

## **OWCP RESPONSE TO THE OFFICE OF THE OMBUDSMAN'S 2022 ANNUAL REPORT TO CONGRESS**

### **Introduction**

In the 2022 Annual Report to Congress, the Ombudsman for the Energy Employees Occupational Illness Compensation Program set forth the complaints, grievances, and requests for assistance received during calendar year 2022 and provided an assessment of the most common difficulties claimants and potential claimants encountered during 2022. On pages 8 through 16 of the annual report, the Ombudsman presented recommendations and suggestions regarding the Department of Labor (DOL), Office of Workers' Compensation Programs (OWCP), Division of Energy Employees Occupational Illness Compensation (DEEOIC). OWCP appreciates the Ombudsman's report and welcomes the opportunity to respond to the recommendations and suggestions presented. The Ombudsman's Annual Report to Congress gives DEEOIC an opportunity to consider its achievements as well as the opportunity to consider areas of potential improvement. OWCP's response will first address, in order of their appearance, the specific recommendations provided in the Ombudsman's Annual report. Within the recommendations section of the Ombudsman's 2022 Report to Congress, the Ombudsman provided several suggestions. While the Ombudsman did not describe these as recommendations, DEEOIC is also providing a comprehensive response to the suggestions.

### **RESPONSE TO RECOMMENDATIONS**

#### **Chapter 1 – EEOICPA Awareness and Outreach Efforts**

**1.1 Recommendation: The Ombudsman recommended that DEEOIC initiate communication with the Department of Energy's (DOE) Former Worker Program (FWP) to identify a path forward for enhanced outreach coordination via utilization of the DOE FWP rosters.** The Ombudsman acknowledged DEEOIC's efforts to provide regular outreach through its eleven monthly online webinars in 2022; however, these online events are not accessible to those with limited or no internet access. The Ombudsman stated that DEEOIC should expand its use of the DOE FWP rosters to provide notice of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) to any/all former DOE workers, regardless of their proximity to DEEOIC Resource Centers or in-person outreach events. The Ombudsman says that DEEOIC should also attempt increased outreach to non-DOE employees who would not be on the FWP rosters, including the employees of atomic weapons employers (AWE), beryllium vendors, uranium mines, mills, and ore transporters, particularly those who may have worked for smaller facilities that were last operational in the 1950s and 1960s. The Ombudsman acknowledged that this will require ongoing planning as well as persistent and purposeful action but that the outreach could be conducted in a variety of ways if DEEOIC focused its efforts on these groups of workers.

**Response:** The Ombudsman has previously made similar recommendations regarding the increased utilization of the FWP rosters, and DEEOIC continues to agree that there have been limitations in reaching certain employees potentially covered by EEOICPA. However, as

indicated in the past, DEEOIC does not have access to the DOE/FWP mailing lists, as they contain Personally Identifiable Information, are the property of DOE, and thus protected by the Privacy Act. DEEOIC cannot require the DOE/FWP to send outreach materials, invitation letters, or educational materials to former employees on their mailing lists. While DEEOIC does not have access to the lists, we do work closely with the DOE/FWP, which assists with mailing materials whenever they deem such mailings appropriate and feasible. As members of the Joint Outreach Task Group (JOTG), both DEEOIC and DOE/FWP meet monthly to exchange ideas about outreach involving DOE and the FWP. Together, DEEOIC organizes and leads efforts among the JOTG participants for active participation in scheduled events. DEEOIC values its strong relationship with DOE/FWP and remains open to find methods to increase future collaboration with them in an effort to communicate with former DOE workers.

DEEOIC continues to utilize data and new methods to reach potential claimants. One of the methods initiated to reach potential claimants involves DEEOIC Resource Center staff members seeking referrals from existing claimants to reach other former employees that the claimants may have worked with. In fiscal year 2022, DEEOIC Resource Center staff received referrals from 318 existing claimants which allowed DEEOIC to contact these possible claimants. To increase the reach of the DEEOIC Stakeholder Updates email distribution lists, DEEOIC has relied on its Resource Center staff to notify callers of the existence of these emails. When Resource Center staff answer phone calls, they ask the callers if they would like to be added to the email distribution list. In 2022 this initiative added 2,744 claimants or authorized representatives (ARs) and 35 medical providers to the distribution list.

Resource Centers also conduct outreach events to support activities that DEEOIC determines are valuable in providing information to the public or to solicit claims. Some of these outreach activities require the Resource Centers to establish and maintain relationships with state and local organizations that assist in keeping the public informed about EEOICPA, staffing of booths at local community events, mass mailing of program information, placing advertisements for outreach events in local newspapers, presentations at covered facilities, and joint mailings with unions and other stakeholders. Prior to its scheduled outreach events, DEEOIC works to ensure that event information is available on the DEEOIC website, issued to public email distribution lists, and included in news releases to local newspapers.

As DOL has updated its policies and procedures related to the coronavirus disease (COVID-19) pandemic, DEEOIC has increased its efforts to hold in-person outreach events, while continuing to hold recurring webinars. The Ombudsman report stated that webinars are not an effective means of reaching those without reliable internet access or claimants of advanced age; however, these are the limitations inherent in any form of internet-based communication, which is why DEEOIC has utilized multiple forms of communication. This includes DEEOIC's commitment to reaching potential claimants in the Navajo Nation through the hiring of Navajo-speaking Resource Center staff members. As pandemic-related restrictions continue to decrease, DEEOIC will continue to hold webinars and in-person outreach events.

## **Chapter 2 – Delays**

**2.1 Recommendation:** The Ombudsman acknowledged that the process to verify the claimant's employment can be challenging because the employment records may be difficult to find or may not have been provided to DOE, particularly when the claimant was employed by a DOE subcontractor. Additionally, the Ombudsman noted that adjudication delays occurred in some cases when claims staff did not complete the process for following up with DOE for employment verification. **The Ombudsman recommended that DEEOIC complete a closer examination of the employment verification process, to include more robust tracking and troubleshooting mechanisms to address delays created by the Secure Electronic Record Transfer System (SERT).**

**Response:** DEEOIC is aware that the employment verification process can be time consuming for claimants and agrees that delays create a burden for claimants and their families. DEEOIC relies on DOE to provide employment verification. At times, DOE experiences delays in the employment verification process due to the necessary effort to locate and assemble historical employment records, or to permit for security review of any sensitive information.

DEEOIC works cooperatively with DOE to reduce delays in the timely receipt of the employment verification documentation that is necessary to process a claim. The Ombudsman stated that they were aware of delays that occurred when claims staff did not complete the process for following up with DOE during employment verification or when the correct referral documents were not sent to DOE with the Secure Electronic Record Transfer (SERT) request. DEEOIC provides training on employment verification to all employees on a regular basis and maintains a training website where employees can review procedures for employment verification on-demand. Timelines for claim adjudication, including requirements for routine follow up requests, are an aspect of the performance standards given to claims staff.

DEEOIC does not agree that it is necessary to create a more robust tracking and troubleshooting mechanism to address delays in the employment verification process. In calendar year 2021, DOE received 5,195 Document Acquisition Requests (DAR) from DEEOIC. This number increased to 6,643 DARs in calendar year 2022. DOE completes an overwhelming majority of the thousands of requests made through the SERT system each year in a timely manner that provides claims staff with the accurate information they need to complete the adjudication process. In calendar year 2022, DOE returned 81% of the DARs within 60 days, 92% within 90 days, and 96% within 120 days.

**2.2 Recommendation: The Ombudsman recommended that claimants be informed when delays during the employment verification process impact the adjudication of their claim.**

**Response:** DEEOIC has designed the claims adjudication process to ensure that decisions are issued to claimants with a high level of accuracy and in a timely manner. DEEOIC claims staff endeavor to complete development tasks in the shortest amount of time possible; however, delays can and do occur due to the need to acquire various pieces of information for decision-making. It would be an operational challenge to provide written status information to claimants

whenever a delay occurs throughout the cycle of claim development, including delays relating to the employment verification process.

DEEOIC's operational goal is delivery of timely claim adjudication outcomes for all claimants. There are several timeliness benchmarks used to evaluate program performance in producing timely outcomes. For example, there is a specific timeliness goal for initial processing on Parts B and E claims that requires a 90% completion rate within 145 days of claim receipt. For fiscal year 2022, DEEOIC achieved a 93% timely completion rate. Requiring routine notice to a claimant whenever a delay occurs regarding the collection of claim information, including employment data, would hamper the adjudication process by adding new development requirements to the day-to-day functions of claims staff. DEEOIC considers it more effective for staff to devote their time to ensuring that development occurs to permit a timely decisional outcome. Claimants and their Authorized Representatives (AR) are welcome to contact their local Resource Center or assigned Claims Examiner for status updates at any time during the claims adjudication process.

**2.3 Recommendation:** When a claimant is at the end-stage of a terminal illness, claim processing is expedited as per the Procedure Manual. Medical documentation of the terminal nature of the illness is required for the terminal indicator to be added to the claim file. **The Ombudsman recommended further clarification of the policy and procedures used when determining that a claimant is at the end-stage of an illness.**

**Response:** DEEOIC staff utilize policies and procedures for determining that a claimant is at the end-stage of a terminal illness. When determining terminal status, DEEOIC seeks a balance between processing claims expeditiously for all claimants, and providing priority claims processing for claimants who are at the end of their lives. DEEOIC endeavors to be sensitive to claimants and their families who are facing the difficulties that end-of-life planning entails. Claims staff receive training on the importance of priority claims processing for claimants at the end-stage of a terminal illness and are advised that if the terminal medical status is unclear, they must initiate development to establish that the claimant is at the end-stage of the illness. However, DEEOIC disagrees with the recommendation to provide additional procedural information regarding the assessment of the medical evidence submitted to support a terminal designation. There is no formulaic definition that the program could apply in program procedures about the factors that must be present to characterize a claimant as being at the end-stage of an illness. DEEOIC must use reasonable judgment about the weight of the medical evidence submitted in support of such an assertion and come to an informed decision. DEEOIC considers its current procedural methodology for determining whether a claimant has reached the end-stage of an illness to be sufficient.

### **Chapter 3 – Need for Assistance**

**3.1 Recommendation:** The Ombudsman acknowledged that DEEOIC has a number of online resources that can be accessed by the public, claimants, ARs, and health care providers. These online resources include the Employees' Compensation Operations & Management Portal

(ECOMP), the Electronic Document Portal (EDP), the Medical Bill Processing Portal, and the Pharmacy Bill Processing Portal. The Ombudsman received complaints from claimants and ARs regarding difficulties registering for access to ECOMP and EDP, as well as difficulties uploading multiple documents into the EDP at one time. While many of the documents contained in a claim file can be accessed in ECOMP, some broad categories of documents cannot be accessed electronically. The Ombudsman also stated that when claimants request a copy of their claim file, the request is mailed to the claimant on an encrypted compact disc (CD) and some claimants did not have access to a computer capable of reading a CD. **The Ombudsman recommended that DEEOIC should inform claimants of the existence of the categories of records in their claim file that are not available in ECOMP and should advise claimants how they can obtain these records at the beginning of the claims process.**

**Response:** DEEOIC provides claimants and ARs online access to claim files via ECOMP. However, due to the possibility that some records contain Personally Identifiable Information (PII) from other employees that worked at the same facility, some records are not available through ECOMP. In late 2022, DEEOIC updated the claims acknowledgment letter, as well as the attachments sent to all new claimants. This claims acknowledgment package better informs claimants about resources available online. As part of the acknowledgement package, DEEOIC sends both an EDP and ECOMP infographic to the claimants and ARs. The Ombudsman is aware of the ECOMP infographic and noted that this infographic is also available on the DEEOIC website in the link for ECOMP. DEEOIC's public facing website displays the exact categories and subjects that are not viewable through ECOMP. Additionally, the infographic also provides notice that a limited number of records are not available through the ECOMP portal. As DEEOIC already informs all claimants of available resources regarding accessing case documents, DEEOIC believes they satisfied this recommendation. Even when claimants and ARs are unaware of the issues relating to accessing certain claim documents within their file, the website and infographic also inform claimants and ARs that they can request case records through a Privacy Act submission to their Claims Examiner. If a claimant or AR would like a copy of their entire case file or needs help with accessing the information in the case file CD, they can request assistance from their assigned Claims Examiner.

#### **Chapter 4 – Lack of Clarity and Consistency**

**4.1 Recommendation:** The Ombudsman noted that DEEOIC has issued a large body of guidance regarding the claims adjudication process and that claimants and ARs found it challenging to remain current and understand how the latest DEEOIC guidance may be implemented in their claims. **The Ombudsman recommended that DEEOIC issue updated guidance to assist claimants and their ARs when changes are made in DEEOIC. The Ombudsman also recommended that DEEOIC review its updated guidance on Industrial Hygienist (IH) reports and bilateral sensorineural hearing loss claims to reduce confusion among claimants and their ARs.**

**Response:** The Ombudsman accurately noted that DEEOIC has a large body of guidance that claims staff use to adjudicate claims. Although the PM is internal staff guidance, DEEOIC makes it available to claimants and their ARs online and it contains most of the policies and procedures used by claims staff. DEEOIC also issues Bulletins or Circulars to provide detailed guidance to claims staff on handling new claim situations not addressed in the PM. Whenever there is a change to the PM or the issuance of a new Bulletin/Circular, DEEOIC makes the new version available online and then includes the updated material in an email to all subscribers of the Program and Policy email distribution list. Additionally, the DEEOIC homepage contains a Latest Program Highlights section that includes information about recent updates including program updates and published resources. DEEOIC also holds monthly webinars for claimants and ARs on some of the most complicated subjects in the claims adjudication and medical billing processes. Claimants and their ARs can also contact a DEEOIC staff member who can discuss the specific policy and procedure update and how it impacts the claim.

The Ombudsman also expressed concerns regarding the language used in IH reports to describe the probability that an employee was exposed to toxic substances due to their employment at a DOE facility. DEEOIC worked with the Advisory Board on Toxic Substances and Worker Health (ABTSWH) to create the current language used when an IH is discussing potential exposures that occurred after the mid-1990s. DEEOIC will continue to work with the ABTSWH to improve the guidance on how to assess an employee's potential for exposure to toxic substances after the mid-1990s.

DEEOIC updated the policy guidance on bilateral sensorineural hearing loss claims on October 20, 2022, to clarify the requirements needed for a claim for hearing loss to be accepted as related to the employee's work at a DOE facility. Prior to the most recent guidance, the employee had to establish that they were employed in one of twenty-two job categories for a period of 10 consecutive years prior to 1990. The current guidance states that the employee had to be employed in one of the twenty-two job categories for 10 consecutive years at any time. DEEOIC provided the updated hearing loss procedures to our stakeholder community via the Program and Policy email distribution list. The notice also advised claimants and their ARs to contact claims staff if they had specific questions regarding this policy update. On its own initiative, DEEOIC reviewed all hearing loss claims that were denied under the previous policy, and when necessary, re-adjudicated those claims under the current guidance. Following the policy change, DEEOIC identified 266 previously denied bilateral sensorineural hearing loss claims for reopening under the new guidance.

## **RESPONSE TO SUGGESTIONS**

Within the recommendations section of the Ombudsman's 2022 Report to Congress, the Ombudsman provided several suggestions. While the Ombudsman did not describe these as recommendations, DEEOIC wants to provide a comprehensive response to both the recommendations and the suggestions. Therefore, the following section of OWCP's response discusses the suggestions provided in the Ombudsman's Report, addressed in the order in which they appear in the report.

## **Chapter 2 – Delays**

**2.1 Suggestion:** The adjudication of some claims has been delayed while DEEOIC claims staff attempt to verify the employee’s employment details. **The Ombudsman suggested that DEEOIC give greater probative value to the details provided in employee affidavits rather than based on the identity of the person providing the affidavit.**

**Response:** DEEOIC acknowledges that verifying covered employment can be a burden on claimants and agrees with the Ombudsman that affidavits provided by claimants and others who are aware of the employee’s work history can be a valuable source of information during the claim adjudication process. Whenever possible, DEEOIC provides favorable weight to the evidence provided through employment affidavits from claimants and their witnesses. However, when the information provided in an employment affidavit is vague or generalized to the extent that it cannot be determined that the affiant has reliable information regarding the claimed employment, the affidavit has limited probative value to the employment verification process. At other times, the information provided in the affidavit contradicts other evidence in the case file which also limits the probative value of the affidavit. DEEOIC claims staff weigh all of the evidence together before making a determination regarding employment.

**2.2 Suggestion:** The Ombudsman stated that delays in the authorization of payment for medical treatment has an impact on claimants and their family members. **The Ombudsman suggested that DEEOIC develop a role to specifically assist claimants and ARs as they navigate the medical bill pay process and that when authorization for a requested treatment is going through the exception process, that claimants should receive more frequent and detailed communication from DEEOIC. It was also suggested that claims for life-saving treatment be automatically reviewed if a certain period of time elapsed without a determination. The Ombudsman further suggests that the DEEOIC Procedure Manual be updated to provide a timeline for home health care (HHC) benefits so that claimants and providers know how long the authorization process may take.**

**Response:** In fiscal year 2022, DEEOIC hired additional staff to the Branch of Medical Benefits Adjudication and Bill Processing (BMB), including the hiring of new medical benefit examiners (MBE). Due to the increase in staffing, DEEOIC has seen improvement in timeliness and efficiency in responding to medical requests. Our records show that in fiscal year 2022, DEEOIC processed 940,602 medical bills; 99.5% of these medical bills were processed within the target of 28 days.

DEEOIC tracks all requests for medical benefits, including those which are prioritized due to the terminal nature of the claimant and those that involve requests for life-saving treatments. At all times, efforts are made to prioritize terminal situations or those priority needs that exist. DEEOIC has also increased resources for claimants with medical bills that are going through the exception process and for claimants that have more medically complex claims. With the increase in staffing, the MBEs were able to quickly refer medical billing questions to staff specializing in

bill resolution. BMB staff also facilitate and track to completion, referrals of complex medical claims to the OWCP Medical Officer for a professional opinion. The BMB also engages the DEEOIC Resource Centers throughout the year to help the Resource Centers respond to frequently asked questions and to better assist claimants with billing issues. In addition, at outreach events, DEEOIC has emphasized a tiered approach for claimants and providers needing assistance. They can first contact the medical bill pay contractor. If they are unable to get a resolution, they can contact the Resource Centers. Lastly, DEEOIC provided the email address for claimants, ARs, and providers to send billing inquires directly to the BMB, who promptly responds and works to resolve billing issues.

In fiscal year 2022, DEEOIC received 20,750 claims for HHC benefits and 97% of these were processed within 60 days. The PM provides staff instruction for adjudicating claims. Staff performance metrics are evaluated separately both at the program level with operational plan goals and individual staff standards. Currently, some information regarding the processing of medical benefits is available in the DEEOIC Medical Benefits Brochure, accessible online in the Brochures tab located on the DEEOIC homepage. DEEOIC will consider the production of additional outreach materials that will help offer guidance on the steps involved with medical benefit claims.

### **Chapter 3 – Need for Assistance**

**3.1 Suggestion:** The Ombudsman reported that claimants have expressed difficulties in finding medical providers who were willing to accept payment from DEEOIC. These difficulties include a lack of health care providers in certain geographic areas as well as difficulties in maneuvering the online provider search. **The Ombudsman suggested that it would be helpful for claimants to have the ability to receive a list of physicians in their area currently accepting payment from DEEOIC. The Ombudsman also suggested that DEEOIC find out why some health care providers no longer accept payment from DEEOIC and endeavor to reestablish the business relationship.**

**Response:** DEEOIC agrees that the availability of medical providers that are conveniently located to claimants is crucial to providing claimants the awarded medical benefits. A list of medical providers who enrolled to accept payment electronically, and who also indicated that they want to be included in a physicians list, is available online via a physician search tool available at <https://owcpmed.dol.gov/ecams/PortalServlet>; however, DEEOIC's medical billing contractor maintains that listing and updates it on their internal schedule. Medical providers are not required to notify DEEOIC or its medical billing contractor when the provider decides that they no longer want to accept DEEOIC claimants. Unfortunately, this means that even when the DEEOIC possesses a list of enrolled medical providers, that listing may not be accurate. Upon request, Resource Center staff are able to provide claimants with a list of medical providers who have enrolled with the medical billing contractor.

OWCP and DEEOIC continue to work to increase the number of available providers who accept our claimants through ongoing outreach and training efforts. DEEOIC is also working to make it



easier for medical providers to work with our claimants by simplifying the enrollment and bill processing system. To increase the number of available providers who accept claimants, OWCP is exploring the use of a medical provider network that would be available to all OWCP claimants. Work on this is ongoing and if adopted, will benefit all OWCP claimants.

**3.2 Suggestion:** The Ombudsman noted that claimants and ARs complained of difficulties in being connected to the correct person to address their questions, or not having telephone calls returned in a timely fashion. It was also noted that claimants and ARs had complaints of inappropriate and sometimes rude behavior by DEEOIC staff or DEEOIC contractor staff and had difficulty interacting with and obtaining assistance through the online portals and databases utilized by DEEOIC. **The Ombudsman suggested that DEEOIC create a publicly stated process by which claimants and EEOICPA stakeholders could lodge specific complaints without fear of retaliation, and that includes specific information regarding when and how they will receive a response from DEEOIC.** The Ombudsman stated that a formalized complaint process would allow for enhanced communication between claimants and DEEOIC regarding their case-specific concerns.

**Response:** DEEOIC's records show that in fiscal year 2022, the District Offices received a total of 96,289 telephone calls that were return/direct/transfer call types and responded to 97% of those calls within one day and to 99% of calls within two days. The FAB offices received a total of 2,580 telephone calls that were return/direct/transfer call types and responded to 98% of those calls within one day and 99.88% percent of calls within two days. DEEOIC does not believe that it is necessary to create a single point-of-contact for complaints. DEEOIC currently provides contact information for all its offices, including the DEEOIC National Office, DEEOIC Field Operations, FAB, District Offices, and Resource Centers. Interested parties who need assistance are encouraged to contact any of these offices, either via telephone or through written correspondence. If a claimant or AR wishes to submit a complaint or other feedback, they have several options to do so, including contacting a claims examiner or a hearing representative, supervisor, or branch chief if they have concerns regarding their case. DEEOIC also has methods for interested parties to submit questions or comments by phone, public email at [DEEOIC-public@dol.gov](mailto:DEEOIC-public@dol.gov), through customer satisfaction surveys, or in written correspondence to supervisors or other DEEOIC or OWCP leadership.

DEEOIC values its continued engagement with the Office of the Ombudsman as it provides information to claimants on the benefits available under EEOICPA and provides guidance and assistance to claimants. When the Ombudsman notifies DEEOIC that they have received a complaint, resolving the complaint is a priority for the program.

#### **Chapter 4 – Lack of Clarity and Consistency**

**4.1 Suggestion:** The Ombudsman noted that it is sometimes unclear to claimants and ARs who a caller is speaking with because the staff member who answers the phone does not state where they are located and what their position is. **The Ombudsman suggested that all telephone calls**

**be answered in a way that identified the location and role of the person the caller had reached and the way the caller can contact the same person again. The suggestion also stated that it would be helpful for EEOICPA stakeholders to have the option to contact their Claims Examiner (CE), Hearing Representative (HR), and/or MBE directly regarding certain questions.**

**Response:** While the Ombudsman's report does not state the number of complaints they received that were specifically about the caller not knowing to whom they were speaking, DEEOIC agrees that it is important that callers know who they are speaking to and their role. DEEOIC will give all staff updated guidance to as to how they should greet callers so that the caller knows who is speaking and their role in the claims process. In general, location of the staff member is not relevant due to the centralization of claims processing and the increase in remote work. However, when asked where they are located, claims staff should provide this information and notify the caller that DEEOIC no longer uses the previous geographic jurisdictions so their claims staff may be in a different location than they were prior to the removal of the jurisdictional lines.

All calls to DEEOIC are initially routed to staff at one of the Resource Centers. Resource Center employees often can answer questions without transferring the call to another staff member, which allows the CE, HR or MBE to continue working on other claims. If the Resource Center staff is unable to answer a caller's questions, they transfer the call to the CE, MBE, and/or HR, if available. If the CE, MBE and/or HR is not available, they may transfer the caller to the examiner's voicemail and/or summarize the caller's needs for a return call by the examiner. Due to staffing needs, DEEOIC may need to reassign and transfer claims among staff so the person that the caller thinks they need to speak with may not be the person to whom the claim is currently assigned. The Resource Center staff can view the most recent updates in the claim file and better direct the caller to the person who is currently responsible for the aspect of the claim that the caller is seeking assistance with.

DEEOIC does request that callers complete optional surveys of the customer service that they received from staff members, and these results have been overwhelmingly positive. DEEOIC uses the survey responses to provide ongoing training and feedback to staff to address any customer service deficiencies. DEEOIC makes survey results public to every stakeholder. The results are on the DEEOIC website, within the Public Reading room. Within the Customer Experience section, the fiscal year 2022 phone survey report shows scores of over 4 out of 5 in all measurable categories including, but not limited to, Trust, Satisfaction, Efficiency and Transparency.

## **Chapter 5 – Other Issues and Complaints**

**5.1 Suggestion:** The Ombudsman indicated that DEEOIC development letters and decisions are being issued without identifying the evidence submitted in support of the claim or without an explanation of how the evidence was weighed to reach the conclusion in the decision. It was

further stated that if claimants do not have a clear understanding of the deficiencies of their claim, they struggle to provide the relevant evidence within the timeframes they are provided. **The Ombudsman encouraged DEEOIC to specifically assess whether decisions denying benefits include a discussion of the evidence submitted and an explanation of how that evidence was weighed in reaching the conclusions.**

**Response:** DEEOIC disagrees with the suggestion that development letters and decisions are routinely being issued without a discussion of the evidence or a weighing of the submitted evidence. Claims staff receive training and guidance on the required evidentiary discussion that must be included in all decisions, especially those that are denying a claim for benefits. Following receipt of a development letter or recommended decision, the claimant and their AR can contact DEEOIC to discuss their questions or concerns with claims staff.

As part of DEEOIC's bi-weekly Quality Assurance reviews, development letters are assessed to determine if they contain language that properly describes what is needed, provide a reason why it is needed, and if they are limited in scope to concisely explain what is required to overcome a claim inadequacy. Similarly, all decisions recommending denial are reviewed to ascertain whether all necessary findings were included with a discussion of any pertinent evidence used to reach the outcome. Recommended denials are also evaluated to determine if the decision provided an adequate explanatory justification and/or compelling argument in support of the outcome. This includes an appraisal of the CE's explanation of the weight of the medical evidence used as the basis for denial. Additionally, DEEOIC completes monthly quality reviews by both supervisors and annual accountability reviews completed by non-supervisors in order to ensure the quality of the work product.

In fiscal year 2022, DEEOIC's quality assurance analysts reviewed 4,198 district office decisions and 95.97% of the recommended decisions passed a review of their written quality and accuracy. In the same fiscal year, the quality assurance program reviewed 1,736 Final Adjudication Branch decisions and 96.26% of the final decisions passed a review of the written development and decision accuracy. DEEOIC utilizes the results from the quality and accountability reviews to work towards continual improvement in program outcomes. While continual improvement is a goal of DEEOIC, the current quality results do not support a finding that development letters and decisions are being routinely issued without explanations to support the need for development or the claim outcome.

**5.2 Suggestion: The Ombudsman stated that it would be beneficial for DEEOIC to publish a policy regarding when and how claimants are to be notified of policy updates when those policy updates could impact the outcome of their claim for benefits as well as the creation of a policy to identify when and how policy updates will trigger DEEOIC's automatic review of previously denied claims.**

**Response:** When DEEOIC publishes policy updates it endeavors to review any previously adjudicated claims that may be affected by the updated policy. DEEOIC does not initially notify

claimants and ARs of these reviews because the new policy may not change the outcome of the previous decision. Providing notification to every claimant prior to a review of their claim could cause confusion and uncertainty to claimants and their ARs. Following the review of the potentially affected claims, DEEOIC notifies claimants of the amendment to the previous decision due to the updated policy.

DEEOIC's website contains information about policy updates for claimants or ARs who want to be informed when policy updates are issued. Interested parties who wish to remain informed of policy changes that may affect their claims can also opt to receive policy update emails, as noted above. Claimants and ARs who have questions regarding how a specific policy update could change the status of their claim can contact DEEOIC and speak to claims staff for more information.

### **Conclusion**

OWCP remains fully committed to administering its responsibilities under EEOICPA, to provide benefits to eligible employees (or to eligible survivors of employees), including lump-sum compensation under Part B, wage-loss or impairment benefits under Part E, and medical benefits under Part B and/or Part E of the EEOICPA. In fiscal year 2022, DEEOIC awarded compensation and medical benefits totaling over \$1.84 billion to 18,585 individual claimants. This included \$683.67 million in compensation and \$1.15 billion in medical expenses. OWCP/DEEOIC stands ready to work with the Ombudsman to ensure that claimants, ARs, medical providers, and other stakeholders receive the best service possible.