "well over half" of the 140 employees would not have returned to work without the assistance which they received from the rehabilitation program.

Lack Of Agency Appeal Rights

Employing agencies can not appeal any decision of OWCP. During our review, officials of several agencies expressed concern over the many cases where they questioned whether employee injuries occurred in the performance of official duties or whether employees continued to be disabled for work, but where OWCP determined they did.

Labor has administratively excluded employing agencies from participating directly as parties in the adjudication of claims under the act. Labor has taken this action because the act mentions only the claimant as being entitled to a hearing if not satisfied with a decision on his/her claim.

While OWCP clearly has the authority to make such a determination, employing agencies often believe that they have evidence bearing on the case which OWCP has not considered. Agencies believe that they too should have the right to appeal OWCP's decisons in cases where they believe the evidence is contradictory to the decision made.

Processing Procedures Adversely Affect Claims Adjudication

From fiscal year 1970 through fiscal year 1977, the reported backlog of claims increased by 226 percent, from 31,557 to 103,016. By the end of December 1977, the backlog of claims had reached 111,325. The end-of-the-year totals indicate that OWCP has not been able to keep the backlog of unprocessed claims from increasing.

According to the district office personnel, management's emphasis on attempting to reduce the number of cases in the reported backlog encourages the processing of cases which present no particular problem--i.e. those which can be processed quickly--and discourages the processing of cases which present "sticky" problems of eligibility. This results, they say, in a backlog which consists, increasingly of these difficult-to-process cases.

District office personnel said that the agency's emphasis on reducing the number of cases in the backlog was a factor in their awarding compensation benefits without fully developing the information necessary under established criteria to determine whether the claimant is entitled to benefits. Top agency management also cited the pressure of the backlog as a contributing factor in the claims examiners' failure to develop claims in accordance with the established criteria.

OWCP's emphasis on attempting to reduce the number of cases in the reported backlog to keep to a minimum the absolute

number of unprocessed claims, we believe, has (1) adversely affected the timeliness of processing the more complex cases and (2) lowered the quality of the claims adjudication process.

Need For Improved Quality Control

OWCP's operating procedures require both a written justification for and multiple supervisory reviews of a claims examiner's decision to reject a claim, but permit a claims examiner's decision to accept a claim to stand without either written justification or supervisory review. Claims examiners have perceived this disparity in processing requirements as indicating an agency bias toward acceptance of claims, and readily admitted that the relative ease of acceptance was a major factor in their approving claims without fully developing the information necessary under established criteria to determine whether a claimant is entitled to benefits. Similarly, claims examiners' decisions to terminate or to reduce compensation benefits are subject to a requirement for written justification and supervisory review, whereas decisions to continue paying benefits are not.

Management Information System Improvements Needed

At the time of our review, OWCP's management information was limited essentially to periodic statistical and narrative reports which dealt for the most part with levels of program activity. There was no information routinely available concerning either the timeliness or the quality of claims processing, or the extent to which required monitoring activities were being carried out. Also, no information was made available to operating level officials to help them ensure that necessary actions were being taken.

The district offices did have an "adjudication control card system" which was supposed to initiate ascending levels of review of unresolved claims to attempt to complete their development, and a "call-up card system" which was designed to remind claims examiners when future actions were required either in the development of a claim or in the monitoring of cases on the periodic rolls. However, these systems were not being effectively used in the district offices which we visited because the district offices had been inundated by the flow of new claims.

OWCP has been working on the development of an automatic data processing system for several years. This system is not being designed to include control of claims processing times and other information essential for timely processing of claims.

Claims Examiner Specialization

At the time of our review, most OWCP district offices were organized on the basis of "modules," with each module being responsible for all adjudicative and monitoring activities of the cases assigned to the module (cases were distributed among the modules alphabetically based on the first letter of the claimant's last name). One district office was organized on the basis of "sections" with certain sections responsible for the adjudicative activities and others responsible for the monitoring activities. Under the "module" system and the "section" system, the same claims examiners adjudicate all types of cases--from amputations to heart attacks.

OWCP personnel were unanimous in saying that the incidence of occupational disease cases is substantially increasing and that the adjudication of such claims is becoming more complex. Thus, OWCP's claims examiners must have an extensive lay medical knowledge of the various physical and mental impairments, the etiology of diseases, the remediability of impairments, the physical requirements of a wide variety of occupations, and the relationship of occupational hazards to injury, diseases and death, and of injury or disease to disability.

We believe that OWCP's administration of the act could be improved if certain claims examiners were to specialize in those types of cases which characteristically pose more complex questions of disability and work-relatedness--cardiovascular disease, emotional and mental problems, hearing losses, respiratory disease, and orthopedic disorders.

PROBLEMS WITH STAFFING AND SELECTING AND TRAINING OF CLAIMS EXAMINERS

From fiscal year 1970 to fiscal year 1977, the number of notices of injury or death received by OWCP increased by 72 percent, the number of claims for compensation increased by 70 percent, and the number of persons on the periodic rolls increased by 90 percent. However, the overall OWCP staff assigned to administration of the act only increased by about 53 percent, including a 54 percent increase in the claims examiners from 125 to 193. Agency officials attribute this as a primary cause of problems in the program.

In the past several years OWCP has submitted requests to Labor for additional staff to handle the increased workload. However, the requests have been rejected or reduced by Labor. We noted that the Congress had provided added staff for OWCP, although Labor had not requested the staff. Also, to supplement the permanent staff, OWCP hired 119 temporary employees in fiscal year 1977 and is authorized 200 temporary employees in fiscal year 1978.

Selection And Training Of Claims Examiners

OWCP officials in both the district offices and the national office stated their belief that the quality of persons appointed to the position of claims examiner has suffered in recent years.

Whether the quality of the claims examiners appointed in recent years has suffered is not assessable from our review of the quality of work performed. There are too many adverse factors, which are management responsibilities, that affect quality of performance such as no supervisory review of approved claims, pressure to expedite the processing of claims to reduce the backlog, and a lack of an agency-wide formal training program. Also, the standards established by the Civil Service Commission for selection of claims examiners appear to be adequate--if adhered to--to identify individuals who have the potential to develop into competent claims examiners.

At the time of our review OWCP did not have a specific, agency-wide training program for claims examiners. Instead, each district office was responsible for training its own personnel. Officials of the district offices which we

visited were unanimous in saying, however, that the pressure of the backlog of unprocessed claims has severely limited the staff time which they thought they could allocate to training--both the time of the claims examiners and the time of more experienced staff to provide the training. As a result, they said, most of their formal training sessions had been conducted on a "panic" basis--to try to deal with some particularly acute problem--and the training of claims examiners was limited essentially to on-the-job training.

IMPACT ON BENEFITS DUE TO CHANGE IN HEARING IMPAIRMENT FORMULA

Claims for hearing impairment compensation from Federal civilian employees have steadily increased from 500 claims in 1969 to nearly 9,000 claims in 1976, or about 36,000 during those 8 years for an estimated total cumulative liability of about $185 million. About 25,000 of these claims were adjudicated as of November 1976, with about 80 percent of the claimants receiving awards which averaged about $7,000. Labor estimates the current approval rate to be closer to 60 percent. Over 90 percent of the claims originated with Department of Defense employees, mostly from Naval shipyards where hazardous noise levels are common.

The act does not specify the criteria to be used in determining the extent of an employee's permanent impairment, but only specifies the amount of compensation to be awarded. Consequently, Labor has relied on the American Medical Association's (AMA) guides for evaluating permanent impairments of all types, with the exception of hearing impairment.

Labor deviated from the AMA's hearing imp
in 1969 by modifying the AMA's formula (adopte
American Academy of Ophthalmology and Otolary.
in 1961) for computing percentage hearing impa
more claimants could have their hearing loss c
n impairment. The National Academy of Scie
AAOO have stated that this modification was not
justified. Labor modified its formula again ir
based on a 1972 report by the National Institut
Safety and Health. This report, however, prima
another matter, and only discussed one of sever
the formula. Labor's 1973 modification did not
issue raised by the National Academy of Science

The impact on benefits of these modificati
substantial. While we could not precisely dete
total impact--because we were unable to draw a
from all hearing loss cases--we believe the 98
ment awards we randomly sampled from the OWCP d
of Washington, D.C., Jacksonville, and San Fran
representative. All of the 98 awards we review
under the 1973 modified formula, and totaled $8
awards had been made using the AMA criteria, th
awarded would have been reduced by 63 percent t

NEED TO ESTABLISH CAUSAL RELATIONSHIP BETWEEN OCCUPATIONAL NOISE EXPOSURE AND PERMANENT IMPAIRMENT

As provided by the Federal Employees' Compe
only the permanent portion of an impairment qual
a scheduled award and the permanent impairment n

proximately caused by the employment. Our review showed that for hearing impairments these factors were often inadequately established and resulted in considerable overcompensation.

Inadequate Evidence Of Occupational Noise Exposure

While employers are requested by Labor to furnish information regarding the claimant's occupational exposure to noise, Labor's claims examining guidelines do not specify what intensity of noise and length of exposure in hours per day or years of daily exposure is necessary to establish a reasonable assumption of hearing impairment resulting from the work environment. The guidelines simply note that prolonged exposure to noise above 85 decibels can prove damaging to hearing.

The National Institute for Occupational Safety and Health, however, recommends--for hearing conservation purposes--that employees not be exposed to daily noise levels exceeding 85 decibels for 8 hours, and indicates that daily exposure to noise levels less tha this level for many years would result in insignificant impairment.

Of the 50 awards we reviewed in the Washington, D.C. and Jacksonville district offices, all but one had insufficient detail for comparison to the Institute's recommended criteria. Of the 48 awards reviewed from the San Francisco District Office, however, 46 contained sufficient data for a comparison. We found that in two of these 46 cases, none of the employees' impairments developed during periods of Federal civilian occupational noise exposure exceeding the Institute recommended criteria. The compensation awarded in these two cases totaled $26,000, or 6 percent of the total amount awarded in the 46 cases. (See case H on page 48.)

Inadequate Audiometric Testing

Although claims are adjudicated on the basis of otological evaluation provided by an examining physician (an otologist), the audiograms provided occasionally may not accurately reflect the claimant's true degree of permanent hearing loss. The recorded hearing loss may be inaccurate because of faulty measuring equipment or noisy testing areas. The recorded loss may also include a degree of temporary loss resulting from recent occupational or non-occupational noise exposure or may include attempts by the claimant to exaggerate his true loss.

Sometimes indications of the test reliability can be derived from comparing it with other audiograms previously given the employee by the employing agency. However, the accuracy of the test results can only be assured when the testing is done in a manner that excludes temporary loss and exaggerated responses. From our sample of 98 hearing impairment awards, we found 20 awards where we believe there was sufficient evidence in the files to question the accuracy of the audiograms used as the basis of compensation. (See case I, on page 49.)

In six of these awards, for example, there were audiograms supplied by a medical university's speech and hearing facility in addition to audiograms submitted by a private otologist. In each case the university's test showed considerably less hearing loss than the otologist's audiograms. The average percentage impairment for these six cases from the private otologist's audiograms was 37 percent; from the university's tests the average was 21 percent.

The total extra amount paid in all 20 awards for which we believe there was more reliable evidence of the claimants' true permanent impairment was $125,281, or 15 percent of the total amount awarded in the 98 cases.

CONCLUSIONS

Mr. Chairman, our overall conclusion is that a great deal of action needs to be taken to strengthen the administration of the Federal Employees' Compensation Program.

Specifically, we believe that the Secretary of Labor should instruct all officials and employees of OWCP that

--they are responsible for claims determinations that are equitable to the injured employees, the Federal Government, and the taxpayers, and

--their responsibilities require that benefits be denied in all cases where, in accordance with established criteria, adequate medical and other evidence is not provided demonstrating a causal relation between the employee's injury and Federal employment.

We also believe the Secretary of Labor should have the Assistant Secretary for Employment Standards require OWCP to:

--make onsite investigations of all claims in which causal relation is not conclusively shown in the reports filed by injured employees and employing agencies, especially in cases in which death or disability is alleged to be the result of work-induced cardiovascular disease, respiratory disease, gastrointestinal disorders, neuroses, orthopedic disorders, or other hard to prove cases;

--establish standards for the timely processing of all claims and focus the office's management upon achieving these standards;

--install a quality assurance system which will place as much emphasis on the correctness of decisions to approve or to continue compensation as it does on decisions to reject, terminate, or reduce compensation;

--install management information systems which will give supervisors and managers at all levels the information which they need to ensure that activities are being conducted in accordance with the act and established criteria;

--consider whether claims examiner specialization would improve the timeliness and the quality of adjudication of the more complex cases;

--immediately adopt the AAOO formula, without modification, for determining hearing impairment and base any additional changes to the hearing impairment formula on appropriate scientific research and advice from other Government agencies and scientific and medical organizations having an interest in the proper determination of hearing impairment.

--employ the noise exposure level standards recommended by the National Institute for Occupational Safety and Health as the basis for determining occupational relationship to noise induced hearing impairment; and

--use testing procedures that assure exclusion of temporary hearing loss and exaggerated responses in establishing degrees of hearing impairment.

Finally, we believe that the Secretary should:

--review the selection and training of OWCP's claims examiners to ensure compliance with the standards for selection and that personnel receive the training needed to efficiently and effectively carry out their duties and responsibiities, and

--after due consideration of the other recommendations which might affect OWCP's pressing need for additional personnel, review the staffing situation and attempt to secure and allocate adequate resources and staff to enable OWCP to carry out its responsibilities under the act efficiently, effectively, and in a timely manner.

We believe that the Director, Office of Management and Budget should determine whether it would be advisable to amend the Federal Employees' Compensation Act to place in the employing agencies specific monitoring and vocational rehabilitation responsibilities such as:

--obtaining medical progress reports at appropriate intervals to provide current information concerning the employee's medical condition;

--providing or arranging through State vocational and employment agencies for vocational rehabilitation services that injured employees may need to hasten their return to gainful employment;

--finding appropriate employment for partially disabled employees, either within their own organizations or elsewhere; and

--making such onsite investigations as may be necessary to assure the propriety of continuing compensation payments.

If the Director determines that transferring the monitoring and rehabilitation activities to employing agencies would be feasible, we believe that he should submit proposed legislation to the Congress to amend the act to carry out the transfer of responsibilities.

We also believe that the proposed amendment should provide for placing in the Secretary of Labor responsibility for

--issuing regulations to guide the employing agencies in carrying out their responsibilities;

--reviewing and supervising the activities of the employing agencies; and

--making all decisions relating to the reduction or termination of benefits, such decisions to include consideration of information developed by the employing agencies.

To help ensure the quality of OWCP's determination of causal relation, we believe that the Congress should amend the Federal Employees' Compensation Act to place in the employing agencies the authority to appeal to the Employees' Compensation Appeals Board any finding of causal relation

by OWCP or any OWCP decision continuing compensation benefits which, in the opinion of the employing agency, is inconsistent with or not supported by the evidence available to the employing agency and OWCP.

Mr. Chairman, this concludes our prepared statement. We will be pleased to respond to any questions that you or other members of the Subcommittee may have.

CASE A - ILLUSTRATING AWARD MADE WITHOUT ADEQUATE MEDICAL EVIDENCE SUPPORTING CAUSAL RELATION

The Jacksonville District Office awarded compensation to the widow of a 66-year old surface mine inspector who died of a heart attack while working at home on a Saturday. The widow stated her belief that her husband's death was caused by the physical requirements of his work and the emotional stress of his having been demoted from a supervisory position about 2 years before his death.

The claims examiner obtained copies of the reports of the deceased employee's fitness-for-duty physical examinations for a period of about 10 years preceding his death in March 1974. These reports showed the presence of arteriosclerosis of the aorta as early as 1964, and a history of high blood pressure from 1971. In the last examination, made about 2 weeks before the employee's death, the examining physician reported that there was evidence of changes on the electrocardiogram compatible with myocardial disease.

However, contrary to the requirements of OWCP's Federal Procedure Manual and the rulings of the Employees' Compensation Appeals Board concerning the nature and the extent of the medical evidence necessary to support a finding of causal relation in cases of this kind, the claims examiner did not obtain any rationalized medical opinion evidence as to whether or how the employee's death at home on a nonworkday could have been caused by his employment. The only semblance

of medical opinion evidence to support a finding of causal relation is the statement of the District Medical Director that,

> "In my opinion, the factors of the claimant's employment (physical and emotional stress) were competent to precipitate on an already diseased heart a slowly developing myocardial infarction and cardiac arrest. The deceased claimant's demise is causally related to his employment."

Being speculative and containing no rationale, this statement--in our opinion--does not satisfy the evidence requirements of either the OWCP Federal Procedure Manual or the Board; and can not properly serve as a basis for awarding benefits under the act. This case demonstrates inadequate medical evidence supporting causal relation because there was no medical opinion evidence provided by the examining physician.

Total payments as of December 1977 amounted to about $45,000.

CASE B - ILLUSTRATING AWARD MADE WITHOUT ADEQUATE MEDICAL RATIONALE SUPPORTING CAUSAL RELATION

The OWCP Chicago District Office awarded compensation to a 35-year-old letter carrier who claimed that his bronchitis and pulmonary emphysema were aggravated by his exposure at work to inclement weather, pollution, dust, and cigarette smoke.

The claims examiner did not develop information about the level or the duration of the employee's exposure at work to inclement weather, pollution, dust, and cigarette smoke. Evidence in the file showed that the employee was a smoker, but the claims examiner did not determine the extent of the employee's tobacco usage. He did obtain a report from the employee's private physician, a general practitioner, who stated that the employee had been under his care for 4 years for chronic bronchitis and obstructive pulmonary disease with progressive emphysema. (The employee had worked for the Postal Service about 4 1/2 years at the time of his disability.)

The attending physician did not respond to a question concerning causal relation on OWCP's "Attending Physician Report" but in his narrative report stated that the employee had to "***stop working as dust at work and humidity and cold weather made him so dyspneic [air hunger

resulting in labored or difficult breathing] that he fainted one day at work," and that moving to a warmer and drier climate would be beneficial to the employee's health. This statement--in our opinion--does not establish a causal relation between the employee's disability and his work, and there was no indication in the file that the physician was even knowledgeable of the employee's working conditions.

The claims examiner submitted the file to the Distict Medical Director for consideration of whether the employee's disability was "due to, precipitated, accelerated, aggravated, or proximately caused by" the conditions of employment. The District Medical Director's response was an unqualified "yes." By way of discussion, he added, "Bronchitis, in susceptible persons, is subject to exacerbations due to inclement weather. Emphysema, pulmonary, is said to have the eticlogical factor of [to be caused by] exposure to dust." This statement, in our opinion, is too general to constitute medical opinion evidence that the employee's disabling condition was aggravated by his work.

As of December 1977, total compensation paid amounted to about $22,000 and medical benefits totaled about $2,500.

CASE C - ILLUSTRATING AWARD MADE WITHOUT RESOLVING CONFLICTING MEDICAL EVIDENCE

The Jacksonville District Office awarded compensation of $1,812 to a 32-year-old food service worker for disability resulting from a foot infection. The employee claimed that liquid soap spilled on her foot caused the skin to come off when she wiped her foot.

The employing agency did not agree with the facts of injury as presented by the employee. According to the immediate supervisor, the employee said that she had scratched her foot at home and that it had become infected after she walked through the dew. Further, the supervisor said that the material which the employee alleged caused her injury was a mild dishwashing detergent which she and other workers had used for years without any untoward incident, and that an inspection of the work area did not reveal any caustic substance which would cause skin removal and result in infection.

Medical evidence from two physicians supported the existence of an infection but there were opposing opinions as to whether the infection was caused by soap. One physician treated the infection on several occasions. He, at first, believed that the infection must have been caused by a caustic agent other than dishwashing solution but, in a later report, indicated with some reservation that the infection was related to the incident at work. The employee's private physician

also treated the infection. His opinion was that the condition was not related to the spilling of soap on the foot.

The claims examiner submitted this conflicting evidence about the occurrence of the injury at work and about the relationship between the spilled soap and the infection to the District Medical Director for review and advice. The District Medical Director concluded, without the benefit of clarifying evidence, that the employee's infection had been caused by the dishwashing detergent.

CASE D - ILLUSTRATING REVIEW BY THE BRANCH OF HEARINGS AND REVIEW

A 63-year old school principal with the Bure
Affairs suffered a heart attack on February 24, 19
July 1971, he filed a claim for compensation with
Francisco OWCP District Office, alleging that stre
conditions--insubordination and threats by subordi
of support by supervisors; and conflict, misunders
and lack of communication between employees and su
his disability. The employee's claim was still pe
he died on June 30, 1972. His death was attribute
thrombosis due to cardiac decompensation and myoca
infarction. The widow continued the claim for dea
on the same grounds as those previously stated by

In support of the employee's claim for disab
the employee's personal physician had stated, witho
or explanation, that the employee's condition was p
by pressures of his work. A second physician, cons
July 21, 1971, said that it was "***quite probable
pressures of his work did contribute in the develop
his infarction."

After the employee's death, the District Medic
requested an independent review of the case by a ce
heart specialist. A part of the file presented to

specialist was OWCP's "Statement of Accepted Facts" which stated that the employee had encountered some personnel difficulties in his work. On the basis of his review of the file the physician concluded that the employee's death

> "***was the result of a progressing intrinsic cardiac disturbance that was neither caused nor accelerated by the work activities in either a direct or indirect sense. There were no data to indicate that the decedent was subjected to acute inordinate physical or emotional stresses that were related to change in coronary circulation. There are no data known to me that would sustain a suggestion that his employment in Indian Affairs for 30 years would have altered the natural course of coronary atherosclerosis if, indeed, that was the correct diagnosis. If the diagnosis of primary myocardial disease is accepted, there is similarly no basis for a suggestion that his work activities were responsible for its cause and/or acceleration in either an immediate or remote sense."

The District Medical Director agreed with this conclusion and the San Francisco District Office rejected the claim for lack of causal relation.

The widow asked for a hearing. After a pre-hearing conference, the widow and her attorney submitted additional evidence to support their contentions concerning the nature and extent of the work pressures encountered by the employee. The Branch of Hearings and Review accepted the additional evidence as factual--in the process discarding controverting evidence supplied by the employing agency and other employees of the agency--and amended the Statement of Accepted Facts to show that the deceased employee had been subjected to extreme emotional and physical stresses in his work.

The entire file, including the evidence which controverted the widow's claim of extreme pressure, was then submitted to another cardiologist for an opinion concerning causal relation. In his report, this physician indicated that he had reviewed the entire file--including the evidence which controverted the widow's claim. His conclusion concerning causal relation was stated as follows:

> "My own opinion is that if a previously presumably well individual is subjected to acute emotional stress and at that time or very shortly afterward develops symptoms and/or findings of degenerative heart disease one may establish some relationship. I do not believe that chronic stress can be implicated, and for this reason it is my opinion that there is no relationship between the emotional factors involved in [the employee's] work for some months prior to his initial attack of myocardial infarction and the occurrence of the infarction itself."

The second physician stated in his report that he had reviewed the evidence in the file which controverted the widow's claim as well as that which supported her claim, and which had been "strongly accepted" by the Branch of Hearings and Review. Because of this, the claims examiner in the Branch found that the physician "appears to be opinionated," and asked that the file be referred to another physician for an opinion.

The third physician stated in his report that:

> "***I accept as factual that the decedent was subjected to extreme emotional and physical stresses, created by personnel difficulties and the internal problems at his place of employment. Special attention was given to the statement of the decedent dated June 9, 1972 and a statement of fact dated November 30, 1972."

With respect to causal relation between the employee's death and the pressures of his work, this physician said:

> "Regarding the possible role of emotional stress in the precipitation, acceleration or aggravation of his underlying cardiac disease, the absence of data pinpointing a new or acute cardiac event in close temporal relationship to the responsibility of his employment makes an association highly unlikely. Postulation of a causal connection between his death and the described emotional duress would, thus, necessitate acceptance of a theory that longterm psychologic stress may hasten coronary atherosclerosis (or other forms of serious organic heart disease) leading to myocardial infarction, fatal arrythmia, etc. Despite extensive study by many investigators, the question as to whether chronic emotional tensions play a role in the genesis and course of heart disease remains scientifically unanswered. Critical evaluation of the evidence marshalled by proponents of this thesis reveals deficiencies and the validity of the reported results is questionable. Long-term psychologic tensions defy quantitation and allocation of the origin of persistent emotional distress to one source rather than to another--in life's complex interpersonal reactions--frequently is on a speculative basis.***The most that can be said concerning the effects of chronic emotional stress--such as might stem from this claimant's working conditions--is that such factors may possibly exert an aggravating influence; however, this cannot be deemed a reasonable medical probability, particularly in any one given person. I conclude that the claimant died of the natural, non-traumatic and non-occupat onal progression of severe organic heart disease, unrelated to the physical or emotional responsibilities of his employment."

Thus, three independent specialists, all of whom had reviewed the complete medical record concerning the employee's disability and death and at least two of whom had reviewed all the evidence submitted in support of the widow's claim, concluded that the employee's death resulted from the natural progression of his underlying heart disease and that the physical and emotional stresses of his work had neither caused nor aggravated his conditon.

Notwithstanding this unanimous opinion of three independent experts, OWCP's Medical Director ruled that the employment events preceding the employee's heart attack on February 24, 1971, were "competent to precipitate an acute episode" and that the "episode" of February 24, 1971, aggravated the employee's progressive, pre-existing disease.

The Branch of Hearings and Review, citing the opinion of the Medical Director and referring to decisions of the Employees' Compensation Appeals Board to the effect that "if the regular work of the employee is a factor in the disability, a compensable injury 'while in the performance of duty' is established," reversed the decision of the district office and remanded the case for payment of compensation. Neither the Medical Director nor the Branch of Hearings and Review attempted to show error in the conclusions of the three independent specialists or to state rationale for their conclusion that the employee's work aggravated his pre-existing heart condition.

In our opinion, the widow's claim was not supported by reliable, substantial, and probative medical evidence that the employee's death was caused by his work. In fact, the overwhelming weight of medical evidence in the case showed that the employee died from the natural progression of his underlying heart condition.

ATTACHMENT

CASE E - ILLUSTRATING CONTINUED COMPENSATION WITHOUT CURRENT MEDICAL INFORMATION ENSURING ELIGIBILITY

A veterinarian who worked in a meat processing plant crushed a finger at work on August 14, 1972. The OWCP Chicago District Office accepted that injury as causally related and began paying compensation for it. About a month later, the employee fell at home and fractured an ankle. He attributed his fall to medication he was taking for pain associated with his injured finger. On three occasions after the employee fractured his ankle, OWCP requested information which would permit them to determine whether that injury was causally related to the accepted work-related injury, but received no reply. OWCP took no further action to determine the employee's condition. Total compensation for disability caused by the crushed finger as of December 1977 was about $76,000 and medical benefits amounted to about $130.

ATTACHMENT

CASE F - ILLUSTRATING WAGE-EARNING CAPACITY DETERMINATIONS NOT CONSISTENT WITH AVAILABLE INFORMATION

In July 1970, a 40-year old nursing assistant suffered a back injury which OWCP determined aggravated a preexisting back problem and caused an anxiety reaction.

Based on a medical progress report, the District Medical Director for the Jacksonville District Office stated in April 1973 that the employee was capable of performing part-time sedentary work. The claims examiner should have initiated a determination of wage-earning capacity based on the District Medical Director's conclusion, but did not.

In January 1974, the employee contacted the State rehabilitation agency and requested vocational rehabilitation training. The State agency notified OWCP of the claimant's request and that in its opinion the claimant was a good candidate for rehabilitation. However, in April 1975, the claims examiner and the regional vocational rehabilitation specialist--without obtaining any new information about the employee's condition or her ability to work--decided that the employee had no wage-earning capacity.

As of December 1977, the employee had received about $29,600 in compensation and about $1,700 in medical benefits.

CASE G - ILLUSTRATING CASE IN WHICH EVIDENCE INDICATES A NEED FOR VOCATIONAL REHABILITATION

A 47-year old vehicle mechanic employed by the Postal Service in Wisconsin sustained a whiplash when the vehicle he was driving was struck by another in December 1967. The employee was treated and released for return to work.

In October 1968 the employee was treated by the same physician who reported that there was a mild lateral curvature of the dorsal spine but X-rays of the neck were negative. After treatment the physician released the employee for return to work.

The employee was treated again in September 1970; and in April 1971 a neurosurgeon perfo·med a myelogram with no adverse findings. The neurosurgeon's diagnosis was cervical muscle strain syndrome causally related to the 1967 vehicle accident, on the basis that the employee's complaints began after the accident.

The employee remained on annual and sick leave from April 1971 until compensation benefits were approved in September 1971. From September 1971 until February 1973 the employee received treatment consisting of home physio-therapy and medication for pain. The employee was placed on the periodic disability rolls in February 1973.

In March 1973, the attending physician reported that the employee had reached the maximum degree of recovery and that he had a permanent partial disability rating of 25 percent of

the body as a whole. Notwithstanding this finding of partial disability, the physician opined that the employee was unable to work, either full-time or part-time.

The District Medical Director, however, took the position that the employee was not totally disabled because of the history of conservative treatment and of the attending physician's rating of partial disability.

Also in March 1973, the vocational rehabilitation specialist met with the employee at his home to determine the need for vocational rehabilitation services. The employee expressed the opinion that he could not work or be rehabilitated because of dizziness. The vocational rehabilitation specialist observed, however, that although the employee was "telling a story of pain and misery," he did not appear to be in distress. Moreover, the specialist noted that the employee had been showing a horse in a number of shows around the country--an activity that required extensive driving. He concluded that the extent of the employee's disability was probably much less than that claimed by the employee. He made no further attempt, however, to direct the employee to undergo vocational rehabilitation or to determine his potential to benefit from vocational rehabilitation services.

In December 1973, the Chicago District Office referred the employee to an orthopedist for an independent medical evaluation. This orthopedist, however, declined to examine

the employee because disability evaluations were not part of his practice. OWCP did not refer the employee to another physician for an independent evaluation. In fact, it did nothing more until May 1975, when it directed the employee to return to his attending physician for an up-to-date disability evaluation. The report on that evaluation, dated June 1975, stated a diagnosis of osteoarthritis of the atlas and odontoid process of the cervical spine. The physician opined that although his objective findings were minimal, he did not think that the employee was exaggerating his complaints. The physician said that he considered the employee permanently and totally disabled.

The vocational rehabilitation specialist did not document the reasons for his not referring this employee for vocational rehabilitation services. Evidence was available at least as early as March 1973 that the employee's condition had reached a permanent state. In our opinion, OWCP should have acted in 1973 to resolve the conflicting evidence concerning the extent of the employee's disability and to initiate an active program of vocational rehabilitation to convince the employee that he was able to return to gainful employment.

As of December 1977, the employee's compensation benefits totaled about $60,000 and his medical benefits amounted to about $2,300.

ATTACHMENT

CASE H - ILLUSTRATING CASE IN WHICH NONE OF HEARING IMPAIRMENT DEVELOPED DURING PERIOD OF FEDERAL OCCUPATIONAL NOISE EXPOSURE EXCEEDING RECOMMENDED CRITERIA

In a San Francisco District Office case in which the claimant did not exceed the criteria recommended by the National Institute for Occupational Safety and Health, the noise exposure history was as follows. From February to September 1966 (7 months), the claimant worked in seven shops, primarily exposed to background noise of 50 to 75 decibels, with intermittent exposure up to 102 decibels less than 2 hours a day in two of the shops. From September 1966 to April 1975 (9 years), the claimant was exposed to background noise (62-65 decibels for 5 hours), crane hoist (68-78 decibels for 1-1/2 hours), and crane in motion (78-83 decibels for 1 hour).

Notwithstanding the claimant's exposure to noise below the Institute's recommended criteria, the claims examiner stated:

> "Although noise exposure was less than 85 decibels, it was the opinion of the District Medical Director that the exposure at 83 decibels (for 1 hour, or less) was of a duration and intensity that hearing loss could result."

As a result the claimant was awarded $10,266 for a 29 percent impairment based on a July 1975 audiogram.

ATTACHMENT

CASE I - ILLUSTRATING INDICATIONS OF INADEQUATE AUDIOMETRIC TESTING

In a case from the Washington, D.C. District Office, we found that an otologist's audiogram supported a 24 percent binaural impairment and the employee received an award of $7,430. Our review showed that an employer's audiogram given to the employee less than 1 year before supported a zero percent impairment. We brought this case to the employing agency's attention which subsequently gave the employee some additional tests. The claimant was reported to be uncooperative in his responses during the first test, and, although considered to be an unreliable audiogram, the results showed a 11 percent binaural impairment. A second testing, given a few weeks later at a hospital clinic, and which required two tests before the responses were considered to be honest, showed a zero percent impairment.