



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Office of the
Inspector General

February 5, 2013

MEMORANDUM FOR JOHN BERRY
Director

FROM: *for* PATRICK E. MCFARLAND
Inspector General

A handwritten signature in black ink that reads "Patrick E. McFarland".

SUBJECT: Summaries of Recent OIG Investigations

The purpose of this memorandum is to share with you the results of investigations recently conducted by my office.

You routinely receive copies of the Office of Inspector General (OIG) Final Audit Reports, and we furnish you or your staff with executive summary reports on internal employee misconduct investigations. However, the majority of our investigative workload involves crimes affecting U.S. Office of Personnel Management (OPM) programs committed by external parties. In order to inform you of the impact these crimes have on OPM programs, periodically we provide you with brief summaries of investigations that have been resolved and are a matter of public record.

Examples of our investigations resolved during the period September 1, 2012 through December 31, 2012 include:

Federal Employees Health Benefits Program (FEHBP) – Kickbacks to Health Care Providers: Blackstone Medical, Inc., a manufacturer of spinal implants and spinal surgery products, provided kickbacks to health care providers in a manner intended to induce the promotion, purchase, and utilization of their products. As a result of their conduct, Blackstone agreed to pay \$30,000,000, from which the Federal Employees Health Benefits Program (FEHBP) recovered \$826,959.74. The FEHBP is normally excluded from kickback settlements due to its exclusion from the Anti-Kickback Act. However, in this case, the U.S. Attorney's Office for the District of Massachusetts pursued the FEHBP's losses under a theory that claims tainted by kickbacks are false and violate the Federal False Claims Act.

FEHBP – Off-Label Marketing: Abbott Laboratories pleaded guilty to illegally marketing the drug Depakote for uses that were not approved by the Food and Drug Administration as safe and effective. Abbott was sentenced to five years of probation, assessed a \$500,000,000 fine, a \$1,500,000 penalty, a \$125 assessment fee, and ordered to forfeit \$198,500,000. This criminal conviction and fine followed last May's civil settlement, when \$4.8 million was recovered for the FEHBP.

FEHBP – Off-Label Marketing and Kickbacks: Amgen Pharmaceutical Inc. agreed to pay \$762,000,000 to resolve civil and criminal liability resulting from its promotion of drugs (Aranesp, Epogen and Enbrel) for unapproved purposes, false price reporting practices, and for offering illegal kickbacks to health care providers. As part of the civil settlement, Amgen agreed to pay \$612,000,000 to resolve false claims that it caused. The FEHBP recovered \$5,336,405.76. In the criminal plea agreement, Amgen was ordered to pay a \$136,000,000 fine, a \$125 assessment, and to forfeit \$14,000,000.

In a separate civil settlement, International Nephrology Network agreed to pay \$15,000,000 to resolve civil liability arising from its role in the illegal marketing of the drug Aranesp. The FEHBP recovered \$168,524.97.

FEHBP – Off-Label Marketing and Kickbacks: Boehringer Ingelheim Pharmaceuticals, Inc. agreed to pay \$95,000,000 for unlawful marketing of pharmaceutical products (Aggrenox, Combivent and Micardis) and for paying kickbacks to the health care providers who prescribed them. The FEHBP recovered \$4,621,373.91.

FEHBP – Improper Billing: Sheridan Healthcare Inc. submitted claims to the FEHBP and other Federal health care programs for newborn hearing screenings performed at hospitals, when this service was included in the hospitals' charges for labor and delivery. This 'unbundling' of services resulted in overcharges to the Government. Sheridan agreed to pay \$1,572,750.16 for improperly billing insurance companies. The FEHBP recovered \$452,268.94. This case was developed proactively by a joint OIG/FEHBP Carrier Working Group.

FEHBP and Federal Employees Dental and Vision Insurance Program (FEDVIP) – Services Not Rendered: The owner of a dental practice submitted false and fraudulent claims to Federal health care programs for services not rendered, including the following dental procedures: Incision and Drainage, Emergency Palliative Treatment, and Excision of Hyperplastic Tissue. The owner was sentenced to 46 months imprisonment followed by two years of supervised release. He was also fined \$250,000, ordered to pay \$2,021,141.47 in restitution, and an assessment fee of \$100. The FEHBP and FEDVIP recovered \$161,076.89.

Combined Federal Campaign – Embezzlement: The founder of Save a Torah, a charity participating in the Combined Federal Campaign, pleaded guilty to defrauding the charity. He solicited contributions to the charity by telling fabricated tales of “rescuing” Torahs lost or hidden during the Holocaust, when he was actually purchasing them from bookstores or synagogues; he submitted false travel invoices for “rescue” trips; and he embezzled contributors’ donations to the charity by diverting them into his personal bank accounts. He was sentenced to 51 months imprisonment and three years of supervised release. He was also ordered to perform 100 hours of community service and to pay \$990,366.05 in restitution and a \$200 assessment.

Retirement – Deceased Annuitant Fraud: OPM was not informed of the April 6, 1986 death of an annuitant, and therefore continued making monthly annuity payments through May 2007, resulting in an overpayment of \$161,757.24. The annuitant’s daughter confessed to concealing her mother’s death and to using the Civil Service Retirement System annuity and Veteran’s Administration benefits for her own personal use. The daughter was sentenced to 33 months in prison, followed by three years of supervised release, and was ordered to pay \$222,641.24 in restitution and a \$1,300 assessment. OPM recovered \$161,757.24.

Retirement – Deceased Annuitant Fraud: The Death Master File project conducted by OPM’s Retirement Inspections Branch (RIB) revealed that a survivor annuitant’s August 3, 1992 death had not been reported to OPM. OPM continued making monthly annuity payments until October 2009, resulting in an overpayment of \$116,911.11. Three OPM Address Verification Letters mailed by RIB and addressed to the deceased after her death were returned to OPM bearing the deceased’s signature. The deceased’s daughter pleaded guilty to forging the signatures and to using the money to pay for her living expenses and was sentenced to six months of home confinement, three years of supervised release, and ordered to pay OPM \$116,911.11 in restitution and a \$25 assessment fee.

Retirement – Deceased Annuitant Fraud: OPM was not informed of the April 1, 2002 death of an annuitant, and therefore continued making monthly annuity payments directly to the deceased’s bank account through August 2007, resulting in an overpayment of \$98,044. The defendant stated that she befriended the annuitant while working at the nursing home where he resided. She stated that the annuitant gave her his ATM card and PIN to purchase items for him. The defendant withdrew funds from the annuitant’s bank account after he died. She was sentenced to five months in jail, three years of supervised release, and ordered to pay \$98,044 restitution to OPM and a \$100 assessment.

Please feel free to contact me if you have any questions, at (202) 606-1200, or you may have someone from your staff contact Assistant Inspector General for Investigations Michelle B. Schmitz, at (757) 595-3968.

cc:

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