

Nine years in, sick nuclear workers still fighting for benefits, By Laura Millsaps, The Iowa Independent, 3/15/10

On Oct. 30, 2009, the nation observed the first Cold War Patriots National Day of Remembrance, dedicated to those who served their country working in jobs relating to the nuclear weapons program.

While the U.S. Senate resolution for the National Day of Remembrance was approved by unanimous consent, a bill addressing problems in the federal program designed to help nuclear workers with what they say they need most — medical benefits and compensation for illnesses that were caused by on-the-job exposures to radiation and toxic substances — remains stuck in a Senate committee awaiting another in a long list of studies from the [Government Accountability Office](#) detailing its shortcomings.

Signed into law in 2000, the Energy Employees Occupational Illness Compensation Program Act was designed to compensate former nuclear workers with lump sum payments and medical benefits for illnesses linked to their exposures to radiation and toxic substances.

But as The Iowa Independent reported last week, the program has instead created such layers of bureaucracy and claim denials that it has become the target of [criticism not only from former nuclear workers](#) struggling to get compensation for their dangerous work history, but from advocacy groups, medical experts and even the senators who authored the original legislation.

Even the program's ombudsman, whose office produces an [annual report](#) of claimant concerns for both houses of the U.S. Congress, said some sort of legislative correction is needed.

Senate Bill 757, [The Charlie Wolf Nuclear Workers Compensation Act](#), aims to fix the problems in the program but has languished in the Health, Education, Labor and Pensions committee since March 2009, when it was introduced by U.S. Sen. Mark Udall, D-Colo. "More than nine years after enactment [of the federal program], many workers have died without receiving the health care or compensation they deserve," Udall said in a [statement](#). "Others are still struggling with bureaucratic delays, years after they first applied for benefits."

The senators who requested a GAO investigation of the program in 2008, including Democratic Sen. Tom Harkin of Iowa, said they are awaiting the final report, due to be published this month, before discussing or considering the bill. But Terrie Barrie, a Colorado advocate and co-founder of the Alliance of Nuclear Worker Advocacy Groups (ANWAG), said that while her group has high hopes for the report they also have grave concerns that it won't be enough to motivate legislators.

A Troubled Timeline

In May 2004, [a GAO study](#) found the Department of Energy "off to a slow start" in processing claims, and took the Department of Energy to task for a backlog of claims waiting for physician review.

In Oct. 2004, the Bunning-Bingaman Amendment to the 2005 Defense Authorization Act yanked oversight of EEOICPA from the Department of Energy when it was discovered they had spent over \$90 million in administrative costs, but had compensated only 31 claimants. Congress gave oversight to the Department of Labor and also created an Office of the

Ombudsman, which is required to make an annual report to Congress on the type and number of complaints made to the office about the program.

In Feb. 2006, the GAO [criticized](#) the EEOICPA for conflicts of interest in key administrative positions, and for lack of oversight in contract spending. By May, the GAO [found](#) \$24.6 million in “improper and questionable payments for contractor costs,” and estimated that these payments represented 30 percent of the \$92 million in total program funds spent by the Department of Energy through 2005.

In April 2008, then presidential candidate Barack Obama demanded administrative cost estimates of EEOICPA from federal administrators.

In July 2008, U.S. Sen. Ken Salazar, D-Colo., who now serves as U.S. Secretary of the Interior, introduced the Compensation and Respect for Energy Workers Act (CARE) to correct problems. This bill never gained traction and was lost in the election year news cycle. By September, in response to an investigative report by the now-defunct Rocky Mountain News, the original framers of the EEOICPA, including Harkin, demanded yet another GAO investigation into the program.

“A recent series of articles in the Rocky Mountain News described what it characterized as ‘a pattern of ongoing decisions and rule changes within the 8-year-old program that consistently made it more difficult for sick and dying workers—or their survivors—to be compensated,’” said the [request letter to the GAO](#), which was signed by Sens. Harkin, Salazar, Edward Kennedy, Lamar Alexander, Harry Reid, Wayne Allard and Jeff Bingaman.

The letter asked the GAO to look at claim delays, processing costs, credibility and transparency of the decision making process. The publication of the report is expected this week.

Not enough

Despite improvements to the program over the years both administratively and by legislative force, advocates say it hasn’t been enough. While ANWAG’s Barrie said the creation of an ombudsman’s office in 2004 has helped claimants with processes and provides a formal avenue for complaints, it hasn’t changed the system.

“They hear the same complaints over and over again, but nothing changes,” she said. “The office hasn’t been given enough power to intervene on behalf of claimants.”

Malcom Nelson, ombudsman for the EEOICPA, says that legislative change will be necessary because the issue is complicated by the fact that other agencies help administer the program.

“Statutory issues cannot be fully addressed without legislative action by Congress. On the other hand, there are issues that concern the administration of the program and these issues can be addressed by the relevant government agency. [The Department of Labor] and the other governmental agencies involved with EEOICPA need to collaborate to address the administrative problems,” Nelson said.

Barrie said the expected GAO report concerns her advocacy group, because certain issues remain uncovered and may affect the sense of urgency legislators feel in correcting the problems.

Members of ANWAG met with GAO officials in December to raise concerns, most importantly that the GAO may not be able to calculate the total administrative costs of EEOICPA. Barrie said she was blown away that the GAO would not be able to precisely figure out total costs.

"Isn't that what they are supposed to be good at?" she said.

Movement in March?

Aides to Sen. Harkin told The Iowa Independent that he would not comment on the program until the GAO report became available to the HELP committee for review, which is expected this week.

The Charlie Wolf Nuclear Workers Compensation Act makes line item corrections to the current act and targets key areas that claimants and advocates have considered the most unfair. Those include the list of accepted cancers and the administration of the database the Department of Labor uses for determining what substances workers were exposed to, called the Site Exposure Matrix.

"This legislation is the fix we are looking for," Barrie said, adding that advocates hope the GAO report gives legislators, and claimants, the support the bill needs.

"We hope the GAO finds enough evidence to validate our concerns and validates what the ombudsman's office has been hearing from claimants for years," she said. "We need this legislative hearing, because it's the only way to force the Department of Labor to improve the program."

Nelson believes that the GAO report will do just that.

"Each year, my office makes an earnest attempt to talk to as many claimants as we can," he said. "The issues addressed in our annual report represent the most common complaints, grievances and requests for assistance received by our office during the past calendar year and I believe that the GAO report will bear this out."

<http://iowaindependent.com/29432/nine-years-in-sick-nuke-workers-still-fighting-for-benefits>