

*U.S. Department of Labor
Office of Inspector General*

Congressional Testimony



**Testimony before the U.S. House of Representatives
Committee on Appropriations
Subcommittee on Labor, Health and Human Services,
Education, and Related Agencies**

“Management Challenges at the Departments of Labor, Health and Human Services, and Education and the Social Security Administration: Views from the Inspectors General”

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Good morning, Chairman Cole, Ranking Member DeLauro, and distinguished Members of the Subcommittee. Thank you for the opportunity to discuss what the Office of Inspector General (OIG) views as the most serious challenges facing the U.S. Department of Labor (DOL). My testimony today will focus on those challenges related to protecting Job Corps students, ensuring the effectiveness of job training programs, managing compounded drugs in the Federal Employees' Compensation Act (FECA) program, reducing improper payments, mitigating information security vulnerabilities, and combatting foreign labor certification fraud.

Protecting Job Corps Students

The Department's Job Corps program provides residential and nonresidential education, training, and support services to approximately 50,000 disadvantaged, at-risk youth, ages 16-24, at 126 Job Corps centers nationwide. This program remains challenged in its efforts to provide safe learning environments at its campuses. Job Corps centers have had problems with violence and other criminal behavior for many years. Our audits revealed some Job Corps centers failed to report and investigate serious misconduct, including assaults and possession of illegal drugs, or downgraded incidents of violence to lesser infractions to keep students enrolled.

In 2015, two students were killed at different Job Corps centers, allegedly by fellow students. In response, and as a follow on to previous work, we initiated our most recent review that exposed problems with centers reporting serious incidents to law enforcement. We also found physical security weaknesses that potentially put students and staff at risk. Finally, Job Corps required pre-employment background checks for only a few positions and had not considered background checks for many other positions that involve contact with students.

To better protect students and staff, Job Corps needs to update and clarify its policies regarding interactions with law enforcement and should determine what additional positions require background checks.

Ensuring Employment and Training Outcomes

In Fiscal Year (FY) 2016 DOL received \$4.6 billion to fund job training and placement programs intended to improve the employment prospects of adults, youth, dislocated workers, and veterans. The

Department faces challenges ensuring these programs are successful in training and placing participants in suitable jobs. Our audit work has documented the difficulties encountered by the Department in providing active oversight of the grant making and grant execution process; ensuring that performance expectations are clear to grantees and sub-grantees; obtaining accurate and reliable data to measure grant and program success; and, most critically, ensuring that training provided by grantees leads to placements in training-related jobs.

The Department needs to ensure states are reporting accurate performance results under the Workforce Innovation and Opportunity Act, and should continue to pursue access to the National Directory of New Hires. Access to this database would streamline the process of obtaining earnings data needed to assess the impact of job training programs. Additionally, the Department should require states to report training costs and funding sources at the participant level so Congress and other stakeholders have adequate information to make return on investment decisions. Furthermore, the Department needs to evaluate the criteria for the credentials earned in the training programs it funds to ensure the credentials add value to participants' career development and job prospects.

Managing the Rising Costs and Use of Compounded Drugs

In the FECA program, the Department faces challenges in monitoring and managing the use and costs of pharmaceuticals, particularly compounded drug medications. Compounded drugs are created by combining, mixing, or altering the ingredients of drugs to tailor them to individual patients. The FECA program, along with other Federal government workers' compensation programs, has experienced a dramatic increase in medical provider abuse and costs of compounded drugs, particularly pain relief creams. Reported costs for compounded drugs in the FECA program rose from approximately \$2 million in FY 2011 to \$263 million in FY 2016, more than a hundredfold increase. During FY 2015 alone, reported compounded drug costs jumped from \$80 million to \$214 million, surpassing the costs of all other drugs billed to FECA (\$199 million) combined. We recognize that certain compounded drugs can be beneficial and necessary for some patients. However, there is concern that some of these medications are not subject to approval and regulation by the Food and Drug Administration and have been found to be unsafe in some cases. In addition, billings for these

medications are highly susceptible to abuse and fraud. Our current investigations are focusing on collusion between prescribing physicians and dispensing pharmacies. In one case alone, we have identified potential fraud involving nearly \$100 million.

The Department needs to ensure that any compounded drugs reimbursed are medically necessary, effective, and safe. The Department also needs to ensure it pays a fair and reasonable price for the medications.

In addition to our work with the Department, my office is collaborating with other OIGs who have faced similar problems with compounded drugs in an effort to identify best practices and programmatic changes that reduce susceptibility to fraud.

Reducing Unemployment Insurance Improper Payments

Another challenge facing the Department is the prevention or mitigation of improper payments, particularly in the Unemployment Insurance (UI) program. In FY 2016, the UI program had the seventh-highest amount of reported improper payments (\$3.9 billion) among all federal programs. The UI improper payment rate increased to 11.65 percent in FY 2016 from 10.7 percent in FY 2015 and remained above OMB's threshold of 10 percent. Although improper payments can occur for many reasons, fraud continues to be a significant threat to the integrity of the UI program, as identity thieves and organized criminal groups have found ways to exploit program weaknesses. The majority of our large-scale UI investigations involve fictitious employer schemes, where individuals establish fake business entities and then, by means of aggravated identity theft, file for and collect UI benefits using the identities of other individuals. In one recent example, nine individuals were convicted for a conspiracy to fraudulently obtain nearly \$1.5 million in UI benefits from the Maryland and Pennsylvania programs.

The Department needs to employ cost benefit and return on investment analyses to evaluate the impact of its improper payment reduction strategies for UI and ensure the most successful strategies are being effectively leveraged by states. The OIG has also made several recommendations on actions the Department should take to address systemic weaknesses that make the UI program more susceptible to fraudulent activity, including discontinuing the use of pre-paid debit cards. In

addition, we recommended states remove auto-populating features from online UI benefit application systems, particularly for employer data, which make it easier to initiate fraudulent claims with minimal personal information. Making this change will also deny subjects access to information often used to file fraudulent IRS tax returns and to apply for other federal benefits.

Securing and Managing the Department's Information Systems

For many years, we have reported on long-standing information security deficiencies, including third-party oversight, incident response and reporting, risk management, and continuous monitoring. These deficiencies represent ongoing, unnecessary risks to the confidentiality, integrity, and availability of DOL's information. We have recommended that the Department place greater emphasis and prioritize available resources to address these deficiencies. We likewise recommended realigning the position of the Chief Information Officer (CIO) to report directly to the Deputy Secretary to give the CIO greater independence and authority for implementing and maintaining an effective information security program.

Mr. Chairman, another area of significant concern, which directly affects my office, is the Department's ability to provide the OIG timely access to its many electronic data systems. This challenge has been particularly acute for systems managed by contractors. We have encountered delays gaining access to data from contractors and the Department has incurred increased costs from outsourcing data management. To address this challenge, the Department needs to ensure that contracting for third-party data systems specifically provides the Department, along with the OIG, timely access to contractor-owned or contractor-operated systems.

Combatting Fraud in Foreign Labor Certification Programs and Human Trafficking

We remain concerned with fraud in DOL's foreign labor certification programs, which are intended to permit U.S. businesses to hire foreign workers when necessary to meet their workforce needs while protecting the jobs and wages of U.S. workers. OIG investigations have shown these visa programs, in particular the H-1B program, to be susceptible to significant fraud and abuse, often by dishonest immigration attorneys, labor brokers, employers, and organized criminal enterprises. Our investigations have revealed schemes where fraudulent applications were filed with DOL on behalf of

individuals, fictitious companies, and dishonest businesses seeking to acquire foreign workers. For example, owners of a New York health care staffing company were convicted last year of fraudulently using the program to staff medical centers with more than 100 foreign nurses, who were otherwise ineligible for the program.

To combat abuse of the foreign labor certification programs, we recommended the Department determine and document the appropriateness of debarring individuals convicted of foreign labor certification violations as a result of OIG investigations, and report foreign labor certification program suspensions and debarments on the government-wide exclusion system.

As part of our investigations, we have uncovered numerous instances of unscrupulous employers misusing foreign labor certification programs to engage in human trafficking, with victims often exploited for economic gain. The OIG has partnered with the Department of Justice and other law enforcement agencies on Anti-Trafficking Coordination Teams to combat human trafficking.

Conclusion

Mr. Chairman, thank you for calling this hearing and for the Subcommittee's continued support for the work of the OIG. That support has enabled the OIG to produce significant returns for the federal government and U.S. taxpayers. Over the past 5 fiscal years, the OIG has identified more than \$3.9 billion in questioned costs, recommendations that funds be put to better use, and investigative recoveries and savings. That represents a return on investment of more than \$9 for every dollar invested in the OIG. In addition, during the same time period, the OIG made more than 740 audit recommendations to improve DOL programs and operations, and OIG investigations resulted in 2,149 criminal convictions. As the Subcommittee has recognized, OIGs offer a solid investment for U.S. taxpayers, particularly in times of resource constraints.

We look forward to continuing our productive relationship with this Subcommittee and the Department in our shared goal of improving the efficiency, effectiveness, and integrity of DOL's programs and operations. I would be pleased to answer any questions you or the other members of the committee may have.