



U.S. Department of the Interior
Office of Inspector General

AUDIT REPORT

**WORKMEN'S COMPENSATION PROGRAM,
GOVERNMENT OF THE VIRGIN ISLANDS**

**REPORT NO. 97-I-243
DECEMBER 1996**



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20240

MEMORANDUM

JAN 10 1997

TO: The Secretary
FROM: *Rail m. Roback for*
Wilma A. Lewis
Inspector General

SUBJECT SUMMARY: Final Audit Report for Your Information: - "Workmen's Compensation Program, Government of the Virgin Islands" (No. 97-I-243)

Attached for your information is a copy of the subject final audit report. The objective of the audit was to determine whether: (1) all employers were filing required workmen's compensation reports and paying appropriate premiums; (2) workmen's compensation claims were processed timely and only eligible employees received workmen's compensation benefits; and (3) controls were in place to safeguard the Government Insurance Fund.

We concluded that the Division of Workmen's Compensation and the Office of the Government Insurance Fund needed to make improvements in the areas of insurance premium collection, compensation disbursement, and overall safeguarding of Government Insurance Fund resources. Specifically, we found that: (1) the Office of the Government Insurance Fund was not effectively enforcing the collection of workmen's compensation premiums and applicable penalties and interest from employers; (2) the Division of Workmen's Compensation took as long as 5 months to process employee claims and did not periodically reevaluate the status of claimants receiving ongoing disability payments; and (3) the Office of the Government Insurance Fund did not ensure that revenues and expenditures were authorized and properly recorded in the Fund's accounting records.

We made 15 recommendations to the Governor of the Virgin Islands to address these issues. Although we did not receive a response to the draft report from the Governor's Office by the due date or the extended due date, we did receive a response from the Virgin Islands Department of Labor that addressed seven of the recommendations. Based on that response, we considered nine recommendations unresolved and six recommendations resolved but not implemented.

If you have any questions concerning this matter, please contact me at (202) 208-5745 or Mr. Robert J. Williams, Acting Assistant Inspector General for Audits, at (202) 2084252.

Attachment



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

DEC 30 1996

Honorable Roy L. Schneider
Governor of the Virgin Islands
No. 21 Kongens Gade
Charlotte Amalie, Virgin Islands 00802

Subject: Audit Report on the Workmen's Compensation Program, Government of the Virgin Islands (No. 97-I-243)

Dear Governor Schneider:

This report presents the results of our review of the Workmen's Compensation Program of the Government of the Virgin Islands, as operated by the Division of Workmen's Compensation, Department of Labor, and the Office of the Government Insurance Fund, Department of Finance. The objective of the audit was to determine whether: (1) all employers were filing required workmen's compensation reports and paying appropriate premiums; (2) workmen's compensation claims were processed timely and only eligible employees received workmen's compensation benefits; and (3) controls were in place to safeguard the Government Insurance Fund.

Although the audit was completed prior to Hurricane Marilyn in September 1995, we delayed issuance of the report because we believed that the Government would not be in a position to respond during the immediate hurricane recovery period. In addition, we focused on and gave priority to performing several hurricane-related reviews for the Federal Emergency Management Agency. Nonetheless, based on our reevaluation of the audit findings and recommendations, we believe that, although some of the specific examples cited in the findings may not be current, the issues and the recommendations presented in this report are still valid. The recommendations, if implemented, should result in long-term improvements in the operations of the Workmen's Compensation Program.

We concluded that improvements were needed in the areas of insurance premium collection, compensation disbursement, and overall safeguarding of the Government Insurance Fund. Specifically, we found that:

- The Office of the Government Insurance Fund was not effectively enforcing the requirement that employers, both private and Government, should pay workmen's compensation premiums into the Government Insurance Fund. Premiums and interest of about \$1.3 million were owed by private and Government employers for fiscal years 1993

and 1994. Additionally, benefit expenses and penalties of about \$359,000 were owed by uninsured employers that had not paid the required premiums.

- The Division of Workmen's Compensation took as long as 5 months to process employee claims, even when all necessary documentation had been submitted. When additional information was needed, claims remained in pending status for as long as 5 years. Additionally, disability cases were not reevaluated periodically to determine whether changes in the claimants' condition warranted a change in the amount of disability benefits. Further, the Division acquired the services of rehabilitative companies at a cost of about \$650,000 per year without formal contracts.

- The Office of the Government Insurance Fund did not ensure that revenues and expenditures were authorized and properly recorded. Therefore, revenues of about \$22,000 from other sources were erroneously deposited into the Fund, and expenditures of about \$875,000 were paid from the Fund for activities of the Department of Labor that were not related to the Workmen's Compensation Program.

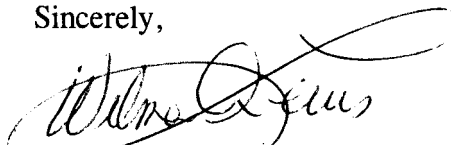
We requested a response to our report by June 28, 1996. However, as of November 19, 1996, we had not received a response from the Governor of the Virgin Islands. On July 5, 1996, the Department of Labor directly provided us with a response (Appendix 2) to the draft report. Based on that response, additional information is needed for six recommendations. However, because we did not receive a response from the Governor, the remaining nine recommendations are unresolved. (The status of all of the recommendations is in Appendix 3.)

The Inspector General Act, Public Law 95-452, Section 5(a)(3), as amended, requires semiannual reporting to the U.S. Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

In view of the above, please provide a response, as required by Public Law 97-357, to this report by February 28, 1997, to Mr. Arnold van Beverhoudt, Director of Insular Area Audits, Caribbean Regional Office, Federal Building - Room 207, Charlotte Amalie, Virgin Islands 00802. The response should provide the information requested in Appendix 3.

We appreciate the assistance of personnel from the Departments of Labor and Finance in the conduct of the audit.

Sincerely,



Wilma A. Lewis
Inspector General

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INTRODUCTION

BACKGROUND

Title 24, Chapter 11, of the Virgin Islands Code contains the basic legal provisions for the Workmen's Compensation Program. The purpose of the Program is to provide insurance protection for working men and women throughout the Virgin Islands in the event of work-related accidents. Qualified injured persons are entitled to medical rehabilitation, restoration of a portion of wages lost as a result of disability, and vocational rehabilitation when deemed necessary.

The Workmen's Compensation Program is administered in the Virgin Islands by two separate agencies, the Department of Finance's Office of the Custodian of the Government Insurance Fund and the Department of Labor's Division of Workmen's Compensation.

Office of the Government Insurance Fund

The primary function of the Office of the Custodian of the Government Insurance Fund is to enforce the collection of workmen's compensation insurance premiums from employers in the Virgin Islands. As stated in Title 24, Chapter 11, of the Virgin Islands Code, participation in the Workmen's Compensation Program is a "mandatory condition of doing business in the Virgin Islands," and the only groups of individuals exempt from coverage are the following: "domestic servants, repair workers for periods not exceeding 10 days, persons performing services in return for aid and/or sustenance, persons covered under the compensation laws of the United States, and sole-proprietors with no employees."

The Code requires all covered employers to file a report and pay premiums into the Fund by February 28 of each year. The amount of annual premiums is based on the number of employees and their salaries (up to \$8,424). Employers who do not pay the required premiums may be fined not more than \$500 and assessed interest and penalties on the unpaid premiums.

Division of Workmen's Compensation

The Division of Workmen's Compensation is responsible for receiving and evaluating workmen's compensation claims and for authorizing the payment of benefits to qualified injured employees. Benefits under the Program may include medical and/or vocational rehabilitation, cash payments for loss of income resulting from temporary and/or permanent disability, and cash payments to eligible dependent heirs. The expenses of the Program are funded by premiums paid by employers into the Government Insurance Fund. The cost of benefits provided to the injured employees of uninsured employers may be paid from an Uninsured Employer Sub-Fund pending reimbursement, including a 30 percent penalty, from the uninsured employer.

During fiscal year 1994, receipts from workmen's compensation premiums totaled \$6.8 million, and Program expenses totaled \$6.8 million. About 5,000 workmen's compensation claims are processed each year.

OBJECTIVE AND SCOPE

The objective of the audit was to determine whether: (1) all employers were filing required workmen's compensation reports and paying appropriate premiums; (2) workmen's compensation claims were processed timely and only eligible employees received workmen's compensation benefits; and (3) controls were in place to safeguard the Government Insurance Fund.

The scope of the audit included the activities and operations of both the Office of the Government Insurance Fund and the Division of Workmen's Compensation during fiscal years 1993 and 1994. Although the audit was completed prior to Hurricane Marilyn in September 1995, we delayed issuance of the report because we believed that the Government would not be in a position to respond during the immediate hurricane recovery period.

Our review was made in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances.

We limited the evaluation of internal controls for the Workmen's Compensation Program to the extent we considered necessary to accomplish the audit objective. The internal control weaknesses identified were related to the collection of premiums, the approval and disbursement of benefits, and the overall control of Government Insurance Fund resources. The weaknesses are discussed in the Findings and Recommendations section of this report. The recommendations, if implemented, should improve the internal controls in these areas.

PRIOR AUDIT COVERAGE

Although the Office of Inspector General has not previously audited the Workmen's Compensation Program, in 1978 the former U.S. Government Comptroller's Office began an audit of the Workmen's Compensation Program. However, that audit was never completed, nor was a final audit report issued.

FINDINGS AND RECOMMENDATIONS

A. INSURANCE PREMIUM COLLECTIONS

The Office of the Government Insurance Fund did not effectively administer and enforce the collection of workmen's compensation premiums. Specifically, the Office did not: (1) ensure that employers were filing required reports and paying appropriate premiums; (2) take adequate measures to collect outstanding premiums; (3) assess and collect interest due from late filers; and (4) collect payments and penalties from uninsured employers. These conditions existed because: (1) there was minimal coordination between the Office and the Department of Licensing and Consumer Affairs; (2) limited collection efforts were initiated by the Office; and (3) there was a lack of communication between the Office and the Department of Labor's Division of Workmen's Compensation. As a result, (1) the Office was unaware that during fiscal year 1994, 89 percent of licensed businesses on St. Thomas and St. John and 84 percent of licensed businesses on St. Croix did not file workmen's compensation reports and pay premiums; (2) \$94,700 in delinquent premiums and interest was due from 84 private employers known by the Office to have been late filers during 1993 and 1994 and over \$1.2 million in premiums was owed by six Virgin Islands Government departments for 1993 and 1994; and (3) claimant costs and penalties totaling \$358,300 were owed by uninsured private and Government employers.

Nonfiling Employers

Title 24, Chapter 11, Section 272(a), of the Virgin Islands Code requires every employer to "secure the payment of compensation by insuring with the Government Insurance Fund." However, there was minimal coordination between the Office of the Government Insurance Fund and the Department of Licensing and Consumer Affairs to ensure that all licensed businesses that were required to pay into the Fund were doing so. Consequently, we determined that 8,026 (89 percent) of 9,021 licensed businesses in the St. Thomas/St. John district and 5,602 (84 percent) of 6,646 licensed businesses in the St. Croix district did not pay into the Fund during fiscal year 1994. Although the Workmen's Compensation law allows proprietorships that have no employees to choose not to be insured, we found that the Office did not attempt to determine whether the nonfilers were, in fact, eligible for such an exemption.

Delinquent Premiums

We reviewed about \$67,500 in premium bills issued by the Office of the Government Insurance Fund on St. Thomas to private employers who had not paid their insurance premiums in 1993. About \$43,000 (64 percent) of the billed amount remained outstanding and uncollected by the Office. In addition, over \$8,000 in interest, which in many cases was never assessed by the Office, also remained uncollected. Similarly, about \$40,000 (63 percent) of the \$63,000 in premium bills issued for 1994 and over \$3,700 in interest remained uncollected.

Based on our review of case files, we found that the Office's Enforcement Officer on St. Thomas was not effective in enforcing the collection of delinquent amounts. For example, the files indicated that the Enforcement Officer had not made any collection efforts for 35 of the 50 instances in which bills were outstanding for 1993 or 24 of the 34 instances where bills were outstanding for 1994. Further, in those cases where some efforts at collection were made, these efforts consisted only of making telephone calls to the delinquent employers. Although Title 24, Chapter 11, Section 277(c), of the Virgin Islands Code provides for the use of levies and liens to collect delinquent premiums, such actions were not taken.

As a result of ineffective collection efforts, premiums and interest of almost \$95,000 were outstanding for just 84 cases of delinquent private employers known to the Office. However, efforts to collect from delinquent Virgin Islands Government employers were even less effective. We found that 14 Government agencies owed more than \$2.4 million in delinquent workmen's compensation premiums for fiscal years 1989 through 1994. One-half of this amount (\$1.2 million) was owed by six agencies for fiscal years 1993 and 1994. Employees of these six agencies received workmen's compensation benefits totaling \$257,000 during 1993 and 1994, although their agencies had not contributed to the Government Insurance Fund.

Assessment of Interest

Although Title 24, Chapter 11, Section 277(c), of the Virgin Islands Code provides for the assessment of interest at the rate of "1 percent per month or fraction thereof" on delinquent premiums, the Office of the Custodian on St. Thomas did not always assess interest. Of 38 cases we reviewed where premiums were paid after the required deadline, the Office assessed interest in only 16 cases. Further, in almost one-half of the cases where interest was assessed, the delinquent employers paid only the original premium amounts without the accumulated interest. This situation occurred because, according to the Office's Acting Director on St. Thomas, after the Office prepared the initial bill, it was not the Acting Director's policy to prepare another bill for interest when the employer paid the delinquent premium. As a result, for the 38 cases reviewed, over \$2,000 in interest remained either unassessed or uncollected.

In contrast, on St. Croix the collection of premiums and interest was generally conducted in a much more efficient manner. In every case we reviewed, efforts were made to collect outstanding balances from delinquent employers, including the levying of the amount of delinquent premiums against employers' accounts. Further, in most cases, interest was assessed and collected on late premium payments.

Uninsured Employers

Title 24, Chapter 11, Section 261(a)(2), of the Virgin Islands Code states:

In cases where employees sustain injury while working for an uninsured employer, the Commissioner [of Labor] shall determine the proper compensation plus the expenses in the cases, and shall collect from the employer . . . such compensation and expenses, provided that the Commissioner shall include a penalty equivalent to 30 percent of the compensation and expenses

Based on this requirement, when the Division of Workmen's Compensation prepared the necessary forms for payments to claimants of uninsured employers, copies of the payment orders were sent to the uninsured employers notifying them that, because they were uninsured, they were responsible for reimbursing the Government Insurance Fund for the costs incurred on behalf of their injured employees, plus a 30 percent penalty. However, because of a difference of opinion between the Office of the Government Insurance Fund and the Division of Workmen's Compensation as to which office had responsibility, neither office was making any consistent effort to collect the claimant costs and penalties after copies of the payment orders were sent to the uninsured employers.

For example, during fiscal year 1993, the Division of Workmen's Compensation on St. Croix paid out more than \$36,000 in benefits to claimants from uninsured private employers. Although payment orders were sent to the uninsured employers for reimbursement of the \$36,000 plus an additional \$10,500 in penalties, at the time of our review, \$20,000 of the original \$46,500 was still outstanding. Further, the amounts that were paid by the employers were in response to the receipt of the payment orders. No further collection efforts were made by either the Division of Workmen's Compensation or the Office of the Government Insurance Fund for the remaining \$20,000. During fiscal year 1994, claims of \$5,600 and penalties of \$1,700 were processed for uninsured employers, but as of the time of our review, none of this amount had been collected.

Officials at the Office of the Government Insurance Fund told us that they believed that the Division of Workmen's Compensation was responsible for collecting the claimant costs and penalties from uninsured employers because the Division was the unit that prepared the payment orders. Conversely, Division officials told us that the Office of the Government Insurance Fund should make such collections because that unit was "custodian" of the Government Insurance Fund. As a result of this difference of opinion, only minimal efforts were made to enforce collections from uninsured employers.

We also found that claims received from employees of uninsured Virgin Islands Government agencies were not treated consistently. Although the Virgin Islands Code does not appear to make any distinction between private and Government employers, payment orders issued by the Division of Workmen's Compensation did not indicate when Government employers were uninsured, and no penalties were computed or assessed in such cases. As a result, benefits paid to claimants of uninsured Government agencies on St. Croix totaling about \$77,000 in fiscal year 1993 and \$28,000 in fiscal year 1994 were not reimbursed to the Government Insurance Fund. On St. Thomas, uninsured Government agency claims totaling about \$68,000 in fiscal year 1993 and \$81,000 in fiscal

year 1994 were not reimbursed. Additionally, penalties of about \$77,000 were not assessed against any of these unreimbursed amounts.

Recommendations

We recommend that the Governor of the Virgin Islands direct the Commissioner of Finance, in her capacity as the Custodian of the Government Insurance Fund, to:

1. Obtain a listing of all licensed employers in the Virgin Islands from the Department of Licensing and Consumer Affairs and coordinate efforts with that department to ensure that all employers who are not exempted by law are paying the required workmen's compensation premiums into the Government Insurance Fund.

2. Enforce the provisions of the Virgin Islands Code regarding the assessment of interest and the collection of outstanding premium balances. Specifically, the Enforcement Officer should perform the duties as outlined in the job description, which include the collection of all accounts receivable.

3. Obtain a legal opinion from the Virgin Islands Attorney General regarding which agency, the Office of the Government Insurance Fund or the Division of Workmen's Compensation, is responsible for collecting reimbursement for claim payments and penalties from uninsured employers, as provided by Title 24, Chapter 11, Section 261(a)(2), of the Virgin Islands Code. Once the legal opinion has been received, the appropriate agency should enforce collection of delinquent premiums and penalties, as required by the Code.

4. Develop a system whereby funds allotted to Government agencies for the payment of workmen's compensation premiums are transferred quarterly to their account with the Government Insurance Fund.

Department of Labor Response and Office of Inspector General Reply

Although Recommendations 1-4 pertained to the Department of Finance, we received a July 5, 1996, response (Appendix 2) to our draft report from the Commissioner, Department of Labor. Because the appropriate department did not respond, the four recommendations are considered unresolved (see Appendix 3).

B. CLAIM PROCESSING AND BENEFIT PAYMENTS

The Division of Workmen's Compensation did not process claims or reevaluate permanent disability cases in a timely and efficient manner. Although no written criteria existed for the timely processing of claims or the reevaluation of disability cases, prudent business practices dictate that workmen's compensation claims be processed as quickly as possible and that disability cases be reevaluated on a periodic basis to determine whether the level of benefits should be changed. However, delays in processing the claims occurred because the Division: (1) did not place sufficient priority on the payment of hospital and other medical bills; (2) did not routinely follow up on the status of pending files; (3) did not disseminate sufficient information on claims documentation requirements to employers and their employees; and (4) was not organized efficiently. As a result, some claimants had to wait as long as 2 years before they received workmen's compensation benefits, and hospitals and other medical providers waited as long as 2 years to receive payment for services rendered to claimants. The Division's files contained unpaid bills totaling at least \$15,500 that were 1 to 2 years old. Regarding disability cases, claimants continued to receive permanent disability benefits for periods of up to 26 years because their cases were not reevaluated in a timely manner. We also found that the Division of Workmen's Compensation was paying more than \$650,000 a year to rehabilitative service firms without having formal contracts for those services.

Timeliness of Processing Claims

The claims process at the Division of Workmen's Compensation included receiving claims information from injured employees, medical providers, and others; reviewing that information and making a determination about eligibility for benefits; preparing orders of payment for the Office of the Government Insurance Fund to issue checks for benefit payments; and delivering the benefit checks to claimants once they were received from the Government Insurance Fund. To evaluate the timeliness of this process, we reviewed a sample of 70 active files, 82 files in pending status, and 50 files that were closed.

Active Files. A claimant's file was considered complete and ready for processing once the Division received a properly completed employer's first report and employee notice of injury, a standard form for surgeon's report, an employee's notarized claim for compensation for disability, a general release form, and a police report (if the injury was related to a traffic accident). However, once the Division received all of the necessary documents, up to as many as 5 months elapsed before the claim was processed and benefits were paid. For the 30 active files reviewed on St. Thomas, the average processing time was 18 workdays in 1993 and 23 workdays in 1994. For the 40 active files reviewed on St. Croix, the average processing time was considerably longer: 68 workdays in 1993 and 96 workdays in 1994.

At both locations, the Division placed a low priority on the payment of hospital and other medical bills related to employee claims, which resulted in the processing of such bills being postponed until the summer months, when temporary employees were assigned to

that task. Additionally, on St. Croix, further delays occurred because the Division would not make benefit payments until disability claims forms were received from claimants, even though such forms were not needed for the payment of hospital and other medical bills. At the time of our review, the St. Croix office had approximately 125 uncompleted claims. Our review of only 30 of these claims found unpaid bills totaling \$15,500, some of which had been unpaid for up to 2 years.

Pending Files. Case files of claimants were placed in pending files when additional documentation was required before benefit payments could be made or the claims could be processed further. For the 82 pending files reviewed, 52 on St. Thomas and 30 on St. Croix, the Division did not routinely: (1) follow up to request necessary documents from claimants or (2) continue processing claims when the necessary documents were received. As a result, some cases remained in pending status for up to 5 years. Additionally, we found instances in which all necessary documents had been submitted by the claimant but for which the files were in pending status for up to 2 years after the Division received the documents. For example:

- In one instance, the Division requested an employee's notarized claim, proof of the employer's coverage under the Workmen's Compensation Program, and a leave reinstatement form. Although the request was issued on October 6, 1992, and the necessary documents were received from the claimant on October 16, 1992, the file was still in pending status at the time of our review in March 1995.

- In another instance, all necessary documents were received by the Division on August 10, 1993, but the file was still in pending status at the time of our review in March 1995.

In addition, we noted several cases where the Division did not notify claimants that certain documents were needed to continue processing their claims, thus further delaying the payment of benefits to the claimants.

These problems occurred because the Division did not have formal procedures to ensure that periodic followup was made on pending cases, either to inform claimants that additional documentation was required or to continue processing claims for which the documents had been received. We believe that these deficiencies could be decreased if the Division: (1) established time frames and assigned specific responsibility for following up on pending cases and (2) periodically disseminated information on claim documentation requirements to employers and their employees.

Files To Be Closed. Generally, the only workmen's compensation cases that were closed were those that involved third party settlements, one-time benefit payments, and death benefits. In such cases, future processing would not be necessary by the Division. We reviewed 50 files waiting to be closed, 20 on St. Thomas and 30 on St. Croix. Some of the cases on St. Thomas had been in this status since 1973, and the average time to close such cases was 52 workdays in 1993 and 45 workdays in 1994. The processing of

cases to be closed was more timely on St. Croix, with average processing times of 30 workdays in 1993 and 18 workdays in 1994. However, in many cases, benefit payments to claimants or their beneficiaries were delayed significantly.

We found that although the Division had only seven claims adjusters to handle the approximately 5,000 claims received annually, the adjusters were responsible for all phases of the claims process. As a result, the adjusters were generally unable to give full attention to any specific duty. This contributed to the increased amount of time that elapsed before completed claims were processed. The Division's Acting Director told us that processing times could be reduced significantly if the office were organized more efficiently, with separate units assigned responsibility for different phases of the claims process. We believe that this suggestion warrants further review and consideration.

Rehabilitation Services

The Division of Workmen's Compensation established a Rehabilitation Unit in January 1993 to assist in returning injured workers to their jobs; act as a liaison between rehabilitation specialists, claimants, and the Division; and reduce the cost of continued claims. One rehabilitation coordinator was assigned to each island. The Division also hired two rehabilitation service firms and a home care provider to provide services to claimants. However, our review of the files disclosed that the Division did not solicit competitive proposals and did not have formal contracts with these businesses. This was in violation of Title 31, Chapter 23, Section 236, of the Virgin Islands Code, which requires purchases of goods and services to be based on competitive procurement procedures and purchases in excess of \$5,000 to be made by written contract. The rehabilitation service firms were paid about \$650,000 in 1993 and \$640,000 in 1994, and the home care provider was paid a total of about \$50,000 in 1994.

Permanent Disability Payments

Because the Division did not evaluate permanent disability cases and follow up on these cases on a timely basis, claimants received continuing permanent disability payments to which they may not have been entitled. We reviewed 24 permanent disability cases and found that the Division did not always follow up on medical evaluations or even require claimants to undergo such evaluations to determine whether their disability condition had changed. In one case, a claimant was paid almost \$150,000 in permanent disability benefits from 1970 until 1994, when a reevaluation by the Division resulted in the suspension of benefit payments. In another case, a claimant was paid more than \$66,000 in disability payments from 1982 until 1992, when a reevaluation disclosed that her back injury represented only a 5 percent impairment, which would have warranted lower disability payments. In these and other similar cases, more timely reevaluations might have saved the Government Insurance Fund many thousands of dollars in disability payments for injuries that were later determined not to be as debilitating as originally determined.

Recommendations

We recommend that the Governor of the Virgin Islands direct the Commissioner of Labor to:

1. Place a high priority on clearing those workmen's compensation cases that are active and pending and those that are to be closed, including the processing of payments of medical and other claim-related bills contained in those files.
2. Develop and enforce time frames for processing different types of claims, including followup of cases in which additional documentation is necessary to complete the case files.
3. Develop information on the processing of workmen's compensation claims and on documentation required for this processing and disseminate this information to employers and their employees. The Division and the Department of Licensing and Consumer Affairs should coordinate their efforts so that this information can be provided to all new business licensees.
4. Determine the feasibility and practicability of reorganizing the Division of Workmen's Compensation. If determined to be feasible and practicable, units should be established that have specific responsibility for items such as disseminating information to employers, handling new claims, following up on cases where additional documentation is required, and processing payments for cases in which eligibility for benefits has already been determined.
5. Submit requirements for rehabilitative service and home care to the Department of Property and Procurement so that formal contracts can be negotiated and executed for the Division of Workmen's Compensation in accordance with the requirements of Title 31, Chapter 23, of the Virgin Islands Code.
6. Establish time frames for the timely followup and reevaluation of rehabilitation cases to ensure that claimants are cleared to return to work as expeditiously as possible and of permanent disability cases to ensure that the amount of benefit payments is changed if the level of disability changes.

Department of Labor Response and Office of Inspector General Reply

The July 5, 1996, response (Appendix 2) to the draft report from the Commissioner, Department of Labor, expressed concurrence with Recommendations 1, 3, 4, and 6 and stated nonconcurrence (although the response indicates concurrence) with Recommendations 2 and 5. Based on the response, additional information is needed to resolve all of the recommendations (see Appendix 3).

Recommendation 1. Concurrence.

Department of Labor Response. The Department stated that, although it should place a high priority on clearing workmen's compensation cases, "without the proper personnel, this will be hard to accomplish." The Department did note, however, that it has "already begun to clear active, pending, and to be closed cases."

Office of Inspector General Reply. The Department needs to provide the information required in Appendix 3.

Recommendation 2. Nonconcurrency.

Department of Labor Response. Although the Department stated nonconcurrency, it said that the Division of Workmen's Compensation was in the process of developing a handbook which will include time frames for different types of claims, including following up on cases where additional documentation is necessary to complete the case files. The Department also said that the time frames will be emphasized during in-house training of Division employees.

Office of Inspector General Reply. Although nonconcurrency was stated, the Department's actions were sufficient for us to classify the recommendation as "management concurs." However, the Department needs to provide the information requested in Appendix 3.

Recommendation 5. Nonconcurrency.

Department of Labor Response. Although the Department stated nonconcurrency, it said that all future rehabilitative services would be contracted in compliance with Title 31, Section 236, of the Virgin Islands Code.

Office of Inspector General Reply. Although nonconcurrency was stated, the Department's actions were sufficient for us to classify the recommendation as "management concurs." However, the Department needs to provide the information requested in Appendix 3.

General Comments on Finding

The Department of Labor's July 5, 1996, response to the draft report was, except for a few minor revisions and added sentences, identical to a draft response that the Department provided to us at an exit conference held on March 20, 1996, to discuss a preliminary version of the report. After the exit conference, we made revisions to the report that we believed were appropriate based on the additional information provided by the Department. Therefore, some comments in the July 5, 1996, response were not applicable to the issued draft report because they had already been addressed. Other comments in the Department's response are addressed below.

Department of Labor Response. The Department did not concur with the section of the finding on the timeliness of processing claims, stating that “ [a]lthough some 5,000 cases were received annually, an examination of less than 100 cases from both islands was conducted” and that “ [o]ne cannot judge the entire case load of TTD [temporary total disability], PPD [permanent partial disability], TPD [temporary partial disability], PTD [permanent total disability], medical only (no lost time), back and internal injury cases, and superficial injury cases and the like, on the basis of one category.” The Department also stated:

If the entire functions of the agency were judged by cases involving back and internal injuries only, it would seem as if the division [of Workmen’s Compensation] was seriously lacking in its duties since these cases are the most complex cases Furthermore, these cases represent a very small percentage of the annual case load A generalized statement implying that the average case takes some two years to process is incorrect.

Office of Inspector General Reply. Statistical sampling is a generally accepted tool of the auditing profession that permits the development of conclusions about an entire population of items based on the review of a small number of items from that larger population. We believe that the Department’s response implies that we selected a small, biased sample of the most complex cases and based our overall conclusions on that biased sample. However, we used generally accepted sampling procedures to select a random sample of 202 (not “less than 100”) cases from the Department’s entire case load, including temporary total disability, permanent partial disability, temporary partial disability, permanent total disability, medical only, back and internal injury, and superficial injury cases from the active, pending, and closed files. In addition, we did not project the results of our sample to the Department’s entire case load but instead took the more conservative approach of restricting our conclusions to the cases sampled. For example, we stated, “For the 30 active case files reviewed on St. Thomas, the average processing time was 18 workdays in 1993 and 23 workdays in 1994.” Further, nowhere in the report do we conclude, as stated in the response, that “the average case takes some two years to process.” We stated that we found 30 cases that had unpaid hospital and other medical bills totaling \$15,500, “some of which had been unpaid for up to 2 years.” In another section of the finding, we also stated that we had “found instances in which. . . the files were in pending status for up to 2 years.”

Department of Labor Response. The Department stated that delays in processing certain claims and payments to health care providers occurred because “additional information was needed . . . to timely process the claims” and that “[t]he information was requested several times and never received” from the claimants. The Department also stated that “the burden of filing an insurance claim is on the claimant.”

Office of Inspector General Reply. The Department’s statements do not fully explain some of the processing delays we found. For example, cases were allowed to remain in “pending” status for up to 5 years without the Department taking action to either follow up with the claimants or close the cases because the claimants had not responded to requests

for additional information. In two cases, which were cited in the report, the claimants had provided the requested information, but the cases had remained in “pending” status for up to 2 years after receipt of the information. In other cases, the Department had not notified the claimants that additional information was needed to process their claims. Therefore, we believe that it was unreasonable to put the “burden” on the claimants in those cases. We further believe that the Department should routinely follow upon the status of “pending” cases to determine whether any further actions should be taken to finalize the cases or to close out cases where the Department has been unsuccessful, after reasonable attempts, in obtaining additional information needed to process the claims.

Department of Labor Response. The Department stated, “[T]he only payments that were low priority were the payments to the St. Thomas Hospital” and that, in those cases, low priority was given because the Hospital “sent [its] bills out late.”

Office of Inspector General Reply. Although some of the unpaid medical bills we found in the case files were for the St. Thomas Hospital, we also found unpaid bills from other health care providers. Some of these unpaid bills had been in the files for up to 2 years.

Department of Labor. The Department took issue with our statement that “on St. Croix, further delays [in the payment of medical bills] occurred because the Division [of Workmen’s Compensation] would not make benefit payments until disability claims forms were received from claimants, even though such forms were not needed for the payment of hospital and other medical bills.” In that regard, the Department stated that “medical reports are needed on file in order to award payment of bills submitted for payment” and that the agency “has in the past received bills which were not related to the kind or type of injury sustained by the claimant.”

Office of Inspector General Reply. The statement in our report was referring to unpaid medical bills that were related to the injuries sustained by the claimants and was based on a meeting between the auditors and the Acting Director of Workmen’s Compensation on May 3, 1995, to discuss our preliminary findings. During the meeting, the Acting Director stated that the bills under review “should have been paid already” but that it was the Division’s policy to wait until all paperwork related to each case was completed so that payments to health care providers and payments to the claimants could be processed at the same time. We believe that, in some of the cases reviewed, pending payments to health care providers were sufficiently documented to warrant processing, although additional documents were needed to process disability benefit payments directly to claimants.

Department of Labor Response. In response to our finding that the Department did not solicit competitive proposals and did not have formal contracts with rehabilitation service firms for services costing approximately \$1.3 million during fiscal years 1993 and 1994, the Department stated that “the expenditures [of \$1.3 million] . . . represented a projected savings of some 2.5 million dollars to the Government Insurance Fund” and that other disability cost savings resulted from the implementation of rehabilitation services.

Office of Inspector General Reply. We did not take issue with the effectiveness of the rehabilitation services but with the manner in which those services were procured. The projected cost savings would probably have been achieved if the Department had complied with the procurement regulations contained in Title 31, Chapter 23, of the Virgin Islands Code. In fact, the use of competitive procurement procedures may have allowed the Department to obtain the rehabilitation services at a cost lower than the \$1.3 million actually paid.

C. FUND ADMINISTRATION

The Office of the Government Insurance Fund did not ensure that revenues deposited into and expenditures paid from the Fund were authorized and properly recorded. Title 24, Chapter 11, Section 267, of the Virgin Islands Code states that salaries and administrative expenses of the Government Insurance Fund and the Division of Workmen's Compensation are to be paid from the Fund. Additionally, the Legislature has made annual appropriations from the Fund for the operating expenses of the Division of Occupational Safety and Health. However, because the Office of the Government Insurance Fund did not review Fund transactions and reconcile accounts, revenues of \$22,000 from sources other than workmen's compensation premiums were deposited into the Fund during fiscal years 1993 and 1994 and expenditures of about \$875,000 for programs other than those authorized by law were paid from the Fund during the same years.

Revenues

Revenues deposited into the Government Insurance Fund totaled \$7.4 million in fiscal year 1993 and \$6.8 million in fiscal year 1994. However, of these amounts, \$6.3 million in 1993 and \$4.6 million in 1994 were misclassified as "malpractice insurance" instead of "workmen's compensation insurance." Additional amounts of \$22,000 in 1993 and \$11,000 in 1994 were misclassified as "health insurance." Further, about \$9,000 in 1993 and \$13,000 in 1994 actually represented day care fees and therefore should not have been deposited into the Government Insurance Fund.

Expenditures

Although the Virgin Islands Code and legislative appropriations authorize the use of the Government Insurance Fund only for expenses of the Office of the Government Insurance Fund, the Division of Workmen's Compensation, and the Division of Occupational Safety and Health, expenses related to other programs were charged to the Fund.

The Department of Labor used the Fund to pay the salaries of full-time employees, the wages of summer employees, and administrative costs for units other than the Division of Workmen's Compensation. The personnel listing for the Division of Workmen's Compensation listed 28 employees during fiscal years 1993 and 1994. However, only 20 of these employees actually worked for the Division. The other eight employees included the Assistant Commissioner for St. Thomas/St. John Operations, an Administrative Law Judge, and a custodial worker. The salaries of the eight non-Workmen's Compensation employees totaled about \$207,000 in fiscal year 1993 and \$225,000 in fiscal year 1994. In addition, wages of summer employees, totaling more than \$226,000 for both fiscal years 1993 and 1994, were charged to the Government Insurance Fund, although these summer employees did not perform duties related to the Workmen's Compensation Program.

We also selected for review a sample of 31 nonpayroll transactions. Because source documents could not be located for 6 of the transactions, we actually reviewed only 25. Based on that review, we concluded that 15 transactions, totaling about \$217,000, were not related to the programs authorized to be paid from the Government Insurance Fund. Improper charges to the Fund included \$12,600 for telephone calls made by the Division of Unemployment; over \$10,500 for security guard service and \$29,500 for the rental of computers and the purchase of computer supplies for units other than the Division of Workmen's Compensation; \$4,300 for repairs to restrooms at the Department of Labor's offices on St. Croix; and \$4,200 for airline tickets for various Departmental officials.

Occupational Safety and Health Expenses

Although the Department of Labor's Division of Occupational Safety and Health is not a part of the Workmen's Compensation Program, the Legislature of the Virgin Islands has made appropriations annually from the Government Insurance Fund for operating expenses of that Division. These amounts are in addition to a fifty-fifty matching grant received from the U.S. Department of Labor for occupational safety and health programs. Because these grants and penalties assessed against businesses by the Division of Occupational Safety and Health were not routinely deposited into the Government Insurance Fund, workmen's compensation premiums paid by employers helped fund the Division of Occupational Safety and Health. Such amounts totaled \$585,000 in fiscal year 1993 and \$637,000 in fiscal year 1994.

In an August 1994 letter to the Commissioner of Finance, the Acting Director of the Government Insurance Fund recommended two options for correcting the funding problem related to the Division of Occupational Safety and Health. The Acting Director suggested that the Division continue to be funded through the Government Insurance Fund on the condition that the Federal grants and penalties received by the Division would be deposited into the Fund or that the Division would be funded from the General Fund with supplemental amounts from the Federal grant. At the time of our review, the method of finding the expenses of the Division of Occupational Safety and Health had not changed.

Recommendations

We recommend that the Governor of the Virgin Islands direct the Commissioner of Finance to:

1. Make necessary adjusting entries to properly classify revenues deposited into the Government Insurance Fund, including transferring, to the correct account, the day care fees that were incorrectly deposited into the Fund.
2. Provide instructions to Government collectors concerning the correct revenue and account codes to be used for revenues to be deposited into the Government Insurance Fund.

3. Evaluate, in coordination with the Commissioner of Labor, the two alternative courses of action recommended by the Acting Director of the Government Insurance Fund and take appropriate action to implement the alternative that better addresses the issue of equitable funding of the Division of Occupational Safety and Health.

4. Establish controls to ensure that only authorized expenditures of the Office of the Government Insurance Fund, the Division of Workmen's Compensation, and the Division of Occupational Safety and Health (until Recommendation 3 is implemented) are charged to the Government Insurance Fund.

We recommend that the Governor of the Virgin Islands direct the Commissioner of Labor to:

5. Take action necessary to ensure that only expenditures directly related to the Division of Workmen's Compensation and the Division of Occupational Safety and Health (until Recommendation 4 is implemented) are submitted to the Department of Finance for payment from the Government Insurance Fund.

Department of Labor Response and Office of Inspector General Reply

Recommendations 1-4 pertained to the Department of Finance. However, the July 5, 1996, response (Appendix 2) to the draft report from the Commissioner, Department of Labor, addressed all the recommendations, including a nonconcurrency with Recommendation 5, which was addressed to that department. Because the appropriate department did not respond to Recommendations 1-4 and the Department of Labor did not concur with Recommendation 5, all of these recommendations are considered unresolved (see Appendix 3).

Recommendation 5. Nonconcurrency.

Department of Labor Response. The Department stated, "Payroll and administrative work associated with the Division of Workers' Compensation is performed by personnel in other divisions, therefore the Division of Workers' Compensation must share in these expenses. "

Office of Inspector General Reply. In general, we agree with the Department's statement, but our review disclosed that the Division did not "share in" but paid the salary costs of \$430,000 in fiscal years 1993 and 1994 for eight non-Workmen's Compensation employees. If these employees provided services to other divisions within the Department of Labor, their salary costs should have been distributed to all applicable divisions on the basis of time distribution records. However, we also found that about \$226,000, which represented the wages of summer employees who did not provide services to the Workmen's Compensation Program, and about \$217,000, which was the amount of nonpayroll expenses not related to the Workmen's Compensation Program, were charged to the Program's Government Insurance Fund.

OTHER MATTERS

In October 1994, the Governor signed into law Act No. 6033, which represented an attempt by the Legislature of the Virgin Islands to make the Workmen's Compensation Program more efficient and effective by establishing a Workmen's Compensation Administration separate from the Department of Labor. However, as of December 1995, the Act had not been fully implemented, and the Division of Workmen's Compensation was still functioning as a unit of the Department of Labor.

Based on our review of the Act, we believe that the organizational change will not necessarily result in significant improvements in the Workmen's Compensation Program because certain issues were not addressed in the legislation. Specifically, the Act does not appear to address the following:

- The source of funding for a new Workmen's Compensation Board of Directors and other positions that will increase overall administrative costs.
- The issue of continually rising medical costs, which will also increase the overall costs of the Program.
- The sometimes unclear division of responsibilities between the Office of the Government Insurance Fund and the Division of Workmen's Compensation.
- The ineffectiveness of efforts to ensure compliance by private and Government employers with reporting and payment requirements for workmen's compensation insurance premiums.
- The establishment of internal controls to safeguard Government Insurance Fund resources that would be maintained in a separate bank account that would not be under the control of the Department of Finance.

In our opinion, the Government should revisit Act No. 6033, with consideration given to the findings and recommendations discussed in this report and the additional issues listed above.

CLASSIFICATION OF MONETARY AMOUNTS

Finding	Questioned costs	Unrealized Revenues
A. Insurance Premium Collections		
Delinquent Premiums		\$1,294,700
Assessment of Interest		2,000
Uninsured Employers		358,300
C. Fund Administration		
Expenditures	<u>\$875,000</u>	_____
Total	<u>\$875,000*</u>	<u>\$1,655,000*</u>

* These amounts represent local funds.



**THE VIRGIN ISLANDS OF THE UNITED STATES
DEPARTMENT OF LABOR**

#2131 Hospital Street
Christiansted, St. Croix V. I. 00820-4660

(809) 773-1994
(809) 776-3700
Office of the Commissioner

July 5, 1996

The Honorable Wilma Lewis
Inspector General
Office of the Inspector General
Charlotte Amalie, V.I. 00802

**Subject: Draft Audit Report on the Workers' Compensation Program,
Government of the Virgin Islands (Assignment No. V-IN-VIS-001-95)**

Dear Inspector General Lewis:

The Draft Audit Report on the Workers' Compensation Program was reviewed and the Department's response is as follows:

PRIOR AUDIT COVERAGE

Non-concurrence, In the early 1980's, Mr. Gary Kin, of the Office of the Inspector General, audited the Government Insurance Fund. The Workers' Compensation Division, District Directors of St. Croix and St. Thomas worked with Mr. Kin.

A. INSURANCE PREMIUM COLLECTIONS

Non-Filing Employers

Concur. The duties under 24 V.I.C. Section 272(a) apply to the Government Insurance Fund,

Delinquent Premiums

Concur. The Commissioner of Finance under 24 V.I. C. Section 277(c) is empowered to collect delinquent premiums.

Assessment of Interest

Concur. The Commissioner of Finance under 24 V.I. C. Section 277(c) is authorized to assess interest.

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Uninsured Employers

Nonconcurrency. Under 24 V.I.C. Section 277(c), "The Commissioner of Finance is hereby authorized and empowered to,, levy penalties . . . on every employer affected by this chapter. "

Under 24 V.I.C. Section 261(a)(2) the Commissioner shall collect compensation, expenses and a penalty. The Workers Compensation Division has complied with the law by preparing orders which indicate the total amount due, plus a 30% penalty. The law does not provide that the Commissioner of Labor can bring an action in court, only the Commissioner of Finance can do so under, 24 V.I.C. Section 277(d). As such, the Division should notify the Commissioner of Finance of the amounts due by the uninsured employers and request that the Commissioner of Finance institute an action in court through the Attorney General's Office. In summary it is our position that the Administrator of Workers' Compensation has the duty to collect unisured benefits paid out plus a penalty, however, it is the Commissioner of Finance who must proceed with an action for collection enforcement if the employer does not pay.

Effective immediately, by order, the Division will collect reimbursement of accumulated leave due to an insured employer, who in the past was uninsured, to be credited into the Uninsured-Employer Cases Fund.

The Division will follow the mandates of the opinion of the Attorney General requested by the Commissioner of Finance.

Recommendations

1. Concur. All employers who are not exempted by law should be required to pay premiums into the Government Insurance Fund.

2. Concur, The assessment of interest and the collection of outstanding premium balances must be enforced.

3. Nonconcurrency. 24 V.I.C. Section 277(c)&(d) provides:

(c) The Commissioner of Finance is hereby authorized and empowered to assess and levy penalties and late charges on every employer affected by this chapter, If an employer defaults in the payment of a premium in whole or in part within the term legally fixed by the Commissioner of Finance the outstanding balance shall bear interest at the rate of one percent (1%) per month, or any fraction thereof, from the due date until payment is received by the' Commissioner of Finance and the outstanding balance and interest will be

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levied upon including a lien on all property, if necessary, and such employer's compliance with the provisions of this chapter requiring payment to be made to the Government Insurance Fund shall date from the time of payment of said money to the Government Insurance Fund.

(d) Upon the written request of the Commissioner of Finance, the Attorney General, in addition to the other remedies provided in this chapter; may institute an action in any court of competent jurisdiction to enjoin any such delinquent employer from conducting his business until the outstanding balance, all interest thereon, and all penalties have been paid in full.

It is our position that the legislature has specifically dictated that the Department of Finance is the appropriate agency to enforce collection of delinquent premiums and penalties, and assess interest, as required by law, however, we will follow the mandates of the opinion of the Attorney General, as requested by the Commissioner of Finance.

B. CLAIM PROCESSING AND BENEFIT PAYMENTS

Timeliness of Claims Processing

Active Files

Nonconcurrency. The audit stated that the function of Workers' Compensation is "to receive and investigate workers' compensation claims and provide benefits to qualified injured employees". To be more correct, the function of Workers' Compensation is to receive and evaluate claims and to authorize payment of benefits to qualified claimants after the filing of a proper claim.

Although some 5,000 cases were received annually, an examination of less than 100 cases from both islands was conducted. It should be emphasized that each case is unique by itself, This does not mean that all 5,000 cases must be investigated, however; there are different categories and each category should be investigated..

One cannot judge the entire case load of TTD, PPD, TPD, PID, medical only (no lost time), back and internal injury cases, and superficial injury cases and the like, on the basis of one category. If the entire functions of the agency were judged by cases involving back and internal injuries only, it would seem as if the division was seriously lacking in its duties since these cases are the most complex cases in any Workers' Compensation System. Furthermore, these cases represent a very small percentage of the annual case load, they are also the bulkiest of the lot. A generalized statement implying that the average case takes some two years to process is incorrect.

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There is a delay in the processing of certain claims and payments to health care providers, however; although no written criteria exists (draft audit report page 13) for timely processing a re-evaluation of cases, it should be noted that most of the cases were lost time cases, and additional information was needed in order to timely process the claims. The information was requested several times and never received. Also, rules and regulations were devised 4 years ago to address this situation. This criteria protects the claimant as well as the agency. The long delays are largely due to misinformation, incomplete documents, non work related injuries, and untimely reporting of injuries as required by law. It should also be noted that the burden of filing an insurance claim is on the claimant.

The St. Thomas-St. John Workers' Compensation Division, is presently in the process of reviewing and making determinations in cases that have been pending since 1993 and 1994. Presently they are working towards processing complete cases within 15 work days or less from the date that the last document is received to be considered a complete case. In some instances, it may take less than 15 working days, if all required documents have been received. Due to the complexity of some cases, additional information may be required. When additional information is required from a claimant, a Workers' Compensation memorandum is sent requesting the required information within ten (10) days (Exhibit "A"). Likewise, when additional information is required from the Health Care Provider, a memorandum is sent, requesting that information (Exhibit "B"). In both cases, a second and later a final notice is mailed out.

There is not enough priority on the payment of medical bills. This has been an ongoing concern of the agency for many years. It is merely a matter of sufficient personnel to accomplish these tasks in a timely fashion. In the past the staff has worked on weekends & holidays in order to delete the backlog of the processing of payment of medical bills. A memorandum was submitted to the Commissioner on February 29, 1996, requesting overtime (see attached memo) to process medical bills. This request was granted. Outstanding bills that were filed in the Short Order File are being processed.

In St. Thomas, the only payments that were low priority were the payments to the St. Thomas Hospital. The St. Thomas Hospital for a number of years sent their bills out late. It took years before the Workers' Compensation Division received bills from the St. Thomas Hospital. A memorandum was submitted to the Commissioner in May 1996 requesting overtime for the St. Thomas staff to process medical bills. This request is under review to determine if sufficient funds exist. The hospital waited until the summer to send stacks of bills that went back two to four years. On St. Croix the hospital also sent bills out in an untimely manner.

Pending Files

Concur. The Division has requested additional personnel, which the Governor has approved.

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Units will be set up to address specific issues. A time frame will be set to request necessary documents, and a specific Unit will be responsible for (1) following up on pending cases, and (2) periodically disseminating information on claim documentation requirements to employers and their employees.

The establishment of distinct units to operate different functions has been repeatedly submitted and recommended, in the past. See attached memorandum dated November 30, 1994. The recommendation is presently under review. It is noted that the agency has only 7 Claims Adjusters to handle some 5,000 claims annually, The Claims Adjusters are responsible for all the aspects of the claims process. This a massive case load per person for such a complex system.

The pending files in St. Thomas-St. John are presently in the process of being reviewed to determine the status of each case. If all necessary documents are in order, the case will be assigned to a claims adjuster for processing. If additional information is required a memo will be forwarded to the claimant. The pending file will be routinely followed-up on hi-monthly basis.

Files to Be Closed

Concur. The Division has requested additional personnel, which the Governor has approved. Additional staff will cut down on the length of time involved in closing a case. Some of the cases that are awaiting closure are being forwarded to the Hearings & Appeal Unit, for a formal hearing and disposition, before the Administrative Law Judge.

Nonconcurrency. The statement that "on St. Croix further delay occurred because the Division held up benefit payments for medical claims forms to be received, although such forms were not relevant to the payment of hospital and other medical bills is incorrect. Medical reports are needed on file in order to award payment of bills submitted for payment. The Agency has in the past received bills which were not related to the kind or type of injury sustained by the claimant. Bills for illnesses and injuries which are not work-related are received by the agency on a weekly basis. Lost time cases files for Fiscal Year 1993, 1994 & 1995 were evaluated and all legitimate bills were processed for payment since the audit was conducted, All complete cases for Fiscal Year 1993, 1994 & 1995 were processed for payment of medical and disability benefits.

Rehabilitation Services

In compliance with 31 V.I.C. Section 236, all rehabilitation services, will be contracted (see letters issued to providers and the responses thus far).

The expenditures of \$650,000, in 1992 and \$640,000, in 1993, represented a projected savings of

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some 2.5 million dollars to the Government Insurance Fund, See enclosed Closure Reports from CRA, Inc. Other reports are available upon demand, Also, there was a decrease in overall expenditures in paid out claims between 1992 and 1993 for the first time in many years. This has been attributed to implementation of rehabilitation services.

At a May 15, 1996 meeting with Clark, the Director requested that an objective standard be used to determine savings, as indicated in the March 27 Audit meeting.

Permanent Disability Payments

A continuing time frame will be set up to follow up the status of permanent disability cases. In St. Thomas-St. John, twenty-four (24) cases that are permanent disability cases had been evaluated and have been found to be permanently totally disabled due to their work related injuries, These cases do not require follow-up medical care or further evaluation, hence they have been placed on Workers' Compensation "Payroll" status. Presently the agency requires that a form regarding the status of permanent total disability (PTD) be completed and returned to the agency. In some instances, claimants are required to submit this form on a quarterly basis or semi-annual basis. See Exhibit "C". Claimants will be required to submit medical reports from their attending physician on a quarterly basis (see Form). Attached is a list of the 24 permanent total disability cases, George Henry is on PTD because of special legislation, others are permanently disabled due to "age, past experiences and disability" such as Louis Parrott, Bennurin Stephens, in accordance with Phillip v. Government, D.C.V.I. 1981, 18 V.I. 269, and another, Kenneth Beale due to an opinion of the Attorney General. Carlos Acosta was sent for a reevaluation of his back injury, in May 1996.

Regarding the re-evaluation of pending files resulting in many cases of PPD claims being discontinued begun some 4-5 years ago by the District Director of St. Croix, Eighty-Nine (89) claimants were receiving continuous income benefits. All cases were evaluated in an attempt to curtail the unwarranted expenditures as well as illegal claims on both St. Thomas and St. Croix. This has represented an uncalculated amount of savings in projected payments. There was a drastic reduction in payroll recipients.

Recommendations

Concur. The Department should place a high priority on the clearing of the Workers' Compensation cases currently inactive. It must be emphasized that without the proper personnel, this will be hard to accomplish.

The concern to develop and enforce the time frames for processing claims has been addressed, in the rules and regulations which have not been promulgated. The District Director has set up a system to address the delay in processing claims, by the Claims Adjusters.

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The information package has been devised and in some respects disseminated, however; without the Benefit Review Unit, it will not be a fully operational until the steps are taken to put it into effect.

1. Concur. The Division has already begun to clear active, pending status, and to-be-closed cases.
2. Nonconcurrency. The public, employers, and employees received pamphlets and posters which were devised for that purpose of dissemination of information. See attachments, The agency also conducted Workers' Compensation Educational Conferences during the years of 1993 and 1994. The public was notified of the conference via television, radio, newspaper and fax.

The Division is in the process of developing a handbook. The handbook will include a time frame for processing different types of claims, including following up on cases where additional documentation is necessary to complete the case files. In addition to the handbook, and during the period that the handbook is being prepared, the Division will emphasize the time frames during in-house training, to be conducted tentatively on June 7-8, 1996.

3. Concur. Act 6033 provides for a Benefit Review Coordinator whose duties will to disseminate Workers' Compensation information to employers and employees. A request for additional personnel was approved by the Governor and the Division of Personnel is presently working on this position, The Coordinator will also coordinate with the Department of Licensing and Consumer Affairs to provide such information to new business licensees.

4. Concur. The Division has requested additional personnel, which was approved by the Governor. The Division will then be organized into specific units with specific responsibilities.

5. Nonconcurrency, Addressed above.

6. Concur, The Division has requested a Rehabilitation Coordinator for each island, which has been approved by the Governor, Time frames will be set so that this person will coordinate with Human Services to ensure that claimants are cleared to return to work as expeditiously as possible. A time frame will be set so that the Benefit Review Coordinator will ensure that the amount of benefit payments are changed if there is a change in the level of disability.

C. FUND ADMINISTRATION

Revenues

Concur. The incorrect deposit of revenues should be adjusted.

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Expenditures

Nonconcurrency. Payroll and administrative work associated with the Division of Workers' Compensation is performed by personnel in other divisions, therefore the Division of Workers' Compensation must share in these expenses.

Occupational Safety and Health Expenses

Concur. One of the recommendations of the Director of the Government Insurance Fund will be set in place to correct the finding problem related to the Division of Occupational Safety and Health, and this matter is pending before the Office of Management & Budget.

Recommendations

1. Concur, Entries should be adjusted to correctly classify revenues deposited into the Government Insurance Fund.
2. Concur. Instruction should be provided to Government collectors concerning the correct revenue and account codes of the Government Insurance Fund.
3. Concur. Controls should be established to ensure that only authorized expenditures are charged to the Government Insurance Fund.
4. Concur. Implement the alternative that better addresses the issue of equitable finding of the Division of Occupational Safety and Health. The past practice in effect under the old administration of submitting expenditures not directly related to the Division of Workers' Compensation and the Division of Occupational Safety and Health, is presently under review by the Office of Management & Budget.

OTHER MATTERS

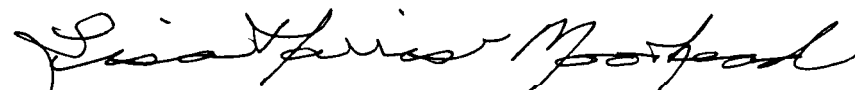
- Concur. The funding of a new Workers' Compensation Board of Directors will increase administrative costs.
- Concur. Rising medical costs will increase overall costs of the program.
- Concur. Specify which Commissioner is responsible for each section of the law

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- Concur. Review law to give effective language to ensure compliance by private and Government employers with workers' compensation insurance premium reporting and payment requirements.

- Concur. Establish internal controls to safeguard Government Fund resources that should be maintained in a separate bank account not under the control of the Department of Finance.

Sincerely,



Lisa Harris-Moorhead
Commissioner

LHM:JE:je

cc: Caribbean Regional Office
Federal Building, - Room 207, St. Thomas

STATUS OF AUDIT REPORT RECOMMENDATIONS

Finding/Recommendation Reference	Status	Action Required
A.1-A.4	Unresolved.	The Governor of the Virgin Islands should provide a response to each recommendation. If concurrence is indicated, an action plan that includes target dates and titles of officials responsible for implementation should be provided. If nonconcurrence is indicated, specific reasons for the nonconcurrence should be provided.
B.1	Management concurs; additional information needed.	The Department of Labor should provide documentation showing that active, pending, and to-be-closed workmen’s compensation cases have been brought up to date.
B.2	Management concurs; additional information needed.	The Department of Labor should provide a copy of the Division of Workmen’s Compensation new handbook and documentation of in-house training that emphasizes time frames for processing claims.
B.3	Management concurs; additional information needed.	The Department of Labor should provide documentation showing that the Benefit Review Coordinator position has been filled and that a public information program has been implemented.

Finding/Recommendation Reference	Status	Action Required
B.4	Management c o n c u r s ; additional information needed.	The Department of Labor should provide documentation showing that the planned reorganization of the Division of Workmen's Compensation has been accomplished.
B.5	Management c o n c u r s ; additional information needed.	The Department of Labor should provide copies of contracts for rehabilitation services issued in compliance with Title 31, Chapter 23, of the Virgin Islands Code.
B.6	Management c o n c u r s ; additional information needed.	The Department of Labor should provide documentation showing the time frames established for the Rehabilitation Coordinator and the Benefit Review Coordinator for the review of disability cases.
C.1-C.5	Unresolved.	The Governor of the Virgin Islands should provide a response to each recommendation. If concurrence is indicated, an action plan that includes target dates and titles of officials responsible for implementation should be provided. If nonconcurrence is indicated, specific reasons for the nonconcurrence should be provided.

**ILLEGAL OR WASTEFUL ACTIVITIES
SHOULD BE REPORTED TO
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