



U.S. RAILROAD RETIREMENT BOARD

## OFFICE OF INSPECTOR GENERAL

# The Railroad Retirement Board Disability Programs Do Not Effectively Consider Fraud Risk Indicators in the Disability Decision Process

Report No. 19-16

September 27, 2019



***The Railroad Retirement Board Disability Programs Do Not Effectively Consider Fraud Risk Indicators in the Disability Decision Process***

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## **What DP George & Company Found**

DP George & Company (DP George) determined that the Railroad Retirement Board's (RRB) disability programs do not effectively consider fraud risk indicators in the disability decision process. RRB has not designed a control process that effectively uses preventive control measures to mitigate the potential for fraud and abuse within the program.

## **What DP George Recommends**

To address the weaknesses identified in this audit, DP George made three recommendations. The first recommendation was to define definitive fraud risks within the disability programs based on a comprehensive fraud risk assessment. The second recommendation was to use the fraud risks identified to establish a scoring or other process for determining those applications where a higher risk of fraud or abuse occurring exists, and the third recommendation was to establish additional supervisory review and documentation protocols to ensure that decisions for higher risk applications are sufficiently reviewed and consistently documented to reflect the basis for the decision.

RRB management did not concur with any of the three recommendations.

## **What We Did**

The Office of Inspector General (OIG) for the RRB engaged DP George to conduct a performance audit of a statistically valid sample of disability decisions in fiscal years 2016 to 2018. This audit was conducted in accordance with the performance audit standards established by Generally Accepted Government Auditing Standards. DP George is responsible for the audit report and the conclusions expressed therein. RRB OIG does not express any assurance on the conclusions presented in DP George's audit report.

The objective was to review a statistically valid sample of disability decisions in fiscal years 2016 to 2018 to assess the potential for fraud and abuse, and identify fraud indicators against the RRB's disability programs. In order to complete this work, DP George identified criteria in laws, regulations, and best practices, identified applicable RRB policies, procedures, and gained an understanding of types of disability claims at the RRB. DP George also interviewed applicable agency staff, selected and tested a statistically valid sample of disability decisions.

The scope of the audit covered all approved and denied disability decisions in fiscal years 2016 to 2018.



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Board Disability Programs do  
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## EXECUTIVE SUMMARY

September 25, 2019

Mr. Martin Dickman, Inspector General  
Railroad Retirement Board  
Office of Inspector General  
844 North Rush Street  
Chicago, IL 60611-1275

Dear Mr. Dickman,

DP George & Company, LLC (DPG) audited a statistically valid sample of the Railroad Retirement Board's (RRB's) disability decisions against RRB's policies, procedures, the General Accountability Office (GAO) internal controls guidance, and GAO's *A Framework for Managing Fraud Risks in Federal Programs* to assess the potential for fraud and abuse and to identify fraud indicators against the RRB's disability programs. Performance against these criteria is the responsibility of RRB's management. DPG's responsibility is to make a determination regarding RRB's performance against the criteria.

DPG conducted the audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States (2011 Revision, as amended). Those standards require that DPG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings, conclusions, and recommendations based on the audit objective. The stated objective for our audit was to:

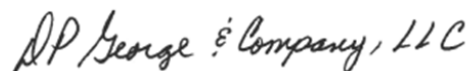
Review a statistically valid sample of disability decisions in fiscal years 2016 to 2018 to assess the potential for fraud and abuse, and identify fraud indicators against the RRB's disability programs.

The evidence obtained provides a reasonable basis for DPG's findings, conclusions, and recommendations based on the audit objective.

Based on the test work performed, our audit determined that the RRB's disability programs do not effectively consider fraud risk indicators in the disability decision process. The detailed finding for the audit is presented in the Audit Results section of this report.

We appreciate the cooperation and assistance extended by RRB and the OIG staff during the audit.

Sincerely,



DP George & Company, LLC  
Alexandria, Virginia

## OBJECTIVE(S), SCOPE, AND METHODOLOGY

The objective of the audit was to review a statistically valid sample of disability decisions in Fiscal Years (FYs) 2016 to 2018 to assess the potential for fraud and abuse, and identify fraud indicators against the Railroad Retirement Board's (RRB's) disability programs.

To accomplish our objective, we:

- identified criteria provided in applicable laws, regulations, and best practices related to RRB's disability program;
- identified and reviewed applicable RRB policies and procedures related to RRB's disability program and disability determination process;
- gained an understanding of the four types of disability claims: Occupational Disability, Total & Permanent Disability, Disabled Widow, and Disabled Child;
- interviewed applicable RRB management and disability staff; and
- selected and tested a statistically valid sample of disability decisions to assess the potential for fraud and abuse, and indicators of fraud against the RRB's disability programs.

We assessed the reliability of the disability decisions data received by: 1) gaining an understanding of how the data was generated and reviewing the corresponding data queries, 2) comparing the data received against comparable listings generated for each of the individual fiscal years tested, and 3) making inquiries of agency officials knowledgeable about the data. We determined that the data was sufficiently reliable for the purposes of our findings, conclusions, and recommendations.

The scope of our audit covered all approved and denied disability decisions in FY 2016 to FY 2018.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings, conclusions and recommendations based on the audit objective. We believe that the evidence obtained provides a reasonable basis for our findings, conclusions and recommendations based on our audit objective.

We conducted our fieldwork from October 2018 through August 2019. During our audit, we performed site visits to RRB headquarters in Chicago, Illinois in October 2018, April 2019, and June 2019.

## BACKGROUND

The RRB administers the retirement, survivor, unemployment, and sickness programs mandated by the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA). The RRA provides for payment of retirement benefits based on age and service in the railroad industry and to those who are permanently disabled from work in their regular railroad occupation or who are totally disabled from any regular employment.

Under the RRB disability program, the RRB approves and processes payments in support of total and permanent, and occupational disabilities. A total and permanent disability annuity is based on permanent disability for all employment and is payable at any age to employees with at least 10 years of railroad service, and under certain conditions to employees with 5 years of service after 1995.

An occupational disability annuity is based on disability for the employee's regular railroad occupation and is payable at age 60 if the employee has 10 years of service, or at any age if the employee has at least 20 years of service. A "current connection with the railroad industry" is also required for an occupational disability annuity. The current connection requirement is normally met if the employee worked for a railroad in at least 12 of the last 30 consecutive months immediately preceding the annuity beginning date.

## AUDIT RESULTS

Our audit determined that the RRB's disability programs do not effectively consider fraud risk indicators in the disability decision process.

We provide three recommendations aimed at addressing this weakness.

### **Finding #1:** The RRB Disability Decision Process Lacks Preventive Controls to Adequately Address Fraud Risk Indicators

We conducted a fraud risk assessment using statistical sampling methodologies of 97 total and permanent, occupational disability, disabled widow, and disabled child annuity applications approved between FY 2016 and FY 2018 (See Appendix II) and found that:

- 27 disability applications (6 total and permanent, 20 occupational, and 1 widow) contained one or more indicators that the application was at higher risk for fraud or abuse to occur.
- 70 disability applications (30 total and permanent, 25 occupational, 1 widow, and 14 child applications) did not contain any fraud indicators or those indicators were reconciled prior to approval. In most instances, these applications were very clear, and the disability was well documented with consistent medical findings.

The fraud and abuse indicators identified by DPG consisted of:

- medical conditions that were difficult to objectively diagnose (including decisions based on pain);
- discrepancies between the multiple medical reports in the file, particularly with respect to Residual Functional Capacity (RFC);
- medical opinions noting a lack of objective findings within one or more of the medical support files;
- inconsistencies in vocational information;
- files lacking appropriate medical support; and
- unusual circumstances such as unsatisfactory work performance or unethical behavior.

DPG also noted that the Disability Claims Manual (DCM), Chapter 8, Section 8.8.2 Elements of Fraud identifies an additional 17 indicators of potential fraud or abuse that should be considered when reviewing applications. The RRB also flags high risk doctors through its Disability Tracking of Physicians and Patterns (DTOPP) process.

DPG observed no risk scoring or checklist tools within the disability decision process that consider the indicators above or other fraud risk indicators as a means of assessing higher risk disability cases.

While RRB clearly understands that there are potential indicators to identify applications at higher risk for fraud and abuse, it has not designed a control process that effectively uses preventive control measures to mitigate the potential for fraud and abuse within the program. The process for reviewing and approving a disability

decision with no fraud risk indicators is essentially the same as it is for a decision with multiple risk indicators, thereby increasing the opportunity for fraud or abuse to occur.

The Standards for Internal Control in the Federal Government require management to assess fraud risk to consider the types of fraud that can occur within the entity, identify potential fraud risk, and develop responses so that fraud risks are effectively mitigated.

The GAO document, *A Framework for Managing Fraud Risks in Federal Programs*, also establishes leading practices for fraud risk management. Leading Practice 3.2 provides that agencies should focus on fraud prevention over detection and response to avoid a “pay-and-chase” model, to the extent possible.

## RECOMMENDATIONS

We recommend that the Office of Programs/Disability Benefits Division:

1. define definitive fraud risks within the disability programs based on a comprehensive fraud risk assessment,
2. use the fraud risks identified to establish a scoring or other process for determining those applications where a higher risk of fraud or abuse occurring exists, and
3. establish additional supervisory review and documentation protocols to ensure that decisions for higher risk applications are sufficiently reviewed and consistently documented to reflect the basis for the decision.

## MANAGEMENT’S COMMENTS

The Office of Programs/Disability Benefits Division did not concur with the three recommendations resulting from our audit. While they agreed with the intent of Recommendation 1, they believe that the 17 fraud indicators listed in the DCM Chapter 8, best practices for examining disability claims contained in DCM 8.8.2, and additional guidance contained in the Code of Federal Regulations are sufficient to allow examiners to detect and prevent potential fraud during the disability adjudication process.

For Recommendation 2, the Office of Programs/ Disability Benefits Division indicated that it believes the Code of Federal Regulations guidance on the adjudication of disability claims combined with a list of potential scenarios in DCM 8, and fraud awareness training performed twice a year provide sufficient guidance for processing cases, including “high risk” cases.

For Recommendation 3 the Office of Programs/Disability Benefits Division highlighted the review of all initial disability applications by a post examiner and instructions in DCM 8.8.2 regarding referral of cases to managers when there are questions about the elements of fraud. Management believes this guidance combined with instructions to examiners to notify management officials when they identify patterns of fraud allow for sufficient review within the existing process.

## DPG RESPONSE

DPG disagrees with management’s responses to the recommendations. It was evident in our review of the disability decision files we sampled, that certain medical conditions are more difficult than others to objectively diagnose and therefore result in the use of greater judgement on the part of the disability examiner. It was also evident from our testing and our review of disability program procedures that indicators exist to identify cases that are at higher risk for fraud, waste, or abuse. Our recommendations focused on strengthening the existing



process by establishing a strong risk assessment and response structure within the disability decision process. The benefit of incorporating a better defined risk assessment structure within the disability decision process is that it defines for examiners which risks are more significant than others and establishes a consistent response process based on the severity of the risks identified. While the current process lists potential risks and advises how those should be handled, it does not establish required steps designed to continually identify and respond to the risk of fraud, waste, or abuse occurring within the disability programs.

**DPG response regarding Recommendation 1.** While the guidance listed by RRB provides procedures for processing disability decisions in accordance with the rules and identifies potential fraud indicators, it lacks an assessment as to the severity of each fraud indicator and does not address the potential for new risks. Identifying the indicators without providing context for which indicators may be more severe or create higher risk introduces additional judgement on the part of the examiner when making the determination as to whether upper management needs to review the case for fraud, waste, or abuse.

**DPG response regarding Recommendation 2.** Highlighting potential scenarios for fraud and providing fraud training, while an important starting point, are not the same as developing a consistent process for scoring and assessing cases where higher risk exists. An established scoring process based on an evaluated ranking of risks reduces the element of judgement involved with identifying higher risk cases and allows RRB to target those cases at higher risk by developing corresponding documentation and review procedures that are tailored to the risks identified.

**DPG response regarding Recommendation 3.** The existing post examiner review process is applied to all cases and relies on the judgement of both the examiner and reviewer to determine if there are higher fraud risk factors present in the case and how those should be considered. The instructions and guidance to raise fraud concerns to management officials still leave final determination to the examiner. Adding review procedures and documentation protocols that are designed to specifically address higher risk cases builds consistency into the review process and limits the influence of judgment by defining the highest risk scenarios and developing standard mitigation responses.



UNITED STATES OF AMERICA  
**RAILROAD RETIREMENT BOARD**  
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CHICAGO, ILLINOIS 60611-1275

**OFFICE OF PROGRAMS**

September 20, 2019

Mr. Michael Smith  
DP George & Company, LLC  
Alexandria, Virginia

Re: **Audit – Railroad Retirement Board (RRB) Audit of Disability program Disability Decisions**

Dear Mr. Smith:

We have reviewed your findings concerning the above-referenced audit, the stated purpose of which was to review a statistically valid sample of disability decisions in fiscal years (FYs) 2016 to 2018 to assess the potential for fraud and abuse, and identify fraud indicators against the RRB's disability programs.

The fraud and abuse indicators identified by DPG consisted of:

- medical conditions that were difficult to objectively diagnose (including decisions on the basis of pain),
- discrepancies between the multiple medical reports in the file, particularly with respect to residual functional capacity (RFC),
- medical opinions noting a lack of objective findings within one or more of the medical support files,
- inconsistencies in vocational information,
- files lacking appropriate medical support, and
- unusual circumstances such as unsatisfactory work performance or unethical behavior.

You recommended that the Office of Programs Disability Benefits Division:

1. define definitive fraud risks within the disability programs based on a comprehensive fraud risk assessment,
2. use the fraud risks identified to establish a scoring or other process for determining those applications where a higher risk of fraud or abuse occurring exists, and
3. establish additional supervisory review and documentation protocols to ensure that decisions for higher risk applications are sufficiently reviewed and consistently documented to reflect the basis for the decision.

**RECOMMENDATION 1:** Define definitive fraud risks within the disability programs based on a comprehensive fraud risk assessment.

**RESPONSE:** *Non concur.*

While the Office of Programs concurs with the intent of the recommendation, the RRB embarked on a project to identify fraud risks several years ago. Disability Claims Manual (DCM), Chapter 8 identifies 17 indicators of potential fraud, in addition to those listed above. DCM 8.8.2 also provides best practices for examining disability claims to help detect and prevent fraud. Scenarios and examples are provided to assist examiners in assessing responses to questions asked during the disability adjudication process. In addition, the Code of Federal Regulations provides detailed guidance to examiners on the adjudication of disability of claims.

**RECOMMENDATIONS 2:** use the fraud risks identified to establish a scoring or other process for determining those applications where a higher risk of fraud or abuse occurring exists.

**RESPONSE:** *Non Concur.*

The Code of Federal Regulations provide detailed guidance on the adjudication of disability claims. Policies and procedures that are in place provide examiners with detailed instructions on the adjudication process. DCM Chapter 8 provides examiners with a list of potential scenarios to consider in processing the cases, including those that would fall under the category of “high risk.” Finally, disability examiners are required to go through fraud awareness training twice a year.

**RECOMMENDATION 3:** establish additional supervisory review and documentation protocols to ensure that decisions for higher risk applications are sufficiently reviewed and consistently documented to reflect the basis for the decision.

**RESPONSE:** *Non Concur.*

All initial disability applications are reviewed by a post examiner prior to authorization. Additionally, DCM 8.8.2 instructs examiners to refer cases to managers for guidance when there are questions about elements of fraud. Examiners are instructed to notify management officials when they identify patterns of fraud. Therefore, we believe that the current procedures address this recommendation. Finally, I placing our analysis of the cases you reviewed in the shared drive.

Sincerely,

CRYSTAL  
COLEMAN

Digitally signed by CRYSTAL  
COLEMAN  
Date: 2019.09.20 16:07:06  
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Crystal Coleman  
Director of Programs

**Appendix II: Statistical Sampling  
Statistical Sampling Methodology and Results  
Disability Decisions  
Fiscal Year (FY) 2016 through FY 2018**

This appendix presents the methodology and results for the sample testing of disability decisions from Fiscal Year (FY) 2016 through FY 2018. We selected a statically valid random sample of disability decisions.

**Sampling Objective**

The sampling objective for the audit is to select a statistically valid sample of disability decisions in FY 2016 through FY 2018 to assess the potential for fraud and abuse, and identify fraud indicators against the RRB's four disability programs (Total and Permanent, Occupational, Disabled Widow, and Disabled Child).

**Scope**

Our sample was selected from all disability decisions in FY 2016 through FY 2018.

**Universe/Sampling Unit**

The sampling universe consisted of 6,409 disability decisions completed for FY 2016 through FY 2018. The sampling unit was one disability decision.

**Sample Selection Methodology**

We used attribute estimation sampling using a presumed universe error rate of 10 percent, desired maximum precision of 5 percent, and desired confidence level of 90 percent, which directed a sample size of 97 disability decisions.

**Sample Evaluation Methodology**

For each disability decisions, we obtained and reviewed the following documents in order to accomplish our sampling objectives:

- Initial Application (Form AA-1 and AA-1D)
- Field Office Personal Observation Record (Form G-626A)
- Activities of Daily Living Form
- Completed Medical Assessment and related Medical Evidence (Form G-250)
- Vocational Report (Form G-251)
- Completed Job Information Form (Form G-251A)
- Medical Exam Order(s)
- Medical Exam Report(s)
- Medical Evidence
- Medical Consultant Opinion (Form G-137 SUP)
- Disability Briefing Document (Form G-325B)
- Disability Decision Rationale (Form G-325-1)
- Disability Claim Decision Letter (Form RL-121F), and
- Other Disability Claim File Documentation as Necessary.

## Results of Review

Our review identified 27 disability decisions (6 total and permanent, 20 occupational, and 1 widow) that contained one or more indicator that the application was at higher risk for fraud or abuse to occur. Table 1 below presents the results in detail.

**Table 1. Disability Sample Results**

<b>Identified Fraud Risk Factor</b>	<b>Sample Number Tested</b>	<b>Exceptions Observed in Sample*</b>
Condition is Difficult to Objectively Diagnose.	97	25
Inconsistencies between Medical Reports and Opinions.	97	17
Lack of an Objective Medical Finding.	97	11
Inconsistencies with Vocational Information.	97	4
Files Lacking Appropriate Medical Support	97	1
Unusual circumstances.	97	8
Total Cases Reviewed with One or More Risk Factors - 27		66

\*Some cases contained more than one risk factor