



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
September 14, 2009

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General found that Erin Sherman-Rohl, while employed by Health Research, Inc., conspired with Sheldon Jacobson, a private citizen and acquaintance of Sherman-Rohl, to misappropriate more than \$62,000 from the New York State Department of Health's (DOH) Adult Cystic Fibrosis Assistance Program. Both Sherman-Rohl and Jacobson were arrested and subsequently pleaded guilty to grand larceny. On September 11, 2009, Jacobson was sentenced to 1-3 years in state prison and ordered to pay restitution. Sherman-Rohl is scheduled to be sentenced October 22, 2009.

The Inspector General also found that a lack of internal review of cystic fibrosis program claims by supervisors left the program vulnerable to Sherman-Rohl's criminal activity. The Inspector General recommended that DOH take action to ensure effective oversight of the program. DOH has initiated disciplinary action against three officials.

ALLEGATION

On October 3, 2008, DOH reported to the Inspector General that a reconciliation of payments made to patients and providers served by DOH's Adult Cystic Fibrosis Assistance Program revealed substantial cash reimbursements from May 2007 to July 2008 to Sheldon Jacobson, a person who was not an authorized or recorded benefit recipient or supplier of services, and that Erin Sherman-Rohl processed all the claims for Jacobson.

SUMMARY OF INVESTIGATION

The Cystic Fibrosis Program and its Review of Claims for Payment

The Adult Cystic Fibrosis Assistance Program was established by DOH to aid adults in New York stricken with cystic fibrosis. The program, which receives approximately \$600,000 a year in state funding, provides reimbursement for the cost of medical care and/or insurance premiums to approximately 125 participating cystic fibrosis sufferers aged 21 years or older. The program also makes payments directly to cystic fibrosis medical and pharmaceutical providers for covered services.

The cystic fibrosis program is one of several programs managed by DOH's Bureau of Chronic Disease Services, headquartered in Albany. Staff operating these programs include DOH employees as well as employees of Health Research, Inc. (HRI), a not-for-profit corporation established by the state to support DOH's activities. The DOH commissioner serves as the head of HRI, and HRI employees frequently work alongside of, and perform the same tasks as, DOH employees. At the time of the Inspector General's investigation, Stanley Mathews and Erin Sherman-Rohl, both HRI employees, were responsible for the cystic fibrosis program's day-to-day operations. The program was supervised by Elizabeth Berberian, Assistant Director of the Bureau of Chronic Disease Services, who reported to David Hoffman, the bureau director. Berberian and Hoffman are both DOH employees.

To receive reimbursement or payment, participating cystic fibrosis patients and approved providers submit claims to the program. Prior to 2005, according to DOH and HRI employees, cystic fibrosis program participants and providers submitted claims, including supporting documentation, to program staff by mail. Program staff reviewed the claims, indicated their approval by signature, and then forwarded the claims, along with the backup documentation, to the DOH Bureau of Accounts Management for further processing and payment. Under this process, claims received two reviews prior to payment, first by program staff and subsequently by the Bureau of Accounts Management.

Around March 2005, a change in the process by which claims were paid at DOH resulted in substantially less review of participant and provider claims. Hoffman, then-director of the DOH Bureau of Chronic Disease Services, and Berberian, then-assistant director, told the Inspector General that they were advised at that time by DOH officials that the cystic fibrosis program now would have to comply with the Health Insurance Portability and Accountability Act (HIPAA), a federal statute that set standards for the protection of certain health information. Hoffman stated that in a meeting which he, Berberian, and program staff attended with Warren Taylor, Director of the Bureau of Accounts Management, Taylor advised that a "truncated or simpler system" for claims review was needed to meet HIPAA requirements.

Under the new process then implemented, the Bureau of Accounts Management no longer received the actual claims and supporting documentation submitted by participants and providers. Instead, Mathews and Sherman-Rohl, after reviewing and verifying the claims, completed a "summary sheet" indicating the proper payment due on each claim. The summary sheets, which typically contained multiple claims, did not include backup documentation. Mathews or Sherman-Rohl signed the summaries, indicating approval, and then forwarded them to Berberian, the program supervisor. Berberian or, in her absence, Hoffman, also approved and signed the summaries, which then were forwarded to the Bureau of Accounts Management for payment. Documentation supporting the claims was to be maintained by Mathews and Sherman-Rohl.

Berberian said she didn't recall "a conscious decision" to implement a specific approval process for the summary sheets. She testified to the Inspector General, "It was just that this was the information that needed to be signed off and sent up, and this was what we did . . . [It was] just how it happened." However, Berberian testified that she

was “not comfortable” with the lack of review by the Bureau of Accounts Management prior to authorizing payment. Mathews advised the Inspector General that it was in response to this specific change that a supervisor also would approve and sign summary sheets prior to their submission to the Bureau of Accounts Management. Mathews testified:

At that point we realized that there should probably be two signatures on this because this is a state program and you’ve got two Health Research Incorporated staff signing off on the — this doesn’t look good. So that’s when Elizabeth Berberian started [signing the summary sheets].

The Inspector General found that, although Berberian and Hoffman in fact began approving and signing summary sheets prepared by Mathews and Sherman-Rohl, neither conducted substantive oversight of the claims review process. Notably, Mathews testified that neither Berberian nor Hoffman ever reviewed any backup documentation before signing the summary sheets. Asked by the Inspector General why she did not review the supporting documents, Berberian provided inconsistent explanations. Initially she stated, “I don’t know,” but at the conclusion of her interview she asserted she was told, “you shouldn’t really be looking at them either . . . we should have as few people with access to the information as possible” because of HIPAA’s rules. Berberian stated this direction was communicated to her in the early 2005 meeting with Bureau of Accounts Management Director Warren Taylor, although she acknowledged she received nothing in writing. The Inspector General interviewed Taylor, who is now retired, about the 2005 meeting with Berberian and Hoffman. Although Taylor said he remembered attending meetings at that time regarding changes in the processing of cystic fibrosis program claims, he did not recall the details of the changes that were implemented. However, Taylor stated it was his understanding that claim documentation would be maintained at the program level and that claims would be reviewed and verified prior to submission to the Bureau of Accounts Management for payment.

Inexplicably, given her expressed concern about the system, Berberian testified that she considered the program’s claims review process “foolproof.” “We clearly entrusted [Mathews and Sherman-Rohl],” she stated. Hoffman also acknowledged that he signed summary sheets prepared by Sherman-Rohl without ever questioning her work, as he considered her “extremely competent.”

Theft of Funds by Erin Sherman-Rohl and Sheldon Jacobson

Erin Sherman-Rohl was hired by HRI in 2004 for the DOH Steps to a Healthier New York program and also was assigned to work in the cystic fibrosis program. Both programs were administered by the Bureau of Chronic Disease Services. During the period encompassed by the Inspector General’s investigation, Sherman-Rohl was primarily responsible for reviewing and processing provider claims, while Mathews, who had been working in the program as an HRI employee since 2003, mostly handled claims submitted by individual participants.

While employed by HRI, Sherman-Rohl also held a full-time, overnight position with New Visions of Albany, an organization that assists disabled persons. Records show that Sherman-Rohl requested and received approval from DOH supervisors for this

outside position. In her New Visions job, Sherman-Rohl became acquainted with Sheldon Jacobson, also a New Visions employee. The Inspector General determined that both Sherman-Rohl and Jacobson each had incurred substantial personal debt. Indeed, Sherman-Rohl's co-workers at DOH stated that financial worries were a frequent topic of her conversations.

On April 26, 2007, Sherman-Rohl listed Jacobson as a participant requesting reimbursement for medical expenses on a summary sheet she prepared for processing. Jacobson does not suffer from cystic fibrosis. Nevertheless, Sherman-Rohl used Jacobson's home address and legal Social Security number on the form, but fabricated voucher numbers, fee codes and amounts, and other required information to give Jacobson's "claim" for \$4,084.51 the appearance of authenticity. She also added Jacobson's information and "claim" to a spreadsheet on her workstation computer and the cystic fibrosis program's network drive. In keeping with standard procedure, Sherman-Rohl signed her name certifying that the summary sheet's claims "are correct and just, and payment is approved, and the goods or services rendered or furnished are for use in the performance of official functions and duties of the agency." Sherman-Rohl forwarded the summary sheet to Berberian, who signed the sheet and forwarded it to the Bureau of Accounts Management. On May 7, 2007, a check for \$4,084.51 was issued and mailed by the New York State Office of the State Comptroller to Jacobson at his home in Rotterdam.

The Inspector General's investigation revealed that between April 2007 and July 2008, Sherman-Rohl fabricated a total of 18 payment claims by adding Jacobson's name to summary sheets she processed in this same manner. Each summary sheet was signed by Sherman-Rohl and approved with signature by either Berberian or Hoffman. The fraudulent claims resulted in payments to Jacobson totaling \$62,382.71. Based upon a review of telephone records, bank records and other evidence, the Inspector General ascertained that Jacobson cashed the checks and that he and Sherman-Rohl then met to split the proceeds. Between May 2007 and July 2008 Sherman-Rohl made a series of large cash deposits into her bank accounts totaling \$22,385. It was determined that Sherman-Rohl and Jacobson evenly divided the stolen funds, each receiving approximately \$31,191.

DOH's Discovery of the Thefts

On September 23, 2008, DOH Document Control Unit Supervisor Phyllis Dimeo contacted Mathews after questioning the appearance of Sheldon Jacobson's name on a claim form. Having processed claims submitted by individuals, Mathews was confident that Jacobson was not a program participant. He began to review electronic claims to determine whether Jacobson was a legitimate provider of services.

Mathews identified several claims for Jacobson that had been prepared by Sherman-Rohl. Unable to locate any documentation associated with Jacobson, on September 25, 2008, Mathews notified Hoffman, who directed him to continue pursuing the matter. That weekend, Mathews found Jacobson's MySpace site on the Internet that included a wedding photo of Sherman-Rohl with a caption, "My friend Erin's wedding." Mathews also discovered photos of Jacobson smoking cigarettes, conduct in which, to his knowledge, an actual cystic fibrosis patient most likely would not engage. Mathews

immediately informed his supervisors. Shortly thereafter, Sherman-Rohl left HRI for a position at the Office of Temporary and Disability Assistance.

The Inspector General and State Police arrested Sherman-Rohl and Jacobson on January 28, 2009. Sherman-Rohl was charged with Grand Larceny, Forgery, Computer Tampering, Offering a False Instrument for Filing, and Defrauding the Government. Jacobson was charged with Grand Larceny. When interviewed by the Inspector General and State Police, Sherman-Rohl stated that she determined the amount of each fraudulent claim depending on the personal bills she owed at the time, knowing she had to split the proceeds with Jacobson. Both Sherman-Rohl and Jacobson maintained that all the stolen money had been spent. On February 5, 2009, Sherman-Rohl was terminated from her position at the Office of Temporary and Disability Assistance.

Sherman-Rohl and Jacobson both pleaded guilty in Albany County Court to grand larceny. On September 11, 2009, Jacobson was sentenced to 1-3 years in state prison and ordered to pay restitution. Sherman-Rohl is scheduled to be sentenced October 22, 2009.

DOH Aware of Fiscal Irregularities in Cystic Fibrosis Program

The Inspector General learned that the DOH Division of Chronic Disease Services was provided with information in early 2008 that might have alerted them to Sherman-Rohl's thefts. In February 2008, while Sherman-Rohl's and Jacobson's scheme was ongoing, the Bureau of Accounts Management advised the division that the cystic fibrosis program had exhausted its funding, even though more than a month remained in the fiscal year. "We were very surprised that we were running out of money," Berberian testified, adding that several years before she and Mathews had implemented a payment tracking system to prevent just such a shortfall. Hoffman similarly testified that he was "quite surprised" when he learned of the problem. Mathews's reaction to the news was stronger; he testified, "It blew my mind." Notably, the more than \$62,000 stolen by Sherman-Rohl and Jacobson comprised over 10 percent of the program's annual budget.

Berberian testified that when she met with Mathews and Sherman-Rohl to discuss the shortfall, Sherman-Rohl "immediately gave . . . as an explanation" a substantial overpayment that the program had made to Cystic Fibrosis Services, Inc., a major program provider. At Berberian's request, Mathews looked into the overpayment as a possible explanation, but ascertained that it had taken place a year earlier. "We realized that had occurred the year previously, and so it didn't explain," Berberian testified. "We didn't know what the answer was." Despite the failure to find an answer and the disproved explanation provided by Sherman-Rohl, Berberian gave no indication that she or any other DOH official delved any further into this serious matter.

The Inspector General also inquired into the above-noted overpayment to Cystic Fibrosis Services, Inc. Records show that from January 2006 through October 2008, Cystic Fibrosis Services, a subsidiary of the Cystic Fibrosis Foundation and the largest provider in the program, received numerous overpayments from the program that totaled more than \$176,000. One of the overpayments exceeded \$154,000. According to DOH officials, Cystic Fibrosis Services repaid the full amount, but the officials said they did not ascertain how the overpayments occurred. Sherman-Rohl was responsible for processing provider claims during this period. Hoffman testified that overpayments or

duplicate billings are not unusual in this setting and, therefore, no suspicions were directed at Sherman-Rohl or anyone else. The Inspector General was advised that no audit of the program occurred as a result of the discovery of the overpayments.

FINDINGS AND RECOMMENDATIONS

The Inspector General found that Erin Sherman-Rohl, while employed by HRI at DOH, conspired with Sheldon Jacobson to misappropriate more than \$62,000 from DOH's Adult Cystic Fibrosis Assistance Program. Both Sherman-Rohl and Jacobson were arrested and pleaded guilty to grand larceny charges. On September 11, 2009, Jacobson was sentenced in Albany County Court to 1-3 years in state prison and ordered to pay restitution. Sherman-Rohl is scheduled to be sentenced October 22, 2009.

In February 2009 Sherman-Rohl was terminated from her employment at the Office of Temporary and Disability Assistance.

The Inspector General also found that a lack of internal review of cystic fibrosis program claims by supervisors left the program vulnerable to Sherman-Rohl's criminal activity. By signing claim summary sheets prepared by program staff, Assistant Director Elizabeth Berberian, Sherman-Rohl's direct supervisor, and Bureau Director David Hoffman assumed some responsibility for the accuracy of the claims. However, both Berberian and Hoffman approved claims without examining supporting documentation, relying solely on summary information provided by Sherman-Rohl as a basis for payments. The Inspector General recommended that DOH review the Adult Cystic Fibrosis Assistance Program and, consistent with HIPAA, implement procedures for sufficient review and audit of program claims. DOH should also review the conduct of Berberian and Hoffman and take appropriate action.

The Inspector General notes that DOH has made several operational and personnel changes as a result of this investigation. Berberian and Hoffman have been transferred to other assignments within DOH. A new supervisor has been assigned to the cystic fibrosis program to establish more effective monitoring and controls. The Inspector General recommended that the new oversight include a periodic audit of the program's entire claims review, approval, and payment procedures, and that DOH provide the Inspector General with a detailed progress report on these actions.

Response of the Department of Health

DOH advised the Inspector General that it concluded that Sherman-Rohl's supervisors were derelict in their duties, and that it initiated disciplinary proceedings against Berberian, Hoffman, and Thomas Blake, Associate Director of the Division of Chronic Disease Prevention and Adult Health.