



OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

REPORT OF INVESTIGATION CASE NUMBER: 2011-0009

Sheryl G. Steckler
Inspector General

"Enhancing Public Trust in Government"

EXECUTIVE SUMMARY

In May 2010, Palm Beach County's (the County) Risk Management Department (RMD) contracted with Health Management Systems (HMS) to "audit the dependent membership of the County's self-insured health plan to ensure compliance with eligibility criteria by County employees when covering dependents on the plan." Following the completion of that audit, the County initiated action to remove the remaining ineligible dependents from coverage.¹

Employees whose dependents were deemed ineligible were provided with a grace period to provide supporting documentation for an eligibility determination. Upon the expiration of the grace period, the following three County employees were identified to have possibly falsified County health insurance coverage documents in order to obtain health insurance coverage for individuals who were not eligible:

1. [REDACTED] (hereinafter referred to as Employee 1)
2. [REDACTED] (hereinafter referred to as Employee 2)
3. [REDACTED] (hereinafter referred to as Employee 3)

Following the conclusion of the OIG investigation, the allegation that Employee 1 falsified County health insurance coverage documents in order to obtain health insurance coverage for individuals who were not eligible was **supported**. Employee 1 admitted to listing three separate paramours as her "spouse" on County health insurance coverage documents in order to obtain health insurance coverage for them, even though she was still married to another individual. A review of Employee 1's claims disclosed that the County paid \$2,031.71 in associated insurance claims for one of Employee 1's "alleged spouses."

The additional allegations that Employee 2 and Employee 3 falsified County health insurance coverage documents in order to obtain health insurance coverage for individuals who were not eligible were **not supported**. Employee 2 and Employee 3 both submitted documents for dependents who they, at the time, believed to be eligible dependents based on their understanding of what was considered to be a "dependent."

¹ According to information reviewed by the OIG Investigator, in August 2010, 565 ineligible dependents were identified by HMS (either determined to be self-reported, incomplete documentation, or non-responders). Of the 565 identified by HMS, RMD removed 325 dependents from the plan, leaving 240 ineligible dependents. With the passage of the Affordable Health Care Act (effective January 1, 2011), RMD determined that the remaining dependents would qualify for coverage, and with the County Administration's approval, allowed those dependents to remain enrolled.

At the time that Employee 2 and Employee 3 submitted documentation to the County, the County had no specific documentation requirements for what was actually considered to be a “dependent.”

RECOMMENDED CORRECTIVE ACTIONS

Based on witness testimony and records reviewed, the allegation that Employee 1 falsified County health insurance coverage documents in order to obtain health insurance coverage for individuals who were not eligible is **supported**. Based on this, we recommend the following:

- Coordinate with the appropriate Department Head and ensure corrective personnel action is taken.
- Seek recoupment for costs associated with ineligible claims made by Employee 1.

Based on the additional information contained within the Additional Information section of this report, we further recommend the following:

- Ensure that the Declaration of Domestic Partnership form includes and reflects those elements outlined in the County Ordinance.

Based on witness testimony and records reviewed, the additional allegation that Employee 2 falsified County health insurance coverage documents in order to obtain health insurance coverage for an individual who was not eligible is **not supported**. Employee 2’s ineligible dependent was removed from the County’s health insurance plan effective July 31, 2011. Based on this, no further action is necessary.

Based on witness testimony and records reviewed, the additional allegation that Employee 3 falsified County health insurance coverage documents in order to obtain health insurance coverage for an individual who was not eligible is **not supported**. Employee 3’s ineligible dependent was removed from the County’s health insurance plan effective July 31, 2011. Based on this, no further action is necessary.

BACKGROUND

Prior to August 15, 2007, the PBC Board of County Commissioners (BCC) provided group life and health insurance plans to its employees, their spouses and their eligible dependents, without outlining requirements to provide specific documentation to establish a biological, familial, or legal relationship.

On August 15, 2007, the County Policy and Procedures Manual (PPM) (CW-P-023) was updated to include specific documentation requirements for the addition of dependents to the group life and health insurance plans. On June 1, 2009, the PPM was updated to provide coverage for a full-time PBC BCC employee, “their spouse, children, domestic partner, domestic partner’s children and step children.” The specific documentation

requirements for the addition of dependents, during either the hiring process or open enrollment period², are listed as follows:

Circumstance	Documentation (copies only)
Birth of child(ren)	Official Birth certificate
Addition of step-child(ren)	Marriage license to biological parent of child(ren) and birth certificate for child(ren) that names the employee's spouse as a parent
Addition of foster-child(ren)	Official Placement papers, placing the child(ren) in employee's care
Adoption of child(ren)	Official Adoption papers
Legal guardianship of child(ren)	Court documented guardianship papers (Power of Attorney is not acceptable)
Newborn of covered dependent	Birth certificate for dependent's child (or grandchild, as permitted by Florida law)
Marriage	Marriage license or certificate
Domestic Partner	Executed, notarized and recorded Declaration of Domestic Partnership form (Ord. 2006-002)
Child(ren) of Domestic Partner	Proof of dependency (Copy of Federal tax return and/or birth certificate) plus the above captioned form (Ord. 2006-002)
Dissolution of Domestic Partnership	Executed, notarized and recorded Declaration of Termination of Domestic Partnership form (Ord. 2006-002)
Divorce (divorced spouses are not eligible for dependent coverage, regardless of the court decree)	Final Divorce Decree
Death	Death certificate

On July 6, 2011, the OIG received information from Assistant County Administrator Brad Merriman indicating that Employee 1, who had been identified through the HMS audit, may have falsified County records in order to receive health insurance coverage for persons not eligible. According to Mr. Merriman's information, Employee 1 listed [REDACTED] [REDACTED] (hereinafter referred to as Paramour 1) as a "spouse" on County health insurance coverage documents, even though Employee 1 was still married to [REDACTED] [REDACTED] (hereinafter referred to as Spouse 1).

Based on the information received from Mr. Merriman, the OIG initiated an investigation.

² Refers to the time period in which employees are able to make additions or modifications to their insurance coverage.

Additional Matter Investigated (1):

[REDACTED] (Employee 2) falsified County health insurance coverage documents in order to obtain health insurance coverage for an individual who was not eligible. If supported, the allegation would constitute a violation of PBC PPM CW-P-023; and Merit Rule 7.02(D)(24).

Finding:

The information obtained **does not support** the allegation.

Testimony of RMD Director Nancy Bolton

Ms. Bolton indicated that following the completion of the HMS audit, as well as the grace period, RMD staff determined that [REDACTED] (hereinafter referred to as Child 1), who had been listed on Employee 2's health insurance coverage documents as a "daughter," was not actually a "daughter" pursuant to the County's definition. Ms. Bolton provided documentation to the OIG Investigator, which indicated that on June 29, 2011, Employee 2 advised RMD staff that although Child 1 was not her biological daughter, she (Employee 2) had been her caretaker for "many years." Ms. Bolton advised that Child 1 was removed from County health insurance coverage effective July 31, 2011.

Testimony of Employee 2

Employee 2 explained that she has been the primary caretaker of Child 1 for ten years. According to Employee 2, she is neither married to, nor a registered domestic partner, to Child 1's father; however, they also share two mutual children. Employee 2 stated throughout her employment with the County, RMD has requested documentation (tax returns and school records) pertaining to Child 1, which she has always complied with. Employee 2 further stated that prior to this particular circumstance, she had never been questioned about Child 1's eligibility, nor had she been aware that Child 1 was not eligible.

According to the OIG Investigator's review of Employee 2's RMD file, the following pertinent information was disclosed:

- A copy of Employee 2's tax return was included in the RMD file; however, a copy of Child 1's school records was not located.
- All of the documentation pertaining to Child 1 was submitted prior to the County having specific documentation requirements for dependent eligibility.

Additional Matter Investigated (2):

[REDACTED] (Employee 3) falsified County health insurance coverage documents in order to obtain health insurance coverage for an individual who was not eligible. If supported, the allegation would constitute a violation of PBC PPM CW-P-023; and Merit Rule 7.02(D)(24).

Finding:

The information obtained **does not support** the allegation.

Testimony of RMD Director Nancy Bolton

Ms. Bolton indicated that following the completion of the HMS audit, as well as the grace period, RMD staff determined that [REDACTED] (hereinafter referred to as Child 2), who had been listed on Employee 3's health insurance coverage documents as a "son" and as a "stepson" was neither a "son" or a "stepson" pursuant to the County's definition. Ms. Bolton provided documentation to the OIG Investigator, which indicated that on July 8, 2011, Employee 3 advised RMD staff Child 2 was neither his biological son nor stepson, and that Child 2 was actually the nephew of his spouse, [REDACTED] (hereinafter referred to as Spouse 2). Ms. Bolton advised that Child 2 was removed from County health insurance coverage effective July 31, 2011.

Testimony of Employee 3

Employee 3 confirmed that he submitted documents to cover Child 2 on the County's health insurance policy in November 2003. According to Employee 3, in May 2004, he married Spouse 2, who was Child 2's aunt. Employee 3 acknowledged that he listed Child 2 as his "son" and "stepson" on County health insurance coverage documents; however, Employee 3 stated that he, along with Spouse 2 have been raising Child 2 since he (Child 2) was six-years-old (1991) when Child 2 was placed in his and Spouse 2's care by the Florida Department of Children and Families (DCF). Employee 3 stated that he and Spouse 2 were subsequently given legal guardianship of Child 2; however, Employee 3 indicated that he had never previously been requested to provide such documentation. Employee 3 stated that he had only been requested to provide Child 2's birth certificate, which he provided.

Testimony of Spouse 2

Spouse 2 confirmed Employee 3's testimony, but advised that they were given Power of Attorney over Child 2, not legal guardianship. Spouse 2 indicated that Child 2 was voluntarily surrendered to them (Employee 3 and Spouse 2) through DCF, at which time they (Employee 3 and Spouse 2) were given Power of Attorney. Spouse 2 further stated that although the Power of Attorney expired after one year (1992), Child 2's mother never returned and Child 2 has since remained in their (Employee 3 and Spouse 2's) custody.

According to the OIG Investigator's review of Employee 3's RMD file, the following pertinent information was disclosed:

- A copy of Child 2's birth certificate was included in the RMD file.
- All of the documentation pertaining to Child 2 was submitted prior to the County having specific documentation requirements for dependent eligibility.

ADDITIONAL INFORMATION

During the course of the OIG investigation, the following issues were identified:

- PPM CW-P-023 states that "Proof of dependency (Copy of Federal tax return and/or birth certificate)" is acceptable proof of eligibility for the child of a registered domestic partner.

OIG Comment: *Whereas a birth certificate could substantiate the biological parent of a child as a “dependent” for County purposes, a federal tax return does not necessarily establish a biological relationship. Furthermore, “dependency,” per the IRS code, does not rise to the level of the biological or familial relationship as required by the PPM.*

- PPM CW-P-023 lists specific public records (see chart on page 3) that are required to prove eligibility for the addition of a “dependent” for County purposes.

OIG Comment: *Contrary to the PPM documentation requirements, the primary document requested by HMS to prove eligibility was page one of the employee’s federal tax return. According to the PPM, a tax return is not acceptable proof of eligibility for dependent relationships, with the one exception noted above. As previously mentioned, dependency, per the IRS code,³ does not rise to the level of the biological or familial relationship required by the PPM.*

- Ms. Bolton relayed concerns expressed by RMD Contract Attorney Paul Hebert⁴ that efforts to recover claims associated with Employee 1’s ineligible dependents “may violate the provisions of the Patient Protection and Affordable Care Act – even in the case of fraud and/or misrepresentation – unless our Summary Plan Document (SPD) specifically allows for rescission. The 2010 CIGNA SPDs do not reference rescission under any circumstances...”

OIG Comment: § 54.9815-2712T(a)(1), U.S.C., states that “a group health plan, or a health insurance issuer offering group health insurance coverage, must not rescind coverage under the plan, or under the policy, certificate, or contract of insurance, with respect to an individual once the individual is covered under the plan or coverage, unless the individual (or a person seeking coverage on behalf of the individual) performs an act, practice, or omission that constitutes fraud, or unless the individual makes an intentional misrepresentation of material fact, as prohibited by the terms of the plan or coverage.”

Contrary to the information provided to Ms. Bolton by Mr. Hebert, the County’s 2010 SPD contains the following quoted statement on Page 7 of its documents:

WARNING: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit is guilty of a crime and may be subject to fines and confinement in prison.

Further, PPM CW-P-023 states that the County has “the right to require the return of all County-paid premiums, any associated claim costs paid on behalf of the ineligible dependent” if it is determined an employee has ineligible dependents on the plan.

³ IRS Publication 501 and IRS definition FS-2005-7, January 2005.

⁴ According to Ms. Bolton, RMD utilizes the services of a contracted insurance consultant, to include legal counsel, for benefit-related issues.

- The Declaration of Domestic Partnership form maintained by the County Clerk does not appear to conform to County Ordinance 2006-002, which created the Registered Domestic Partnership in the County.

OIG Comment: *When the OIG Investigator compared the Ordinance to the Declaration of Domestic Partnership form, the following was noted:*

- *Section 4.(B)(2) of County Ordinance 2006-002 states that in order to register as a Domestic Partnership, both individuals must declare that **each** is not married.*
- *The Declaration of Domestic Partnership form states that in order to register as a Domestic Partnership, both individuals must declare that **we** are not married.*

Whereas the County ordinance clearly indicates that each individual is attesting to the fact that neither is married to anyone else, including each other, the Declaration of Domestic Partnership form is likely to be interpreted as “we, the two parties registering, are not married to each other,” regardless of each individual’s own marital status.

Testimony of RMD Director Nancy Bolton

Ms. Bolton stated that the PPM is currently being updated to include the following:

- Employees will be required to prove continuing marital status.
- A federal tax return will be permitted for the purpose of proving *continuing* marital status.
- A federal tax return will no longer be acceptable proof of dependent eligibility.

ARTICLE XII, SECTION 2-427

Pursuant to Article XII, Section 2-427 of the Palm Beach County Code, Employee 1, Employee 2, and Employee 3 were provided the opportunity to submit a written explanation or rebuttal to the findings as stated in this investigative report within ten (10) calendar days. Their written responses, in part are as follows (*response, in its entirety, is attached*):

Matter Investigated

On September 14, 2011, Employee 1 provided the OIG with the following quoted response, in pertinent parts:

- *I didn’t purposely or maliciously attempt to defraud the County by adding individuals that were not eligible. At the time of open enrollment, I sincerely did not understand the entire process. When I included the individuals listed, I was in long term relationships. I did*

mark the box marked spouse, because I did not see any other option. I mistakenly interpreted the box marked "spouse" to be the correct box.

OIG Response: In the "relationship" sections where Employee 1 was required to handwrite/type her relationship(s) to the insured, Employee 1 wrote "spouse." In those sections, where Employee 1 would have had the opportunity to disclose the actual status of their relationship, Employee 1 failed to do so.

As no new information has been presented that would affect the findings in this report, Matter Investigated (1) remains **supported**.

Additional Matter Investigated (1)

On September 14, 2011, Employee 2 provided the OIG with the following quoted response, in pertinent parts:

- *I do not mind this investigation being published along with my explanation letter I submitted to Risk Management early part of this year, 2011.*

OIG Response: The aforementioned letter is the basis of Employee 2's testimony to the OIG and therefore no further action is necessary.

Additional Matter Investigated (2)

As of September 14, 2011, no response was received from Employee 3.

This Investigation has been conducted in accordance with the ASSOCIATION OF INSPECTORS GENERAL Principles & Quality Standards for Investigations.