



OPENING STATEMENT

House Committee on Education and Labor

Chairman Robert C. "Bobby" Scott

Opening Statement of Chair Adams (NC-12)

Subcommittee on Workforce Protections

Strengthening the Safety Net for Injured Workers

Zoom

Thursday, December 2, 2021 | 2:00 p.m.

Good afternoon. Today's hearing is an opportunity to discuss how to strengthen workers' compensation programs which play an essential role in assisting workers disabled or fallen ill from their job. When Americans *are* hurt on the job, workers' compensation programs – whether at the federal or state level – provide a critical safety net. That is, if the system works as it is intended.

As we will hear from Director Chris Godfrey, the Office of Workers' Compensation Programs, or the O-W-C-P, is responsible for determining eligibility for federal workers' compensation for four groups of workers: federal workers, coal miners with black lung disease, longshore and harbor workers, and workers employed in the nuclear weapons complex. OWCP's mission is to ensure that these workers receive the benefits they deserve if they are made ill or disabled from a covered workplace injury or illness.

Today, we will evaluate three major challenges facing various workers' compensation programs, which are having significant consequences for workers, families, and taxpayers.

First, workers made ill from toxic substances face nearly insurmountable burdens of proof.

For example, firefighters are routinely exposed to hazards such as toxic smoke inhalation. As a result, they are at an increased risk of being diagnosed with lung cancer and other diseases compared to the general population. Laws in 48 states cover local and state firefighters for work-related diseases, but when federal firefighters apply for Federal Employees Compensation Act (or FECA) benefits, they are faced with a steep burden of proof. FECA needs to better meet the needs of federal firefighters.

The pandemic has shown us again, and again that too many state workers' compensation programs failed to support frontline workers who clocked-in throughout the worst of the pandemic and contracted COVID-19. While some states made workers' compensation automatic for essential workers such as nurses and law enforcement, many other groups – such as meatpacking workers – were left in a wide swath of states with an impossible battle to prove that they contracted COVID at work. Thankfully, through the American Rescue Plan Act, Congress eased the burden of proof for frontline federal workers, by providing automatic eligibility for FECA benefits for those who contracted COVID and were in contact with patients or the public. However, maritime and longshore workers covered under the Longshore and Harbor Workers Compensation Act still face a steep burden of proof to establish that their COVID-19 cases are work related.

The second challenge is that states are slashing workers' compensation benefits.

Instead of maintaining adequate benefit levels under state workers' compensation programs, many states are cutting benefits as part of a race-to-the-bottom. This vicious cycle of cuts in benefits increasingly pushes workers with disabilities out of state workers' compensation coverage and shifts the cost of workplace injury to federal programs including Medicare, Medicaid, and Social Security Disability Insurance. A 2015 Department of Labor report warned that because many workers with disabilities do not have access to adequate benefits, too many working people are at great risk of falling into poverty due to disabling workplace injuries.

The third challenge is that coal operators have taken advantage of weak federal oversight of a key part of the black lung program, which has resulted in a massive shift of their financial obligations for black lung benefits to taxpayers.

As the Government Accountability Office has documented, OWCP failed over many years to ensure that coal companies – which are permitted to self-insure for black lung compensation – are setting aside sufficient collateral to pay black lung benefits in the event of bankruptcy. As a result, coal operators have shifted an estimated \$1 billion of their black lung liabilities onto taxpayers and drove the Black Lung Disability Trust Fund even deeper into the red.

As I previously noted in this Subcommittee's February 2020 hearing: "This fleecing of the Trust Fund and taxpayers has occurred under DOL's nose despite the Department's power to prevent it.... The winners are the coal operators and their Wall Street creditors. The losers are the American taxpayers."

I look forward to hearing about OWCP's work to address the deficiencies in the black lung program that it inherited.

I also look forward to hearing about new initiatives that OWCP under the Biden administration, including plans to strengthen its oversight of state workers' compensation programs.

Finally, this hearing will allow us to begin a conversation about legislative solutions and how they can help modernize worker compensation programs:

1. First, the *Federal Fighters Fairness Act* would provide that federal firefighters, who are diagnosed with certain long-term illnesses, would receive a presumption that their illness is deemed work-related under FECA. We need to reform FECA so that it is better positioned to help some of our nation's most heroic public servants.
2. Second, the *Longshore and Harbor Workers' COVID-19 Compensation Act* would establish a presumption that maritime workers who were diagnosed with COVID-19 received it at their place of work and ease eligibility for disability compensation and medical benefits. The House has passed this three times in the past two years, but it has withered and died in the Senate each time.
3. Third, the *Black Lung Benefits Improvement Act* would help coal miners with disabilities access legal representation, improve access to evidence, adjust benefits for inflation, and reduce the backlog of claims.
4. And finally, the *Improving Access to Workers' Compensation for Injured Federal Workers Act* would expand the number of qualified providers who can provide medical services under FECA.

Thank you to our witnesses for joining us today.

I now yield to the distinguished Ranking Member of the Subcommittee, Mr. Keller.