



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Office of the  
Inspector General

June 9, 2015

MEMORANDUM FOR KATHERINE ARCHULETA

Director

FROM: 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 the Office of the Inspector General (OIG). We routinely share with you the results of our oversight efforts of OPM programs and operations, including reports on internal employee misconduct investigations. The majority of our investigative workload involves crimes affecting the U.S. Office of Personnel Management (OPM) programs committed by external parties. Attached are examples of our investigations resolved during the period January 1, 2015 through March 31, 2015.

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

Attachment

cc: Ann Marie Habershaw, Chief of Staff  
Dennis D. Coleman, Chief Financial Officer  
Angela Bailey, Chief Operating Officer  
Mark Reinhold, Associate Director, Employee Services  
Kenneth Zawodny, Jr., Associate Director, Retirement Services  
Mark Lambert, Associate Director, Merit System Accountability & Compliance  
John O'Brien, Director, Healthcare and Insurance  
Alan Spielman, Assistant Director, Federal Employees Insurance Operations  
Merton Miller, Associate Director, Federal Investigative Services  
Joseph Kennedy, Associate Director, Human Resources Solutions  
Kamala Vasagam, General Counsel  
Dean Hunter, Director, Facilities, Security and Contracting

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U.S. Office of Personnel Management  
Office of the Inspector General  
Office of Investigations

Quarterly Case Summaries  
June 2015

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Our investigative workload involves crimes affecting U.S. Office of Personnel Management (OPM) programs. Provided below are summaries of the Office of the Inspector General's (OIG) investigations resolved during the period January 1, 2015 through March 31, 2015.

**Federal Employees Health Benefits Program (FEHBP) – False Claims**

- I 2007 00109: OPM's OIG received a referral from the Drug Enforcement Administration and CVS/Caremark alleging that the owner of a pharmacy in Texas submitted false claims to Federal health care programs. A patient reported that his prescription history included numerous prescriptions from the pharmacy for which his insurance company was billed, and for which the pharmacy was reimbursed, that neither he nor his wife ever received. The ensuing investigation revealed that the pharmacy owner had electronically submitted false claims in order to receive reimbursement for medications that he had never provided to various beneficiaries of Medicaid and the FEHBP. The pharmacy owner pled guilty, was convicted in May 2012, and was sentenced to 63 months in prison and ordered to pay \$2,498,586.86, of which \$158,564.93 was to be returned to the FEHBP. However, in February 2014 his conviction was vacated on appeal, after it was determined that the judge took part in plea negotiations. The pharmacy owner was re-tried and re-convicted in November 2014 on charges of health care fraud, mail fraud, and wire fraud. On February 5, 2015, he was sentenced to 87 months of incarceration (30 months already served), 36 months of probation and ordered to pay \$2,482,901.93 in restitution and a \$100 assessment fee. However, the pharmacy owner has filed an appeal on the second conviction and judgement, and the distribution of the restitution is also pending settlement of his deceased wife's estate.
- I 2011 00359: A chiropractor and several co-conspirators submitted claims for services not rendered to the FEHBP and private insurers in the Dallas-Fort Worth area. One of the co-conspirators was a union representative who recruited patients who would allow their health insurance policies to be billed for services not rendered. In exchange, the patients received monthly kickbacks, work excuse notes, and a variety of other incentives. The case went to trial, where the defendants were convicted by jury and found guilty of Conspiracy to Commit Health Care Fraud; Health Care Fraud; and Aggravated Identity Theft. In November 2014, the union representative was sentenced to 156 months in confinement in the U.S. Bureau of Prisons, and the four co-conspirators were sentenced to between six and ten months confinement each. In January 2015, the chiropractor was sentenced to 145 months confinement. The court ordered each defendant to make restitution, jointly and severally with the co-defendants in amounts

ranging from \$1.3 to \$2.4 million. The FEHBP Trust Fund received \$39,329. This was a joint investigation conducted by the FBI and our criminal investigators.

- I-13-00018: The Food and Drug Administration's (FDA) Office of Criminal Investigation identified a physician practicing hematology and oncology who had purchased counterfeit oncology medications and dispersed them to beneficiaries of Federal health care programs. An investigation confirmed that the physician submitted, or caused to be submitted, claims for payment to Federal health care programs for medications which were not approved by the FDA. The physician disputed the allegations that his actions were illegal, but agreed to a settlement agreement that required him to pay the United States \$92,503. The FEHBP's portion of the total recovery was \$5,034.59.
- I-13-00560: An investigation of a pain management and rehabilitation clinic in Utah revealed that the company submitted claims to Federal health care programs seeking payment for physical therapy services provided by an employee who was qualified only as an athletic trainer and had no education or credentials in physical therapy. Utah state law requires that physical therapy services must be provided by an individual who is licensed as a physical therapist. The clinic entered into a settlement agreement that required them to pay the United States \$28,800. The FEHBP's portion of the total recovery was \$9,425.61.
- I-12-00415: During the OIG's 2012 investigation of the cardiac monitoring company Lifewatch Services Inc., we discovered that CardioNet, a subsidiary of the cardiac monitoring company BioTelemetry, Inc., was improperly billing Federal health care programs for services that were not medically necessary. CardioNet submitted claims for more expensive services by using inaccurate diagnostic codes that ensured that the claims would be reimbursed at a higher rate. To resolve these allegations, BioTelemetry, Inc. entered into a settlement agreement that required them to pay the United States \$6,400,000. The FEHBP's portion of the total recovery was \$137,123.83.

#### **FEHBP – Prescription Fraud**

- I-14-00699: OPM's OIG received a referral from CVS/Caremark by way of the Blue Cross Blue Shield Association's Special Investigations Unit alleging that the dependent spouse of an FEHBP subscriber was fabricating prescriptions of Adderall in order to obtain this prescription drug. On January 22, 2015, the defendant pled guilty to one felony count of prescription fraud and was sentenced in the Circuit Court of the City of Alexandria, Virginia to 12 months in jail, all suspended for two years, conditioned upon supervised probation with substance abuse treatment and payment of a \$1,000 fine. His driver's license was also suspended for six months. There was no recovery to the FEHBP due to the fact that the only insurance claims were for the minimal cost of the prescriptions themselves. We investigated this case jointly with the Alexandria, Virginia Police Department.

#### **FEHBP – Off-Label Promotion**

- I 2010 00461: Relators filed a qui tam action in the U.S. District Court for the Middle District of Florida alleging that Genzyme Corporation engaged in the promotion of Septrafilm, a medical implant used to reduce internal scarring following surgery, for uses that were not approved by the FDA. This practice resulted in numerous false claims

submitted to various Federal health care insurance programs. Genzyme Corporation entered into a civil settlement agreement that required them to pay the United States \$22,280,000. The FEHBP's portion of the total recovery was \$1,578,606.74.

#### **FEHBP – Suspension and Debarment**

- During the period January 2015 through March 2015, the OIG's Office of Investigations referred 18 health care providers to the OIG debarment official to consider for debarment from participation in the FEHBP and three for suspension. One of the referred health care providers was debarred during this time period.

#### **FEHBP – Allegations Involving FEHBP Not Substantiated**

- I 2010 00871: On February 11, 2015, the Department of Justice announced that AstraZeneca Pharmaceuticals, LP (AZ) agreed to pay the government \$7.9 million to settle allegations that it engaged in a kickback scheme in violation of the False Claims Act. However, investigation had determined that the FEHBP, Medicare, Medicaid, and TRICARE were not affected by AZ's alleged scheme, therefore these programs were not included in the settlement. The affected program was the Retiree Drug Subsidy Program, operated by the Centers for Medicare and Medicaid Services, which is designed to encourage employers and unions to continue providing high-quality prescription drug coverage to their retirees. The settlement resolved allegations that AZ agreed to provide kickbacks to pharmacy benefit managers (PBMs), including Medco Health Solutions (Medco), in exchange for maintaining the drug Nexium's "sole and exclusive" status on certain formularies. Through Customer Capability Agreements (CCAs), AZ paid for/hired the PBM's physicians to visit physicians in their network, and to push those physicians into prescribing Nexium rather than another competitor's drug. AZ prioritized the highest payment/inducement amounts for those PBMs whose formulary would have the biggest impact on increasing Nexium and other AZ drug market shares. Medco was the number one recipient of these annual CCA payments, receiving approximately \$20 million per year.

#### **Retirement Program – Unauthorized Changes to Annuitant's Bank Routing Code**

- C-14-01328: The OIG received a fraud referral from Retirement Inspections regarding allegations that an annuitant's son had redirected the annuitant's monthly annuity payments to his own bank account. The OIG conducted an investigation and discovered that the son called OPM's Retirement Information Office and was able to successfully change the bank routing code of his father's monthly annuity payments, even though he was not the authorized payee or an authorized representative of the annuitant. Our investigation revealed deficiencies in the procedures that the Retirement Information Office uses to verify a caller's identity and to determine whether or not they are authorized to make a change to the bank routing code. The OIG issued a memorandum to OPM's Retirement Services to communicate their investigative findings, which included four recommendations for improved internal controls to prevent unauthorized changes to an annuitant's account information. Retirement Services concurred with three of the recommendations and offered a different solution to the issue addressed in the recommendation with which they did not concur. Retirement Services has implemented corrective action.

**Retirement Program – PII Breach**

- I-14-01183: The OIG issued a memorandum to Retirement Services to communicate the results of an investigation into an allegation that an employee of Retirement Services caused a breach of personally identifiable information (PII). Retirement case files containing PII were not placed in a locked container for transport from the Theodore Roosevelt Building (TRB) to the parked rental car of a teleworking Retirement Services employee. One file fell on the floor of the rental car. The employee returned the rental car without realizing that the file was still in the car and therefore did not report the PII breach. Retirement Services was made aware of the PII breach when contacted by the annuitant whose case file was left in the rental car. The annuitant had been contacted by the rental car company after they found his case file in the rental car. The OIG made three recommendations to Retirement Services for improving their policies and practices related to the control, security, and accountability of PII, focusing on procedures for telecommuting employees who transport cases to and from the TRB on a regular basis.

**Retirement Program – Deceased Annuitant Fraud**

- I-14-01227: A proactive project conducted by the OIG revealed that the March 19, 2010 death of an annuitant had not been reported to OPM. As a result, OPM continued directly depositing monthly annuity payments into her checking account through August 2013, resulting in an overpayment of \$45,419.41. OPM recovered \$2,153.84 through the reclamation process with the deceased's financial institution, leaving a balance due of \$43,265.84. An investigation revealed that after the annuitant died, her daughter continued to receive and spend the annuity. The daughter entered into a Voluntary Repayment Agreement with OPM in which she agreed to pay off the debt in monthly installments of \$1,545.20.

**Federal Investigative Services (FIS) – Contractual Offset**

- I-12-00006 and I-13-00144: FIS's Integrity Assurance office conducted recovery projects on two contract background investigators after discovering falsifications. The two background investigators were referred to the OIG. The OIG investigated, but the cases were not accepted for prosecution by the U.S. Attorney's Office. FIS subsequently received a total of \$410,419.97 from USIS in administrative contractual offsets for the costs they incurred during their recovery efforts.

**FIS – Debarment of Background Investigators**

- During the period January 2015 through March 2015, the OIG referred ten background investigators to OPM for debarment. The OIG referred these background investigators to OPM for debarment for falsifying work that they conducted on background investigations of Federal employees. OPM debarred two background investigators during this reporting period.

**Prior Period Reporting**

- I-13-00286: On December 23, 2014, a physician entered into a civil settlement agreement to resolve allegations that he knowingly purchased foreign-sourced, non FDA-approved cancer drugs to administer to his patients. The foreign-sourced drugs were

purchased at a considerable discount over domestic-approved versions of the same drugs. Neither the patients nor Government health care programs were informed that foreign-sourced, non-approved drugs were being substituted for the FDA-approved version. The physician agreed to pay \$2,317,867.16 to resolve civil liability arising from the submission of false claims to the Medicare, TRICARE, and the FEHBP, of which \$104,304.02 will be paid to OPM for losses incurred by the FEHBP.