



**STATEMENT BY
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**BEFORE
THE SENATE SUBCOMMITTEE ON OVERSIGHT
OF GOVERNMENT MANAGEMENT, THE
FEDERAL WORKFORCE, AND THE DISTRICT OF
COLUMBIA**

**HEARING: "EXAMINING THE FEDERAL
WORKERS' COMPENSATION PROGRAM FOR
INJURED EMPLOYEES"**

JULY 26, 2011

Mr. Chairman and members of the Committee, I am Joseph A. Beaudoin, president of the National Active and Retired Federal Employees Association (NARFE). NARFE, one of America's oldest and largest associations, was founded in 1921 with the mission of protecting the earned rights and benefits of America's active and retired federal workers. The largest federal employee / retiree organization, NARFE represents the retirement interests of approximately 4.6 million current and future federal annuitants, spouses and survivors.

Thank you for providing me the opportunity to testify on behalf of those 4.6 million federal workers and annuitants.

As you consider legislative reforms to the Federal Employees' Compensation Act (FECA), I urge you to pursue common sense reforms that improve program efficiency, achieve cost savings, and improve fairness without reducing the basic compensation provided to those employees unfortunate enough to suffer a debilitating injury or illness as a result of their public service.

FECA benefits are intended to compensate federal employees for work-related injuries and illnesses – to fairly make up for income they would have received had their public service not been cut short by an unforeseen job-related injury or workplace-induced illness. In exchange for their benefits, FECA recipients lose their right to sue the government for their work-related disability. Of course, reimbursed medical expenses and monetary compensation will never be able to reverse the permanent damage of a

debilitating injury or illness. But we should do our best to ensure that FECA benefits provide injured employees the income security they would have received without their injury or illness.

Unfortunately, current proposals by Senator Susan Collins and the Department of Labor (DOL) to reduce benefits for FECA recipients at retirement age do not adequately take into account the disadvantages faced by employees unable to work because of a work-related injury or illness, leaving them worse off in terms of income.

S. 261, Federal Employees' Compensation Reform Act

S. 261, the Federal Employees' Compensation Reform Act, introduced by Senator Collins, would move FECA recipients to the retirement system at full Social Security retirement age (between 65 and 67, depending on year of birth). Instead of receiving 66.67 percent of monthly pay (or 75 percent for recipients with dependents) tax-free, former FECA recipients would receive a taxable annuity computed by multiplying the average of their highest three years of salary *times* years of service *times* an accrual rate (1 or 1.1 percent for FERS-covered employees or 1.5 to 2 percent for CSRS-covered employees). This presents multiple issues.

First, there is no provision to adjust upwards the average highest three years of salary to account for wage inflation. FECA recipients also will have lost the ability to increase their salary through raises and promotions. At the very least, they should receive an

adjustment based on the Employment Cost Index or other wage inflation indicator to the average highest three years of salary for purposes of computing their annuity.

Second, unless FECA recipients are covered by FERS and applied for a disability retirement annuity within 12 months of their injury or illness, they likely would not receive credit for years of service for the time between when they became injured or ill and when they turn 62 years of age.¹

Third, FERS-covered FECA recipients lose the ability to invest a portion of their payments into the Thrift Savings Plan (TSP) and receive matching contributions from their agencies.

Finally, FERS-covered employees may have a reduced Social Security benefit because they are unable to earn quarterly credits to increase average monthly earnings used to calculate those Social Security benefit payments.

Consider the example of one of our members. She began working as a seasonal/temporary employee for the postal service in 1993, and became a career employee in 1998. Fifteen years on the job with repetitive motions and continual heavy lifting left her with a serious back injury, resulting in immobility, severe pain and

¹ Under CSRS, a disability retirement annuitant, someone unable to perform their job due to a injury or illness that is not necessarily work related, is guaranteed a minimum benefit that equals the *lesser* of 40 percent of the high-three average salary or the regular annuity obtained after increasing years of service for the time between the disability and age 60. Thus, credit for years of service actually acts to reduce the minimum annuity under CSRS. Under FERS, disability retirement annuitants receive credit for years of service for the years between the injury or illness and age 62.

inability to work. At the time of her injury, she was about 41 years old and earned about \$53,300 a year, or \$4,441.66 a month. Her FECA benefit on that salary is about \$2,931.50 per month. But a FERS retirement annuity for a high-three salary of \$53,300 on 15 years of service is only \$666.25 per month. Even if she were to receive credit for years of service for time out of work between the age of 41 and 62, her annuity would only be about \$1,758.90 per month, a significant reduction from her FECA benefit. Furthermore, she has little savings in her Thrift Savings Plan – only \$12,000 – hardly enough to make a serious contribution to her at retirement age. Her injury causes her enough pain and discomfort. Losing her FECA benefits would cause even more.

This example highlights the impact the proposed changes would have on federal workers who are injured or become ill in the middle of their careers, as the lost ability to save and receive promotions has diminished what they would have received in retirement. For such individuals, there is little to rely on but the money they receive as compensation for their injuries.

The net effect of the transition to the retirement system mandated by S. 261, as written, would be reductions in benefits for many FECA recipients.

We would like to thank Senator Collins for demonstrating a willingness to work with us and maintain an open dialogue with respect to FECA reforms.

Department of Labor Proposal

The Department of Labor (DOL) proposes to reduce FECA recipients' basic compensation benefit to 50 percent of their gross salary at the date of injury, still tax-free, when they reach full Social Security retirement age. While this proposal provides a retirement level income closer to that of current retirees,² it still does not fully account for disadvantages faced by FECA recipients. Notably, FECA recipients (1) lose the ability to increase their salary through raises and promotions, (2) have a reduced ability to save because FERS-covered employees are not able to contribute to the Thrift Savings Plan and receive matching contributions, and (3) may have a reduced Social Security benefit because FERS employees covered by Social Security are unable to earn quarterly credits to increase average monthly earnings used to calculate those Social Security benefit payments.

While the framework of DOL's proposal offers more economic security than S. 261's, it still short-changes FECA recipients.

H.R. 2465, Federal Workers' Compensation Modernization and Improvement Act

H.R. 2465, the Federal Workers' Compensation Modernization and Improvement Act, provides a fairer, more considered approach to reform that achieves cost savings without reducing the basic benefits paid to employees who suffer a debilitating injury or illness as a result of their public service.

² According to OPM, the average federal employee retiring optionally on an immediate annuity under CSRS will receive about 60 percent of their "high-three" average salary.

The legislation combines much-needed adjustments to compensation for the worst-case injuries and illnesses, and common sense, cost saving measures that should improve the processing of claims and reduce improper payments. NARFE specifically supports the bill's provisions to expand coverage for injuries or illnesses caused by a terrorist attack; to increase the maximum compensation to employees for serious disfigurement of the head, face, or neck from an outdated \$3,500 to a more reasonable \$50,000; to extend the time period for a continuation of pay in a zone of armed conflict to 135 days; and to increase compensation for funeral expenses from an outdated \$800 to a more reasonable \$6,000.

H.R. 2465 represents a model of the best path to reform; one that will achieve cost savings and improve fairness and, not coincidentally, garners broad bipartisan support.

Conclusion

FECA reforms need not, and should not, sacrifice basic principles of fairness in the name of achieving cost savings. Rather, FECA reforms should save money by helping bring FECA recipients back into the workforce, eliminating inefficiencies in the processing of claims, allowing for full reimbursement from liable third parties, or reducing improper payments and fraud. H.R. 2465 provides a clear example of how to save money this way and improve fairness.

But current proposals to take money away from individuals who are irrefutably unable to work because they were injured or became ill as a result of their service for the federal

government fails a basic fairness test. If those individuals had the choice, they would be healthy and working and preparing for a retirement of choice rather than of necessity.

Thus, I urge all members of Congress to seriously consider the significant financial implications that proposed reductions to FECA benefits could have on disabled public servants who have lost the ability to earn income to adjust their financial situation to new circumstances. These federal employees include FBI agents who have been shot in the line of duty and federal firefighters injured while saving lives. We need to treat these public servants with respect and gratitude.

Mr. Chairman and subcommittee members, I urge you to do so, and thank you for inviting me to testify today.