

Testimony of

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Hearing on FECA Reforms and Oversight: Prioritizing Workers, Protecting Taxpayer

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Thank you, Chairman Mackenzie and Ranking Member Omar, for this invitation to testify on a very important program for America's federal and postal employees, the Federal Employees Compensation Act (FECA). Thanks also to all the members of this subcommittee for this chance to bring the voice of America's 220,000 hard-working letter carriers to today's hearing.

I am a letter carrier from Hattiesburg, Mississippi who was drawn to work with my union, the National Association of Letter Carriers (NALC), to protect the health and safety of my fellow carriers more than 20 years ago. Despite our best efforts, workplace injuries in the day-to-day operations of the Postal Service are a fact of life. Vehicle accidents, repetitive motion injuries, heat stroke or frostbite and other injuries caused by weather extremes, assaults by criminals and the more mundane injuries like slips and falls are common features of the working lives of NALC members. The FECA program is essential to protecting injured letter carriers working for one of America's greatest institutions—the United States Postal Service (USPS), now celebrating its 250th anniversary.

The vital work we do in connecting our fellow citizens with each other is physical, repetitive, and strenuous. And it takes its toll on our bodies. We literally carry much of the nation's communications and commerce on our shoulders. Sometimes that weight can be too much to bear, whether from the physically demanding jobs we do or the physical dangers we face. As a result, we often suffer on-the-job injuries.

Workers' Compensation programs like FECA are incredibly important to America's working class, particularly to those with jobs like ours—the ones who shower after work instead of beforehand; the ones who earn their living with physically taxing jobs; and those whose jobs expose them to risks of injuries, occupational hazards and disabling accidents.

The goal of the FECA program, like other workers' compensation programs, is to ensure that no worker suffers financially from their workplace injuries—via punishing medical bills or lost wages. It's a crucial part of the social safety net for postal and federal employees. The program aims to help injured workers to return to work and to sustain those who cannot do so. The goal is to leave no injured worker behind, and to hold them harmless from occupational accidents and injuries.

FECA & NALC

Postal employees account for nearly half of the claims made to the Office of Workers' Compensation Programs (OWCP) each year, and letter carriers file a majority of these claims. In fiscal year 2022, Postal Service employees accounted for more than 41

percent of all new workers' compensation cases and 42 percent of all benefit payments across the federal government.¹

The physical and outdoor nature of the letter carrier job heightens our risk of injury. In fact, letter carriers get injured more frequently than nearly all other workers in the federal government or in private industry. When letter carriers are injured on the job or develop occupational diseases, FECA benefits provide critical financial support allowing them the time to heal so that they can rejoin the workforce when they are able or compensating them for their lost wages if they are permanently unable to do so.

FECA benefits are a lifeline for injured letter carriers. One such example is a letter carrier in Lancaster, California, who was injured in 1987 when she suddenly turned to get away from a charging dog. In an attempt to flee, she twisted her ankle and foot which resulted in an ankle strain, peroneal tendonitis and subluxation. She was able to return to work, but underwent four surgeries on her left ankle in a span of nine years. In 2001, while driving to physical therapy, she was hit by a large truck. As a result, she sustained severe injuries to her neck which required surgery. Unfortunately, this carrier was left with residual neck pain and after several second opinion evaluations, and another surgery, physicians determined she would be unable to work again. Since 2001, the carrier has not been able to return to work due to disability, surgery and no work available from the post office. For over 20 years, while on the periodic rolls of OWCP, she has been unable to make

¹ <https://www.uspsoidg.gov/sites/default/files/reports/2023-05/22-121-r23.pdf>

contributions to her Thrift Savings Plan account or to Social Security. Without wage-loss compensation from OWCP, at 68 years old, this carrier would be living well below the poverty level, almost completely unemployable due to her injuries and age, and would not be able to provide the necessary care for her disabled child.

It should come as no surprise that letter carriers are disproportionately affected. The outdoor nature of the letter carrier job heightens the risk of injury. NALC members sustain many types of injuries and develop a variety of occupational illnesses. Letter carriers frequently experience slips, falls and sprains while walking their routes; develop ergonomic injuries from repeated motions, like reaching and twisting in their vehicles to retrieve mail from mail trays; experience heat illness in hot weather and frostbite in extreme cold weather; are bitten by customers' dogs; sustain injuries from being hit by errant vehicles; narrowly escape fires in the engines of postal vehicles that are long past their safe use; and, more recently, are attacked by criminals while on their routes.

By many metrics, the Postal Service is a very dangerous place to work.

A 2023 USPS Office of Inspector General (OIG) audit found that between fiscal years 2017 and 2021, there were between 55,000 and 65,000 industrial accidents each year.² In an agency that had about 500,000 employees on average during those years, that is a lot of accidents. Seventy percent of these accidents were suffered by letter carriers.³ During the

² <https://www.uspsoig.gov/sites/default/files/reports/2023-02/22-120-r23.pdf>

³ <https://www.uspsoig.gov/sites/default/files/reports/2023-02/22-120-r23.pdf>

same period, city and rural letter carriers accounted for only about 50 percent of the total USPS workforce.

Compared to the rest of the federal government, Postal Service employees consistently experience more injuries and illnesses than employees of any other agency. In fiscal year 2019—the last year that the Department of Labor published federal injury and illness statistics that included the Postal Service—the agency had a total case rate of 5.81 (meaning 5.81 employees for every 100 employees experienced a workplace injury or illness and submitted a claim that was accepted by OWCP that year).⁴ In comparison, the overall federal government rate was 1.52.

Compared to the private industry, Occupational Safety and Health Administration (OSHA) severe injury⁵ data show that since this data first began to be reported in 2015, the Postal Service is the employer with the most reported severe injuries. An analysis of this data by the Economic Policy Institute in 2023 showed that USPS reported 1,142 severe injuries between 2015 and mid-2022, while Walmart only reported 571, UPS only reported 505 and FedEx only reported 285 severe injuries in the same period.⁶

To make matters worse, the injury rate is increasing as the mix of what a letter carrier delivers each day is changing. A 2022 USPS OIG report linked the changes in mail mix

⁴ <https://www.osha.gov/enforcement/fap/statistics> (FY 2019 (final))

⁵ Severe injury is defined as an amputation, eye loss, or at least one night of hospitalization.

⁶ <https://www.epi.org/blog/an-average-of-27-workers-a-day-suffer-amputation-or-hospitalization-according-to-new-osha-data-from-29-states-meat-and-poultry-companies-remain-among-the-most-dangerous/>

(specifically increases in package volumes and weight) to an increase in letter carrier injuries on the job. The report stated, “In addition to more packages moving through the network, USPS’s total package weight has increased. The changing mail mix directly impacts the USPS workforce, as the repetitive nature of lifting, carrying, pushing, and pulling packages and other mail can and does contribute to carrier injuries. In fact, carriers make up a disproportionate share of the Postal Service’s wage and medical payments made on behalf of injured employees.”⁷

Additionally, the USPS OIG identified certain letter carrier sub-groups that experience more injuries than others, including City Carrier Assistants (CCAs, the city letter carrier non-career position, to which most new carriers are hired), who had a 10.3% higher injury rate than career carriers, and new carriers with less than one year of tenure.

This was true for a new letter carrier in Portland, Oregon, in 2016. While this carrier was making their deliveries, they entered a crosswalk and were struck by a car at full acceleration, which shattered the carrier’s leg and pelvis and launched them about 50 feet to where they landed on their head on the pavement. The driver was uninsured. Because this carrier had only been working for the Postal Service for a few months prior to this terrible accident, their payrate through OWCP is locked at the beginning wages of \$16.06 per hour. Additionally, because the carrier was hired as a CCA, which is considered a part-time position without guaranteed hours, they do not even get paid for a full 40 hours each

⁷ <https://www.uspsoidg.gov/sites/default/files/reports/2023-01/RISC-WP-22-009.pdf>

week. The only wage increases this carrier has gotten have been yearly cost of living adjustments, locking them into poverty wages for the rest of their life. Today, they only make \$2050 every four weeks, which is less than the current Oregon minimum wage.

This carrier will never be the same, as the list of permanent disabilities from this incident is quite extensive. The carrier continues to receive treatment and is actively working to improve and return to some productive level of work, but this has been prevented due to the extent of their disabilities from the auto accident. Without OWCP benefits they would be destitute.

Response to OIG report recommendations

In regard to the May 11, 2023, USPS OIG audit “Workers’ Compensation Program Updates,” NALC opposes most of the recommendations in the report.

Limiting the dollar amount and duration of benefits, allowing settlements and buyouts, standardizing the rate of compensation regardless of dependent status and limiting the weekly payout amount would all unconscionably shift the costs of the injured or disabled worker’s injury from the federal government onto the worker and their family.

NALC opposes, in particular, the recommendations to convert claims for disability to a lower benefit requiring employees to opt for an OPM annuity at age 65, to allow the Postal Service to provide a list of medical providers that injured employees must choose from and to allow apportionments to be factored in.

Lowering benefits at 65 - The proposal to require injured employees to convert claims for disability to a lower benefit at age 65 or one year after first receipt of FECA benefits, whichever is later, shows a fundamental misunderstanding of the way FECA is paid and the effects the permanent loss of a job due to disability has on an employee's career earnings.

FECA benefits were not designed to increase at a rate comparable to pay increases an individual would have received through step increases or promotions (career growth) if he or she had never been injured. The only increase in disability benefits is the result of an annual adjustment based on the Consumer Pricing Index (CPI). Injured federal employees are not enriched by their disability benefits, and when compared to the benefits expected through step increases and career growth, disability benefits disproportionately and negatively impact the injured workers' financial status.

Employees receiving compensation through OWCP are not taxed for Social Security because such compensation is tax free. They also can't contribute or receive matching employer funds to a federal pension because they aren't receiving pay through the Postal Service. Thus, injured Federal Employee Retirement System (FERS) employees are at a distinct retirement disadvantage when disabled from on-the-job injuries. While Congress attempted to fix this problem in 2003 by providing an enhanced annuity, this change has served only to create a semblance of parity. Many injured federal workers are separated from their employing agency while on the OWCP rolls. These separated employees not only

lose the remedial effects of the enhanced annuity, they also no longer gain service year credits when or if they eventually retire. There is no question that injured federal employees receiving FECA benefits are compensated at a significantly lower rate than if they had not been injured and were able to continue to work.

One of our regional compensation assistants recently encountered a former Postal Service employee from Florida in her seventies who was severely injured on the job in 1982 and has been on the OWCP rolls for the last 43 years. At the time of her injury, she had worked for the Postal Service for only 18 months and was separated a year later, before she had a chance to become vested in the Civil Service Retirement System (CSRS). Because she has been on the OWCP periodic rolls the entire time, she does not have enough quarters to even qualify for Social Security. In her case, this proposal would effectively throw her out onto the street with no income at all. Our CCAs who have sustained serious permanent injuries and have been separated will find themselves in this same precarious position when they reach retirement age.

USPS-selected physicians - Requiring injured workers to select physicians from a list provided by the Postal Service would be inherently unfair to the injured worker. The Postal Service has huge incentives for claims to be denied in order to meet its budgetary and efficiency goals. In our experience, the Postal Service challenges most claims, even in cases of straightforward traumatic injuries. Physicians hired and paid by the Postal Service

would similarly have strong incentives to find against injured workers since their livelihoods would depend on continued postal employment.

OWCP's current policy and procedure allowing the injured employee to select their physician works efficiently and fairly as a system of checks and balances. While the injured employee may select their treating physician, the FECA grants OWCP the right to send injured workers to OWCP-directed exams with physicians selected by OWCP whenever and wherever OWCP deems it necessary.⁸ These second opinion exams may occur whenever OWCP determines that the case record contains insufficient medical evidence to answer questions that arise during the life of the claim. An injured employee cannot opt out of a second opinion exam. A refusal to participate in the second opinion exam could result in suspension of compensation benefits. While in our experience second opinion exams are often adversarial and go against the injured worker, they provide an effective check on any personal physician that OWCP finds biased towards the injured worker.

Additionally, timely continuity of treatment is essential for recovery. While most traumatic injury cases are initially accepted by OWCP, less than 50 percent of occupational disease cases are accepted. The denied cases are often accepted upon appeal, but in occupational disease cases this appeals process can last months, and often even years. If an employee is forced to use a Postal Service physician and their claim is denied, there will

⁸ 5 U.S.C. 8123(a): a) An employee shall submit to examination by a medical officer of the United States, or by a physician designated or approved by the Secretary of Labor, after the injury and as frequently and at the times and places as may be reasonably required.

be gaps in their treatment as they go through the difficult process of trying to find a physician to take on their denied case.

Both our experience and that of OWCP claims examiners have taught us that successful recovery and return to work drops precipitously the longer appropriate treatment is delayed and if claims are denied. While the Postal Service may financially benefit in the short run from the employee's denied claim and delayed treatment, the denials and delays come at great cost to the injured worker and society, and, in cases where the claim is eventually accepted, at great cost to the Postal Service as well.

Apportionment - Requiring apportionment (the division of how much of an employee's disability is due to a work-related injury and how much is due to a pre-existing disability) to be factored in goes against decades of Employees' Compensation Appeals Board (ECAB) precedent. It would also become a factor in almost every occupational disease case since these usually involve degenerative conditions such as osteoarthritis and ligament tears. And apportioning causality would be both complex and highly subjective. For example, while it would be fairly straightforward for a physician to determine that going up and down 3,500 concrete stairs on a daily basis for 30 years on a walking route has contributed to the osteoarthritis in a letter carrier's knee, it would be highly speculative for the physician to determine the percentage of the osteoarthritis that is due to letter carrier's work duties. They would have to take into account family history, age, weight, genetic predisposition, previous injuries, recreational activities, household chores,

prior work history, etc. In short, a rat's nest.

We have seen cases from states that apportion causality where different doctors associated with the case have apportioned causality with wildly different results. Requiring apportionment in FECA cases could lead to endless conflicts of medical opinions, additional medical reports, the scheduling of referee opinions and of course a lot of otherwise unnecessary litigation through the appeals process, leading to delayed claim acceptance and postponed treatment. It is doubtful that this recommendation would lead to efficiency and cost reductions.

There is one recommendation in the USPS OIG's audit that we find no issue with: requiring the use of generic drugs. In fact, this recommendation has already been implemented. In March of 2021, OWCP contracted OPTUM to provide pharmacy benefits. OPTUM requires claimants to use generic drugs to the extent possible.⁹

Instead of significant policy reforms that would cause further harm to injured workers, while likely not even reducing costs, NALC would like to bring the subcommittee's attention to several ideas that would reduce the overall usage of workers' compensation in the first place. The idea is simple: make every effort to reduce workplace illness and injury in the postal workforce, thus reducing the need for postal employees to use these benefits.

⁹ OWCP implemented these policy changes through FECA Bulletin 21-07 (March 9, 2021) and FECA Bulletin 22-02 (November 23, 2021).

The Postal Service is not currently doing all that it can to protect its employees. Two areas of significant harm to city letter carriers are heat and crime.

Heat safety

Turning first to heat, NALC's members work in every city and town in every state and territory of the United States, including in those areas that experience long seasons of stifling heat and humidity. We deliver all year long, including in the hottest weeks of summer. Typically, we work at least eight hours a day, including through the peak afternoon heat.

Some carriers, especially in urban areas, walk their entire routes, carrying a heavy mail satchel or pushing a cart full of letters and parcels along city streets. On hot days, they are fully exposed to the heat.

Other carriers deliver mail using a postal vehicle. The Postal Service has promised for years to provide a fully air-conditioned fleet of vehicles, and while new vehicles are coming, most delivery trucks remain without air conditioning and are poorly ventilated. When these vehicles sit in the sun on hot days, their interiors begin to bake, subjecting the carrier inside to excessive temperatures.

Most often, letter carriers park their vehicles at designated points along their route and deliver mail and packages by foot. Most letter carriers walk up and down the street

carrying heavy mail satchels on their shoulders. On hot days, those carriers suffer both the heat inside the truck and the heat outside on the pavement.

Heat poses a grave risk to city letter carriers. USPS records provided to NALC show that letter carriers report hundreds of heat injuries annually. And these are just reported incidents. The actual number of heat-related illnesses and injuries suffered by letter carriers is undoubtedly greater. The Postal Service's productivity-focused culture often discourages letter carriers from reporting heat illness.

OSHA data on severe work injuries confirm that letter carriers suffer from heat disorders at an excessive rate. According to data covering the last decade, USPS tops the chart of companies with the highest number of severe heat-related injuries, a category that includes at least one night of hospitalization due to conditions such as heat stroke, sunstroke or hyperthermia (abnormally high body temperature).

Heat illness does not just sicken letter carriers. On occasion, it kills them. The list of carriers who have died from the heat includes John Watzlawick of Independence, Missouri, who died of heat illness after collapsing on his route on a hot July afternoon; Daniel Rosenbach of Lexington, Kentucky, who died of a heart attack triggered by extreme heat; James Baldassare of Medford, Massachusetts, who collapsed on his route while delivering mail in 94-degree weather, and died the following day from heat stroke; Peggy Frank of Woodhills, California, who died of hyperthermia in her un-air-conditioned mail truck on a day when the temperature outside hit 115 degrees; and Eugene Gates of Dallas, Texas, who

died on his route while delivering mail on a sweltering afternoon when the heat index reached 110 degrees. Additional letter carrier deaths from heat include those of Roslyn Westfall of St. Louis, Missouri, and Dalvir Bassic of San Jose, California.

The danger that heat poses to letter carriers has been growing and will likely continue to grow in the years to come. The ten warmest years ever recorded have all occurred in the last decade. This unrelenting rise in temperatures makes outdoor work far more dangerous.

USPS management has been resistant to implementing meaningful heat safety measures, which has left letter carriers unprotected. While there is a Heat Illness Prevention Program in place, it does not include the necessary elements that heat safety experts agree are critical to preventing serious illness and injury. These elements are the right to paid breaks to cool the body down when necessary and the implementation of an acclimatization protocol when letter carriers are first hired or return to work after an extended absence, like a vacation or recovering from illness or injury.

To truly mitigate the dangers that heat poses, America needs a nationwide heat standard that sets clear requirements for USPS and other employers. NALC strongly supports OSHA's proposed heat standard and urges its implementation. The proposed standard includes all of the elements that experts agree will keep workers safe. The proposed measure will also undoubtedly have beneficial economic effects, by reducing work hours lost to heat illness, and also by reducing hospital and medical costs and

workers compensation outlays. We strongly encourage the administration to reverse its regulatory freeze on the previous administration's rulemaking on heat injury and illness prevention. The lives of our nation's letter carriers in extreme weather depend on this protection.

Crime

Second, we turn to crime. Since the COVID-19 pandemic, postal employees, and city letter carriers in particular, have experienced a significant increase in crime.

Between 2019 and 2023, the number of serious crimes against postal employees nearly doubled. In 2023, postal inspectors opened about 1,400 cases investigating assaults (542), robberies (628) and burglaries (197) against postal employees in almost 500 metropolitan areas across the country. More than two-thirds of these attacks involve a firearm or other weapon. Tragically, five letter carriers have been murdered while dutifully delivering the mail since 2022.

An increase in robberies is driving this spike in crime. Due to the solitary nature of our work and the valuable equipment and material we carry and access, city letter carriers have been the target in 90 percent of these robberies.

In December of 2024, a letter carrier in Baker City, Oregon, was assaulted while trying to deliver some packages. The carrier was threatened with a rifle and then beaten on their head and body with the stock of the rifle. The carrier suffered a concussion, head and

face lacerations, a broken nose and nasal structure, multiple fractured vertebrae and intercranial injury. The carrier did nothing wrong. They were simply doing their assigned work of delivering packages to customers during the holiday season. They are doing everything they can to recover as much as possible because all they want is to be well enough to work and live a normal life again. They recently returned to work part time and hope to be full time soon. Without OWCP benefits, this letter carrier would have lost their home. Unfortunately, nearly every day, NALC learns of new instances of letter carriers being assaulted, robbed, and even murdered while delivering mail and essentials.

The Postal Service has begun implementing infrastructure changes that we hope will deter crime and reduce the number of attacks on postal employees. Reducing these attacks will undoubtedly reduce the number of workplace injuries and associated workers' compensation costs. However, more needs to be done. NALC supports the bi-partisan Protect Our Letter Carriers Act (H.R. 1065), and we encourage Congress to pass this critical legislation to protect letter carriers and deter violent criminals.

Other considerations

Over the last five years, we have seen more policy and procedure changes within OWCP and the Division of Federal Employees' Compensation (DFEC) than in the previous 40. And most of the changes have been positive. The DFEC team has not only implemented many changes that streamline the adjudication process, but they have also created new

programs that have gone a long way towards fixing many of the issues involved in claim maintenance in accepted cases.

The new Escalations Program, for example, has created an expedited process to resolve issues involving wage-loss compensation, authorization for medical procedures and medications, medical billing problems, claim expansion to include new diagnoses, issues involving federal health and life insurance and dealing with overpayments. Thanks to the Escalations Program, problems that used to take months or even years to resolve are now resolved in a matter of days or weeks.

Making the entire injury compensation process less adversarial and more efficient advances goals we all share: prompt provision of benefits to injured employees in their time of need and a more timely return to the workforce. As an organization, we have learned over the years that most injured workers who are physically able to do some work, are better off—mentally, socially and emotionally—when they work rather than not work. We strongly support OWCP's efforts to return injured workers with their employing agency if it's done in a way that makes the return to work a success story.

Thanks again for inviting NALC to testify before your sub-committee. We look forward to working with you and Congressman Comer's Committee on Oversight and Government Reform on measures to strengthen and improve the quality and efficiency of the FECA program.