

***The Times-Picayune*: Claims Czar Kenneth Feinberg Says Pace of Payments Quickens**

Published: Monday, June 20, 2011, 11:00 PM

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Procedural questions and disenchantment remain, but to hear oil spill claims czar **Kenneth Feinberg** tell it -- and to look at statistics from his Gulf Coast Claims Facility -- the **compensation process** he oversees has finally hit its stride.

Feinberg, who was tapped last year by BP and the White House to administer economic damage payments, has settled nearly 150,000 claims, paying out almost \$4.5 billion.

Most of that money, \$2.6 billion, was paid in 2010 as part of an emergency payment phase. It took four months to pay the first \$1 billion in "final settlements" this year, almost all using a quick-pay process designed to get rid of the simplest, noncontinuing claims.

But in the two months since April 20, which marked the first anniversary of BP's devastating spill, Feinberg's operation has paid about \$700 million for more complex claims -- the ones requiring full review and complete documentation -- and the average payment is steadily rising.

On the anniversary, the average final payment was \$16,000. It's now up to nearly \$20,000.

On the anniversary, Feinberg had paid just 11 percent of final settlement requests. That number is up to 26 percent now, and GCCF has made offers to nearly half of the 115,000 settlement-seeking claimants, who have 90 days to accept whatever Feinberg puts on the table.

On the anniversary, the question hanging over the process was: How many claimants would accept final offers from Feinberg rather than hold out for more through the courts?

Now, with coastal tourism bouncing back, each passing day seems to bring Feinberg closer to his stated goal of serving at least 90 percent of those with legitimate claims. And with BP questioning the standing in court of tens of thousands of plaintiffs who have not yet presented their claims properly to Feinberg, the GCCF's appeal is only getting stronger.

The claims facility has processed more than 95 percent of the 300,000 claims that were filed before the end of May. Feinberg's team deemed about 40 percent of those either deficient or ineligible. But the only other claims GCCF is still working on that were filed before this month are the most complex ones, Feinberg said. The number of new claims being filed has slowed to a trickle.

There are only 54,000 claimants seeking final payment whom Feinberg considers eligible. If the new claims have really leveled off and Feinberg keeps paying claims at the rate he's been over the last two months, he will have paid all of the claims that he considers eligible in the next four months. And even if the rising pay rate only holds steady from here on out, that would still mean another \$1.1 billion in settlements by Halloween.

The biggest lingering question is: What claims are still out there? The uncertainty rests mostly in the fishing industry, where the true measure of the spill's economic pain is still unfolding. Only 24,000 fishers, crabbers, shrimpers, oyster harvesters and seafood processors have sought final payments so far, and half have settled. The vast majority of them -- about 11,000 -- took the quick payment option of \$5,000 for individuals or \$25,000 for businesses.

The fishing settlement figures could rise dramatically, however, if Feinberg and industry representatives can reach agreements on changes to the GCCF's payment calculus. For example, Feinberg said he and his staff are working on "a more generous methodology" for oyster fishers, one that would "reflect the fact that the future of oysters in the Gulf as we speak is still, over a year later, very uncertain."

If the calculation method changes, Feinberg promised that oyster harvesters who took quick payments under the old system would get another shot.

Feinberg's methodology in February was more generous to oyster fishers than others, granting them four times their 2010 losses, rather than just twice those damages. Mike Voisin, owner of Motivait Seafood and a key negotiator with the Gulf Oyster Industry Council and the Louisiana Oyster Dealers and Growers Association, said the four-times calculation was not the problem. The use of the calendar year 2010 was.

Because oyster season begins in September and runs through the following spring, half of the 2010-11 oyster season was being left out of the calculation as it was originally devised. Now that a full year has passed, the oyster groups want to compare their April-to-April earnings to previous years to come up with the true loss due to the spill, then multiply that by four. Voisin is confident that Feinberg will agree to that and, when he does, that wary oyster fishers will be willing to finalize their claims.

"I think Ken's gonna make it right," Voisin said. "We have a responsible party that I believe is acting responsibly in this case. Will people fall through the cracks? Certainly. You have this many claims, it will overwhelm even Ken Feinberg. But overall, I think people will become his cheerleaders in the end."

Others don't share Voisin's optimism. Catholic Charities case managers say they haven't seen too many of the 1,300 fishers who have reportedly taken full-review final settlements from Feinberg. They have, on the other hand, seen thousands who have been denied interim payments on a quarterly basis.

Federal law requires Feinberg to pay for ongoing losses without forcing claimants to sign away their rights to sue. But he's made only 16,000 such payments.

Tom Costanza of Catholic Charities said most of the interim payment offers are minuscule and are attached to final payment offers. Even if those final offers aren't close to what the claimant requested, the prospect of another quarter without aid is often too much to bear.

He said that 70 percent of the claimants who have turned to state-financed technical assistance advisers for help are still waiting for resolution.

"I just can't see how this is moving in the right direction," Costanza said.

The stalemate is most pronounced with subsistence claims, a crucial issue in the Gulf Coast's fishing-centric Vietnamese communities.