



STATE OF NEW YORK  
OFFICE OF THE STATE INSPECTOR GENERAL  
**Final Report**  
**August 5, 2010**

## SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General found that Anastacio Garcia, Jr., an investigator in the New York State Office of Medicaid Inspector General (OMIG) in New York City, solicited a \$9,000 bribe from an owner of a pharmacy. Garcia threatened that if the owner did not pay him, he would file a negative report regarding the pharmacy, potentially leading to the imposition of a fine and/or the suspension of the pharmacy's participation in the Medicaid program. The owner did not pay the bribe, and instead his attorney reported Garcia to the New York City Police Department and OMIG, which referred the matter to the Inspector General. Garcia pleaded guilty to Bribe Receiving and resigned from OMIG.

## ALLEGATION

The owner of a pharmacy in the Bronx alleged that Garcia solicited a \$9,000 bribe from him in exchange for Garcia not filing a negative report about the pharmacy.

## SUMMARY OF INVESTIGATION

Garcia began employment with OMIG as a Medicaid Investigator 2 in December 2007 assigned to the OMIG's New York City Regional Office in Manhattan. From 2006 to 2007, Garcia conducted investigations for OMIG as a private contractor. Previously, he was employed as a Correction Officer by the New York State Department of Correctional Services from 1989 to 1995.

The pharmacy owner informed the Inspector General that Garcia telephoned him at the pharmacy on June 12, 2009, during the course of an OMIG audit of the pharmacy's records, and requested that they meet at Garcia's car which was parked near the pharmacy. When the owner arrived, Garcia beckoned him into the vehicle, and directed him to place his cell phone on the dashboard. The owner related that Garcia then asserted that OMIG had determined that the pharmacy had improperly billed approximately \$36,000 in Medicaid reimbursements, and Garcia offered, in exchange for one quarter of the fine – \$9,000 – to not proceed further in investigating and reporting the purported overbilling. Conversely, Garcia threatened that if he were not paid the bribe, he would

file a negative report that would result not only in the pharmacy being fined, but in its suspension from the Medicaid program, financially disabling the pharmacy. The owner informed the Inspector General that Garcia concluded by stating that he would contact him by telephone the next morning to discuss the matter further.

The owner reported the incident to his attorney and to the New York City Police Department that day and the matter was subsequently reported to OMIG, which referred it to the Inspector General.

On Saturday, June 13, 2009, at approximately 6:00 a.m., Garcia telephoned the pharmacy owner to continue the discussions about the bribe. The owner recorded most of that conversation and provided the recording to the Inspector General. In the recorded conversation, Garcia told the owner that this was “new for me, too” and “a one-time deal.” Garcia confirmed that he sought a bribe of \$9,000:

Owner: You also said, like, it would be, like, a quarter of whatever the number you told me. Right?

Garcia: Exactly.

Owner: So then how come you said, “twenty,” when I left the car?

Garcia: Twenty what?

Owner: Thousand.

Garcia: I didn’t say, “twenty.” No. I didn’t say, “twenty.” It was thirty-six thousand was what it totaled, and I said a quarter of that, which was nine.

Owner: Oh.

Garcia: You heard “twenty”?

Owner: Yeah, still though. It’s still – I can’t come up with that access [sic] right now until I –

Garcia: No, no. We said a quarter of that, which is nine.

Owner: OK.

Garcia: Not twenty, nine.

Owner: I’m sorry – I’ve been shaken up since, like, you spoke to me. I’ve been sitting in my room for fifteen hours, OK? So –

Garcia: I know. No, no, no. I said a quarter of what the total was. The total was thirty-six – thirty-six thousand and change.

Owner: OK

Garcia: A quarter of that is nine-thousand dollars. Alright?

The owner then told Garcia that he would speak to his partner in the pharmacy and would be able to get “access” to the money Garcia was seeking on Monday. Garcia reiterated the terms:

Garcia: OK, well, it’s nine. Not twenty. [laughs] It’s not twenty. I didn’t expect you to come up with twenty. That would be unreasonable. [pause] Um – OK, well if we’ve gotta do it Monday, we got to do it Monday.

Owner: Should I wait for you to call me again?

Garcia: Um – Monday I have to work. Um – I got to – I’ve got to move on this. You know what I’m saying? ‘Cause I don’t want to let this, uh, lay around. So Monday I’m going to do what I gotta do. Um – You gotta – I gotta contact you early Monday, so figure around – around 9 – 9:30

Owner: OK

Garcia: And, uh, Monday – you should be ready for me completely?

Owner: Yes, yes.

Garcia: OK, um – uh – Do you know how you are going to explain it to your partner so that he understands?

Owner: Pretty much exactly what you just told me right now. You know?

Garcia: Alright, I want you to be –

Owner: If – if – pretty much the main thing is that if we don’t do this with you then chances are you put in there that we’re going to be suspended with the Medicaid and that will hurt our business and that’s pretty much the main factor.

Garcia: That’s the main factor. And the fact that you are definitely going to ask to be paid the thirty-two thousand dollars – what happens is – the thirty-six – If it’s not paid, they withhold your Medicaid filings –

Owner: That’s not the issue – the thirty-six thousand dollars, but you putting in there that we can be suspended, that’s – that’s the problem.

Garcia: That’s the bigger issue. Exactly. Well, um –

Owner: Or else I wouldn't even be having this conversation with you. Do you understand?

Garcia: As far as I'm concerned, this conversation never happened. [laughs] Um, OK. Do what you have to do. I will give you a buzz on Monday morning –

Owner: OK

Garcia: – and we'll settle this Monday.

Owner: Alright. Thank you, Mr. Garcia.

Garcia: Alright?

Owner: OK

Garcia: No problem . . . Take care. Bye.

On Monday, June 15, 2009, as reflected in the “missed calls” log of the owner’s cell phone, Garcia telephoned the cell phone twice, but the owner did not answer. Garcia left no message on voice mail. The next day, Tuesday, June 16, 2009, the owner, after attempting to telephone Garcia at approximately 5:00 p.m. at his OMIG office, then reached Garcia on his cell phone. Staff from the Inspector General’s Office monitored and recorded the conversation, in which Garcia pointedly avoided discussing any bribe and, when asked by the owner, “What about the rest of the documents that we spoke about?” Garcia stated, “We’ll talk about it at another time when I see you.”

Later that same evening, Garcia again telephoned the owner. Staff from the Inspector General’s Office assisted him in recording the conversation. Garcia was clearly suspicious after having tried the owner’s cell phone to no avail. Garcia averred: “I cannot discuss this with you over the phone because this case is not – something that I can freely discuss with you. Um, you’re going to have to, uh, make some sort of arrangement, but I can’t discuss this with you over the phone.” When the owner attempted to probe further, Garcia continued to be evasive, became agitated, and refused to discuss the bribe further.

The Inspector General referred this matter to the Bronx County District Attorney. Garcia was arrested on June 18, 2009, and charged with Bribe Receiving in the Third Degree.<sup>1</sup> He was indicted by a Grand Jury on July 6, 2009. On August 4, 2010, Garcia pleaded guilty to Bribe Receiving in the Third Degree in State Supreme Court in the Bronx. Sentencing is scheduled for a later date.

---

<sup>1</sup> Under New York Penal Law, “A public servant is guilty of Bribe Receiving in the Third Degree when he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that his vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced. Bribe receiving in the third degree is a class D felony.” N.Y. Penal L. 200.10 (McKinney’s 2009).

Subsequently, the Inspector General interviewed OMIG staff with whom Garcia worked to determine whether others had conspired with Garcia in his bribery scheme. Additionally, the Inspector General, with assistance from OMIG, reviewed records of Garcia's work to determine if evidence existed that he had solicited, or attempted to solicit, bribes from other pharmacies. The Inspector General unearthed no evidence to support the conclusion that other OMIG staff had conspired with Garcia in his attempt to obtain a bribe from the targeted pharmacy or that Garcia had solicited bribes from other pharmacies.

The Inspector General learned that Garcia's previous employment as a Correction Officer with the Department of Correctional Services (DOCS) ended with his termination in 1995. According to DOCS, Garcia was terminated after a series of attendance problems. Garcia properly disclosed his termination from DOCS on his OMIG employment application, and, at OMIG's request, provided additional information about his termination that OMIG considered prior to his hiring. The Inspector General further determined that OMIG did not conduct comprehensive background checks on Medicaid Investigators 1 and 2 at the time Garcia was hired, in 2007, although it did conduct such checks on higher-level investigators. Beginning in 2008, according to OMIG, it has conducted background checks on all newly hired Medicaid Investigators and "continue[s] to assess the feasibility, both legally and contractually, of expanding our investigator background check process to include applicants for all OMIG positions."

## FINDINGS AND RECOMMENDATIONS

The Inspector General determined that OMIG Medicaid Investigator 2 Anastacio Garcia, Jr., solicited a \$9,000 bribe from a pharmacy in the Bronx. Garcia was arrested on a charge of Bribe Receiving in the Third Degree in June 2009 and pleaded guilty to that charge on August 4, 2010. He resigned from OMIG.

The Inspector General found no evidence that other OMIG staff had conspired with Garcia or that Garcia had solicited bribes from other pharmacies.