

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs
Washington, D.C. 20210



April 14, 1983

M 00563

MEMORANDUM FOR: HEADS OF ALL FEDERAL AGENCIES

FROM : WILLIAM C. JACOBS *W.C. Jacobs*
Director, Office of
Workers' Compensation Programs

SUBJECT : Employing Agency Attendance at Hearings
and Submission of Pertinent Evidence

Interest has been expressed to the Office of Workers' Compensation Programs (OWCP) as to the role of the employing agency at hearings before OWCP. The purpose of this memorandum is to clarify the role of the employing agency at hearings conducted under Section 8124(b) of the Federal Employees' Compensation Act. While the employing agency is not a party to such hearing, it is interested in the outcome of the hearing and frequently possesses information pertinent to issues raised at the hearing. This memorandum outlines avenues by which the employing agency may present pertinent evidence through the hearing process.

OWCP's Branch of Hearings and Review will send the employing agency a copy of the notice of hearing setting the date, time and place of the hearing. The employing agency will be asked to indicate, on an attached questionnaire, whether an agency representative will attend the hearing and whether the agency desires a copy of the hearing transcript, and if so, where it should be sent.

Where the employing agency sends a representative to a scheduled hearing, the representative will attend primarily in the role of an observer without the right to question the claimant or make any argument. However, since the claimant is entitled to present evidence in support of the claim, the agency representative may, upon the specific request of the claimant or the claimant's representative, be asked by the OWCP Hearing Representative to give oral testimony at the hearing. Where the employing agency wishes to have a representative attend a hearing, it should assume that its representative will be subject to being called upon to give testimony.

Where the employing agency requests that it receive a copy of the hearing transcript, either by completion of the above-mentioned questionnaire or by written request by the agency representative at the hearing, the employing agency will be allowed 30 days following release of the requested transcript to submit comments or additional material for inclusion in the record and study by the OWCP Hearing Representative in reaching a decision. Any comments or materials submitted by the agency are subject to review and comment by the claimant and/or the claimant's representative.