

ELIJAH E. CUMMINGS
7TH DISTRICT, MARYLAND

COMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE
CHAIRMAN, SUBCOMMITTEE ON COAST
GUARD AND MARITIME TRANSPORTATION
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
SUBCOMMITTEE ON RAILROADS,
PIPELINES AND HAZARDOUS MATERIALS

COMMITTEE ON
GOVERNMENT REFORM
SUBCOMMITTEE ON DOMESTIC POLICY
SUBCOMMITTEE ON FEDERAL WORKFORCE,
POST OFFICE AND THE DISTRICT OF COLUMBIA

COMMITTEE ON ARMED SERVICES
SUBCOMMITTEE ON READINESS

JOINT ECONOMIC COMMITTEE

SENIOR WHIP

Congress of the United States
House of Representatives
Washington, DC 20515

2235 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-2007
(202) 225-4741
FAX: (202) 225-3178

DISTRICT OFFICES:
1010 PARK AVENUE
SUITE 105
BALTIMORE, MD 21201-5037
(410) 685-9199
FAX: (410) 685-9399

754 FREDERICK ROAD
CATONSVILLE, MD 21228-4504
(410) 719-8777
FAX: (410) 455-0110

8267 MAIN STREET
ROOM 102
ELLICOTT CITY, MD 21043-9903
(410) 465-8259
FAX: (410) 465-8740

www.house.gov/cummings

April 21, 2009

The Honorable Dennis J. Kucinich
Chairman, Subcommittee on Domestic Policy
Oversight and Government Reform Committee
2445 Rayburn House Office Building

Dear Chairman Kucinich:

The *Los Angeles Times*, in conjunction with *ABC News* and *ProPublica*, reported on Friday, April 17, 2009, that the health insurance claims of civilian contractors who participated in military operations in Iraq and Afghanistan have been denied with unsettling frequency.¹ I write to request that the Domestic Policy Subcommittee of the Committee on Oversight and Government Reform hold a hearing to examine the issues detailed in the *Los Angeles Times*, *ABC News*, and *ProPublica* investigation.

Per the Defense Base Act (DBA), 42 U.S.C. 1651-1654, contractors and subcontractors are required to purchase workers' compensation insurance for employees working overseas. The insurance purchased must cover medical care and disability payments for workers injured in the performance of job duties; it must also provide death benefits for the families of employees killed on the job. The costs of insurance premiums paid by the contracting firms are then built into the price of the contract between the contractor and the Federal Government.

Right now, there are more than 31,000 current and continuing civilian injury claims, as well as more than 1,400 claims for death benefits. The American International Group, Inc. (AIG) and other insurers have received some \$1.5 billion in premium payments, while paying out \$900 million in compensation and expenses. According to the article, AIG is the primary insurer retained by contracting firms, handling some 90 percent of civilian claims filed in the war zones in 2007.

The article goes on to describe the difficulty that claimants have encountered in receiving benefits for medical care and disability payments, as well as the challenges faced by the families of those killed in receiving death benefits. From prosthetic limbs to treatment for Post Traumatic Stress Disorder, the claimants have faced a "reject first and investigate later" mentality from the

¹ *FORGOTTEN WARRIORS; Injured civilians battle to get care; U.S. contractors wounded in Iraq and Afghanistan face delays and high costs from insurance firms.* Los Angeles Times, April 17, 2009, Page A-1.

The Honorable Dennis J. Kucinich

April 21, 2009

Page 2

insurers.² In order to receive their legally mandated compensation, claimants often have to resort to mediation or litigation.

The Department of Labor (DOL) is the administrator of the DBA by statute. However, the article notes that because of underfunding and increasing claim volume, DOL has been unable to adequately enforce that: (1) contractors provide the mandatory coverage required under the DBA; and (2) insurers process the claims fairly and consistently.

Not only have claims been denied unfairly, but the contractors and insurers are able to operate with relative impunity. The Department of Defense (DOD), unlike the State Department and the Agency for International Development, has not adopted a competitive single-contract process for retaining an insurer under the DBA. Therefore, insurers are free to demand their own premium costs from contractors, with the taxpayers ultimately footing the bill. Further, in a September 28, 2007 report, the U.S. Army Audit Agency found AIG premiums to be “unreasonably high.”

As you are aware, the full committee on Oversight and Government Reform held a hearing on the DBA on May 15, 2008. The hearing examined taxpayer costs under the DBA, as well as the Pentagon’s failure to put appropriate controls on the program. As a result, the Duncan Hunter National Defense Authorization Act for FY2009 (P.L. 110-417) included a provision requiring the DOD to adopt an acquisition strategy that minimizes insurance costs for both the DOD and for contractors. The strategy was to include a competitive marketplace for the selection of insurers.

Despite our efforts to include the above constraints on the 2009 Defense authorization, the status quo remains. Regrettably, those most in need of assistance – the civilian employees injured while assisting our military – continue to face unnecessary delay and harm.

While AIG is not the only insurer providing this coverage, that firm handles the bulk of the claims. Over the last few months, AIG has engaged in a pattern of deception and reckless behavior with respect to taxpayer funds, and I am deeply disturbed that the firm may be withholding any payments contractually due to civilian contractors injured in Iraq or the families of civilian contractors killed in Iraq.

As mentioned at the outset of this letter, I am requesting a hearing of the Domestic Policy Subcommittee that could potentially examine the DBA insurance practices at AIG, DOL’s inability to enforce the requirements of the DBA, and the Pentagon’s development and implementation of the strategy required under the 2009 National Defense Authorization Act.

I thank you for your continued hard work to address the needs of all Americans, and I look forward to hearing from you.

Sincerely,



Elijah E. Cummings
Member of Congress

² Id.