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Report to Congressional Requesters

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WORKERS' COMPENSATION

Selected Comparisons of Federal and State Laws

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April 3, 1996

The Honorable Thad Cochran
The Honorable Joseph I. Lieberman
United States Senate

Because of concerns that workers' compensation benefits authorized under the Federal Employees' Compensation Act (FECA) (5 U.S.C. 8101 et seq., as amended) may provide federal workers having job-related injuries with more generous benefits than other federal or state workers' compensation programs, you[1] asked us to compare (1) monetary benefits authorized by FECA with those authorized by other workers' compensation laws and (2) other significant benefit provisions of federal and state workers' compensation laws, such as those involving waiting periods, physician choice, and coverage of occupational diseases.

This report presents factual comparisons of benefit and other provisions of federal and state workers' compensation laws. Most of these comparisons were current as of January 1, 1995. As agreed, we did not assess the rationale, fairness, or equity of the level of benefits under any of the jurisdictions' workers' compensation laws.

Background

In the United States, workers' compensation legislation was initially enacted by most state legislatures and the federal government in the first part of the 20th century. By 1912, several states had enacted workers' compensation legislation, while FECA was not enacted until 1916.[2] FECA covers all federal employees as well as selected other groups of individuals. In 1927, Congress enacted the Longshore and Harbor Workers' Compensation Act (LHWCA), another workers' compensation law that covers employees engaged in maritime employment.

One of the principal aims of workers' compensation programs was to provide adequate benefits to injured workers while at the same time limiting employers' liabilities strictly to workers' compensation payments. Payments were to be prompt and predetermined to relieve employees and employers of uncertainty and to eliminate wasteful litigation.

[1]The Chairman and Ranking Minority Member of the former Subcommittee on Regulation and Government Information, Senate Committee on Governmental Affairs, initially requested this review. Although the Subcommittee was eliminated in early 1995 when the new Congress reorganized some Senate committees, we agreed with the former Chairman's office to continue our efforts to compare FECA provisions with other federal and state workers' compensation laws.

[2]An earlier workers' compensation act passed in 1908 limited coverage to federal workers in hazardous occupations.

The types of workers' compensation benefits that are paid depend on the nature and extent of the injury and the ability of injured employees to continue working. For many employees whose injuries are not serious, the only benefits received are those of a medical nature. Employees with more serious injuries or illnesses also may be entitled to wage-loss benefits, vocational rehabilitation benefits, or "schedule awards," which are benefits for the permanent loss of, or loss of use of, certain parts or functions of the body. In addition, survivors of an employee can receive death benefits if the employee's death resulted from a job-related injury or illness.

The Department of Labor's Office of Workers' Compensation Programs (OWCP) is responsible for adjudicating FECA claims and administering workers' compensation activities authorized by LHWCA. Under state laws, insurance carriers, self-insured employers, third-party administrators, or state workers' compensation agencies generally act as the reviewing and approving entities responsible for adjudicating injured employees' claims.

Results in Brief

FECA generally provides the same types of benefits to injured federal workers as those provided to injured workers covered under LHWCA, states, and the District of Columbia (D.C.) workers' compensation laws. The principal workers' compensation benefits paid under all of these laws are compensation benefits for wage loss and benefits for medical care. FECA compensation benefits differ from those of other laws in three principal ways. In each of these cases, levels of benefits available under FECA are generally greater than those available under other workers' compensation laws.

- First, although the formula for calculating benefits under FECA is similar to the formulas of most other laws, FECA's authorized maximum weekly benefit amount is greater. However, less than 1 percent of the beneficiaries on the long-term compensation rolls actually receive compensation benefits based on the authorized maximum benefit amount, according to OWCP.
- Second, FECA provides claimants with one or more dependents an additional benefit of 8-1/3 percent of salary. While seven states authorize additional dependent benefits, increased benefits are generally for a fixed amount ranging from $5 to $10 per week for a spouse and/or each child. Increased benefits for dependents are generally provided only when authorized maximum benefit levels are not exceeded. LHWCA and the laws

of the other 43 states and D.C. do not provide increased compensation benefits for injured workers with dependents.

- Finally, FECA provides eligible federal workers who suffer traumatic injuries[3] with salary continuation benefits for a period not to exceed 45 days. After the 45th day, there is a 3-day waiting period before wage-loss benefits begins. Under LHWCA and all state workers' compensation laws, injured workers must be out of work for a 3- to 7-day waiting period before they can receive wage-loss benefits. If these workers continue to be out of work for specified periods of time, ranging from 5 to 42 days, they are generally eligible for benefits retroactive to the date of injury. In cases where employees are not eligible for retroactive wage-loss benefits, some employers may provide their employees with salary continuation benefits or may allow them to receive paid sick leave or other types of leave for days absent from work.

Other similarities and differences in federal and state workers' compensation laws exist. While, in our opinion, these differences may be less substantive than those highlighted above, it is these differences that make each workers' compensation system unique.

Comparison of Principal Provisions

A comparison of the principal statutory provisions of FECA, LHWCA, and state workers' compensation laws showed that

- formulas for calculating workers' compensation benefits were similar under most laws. As of January 1, 1995, FECA, LHWCA, 35 states, and D.C. calculated benefits based on 66 2/3 percent of wages,[4] subject to specified maximums. Formulas used in other jurisdictions ranged from either 60 to 72 percent of wages or 75 to 80 percent of spendable earnings. Spendable earnings take into consideration applicable standard deductions for federal and state income taxes and withholdings for Social Security benefits.
- maximum benefits authorized by FECA exceeded those authorized under other workers' compensation statutes. Under FECA in 1995, maximum weekly compensation benefits could not exceed $1,274 (75 percent of the maximum base pay of a GS-15 employee). Less than 1 percent of the FECA beneficiaries received maximum benefits, according to OWCP. Maximum weekly benefits under LHWCA were $761. State maximum weekly benefits

[3]OWCP defines traumatic injury as a wound or other condition of the body caused by external force that is identifiable by time and place of occurrence and part of the body affected. It must be caused by a specific event or incident, or series of events or incidents, within a single day or work shift.

[4]Injured federal workers with dependents receive benefits based on 75 percent of wages.

ranged from $253 to $817 based on either (1) a percentage (from 66-2/3 to 200 percent of the state's average weekly wage (AWW)) or (2) some fixed dollar amount.

- in 1995, minimum weekly FECA benefits of $197 were greater than the minimum benefits of all but three states. FECA minimum benefits were based on 75 percent of the minimum base salary of a GS-2 employee or actual pay, whichever was less. Eight states did not have statutory minimums for weekly benefits. Minimum weekly benefits under LHWCA were $190. State minimum weekly workers' compensation benefits ranged from $20 to $283, or actual wages if less, based on either (1) a percentage (from 15 to 60 percent of the state's AWW) or (2) some fixed dollar amount.
- because FECA's maximum authorized benefits exceeded those under LHWCA, all states, and D.C. and because workers' compensation benefits have not been subject to federal income taxes, income replacement rates[5] for higher-paid federal workers were more likely to be higher than the rates for similarly paid injured workers receiving state workers' compensation benefits. In some cases, these federal workers could have income replacement rates in excess of 100 percent.
- FECA benefits for the permanent loss of, or loss of use of, specific body parts were calculated on the basis of schedules in the law that specify the number of weeks employees are to receive benefits and their salaries. While LHWCA and most states also compute these schedule awards using employees' wages and the schedules, awards paid to some injured federal employees could be higher because of the higher maximum compensation rates authorized by FECA.
- death benefits under FECA and LHWCA and in 22 states and D.C. varied on the basis of the number of surviving dependents. In the remaining states, death benefits were the same regardless of the number of dependents. All workers' compensation laws authorized burial expenses in cases where death was caused by a job-related injury. FECA's maximum authorized burial benefits were lower than those authorized by all but one state. In 1995, FECA's maximum burial expenses were $800 compared with state maximums, which ranged from $700 to $7,500.
- in administering the FECA program, OWCP has implemented, at least in part, various medical cost containment methods, including fee schedules, utilization reviews, and managed care through intervention of rehabilitation nurses. Under LHWCA and most state workers' compensation programs, some of these methods, as well as other medical cost containment measures, have also been mandated by either law or regulation.

[5]Income replacement rates compare employees' workers' compensation benefits with their spendable earnings while they were working.

- injured federal employees and injured employees in 25 states may choose their treating physicians without restriction. In other states, employees or their employers may select physicians from state agency-approved lists of physicians.
- under FECA, eligible employees with traumatic injuries are to continue receiving their regular pay for the first 45 days they are out of work as long as certain conditions, such as the claim being timely filed and the employing agency not controverting the claim, are met. FECA's 3-day waiting period for receiving wage-loss benefits follows the 45-day continuation of pay (COP) period. Under LHWCA and all state workers' compensation laws, injured employees must have been absent from work for 3 to 7 days before compensation for lost wages could be initiated. Workers covered by other workers' compensation laws who returned to work after a few days absence following their injury would not receive compensation for this period unless their employer allowed them to use sick leave or other types of leave while they were absent or provided them with salary continuation benefits.

In addition to the differences described above, other differences between FECA, LHWCA, and state workers' compensation programs are in the manner in which these programs are funded and administered and the procedures injured workers are to follow to appeal claims decisions. Details on these and other provisions of federal and state workers' compensation laws are discussed in appendix I.

Scope and Methodology

In comparing FECA provisions with those of LHWCA and state workers' compensation statutes, we relied extensively on tables of information published by Labor and the U.S. Chamber of Commerce that covered the 50 states and D.C. We did not review state workers' compensation laws. Other sources of information for our comparisons included the 1972 Report of the National Commission on State Workmen's Compensation Laws, the 1973 Compendium on Workmen's Compensation, Workers Compensation Research Institute (WCRI)[6] publications, John Burton's Workers' Compensation Monitor, the National Conference of State Legislators, the American Insurance Association, the Texas Workers' Compensation Research Center, and Towers Perrin, an employee benefits consulting firm. We did not independently verify the information obtained from these sources.

[6]WCRI is a nonpartisan, not-for-profit research organization whose mission is to provide objective information about public policy issues involving workers' compensation systems.

The statutory and regulatory provisions that we compared included those relating to benefit levels, waiting periods, physician selection processes, medical cost containment measures, vocational rehabilitation activities, and coverage of occupational diseases. We also developed information on OWCP's and other jurisdictions' adjudication processes, administrative practices, and mechanisms for financing their workers' compensation programs. Because many jurisdictions' workers' compensation laws contain distinctive and unique features and because uniform reporting requirements do not exist for workers' compensation data, we did not attempt to compare the relative efficiency, effectiveness, or costs of each jurisdiction's program.

For presentations on income replacement rates (see pp. 20-23) and medical cost containment measures (see pp. 35-38), we relied extensively on WCRI publications entitled Designing Benefit Structures for Temporary Disability, A Guide for Policy Makers (WCRI-89-4, Dec. 1989) and Managed Care and Medical Cost Containment in Workers' Compensation: A National Inventory, 1995-1996 (WCRI-95-4, Dec. 1995), respectively.

We did our work in Washington, D.C. between November 1994 and December 1995 in accordance with generally accepted government auditing standards.

Agency Comments

We requested comments on a draft of this report from the Secretary of Labor. In a February 13, 1996, letter (see app. III), Labor's Assistant Secretary for Employment Standards characterized the report as a balanced summary of the provisions of FECA, LHWCA, and state workers' compensation laws. The Assistant Secretary said that Labor was in general agreement with the factual information contained in the report and added that it is inherently difficult to compare one workers' compensation system or law with another, because the interrelationship of the various provisions has an important effect on the outcome for individuals. Labor provided technical changes, which we made where appropriate.

We are sending copies of this report to interested congressional committees, the Secretary of Labor, the Director of the Office of Personnel Management, and the Director of the Office of Management and Budget. Copies will also be made available to others upon request. The major

contributors to this report are listed in appendix IV. If you have questions about this report, please contact me on 202-512-8676.

L. Nye Stevens
Director
Federal Management
and Workforce Issues

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Abbreviations

AWW	average weekly wage
BLS	Bureau of Labor Statistics
COP	continuation of pay
D.C.	District of Columbia
ECAB	Employees' Compensation Appeals Board
FECA	Federal Employees' Compensation Act
FERS	Federal Employees' Retirement System
GS	general schedule
HMO	health maintenance organization
LHWCA	Longshore and Harbor Workers' Compensation Act
PPO	preferred provider organization
OALJ	Office of Administrative Law Judges
OSHA	Occupational Safety and Health Administration
OWCP	Office of Workers' Compensation Programs
SSA	Social Security Administration
WCRI	Workers Compensation Research Institute

Comparisons of Statutory Provisions

The Federal Employees' Compensation Act (FECA), the Longshore and Harbor Workers' Compensation Act (LHWCA), and the workers' compensation statutes of all 50 states and the District of Columbia (D.C.) authorize workers' compensation programs for employees who suffer temporary or permanent disabilities resulting from work-related injuries and diseases. These statutes[7] define the benefits provided and describe program features and the manner in which the programs are administered in various jurisdictions.

Benefits Provided by Statutes

Benefits authorized by federal and state workers' compensation statutes include payments for (1) loss of wages when an employee cannot work because of a work-related disability, (2) occupational diseases, (3) schedule awards for loss of, or loss of use of, a body part or function, (4) vocational rehabilitation, (5) death benefits for survivors, (6) burial allowances, and (7) medical care for injured workers. Federal and state statutes also include provisions regarding physician selection, waiting periods, and other elements related to the implementation and operation of workers' compensation systems. Although most jurisdictions provide each of the above benefits, the specifics vary.

Compensation Benefits for Wage Loss

All jurisdictions authorize workers' compensation benefits for loss of wages to employees who are absent from work because they were injured in job-related accidents or suffered from job-related illnesses. As of January 1, 1995, FECA, LHWCA, and the laws in 44 states and D.C. paid wage-loss benefits in an amount equal to a percentage of the injured employee's wages subject to maximum and minimum amounts. Six states used spendable earnings[8] rather than wages as a basis for calculating wage-loss benefits. Figure I.1 shows the different bases used by the states to calculate wage-loss benefits. FECA, LHWCA, and D.C.'s laws use 66-2/3 percent of wages as the basis for determining compensation amounts.

[7] We did not review states' workers' compensation laws but relied extensively on tables of information published by the U.S. Department of Labor and the U.S. Chamber of Commerce that covered the 50 states and D.C.

[8] Spendable earnings for working employees are computed by taking an employee's preinjury before-tax earnings and subtracting Social Security taxes and federal and state income taxes. The taxes are taken from published withholding tables that are based on average tax rates given an employee's actual exemptions and a standard deduction.

Figure I.1: Bases Used to Calculate Wage-Loss Benefits for Temporary Total Disability, as of January 1, 1995

60 percent of wages (3states)
66 2/3 percent of wages (35 states)
67 - 72 percent of wages (6 states)
75 - 80 percent of spendable earnings (6 states)

Source: GAO analysis of Office of Workers' Compensation Programs (OWCP) data.

Most jurisdictions and FECA use the same formulas for calculating benefits for temporary total and permanent total disability. In Ohio, Texas, and Wyoming, the bases for calculating benefits for permanent total disability differed slightly. For example, Ohio calculated benefits for individuals with temporary total disabilities as 72 percent of wages. Individuals with permanent total disabilities received benefits based on 66-2/3 percent of wages. Both temporary and permanent disability benefits are subject to maximums in all jurisdictions and minimums in most.

FECA and seven states also authorized additional compensation benefits for injured employees with spouses and/or dependents. These additional benefits are discussed beginning on page 17.

Maximum and Minimum Weekly Benefits

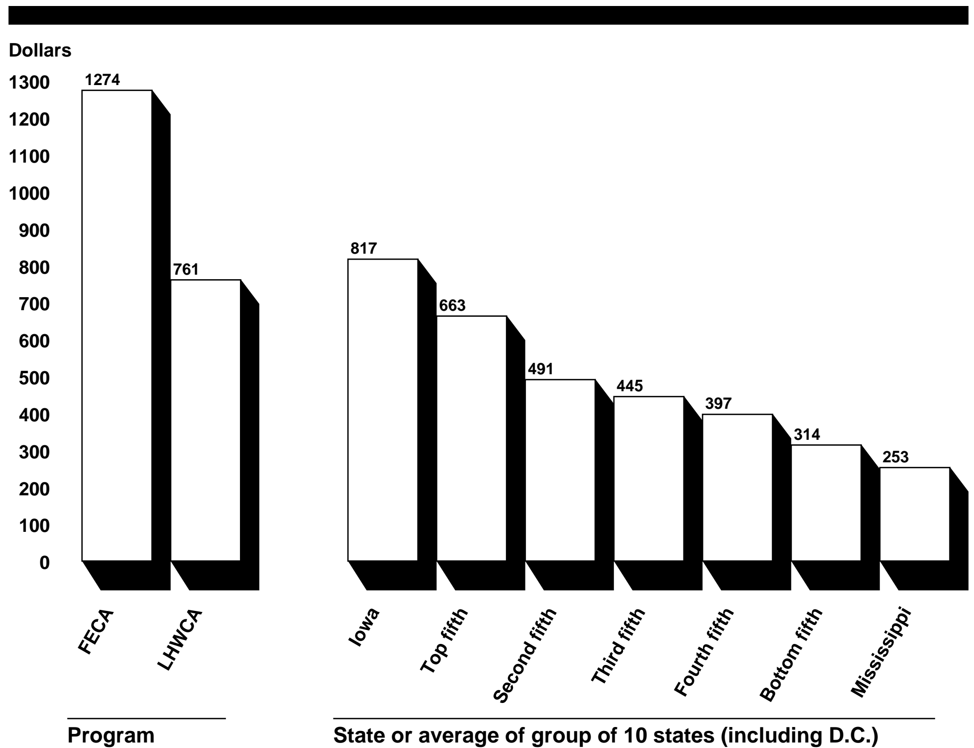
As of January 1, 1995, weekly authorized benefits for wage loss were subject to (1) maximum amounts under FECA, LHWCA, and the laws in all 50 states and D.C., and (2) minimum amounts under FECA, LHWCA, and the laws in 42 states, and D.C.[9]

Maximum weekly benefits authorized by FECA were $1,274, which is 75 percent of the general schedule (GS) base salary of a GS-15, step 10 ($1,699 per week in 1995). Maximum weekly benefits authorized by LHWCA were $761 or 200 percent of the national average weekly wage (AWW) of production or nonsupervisory workers on private nonagricultural payrolls ($380 per week in 1995). Maximum weekly benefits authorized by the statutes in 43 states (see app. II, table II.1) and D.C. were based on a percentage of the state AWW. These percentages ranged from 66-2/3 to 200 percent, with 21 states and D.C. using 100 percent of their state AWW to determine maximum benefits. In 1995, state AWW amounts ranged from $349 in South Dakota to $702 in D.C. For the seven remaining states,[10] maximum weekly benefit amounts were established by statute at fixed amounts. Figure I.2 shows the maximum weekly authorized benefits as of January 1, 1995, provided for by the federal and state workers' compensation statutes.

[9]Eight states (Arizona, Colorado, Maine, Michigan, Montana, Nevada, Rhode Island, and Wyoming) did not have statutory weekly minimum benefits.

[10]Alaska, Arizona, Georgia, Indiana, Nebraska, New York, and Tennessee.

Figure I.2: Maximum Authorized Weekly Benefits, as of January 1, 1995



Note 1: The bars labeled “top fifth,” etc. represent averages of the maximum weekly benefits. For example, top fifth is the average of the 10 states with the highest weekly benefits, second fifth is the average of the 10 states with the second highest weekly benefits, etc. Appendix II, table II.2 identifies the states included in each group of states.

Note 2: Of the 50 states and D.C., Iowa and Mississippi had the highest and lowest authorized maximum weekly benefits, respectively.

Source: GAO analysis of OWCP data.

FECA’s authorized maximum weekly benefit exceeded the maximum weekly benefits authorized by other federal and state workers’ compensation statutes because (1) FECA’s base salary for computing maximum authorized benefits was higher than the base salaries used by other jurisdictions and (2) maximum FECA benefits include an additional 8-1/3 percent for dependent benefits.

According to OWCP, as of September 30, 1995, 171 of the 53,547 FECA beneficiaries (about 0.3 percent) on the long-term rolls received maximum

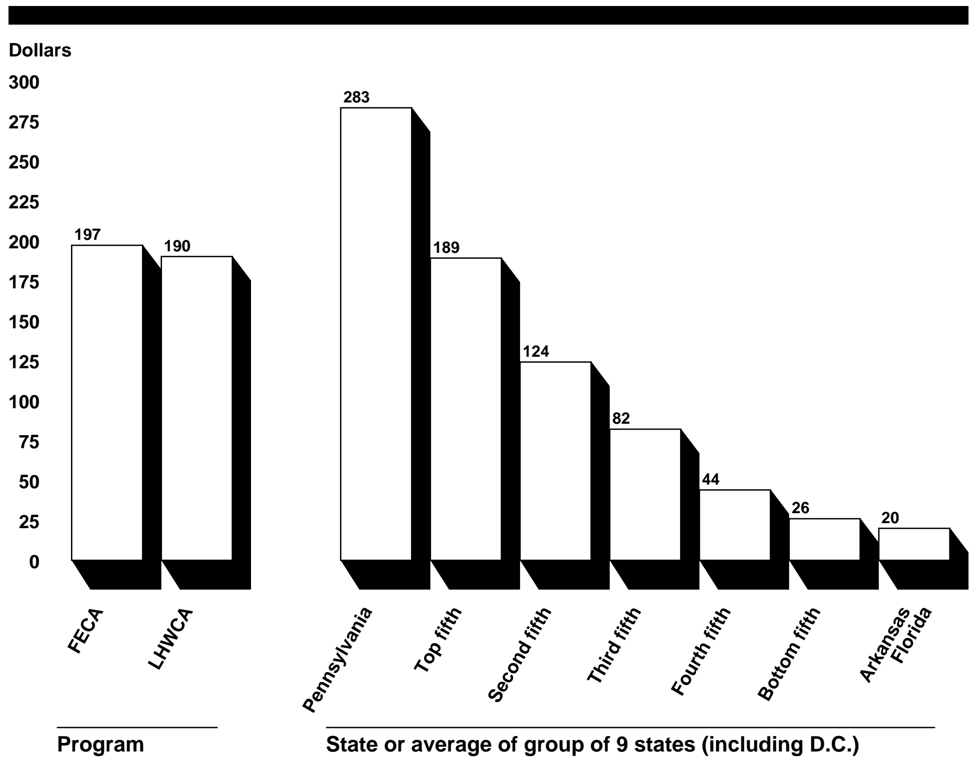
benefits. For the year that ended June 1994, average compensation benefits for selected beneficiaries on the long-term compensation roll was about $22,900, or $440 per week. As of March 31, 1994, the average annual base salary for federal employees was $38,223 or $735 per week, according to the Office of Personnel Management. For 1995, the national AWW under LHWCA was $380. Injured federal employees earning $735 per week with no dependents would have been eligible to receive about $490 per week in FECA benefits ($735 times 66 2/3 percent) and injured federal employees with dependents would have been eligible to receive $551 per week ($735 times 75 percent).

As of January 1, 1995, the minimum weekly benefit authorized by FECA was $197, based on the lesser of the employee's actual wage or 75 percent of the base annual salary of a GS-2, step 1 ($263). FECA's minimum weekly benefit was greater than all but 3 of the 42 states that have established minimum benefit amounts. According to OWCP, of the 38,022 employees on FECA's long-term rolls as of September 30, 1995, whose benefits were not adjusted to reflect partial disability, 49 received less than minimum FECA benefits.[11]

For 1995, minimum weekly benefits authorized by LHWCA were $190 or 50 percent of the national AWW of production or nonsupervisory workers on private nonagricultural payrolls. Minimum weekly benefits authorized by state workers' compensation laws ranged from $20 to $283 or, actual wages if less, based on either (1) a percentage (from 15 to 60 percent of the state's AWW) or (2) some fixed dollar amount. In many states, benefits may be limited to actual wages if the wages are less than authorized minimums. Minimum benefits authorized by Pennsylvania, North Dakota, and Vermont statutes exceeded FECA's minimum. Eight states did not have statutory minimum weekly benefits (see footnote 9). Figure I.3 shows the minimum weekly authorized benefits provided by both federal and state workers' compensation statutes.

[11]Individuals can receive benefits less than $197 per week. For example, OWCP could have reduced claimants' benefit amounts to reflect partial disability by establishing a partial wage earning capacity or benefits could be based on actual pay that was less than the minimum. Beneficiaries for whom OWCP has established a partial wage earning capacity are not included in this figure.

Figure I.3: Minimum Authorized Weekly Benefits, as of January 1, 1995



Note 1: The bars labeled "top fifth," etc. represent averages of the minimum weekly benefits. For example, top fifth is the average for the nine states with the highest minimums, second fifth is the average for the nine states with the second highest minimums, etc. Appendix II, table II.3 identifies the states included in each group of states.

Note 2: Of the 50 states and D.C., Pennsylvania had the highest authorized weekly minimum benefit; Arkansas and Florida had the lowest.

Source: GAO analysis of OWCP data.

Dependent Benefits

As of January 1, 1995, FECA and seven states authorized additional compensation benefits for injured workers with dependents. FECA benefits increased from 66-2/3 to 75 percent of wages for injured employees with one or more dependents. Table I.1 describes additional benefits for employees with dependents as provided for by FECA and the seven states that authorize dependent benefits.

Table I.1: Basis for Calculating Compensation Benefits and Additional Benefits for Dependents, as of January 1, 1995

Program or state	Percentage of employee's wages on which benefits are based	Additional benefits for a spouse and/or dependent	Effect of dependent benefits on maximum authorized weekly benefit
FECA	66 2/3	8 1/3 percent	Maximum benefit includes dependent allowance
Arizona	66 2/3	$25 per month	Not subject to maximum benefit
North Dakota	66 2/3	$10 per week per child	Total benefits not to exceed worker's take-home pay
Utah	66 2/3	$5 per week for spouse and each child	Total benefits not to exceed state authorized maximum of $417 per week
Vermont	66 2/3	$10 per week per child	Total benefits may not exceed preinjury wages
Massachusetts	60	$6 per week per child	Dependent benefits paid if weekly benefits do not exceed $150 per week or 100 percent of wages
Washington	60	5 percent for spouse and 2 percent for each child	Total benefits not to exceed state authorized maximum of $546 per week
Rhode Island	75[a]	$9 per week per child	Total benefits not to exceed 80 percent of worker's preinjury wage

[a]Rhode Island's benefits were based on a percentage of spendable income rather than wages.

Source: GAO analysis of OWCP data.

Because additional dependent benefits under FECA are based on a percentage of wages, higher paid employees would receive a larger dependent benefit. For example, the additional dependent benefit for a GS-13, step 1 employee would be about $78 per week in 1995, while the dependent benefit for a GS-5, step 1, employee would be about $30 per week.

Benefit Level Adjustments

In most jurisdictions, maximum and minimum benefit amounts change periodically because (1) AWW amounts change, (2) cost-of-living

adjustments take place, or (3) legislation affecting benefit amounts is enacted. FECA's maximum and minimum authorized benefits have generally increased each year due to federal salary increases or cost-of-living adjustments. Under LHWCA, the national AWW for nonagricultural workers has been adjusted annually. D.C. and 40 states (see app. II, table II.4) adjust their AWW at least once a year. Oklahoma makes the adjustment every 3 years, and Delaware adjusts its AWW at the discretion of the governor. Benefits in the remaining states are not tied to AWWs.

According to the U.S. Chamber of Commerce, as of January 1, 1995, FECA, LHWCA, 13 states (see app. II, table II.5), and D.C. authorized automatic cost-of-living increases for beneficiaries who had been receiving benefits for a specified time period. For example, FECA's annual cost-of-living adjustment becomes effective March 1 after beneficiaries have had a compensable disability for at least 1 year. LHWCA and statutes in Illinois, Maryland, Massachusetts, and Rhode Island provide cost-of-living increases only to beneficiaries with permanent total disabilities. In recent years, some states (Connecticut, Hawaii, and Maine) have discontinued the practice of providing automatic cost-of-living increases.

Maximum and minimum benefit amounts could also change through legislation. According to Labor, between 1991 and 1994, three states that did not automatically adjust their AWW—California, Georgia, and Nebraska—enacted legislation to increase their maximum benefit amounts. Three states that regularly adjusted their AWW—Minnesota, Oklahoma, and Virginia—increased their maximum authorized benefits by increasing the percentage of the state AWW on which the maximums were based. Further, one state—Connecticut—that regularly adjusted its AWW enacted legislation that decreased its maximum authorized benefits by decreasing the percentage of the state AWW on which the maximum was based. Benefit level changes in these states were part of comprehensive reform of their state workers' compensation statutes. Other issues addressed in these reforms related to medical cost containment, returning injured employees to work, workers' compensation fraud, and job safety.

Duration of Wage-Loss Benefits

Most jurisdictions pay wage-loss benefits to injured employees for the duration of their disability. As of January 1, 1995, FECA, LHWCA, 34 states (see app. II, table II.6) and D.C. were paying employees with temporary total disabilities wage-loss benefits for the duration of their disability. In 16 states (see app. II, table II.7), the number of weeks an injured employee could receive benefits for temporary disability was limited to between 100 and 500 weeks. If employees continued to be disabled after the limit was

reached in states with limits, they could have their temporary total wage-loss benefits terminated or be moved to the permanent disability rolls.

If an employee was permanently and totally disabled, all jurisdictions, except three states, could pay wage-loss benefits for the duration of the disability until death. In Mississippi, South Carolina, and Tennessee the duration of wage-loss benefits is limited either to (1) maximums ranging from 400 to 500 weeks, (2) age 65, or (3) specified dollar amounts. According to staff from these states, after limits have been reached, injured employees would no longer be entitled to workers' compensation benefits. These employees might then be entitled to Social Security benefits or other employer-provided benefits.

Income Replacement Rates

In addition to comparing the dollar value of benefits, another method of comparing federal and state benefit provisions uses income replacement rates. These rates reflect the percentage of a worker's after-tax income (spendable earnings) that is replaced by workers' compensation benefits. Whether income replacement rates for injured federal employees are similar to or greater than income replacement rates of workers covered by other jurisdictions' workers' compensation programs depends, in large part, on (1) whether federal workers have a dependent or (2) a worker's wages.

Income replacement rates[12] for federal employees without dependents are the same as rates for employees in other jurisdictions[13] that use 66-2/3 percent of wages as the basis for determining compensation benefits, at least up to the point at which employees' wages are in amounts which would result in authorized maximum benefits. Injured federal employees who receive workers' compensation benefits based on 75 percent of salary because they are married or have at least one dependent have higher income replacement rates than their counterparts in other jurisdictions whose benefits are based only on 66-2/3 percent of wages.

[12]In developing income replacement rate information for federal employees, we did not use all the information that the Workers Compensation Research Institute (WCRI) used because of the detailed information that would have been required. For example, we did not consider state and local income taxes, waiting periods, continuation of pay provisions, the effects of not receiving pay for days absent from work, or average numbers of days of disability for federal workers. To the extent that the above information is not considered, income replacement rates would be affected. For example, if state income taxes are considered, take-home pay decreases and income replacement rates increase.

[13]Assuming wages and deductions for income and social security taxes were the same.

FECA's authorized maximum benefits are greater than the maximums authorized under other jurisdictions' workers' compensation laws. As such, eligible federal employees with higher salaries have more of their after-tax income replaced by workers' compensation wage-loss benefits than workers residing in the same jurisdiction who were paid the same and whose benefits were affected by the states' authorized maximum benefit levels. When employees earn wages that are greater than the wages needed to be eligible for maximum benefits, income replacement rates begin declining because increases in workers' wages and spendable incomes do not result in larger workers' compensation benefits.

Table I.2 shows annual salary equivalents to receive maximum weekly workers' compensation wage-loss benefits for employees covered by FECA, LHWCA, and selected state workers' compensation laws.

Table I.2: Annual Salary Equivalents for Employees to Receive Maximum Weekly Workers' Compensation Benefits (Various Jurisdictions)

Jurisdiction	Maximum weekly workers' compensation benefit	Bases for computing maximum compensation benefits	Annual salary equivalent needed to receive maximum benefits[a]
FECA	$1,274	75 percent of base pay for GS-15, step 10 ($1,699)	$88,326
LHWCA	761	200 percent of national AWW ($380) for nonagricultural workers	59,349
Iowa[b]	817	200 percent of state AWW ($409)	53,105[a]
Average for 10 states with highest maximums	663	Various—ranging from 100 percent of state AWW to 200 percent of state AWW	$40,950 to $57,362
Average for 10 states with lowest maximums	311	Various—ranging from 66-2/3 percent of state AWW to 100 percent of state AWW	$19,702 to $27,222
Mississippi[b]	253	66-2/3 percent of state AWW ($379)	$19,702

[a]For states such as Iowa that use spendable earnings as the basis for computing workers' compensation benefits, annual salaries would be greater than the amounts used to compute maximum workers' compensation benefit amounts.

[b]States with the highest and lowest maximum weekly benefits, respectively.

Source: GAO computations based on OWCP data.

For those jurisdictions that base their workers' compensation benefits on a percentage of wages, income replacement rates increase as wages increase because workers' compensation benefits are not subject to income taxes and the differential between spendable earnings and workers' compensation benefits narrows. Table I.3 shows that income replacement rates for higher-paid federal employees are greater than the rates of most lower-paid federal employees[14] because higher-paid federal employees have a higher percentage of their after-tax income replaced with untaxed workers' compensation benefits.

Table I.3: FECA Income Replacement Rates for Different Size Families

	Single		Married employee and spouse		Married employee, spouse, and two children	
Salary	$20,000	$40,000	$20,000	$40,000	$20,000	$40,000
Less:						
Federal income taxes	2,062	6,492	1,312	4,312	577	3,577
Federal Employee Retirement System (FERS) deductions	1,690	3,380	1,690	3,380	1,690	3,380
State income taxes	Amount deducted depends on state of residence[a]					
Spendable earnings	16,248	30,128	16,998	32,308	17,733	33,043
FECA benefits	13,334	26,667	15,000	30,000	15,000	30,000
Income replacement rates	82.07	88.52	88.25	92.86	84.59	90.80

[a]State income tax deductions reduce spendable earnings and increase income replacement rates.

Source: GAO computations based on 1994 federal income tax tables and FERS deductions of 8.45 percent of pay.

At higher salary levels, workers' compensation benefits may actually exceed spendable income. In these cases, income replacement rates would be greater than 100 percent. In general, income replacement rates of over 100 percent occur when injured employees (1) with low pay receive workers' compensation benefits that are affected by the jurisdictions'

[14]Some injured federal employees who receive wage-loss benefits based on FECA's authorized minimum benefit amounts would also be likely to receive workers' compensation benefits that exceed their after-tax income.

minimum benefit level or (2) in the higher tax brackets receive nontaxable workers' compensation benefits that are based on salaries. For example, a married federal employee living in Virginia earning $60,000 annually who is injured on the job would be eligible to receive nontaxable FECA benefits of $45,000. If this employee had not been injured, he or she would have received take-home pay for workers' compensation purposes[15] of $43,407 ($60,000 less deductions for (1) FERS benefits ($5,070), (2) state income tax withholdings ($2,813), and (3) federal income tax withholdings ($8,710). In this example, the income replacement rate (FECA benefits divided by take-home pay) is nearly 104 percent.

Six states use spendable earnings as the basis for computing workers' compensation benefits. In these states, unless benefit levels are affected by a statutory minimum, injured workers' income replacement rates are less than 100 percent of spendable earnings. In addition, income replacement rates are the same for employees whose rates are not affected by minimums or maximums, even though their salaries are different because benefits are based on the same percentage of spendable earnings.

The "correct" level of workers' compensation wage-loss benefits has been argued by observers and legislators for decades. If workers' compensation benefits replace too much after-tax income, there are disincentives to returning to work following recovery from a job-related injury. If workers' compensation benefits do not replace enough after-tax income, injured workers and their families could suffer economic hardships. The 1972 Report of the National Commission on State Workmen's Compensation Laws recommended that, subject to a state's maximum weekly benefit, workers' weekly benefits replace at least 80 percent of spendable weekly earnings. A 1985 WCRI publication indicated that as benefits increased following the National Commission's report, an issue arose on whether benefits were so high that incentives for injured employees to return to work might be impaired. According to WCRI, legislatures in many states must walk a fine line between benefits that are high enough to provide adequate income but not so high as to discourage return to work.

Occupational Disease Coverage

Although workers' compensation laws initially did not specify provisions for occupational diseases, all jurisdictions now recognize them as compensable injuries. However, legal standards that must be met before

[15]Actual take-home pay could be different.

compensation benefits can be approved for some occupational diseases vary among jurisdictions.

Several of the more common occupational diseases for which workers' compensation benefits are paid include asbestosis and pulmonary diseases, hearing loss, skin diseases, carpal tunnel syndrome, heart conditions, and psychiatric illnesses. OWCP defines occupational diseases as conditions produced in the work environment over a longer than 1-workday shift. Occupational diseases may result from (1) systemic infection; (2) repeated stress or strain; (3) exposure to toxins, poisons, fumes, or other continuing conditions of the work environment.

Workers' compensation benefits for occupational diseases can vary significantly from the benefits that are paid for traumatic injuries depending on the date a jurisdiction uses to determine benefit amounts. Under FECA,[16] LHWCA, and about two-thirds of the states' laws (see app. II, table II. 8), benefit amounts are based on a worker's wages as of the date of disability or knowledge or manifestation of the disease. In the remaining states, benefits are determined as of the date of last exposure or last injurious exposure. These benefits could be significantly less than benefits for traumatic injuries because long latency periods may exist between the time the employee was last exposed to the conditions that caused the disease and the time of disease onset.

The judicial treatment of selected occupational diseases, such as those associated with job-related stress[17] can also vary depending on such factors as the type of disability an employee has suffered, the laws of the jurisdictions in which the employee lived, and how the courts have interpreted these laws.

For example, even though FECA does not specifically mention stress as a covered occupational disease, OWCP treats a job-related stress claim as a compensable injury as long as the claimed condition is causally related to factors of federal employment and is not self-generated and therefore not compensable.[18] Similarly, 29 states (see app. II, table II.9) and D.C. provide

[16]Unlike employees covered by FECA who suffer traumatic injuries, employees who file claims for occupational diseases are not entitled to continuation of pay (COP) benefits for the first 45 days of absence from work.

[17]Job-related stress can cause physical symptoms such as exhaustion, ulcers, headaches, and hypertension or certain psychological injuries such as post-traumatic stress disorder and depression.

[18]According to the FECA procedure manual, the distinction between a "factor of employment" and a "self-generated" factor can be difficult to make. The Employees' Compensation Appeals Board (ECAB) has ruled, in a number of cases, on work-related events that are not factors of employment.

for the compensability of job-related stress based on case law rather than specific statutory provisions, according to information from the National Conference of State Legislatures. The remaining states impose specific statutory restrictions with respect to compensability for stress claims. For example, according to the National Conference of State Legislatures, six states[19] specifically exclude stress as a compensable disease if it was related to a lawful personnel action such as a performance rating or reduction-in-force. Five states (Alaska, Arizona, California, Louisiana, and Maine) also specify statutorily that stress must be extraordinary and must be related to employment conditions. The remaining 11 states[20] have specific statutory restrictions on occupational disease claims ranging from excluding injuries that occur as a result of nonphysical stimulus or activity to mental conditions that must be permanent in nature. Although FECA does not contain specific statutory language that would impose restrictions on the compensability of stress claims, the general requirement that an injury be causally related to employment factors (particularly as this is interpreted through ECAB case law) effectively eliminates coverage for stress arising out of such legitimate personnel actions as promotions and performance appraisals.

Occupational disease rates in the federal and private sectors range from about 10 to 14 percent of job-related injuries. FECA statistics show that 12.6 percent of the nearly 187,700 cases created in calendar year 1992 were occupational disease cases[21] and that claims for job-related stress conditions were one of the most frequently mentioned categories of occupational disease claims filed. Occupational disease statistics are not maintained for employees covered under LHWCA. The Bureau of Labor Statistics (BLS) reported that in 1992, nearly 9.6 percent of the 2.3 million nonfatal occupational injuries and illnesses with days away from work in private industry involved occupational diseases. We recognize that comparisons of different jurisdictions' injury rates should be viewed with caution because differences exist between the federal and private sector in terms of the kinds of jobs that are available and the number of employees in these jobs.

Schedule Awards

As of January 1, 1995, FECA, LHWCA, and the workers' compensation statutes in 38 states (see app. II, table II.10) and D.C. contained specific language

[19]Maine, Massachusetts, New Mexico, New York, North Dakota, and Texas.

[20]Colorado, Florida, Michigan, Minnesota, Montana, New Hampshire, Ohio, Oregon, Rhode Island, Washington, and Wisconsin.

[21]In fiscal years 1993 and 1994, OWCP reported that occupational disease cases represented 13.8 and 13.5 percent, respectively, of the cases created in those years.

that authorized schedule awards for the permanent loss of, or loss of use of, specific body parts. While the remaining 12 states (app. II, table II.11) also authorized compensation for such losses, the award amounts were not based on specific schedules.

Schedule awards are so named because the statutes contain lists that specify the number of weeks' compensation that will be awarded to employees for the permanent loss of, or loss of use of, a specific body part (e.g., hand, arm, leg). For example, under FECA, federal employees who lose their hand, or use of their hand, in a work-related accident would be eligible to receive compensation payments equal to 66-2/3 percent of their salary (75 percent if they have one or more dependents) for 244 weeks. Schedule awards may be prorated for partial losses of a permanent nature. For example, employees who have suffered some permanent restriction in leg motion as a result of a job-related leg injury would be eligible to receive a schedule award for that portion of the loss of use of the leg.

The 12 states without statutory schedules also authorized compensation for loss of, or loss of use of, body parts. Compensation amounts in these 12 states were calculated (1) as a percentage of permanent total disability, (2) as a degree of impairment of the body part, (3) on the basis of a wage-loss formula, (4) on the basis of the state AWW and paid in a lump sum, or (5) as fixed sums for specified injuries. For example, Massachusetts' law provided for lump-sum payments, which are determined by multiplying the state AWW by a certain number specified in the law, depending on the affected body part. Thus, a worker in Massachusetts who loses an arm, or loses the use of an arm, would be eligible to receive the state AWW ($585.67) multiplied by 43 ($25,184 as of January 1, 1995). In Washington, workers who lose a hand (or the use thereof) would be eligible to receive a fixed amount specified in the law ($65,962 as of January 1, 1995) in monthly payments or a lump-sum payment.

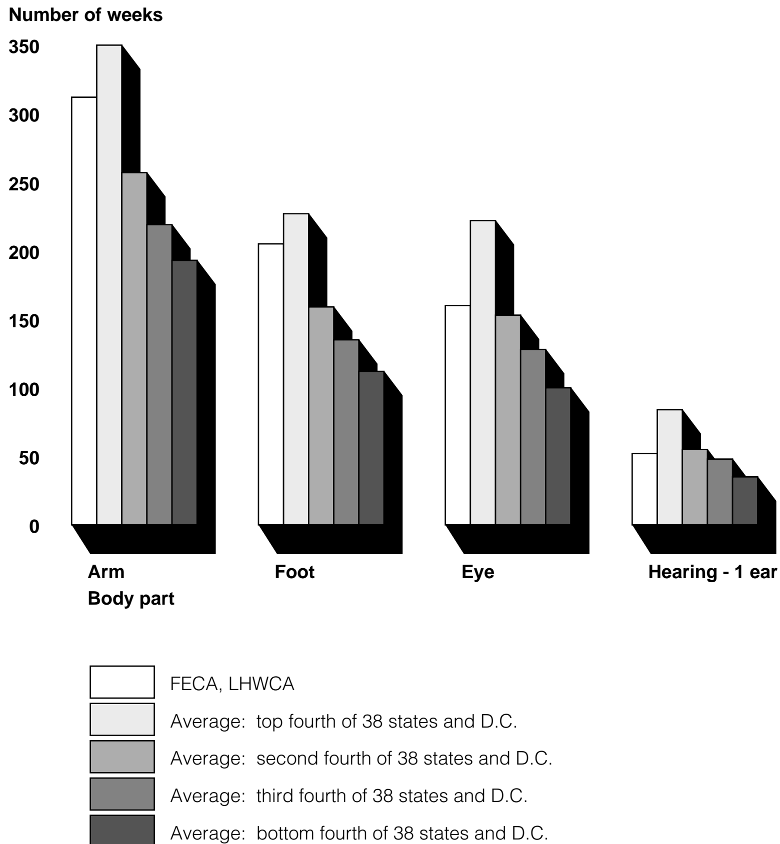
Under FECA, LHWCA, the laws in D.C., and the 38 states with statutory schedules, schedule award amounts authorized to be paid to injured employees would vary, depending on the part of the body that is affected and the employees' wages at the time of injury. Under FECA, for example, an employee with a spouse and/or dependent(s) and an annual salary of $13,650 (GS-2, step 1) would be eligible to receive a schedule award totaling $61,425 over a 312-week period for the permanent, total loss of use of an arm. An employee with a spouse and/or dependent(s) and an annual

salary of $88,326 (GS-15, step 10) would be eligible to receive a schedule award totaling $397,469 over the same 312-week period.

Like wage-loss benefits, maximum authorized schedule awards for injured federal employees were generally higher than maximum authorized schedule awards for nonfederal employees covered by other workers' compensation statutes, because the maximum compensation amounts on which schedule awards are based were greater under FECA. For example, schedules under FECA and New York's statute specified that loss of an arm would result in 312 weeks of compensation. Because the maximum authorized weekly benefit under FECA in 1995 was $1,274, the FECA maximum award for loss of an arm was $397,469 ($1,274 for 312 weeks). In New York, where the maximum authorized weekly benefit was $400 in 1995, the maximum schedule award for loss of an arm would have been $124,800 ($400 for 312 weeks). However, schedule awards for employees whose earnings did not reach the maximum levels would have been more similar. For example, the 1995 compensation rate for an employee earning $500 per week in New York and a federal employee with no dependents earning $500 per week would be $333 per week (66-2/3 percent of $500). These two employees would have each been eligible to receive the same schedule award of $104,000 paid over 312 weeks (66-2/3 percent of $500 for 312 weeks).

In some jurisdictions, maximum authorized amounts for schedule awards varied because of differences in the number of weeks of compensation authorized for the same injury. For example, both Arizona and Louisiana authorized the same maximum weekly compensation benefits for employees who lost arms as the result of work-related accidents ($323 as of January 1, 1995). However, Arizona authorized compensation benefits for 260 weeks up to a maximum of $83,980 ($323 for 260 weeks), while Louisiana authorized benefits for 200 weeks or a maximum of $64,600 ($323 for 200 weeks). Figure I.4 shows the number of weeks authorized for payment of selected schedule awards under FECA, LHWCA, and the 38 states and D.C.

Figure I.4: Maximum Number of Weeks for Benefits for Schedule Awards, as of January 1, 1995



Note 1: The bars labeled "Average:..." represent averages of the maximum authorized schedule awards for the 38 states and D.C. For example, "Average: top fourth..." is the average of the 10 states with the highest authorized schedule award amounts.

Note 2: Of the 38 states, 7 did not have statutory schedules for hearing loss in 1 ear. Appendix II, table II.12 identifies the states included in each group of states.

Source: GAO analysis of OWCP data.

According to the information we reviewed, both federal and nonfederal employees may continue to receive schedule awards as well as their regular pay when they return to work. As of January 1, 1995, under federal and most nonfederal workers' compensation programs, injured employees receive wage-loss benefits for the initial period of disability (the healing period). Subsequently, schedule awards would be paid to these employees

for their permanent impairments. In four states—Delaware, New Hampshire, North Dakota, and Rhode Island—schedule awards are to be paid concurrently with wage-loss benefits for the same injury. In three states (Louisiana, Michigan, and Oklahoma), wage-loss benefits for the initial periods of disability are deducted from schedule award amounts. Under FECA and LHWCA programs and, according to Larson, Workmen's Compensation Law, some state programs, awards for actual wage loss are made when wage loss in fact persists after the expiration of the schedule award period.

Vocational Rehabilitation

All jurisdictions provide vocational rehabilitation benefits. Both FECA and LHWCA specify that vocational rehabilitation services may be provided only to permanently disabled workers. As of 1993, workers' compensation statutes in 43 states (see app. II, table II.13) and D.C. specifically addressed vocational rehabilitation; such services were also available in the other 7 states.[22]

Both federal and state workers' compensation programs emphasize returning employees to work with their original employers.[23] Under FECA and LHWCA, if the original employer cannot accommodate the employee, vocational rehabilitation services, including testing, counseling, training, and placement assistance, are authorized. Rehabilitation specialists in OWCP district offices oversee rehabilitation activities, which are generally provided by private sector contractors.[24] Under both FECA and LHWCA, employees in vocational rehabilitation programs can receive wage-loss compensation benefits as well as a maintenance allowance for the cost of transportation, meals away from home, and other program-related expenses. Payment of compensation at the total rate is mandated by FECA while the employee is in an approved rehabilitation program.

States also emphasize returning employees to work with their original employers. Vocational rehabilitation services available to employees covered by state workers' compensation statutes are generally provided

[22]Colorado, Delaware, New Mexico, Pennsylvania, South Carolina, Tennessee, and Wyoming.

[23]FECA provides that if federal employees overcome their disabilities within 1 year of the date compensation begins, their former federal employers must allow them to resume their former positions or their equivalents. If recovery occurs after 1 year has passed, former federal employing agencies must generally give employees priority placement consideration in their former or equivalent positions or make reasonable efforts to place them in other federal departments or agencies.

[24]OWCP's vocational rehabilitation efforts for FECA beneficiaries are discussed more thoroughly in our report Federal Employees' Compensation Act: Need to Increase Rehabilitation and Reemployment of Injured Workers (GAO/GGD-92-30, Feb. 28, 1992).

through private rehabilitation firms, public rehabilitation agencies, or state workers' compensation agencies. The services provided include assessment, counseling, training, labor market analysis, and placement. Some states offer financial incentives to employers to induce them to hire injured workers, including (1) providing reimbursement to employers for some or all job site modification and on-the-job training costs and (2) offering workers' compensation premium discounts to employers who hire or rehire injured workers.

As part of its effort to return injured federal employees to the workforce, OWCP administers a program called the Assisted Reemployment Project. Congress authorized this demonstration project in Labor's fiscal year 1992 appropriations bill. According to OWCP, the program is mainly confined to a small number of cases—those involving injured but motivated employees who face special obstacles to reemployment and cannot be placed through routine vocational rehabilitation and placement efforts. Under this program, OWCP may reimburse an employer (other than the original employer) for up to 3 years for a portion of the injured federal employee's salary. OWCP placed 153 of the 207 participating employees by the end of fiscal year 1994. According to a Texas Workers' Compensation Research Center study,[25] some states also authorize employer subsidies.

Whether participation in vocational rehabilitation is mandatory or voluntary is subject to much discussion by workers' compensation experts and may depend on whose views are considered—employees or employers. According to the Texas Workers' Compensation Research Center study, as of 1993, vocational rehabilitation services provided to injured employees would be considered mandatory in 14 states[26] and D.C. In these jurisdictions, eligible injured workers are required to cooperate with vocational rehabilitation efforts, including placement assistance, or risk losing their wage-loss benefits. Employers and/or their insurance carriers are typically required to pay for the services if the injured worker needs such services to become employable.

In the states where vocational rehabilitation would be considered voluntary, the employer or insurance carrier is not obligated to pay for the services. However, the study said that some employers and carriers

[25]Return-to-Work Programs for Texas Workers' Compensation Claimants: Suggested Design Parameters, January 1995. The study was prepared for the Texas Workers' Compensation Research Center, a state agency established by the Texas legislature to conduct fair and unbiased research and produce information relevant to workers' compensation issues.

[26]Alabama, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Missouri, Montana, New Hampshire, Oklahoma, Oregon, Rhode Island, Vermont, and Virginia

voluntarily finance short-term vocational rehabilitation services because of potential cost savings they may realize by returning injured employees to work as soon as possible. According to the Texas study, at least one of the states in which vocational rehabilitation is considered voluntary—Texas—may restrict wage-loss benefits for employees who do not cooperate with prescribed efforts to rehabilitate them to return to work.

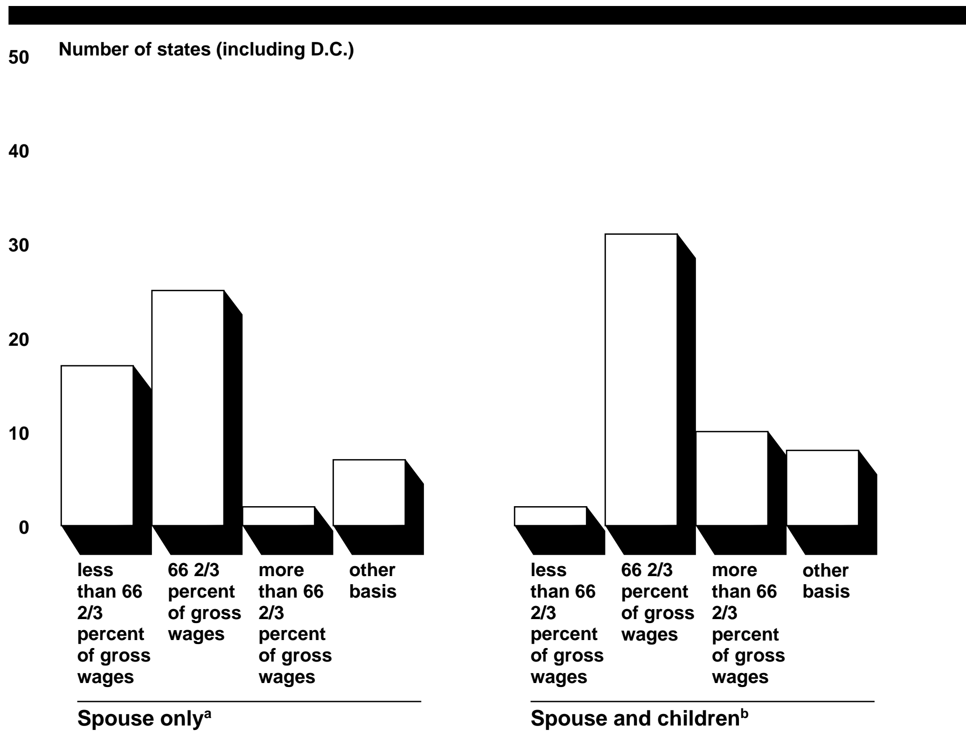
Under FECA, federal employees who refuse to cooperate in vocational rehabilitation programs or to make good faith efforts to obtain reemployment face the possible reduction or termination of their compensation benefits by OWCP. LHWCA does not have such a provision.

Death Benefits

All federal and state workers' compensation statutes authorize death benefits to the surviving spouse and children of an employee whose death results from a job-related injury or illness. As of January 1, 1995, compensation benefits paid to eligible surviving spouses and children were generally calculated as a percentage of the deceased employees' wages (ranging from 32-1/2 percent of wages for a surviving spouse in Louisiana to 80 percent of wages for a surviving spouse and children in Delaware and Rhode Island), subject to maximum and minimum amounts.

FECA, LHWCA, 22 states (see app. II, table II.14), and D.C. authorized additional benefits to surviving spouses with children. The amount of benefits authorized by 28 states (see app. II, table II.15) were the same regardless of whether the deceased employee was survived only by a spouse or a spouse and children. Death benefits are generally paid to an eligible spouse until remarriage and to the children until a specified age. Figure I.5 shows the bases jurisdictions use to calculate death benefits.

Figure I.5: Bases Used to Calculate Death Benefits in the States and D.C., as of January 1, 1995



Note: Appendix II, tables II.16 and II.17 identify the states.

[a]Under FECA and LHWCA, death benefits for a surviving spouse only were 50 percent of wages.

[b]Under FECA, death benefits for a surviving spouse and one child were 60 percent and for a surviving spouse with two or more children were 75 percent. Under LHWCA, benefits for a surviving spouse with one child or more were 66 2/3 percent of wages.

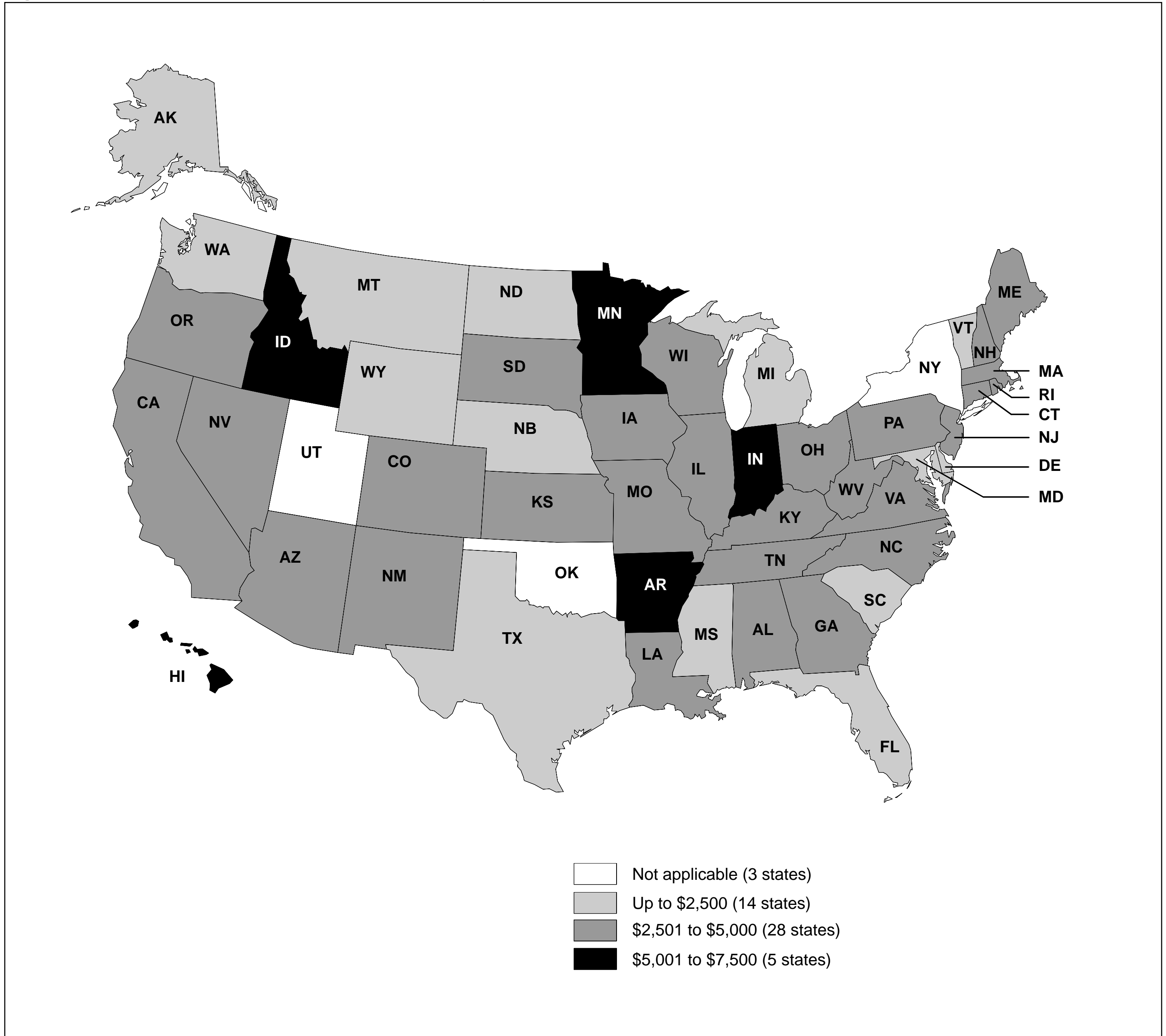
Source: GAO analysis of OWCP data.

Burial Allowances

As of January 1, 1995, FECA, LHWCA, and the workers' compensation statutes of 47 states (see app. II, table II.18) and D.C. authorized benefits for burial expenses (subject to specific maximum amounts) if an employee's death was the result of a work-related injury or illness. In the remaining three states (New York, Oklahoma, and Utah), burial benefits were authorized, but the statutes did not specify maximum amounts. As of January 1, 1995, maximum burial allowances authorized under FECA and LHWCA were $800 and $3,000 respectively, while maximum allowances authorized by the statutes of the 47 states and D.C. ranged from $700 to $7,500. FECA's burial

allowance benefit was lower than all but Delaware's. FECA and five states (Kentucky, Idaho, Nevada, South Dakota, and Virginia) authorized additional payments for transporting the decedent's body to the residence or place of burial. Figure I.6 shows the maximum burial allowances authorized by the state workers' compensation statutes.

Figure I.6: Maximum Burial Allowances, as of January 1, 1995



Source: GAO analysis of OWCP data.

Medical Benefits and Cost Containment Measures

FECA, LHWCA, and most state workers' compensation statutes provide for medical services for work-related injuries and illnesses.[27] As of January 1, 1995, FECA, LHWCA, and the statutes in 45 states (see app. II, table II.19) and D.C. provided for full medical benefits for work-related injuries or illnesses with no limitations on amounts or time. The remaining five states (Arkansas, Florida, Montana, New Jersey, and Ohio) provided for almost unlimited medical care but had special provisions such as requiring copayments from employees after a specified time or imposing a maximum amount for medical benefits unless the employer elects to extend the dollar amount. For example, Florida required a $10 copayment for all medical services after maximum medical improvement was reached.

Medical Cost Containment Measures

In an attempt to control the rate of growth of workers' compensation medical expenditures, which, generally during the 1980s and particularly from 1985 to 1990, had been increasing faster than national health expenditures, the federal government and many states initiated or planned to initiate medical cost containment measures.[28] The measures included (1) medical fee schedules; (2) bill reviews; and (3) managed-care programs, which include utilization reviews, health maintenance organizations (HMO), preferred provider organizations (PPO), and 24-hour coverage.[29] Limiting an employee's choice of medical services provider is also considered a cost containment measure by some workers' compensation experts and is discussed in more detail starting on page 38.

Medical Fee Schedules

OWCP uses a fee schedule to establish maximum allowable charges for most medical services provided to injured federal employees. OWCP's medical fee schedule is also used in LHWCA cases to determine criteria for reasonable and customary medical charges when there are disputes. According to WCRI, as of January 1995, 41 states (see app. II, table II.20) used or were developing medical fee schedules that listed maximum reimbursement levels for health care services provided by hospitals, physicians, or other practitioners.

[27]Medical services include examination, treatment, and related services, such as hospitalization, medications, medical equipment, and supplies.

[28]Much of the information presented here on cost containment measures in the states is from WCRI's Managed Care and Medical Cost Containment in Workers' Compensation: A National Inventory, 1995-1996, which contains information on initiatives in place or planned as of January 1995.

[29]WCRI's December 1995 report on managed care and medical cost containment contains comprehensive information on states' managed care policies.

The methodology for developing reimbursement levels, coding schemes to identify procedures, the services covered, and the frequency of fee schedule updates vary widely among the jurisdictions. For example, fee schedules may express fees as dollar amounts or relative value units with dollar conversion factors.[30] Some jurisdictions have an all inclusive fee schedule for hospital and nonhospital care. OWCP's fee schedule for FECA claimants covers services provided by physicians or other medical professionals in a hospital or nursing home but does not cover inpatient services and supplies provided and billed by hospitals. OWCP is in the process of developing fee schedules for hospital services and pharmaceuticals.

Evidence that fee schedules are effective in controlling medical costs is contradictory. Advocates argue that fee schedules control prices for medical services, and thus, should slow down the rate of growth of these prices. Others have cautioned that physicians may react to price controls by increasing the number of services performed. Studies on the effect of fee schedules on workers' compensation costs have had different outcomes. The results of one study of 17 states (see app. II, table II.21), based on over 350,000 workers' compensation claims with dates of injury from 1979 to 1987, suggest that states with fee schedules have health expenditures that are almost 4 percent lower than states without fee schedules.[31] However, the study's author noted that there was considerable variation in both the magnitude and direction of the impact of fee schedules on medical cost growth from year to year, and average growth rates were only slightly higher in states without fee schedules. A 1989 WCRI study concluded that fee schedules have had no effect on average medical costs.

Bill Reviews

Neither FECA nor LHWCA mandate bill review procedures. According to WCRI, as of January 1995, 16 states (see app. II, table II.22) had bill review programs in place. In these 16 states, (1) the workers' compensation agency routinely examined all medical bills or bills that met specific criteria to verify their conformance to fee schedules or (2) state law mandated that payers examine bills. Although FECA does not require specific bill review procedures, OWCP's automated medical bill pay system is designed to (1) check all bills for duplicates, (2) check to ensure that the

[30]Medical services receive a value that reflects, relative to other services, the work and other services needed to furnish it. The values are adjusted for relative geographic differences in the costs of inputs, such as staff salaries and office rental costs.

[31]Health Care Costs in Workers' Compensation Programs: An Assessment of Cost Containment Policy Initiatives (Cornell University, 1993), a dissertation by Silvana Pozzebon and summarized in John Burton's Workers' Compensation Monitor, May/June 1993.

procedures being paid for relate to the claimant's diagnosis, (3) ensure that only authorized providers are paid, and (4) ensure that bills are paid according to the OWCP fee schedule.

Utilization Reviews

FECA and LHWCA do not mandate the use of utilization reviews—which assess the necessity and appropriateness of admissions and procedures, lengths of hospitalizations, and consultations by specialists before, during, or following an inpatient admission—as a means for controlling medical costs. As of January 1995, 22 states (see app. II, table II.23) had implemented or were developing utilization review programs, which typically covered inpatient hospital care, according to WCRI. Utilization reviews may be part of an overall managed-care program, which seeks to ensure the necessity of treatment and to deliver care cost effectively.

State workers' compensation statutes can prohibit, authorize, encourage, or mandate utilization review. WCRI considered jurisdictions to have a utilization review program if (1) the workers' compensation statutes mandated that payers review claims for proper medical utilization, (2) the workers' compensation agency reviewed the utilization of medical care for all claims or for those claims where benefits or time lost from work had reached certain levels, or (3) the state agency reviewed utilization on a regular basis.

Although FECA does not specifically mandate utilization reviews as such, OWCP does use a type of utilization review in some cases. Since the beginning of fiscal year 1994, all FECA district offices have used registered nurses to intervene in disability cases. More recently, OWCP's Boston and Kansas City district offices have been testing the use of nurses during the COP period. Nurses are to be assigned to cases that have the potential for long-term disability and are to immediately begin working with the injured employee to ensure proper medical management of the case and a safe return to work at the earliest possible time.

Use of HMOs and PPOs

FECA and LHWCA do not address the issue of using HMOs or PPOs. According to OWCP, as of October 1994, the use of HMOs/PPOs for workers' compensation medical services was authorized by statute, employer, or insurer in at least 33 states (see app. II, table II.24). In the HMO/PPO setting, primary care physicians generally control the health care services

provided to their patients by serving as gatekeepers who are responsible for making referrals to all other health care providers.[32]

Towers Perrin, a national employee benefits consulting firm, surveyed employers about their use of workers' compensation cost containment measures. The respondents were 1,050 private and local government employers representing 8.2 million employees. The survey found that the use of HMOs and PPOs by the respondents jumped from 20 percent in 1991 to 50 percent in 1993.[33]

24-Hour Coverage

Twenty-four hour coverage plans were not widely used in any of the jurisdictions. These plans integrate the medical component of workers' compensation insurance with health insurance for off-work injuries, resulting in plans that would cover injured workers around the clock, regardless of the origin of their impairments. According to a 1993 article in a health policy issues journal, some states had considered 24-hour coverage plans and passed legislation authorizing such plans on a pilot basis, although 24-hour coverage had not been implemented in any state. OWCP reported in 1994 that California had authorized 24-hour pilot programs for a 3-year period beginning in 1994.

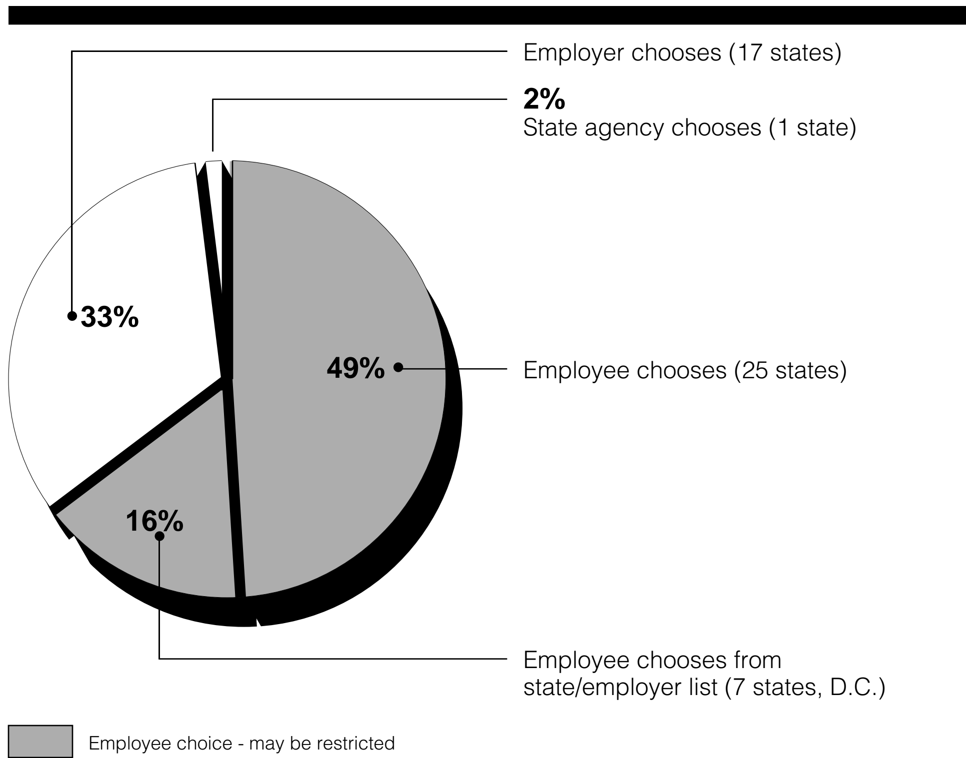
Physician Selection

As of January 1, 1995, FECA, LHWCA, and 25 states (see app. II, table II.25) allowed injured employees to choose their initial physician or medical care provider without restriction. The other 25 states (app. II, tables II.26 and II.27) and D.C. restricted employees' initial choice of medical care provider. Figure I.7 shows the method of initial physician selection provided for by the state workers' compensation statutes in the states and D.C.

[32]WCRI defines managed care as a program, or more specifically, an organization, referred to as a managed care organization, that seeks to deliver cost-effective and quality care. These organizations, which may include HMOs and PPOs, often employ case management, utilization review, bill review, and other programs as part of the services they provide.

[33]Regaining Control of Workers' Compensation Costs: The Second Biennial Towers Perrin Survey Report, 1993, p. 7.

Figure I.7: Method of Initial Physician Selection Provided for by the Workers' Compensation Statutes in the States and D.C., as of January 1, 1995



Source: GAO analysis of OWCP data.

In 5 of the 17 states where the employer chooses the initial provider, the state agency may change the medical provider on the basis of an employee's appeal, petition, or request. In 4 of these 17 states, the employee may change the selection after a specified time period.

WCRI considers the practice of limiting employees' choice of medical provider as a medical cost containment measure and that the effectiveness of HMOS/PPOs as a cost control measure is seriously reduced if there is unlimited initial choice. The 1972 Report of the National Commission on State Workmen's Compensation Laws recommended that workers be permitted the initial selection of physicians, either from among all licensed physicians in the state or from a panel of physicians selected or approved by the state workers' compensation agency.

Policymakers, insurers, and others have argued that limiting employees' choice of physician will help control costs by steering injured workers to providers who practice in a cost-effective way. However, evidence about the financial impact of limiting an employee's choice of provider has been mixed. Studies by the National Council on Compensation Insurance, WCRI, and others have shown conflicting evidence that choice-of-physician provisions result in reduced medical costs.

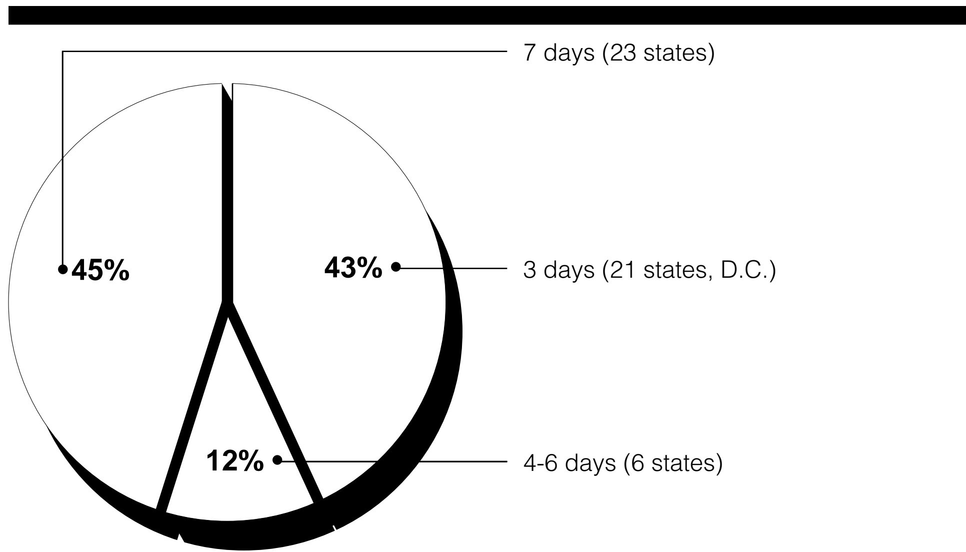
Waiting and Retroactive Periods

As of January 1, 1995, LHWCA and the workers' compensation statutes of all 50 states and D.C. provided that employees must be out of work during a waiting period—ranging from 3 to 7 days—before compensation benefits for lost wages can be paid.[34] FECA differs from LHWCA and state and D.C. statutes in that FECA's 3-day waiting period begins to run after the expiration of any COP to which the worker may be entitled. COP is a unique feature of FECA. FECA authorizes federal agencies to continue paying employees, who are absent from work due to work-related traumatic injuries, their regular salaries for up to 45 days before the 3-day waiting period begins.[35] COP benefits are not payable in occupational disease cases. Figure I.8 shows the number of days for waiting periods in the states and D.C.

[34]Medical benefits are not subject to waiting periods and are provided immediately.

[35]Injured workers must file their claims within 30 days of the traumatic injury and meet several other criteria before becoming eligible for COP benefits.

Figure I.8: Waiting Periods in the States and D.C., as of January 1, 1995



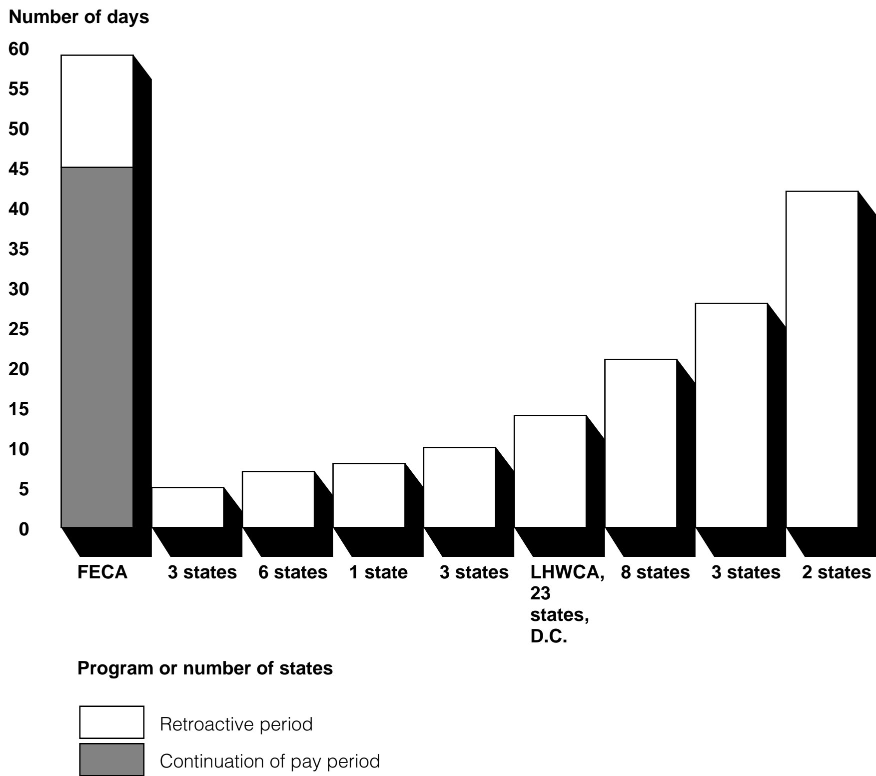
Note: Appendix II, table II.28 identifies the states. Under FECA and LHWCA, waiting periods are 3 days.

Source: GAO analysis of OWCP data.

If disabilities that result in an employee's absence from work continued for 5 to 42 days after the date of injury, all statutes—except Montana's—provide for payment of wage-loss benefits retroactive to the date of injury. Montana's law has no provision for a retroactive period. Under FECA, wage-loss benefits for the 3-day waiting period are payable if an eligible employee remains out of work for 59 days, or 14 days after the end of the COP period. The 1972 Report of the National Commission on State Workmen's Compensation Laws recommended that the waiting period for benefits be no more than 3 days and that a period of no more than 14 days be required to qualify for retroactive benefits for days lost.

Figure I.9 shows the number of days employees must be out of work to receive compensation benefits for all days of disability, including the waiting period.

Figure I.9: Number of Days Employees Must Be Absent From Work[a] to Receive Compensation Benefits for All Days of Disability, as of January 1, 1995



Note: Appendix II, table II.29 identifies the states.

[a]Under FECA, eligible employees receive their regular pay for the first 45 days they are out of work due to traumatic injuries.

Source: GAO analysis of OWCP data.

LHWCA and the statutes in the 50 states and D.C. do not have COP-type provisions. However, some nonfederal employers may provide their employees with additional benefits while they are receiving workers' compensation benefits. These additional benefits may include sick leave during the waiting period, salary continuation during the waiting period and beyond, and short- and long-term disability insurance. Under FECA, federal employees cannot charge sick leave during the waiting period.

Unless nonfederal employees are covered by supplemental benefits, they may lose more income from short-term, work-related injuries than eligible federal employees who have continued to receive their regular pay under FECA's COP provision. A study of 1991 and 1992 workers' compensation claims in Texas found that the most frequent duration of temporary income benefits for injured workers receiving wage-loss benefits was 1 week and the median duration was 8.3 weeks.

Federal workers who are absent from work for 8 weeks would receive their full salary for about the first 6-1/2 weeks of the absence, because of FECA's COP provision, before they would start receiving wage-loss benefits.[36] Unlike federal workers who would continue to receive their salaries, injured workers in Texas would receive workers' compensation wage-loss benefits subject to maximum authorized weekly benefit limits.

Other Workers' Compensation Program Characteristics

In addition to benefit provisions previously discussed, workers' compensation statutes contain provisions that deal with matters such as coverage, benefit and program funding, claims processing, and claims adjudication and appeals. Sufficient differences generally exist to make each jurisdiction's administration and implementation of its workers' compensation programs unique. Examples of differences in the implementation and administration of FECA and other jurisdictions' workers' compensation statutes are discussed in the following sections.

Coverage Under Workers' Compensation Laws

While FECA covers all federal civilian employees as well as several other groups of workers, coverage under other federal and state workers' compensation laws is not generally as comprehensive. LHWCA covers workers engaged in maritime employment and several other groups of workers. State workers' compensation laws vary in designating which employees have coverage because (1) employers may not have a sufficient number of employees to require coverage, (2) selected occupations may be exempt, (3) coverage may not be required for sole proprietors, and (4) employers in some states may have a choice in providing workers' compensation coverage.[37]

[36]If disabled for 59 days or less, the injured employee would not receive compensation for the first 3 days of the compensation period.

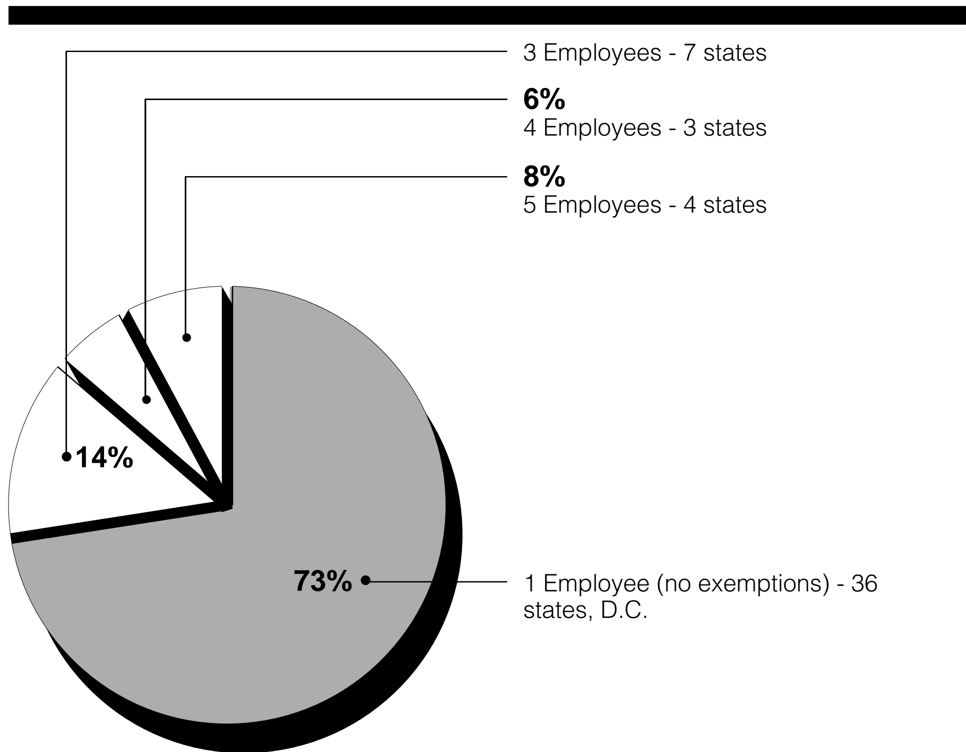
[37]In three states (New Jersey, South Carolina, and Texas), employers are not required to provide their employees with workers' compensation coverage. These states, which are referred to as elective states, give employers the option of providing coverage. Employers who do not provide coverage are considered to have given up their right to use the common law defenses available to them when injured employees file lawsuits against them.

Under FECA, approximately 3 million federal civilian workers in all branches of the government have workers' compensation insurance coverage. These workers include (1) blue- and white-collar workers, (2) workers paid under pay systems such as the general schedule, the federal wage system, and other federal pay laws, and (3) workers employed in the legislative, judicial, and executive branches of the government, including the Postal Service. In addition, legislation also extends FECA coverage to other individuals such as Peace Corp and VISTA volunteers, Job Corps enrollees, and nonfederal law enforcement officers in certain circumstances.

LHWCA provides workers' compensation coverage to longshore, harbor, and other maritime workers as well as a variety of other workers covered under acts such as the Defense Base Act of August 16, 1941; the Nonappropriated Fund Instrumentalities Act of June 19, 1952; and the Outer Continental Shelf Lands Act of August 7, 1953.

State workers' compensation laws generally designate which workers have coverage. Some states exclude domestic and agricultural workers from coverage and allow employers with only a few employees to opt out of providing workers' compensation coverage. Figure I.10 contains information on the minimum number of employees an employer must have before coverage is required.

Figure I.10: Minimum Number of Employees Required Before States Require Workers' Compensation Coverage[a]



Note: Appendix II, table II.30 identifies the states.

[a]Several states have exceptions based on factors such as type of business or size of payroll.

Source: GAO analysis of OWCP data.

Methods for Funding Workers' Compensation Benefits and Administrative Expenses

Differences exist in (1) how various jurisdictions allow employers and insurance carriers to fund workers' compensation benefit payments and (2) how administrative costs incurred by various workers' compensation agencies or commissions are funded. Methods used in various jurisdictions for funding benefit payments and administrative costs include insurance premiums, general appropriations, assessments, fines, penalties, and fees.

Under FECA, benefit payments to injured employees and service providers, such as physicians and vocational rehabilitation contractors, are funded through a "chargeback system." On the basis of benefits paid by OWCP from the Employees' Compensation Fund, OWCP charges agencies for whom injured employees worked. These agencies subsequently reimburse the Employees' Compensation Fund from their next annual appropriation. For example, for the chargeback year ended June 30, 1994, OWCP billed agencies and departments over $1.8 billion for compensation and medical benefits. In turn, agencies and departments included this amount in their fiscal year 1995 appropriation requests. The Postal Service, mixed-ownership government corporations, and certain other government corporations are to reimburse Labor for their shares of OWCP's administrative costs, as well as contributing amounts to the Employees' Compensation Fund for benefits paid. OWCP's expenses for administering FECA in fiscal year 1994 were $63.4 million. In addition, employing agencies use their staff to assist OWCP in managing claims.

Under LHWCA, in calendar year 1993, self-insured employers or insurance carriers who provided employers with workers' compensation insurance coverage paid compensation and medical payments of $506.1 million on behalf of eligible injured workers, according to OWCP. In selected cases involving employees who had second injuries[38] or who worked for insolvent firms, LHWCA benefits of $118.4 million were paid to eligible beneficiaries from a special fund. The special fund is administered by OWCP and is financed by annual assessments on authorized insurance carriers and self-insured employers and by fines, penalties, and death benefit levies. Total expenditures for program operations and administration of LHWCA in fiscal year 1994 were $20.5 million of which $9.2 million was for direct costs and $11.3 million was for legal, audit, and investigative support provided by other Labor components.[39] In addition, half the costs ($4 million) of automatic annual increases paid to beneficiaries in cases of permanent total disability or death that occurred on or before October 27, 1972, were funded through appropriations.

Under various states' workers' compensation programs, employers or their insurance carriers are responsible for paying compensation and medical

[38]LHWCA and some state workers' compensation programs have second-injury funds, which are used to pay compensation benefits when a preexisting injury is combined with a second injury to produce a disability that is greater than that caused by the second injury alone. Under FECA, there is no second-injury fund and the employing agency is fully liable for compensation due to the resulting disability.

[39]Office of Administrative Law Judges, Benefits Review Board, Office of the Solicitor, and Office of the Inspector General.

payments to or on behalf of injured employees who worked for them. Employers in these jurisdictions fund workers' compensation benefit payments either through self-insurance or by paying insurance premiums to private insurers or to a state agency responsible for administering the states' workers' compensation program and paying program beneficiaries.[40] Six states are "exclusive states" in that the states provide workers' compensation insurance to employers without competition from private insurance carriers; five of these states allow qualified employers to self-insure.

Administrative expenses incurred by state workers' compensation agencies are generally funded through one or more of the following mechanisms: (1) general appropriations; (2) assessments against insurance carriers and self-insured employers; and (3) collections of fines, penalties, and fees.

For 1993, the Social Security Administration (SSA) estimated workers' compensation benefit payments in the United States at $42.9 billion.[41] Of that amount, medical expenses were $17.5 billion and compensation benefits were $25.4 billion. On the basis of SSA data, we calculated expenses to administer workers' compensation activities at $14.4 billion in 1993. This figure included amounts for sales costs, claims administration, rehabilitation costs, profit, taxes, and reserves.

Claims Filing

The path that an employee's claim for workers' compensation benefits takes depends on factors such as the role of the jurisdiction in adjudicating the claim and whether the employer decides to contest the employee's claim. Most workers' compensation experts agree that the great bulk of cases are handled in a satisfactory and prompt manner, especially where the injuries are minor and involve no time lost from work and only a small amount of medical or cash benefits.

[40] All jurisdictions have included security or insurance provisions in their statutes to require employers to demonstrate their ability to satisfy their potential obligations to pay workers' compensation benefits. While the nature of these requirements, how they are enforced, the operations and regulations of private insurers, state funds, and self-insured employers are critical elements in a workers' compensation program, we did not attempt to address these differences because they generally do not apply in the case of FECA. The 1973 Compendium on Workmen's Compensation contains a discussion of these elements.

[41] This figure includes $3.2 billion primarily for FECA and federal black lung program benefits as well as amounts paid by employers and insurance carriers for LHWCA benefits. Social Security Bulletin, Summer 1995, Vol. 58, No. 2.

In most cases, the claims process starts when an employee (or someone acting on behalf of the employee) reports a work-related injury, disease, or death, and files a notice of injury or a claim for benefits with, (1) an employer, (2) an insurance carrier or a third-party administrator representing an employer, or (3) a governmental agency that administers the jurisdiction's workers' compensation statute. Time frames for submitting notice of injury reports are established by statute and, in most jurisdictions, are excusable or may be extended for cause. The types of injuries that employees are required to report and the time frames in which they are required to report them vary.

Under FECA and LHWCA, notices of injury must be reported to the employer within 30 days after the injury. Time limits for filing notices of injury varied considerably in the states, ranging from "immediately" in five states (Arizona, Arkansas, Hawaii, Washington, and West Virginia) to 2 years in Florida and New Hampshire. According to the U.S. Chamber of Commerce, 38 states (see app. II, table II.31) and D.C. required these notices to be filed within 30 days or less. In Ohio, only employees who worked for self-insured employers were required to file notices with their employer, others would file their notices with the state workers' compensation agency. In North Dakota, before August 1, 1995, injured employees were not required to file a notice of injury with their employer but had to file their claim for benefits with the state workers' compensation agency within 1 year.

As with notice-of-injury reports, all jurisdictions have statutory time limits on filing claims for workers' compensation benefits. Under FECA, employees or their representatives must have filed a claim for benefits within 3 years after injury or death. LHWCA required that a claim be filed within 1 year of injury or death or 2 years after awareness of an occupational disease. In the states, time limits for filing benefit claims ranged from 60 days after the disability begins, such as in Maryland, to 6 years after the date of injury in Utah and Minnesota. Forty-five states (see app. II, table II.32) and D.C. required benefit claims to be filed within either 1 or 2 years after the injury or death,[42] according to the U.S. Chamber of Commerce. The majority of states allow up to 2 years for filing claims related to occupational diseases. Wisconsin is the only state that does not have a time limit for filing claims for occupational diseases.

[42]In many jurisdictions, time frames can be excused or extended for cause.

Adjudication and Appeals

Claims adjudication under a particular jurisdiction's workers' compensation system depends on factors such as the jurisdiction's involvement in determining the claim's merit and whether employers contest employees' claims for benefits. When disputes arise, employees and employers may exercise appeal rights provided to them under their states' workers' compensation laws. However, as provided for under FECA regulations, proceedings conducted with respect to claims filed under the act are to be nonadversarial in nature. Accordingly, agencies for whom injured employees worked are not allowed to appeal OWCP claims decisions.

Under FECA, OWCP claims examiners are to review and decide whether to accept claims for compensation benefits filed by federal employees on the basis of information submitted by them or their representatives and by their supervisors or employers. According to OWCP procedures, claims that do not involve time lost from work, have medical expenses under $1,000, and are not contested by the employing agency for whom the injured employee worked are to be routinely accepted. A claimant who is not satisfied with his or her claims examiner's decision can appeal.

FECA provides three avenues of appeal to such claimants—hearing, reconsideration by OWCP, and review by ECAB.[43] One type of appeal allows an injured employee to request either an oral hearing by an OWCP representative or a review of the written record (but not both) within 30 days from the date of a formal decision by OWCP as long as a reconsideration has not already been requested. Another type of appeal allows an employee to ask an OWCP district office to reconsider its decision. The request for reconsideration must be requested within 1 year of the date the formal decision was issued and be based on (1) relevant evidence not previously submitted, (2) a showing that OWCP erroneously applied or interpreted a point of law, or (3) advancing a point of law or fact not previously considered by OWCP. A third type of appeal allows a claimant to request a review of a decision by ECAB, normally within 90 days, but this period may be extended for up to 1 year for good cause. ECAB review is based solely on the case record; new evidence is not considered. ECAB decisions are final and are not reviewable by other officials of the United States or by the courts.

FECA's appeals provisions differ from those in other workers' compensation laws in that injured federal employees' appeals are not

[43]ECAB is an entity, within Labor but separate from OWCP, that was established to give federal employees the same administrative due process of law and right of appellate review that most nonfederal workers have under various states' workers' compensation laws.

adjudicated by the courts. Also, employing agencies cannot appeal OWCP claims decisions either administratively to OWCP, to ECAB, or to the courts. The lack of judicial review by the courts is referred to by some workers' compensation experts as indicative of a nonadversarial system. Further, federal regulations (20 C.F.R. 10.140) state that "proceedings conducted with respect to claims filed under [FECA] are nonadversary in character. Accordingly, a claimant's employing agency shall not have the right, except as provided in [the section on COP], to actively participate in the claims adjudication process."

Although employers cannot appeal claims decisions under FECA, they can controvert an employee's right to COP benefits. In taking controversion action, an employing agency submits evidence to OWCP disputing or challenging the validity of the injured employee's claim. If certain conditions are met (e.g., work stoppage occurred 90 days or more following the injury or the injury was reported after the employee was terminated), the employing agency shall not pay COP benefits if it controverts the claim. In other cases, the employing agency may controvert an employee's right to COP, but the employee's regular pay shall not be interrupted during the 45-day COP period unless the controversion is sustained by OWCP and OWCP notifies the employing agency of its decision.

Under LHWCA, injured employees generally file claims for benefits with their employers or employers' representatives (i.e., insurance carriers or third-party administrators). When injured employees covered by LHWCA and their employers cannot agree on a claim's merit, OWCP becomes involved to help mediate disputes. If disputed claims filed by workers covered under LHWCA cannot be resolved through an informal conference at which an OWCP claims examiner acts as a mediator, the case is referred to an administrative law judge in Labor's Office of Administrative Law Judges (OALJ). The parties can appeal an OALJ decision to Labor's Benefits Review Board, which is composed of five permanent members appointed by the Secretary of Labor to indefinite terms. If the case is still disputed, the parties can further appeal it to the U.S. Court of Appeals and ultimately to the U.S. Supreme Court.

Under states' laws, insurance carriers, self-insured employers, third-party administrators, or state workers' compensation agencies generally act as the reviewing and approving entities responsible for adjudicating injured employees' claims. In those states that provide workers' compensation benefits through an exclusive state fund,[44] the adjudication processes are

[44]Nevada, North Dakota, Ohio, Washington, West Virginia, and Wyoming.

somewhat similar to FECA's in that claims are to be initially reviewed and approved by claims examiners employed by state workers' compensation agencies rather than insurance carriers or third-party administrators. Claimants or employers who are not satisfied with the decision usually can appeal the decision through informal administrative processes such as hearings or other dispute resolution processes. If the parties cannot reach resolution through these informal processes, more formal appeals before either a board, panel, commission, or administrative law judge are authorized. If the parties still dispute the case, appeals are generally authorized through the state court system. Only six states (Alabama, Maryland, Ohio, Texas, Vermont, and Washington) authorize a trial by jury during the appeal process, according to U.S. Chamber of Commerce.

Whether a workers' compensation system is considered adversarial or nonadversarial affects factors such as attorney involvement and workers' compensation administrative costs. According to some workers' compensation experts, adversarial systems are more costly because the involvement of attorneys can cause delays in reaching claims' decisions.

Under FECA, fees for claimants' attorneys must be approved by OWCP and must be based on reasonable charges for necessary services on behalf of a claimant. Unlike under state workers' compensation laws, OWCP will not approve fees on the basis of a percentage of the amount of compensation awarded. In the states, attorneys fees may be contingent on the amount of the compensation awarded and can be anywhere from one-fourth to one-third of the compensation amount approved.

Reporting of Injuries

In addition to notices of injuries and claims for benefits that employees file, reports of injuries and illnesses are usually reported to others. OWCP provides information on injuries and illnesses to Labor's Occupational Safety and Health Administration (OSHA). Employers, including those covered under LHWCA, generally are required to (1) report injuries and illnesses to state workers' compensation agencies and (2) maintain records on reports of accidents under the Federal Occupational Safety and Health Act of 1970, if their businesses affect interstate commerce.

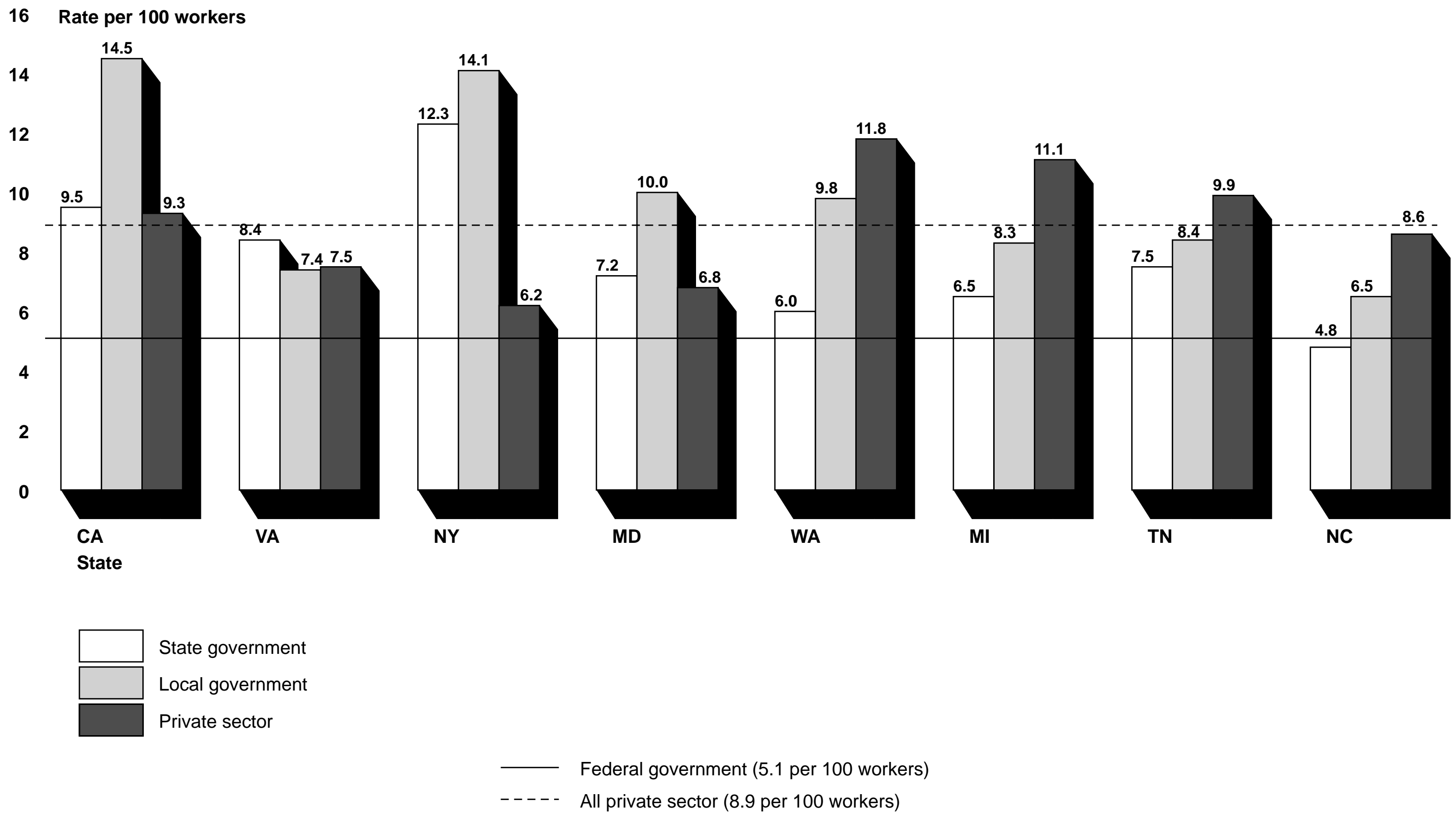
The types of injuries that employees are required to report and the time frames in which they are required to report them vary. Many jurisdictions also impose fines on employers who fail to report injuries. Under FECA, an immediate supervisor must report to OWCP any injury that results in a death or probable disability of an employee. Under LHWCA, employers must

report injuries that cause time lost from work to Labor within 10 days of the date of injury or death or knowledge of a disease. State reporting requirements vary considerably, from no statutory provisions for reporting to reporting only those injuries that cause time lost from work or claims resulting in medical expenses. In almost all states, required reports must be filed within 10 days of the date of injury.

Using information from these reports, OSHA and BLS compute injury and illness incident rate information for the federal and private sector workforces, respectively. In 1992, the estimated number and frequency (incidence rates) of occupational injuries and illnesses incurred by federal employees (including those who worked for the Postal Service) was less than the incidence rates for private sector workers in the United States and private and public sector workers in selected states. BLS develops incidence rate information for the private and public (state and local governments) sectors.[45] OSHA develops incidence rate information for the federal sector. Figure I.11 compares 1992 incidence rate information.

[45]BLS collects incidence rate data on an annual basis for the private sector and for state and local government sectors in 23 states that have OSHA approved occupational safety plans. Private industry data are obtained by surveying 250,000 establishments in 11 private industries and in 50 states and D.C. These sample data are used to project private industry incident rate data nationally.

Figure I.11: Incidence Rates Per 100 Workers in Public and Private Sectors in Selected States (1992)



Federal government (5.1 per 100 workers)

All private sector (8.9 per 100 workers)

Note 1: According to BLS a official, states with OSHA-approved safety plans must collect state and local government injury and illness rate data. For our comparisons, we selected the above eight states with OSHA-approved safety plans for which data were available and that had the largest number of federal employees.

Note 2: Private and public sector incidence rate data include full-or part-time workers and are based on calendar year data, whereas the federal incidence rate includes only full-time workers and is based on fiscal year data.

Note 3: National private sector and state and local government incidence rate data are based on a scientifically selected sample of approximately 280,000 employers collected annually by BLS.

Sources: Data furnished by OSHA for federal incidence rates and BLS for private sector and state and local government incidence rates.

For the states shown, state government workers in North Carolina were the only group to have a lower incidence rate than the federal government in 1992. According to OSHA's analysis of FECA data, in fiscal year 1992, the incidence rate of injuries and illnesses per 100 federal employees was 5.1 percent based on 158,677 total reported injuries. The rate for lost time injuries and illnesses was 2.39 percent based on 74,120 reported injuries and illnesses.

BLS' analysis for 1992 showed that the national incidence rate for nonfatal injuries and illnesses per 100 private industry employees was 8.9 based on 6.8 million job-related injuries and illnesses reported. The incidence rate for lost workdays[46] was 3.9 per 100 workers, based on 2.95 million reported nonfatal injuries and illnesses.

Figure I.11 shows that total case incidence rates for state government workers in the states for which we obtained information ranged from a high of 12.3 in New York to a low of 4.8 in North Carolina, based on 27,300 and 6,200 total reported injuries and illnesses, respectively. Total case incidence rates for the local government sectors in the states for which we obtained information varied from a high of 14.5 per 100 workers in California to a low of 6.5 in North Carolina based on 142,500 and 15,300 reported total injuries and illness cases, respectively.

While figure I.11 shows incidence rate information for all occupational groups in each employment sector, it does not attempt to take into consideration such variables as the number of workers employed by occupation or the degree of risk associated with each occupation. According to BLS, because of these factors, comparisons of different jurisdictions' incident rate information should be viewed with caution. BLS also indicated that incidence rates could vary by state because of different industry and occupational mixes and emphasis on work safety programs.

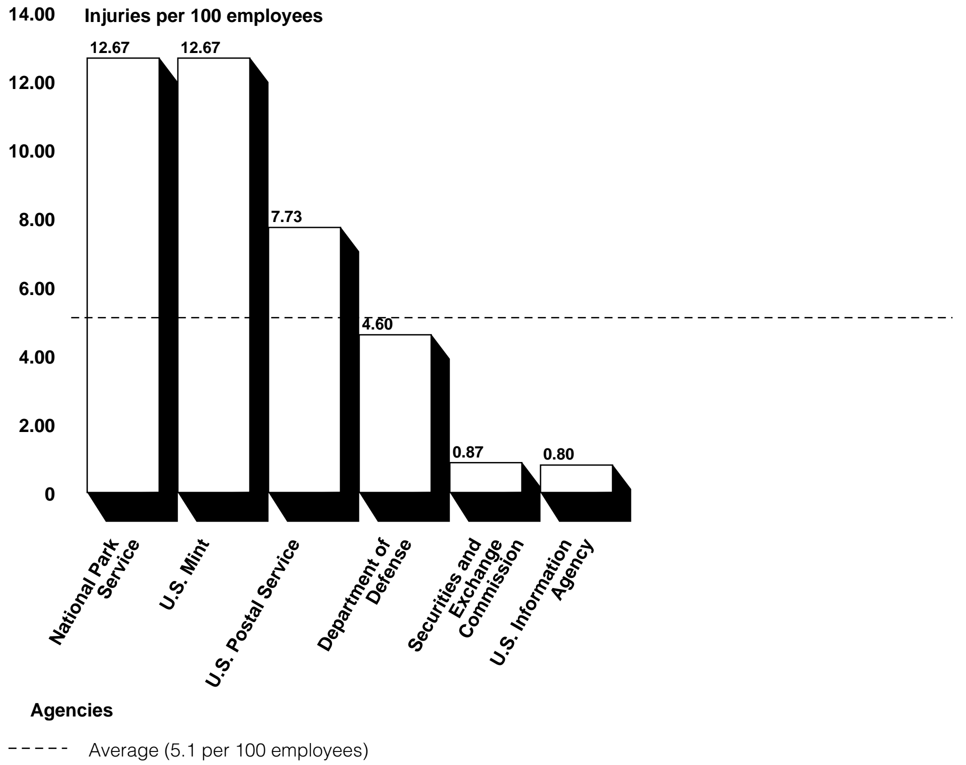
During 1992, OSHA injury and illness data for FECA on lost-time cases indicated that letter carriers, postal-distribution workers, and nurses were the occupational groups in the federal sector with the most injuries and illnesses. These occupations accounted for 26 percent of the 87,822 lost-time injuries and illnesses. Similar data collected for 1992 in the private sector for cases involving days away from work indicated that machine operators, fabricators, and laborers were the occupational groups with the most injuries, accounting for about 40 percent of the 2.3 million lost-time injuries and illnesses.

[46]Lost workday cases included both cases involving days away from work and/or restricted workdays.

BLS data for the eight states that we used for our comparison indicated that nurses and nursing aides, correction officers, and janitors were the employee occupations with the most reported injuries and illnesses involving days away from work in state government, representing 36 percent of the cases reported. Police, janitors, and bus drivers were the occupations with the most reported injuries and illnesses involving days away from work for local government employees during 1992, representing about 25 percent of the case total.

Most OSHA information on federal government incidence rates is categorized by department and agency rather than by occupation. Figure I.12 shows fiscal year 1992 incidence rates for the Department of Defense and the U.S. Postal Service, the federal agencies with the most employees. In addition, the figure shows the federal agencies with over 2,000 employees that had the highest and the lowest incidence rates during fiscal year 1992.

Figure I.12 Injury and Illness Incidence Rates for Selected Federal Agencies in Fiscal Year 1992



Source: GAO analysis of OSHA data.

Identification of States in Appendix I

Table II.1: Forty-Three States That Base Their Maximum Weekly Benefit Amounts on a Percentage of the State Average Weekly Wage, as of January 1, 1995

Alabama	Kansas	Nevada	South Carolina
Arkansas	Kentucky	New Hampshire	South Dakota
California	Louisiana	New Jersey	Texas
Colorado	Maine	New Mexico	Utah
Connecticut	Maryland	North Carolina	Vermont
Delaware	Massachusetts	North Dakota	Virginia
Florida	Michigan	Ohio	Washington
Hawaii	Minnesota	Oklahoma	West Virginia
Idaho	Mississippi	Oregon	Wisconsin
Illinois	Missouri	Pennsylvania	Wyoming
Iowa	Montana	Rhode Island	

Source: GAO analysis of OWCP data.

Table II.2: Groups of States in Figure I.2: Maximum Authorized Weekly Benefits, as of January 1, 1995, in Descending Order by Maximum Authorized Weekly Benefit

Top fifth	Second fifth	Third fifth	Fourth fifth	Bottom fifth
Alaska	Hawaii	Alabama	California	Arizona
Connecticut	Michigan	Colorado	Idaho	Arkansas
D.C.	Minnesota	Florida	Kentucky	Delaware
Illinois	Missouri	Indiana	Montana	Georgia
Iowa	North Carolina	Maine	New York	Kansas
Maryland	Ohio	Nevada	North Dakota	Louisiana
Massachusetts	Oregon	New Jersey	South Carolina	Mississippi
New Hampshire	Pennsylvania	Texas	Tennessee	Nebraska
Vermont	Rhode Island	Virginia	Utah	New Mexico
Washington	Wisconsin	West Virginia	Wyoming	Oklahoma
				South Dakota

Source: GAO analysis of OWCP data.

Table II.3: Groups of States in Figure I.3: Minimum Authorized Weekly Benefits, as of January 1, 1995, in Descending Order by Minimum Authorized Weekly Benefits

Top fifth	Second fifth	Third fifth	Fourth fifth	Bottom fifth	No minimum
D.C.	Alabama	Alaska	Indiana	Arkansas	Arizona
Idaho	California	Illinois	Maryland	Florida	Colorado
Iowa	Connecticut	Kentucky	Missouri	Georgia	Maine
New Hampshire	Delaware	Louisiana	Nebraska	Kansas	Michigan
North Dakota	Hawaii	Minnesota	New Mexico	Mississippi	Montana
Ohio	Massachusetts	Oregon	New York	North Carolina	Nevada
Pennsylvania	New Jersey	South Carolina	Utah	Oklahoma	Rhode Island
South Dakota	Virginia	Tennessee	Washington	Wisconsin	Wyoming
Vermont	West Virginia	Texas			

Source: GAO analysis of OWCP data.

Table II.4: Forty States That Adjust Their Average Weekly Wage at Least Once a Year, as of January 1, 1995

Alabama	Kansas	Nevada	South Carolina
Arkansas	Louisiana	New Hampshire	South Dakota
Colorado	Maine	New Jersey	Texas
Connecticut	Maryland	New Mexico	Utah
Florida	Massachusetts	North Carolina	Vermont
Hawaii	Michigan	North Dakota	Virginia
Idaho	Minnesota	Ohio	Washington
Illinois	Mississippi	Oregon	West Virginia
Iowa	Missouri	Pennsylvania	Wisconsin
Kansas	Montana	Rhode Island	Wyoming

Source: GAO analysis of OWCP data.

Table II.5: Thirteen States That Authorized Cost-of-Living Increases for Beneficiaries Who Had Been Receiving Benefits for a Specified Time Period, as of January 1, 1995

California	Maryland	Montana	South Dakota
Idaho	Massachusetts	New Hampshire	Vermont
Illinois	Minnesota	Rhode Island	Virginia
			Washington

Source: GAO analysis of U.S. Chamber of Commerce data.

Table II.6: Thirty-Four States That Paid Wage-Loss Benefits for Temporary Total Disability for the Duration of Disability, as of January 1, 1995

Alabama	Illinois	Montana	Oregon
Alaska	Iowa	Nebraska	Pennsylvania
Arizona	Kansas	Nevada	Rhode Island
California	Kentucky	New Hampshire	South Dakota
Colorado	Louisiana	New York	Vermont
Connecticut	Maine	North Carolina	Washington
Delaware	Maryland	North Dakota	Wisconsin
Hawaii	Michigan	Ohio	Wyoming
Idaho	Minnesota		

Source: GAO analysis of OWCP data.

Table II.7: Sixteen States That Limited Wage-Loss Benefits for Temporary Total Disability to Between 100 and 500 Weeks, as of January 1, 1995

Arkansas	Massachusetts	New Mexico	Texas
Florida	Mississippi	Oklahoma	Utah
Georgia	Missouri	South Carolina	Virginia
Indiana	New Jersey	Tennessee	West Virginia

Source: GAO analysis of OWCP data.

Table II.8: States That Base Benefits on Workers' Wages as of Date of Disability or Knowledge or Manifestation of Occupational Disease, as of January 1, 1995

Alabama	Hawaii	New Hampshire	Pennsylvania
Alaska	Idaho	New Mexico	Rhode Island
Arizona	Iowa	New York	South Carolina
California	Maryland	North Carolina	Tennessee
Colorado	Massachusetts	North Dakota	Utah
Connecticut	Mississippi	Ohio	Vermont
Delaware	Montana	Oklahoma	West Virginia
Florida	Nebraska	Oregon	

Source: U.S. Chamber of Commerce (1995).

Table II.9: States That Provide for Compensability of Job-Related Stress Based on Case Law Rather Than Specific Statutory Provisions

Alabama	Indiana	Nebraska	South Dakota
Arkansas	Iowa	Nevada	Tennessee
Connecticut	Kansas	New Jersey	Utah
Delaware	Kentucky	North Carolina	Vermont
Georgia	Maryland	Oklahoma	Virginia
Hawaii	Mississippi	Pennsylvania	West Virginia
Idaho	Missouri	South Carolina	Wyoming
Illinois			

Source: National Conference of State Legislatures (June 1995).

Table II.10: Thirty-Eight States Whose Statutes Contain Specific Schedules for Loss, or Loss of Use, of Specific Body Parts, as of January 1, 1995

Alabama	Iowa	New Jersey	South Carolina
Arizona	Kansas	New Mexico	South Dakota
Arkansas	Louisiana	New York	Tennessee
Colorado	Maine	North Carolina	Texas
Connecticut	Maryland	North Dakota	Utah
Delaware	Michigan	Ohio	Vermont
Georgia	Mississippi	Oklahoma	Virginia
Hawaii	Missouri	Pennsylvania	Wisconsin
Idaho	Nebraska	Rhode Island	Wyoming
Illinois	New Hampshire		

Source: GAO analysis of OWCP data.

Table II.11: Twelve States Whose Statutes Provide Compensation for Loss Of, or Loss of Use Of, Specific Body Parts Based on Factors Other Than Schedules, as of January 1, 1995

Alaska	Indiana	Minnesota	Oregon
California	Kentucky	Montana	Washington
Florida	Massachusetts	Nevada	West Virginia

Source: GAO analysis of OWCP data.

Table II.12: Groups of States in Figure I.4: Maximum Number of Weeks for Benefits for Schedule Awards, as of January 1, 1995, in Descending Order by Number of Weeks

Arm			
Top fourth	**Second fourth**	**Third fourth**	**Bottom fourth**
Connecticut	Arizona	Alabama	Louisiana
D.C.	Delaware	Arkansas	Mississippi
Hawaii	Illinois	Colorado	New Mexico
Idaho	Iowa	Georgia	South Dakota
Maryland	Maine	Kansas	Tennessee
New Jersey	Michigan	Nebraska	Texas
New York	Missouri	New Hampshire	Virginia
Pennsylvania	North Carolina	Ohio	Utha
Rhode Island	North Dakota	South Carolina	Wyoming
Wisconsin	Oklahoma	Vermont	
Foot			
Top fourth	**Second fourth**	**Third fourth**	**Bottom fourth**
Connecticut	Arizona	Alabama	Colorado
D.C.	Delaware	Arkansas	New Hampshire
Hawaii	Illinois	Georgia	New Mexico
Maryland	Iowa	Idaho	South Dakota
New Jersey	Maine	Kansas	Tennessee
New York	Michigan	Louisiana	Texas
Oklahoma	Missouri	Mississippi	Utah
Pennsylvania	Nebraska	North Carolina	Virginia
Rhode Island	North Dakota	Ohio	Wyoming
Wisconsin	Vermont	South Carolina	
Eye			
Top fourth	**Second fourth**	**Third fourth**	**Bottom fourth**
Connecticut	D.C.	Alabama	Arkansas
Delaware	Georgia	Arizona	Louisiana
Idaho	Hawaii	Colorado	Mississippi
Maine	Illinois	Kansas	New Hampshire
Maryland	Iowa	Nebraska	Tennessee
Michigan	Missouri	New Mexico	Texas

(continued)

New Jersey	New York	North Carolina	Utah	
Oklahoma	North Dakota	Ohio	Virginia	
Pennsylvania	Rhode Island	South Carolina	Wyoming	
Wisconsin	South Dakota	Vermont		
Hearing-1 ear				
Top fourth	**Second fourth**	**Third fourth**	**Bottom fourth**	**No schedule**
Arizona	Alabama	Arkansas	Colorado	Idaho
Delaware	Connecticut	Illinois	Kansas	Louisiana
Georgia	D.C.	Iowa	Mississippi	Michigan
Maryland	Hawaii	Maine N	ew Hampshire S	outh Dakota
New Jersey	New York	Missouri	New Mexico	Tennessee
North Carolina	Pennsylvania	Nebraska	Ohio	Texas
Oklahoma	Rhode Island	North Dakota	Wisconsin	Utah
South Carolina	Vermont	Virginia	Wyoming	

Source: GAO analysis of OWCP data.

Table II.13: Forty-Three States Whose Statutes Specifically Address Vocational Rehabilitation, as of 1993

Alabama	Indiana	Missouri	Oregon
Alaska	Iowa	Montana	Rhode Island
Arizona	Kansas	Nebraska	South Dakota
Arkansas	Kentucky	Nevada	Texas
California	Louisiana	New Hampshire	Utah
Connecticut	Maine	New Jersey	Vermont
Florida	Maryland	New York	Virginia
Georgia	Massachusetts	North Carolina	Washington
Hawaii	Michigan	North Dakota	West Virginia
Idaho	Minnesota	Ohio	Wisconsin
Illinois	Mississippi	Oklahoma	

Source: Return-to-Work Programs for Texas Workers' Compensation Claimants: Suggested Design Parameters, January 1995, and Workers' Compensation in New Jersey: Administrative Inventory, by WCRI.

Table II.14: Twenty-Two States That Provide Additional Death Benefits to Surviving Spouses With Children, as of January 1, 1995

Alabama	Idaho	New Hampshire	Rhode Island
Arizona	Kentucky	New Jersey	Tennessee
Arkansas	Louisiana	Oklahoma	Vermont
Delaware	Minnesota	Oregon	Washington
Florida	Mississippi	Pennsylvania	Wisconsin
Hawaii	Nebraska		

Source: GAO analysis of OWCP data.

Table II.15: Twenty-Eight States That Pay the Same Amount of Survivor Benefits Regardless of Whether a Deceased Employee Was Survived by Only a Spouse or a Spouse and Children, as of January 1, 1995

Alaska	Iowa	Montana	South Carolina
California	Kansas	Nevada	South Dakota
Colorado	Maine	New Mexico	Texas
Connecticut	Maryland	New York	Utah
Georgia	Massachusetts	North Carolina	Virginia
Illinois	Michigan	North Dakota	West Virginia
Indiana	Missouri	Ohio	Wyoming

Source: GAO analysis of OWCP data.

Table II.16: States Included in Each Bar in Figure I.5 (Spouse Only): Bases Used to Calculate Death Benefits in the States and D.C., as of January 1, 1995

Spouse only			
Less than 66-2/3 percent of wages	66-2.3 percent of wages	More than 6-2/3 percent of wages	Other basis
Alabama	California	Texas	Alaska
Arizona	Colorado	West Virginia	Connecticut
Arkansas	Delaware		Iowa
D.C.	Georgia		Maine
Florida	Illinois		Michigan
Hawaii	Indiana		Oregon
Idaho	Kansas		Wyoming
Kentucky	Maryland		
Louisiana	Massachusetts		
Minnesota	Missouri		
Mississippi	Montana		
New Hampshire	Nebraska		
New Jersey	Nevada		
Oklahoma	New Mexico		
Pennsylvania	New York		
Tennessee	North Carolina		
Washington	North Dakota		
	Ohio		
	Rhode Island		
	South Carolina		
	South Dakota		
	Utah		
	Vermont		
	Virginia		
	Wisconsin		

Source: GAO analysis of OWCP data.

Table II.17: States Included in Each Bar in Figure I.5 (Spouse and Children): Bases Used to Calculate Death Benefits in the States and D.C., as of January 1, 1995

Spouse and children			
Less than 66-2/3 percent of wages	66-2/3 percent of wages	More than 66 wages	Other basis
Idaho	Alabama	Delaware	Alaska
Louisiana	Arizona	Kentucky	Connecticut
	Arkansas	Nebraska	Iowa
	California	New Jersey	Maine
	Colorado	Oklahoma	Michigan
	D.C.	Rhode Island	Oregon
	Florida	Texas	Wisconsin
	Georgia	Vermont	Wyoming
	Hawaii	Washington	
	Illinois	West Virginia	
	Indiana		
	Kansas		
	Maryland		
	Massachusetts		
	Minnesota		
	Mississippi		
	Missouri		
	Montana		
	Nevada		
	New Hampshire		
	New Mexico		
	New York		
	North Carolina		
	North Dakota		
	Ohio		
	Pennsylvania		
	South Carolina		
	South Dakota		
	Tennessee		
	Utah		
	Virginia		

Source: GAO analysis of OWCP data.

Table II.18: Forty-Seven States That Authorize Burial Allowances up to a Specified Maximum Amount, as of January 1, 1995

Alabama	Illinois	Missouri	Rhode Island
Alaska	Indiana	Montana	South Carolina
Arizona	Iowa	Nebraska	South Dakota
Arkansas	Kansas	Nevada	Tennessee
California	Kentucky	New Hampshire	Texas
Colorado	Louisiana	New Jersey	Vermont
Connecticut	Maine	New Mexico	Virginia
Delaware	Maryland	North Carolina	Washington
Florida	Massachusetts	North Dakota	West Virginia
Georgia	Michigan	Ohio	Wisconsin
Hawaii	Minnesota	Oregon	Wyoming
Idaho	Mississippi	Pennsylvania	

Source: GAO analysis of OWCP data.

Table II.19: Forty-Five States That Provided for Full Medical Benefits Without Limitations, as of January 1, 1995

Alabama	Indiana	Missouri	Rhode Island
Alaska	Iowa	Nebraska	South Carolina
Arizona	Kansas	Nevada	South Dakota
California	Kentucky	New Hampshire	Tennessee
Colorado	Louisiana	New Mexico	Texas
Connecticut	Maine	New York	Utah
Delaware	Maryland	North Carolina	Vermont
Georgia	Massachusetts	North Dakota	Virginia
Hawaii	Michigan	Oklahoma	Washington
Idaho	Minnesota	Oregon	West Virginia
Illinois	Mississippi	Pennsylvania	Wisconsin
			Wyoming

Source: GAO analysis of OWCP data.

Table II.20: Forty-One States That Used or Were Developing Medical Fee Schedules, as of January 1995

Alabama	Kansas	Nebraska	Pennsylvania
Alaska	Kentucky	Nevada	Rhode Island
Arizona	Louisiana	New Hampshire	South Carolina
Arkansas	Maine	New Mexico	South Dakota
California	Maryland	New York	Texas
Colorado	Massachusetts	North Carolina	Utah
Connecticut	Michigan	North Dakota	Vermont
Florida	Minnesota	Ohio	Washington
Georgia	Mississippi	Oklahoma	West Virginia
Hawaii	Montana	Oregon	Wisconsin
			Wyoming

Source: GAO analysis of WCRI data.

Table II.21: Seventeen States Included in Study on Cost Containment Measures

Connecticut	Illinois	Massachusetts	New York
Florida	Kentucky	Michigan	Oregon
Georgia	Louisiana	Minnesota	Pennsylvania
Hawaii	Maine	New Mexico	Virginia
			Wisconsin

Source: Health Care Costs in Workers' Compensation Programs: An Assessment of Cost Containment Policy Initiatives (Cornell University, 1993), a dissertation by Silvana Pozzebon and summarized in John Burton's Workers' Compensation Monitor, May/June 1993.

Table II.22: Sixteen States That Had Bill Review Programs in Place, as of January 1995

Arkansas	Michigan	North Dakota	Texas
Florida	Mississippi	Ohio	Washington
Kansas	Nevada	Oregon	West Virginia
Louisiana	North Carolina	South Carolina	Wyoming

Source: GAO analysis of WCRI data.

Table II.23: Twenty-Two States That Had Implemented or Were Developing Utilization Review Programs, as of January 1995

Arkansas	Massachusetts	New Mexico	Texas
Colorado	Michigan	North Dakota	Utah
Florida	Mississippi	Ohio	Washington
Kentucky	Montana	Rhode Island	West Virginia
Louisiana	Nevada	Tennessee	Wyoming
Maine	New Hampshire		

Source: GAO analysis of WCRI data.

Table II.24: Thirty-Three States in Which the Use of HMOs/PPOs Was Authorized by Statute, Employer, or Insurer, as of October 1994

Arizona	Indiana	Missouri	Pennsylvania
Arkansas	Iowa	Montana	Rhode Island
California	Louisiana	Nevada	South Carolina
Colorado	Maine	New Mexico	Tennessee
Connecticut	Massachusetts	New York	Utah
Florida	Michigan	North Carolina	Vermont
Hawaii	Minnesota	North Dakota	Washington
Illinois	Mississippi	Oregon	West Virginia
			Wisconsin

Source: GAO analysis of OWCP data.

Table II.25: Twenty-Five States That Allowed Injured Employees to Choose Their Initial Physician or Medical Care Provider Without Restriction, as of January 1, 1995

Alaska	Louisiana	Montana	Oregon
Arizona	Maine	Nebraska	Rhode Island
Delaware	Maryland	New Hampshire	South Dakota
Hawaii	Massachusetts	North Dakota	Washington
Illinois	Minnesota	Ohio	West Virginia
Kentucky	Mississippi	Oklahoma	Wisconsin
			Wyoming

Source: GAO analysis of OWCP data.

Table II.26: Seven States That Restricted Employees' Initial Choice of Medical Care Provider by Requiring Employees to Choose Their Initial Medical Care Provider From a State Agency or Employer List, as of January 1, 1995

Connecticut	Nevada	Tennessee	Virginia
Georgia	New York	Texas	

Note: In one state, South Carolina, the state agency chose the initial medical care provider.

Source: GAO analysis of OWCP data.

Table II.27: Seventeen States Where Employer Chooses Initial Medical Care Provider, as of January 1, 1995

No change of employer selection	State agency may change employer selection	Employee may change employer selection
Alabama	Arkansas	California
Florida	Colorado	Michigan
Idaho	Kansas	New Mexico
Indiana	Utah	Pennsylvania
Iowa	Vermont	
Missouri		
New Jersey		
North Carolina		

Source: GAO analysis of OWCP data.

Table II.28: Length of Waiting Periods in the States, as of January 1, 1995

3 days	4-6 days	7 days
Alabama	Idaho	Arizona
Alaska	Massachusetts	Arkansas
California	Mississippi	Florida
Colorado	Montana	Georgia
Connecticut	Nevada	Indiana
Delaware	North Dakota	Kansas
Hawaii		Kentucky
Illinois		Louisiana
Iowa		Maine
Maryland		Michigan
Minnesota		Nebraska
Missouri		New Jersey
New Hampshire		New Mexico
Oregon		New York
Rhode Island		North Carolina
Utah		Ohio
Vermont		Oklahoma
Washington		Pennsylvania
West Virginia		South Carolina
Wisconsin		South Dakota
Wyoming		Tennessee
		Texas
		Virginia

Source: GAO analysis of OWCP data.

Table II.29: Identification of States in Figure I.9: Number of Days Employees Must Be Absent From Work to Receive Compensation Benefits for All Days of Disability, as of January 1, 1995

Number of days	States
5	Massachusetts, Nevada, North Dakota
7	Connecticut, Delaware, New Jersey, South Dakota, West Virginia, Wisconsin
8	Wyoming
10	Hawaii, Minnesota, Vermont
14	Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, New Hampshire, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Washington
21	Alabama, Florida, Georgia, Indiana, Kansas, North Carolina, Oklahoma, Virginia
28	Alaska, New Mexico, Texas
42	Louisiana, Nebraska

Source: GAO analysis of OWCP data.

Table II.30: Identification of States in Figure I.10: Minimum Number of Employees Required for Workers' Compensation Coverage by State, as of January 1, 1995

	1-employee (no exemptions)	
Alaska	Kentucky	North Dakota
Arizona	Louisiana	Ohio
California	Maine	Oklahoma
Colorado	Maryland	Oregon
Connecticut	Massachusetts	Pennsylvania
Delaware	Minnesota	South Dakota
Hawaii	Montana	Texas
Idaho	Nebraska	Utah
Illinois	Nevada	Vermont
Indiana	New Hampshire	Washington
Iowa	New Jersey	West Virginia
Kansas	New York	Wyoming
3-employees	**4-employees**	**5-employees**
Arkansas	Rhode Island	Alabama
Georgia	South Carolina	Mississippi
Michigan	Florida	Missouri
New Mexico		Tennessee
North Carolina		
Virginia		
Wisconsin		

Source: GAO analysis of OWCP data.

Table II.31: States Requiring That Notice of Injury Be Filed With Employer in 30 Days or Less, as of January 1, 1995

Alabama	Indiana	Nebraska	South Dakota
Alaska	Kansas	Nevada	Tennessee
Arizona	Kentucky	New Jersey	Texas
Arkansas	Louisiana	New Mexico	Vermont
California	Maryland	New York	Virginia
Colorado	Massachusetts	North Carolina	Washington
Connecticut	Minnesota	Oregon	West Virginia
Georgia	Mississippi	Pennsylvania	Wisconsin
Hawaii	Missouri	Rhode Island	Wyoming
Illinois	Montana		

Source: U.S. Chamber of Commerce.

Table II.32: States Requiring That Claims for Benefits Be Filed Within 2 Years of Injury or Death

Alabama	Idaho	Montana	Oregon
Alaska	Indiana	Nebraska	Rhode Island
Arizona	Iowa	Nevada	South Carolina
Arkansas	Kansas	New Hampshire	South Dakota
California	Kentucky	New Jersey	Tennessee
Colorado	Louisiana	New Mexico	Texas
Connecticut	Maine	New York	Vermont
Delaware	Maryland	North Carolina	Virginia
Florida	Michigan	North Dakota	Washington
Georgia	Mississippi	Ohio	West Virginia
Hawaii	Missouri	Oklahoma	Wisconsin
			Wyoming

Source: U.S. Chamber of Commerce.

Comments From U.S. Department of Labor

U.S. Department of Labor

Assistant Secretary for
Employment Standards
Washington, D.C. 20210

FEB 16 1996

Mr. L. Nye Stevens
Director, Federal Management and
Workforce Issues
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Stevens:

In reply to your letter to the Secretary of Labor requesting comments on the draft GAO report entitled "Workers' Compensation: Selected Comparisons of Federal and State Laws, February 1996," the Department's response is enclosed.

The Department appreciates the opportunity to comment on this report.

Sincerely,

Kathleen C. Franks for
Bernard E. Anderson

Enclosure

GAO Draft Report entitled "Workers' Compensation: Selected Comparisons of Federal and State Laws"

Comments

The report was found to be a balanced summary of the provisions of the Federal Employees' Compensation Act, the Longshore and Harbor Workers' Compensation Act, and state laws. The report covers both the monetary benefit provisions of the various laws, and a range of other significant provisions which affect coverage or enable other systems to control cost. It is inherently difficult to compare one workers' compensation system or law with another, because the interrelationship of the various provisions has an important effect on the outcome for individuals. However, we are in general agreement with the factual information contained in the report and its appendices, apart from some technical comments which have been relayed to the investigators under separate cover.

In its discussion of managed care, a broad term which covers a host of quality and cost issues which are important to workers' compensation, the report acknowledges that FECA's nurse intervention program and automated bill editing system are designed to accomplish several of the cost-containment objectives of various state legislative provisions, although they are not addressed in the statute. FECA has had its nurse intervention program, Quality Case Management, in place in all district offices since October 1993.

Major Contributors to This Report

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