



# INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA STATE PERSONNEL DEPARTMENT (SPD)  
TITLE: SPD BENEFITS INSURANCE FRAUD  
CASE ID: 2018-07-0197; 2018-10-0272  
DATE: December 31, 2018

*Inspector General Staff Attorney, Heidi Adair, after investigations by Special Agents with the Inspector General, reports as follows:*

The Indiana General Assembly charged the Office of Inspector General (OIG) with addressing fraud, waste, abuse, and wrongdoing in the executive branch of state government. IC 4-2-7-2(b). The OIG also investigates criminal activity and ethics violations by state workers. IC 4-2-7-3. The OIG may recommend polices and carry out other activities designed to deter, detect, and eradicate fraud, waste, abuse, mismanagement, and misconduct in state government. IC 4-2-7-3(2).

## **Background**

Indiana's State Personnel Department (SPD) serves as the human resources arm for Indiana state government. As part of its responsibilities, SPD conducts audits to verify the eligibility of dependents enrolled in state employee group health plans and making reasonable efforts to collect claims paid on behalf of ineligible dependents. These audits are known as Dependent Eligibility Verification Audits (DEVAs). SPD requires employees selected for DEVAs to submit documentation proving that each person enrolled in the State's health plans as a dependent qualifies as an eligible dependent at all times the person was enrolled in a plan. If the documentation supports a determination that a state employee enrolled or maintained an

ineligible dependent on his or her plan through an open enrollment period, SPD may submit a complaint to the OIG for further action.<sup>1</sup>

### **Summary of OIG Investigations**

This report summarizes the findings from recent investigations that the OIG conducted involving state employees who maintained ineligible dependents on their state health insurance in violation of SPD rules. More specifically, this report outlines two cases that the OIG presented to the Marion County Prosecutor's Office (MCPO) for consideration of criminal charges of insurance fraud. The goal of this report is to make recommendations to SPD and state employees based on the OIG's findings in order to help SPD continue its efforts to reduce incidents of wrongdoing by state employees.

In 2018, the OIG received two separate requests from SPD to investigate potential cases of insurance fraud discovered through DEVAs. One case involved a current state employee (Employee 1), and the other involved a now-former state employee (Employee 2). Both Employee 1 and Employee 2 maintained their ex-spouses on their state health insurance after divorces were finalized in violation of SPD rules. OIG Special Agent Mike Lepper conducted an investigation into the matter involving Employee 1, and Special Agent Jack Bedan conducted an investigation into the matter involving Employee 2.

The OIG Special Agents reviewed a number of documents and records that SPD provided with its requests. They also reviewed relevant SPD policies and eligibility definitions, which confirmed that an ex-spouse is not eligible for coverage as a dependent, even if a court orders the employee to provide insurance coverage for the ex-spouse. Furthermore, SPD policy provides that a state employee who undergoes a change in marital status, such as through divorce, must contact SPD to report this change within thirty calendar days. Neither Employee 1 nor Employee 2 timely

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<sup>1</sup> <https://www.in.gov/spd/files/Dependent-Eligibility-Verification-Audits-Policy.pdf>.

reported their divorce to SPD. If the employees had done so, SPD would have offered the employees or their ex-spouses an opportunity to purchase a COBRA policy at their own expense.

Both cases involved a similar set of facts. Special Agent Lepper learned that Employee 1's marriage was legally dissolved in May of 2015. The dissolution of marriage decree provided that Employee 1 would maintain her ex-spouse on her medical insurance. Employee 1 kept her ex-spouse on her state health plan until July of 2017, when SPD became aware of the ineligible dependent through a DEVA and removed the ex-spouse from the plan. While covered as an ineligible dependent, Employee 1's ex-spouse incurred a total of \$28,150.95 in medical, prescription, dental, and vision claims.

Special Agent Lepper interviewed Employee 1. Employee 1 is still employed by the state agency, but she received a formal letter of reprimand for keeping her ex-spouse on her insurance in violation of SPD policy. Employee 1 confirmed that her divorce was official in May of 2015 and that she did not notify SPD about the divorce until the 2017 audit.

Regarding Employee 2, Special Agent Bedan learned that Employee 2's marriage was legally dissolved in November of 2016. The dissolution of marriage decree provided that Employee 2 would maintain his ex-spouse on his medical insurance until December of 2017, as long as he was still employed with the State. Employee 2 kept his ex-spouse on his state health plan until December 31, 2017, when he removed his ex-spouse from the plan during Open Enrollment for 2018. While covered as an ineligible dependent, Employee 2's ex-spouse incurred a total of \$49,579.00 in medical and prescription claims. The total amount owed to the State, including the claims, HSA overpayment, and refunding the overpayment on insurance premiums was \$48,737.09.

Special Agent Bedan learned that at the time of the OIG investigation, Employee 2 was no longer employed by the State of Indiana and had moved to another state.

In both cases, SPD sent collection letters to the employees. After unsuccessful attempts to recover payment, SPD referred these matters to the Indiana Office of Attorney General (OAG) for collection assistance. The OIG Special Agents have since learned that Employee 1 and Employee 2 have arranged repayment plans with the OAG to collect the full amount of money that each owes to the State.

The OIG Special Agents contacted the MCPO to determine whether the MCPO would file criminal charges against either of the Employees. The MCPO declined to file charges in both cases due to the specific facts in these cases and the difficulty in proving that the employees possessed a criminal intent.

As a result, the OIG closed these cases for insufficient cause.

### **Recommendations**

The OIG has received similar complaints from SPD involving state employees maintaining ineligible dependents on their state insurance in past years. The OIG recognizes the important role that SPD plays in conducting DEVAs and commends SPD on its efforts to protect taxpayer money and the integrity of the State's benefit program. The OIG also recognizes that SPD has made several efforts to keep state employees informed about benefit plan eligibility rules. For example, SPD posts the rules on their website, sends informational emails to all state employees, offers in-person help-sessions, and provides a benefits hotline number.

In an effort to support SPD's efforts and help educate state employees on the benefit eligibility rules, the OIG offers the following recommendations based on the two investigations described in this Report.

First, the OIG recommends that SPD distribute a memorandum or other type of guidance to all state agencies regarding health insurance eligibility requirements as a result of the findings of this investigation. The OIG suggests that the memorandum include a reminder that employees must report qualifying events (such as a change in marital status) to SPD within thirty calendar

days. Most notably, it should also include a reminder that a court order does not override the benefit plan eligibility rules. Additionally, it should provide an explanation of COBRA.

Finally, the OIG recommends that all state employees carefully review the benefit plan eligibility rules. Ultimately state employees are responsible for knowing and complying with the State's health insurance eligibility requirements. State employees will be responsible for reimbursing the State for any claims made by ineligible dependents and could be held criminally liable in certain cases. State employees should contact SPD if they need additional information or have questions regarding these rules.

Dated: December 31, 2018

APPROVED BY:

A handwritten signature in black ink that reads "Lori Torres". The signature is written in a cursive, flowing style.

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Lori Torres, Inspector General