



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Office of the  
Inspector General

January 16, 2014

MEMORANDUM FOR KATHERINE ARCHULETA  
Director

FROM: PATRICK E. McFARLAND  
Inspector General

SUBJECT: Summaries of Recent OIG Investigations

A handwritten signature in cursive script that reads "Patrick E. McFarland".

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. Attached are examples of our investigations resolved during the period October 1, 2013 through December 31, 2013.

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: Anne Marie Habershaw, Chief of Staff  
Dennis D. Coleman, Chief Financial Officer  
Angela Bailey, Chief Operating Officer  
Mark Reinhold, Acting 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  
Merton Miller, Associate Director, Federal Investigative Services  
Joseph Kennedy, Associate Director, Human Resources Solutions  
Kamala Vasagam, General Counsel

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

**Quarterly Case Summaries**  
**January 2014**

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Our investigative workload involves crimes affecting U.S. Office of Personnel Management (OPM) programs. In order to inform the public of the impact of these crimes, we periodically provide brief summaries of significant investigations that have been resolved. Examples of investigations resolved during the period October 1, 2013 through December 31, 2013 include:

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

- OPM's Office of Inspector General (OIG) received a referral from the Federal Bureau of Investigation (FBI) regarding allegations that a chiropractic doctor submitted fraudulent claims to Federal health insurance programs. An investigation confirmed that the doctor billed insurance companies for more service or longer duration of services than actually provided and for medically unnecessary medical equipment. The doctor pled guilty in the U.S. District Court for the Eastern District of Virginia to the charge of theft from a healthcare program. On October 15, 2013, he was sentenced to two months in prison, two months of home detention, one year of probation, and ordered to pay \$161,554.41 in restitution, a \$5,000 criminal fine, and a \$25 assessment fine. The FEHBP's portion of the total recovery was \$7,260.66.
- The FBI informed the OIG of a Federal employee who was allegedly using a false identity as a doctor to write prescriptions for controlled substances for himself and his wife, causing the submission of fraudulent claims to Blue Cross and Blue Shield's Federal Employee Program. An investigation confirmed the allegation, resulting in the employee pleading guilty in the U.S. District Court for the Eastern District of Virginia. On November 1, 2013, the employee was sentenced to two years of probation and ordered to pay a \$100 assessment fee. The employee is no longer employed by the Federal Government.
- The OIG at the Department of Health and Human Services referred an allegation that Fairfax Orthopedics submitted fraudulent claims to Federal health insurance programs. An investigation revealed that Fairfax Orthopedics submitted claims for medications that had not received final marketing approval from the U.S. Food and Drug Administration (FDA). In a civil settlement agreement, Fairfax Orthopedics agreed to pay the United States \$1,126,217.85. The FEHBP's portion of the total recovery was \$298,651.21.
- The OIG received a referral from Florida Blue health insurance company alleging that Lord's Medical & Rehab Center Inc. (Lords) submitted fraudulent claims for reimbursement. An investigation confirmed that Lords submitted claims for services that

they did not provide. Two managers at Lords were indicted in the U.S. District Court for the Southern District of Florida. One manager pled guilty to the charge of healthcare fraud. On October 22, 2013, she was sentenced to 30 months in prison, three years of probation, assessed a \$100 court fee, and ordered to pay \$3,153,262 in restitution. A Federal jury found the other manager guilty of healthcare fraud. On December 26, 2013, he was sentenced to 41 months in prison, three years of probation, and ordered to pay \$976,476 in restitution and a \$100 court fee. The FEHBP's portion of the total recovery was \$190,306.43.

#### **FEHBP – Off-Label Promotion**

- A *qui tam* relator filed suit in the U.S. District Court for the Eastern District of Pennsylvania alleging that Janssen Pharmaceuticals, L.P. (Janssen) promoted the use of the drugs Risperdal and Invega for medically unnecessary and unsafe usage and conspired with doctors to cause the submission of fraudulent claims to Federal health insurance programs. An investigation confirmed these allegations; and in a civil settlement agreement, Janssen agreed to pay the United States and the Medicaid Participating States \$1,273,024,000. The FEHBP's portion of the total recovery was \$37,012,749.97. In the criminal plea agreement, Janssen was sentenced to pay a \$334,000,000 fine, \$66,000,000 in criminal forfeiture, and a \$125 assessment fee.
- A *qui tam* relator filed suit in the U.S. District Court for the Northern District of California alleging that SCIOS Inc. and Johnson & Johnson (Scios) engaged in off-label promotion of the drug Natrecor. The FDA approved Natrecor to treat patients with acutely decompensated congestive heart failure who have shortness of breath at rest or with minimal activity. Scios marketed the drug for patients with less severe heart failure, a use not included in the FDA-approved label and not covered by Federal healthcare programs. Scios agreed to pay the Federal Government \$184,000,000 to resolve their civil liability for the false claims submitted to Federal healthcare programs resulting from their off-label marketing of Natrecor. The FEHBP's portion of the total recovery was \$627,371.56.

#### **Retirement – Deceased Annuitant Fraud**

- OPM identified an annuitant whose July 31, 2000 death had not been reported to OPM. OPM continued making annuity payments through November 2009, resulting in an overpayment of \$125,262.00. The annuitant's daughter pled guilty to the charge of Theft of Government Money and on December 18, 2013 was sentenced in Georgia to five years of probation and ordered to pay OPM \$125,262 in restitution and a \$100 assessment fee.
- OPM's Retirement Inspections branch identified an annuitant whose November 9, 2004 death had not been reported to OPM. As a result, OPM continued making annuity payments through November 2009, causing an overpayment of \$92,681.90. OPM mailed two Address Verification Letters (AVLs) to the annuitant, both of which were returned to OPM supposedly signed and dated by the annuitant. The annuitant's daughter admitted to forging her deceased mother's signature on the AVLs in order to assure that the retirement benefits continued after her mother's death and to using the annuity payments for her own personal gain. The daughter pled guilty to the charge of Theft of

Government Property and on December 4, 2013 was sentenced in California to five years of probation, 100 hours of community service, and ordered to pay OPM \$92,681.90 in restitution and a \$100 assessment fee.

- The Social Security Administration's OIG informed OPM's OIG of the March 27, 1998 death of an annuitant whose death had not been reported to OPM. OPM continued making annuity payments through August 2012, resulting in an overpayment of \$182,202.52. The annuitant's grandson admitted that he had been using his deceased grandmother's annuity payments from OPM and Social Security for his own benefit since her death. He pled guilty to the charge of Theft of Public Money and on November 13, 2013 was sentenced in Oklahoma to four years of probation, six months of home detention, and ordered to pay \$265,603.52 in restitution and a \$100 assessment fee. OPM recovered \$182,202.52.

**Federal Investigative Services – Falsification:** The OIG investigated three cases involving contract background investigators falsifying work on background investigations of Federal employees. The Federal Investigative Services' (FIS) Integrity Assurance office conducted recovery projects on each of the three contract background investigators to determine the number of falsifications. In each case, the number of falsifications was not sufficient to meet the established criteria for criminal prosecution. FIS did recover the cost of the recovery efforts from the contractor through contractual offsets. The amounts recovered on the three cases were \$89,320.76, \$136,531.40, and \$170,131.64.

**Federal Investigative Services – Debarment:** In September 2012, the OIG brought to former Director Berry's attention the fact that OPM lacked an adequate Suspension and Debarment program, for any of its programs or contracting activities, other than with regard to health care providers participating in the Federal Employees Health Benefits Program (FEHBP).<sup>1</sup> Former Director Berry instructed a group of contracting experts to develop a suspension and debarment program for OPM, and the new program became effective on March 20, 2013. On November 1, 2013, OPM issued its first two debarments on cases referred by the OIG. Both of the debarred individuals were background investigators criminally convicted of fabricating background investigation reports. Five additional debarments have been issued since January 1, 2014, and more are pending.

**Management Advisory - Whistleblower Protection:** On October 25, 2013, the OIG issued a memorandum to Acting OPM Director Elaine Kaplan recommending that OPM take prompt action to amend existing contracts in order to make the whistleblower protections afforded to employees of Federal contractors and subcontractors by Public Law 112-239 (January 2, 2013) applicable within OPM programs, in particular the background investigations program administered by OPM's FIS. Section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239), codified generally at 47 U.S.C. § 4712, (hereinafter referred to as Section 828) extended whistleblower protection to employees of Federal contractors, subcontractors, and grantees on a pilot basis for the period July 1, 2013, through January 1, 2017. These provisions specify that an employee of a Federal contractor or subcontractor may not be

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<sup>1</sup> Under a delegation from successive OPM Directors, the Office of the Inspector General has conducted an administrative sanctions program with respect to such health care providers since 1993.

discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure of information. However, the protections of Section 828 only apply to persons against whom retaliatory actions were taken on or after July 1, 2013 and who were working under contracts which were issued on or after that date; were amended on or after that date to specifically incorporate the protective provisions of Section 828; or for which new task orders were issued on or after that date. The OIG was informed that as of December 3, 2013, OPM had made the necessary modifications to existing FIS contracts, were in the process of prioritizing other OPM contracts for modification, and were committed to include the whistleblower protection provisions in future contracts.