Workers' Injury Law & Advocacy Group®

Workers' Injury Law & Advocacy Group® is the national non-profit membership organization dedicated to representing the interests of millions of workers and their families who, each year, suffer the consequences of workplace injuries and illnesses. The group acts principally to assist attorneys and non-profit groups in advocating the rights of injured workers through education, communication, research, and information gathering. WILG® is a network of like-minded advocates for workers' rights, sharing information and knowledge, a sense of commitment and kinship, and networking to help each other and our clients.

June 4, 2024

The Honorable Virginia Foxx
Chairwoman
House Committee on Education and the Workforce
2176 Rayburn House Office Building
Washington, D.C. 20510

The Honorable Robert C. Scott
Ranking Member
House Committee on Education and the Workforce
2176 Rayburn House Office Building
Washington, D.C. 20510

Dear Chairwoman Fox and Ranking Member Scott:

We are writing to you on behalf of the Workers' Injury Law and Advocacy Group ("WILG") in support of passing H.R. 618, the Improving Access to Workers' Compensation for Injured Federal Workers' Act ("Act"). The Act, which already passed the House once last Congress, adds a simple yet necessary edit to the Federal Employees' Compensation Act ("FECA") -- it will expand the definition of "qualified physician" under the FECA to include Nurse Practitioners ("NPs") and Physician Assistants ("PAs"). This change will simply allow NPs and PAs to sign their own medical reports for their federal patients, so those reports can be considered evidence in support of a work-related injury claim.

The majority of FECA claims filed are for traumatic injuries (90.69% in 2021), which are typically clear-cut incidents, such as when a federal worker falls from a scaffold and fractures a wrist. Under the FECA, these injuries require only an affirmative statement of causation. As the statute is currently written, NPs and PAs cannot even provide that affirmative statement. This limitation of medical providers allowed to treat and diagnose federal injured workers results in numerous problems.

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- Many federal workers do not initially see a doctor, and instead are treated by NPs and PAs at the outset of an injury. However, claims filed with reports containing signatures from PAs or NPs only cannot be accepted. This means that authorization requests for confirmatory diagnostic testing, referrals to specialists and treatments cannot be approved because the claim is delayed waiting for a counter-signature before acceptance, sometimes years later, or denied. Of course, the inability to quickly accept a claim inevitably leads to delays in wage loss compensation payments, as well as limited access to treatment and failure for medical providers to be paid for their services.
- Many federal workers who are losing work due to a work-related injury, and who have denied claims, also have their medical insurance benefits terminated. This leaves workers with both a denied FECA claim and the inability to pay for medical care on their own. Most personal insurance companies refuse to cover a federal worker who has filed a FECA claim, even if the claim is denied, leading to further confusion and delay of care.
- There are a limited number of doctors who accept federal patients. Passing H.R. 618 will increase access to medical providers who accept federal patients with FECA claims.
- About one-third of federal workers live and work in rural areas, most of whom only have the option to be treated by NPs or PAs.
- About one-third of federal workers are also U.S. military veterans, many of whom receive treatment from the U.S. Department of Veterans Affairs ("VA"). As currently written, the statute also prevents VA NPs and PAs from adequately treating veterans who are now in the federal workforce and who have sustained work-related injuries.

Objectors to the Act have miscategorized its purpose. Some medical organizations have called S 131 a "scope of practice" issue, though a basic understanding of FECA demonstrates that such labeling is misplaced.

- OWCP can always refer a worker with a FECA claim out for a second opinion physician examination with a doctor for further development if needed.
- Every FECA claim filed for compensation due to a permanent impairment for an OWCP schedule award must be approved by a District Medical Advisor ("DMA"), who is a doctor.
- At no point will NPs and PAs be solely determining a permanent total disability status for federal workers, as all schedule award claims for a permanent impairment are reviewed by a DMA.
- NPs and PAs are acceptable medical sources for Social Security Administration ("SSA") claims. 20 C.F.R. § 404.1502.

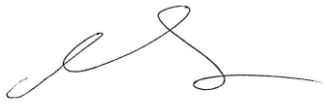
- Other medical practitioners are already allowed under the FECA to provide substantive medical evidence for injured federal workers, including, but not limited to, psychologists, podiatrists and chiropractors (to varying extents). Expanding the FECA to include NPs and PAs is a natural progression reflecting today's medical needs and realities.

Passing H.R. 618 will simply allow NPs and PAs to provide the causation under FECA standards needed to attribute work-related diagnoses to incidents that occur in the course of federal employment and to attribute any related out-of-work time to those specific diagnoses if they are accepted.

Overall, H.R. 618 is a common sense and simple solution to a access to care issue. We hope that the renewed energy around the FECA will lead to an increased understanding of the program so that Congress and OWCP leaders can continue to improve its non-adversarial system.

We fully support H.R. 618 and kindly urge the House to pass the Act as soon as possible.

Respectfully,



Catherine T. Surbeck
President