

March 8, 2023

Committee on Oversight and Accountability  
United States House of Representatives  
Washington, D.C. 20515

Dear Chairman Comer, Ranking Member Raskin, and members of the House  
Committee on Oversight and Accountability:

Thank you for holding a hearing examining the operations of the Office of Personnel Management (OPM). I write to share the views and concerns of the National Active and Retired Federal Employees Association (NARFE) in advance of the hearing. NARFE is the only organization solely dedicated to the general welfare of all federal workers and retirees, providing valuable guidance to our nation's federal and postal workers, as well as their spouses and survivors, enabling us to share valuable insight regarding the federal community.

Federal workers keep our country safe and provide crucial services that the public relies on, like keeping criminals behind bars, preparing our military, caring for veterans, and providing Social Security and Medicare benefits. These upstanding employees dedicate their careers to public service. While some perceive these workers as faceless bureaucrats, this could not be further from the truth. Federal employees are upstanding citizens who respond to the needs of this country and their communities. We all benefit from the dedication they display. That's why we need federal workforce policies that ensure we have the right employees to respond to the challenges of the present and the future; and policies that honor their service through effective administration of benefit programs.

OPM is central to federal workforce policy, and is responsible for administering major federal employment benefits programs, from retirement to health insurance to federal long-term care insurance. In this statement, we will discuss our views regarding (i) customer service to federal annuitants through OPM's Retirement Services (RS) division; (ii) impending premium increases for enrollees in the Federal Long Term Care Insurance Program (FLTCIP); (iii) issues relevant to the Federal Employees Health Benefits (FEHB) Program; and (iv) how to safeguard the merit-based civil service and improve government operations.

### **Improving Customer Service from the OPM's Retirement Services Division**

Federal annuitants continue to face significant retirement processing delays and the inability to connect with the OPM Retirement Services (RS) Division (via phone, email or other method) to receive needed assistance. Our members have notified us that they have experienced lengthy delays receiving their survivor benefits, updating their health insurance benefits and requesting other changes from OPM; these delays are negatively affecting their retirement security.

We urge you to provide continued oversight of these issues and support adequate funding for modernization and hiring, where needed. We encourage you to request OPM to post monthly reports on its website indicating not only the length of time it takes to process initial retirement claims (which it already does), but also processing times for applications for survivor benefits, annuitant health benefit adjustments, and other Federal Employee Health Benefit (FEHB) program and Federal Employee Group Life Insurance (FEGLI) adjustments. We also encourage quarterly briefings on the measures OPM is taking to decrease the processing delays and improve customer service levels, including the average time it takes a caller to reach an OPM operator, and the number and percentage of unanswered calls.

We have had several productive conversations with OPM RS and are pleased by the internal recognition of operational concerns. However, addressing these concerns requires congressional support for targeted funding, where requested. We are heartened by efforts to develop an online retirement application, which could improve retirement processing at the agency-level, hopefully integrating with OPM's systems to automatically flag missing documents and cut out the need for extensive paper-based processes. As OPM pursues these and other efforts to modernize its systems, it remains critical to provide funding for adequate staffing levels to meet current demands.

Without a commitment to improve and steady and incremental modernization, NARFE assuredly will continue to hear painful stories from retiring federal workers, annuitants and survivors who have negative and consequential experiences with OPM RS. This includes substantial delays in receiving survivor annuities, leaving widows and widowers without critical income at the most difficult of times. It also includes delays in changes to health insurance, leaving retirees with uncertain coverage; delays in adjustments to life insurance; and delays in adjustments to annuities and insurance following the death of an annuitant's spouse, leaving annuitants with less income during a difficult time.

In the short term, we hope OPM will address – and Congress will support funding for them to do so – the inability to connect with OPM via phone. Our members routinely report they are unable to get through to OPM to receive assistance with their problems. The best advice we can give them is to call right at 7:40 a.m. EST, which is a tough dose of advice for members living on the West Coast, let alone Hawaii. This longstanding complaint seems to have gotten worse, not better, in recent years. Processing delays and call center issues feed into each other, as delays lead to more calls, more calls take more OPM staff time, and inability to reach OPM prevents resolution of many issues – for example, the provision of missing documentation.

We have been encouraged by recent signals from OPM RS and the stated commitments of leadership to resolve the problems; we hope both the administration and Congress will follow through with robust support for these efforts.

### *Improper Payments Do Not Pay Initiative*

We would like to express concerns regarding one aspect of how the OPM RS division is implementing the Improper Payments Do Not Pay (DNP) Initiative.

Specifically, we are concerned that OPM RS is unfairly shifting the burden to verify/prove life onto annuitants when OPM RS possesses insufficient evidence of death. While we do not object to OPM RS' use of Treasury's DNP Portal to help reduce improper payments to deceased annuitants, we do not believe it is appropriate for OPM RS to shift the burden to annuitants to prove they are still alive when OPM RS "does not find a death record," especially when it's clear there are multiple reasons for why the Treasury DNP Portal data may provide an erroneous match, including referring "to a person with the same name as a retirement annuitant, but who is not the annuitant."<sup>1</sup> We have heard from multiple living federal annuitants that they have received letters from OPM RS asking them to return a notarized form confirming their current information – in essence providing a notarized form to prove they are still alive.

This proof of life process is causing confusion for federal annuitants, offending individuals who must now prove to OPM RS they remain alive, and has interrupted annuity payments to individuals who do not trust or understand the new verification process OPM RS is requiring of them. The notarization requirement also creates a particularly high burden on those of significant age who may be unable to travel to a notary without assistance. These interrupted annuity payments have not only imposed psychological and time-loss costs, but also financial costs through bank fees due to insufficient account funds for needed payments.

We recently [urged](#) OPM RS to reevaluate this process and hope they do so.

### **Equitable Relief from FLTCIP Premium Increases**

After enduring premium increases as high as 25 percent and 126 percent in connection with the last two contract renewals of the FLTCIP, enrollees will face yet another premium increase in 2023, likely well beyond the limit of what they could reasonably expect when they signed up. This creates an unfair, financially burdensome situation for enrollees, forcing them to either cancel their coverage and forfeit the premiums already paid or take on significantly higher premiums to retain their coverage. That is why NARFE [supports](#) allowing enrollees the option of a partial refund of their premiums rather than forcing them to pay yet another premium increase.

NARFE commends OPM for the actions it has taken thus far related to FLTCIP. Suspending active marketing of the program and suspending new enrollments will prevent more individuals from signing up for a product that provides no clear limit on the required financial commitment from enrollees. Notice to enrollees and employee and retiree representatives such as NARFE regarding expected premium increases provides a degree of transparency into the contract renewal process.

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<sup>1</sup> [Final Audit Report of the U.S. Office of Personnel Management's \(OPM\) Utilization of the Improper Payments Do Not Pay Initiative](#), Report Number 4A-CF-00-20-029.

But, while commendable, those actions do not promise a satisfactory remedy for FLTICP's failure to live up to its agreement with enrollees. Enrollees did not sign up for an essentially unlimited cycle of premium increases. Boilerplate contract language noting that "premiums are not guaranteed" cannot reasonably be interpreted to mean "premium increases are not limited at all." Yet that is apparently how it's being interpreted. The only limits to increases appear to be OPM's approval, the (ever increasing) expected costs of long-term care and pursuant to the (under) performance of the insurer's investments.

An equitable solution is to allow enrollees the option of a partial refund of their premiums rather than force them to pay yet another premium increase. The amount of the refund could be calculated by subtracting the actuarial value of the insurance coverage provided for each enrollee (e.g., the average costs of claims for an individual aged 50 to 71 over the course of the last 21 years). As the actuarial value of coverage must be calculated when setting premiums, presumably this could be done for refunds as well.

In addition to a partial refund, NARFE also supports tax relief for those who continue their FLTICP coverage. The rise in premiums has gone well beyond what any participant could have foreseen from the outset of the program, a program developed and marketed by the federal government to encourage their employees to plan responsibly for the future. According to the American Association for Long-Term Care Insurance, numerous states provide tax incentives for their citizens paying long term care insurance premiums.<sup>2</sup> The federal government should consider doing the same by providing an annual tax credit or deduction for FLTICP premiums, whether as a gross amount or based on the amount premiums have exceeded the quoted amount. Such tax relief represents a fair solution to exorbitant premium increases placed upon employees through an employer-sponsored insurance program.

### **Safeguarding and Improving the FEHB Program**

The FEHB program provides more than 8 million participants with quality health insurance, providing choice between competing national and regional health plans. It is a model program that provides a valuable employment benefit.

While this is a model program, one aspect that could improve is the coordination between FEHB and Medicare for retirees – while maintaining choice for federal annuitants regarding whether to assume additional Medicare Part B (and in some cases, Part D) premium costs.

First, more (or all) plans could provide some or additional reimbursement for Medicare premiums. Currently, OPM encourages plans to offer reimbursement amounts that can be used for Medicare premiums, but only some plans provide the option. Without Part B premium reimbursement, retirees face a choice: pay two sets of overlapping, often

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<sup>2</sup> "State Deductibility Rules Long Term Care Insurance Deductions And Credits For All States," American Association for Long-Term Care Insurance. <https://www.aaltci.org/long-term-care-insurance/learning-center/tax-for-business.php#state>

duplicative coverage and benefit from lower (or no) cost sharing payments via deductibles, copayments and coinsurance, or pay only the FEHB premium and remain on the hook for additional, potentially high, out-of-pocket expenses. Increasing reimbursement amounts and options to cover Medicare premiums could incentivize more retirees to utilize FEHB as a supplement to Medicare, rather than a substitute, lowering FEHB premiums across the board.

Second, in contrast to other employer-sponsored retiree health plans, FEHB plans have not integrated with Medicare Part D through Employer Group Waiver Plans (EGWPs). This makes prescription drug coverage for retirees through FEHB more costly than for similar programs. With prescription drug savings accruing due to the Inflation Reduction Act (IRA), it has become more critical to integrate FEHB and Part D. Notably, the IRA caps insulin costs, eliminates coinsurance on catastrophic coverage, caps out-of-pocket spending, limits premium growth, and will utilize drug price negotiation to moderate prices. With Part D integration into FEHB, FEHB plans would benefit from the resulting cost reductions.

OPM has recognized the potential savings available, and is now encouraging FEHB plans to offer EGWPs in a January carrier letter, Letter [2023-2](#), and through its 2024 Open Season call letter, [Letter 2023-4](#). NARFE is supportive of this effort to reduce the costs of prescription drug coverage via FEHB. We also strongly support maintaining enrollee choice regarding Medicare add-ons. Notably, OPM recognized the following in its guidance to carriers:

For the Medicare group products (MA-PD EGWPs) that Carriers have made available to FEHB Program members to date, members have been given a choice prior to enrollment in the Medicare product to receive the additional, enhanced coverage. We will now entertain proposals that feature automatic group enrollment for PDP EGWPs. If you make such a proposal there should be a seamless, customer-friendly approach to allowing the affected members to opt-out of the enhanced Medicare product, if they so choose.

By maintaining this choice and encouraging plans to account for effects of additional Income Related Monthly Adjustment Amount (IRMAA) premium payments, NARFE is hopeful that OPM's stance will lead to cost reductions while still allowing for adequate choice by enrollees to allow them to choose the plan that best fits their needs, and lowers overall costs .

This may also help smooth the transition to the new postal program, as FEHB moves in the direction envisioned by the Postal Service Reform Act. As OPM implements the new program, we encourage it to limit changes in coverage from one year to the next as much as possible. Additionally, to the extent health plans choose not to offer plans in the postal program, we encourage OPM and Congress to work together to limit disruption in the provision of health care, perhaps through narrow exceptions for individuals currently in small plans to remain. Such exceptions should not be based on Medicare

enrollment or other cost-dependent factors though, to avoid shifting costs from one program to another.

#### *Reducing FEHB Coverage for Ineligible Recipients*

According to the Government Accountability Office (GAO), OPM does not have an adequate monitoring mechanism for ensuring enrolled family members are eligible for coverage, nor a process for removing ineligible family members.<sup>3</sup> As a result, “the program may be spending almost \$1 billion per year on payments for ineligible members.”

We support efforts to ensure FEHB coverage is limited to those eligible. Coverage of ineligible recipients surely raises costs, and potentially increases premiums (based on average costs). As OPM and federal agencies develop monitoring mechanisms and a process for removing ineligible recipients, we hope they will also consider potential burdens imposed on employees and annuitants. Efforts to reduce improper payments should not eliminate coverage for those who are eligible.

#### **Improving Government Operations Through a Merit-Based Civil Service**

The American public deserves an efficient and effective federal government that can respond to the needs of the country and adapt to the challenges of the 21<sup>st</sup> century. That’s why NARFE encourages this committee to focus on improving government operations by enhancing the recruitment and retention of a highly skilled federal workforce while staying true to merit-based hiring principles. Recent House passage of the of the Chance to Compete Act, H.R. 159, is a much-needed step in the right direction, but more must be done to bring federal hiring into this age and doing so with an attention on the right areas.

NARFE thanks lawmakers and those on this committee for working in a bipartisan manner to pass the Chance to Compete Act. This bill would change how federal agencies evaluate job applicants, making the federal hiring process more efficient. It includes commonsense reforms to agency hiring and opens federal service to countless individuals based on their ability to perform. It has NARFE’s full support. Current federal hiring processes are stifling the government’s ability to bring in the talent necessary for it to effectively serve the American people. At its core, the Chance to Compete Act looks at the true merit of those seeking to serve their country, a framework that has served this nation well.

That is why NARFE grows increasingly concerned with discussions about circumventing the rules governing the merit-based civil service. The American people deserve a federal workforce filled with well-qualified individuals, not those placed into service due to politics or other connections. NARFE strongly urges lawmakers to reject attempts to grant the executive branch the ability to bypass civil service rules through the creation of broad new excepted service category, as was seen previously through the creation of

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<sup>3</sup> Federal Employees Health Benefits Program: Additional Monitoring Mechanisms and Fraud Risk Assessment Needed to Better Ensure Member Eligibility, GAO-23-105222, available at: <https://www.gao.gov/products/gao-23-105222>.

Schedule F. To that end, NARFE supports the Saving the Civil Service Act, H.R. 1002, to prohibit a return of Schedule F or similar policies.

Current civil service rules already allow every administration to hire political appointees who are exempt from civil service rules through Schedule C. But the short-lived Schedule F would have greatly expanded upon that exemption by including positions “of a confidential, policy-determining, policymaking or policy advocating character.” This broad definition, applied liberally, could cover a significant portion of the federal workforce. Unlike Schedule C employees who conclude their tenure at the end of an administration, those hired under Schedule F could remain beyond the administration that appoints them. But if a new administration decided it wanted a new set of Schedule F employees, civil service rules would no longer stand in its way.

A competitive, merit-based civil service provides continuity through changing administrations, preserves institutional knowledge and expertise within the federal government, and safeguards the rule of law. Civil service rules ensure federal employees are hired and fired based on their competence, or lack thereof, and not what political connections they have or lack. The rules also protect employees from being removed for choosing adherence to the Constitution, laws and professional standards over politically motivated actions or perceived allegiance to a president or political party. In so doing, the rules protect against abuse of power by the executive branch, providing greater assurance that laws passed by Congress will be faithfully executed.

Anecdotal stories of insubordinate federal employees during previous administrations should not be the foundation for a wide-sweeping teardown of the merit-based civil service, especially when anecdotes fail to identify actual failures in process (other to complain generally about too much process). This committee has the proven ability to create carefully crafted legislation that pinpoints areas of concern in the federal hiring process, as seen through the Chance to Compete Act, or in federal disciplinary procedures, as was done in placing guardrails on the use of administrative leave. Taking a hammer to the merit system is poor policy making, opening the door to the return of the spoils system. Instead, NARFE urges this committee to find common ground on issues of specific concern, particularly those involved with recruitment and retention of federal employees, so the federal government can meet the demands of the future.

## **Conclusion**

As this committee considers its oversight priorities surrounding human capital management and federal benefits, NARFE asks that common ground be found to ensure that federal service remains an attractive prospect for current and future workers. We also ask that this committee prioritize the promises made to federal retirees and see to it that they experience the same exceptional service that we all desire for everyone in this country. The Committee on Oversight and Accountability, along with OPM, have a responsibility to the American public to ensure that the federal government is doing all that it can for this nation, but this goal cannot be achieved without the selfless work of federal workers. That is why NARFE encourages this committee to work in a bipartisan manner to honor the service of former federal employees and strengthen the federal government's human capital policy by taking a pinpointed approach to known areas of

concern stifling innovation and efficiency. Tackling these issues, along with concerns regarding the treatment of federal retirees, will improve the marketability of federal service and shepherd in the next generation of federal employees taking on the challenges of the future.

Thank you for your consideration of NARFE's views. If you have any questions or concerns, please contact NARFE Staff Vice President for Policy and Programs John Hatton at [jhatton@narfe.org](mailto:jhatton@narfe.org).

Sincerely,

A handwritten signature in cursive script that reads "William Shackelford".

William Shackelford  
NARFE National President