



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Office of the  
Inspector General

May 6, 2014

MEMORANDUM FOR KATHERINE ARCHULETA

Director

FROM:

*for* PATRICK E. McFARLAND  
Inspector General

A handwritten signature in blue 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, 2014 through March 31, 2014.

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  
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**  
**April 2014**

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Our investigative workload involves crimes affecting U.S. Office of Personnel Management (OPM) programs. Provided below are summaries of some of the investigations resolved during the period January 1, 2014 through March 31, 2014.

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

- A *qui tam* relator filed suit in the U.S. District Court for Montana alleging that EndoGastric Solutions Inc. mislead health care providers about how to bill Federal health care programs for a procedure using a device manufactured by their company in order to increase the amount of reimbursement they received. In addition, it was alleged that EndoGastric Solutions violated the Anti-Kickback Statute by paying remuneration to physicians for participating in patient seminars and co-marketing agreements to induce them to use their products. An investigation confirmed these allegations; and in a civil settlement agreement, EndoGastric Solutions agreed to pay the United States \$2,500,000 in fixed payments and additional contingency payments based on their future sales, not to exceed \$2,750,000. The FEHBP's portion of the fixed payment was \$439,069.35.
- A *qui tam* relator filed suit in the U.S. District Court for the Eastern District of Tennessee alleging that Tennessee Orthopaedic Clinic (TOC) knowingly billed state and Federal health care programs for medications that were reimported from foreign countries and that had not been approved by the U.S. Food and Drug Administration (FDA). An investigation confirmed that TOC purchased deeply discounted medication in foreign markets and then submitted false claims to state and Federal health insurance programs indicating that the medications that they provided to their patients were FDA approved. A civil settlement agreement required TOC to pay the United States and the state of Tennessee collectively \$1,300,000. The FEHBP's portion of the total recovery was \$11,494.63.
- OPM's Office of Inspector General (OIG) received a referral from the U.S. Attorney's office for the Eastern District of Virginia regarding allegations that an ophthalmologist who owned and operated Retina Group of Tidewater, PC (RGT) in Norfolk, Virginia submitted claims to Federal health insurance programs for a drug that has not received final marketing approval from the FDA. An investigation revealed that RGT submitted claims for the drug Avastin, which they obtained from a wholesaler in the United Kingdom. The FDA has not approved this version of the drug for use in the United

States. A civil settlement agreement required RGT to pay the United States \$76,699.92. The FEHBP's portion of the total recovery was \$2,775.54.

- A *qui tam* relator filed suit in the U.S. District Court for the Eastern District of Virginia alleging that Pediatric Cardiology Associates, P.C. (PCA) engaged in a scheme to submit false and fraudulent claims for reimbursement by unbundling the billing for echocardiograms and upcoding the use of event monitors and office visits associated with stress tests. PCA entered into a civil settlement agreement which required them to pay the United States \$145,129.94 and the Commonwealth of Virginia \$29,870.06. The FEHBP's portion of the total recovery was \$66,626.64.
- OPM's OIG received a referral from the United States Postal Service (USPS) OIG regarding allegations that a mental health doctor was submitting fraudulent claims to Federal health insurance programs for services not rendered. An investigation confirmed that the doctor had devised a scheme to submit false claims that included collaboration with current and former USPS employees. The doctor pled guilty to the charge and was sentenced on February 4, 2014 in the Central District of California to five years of probation and ordered to pay \$172,754.06 in restitution. Two USPS employees involved in the scheme were sentenced on August 5, 2013 and September 19, 2013 respectively to probation and ordered to pay restitution.
- A *qui tam* relator filed suit in the U.S. District Court for the District of South Carolina alleging that Omnicare Inc., a long-term care pharmacy, engaged in a kickback scheme in violation of the False Claims Act. Omnicare solicited and received kickbacks from drug manufacturer Amgen Inc. in return for implementing programs designed to switch Medicaid beneficiaries from a competitor drug to Amgen's product Aranesp. Omnicare entered into a civil settlement agreement and agreed to pay the United States and the Medicaid Participating States \$4,190,000. The FEHBP's portion of the total recovery was \$32,441.43.

#### **FEHBP – Off-Label Promotion**

- A *qui tam* relator filed suit in the U.S. District Court for the Eastern District of Pennsylvania alleging that Endo Pharmaceuticals Inc. (Endo) promoted the use of the drug Lidoderm for treatment of medical conditions that the drug had not been approved for by the FDA. An investigation confirmed these allegations; and in a civil settlement agreement, Endo agreed to pay the United States and the Medicaid Participating States \$171,910,153. The FEHBP's portion of the total recovery was \$6,430,989.47. In a criminal agreement, Endo agreed to pay \$20,800,000 in monetary penalties and forfeiture.

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

- OPM's Retirement Inspections branch identified an annuitant whose October 6, 2009 death had not been reported to OPM. As a result, OPM continued making annuity payments through January 2013, causing an overpayment of \$43,826.34. The Social Security Administration (SSA) also made payments after the annuitant's death, resulting in an overpayment of \$19,227.00. The annuitant's daughter admitted that after her

mother's death she used the annuity payments for her own personal gain and she pled guilty to the charge of Larceny over \$250 by Single Scheme. On March 10, 2014 she was sentenced in Massachusetts to seven years of probation and ordered to pay \$43,826.34 in restitution to OPM, \$19,227.00 in restitution to SSA, and a \$50 assessment fee.

**Federal Investigative Services (FIS) – Debarment of Background Investigators**

- Under OPM's new Suspension and Debarment program, OPM issued debarments to six background investigators during the period January 2014 through March 2014. The OIG referred these background investigators to OPM for debarment for falsifying work they conducted on background investigations of Federal employees. In addition, the OIG referred three other cases to OPM for debarment during the same period.