

**TESTIMONY OF MR. CHARLES R. SCHADER,
PRESIDENT OF WORLDWIDE CLAIMS
AMERICAN INTERNATIONAL GROUP**

**DOMESTIC POLICY SUBCOMMITTEE
OVERSIGHT AND GOVERNMENT REFORM COMMITTEE**

THURSDAY, JUNE 18, 2009

2154 RAYBURN

2:00 PM

CHAIRMAN KUCINICH, RANKING MEMBER JORDAN, SENATOR SANDERS, AND MEMBERS OF THE SUBCOMMITTEE, THANK YOU FOR THE INVITATION TO APPEAR BEFORE YOU TODAY.

AS PRESIDENT OF AIG'S WORLDWIDE CLAIMS OPERATIONS, I HAVE 25 YEARS OF EXPERIENCE IN INSURANCE CLAIMS MANAGEMENT, INCLUDING EXTENSIVE EXPERIENCE WITH THE DEFENSE BASE ACT PROGRAM. I AM HAPPY TO SPEAK TO YOU ABOUT ITS STRENGTHS AND CHALLENGES.

AIG IS PROUD TO PROVIDE DEFENSE BASE ACT AND WAR HAZARDS COMPENSATION ACT COVERAGE TO AMERICANS AND NON-U.S. NATIONALS WORKING ABROAD IN SUPPORT OF THE UNITED STATES GOVERNMENT. FOR NEARLY A HALF CENTURY, AIG HAS PROVIDED VALUABLE COVERAGE AND SERVICES AROUND THE WORLD, FROM RECONSTRUCTION IN JAPAN, GERMANY AND BOSNIA IN PRIOR YEARS, TO

AFGHANISTAN AND IRAQ TODAY. ALL TOLD, AIG HAS PROVIDED DEFENSE BASE ACT (DBA) COVERAGE IN MORE THAN NINETY COUNTRIES AROUND THE GLOBE.

WITH THE ADVENT OF HOSTILITIES IN AFGHANISTAN AND IRAQ AND THE INCREASED EMPLOYMENT OF PRIVATE CONTRACTORS BY THE U.S. MILITARY, AIG'S DBA BUSINESS HAS GROWN EXPONENTIALLY. AIG HAS HANDLED 36,000 CLAIMS SINCE 2002, FOUR TIMES THE NUMBER PROCESSED IN THE ENTIRE PRIOR PERIOD SINCE WE FIRST BEGAN WRITING AND SERVICING THIS BUSINESS.

WITH DECADES OF UNSURPASSED SERVICE UNDER ITS BELT, AIG HAS CREATED A CENTER OF EXCELLENCE FOR THE CARE OF INJURED WORKERS THAT IS UNMATCHED BY ANY OF OUR COMPETITORS. SINCE 2005, OUR AIG TRAVEL ASSIST DIVISION HAS UNDERTAKEN 2,000 MEDICAL EVACUATIONS OF SEVERELY INJURED WORKERS, USING BOTH COMMERCIAL AIRLINES AND AIR AMBULANCES, IN CIRCUMSTANCES WHERE TIMELY, SKILLED MEDICAL TREATMENT HAS BEEN CRITICAL TO THEIR RECOVERY. EVACUATED WORKERS HAVE EXTENSIVE INJURIES RANGING FROM SEVERE BURNS, DISMEMBERMENTS, HEAD TRAUMA AND CATASTROPHIC WOUNDS TO HEART ATTACKS AND OTHER ILLNESSES AGGRAVATED BY THE STRESS OF WORKING UNDER WAR ZONE CONDITIONS.

THE TRAVEL ASSIST TEAM INCLUDES EIGHT BOARD-CERTIFIED PHYSICIANS, TWENTY-NINE MULTILINGUAL MEDICAL ASSISTANCE COORDINATORS, FOURTEEN NURSES AND PARAMEDICS LOCATED IN STRATEGIC HUBS ACROSS THE GLOBE.

TO SUPPORT THOSE INJURED IN IRAQ AND AFGHANISTAN, TRAVEL ASSIST HAS DEVELOPED RELATIONSHIPS WITH COMMERCIAL AIRLINES, AIR AMBULANCE SERVICES, AND SPECIAL CARE MEDICAL FACILITIES IN THE REGION --- IN ADDITION TO THE USE OF MILITARY TRANSPORT AND NUMEROUS MEDICAL CENTERS THROUGHOUT THE WORLD.

AFTER EVACUATION, TRAVEL ASSIST STAYS IN CONTACT WITH INJURED WORKERS AND CONTINUES TO MONITOR THEIR MEDICAL CONDITION. TRAVEL ASSIST ALSO PROVIDES SERVICES SUCH AS REPATRIATION OF REMAINS, SHIPMENT OF MEDICAL RECORDS AND PRESCRIPTION MEDICATION, AND MEDICAL AND LEGAL REFERRALS.

AIG CURRENTLY INSURES MORE THAN 1,500 CONTRACTORS OPERATING IN MORE THAN NINETY COUNTRIES. OVER THE PAST SEVEN YEARS, AS THE NUMBER OF CLAIMS HAS SO RAPIDLY ESCALATED, OUR CLAIMS STAFF HAS LIKEWISE INCREASED FROM FIVE DBA CLAIMS PROFESSIONALS TO SEVENTY, LOCATED IN SIX GLOBAL OFFICES --- DALLAS, NEW YORK, DUBAI, ISTANBUL, SAN JUAN, AND MANCHESTER (UK).

EACH OFFICE IS EQUIPPED TO HANDLE UNIQUE REGIONAL AND LOCAL NEEDS. FOR EXAMPLE, THE DUBAI OFFICE STAFF IS FLUENT IN ARABIC, ENGLISH, FRENCH AND TAGALONG AND HAS DEVELOPED EXPERTISE IN OVERCOMING GEOGRAPHIC AND CULTURAL OBSTACLES, PAYING BENEFITS IN-COUNTRY IN LOCAL CURRENCIES, AND CONDUCTING INVESTIGATIONS IN THE MIDDLE EAST TO LOCATE CLAIMANTS, OBTAIN WITNESS STATEMENTS AND VERIFY DEPENDENCY.

AIG HAS LEARNED THROUGH EXPERIENCE, THAT FAMILIARITY WITH LOCAL CUSTOMS IS ESSENTIAL TO SUCCESSFULLY ADDRESS MANY DBA CLAIMS. IN AFGHANISTAN, PAYING BENEFITS CAN BE DIFFICULT DUE TO SPARSE GOVERNMENT RECORDS, A LARGE DISPLACED POPULATION AND THE DICTATES OF LOCAL CULTURE. AFGHAN CUSTOM DOES NOT PERMIT THE WIDOW OF A DECEASED DBA CLAIMANT TO DIRECTLY RECEIVE DEATH BENEFITS. IN THESE SITUATIONS, AIG ARRANGES FOR A FEMALE AFGHAN PHYSICIAN WHO ACTS AS AN INTERMEDIARY. SHE OBTAINS A POWER OF ATTORNEY FROM THE WIDOW ALLOWING A MALE RELATIVE TO RECEIVE THE BENEFITS IN HIS BANK ACCOUNT. THE MALE RELATIVE THEN DISTRIBUTES THE BENEFITS BACK TO THE WIDOW. IN MOST CASES, THIS IS THE *ONLY* WAY BENEFITS CAN BE DISTRIBUTED TO AFGHAN WIDOWS.

AIG ALSO RECEIVES CLAIMS LOCALLY, STATESIDE, OR ON-LINE THROUGH AN INTERNET- BASED REPORTING SYSTEM. CLAIMS MAY CURRENTLY BE REPORTED IN ENGLISH, TURKISH, OR ARABIC, AND SOON MAY BE REPORTED IN PASHTUN AND TAJIK TO FURTHER ASSIST CONTRACTORS AND CLAIMANTS IN AFGHANISTAN. AIG ALSO PROVIDES CLAIM FORMS IN NUMEROUS LANGUAGES AND WAS THE FIRST INSURER TO TRANSLATE DBA FORMS INTO TURKISH AND ARABIC.

WHILE AIG IS PROUD OF ITS RECORD PROVIDING DBA COVERAGE, WE BELIEVE THERE ARE THREE KEY AREAS WHERE THE PROGRAM CAN BE IMPROVED THROUGH A COMBINATION OF LEGISLATIVE AND REGULATORY REFORM:

- 1) PROVIDING DETAILED, ACCURATE STATUS REPORTS TO CLAIMANTS INSTEAD OF THE LS-207 CONTROVERTION NOTICE;
- 2) RATIONALIZING AND SIMPLIFYING THE CALCULATION OF “AVERAGE WEEKLY WAGE”; AND
- 3) INTERAGENCY COOPERATION ON THE DIAGNOSIS, PROGNOSIS AND TREATMENT OF POST TRAUMATIC STRESS DISORDER (PTSD).

ACCURATE STATUS REPORTS

FIRST, AS YOU KNOW, BY STATUTE, A DBA INSURER MUST MAKE THE FIRST CLAIM PAYMENT WITHIN FOURTEEN DAYS OF NOTICE OF CLAIM. THIS TYPE OF REQUIREMENT IS FOUND IN MANY DOMESTIC STATE WORKERS' COMPENSATION ACTS AS WELL. IN 1941 THE DBA WAS CREATED AS AN ADD-ON TO THE LONGSHORE & HARBOR WORKERS COMPENSATION ACT, A FEDERAL ENACTMENT ITSELF BASED ON STATE WORKERS' COMPENSATION CONCEPTS.

THERE ARE, HOWEVER, INHERENT DIFFERENCES THAT DISTINGUISH THE HANDLING OF DBA CLAIMS FROM DOMESTIC STATE WORKERS' COMPENSATION CLAIMS – AND THOSE DIFFERENCES CREATE OBSTACLES THAT FRUSTRATE RAPID CLAIM RESOLUTION. FOR STATE WORKERS' COMPENSATION CLAIMS, WORKERS ARE GENERALLY LOCATED WITHIN THE UNITED STATES AND ARE ABLE TO OBTAIN PROMPT MEDICAL CARE, NOTIFY THEIR EMPLOYERS PROMPTLY, AND ENSURE THAT MEDICAL DOCUMENTATION AND DETAILS OF ACCIDENTS ARE PROMPTLY CONVEYED TO INSURERS AND EMPLOYERS.

MANY TREATING PHYSICIANS IN THE U.S. ARE FAMILIAR WITH WORKERS' COMPENSATION CLAIM REQUIREMENTS AND OFTEN ASSIST INJURED WORKERS IN COMPLETING THE PROCESS. IT IS COMMON FOR EXAMINERS TO MAKE CLAIM DETERMINATIONS WITHIN A SHORT PRESCRIBED TIME FRAME, SUCH AS FOURTEEN DAYS.

IN CONTRAST, DBA CLAIMS OFTEN INVOLVE WORKERS INJURED THOUSANDS OF MILES AWAY FROM HOME, IN A SHIFTING WAR ZONE WHERE BOTH MEDICAL TREATMENT AND DOCUMENTATION CAN BE DIFFICULT TO OBTAIN. EVEN DETERMINING THE FACTS OF AN ACCIDENT – THE LOCATION AND THE CIRCUMSTANCES – CAN BE A CHALLENGE. AND MANY CLAIMANTS ARE FOREIGN NATIONALS, PRESENTING NOT ONLY GEOGRAPHIC, BUT LANGUAGE AND CULTURAL OBSTACLES AS WELL. WITHOUT SUFFICIENT INFORMATION, EXAMINERS CANNOT MAKE TIMELY FINAL DETERMINATIONS WITHIN FOURTEEN DAYS.

THE INABILITY TO GATHER SUFFICIENT INFORMATION WITHIN FOURTEEN DAYS TO MAKE EITHER A COMPENSABILITY DETERMINATION OR MEDICAL EVALUATION DOES NOT TERMINATE THE CLAIMS ADJUDICATION PROCESS. OUR EXAMINERS CONTINUE THEIR INFORMATION GATHERING UNTIL THEY HAVE THE NECESSARY INFORMATION TO DRAW INFORMED, FINAL CONCLUSIONS.

IN COMPARABLE CIRCUMSTANCES, A STATE WORKERS' COMPENSATION CLAIMANT WOULD BE PROVIDED WITH A FORM OUTLINING THE STATUS OF THE CLAIM AND, IN MANY CASES, DESCRIBING WHAT FURTHER INFORMATION IS REQUIRED. HOWEVER, UNDER THE SAME SET OF FACTS, THE DEPARTMENT OF LABOR REQUIRES DBA INSURERS TO FILE A PRESCRIBED FORM LS-207 WHICH "CONTROVERTS" OR "DENIES"

A CLAIM EVEN THOUGH THERE HAS BEEN NO ACTUAL DENIAL OF THE CLAIM AT ALL. ON THE CONTRARY, INFORMATION GATHERING IS STILL ONGOING. TO CHARACTERIZE ALL SUCH CLAIMS AS "DENIED" IS NOT ONLY MISLEADING, IT IS PATENTLY INCORRECT.

FOR WORKERS SEEKING COMPENSATION BENEFITS AFTER THE HARROWING EXPERIENCE OF BEING INJURED IN A WAR ZONE, IN AN UNFAMILIAR LAND DISTANT FROM HOME, THE RECEIPT OF A "CONTROVERSION" NOTICE SPARKS UPSET, ANGER AND FRUSTRATION. WITH SIMPLE LEGISLATIVE AND REGULATORY CHANGE, THIS UNACCEPTABLE SCENARIO CAN BE EASILY AVOIDED.

IN AUGUST, 2006, IN COLLABORATION WITH THE DOL'S LOCAL NEW YORK OFFICE, AIG ADOPTED A PRACTICE THEN CURRENTLY USED IN NEW YORK STATE. INJURED WORKERS WHOSE CLAIMS WERE CLEARLY COMPENSABLE, BUT DID NOT HAVE SUFFICIENT MEDICAL OR WAGE INFORMATION IN THE FILE TO PERFORM A BENEFIT CALCULATION, RECEIVED A FORM ACCURATELY DESCRIBING THE OPEN AND ONGOING STATUS OF THE CLAIM.

HOWEVER, IN MARCH, 2008, THE DISTRICT DIRECTOR OF THE DOL'S NORFOLK, VIRGINIA OFFICE REJECTED THE USE OF THE NEW FORM SINCE IT DID NOT "CONTROVERT" THE CLAIM. THE

DISTRICT DIRECTOR THEN ADDITIONALLY FINED AIG FOR USING THE NEW FORM INSTEAD OF THE LS-207.

WE URGE A REVISION OF THE DOL'S MANDATORY REQUIREMENT OF THE LS-207 FORM. WE ENCOURAGE THE ADOPTION OF PROCESSES AND FORMS, AS ARE USED IN SO MANY STATES TODAY, WHICH PROVIDE CLAIMANTS WITH A MORE INFORMED, ACCURATE AND TRANSPARENT STATUS AS CLAIMS PROGRESS THROUGH THE EXAMINING PROCESS.

CALCULATION OF "AVERAGE WEEKLY WAGE"

ANOTHER AREA THAT DEMANDS ATTENTION ARE THE STATUTORY PROVISIONS PRESCRIBING THE CALCULATION OF THE "AVERAGE WEEKLY WAGE". IN OUR EXPERIENCE, THIS ISSUE CAUSES THE GREATEST NUMBER OF DISPUTES AND SUBSEQUENT APPEALS SINCE THIS CALCULATION CONSTITUTES THE BASIS FOR DETERMINING DISABILITY BENEFITS.

SECTION 910 WAS DRAFTED FOR LONGSHORE AND HARBOR WORKERS WHO PURSUE THEIR CAREERS IN A STABLE ENVIRONMENT WITH A PREDICTABLE CAREER PROGRESSION. IT WAS NOT DRAFTED FOR THOSE THOUSANDS OF EMPLOYEES WHO LEAVE STATESIDE EMPLOYMENT BEHIND AND HEAD INTO HAZARDOUS WAR ZONES FOR GREATLY ENHANCED SALARIES,

WITH THE INTENTION OF STAYING OVERSEAS FOR ONLY A YEAR OR TWO BEFORE RETURNING HOME.

SECTION 910 PROVIDES THREE METHODS OF CALCULATION. WHEN AND HOW EACH METHOD SHOULD APPLY, WHETHER A PARTICULAR METHOD IS MANDATORY IN SOME CIRCUMSTANCES AND DISCRETIONARY IN OTHERS, WHAT CONSTITUTES “SUBSTANTIALLY THE WHOLE” YEAR, ARE ONLY A FEW OF THE ISSUES FOR WHICH THERE ARE NO DEFINITIVE ANSWERS.

THERE IS LITTLE CONSISTENCY IN HOW DIFFERENT ADMINISTRATIVE LAW JUDGES APPLY THE METHODOLOGIES DELINEATED IN SECTION 910. THIS INCONSISTENCY LEADS TO AN INCREASED NUMBER OF APPEALS BY CLAIMANTS HOPING TO DRAW A MORE FAVORABLE DECISION THAN THE ORIGINAL CLAIMS DETERMINATION. IT OVERTAXES THE CADRE OF ADMINISTRATIVE LAW JUDGES WHO HEAR THESE CASES AND PROLONGS THE TIME FRAME FOR CLAIMANTS TO RECEIVE FINAL AWARDS. INCONSISTENCY HAS CONVERTED WHAT SHOULD BE AN EFFICIENT COMPENSATION SYSTEM INTO AN UNPREDICTABLE, PROLONGED LOTTERY. CLEARER, MORE PREDICTABLE RULES FOR CALCULATING THE “AVERAGE WEEKLY WAGE” WOULD LESSEN THE NUMBER OF DISPUTES AND ASSOCIATED FRICTIONAL COSTS, AND WOULD INCREASE THE SATISFACTION LEVEL OF CLAIMANTS, INSURERS AND

EMPLOYERS ALIKE. THIS AREA CRIES OUT FOR LEGISLATIVE REFORM.

INTERAGENCY COOPERATION ON PTSD

FINALLY, OF THE MANY THOUSANDS OF DBA CLAIMS AIG HANDLES, PTSD CLAIMS NUMBER ONLY A FEW HUNDRED. YET THE DIAGNOSIS, PROGNOSIS AND MANAGEMENT OF PTSD CLAIMS PRESENT SOME OF OUR MOST COMPLEX CHALLENGES.

THE U. S. DEPARTMENT OF VETERAN AFFAIRS HAS THE LARGEST CADRE OF SPECIALISTS SCHOOLED AND EXPERIENCED IN DIAGNOSING AND TREATING PTSD. WE BELIEVE THAT SUPPLEMENTING AIG'S EXPERTS WITH THE VA'S PANEL WOULD FURTHER ENHANCE THE CLAIMS ADJUDICATION PROCESS. IN THE PAST AIG HAS REQUESTED THE DOL TO REACH OUT AND ENGAGE ITS SISTER AGENCY IN A COOPERATIVE EFFORT. TO OUR KNOWLEDGE, THAT INTER-AGENCY COOPERATION HAS NEVER OCCURRED.

THANK YOU AGAIN FOR THE OPPORTUNITY TO SPEAK BEFORE YOU TODAY TO PROVIDE AIG'S RECOMMENDATIONS ON HOW THE DBA PROGRAM CAN BE IMPROVED. BASED ON AIG'S EXTENSIVE EXPERIENCE IN DBA AND WORKERS COMPENSATION ISSUES, THE SIMPLE REFORMS I HAVE BROADLY OUTLINED TODAY WOULD GO A LONG WAY TOWARD

IMPROVING THE MAJOR DEFICIENCIES IN TODAY'S DBA SYSTEM.

AIG PLEDGES TO CONTINUE WORKING WITH CHAIRMAN KUCINICH, RANKING MEMBER JORDAN, SENATOR SANDERS, AND THE SUBCOMMITTEE IN EVERY WAY POSSIBLE TO ACHIEVE THESE REFORMS. WE ARE SURE YOU ALL AGREE THAT THOSE ENGAGED IN SUPPORTING OUR MILITARY OVERSEAS DESERVE NO LESS.