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

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# Quarterly Case Summaries

**Investigations Resolved  
During the Period April 1, 2017 through June 30, 2017**

**Issued September 2017**

# 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, 2017 through June 30, 2017.

### FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP)

#### **Health Care Fraud/False Claims:**

- I 2011 00108: In October 2010, a former sales representative of a Durable Medical Equipment (DME) supply company of sleep study equipment filed a *qui tam* lawsuit in the Northern District of California alleging that the company had paid for patient referrals, forged physician's signatures on the medical necessity form, falsified test results to ensure patients "qualified" for the equipment, and paid bonuses to sales people that obtained a physician's prescription. In April 2017 after a long protracted investigation and settlement negotiation, the DME supply company agreed to pay the government \$11.4 million dollars to settle the government's investigation into the alleged improper billings to Medicare, Medicaid, Tricare and the FEHBP. OPM's portion of the settlement was \$87,574. We worked jointly on this case with Health and Human Services (HHS) OIG, California Medicaid Fraud Control Unit and the Department of Defense (DOD) OIG.
- I-15-01451: In November 2016, the United States Attorney's Office in the Western District of Kentucky requested claims data from our office for a physician who was allegedly billing for services that were never performed. Medicare claims analysis showed that the physician, who specialized in allergy, asthma, and immunology, performed more allergy testing and professional services than other physicians in the area. The investigation revealed that the physician billed for intracutaneous tests using CPT code 95024 that were never performed. In April 2017, the physician entered into a settlement agreement with the Government agreeing to pay \$416,865.04. As a result of the settlement, the FEHBP received \$14,365.71.
- I-15-02451: A *qui tam* lawsuit was filed in September of 2015, in the U.S. District Court for the Eastern District of Michigan alleging that a physician group was double billing Federal health care programs for an unspecified number of vials of Xolair, a prescription asthma medication. Xolair is sold in single-use vials, and many patients receive doses of the drug that require health care providers to administer a partial vial of the drug. The investigation revealed that in situations where a patient's dose resulted in a leftover partial vial of Xolair, the subjects of our investigation billed Federal healthcare programs for the entire single use vial. The subjects then administered the leftover amount to a second patient, and billed the health care programs a second time for administering an entire single use vial. On June 5, 2017, the physician group signed a settlement agreement, paying a total of \$417,675 in restitution and penalties to federal healthcare programs. As a result of the settlement agreement, the FEHBP received \$2,101.02.

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- I-14-01407: In 2014, an FEHBP Contract Carrier notified the OPM OIG regarding a podiatrist they believed was billing for services under an incorrect (higher-paying) Current Procedural Terminology (CPT) code. The podiatrist was treating Morton’s neuroma (a condition that affects the nerves of the foot, typically between the interior metatarsals) with injections consisting of alcohol or cortisone which are reimbursable under CPT codes 64455 or 64632. However, we found that he was billing the FEHBP for other peripheral nerve destruction under CPT code 64640, which includes injection of a chemical neurolytic agent or use of thermal, electrical, or radiofrequency techniques. Providers may also bill for additional services, such as the administration of intravenous fluids or the use of durable medical equipment, when using CPT code 64640. The case was declined for criminal prosecution, but was accepted for civil litigation in the U.S. District Court for the Eastern District of Virginia. Due to financial means available to the defendant, the Government executed a settlement agreement with the podiatrist in May of this year recovering \$21,429.67 for the FEHBP.
- I-14-00975: A *qui tam* lawsuit was filed in the U.S. District Court for the Eastern District of Virginia in 2014 alleging that a Virginia hospital group was knowingly and intentionally up-coding evaluation and management (“E&M”) codes to their highest code levels (99220, 99223, 99226, 99233, 99236, and 99239) in order to maximize their reimbursement rates. We investigated this matter with the HHS OIG and DOD OIG. As a result of our joint investigation, on May 24, 2017, the Defendants were ordered to pay damages to the United States and the Commonwealth of Virginia in the sum of \$4,225,000 of which \$424,728.08 was ordered payable to the FEHBP.
- I-15-00273: After receiving a referral in January 2015 from the Food and Drug Administration’s Office of Criminal Investigations (FDA OCI), we initiated an investigation into an oncologist who was allegedly purchasing and using foreign, non-FDA approved drugs and devices to treat his cancer patients. The drugs were allegedly purchased from Gallant Pharma International, Inc. which was prosecuted for selling unapproved imported pharmaceuticals (cosmetic and oncology drugs) to its U.S. clients. Our investigation affirmed that the doctor did utilize some of the drugs alleged to be foreign, non-FDA approved drugs. The case was declined for criminal prosecution, but was accepted for civil settlement negotiations by the U.S. District Court for the Eastern District of Virginia. On May 11, 2017, the doctor was ordered to pay a total of \$36,770 of which the FEHBP received \$12,476.81. We worked this case jointly with the FDA OCI and DOD OIG.

## **FEHBP Suspension and Debarment:**

During the period April 1, 2017 through June 30, 2017, our Office of Investigations referred 21 healthcare providers, 17 for debarment and 4 for suspension, to the OIG debarment official to consider for debarment or suspension from participation in the FEHBP.

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## RETIREMENT PROGRAMS

### (Civil Service Retirement System and Federal Employees Retirement System)

#### **Disability Fraud:**

- I-14-00715: In April 2014, we were contacted by the Social Security Administration (SSA) OIG alleging that a former Federal employee and current beneficiary had made false statements in order to receive disability related payments from various Federal and state agencies, including OPM. According to the SSA OIG, the disability was related to the beneficiary's assertion that he was wounded during his tour of duty with the Idaho National Guard while in Iraq in 2005, where he alleges he sustained physical injuries during a rocket attack. The investigation revealed that the beneficiary had made false statements in order to receive disability related payments from the various Federal and state agencies, including OPM, the Veterans Administration, SSA, and the Washington State Department of Social and Health Services. In addition, the beneficiary used this false information to obtain an Army-issued Combat Action Badge and a Purple Heart medal.

The beneficiary pled guilty in June 2017, to two counts of 18 USC 1343, Wire Fraud, in the Western District of Washington state. He was sentenced to three years in prison, followed by three years supervised release. He was also ordered to pay \$646,300.76 in restitution to the Veterans Administration (VA), Social Security Disability Insurance Program, VA Caregiver Disability Program, Department of Education's Loan Forgiveness Program, Washington State Employment and OPM for losses sustained as a direct result of his false assertions of disabilities or inability to work. The OPM loss totaled \$48,226. The Department of the Army officially and permanently revoked both the Combat Action Badge, as well as the Purple Heart that were issued to the beneficiary.

#### **Deceased Annuitant Fraud:**

- I-15-00267: In December 2014, our office received a fraud referral from OPM's Retirement Services regarding annuity benefits paid to a survivor annuitant after her death on February 11, 2004. OPM was not made aware of the death and continued to issue monthly retirement annuity payments through December 2012, resulting in an overpayment of \$126,852. Our investigation revealed that after the survivor annuitant died, her grandson continued to receive the annuity payments and used them for his own benefit. The grandson pled guilty to one count of Title 18, USC 641, Theft of Public Money, in the District of Kansas. In April 2017, he was sentenced to 6 months house arrest followed by 36 months' probation and ordered to pay \$112,248.68 in restitution.
- C-15-01113: The OPM OIG became aware in 2015, of a survivor annuitant's death after receiving a death certificate from the SSA OIG. The survivor annuitant's death on October 22, 2000 was not reported to OPM and benefit payments continued to be deposited into her account through April 1, 2014 for a total overpayment of \$89,022.93. The investigation revealed that the survivor annuitant's son was a joint account holder on the bank account to which annuity payments were deposited. After

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several unsuccessful attempts to finalize a Voluntary Repayment Agreement due to the son's long-term hospitalization, the OPM Funds Management Section submitted a debt referral to the U.S. Department of the Treasury for collection of a total amount of \$89,181.28, including interest.

- I-16-00474: In March 2016, our office received a fraud referral from OPM's Retirement Services regarding annuity payments paid to a survivor annuitant after the death of the survivor annuitant. The survivor annuitant's death on November 6, 2005 was not reported to OPM resulting in an overpayment of \$160,245.93 that was directly deposited into her checking account through May 2015. OPM recovered \$1,220.13 through the reclamation process leaving a balance due of \$159,025.80. The investigation revealed that one of the survivor annuitant's daughters withdrew the funds from the account. During an interview, the daughter said that she had written letters to OPM after her mother's death to resolve the issue, but never received a response from OPM. The daughter stated that she would be willing to work with OPM to pay back the money. This case was presented to the United States Attorney's Office for the Northern District of Maryland, but prosecution was declined since there was no evidence (in the form of false documents) of criminal wrong-doing. The daughter signed a Voluntary Repayment Agreement with OPM's Office of the Chief Financial Officer (OCFO) and will make monthly payments of \$3,611.12 until the entire balance of \$159,025.80 is paid in full.
- I-16-00476: The OIG received a fraud referral in March 2016, from OPM's Retirement Services to investigate the payment of survivor annuity benefits after the death of the survivor annuitant on July 12, 2000. The survivor annuitant's death was not reported to OPM and OPM continued to directly deposit monthly annuity payments into a savings account in the name of the survivor annuitant through June 2015, resulting in an overpayment of \$33,240. A bank subpoena was issued and we learned that the survivor annuitant's son withdrew money from the account into which OPM directly deposited the monthly annuity payments. The son was interviewed and he stated that he had provided OPM with a copy of the death certificate in 2006. It was discovered during the investigation that the agency system that supports the death match with the Social Security Administration's death information (the Validated Agency Matching System) recorded that the case was dropped for death on February 6, 2006, but the case was not dropped for death from the annuity roll and the survivor annuity continued to be paid through June 2015. The case was presented to the District Attorney's Office for the Commonwealth of Pennsylvania after it was declined by the U. S. Attorney's Office for the Eastern District of Pennsylvania. On April 17, 2017, the District Attorney's Office declined to intervene in this matter due to OPM's failure to stop the survivor annuity payments when presented with timely evidence of death. We returned the file to the OCFO for disposition of the overpayment.
- C-16-00768: The OPM OIG received a fraud referral in September 2016, from OPM's Retirement Services regarding annuity payments paid after the annuitant's death on January 28, 2004. OPM continued making payments into a checking account in the deceased annuitant's name through June 2015, resulting in an overpayment of \$158,497.36. OPM recovered \$138.79 through the reclamation process leaving a balance due of \$158,358.57. The bank records were subpoenaed and we learned that the annuitant's daughter was an authorized user on the account and utilized the funds for her own personal use. OPM OIG

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special agents attempted to interview the daughter, who appeared very ill and requested to be represented by an attorney. On June 26, 2017, the case was presented to the United States Attorney's Office for the Eastern District of California and was declined for prosecution due to the illness of the subject and the lack of evidence showing criminal intent. We returned the retirement file to the OCFO for disposition of the overpayment.

## **Under-age 55 Survivor Annuity Benefit Fraud**

The OPM OIG initiated a proactive project in 2016 to determine if fraud existed with the survivor annuitants who are under the age of 55. Title 5, United States Code 8341(b) (3) and 8442(d) (1) provides a survivor annuity to a widow or widower commencing the day after the death of the retiree or employee. This survivor annuity continues to the end of the month before the one in which the survivor dies or remarries before age 55. The survivor benefits may be reinstated in the event that the remarriage ends by death, divorce, or annulment. If the survivor does not remarry before age 55, the annuity continues for life. An exception to the rule is if a survivor was married to the deceased for more than 30 years, they can remarry prior to the age of 55 and still be eligible for a survivor annuity.

OPM's Retirement Services conducts an annual survey of this population to determine if the survivor annuitant has remarried. Retirement Services surveyed 8,877 survivor annuitants under the age of 55 in 2016. LexisNexis maintains coverage of marriage and divorce records for certain states, to include Florida, Ohio, Connecticut, North Carolina, and Texas. We utilized the marriage and divorce records from LexisNexis to review a sample of 141 of the survivor annuitants from the 2016 survey who had correspondence addresses in the states identified above to determine if there was an indication of remarriage, which would make the survivor ineligible for benefits. We found that of the 141 survivor annuitants reviewed, seven had remarried prior to the age of 55 and not reported the remarriage to OPM. The first two summaries noted below are the results of this proactive work.

- C-17-00063: In November 2016, the OPM OIG identified that a survivor annuitant living in Florida had become eligible for survivor annuity benefits on October 29, 2005 after her husband died on October 28, 2005. Records indicated that the survivor annuitant got remarried on April 2, 2007 when she was 45 years old. The retirement file contained two Marital Status Certification Surveys, dated December 3, 2013 and February 17, 2015, signed by the survivor annuitant where she checked the box "I Have Never Remarried." The OPM OIG obtained a copy of her marriage certificate from the Florida Bureau of Vital Statistics. The survivor annuitant provided Retirement Services with a copy of her divorce decree effective August 25, 2008. She was married from April 2, 2007 through August 25, 2008 and was ineligible to receive survivor benefits during this time period. Retirement Services determined the amount of the overpayment to be \$55,688 which will be collected through 36 installments of \$1,546.56 from her monthly survivor annuity payments.
- C-17-00066: The OPM's OIG identified in November 2016, that a survivor annuitant living in Florida had become eligible for survivor annuity benefits on September 26, 1991 after her husband's death. Records show that she remarried on February 14, 2010 when she was 48 years old. We obtained a copy of her marriage certificate from the Florida Bureau of Vital Statistics. The survivor annuitant provided Retirement Services with a copy of her husband's

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death certificate dated February 27, 2014. Therefore, she was ineligible for survivor annuitant benefits during the time of her remarriage, February 14, 2010 through February 27, 2014, which amounted to \$33,209.70. The retirement file did not contain any copies of the Marital Status Certification Surveys. Retirement Services will collect this debt through 112 installments of \$295.34 from her monthly survivor annuity payments.

- I-14-00799: In May 2014, the OPM OIG received a fraud referral from OPM's Retirement Services after they had received an anonymous letter in 2013 stating that a survivor annuitant had remarried and was continuing to collect survivor benefits on behalf of her deceased husband. The investigation found that the survivor annuitant had remarried three times, and her first remarriage was in 1999, at the age of 44. The investigation further found that in some instances the survivor annuitant remarried using a variation of her name and a different date of birth. The survivor annuitant was interviewed on two occasions and denied any marriages other than her first marriage. The survivor annuitant was indicted in the Central District of California in March 2016, and charged with Title 18 U.S.C. 1343- Wire Fraud, Title 18 U.S.C. 641- Theft of Government Money/Property, and Title 18 U.S.C. 1001- False Statements. In January 2017, the survivor annuitant pled guilty to Title 18 U.S.C. 641- Theft of Government Money/Property and in April 2017 was sentenced to 12 months home confinement, 36 months' probation, \$100 special assessment, and \$246,240 in restitution payable to OPM.

## **NATIONAL BACKGROUND INVESTIGATIONS BUREAU (NBIB)**

### **Debarment and Suspension of Background Investigators:**

During the period April 1, 2017 through June 30, 2017, OPM issued Notices of Proposed Debarment to seven background investigators. The OPM OIG previously referred these background investigators for debarment for falsifying their work products, specifically their Reports of Investigations which are relied upon for determining a potential Federal employee's or contractor's suitability and clearance level.



## Report Fraud, Waste, and Mismanagement

Fraud, waste, and mismanagement in Government concerns everyone: Office of the Inspector General staff, agency employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and mismanagement related to OPM programs and operations. You can report allegations to us in several ways:

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

**By Phone:** Toll Free Number: (877) 499-7295  
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**By Mail:** Office of the Inspector General  
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1900 E Street, NW  
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