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# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

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November 20, 2014

The Honorable Scott S. Dahl  
Inspector General  
U.S. Department of Labor  
Francis Perkins Building  
200 Constitution Avenue, NW, Room S-5502  
Washington, DC 20210

Dear Mr. Dahl:

I am writing to request that you review the selection of impartial medical examiners and the management and oversight of contracts awarded by the Office of Workers' Compensation Program (OWCP).

As you know, OWCP administers the four major federal disability compensation programs: the Energy Employees Occupational Illness Compensation Program, the Federal Employees' Compensation Program, the Longshore and Harbor Workers' Compensation Program, and the Coal Mine Workers' Compensation Program. These programs provide wage replacement benefits, medical treatment, vocational rehabilitation and other benefits to certain workers or their dependents who experience work-related injury or occupational disease. Although the worker's attending physician is the primary source of medical evidence for OWCP's programs, OWCP may direct the worker to submit to either a second opinion medical exam or, where the original exam and the second opinion differ, a third examination conducted by an impartial medical referee.<sup>1</sup>

I have recently received information that raises concerns regarding OWCP's management of contracts for second opinion and impartial medical referee exams. It appears that [REDACTED] of Medical Consultants Network, LLC (MCN), has performed at least one second opinion medical exam, despite not being certified to perform this type of exam by OWCP. I understand that MCN holds several contracts with OWCP as a provider of second opinion medical services, but [REDACTED] has never been certified by OWCP or any other component of the Department of Labor to offer second opinions, as required by federal regulations.<sup>2</sup>

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<sup>1</sup> 20 CFR 30.410; 20 CFR 30.411.

<sup>2</sup> See, Second Medical Opinion – Seattle, Washington, Solicitation Number: DOL089RP20579. (online at [https://www.fbo.gov/?s=opportunity&mode=form&id=7d3c742b4901914857ecc8ac1619b7f2&tab=core&\\_cvview=1](https://www.fbo.gov/?s=opportunity&mode=form&id=7d3c742b4901914857ecc8ac1619b7f2&tab=core&_cvview=1)) (accessed Nov. 18, 2014); briefing by Department of Labor Office of

I also understand that a doctor affiliated with MCN was asked to serve as the referee physician for the case in which [REDACTED] had provided the second opinion. In response to questions about when an MCN-affiliated doctor could be used as a referee specialist in a case in which one of the underlying medical opinions in question was offered by [REDACTED], OWCP stated that the doctor in question “was eligible to perform the independent examination regardless of any affiliation with MCN.”<sup>3</sup> This statement appears to be directly contradicted by the Federal Employee Compensation Act Procedure Manual, which states that physicians who may not be used as referees include “Physicians previously connected with the claim or the claimant, or *physicians in partnership with those already so connected.*”<sup>4</sup>

I respectfully request that you conduct a review of:

- 1) Whether [REDACTED] has provided additional second opinions despite a lack of certification by OWCP or any other agency in the Department of Labor;
- 2) The number of second opinions that [REDACTED] has issued that have continued benefits, and the number of second opinions that [REDACTED] has issued that have denied benefits; and
- 3) OWCP’s processes to provide oversight of its second opinion providers, including whether OWCP employees, managers, and attorneys are properly trained to identify and mitigate violations of relevant federal laws, regulations, and policies, including whistleblower protection laws;
- 4) The adequacy of OWCP’s standards for preventing actual or apparent conflicts of interest in the selection of physicians to perform second opinion and impartial referee medical exams, and its compliance with those standards.

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Congressional and Intergovernmental Affairs to Subcommittee on Financial and Contracting Oversight (Nov. 7, 2014).

<sup>3</sup> Letter from Shelby Hallmark, Director, Office of Workers Compensation Programs to [redacted] (March 4, 2004).

<sup>4</sup> Federal Employees Compensation Act Procedure Manual Part 3-0500(4)(b)(3)(b).

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November 20, 2014  
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Thank you for your attention to this matter. Please contact Charlie Moskowitz with the Subcommittee staff at (202) 224-6814 with any questions. Please send any official correspondence relating to this request to [Kelsey\\_Stroud@hsgac.senate.gov](mailto:Kelsey_Stroud@hsgac.senate.gov).

Sincerely,



Claire McCaskill  
Chairman  
Subcommittee on Financial and Contracting  
Oversight

cc: Ron Johnson  
Ranking Member  
Subcommittee on Financial and Contracting Oversight