



**U.S. OFFICE OF PERSONNEL MANAGEMENT
OFFICE OF THE INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS**

Quarterly Case Summaries

**Investigations Resolved
During the Period April 1, 2016 through June 30, 2016**

Issued September 2016

REPORT FRAUD, WASTE, AND MISMANAGEMENT

INTRODUCTION

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 April 1, 2016 through June 30, 2016.

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP)

False Claims:

- I-2011-00576: Pharmaceutical companies Genentech, Inc. and OSI Pharmaceuticals, LLC agreed to pay \$67 million to resolve allegations that they made misleading statements to physicians and other health care providers about the effectiveness of the drug Tarceva to treat non-small cell lung cancer. The settlement resolves allegations filed in a *qui tam* lawsuit in the U.S. District Court for the Northern District of California by a former Genentech employee. The FEHBP's portion of the recovery was \$2,377,661.10.
- I-13-00071: On October 20, 2012, our office received a referral from the U.S. Department of Health and Human Services' Office of Inspector General alleging that the owner and operator of Washington Pain Medical Center, a licensed physician, and his wife billed Federal health care programs for medical services not rendered and provided false diagnosis codes to justify their billing. They were also alleged to have ordered their employees to alter or destroy patient files to conceal their scheme from auditors and law enforcement. Subsequent to the investigation, a jury found the owner and his wife guilty of health care fraud, making a false statement related to a health care program, obstruction of justice, wire fraud, and aggravated identity theft. However, charges against the wife were dismissed when she died on February 1, 2016. On April 11, 2016, the owner was sentenced in the U.S. District Court for the District of Maryland to 111 months in jail, 36 months of probation, and ordered to pay \$3,103,874.58 in restitution and a \$900 assessment fee. The FEHBP's portion of the recovery was \$862,167.46.
- I-13-00684: Former employees of Drayer Physical Therapy Institute, LLC (Drayer) filed a *qui tam* lawsuit in the U.S. District Court for the District of South Carolina alleging that Drayer submitted claims to Federal health care programs for services provided to multiple patients simultaneously as though those services were provided to one patient at a time. The former employees were physical therapy assistants and frequently treated multiple patients simultaneously and billed each patient using codes requiring direct, one-on-one contact. They were instructed to record the time the patient began therapy and when the patient left, but they did not record the actual time spent with each patient. An investigation that included the review of a random sample of Drayer's patient records, numerous interviews, and depositions from witnesses, substantiated the allegations.

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To resolve the allegations, Drayer entered into a civil settlement agreement in which they agreed to pay the United States \$7 million. The FEHBP's portion of the recovery was \$189,134.96.

- I-14-00476: In February 2014, an investigator at the Presbyterian Health Plan notified our office of a licensed clinical psychologist practicing in New Mexico who was allegedly billing Federal health care programs for services not rendered. A review of the psychologist's medical records revealed that she billed Federal health care programs for fictitious visits by twenty of her patients. Three of the patients were members of the FEHBP. The psychologist pled guilty to charges of health care fraud and on May 10, 2016 was sentenced in the U.S. District Court for the District of New Mexico to 60 months of probation and ordered to pay \$157,839.94 in restitution and a \$100 assessment fee. The FEHBP's portion of the recovery was \$27,701.49.
- I-14-01341: A former sales representative for medical device manufacturer Paradigm Spine, LLC (Paradigm) filed a *qui tam* lawsuit in the U.S. District Court for the District of Maryland alleging that Paradigm caused health care providers to submit false claims to Federal health care programs for spine surgeries by marketing their coflex-F surgical device for uses that were not approved by the U.S. Food and Drug Administration. In addition, Paradigm allegedly provided health care providers with improper guidance on how to claim reimbursement for the surgical device. Paradigm denied the claims against them, but entered into a civil settlement agreement to resolve the allegations in which they agreed to pay the United States \$585,000. The FEHBP's portion of the recovery was \$36,884.25.
- I-14-01420: Allegations were made that a California podiatrist working in Orange and Los Angeles Counties paid kickbacks to marketers to recruit patients for podiatry service. The podiatrist allegedly billed Federal health care programs not only for services performed on the dates the marketer brought the patients to him, but also for additional dates on which he did not see the patients. The joint investigation between our office and the FBI also revealed that he billed for podiatry services on patients that he never saw. The podiatrist pled guilty to the allegations and on May 23, 2016 was sentenced to 21 months in jail, 36 months of probation, and ordered to pay \$475,923.62 in restitution. No restitution was ordered payable to the FEHBP due to this being only one FEHBP claim for less than \$40.

FEHBP Suspension and Debarment:

- During the period April 1, 2016 through June 30, 2016, the Office of Investigations referred 17 health care providers to the OIG debarment official to consider for debarment from participation in the FEHBP.

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RETIREMENT PROGRAMS (CSRS and FERS)

Deceased Annuitant Fraud:

- I-15-02277: A proactive project conducted by our office revealed that the April 23, 2001 death of an annuitant was not reported to OPM. The annuitant's husband, also a retired Federal employee, passed away on March 7, 2002. Our investigation determined that their daughter contacted OPM in October 2002 and reported – falsely – that her father had died, but her mother remained alive. As a result, OPM continued to issue monthly retirement and survivor annuity payments through February 2010, resulting in an overpayment of \$702,950.29. OPM recovered \$27,467.85 through the reclamation process with the deceased's financial institution, leaving a balance due of \$675,482.44. During the years of overpayment, the daughter sent OPM at least three letters, one of which was notarized, bearing the purported signature of the deceased. Also, tax returns were filed in the deceased annuitant's name for years after her death. Our investigation concluded that the daughter received the annuity payments issued to the deceased, and used them for her own benefit. The daughter pled guilty to theft and on June 17, 2016 was sentenced in the U.S. District Court for the District of Columbia to 15 months in jail, 36 months of probation, and ordered to pay \$668,934.34 in restitution to OPM and a \$100 assessment fee.
- C-15-00949: OPM's Retirement Inspections Office notified OPM's OIG that the September 9, 2011 death of an annuitant was not reported to OPM, resulting in an overpayment of \$61,382.50. OPM recovered \$1,962.10 through the reclamation process with the deceased's financial institution and applied to the debt \$2,908.10 that OPM owed the annuitant, leaving a balance due of \$56,512.30. OIG special agents interviewed the deceased annuitant's daughter, who acknowledged that she received the retirement and survivor annuity paid by OPM to her mother after her death. The OIG notified OPM's Office of the Chief Financial Officer of the daughter's willingness to repay her debt to OPM. The daughter signed a Voluntary Repayment Agreement in which she agreed to repay the debt to OPM in 36 monthly installments.

Survivor Benefits Fraud:

- I-14-00837: On April 8, 2014, the OIG received an anonymous tip on our Hotline alleging that a survivor annuitant had failed to report her marriage to OPM, and was ineligible to continue receiving monthly survivor annuity payments. Our investigation revealed that on September 24, 2000, the survivor annuitant remarried while under the age of 55, which made her ineligible to continue receiving a survivor annuity. On November 27, 2013, the survivor annuitant submitted a Marital Status Certification Survey to OPM stating that she had never remarried. On May 9, 2014, she sent OPM a signed letter stating that she had never remarried. When interviewed by special agents

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from the OIG and the Federal Bureau of Investigation, the survivor annuitant admitted that she had remarried and had submitted false information to OPM. She pled guilty to theft of government funds and on May 18, 2016 was sentenced in the U.S. District Court for the District of Minnesota to 24 months of probation, 100 hours of community service, and ordered to pay restitution of \$132,527.06 to OPM and a \$100 assessment fee.

FEDERAL INVESTIGATIVE SERVICES (FIS)

False Statements by Background Investigators:

- I-12-00025: In July 2013, FIS's Integrity Assurance provided our office with an Executive Summary Report indicating that a former OPM contract background investigator employed by Keypoint falsified Reports of Investigation submitted to OPM. Our investigation concluded that in approximately 50 background investigation Reports of Investigation, the background investigator indicated that he had interviewed a source or reviewed a record regarding the subject of the background investigation, when in fact, he had not conducted the interview or obtained the records of interest. These reports were utilized and relied upon by Federal agencies requesting the background investigations to determine whether these subjects were suitable for positions having access to classified information, for positions impacting national security and public trust, or for receiving or retaining security clearances. These false representations required FIS to reopen and reinvestigate numerous background investigations assigned to the background investigator. On May 24, 2016, the former background investigator was sentenced in the U.S. District Court for the District of Columbia to two months in jail, four months of home detention, and 36 months of probation for falsifying reports. He was also ordered to pay \$85,779.93 in restitution to OPM.
- I-12-00636: In November 2013, our office received an allegation from FIS's Integrity Assurance regarding misconduct and false statements made by an OPM contract background investigator. On 31 occasions from May 2010 through July 2012 the contract background investigator indicated that he had interviewed a source or reviewed a record relating to the subject of the background investigation, when in fact, he had not conducted the interview or obtained the record of interest. The contract background investigator was removed from the OPM contract effective July 2012. The false representations required FIS to reopen and reinvestigate numerous background investigations assigned to the background investigator. In June 2016, an administrative contractual offset of \$105,432.34 to the OPM Revolving Fund was requested from CACI, the employer of the former contract background investigator.

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Debarment of Background Investigators:

- During the period April 1, 2016 through June 30, 2016, the OIG referred two background investigators to OPM for debarment. The background investigators were referred for debarment for falsifying their work products, specifically reports regarding the background investigations they conducted. OPM issued Notices of Proposed Debarment to two background investigators during this time period.

CONTRACTING

Improper Contracting practices:

- I-12-00464: On or about May 14, 2012, an OPM employee alleged that they were retaliated against by the former USAJOBS Project Lead after questioning the methods used to procure work performed by Excella Consulting (Excella). Since the U. S. Office of Special Counsel was investigating the alleged retaliation, the OIG did not investigate the retaliation complaint and focused on the alleged procurement violations. The OIG's investigation concluded that there were violations of the Federal Acquisition Regulations and OPM contracting policy, including an unauthorized commitment, a Task Order initiated prior to pricing, and efforts by the former USAJOBS Project Lead to limit competition without documented justification for a limited or sole source procurement. The OIG found no misconduct on the part of Excella.

On April 29, 2016, the OIG sent OPM's Acting Director a Management Advisory Report containing recommendations for program improvement that arose from observations made during our investigation. The OIG's recommendations to OPM were:

- 1) to ensure good communication between the contracting office and the program office when determining fair opportunity for potential contractors to compete;
- 2) to require training for program officials and program managers who have input or involvement in the selection of contractors or contract vehicles, or who may be able to influence competition. In addition, supplement basic Contracting Officer Technical Representative courses with basic procurement courses covering a variety of procurement topics, and;
- 3) to bring the OIG's findings on this matter to the attention of OPM's Advocate(s) for Competition. OPM management concurred with these recommendations and noted that they have already taken some corrective actions and have planned for additional corrective actions.

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Report Fraud, Waste, and Mismanagement

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By Internet: <http://www.opm.gov/our-inspector-general/hotline-to-report-fraud-waste-or-abuse>

By Phone: Toll Free Number: (877) 499-7295
Washington Metro Area: (202) 606-2423

By Mail: Office of the Inspector General
U.S. Office of Personnel Management
1900 E Street, NW
Room 6400
Washington, DC 20415-1100

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