Carrier Settlement Agreements

No case involving recovery of FEHB or PSHB Program overpayments which result from reportable FWA should reach the settlement stage without prior communication with OPM. This includes subrogation and reimbursement settlements reached in accordance with FEHB/PSHB contract Section 2.5 Subrogation and Reimbursement.

In cases where the Carrier has submitted a notification to the OPM OIG or the OPM OIG has an open investigation, the Carrier may not enter into a Settlement Agreement (or pursue other means of reimbursement) for the recovery of FEHB/PSHB Program funds unless explicitly permitted by the OPM OIG.

The Carrier may proceed with any resolution the Carrier deems appropriate in all cases that the OIG has elected not to pursue. This may include pursuit of a settlement agreement. The Carrier may not agree to any proposed settlement agreement without approval from OPM. The Carrier must report any such recoveries to OPM on their annual FWA Reports and monthly ARC Spreadsheet.

When a Carrier (as a sole participant[1]) resolves claims with any type of health care services provider or manufacturer for recovery of overpayments which resulted from apparent or suspected false, fictitious, fraudulent, or misleading claims submitted to the Carrier AND at least $10,000 of the identified overpayments is money paid through the FEHB/PSHB program, then the Carrier must:

1. Notify the OPM OIG/OPM and provide a five (working) day timeframe for the OPM OIG and/or HI to notify the Carrier if they determine whether they agree with the terms of the settlement, and
2. not include a confidentiality clause in the settlement agreement which restricts the Government's access to the agreement.

Language for the settlement agreement: *"This settlement agreement in no way waives the rights of the United States Government under any Federal statute to pursue civil and/or criminal fines, penalties, recoveries, etc., for*

[1] The requirement to include specific language in settlement agreements does not apply to Class Action Lawsuits, because the Carrier is not the "sole participant" in such litigation.

claims submitted to the Carrier under the Federal Employees Health Benefits (FEHB) Program or the Postal Service Health Benefit (PSHB) Program." The requirement to include specific language in settlement agreements does not apply to Class Action Lawsuits, because the Carrier is not the "sole participant" in such litigation.

If a Carrier enters into negotiations with a provider such as those described above and there were monies identified paid through the FEHB/PSHB Program, but the FEHB/PSHB Program overpayments were excluded from the final settlement agreement for any reason, the Carrier must send notification to the OPM OIG and OPM without delay.