



DEPARTMENT OF VETERANS AFFAIRS  
**OFFICE OF INSPECTOR GENERAL**

*Office of Investigations*

VETERANS HEALTH ADMINISTRATION

Alleged Misuse of VA  
Position and Resources

ADMINISTRATIVE  
INVESTIGATION

REPORT # 17-03802-197

JUNE 13, 2018



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## Summary

The VA Office of Inspector General (OIG) received allegations that a senior manager at a VA medical facility abused his position and VA resources. The senior manager allegedly instructed a subordinate to provide the senior manager's family member with additional daily Home-Based Primary Care (HBPC) home nursing visits as well as additional fee-basis homemaker services. More specifically, the complainant alleged that the senior manager requested these services be provided to his/her family member while the senior manager was on vacation. The senior manager also allegedly misused his/her position when he instructed subordinates to waive any additional copayments for services rendered to his/her family member. Finally, the complainant alleged that the senior manager's spouse acted as the senior manager's surrogate by requesting expedited scheduling with VA Choice Program physicians while identifying herself as the spouse of the senior manager. The OIG did not substantiate any of these allegations. Because the OIG did not substantiate any of the allegations, the identity of the senior manager will not be disclosed in this report.

## Background

To assess these allegations, the OIG reviewed personnel and email records, federal laws and regulations, and VA policy. The OIG interviewed the senior manager; a Chief Financial Officer (CFO); a VA Registered Nurse (RN); and a Service Line Manager within Geriatrics and Extended Care (GEC).

## Relevant Legal Authority

Federal regulations state that where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his/her household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his/her impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee.<sup>1</sup> They also state that an employee is prohibited from using his/her public office for his/her own private gain...or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.<sup>2</sup>

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<sup>1</sup> 5 C.F.R. § 2635.502(a).

<sup>2</sup> Id., at 2635.702.

## **The Home-Based Primary Care (HBPC) Program**

An internal memorandum at the medical facility described the HBPC program as a VA-operated, primary care home program, providing a full range of health care to veterans while minimizing ineffective routine clinical care. The HBPC staff consists of a team of healthcare professionals attending to veteran physical and mental illness needs. A veteran's primary care provider (PCP) refers the veteran to the HBPC program and recommends him or her for its services. The authority to operate the HBPC program falls under the Service Line Manager as well as Geriatrics and Extended Care (GEC).

## **The Home Health Aide (HHA) Program**

"Purchased Home Health Care Services Procedures," *VHA Handbook* 1140.6 (page 1), states that all enrolled Veterans are eligible for a comprehensive array of medically necessary in-home services (citing 38 CFR 17.38 (a) (1) (ix)). VHA purchases skilled home care, to include HHA services, to provide personal care and related support to enable frail or disabled veterans to live at home. HHA services provide assistance with Activities of Daily Living (ADLs), including bathing, toileting, eating, dressing, aid in ambulating or transfers, active and passive exercises, assistance with medical equipment, routine health monitoring, and specific household tasks to maintain environmental safety for the patient. A veteran is eligible to receive HHA if the veteran is enrolled in the VA health care system and in need of nursing home care. VA must offer HHA to a veteran if VA determines that such care is necessary.

## **Investigative Results**

### **The senior manager did not instruct a subordinate to provide his/her family member with additional home healthcare visits through the HBPC Program.**

Records reflect that the senior manager was working in his/her position at the medical facility in 2014 when a Service Line Manager within GEC provided training at the facility on the services available under the GEC and the HBPC programs. The GEC Service Line Manager told OIG investigators that the HBPC program consisted of physicians, psychologists, dieticians, nurses, social workers, and other care providers.

Records reflect that, in the summer of 2016, the senior manager contacted the GEC Service Line Manager regarding home health aide services for his/her family member, a veteran with a 20 percent service-connected disability. The GEC Service Line Manager told the senior manager that service connection was not necessary as a condition of eligibility for HBPC and HHA. The GEC Service Line Manager told the senior manager that veterans were automatically eligible to receive HBPC and HHA if those services were found to be necessary by the veteran's primary VA physician. The GEC Service Line Manager told the senior manager that GEC "cannot make those decisions without the physician's consult order."

The senior manager told the OIG that he did not believe it was unethical for a senior manager to ask a subordinate about his/her family member's eligibility for VA benefits. He described it as only "a fact question." The senior manager said he did not ask the GEC Service Line Manager or anyone at VA to do anything specific for his/her family member.

The OIG investigation showed that a VA RN provided the senior manager's family member HBPC home visits. The VA RN explained that HBPC was a GEC program under the GEC Service Line Manager's supervision. She said for a veteran to be referred to GEC and be eligible for HBPC services, a physician must certify that the veteran either suffered from chronic illnesses or was having difficulty getting to a VA clinic. She further said that as of mid-2017, she was responsible for visiting 24–30 HBPC patients at their homes up to twice a month.

The VA RN said that the senior manager's family member lived in her HBPC geographic region, and for that reason, he was assigned to her caseload. She said a VA primary care physician entered the consult for the senior manager's family member to be admitted to the HBPC program in the summer of 2016. Prior to that, she said, the patient had private in-home care, 24 hours a day, 7 days a week.

The senior manager told the OIG that he did not direct any VA employee to do anything improper regarding his/her family member's VA care. He believed that only GEC service line staff and his/her family member's VA care provider could increase the number of hours a VA home visiting nurse could see his/her family member. The GEC Service Line Manager told OIG investigators that the senior manager never asked her for special treatment for his/her family member. Similarly, she was unaware of anyone else having been asked by the senior manager for such treatment either. She characterized her care of the senior manager's family member as within her normal business duties and consistent with what she would have done for any other veteran. The GEC Service Line Manager and the VA RN both told the OIG that the senior manager did not ask for special treatment, give instructions, or state any specific needs regarding the care of his/her family member. The GEC Service Line Manager said she treated the senior manager's family member in the same manner as she would any other veteran.

The senior manager told OIG investigators that in the summer of 2017 he took a week vacation and later a long weekend. He said that he did not arrange for additional VA care or for additional private in-home care for his/her family member during that time. The GEC Service Line Manager said that, although she knew that the senior manager took time off during the summer of 2017, she was unaware of any requests by the senior manager for additional nurse home visits or home health aides during that timeframe.

The VA RN said that the senior manager never asked her to provide additional care to his/her family member because he was on vacation. Additionally, the VA RN provided the dates that she had visited the senior manager's family member since admission to the HBPC program. Her records showed that over a one-year period from late summer 2016 to late summer 2017, she visited the senior manager's family member 17 times. With regard to the time when the senior

manager was on vacation in the summer of 2017, records reflected that the VA RN visited the senior manager's family member only once.

A Chief Financial Officer (CFO) described the senior manager as conscientious and educated with regard to VA processes—a senior manager who referred to veterans as “our customers.” The CFO said that the senior manager emphasized that he did not want his/her family member to have special treatment. The CFO also said that the senior manager did not ask him to do anything for his/her family member.

**The senior manager did not instruct a subordinate to provide his/her family member additional HHA homemaker services.**

The senior manager told OIG investigators that about the time of fall 2016, his/her family entered into a contract with a private in-home care provider for a live-in aide for his/her family member. Within that timeframe, he/she said his/her family member started receiving services from VA's HBPC program. Further, records reflected that the senior manager's family member started receiving VA-sponsored home health aide services during the spring of 2017.

In the summer of 2016, the senior manager and the GEC Service Line Manager had the following email exchange, with the subject, “Eligibility for VA Home Health Services”:

The senior manager:

What type of home healthcare my 20-percent service connected Veteran family member would be eligible for? He [was] at home bound needing help with ADLs - he needs 24/7 care for at least short term and we're about to begin with a live-in aide but not sure how long we can afford frankly. Need your advice.

The GEC Service Line Manager:

All Veterans are eligible for HHA-currently our average number of hours for ADL care is 6 per week-we give more hours if they are ALS, MS or some other catastrophic diagnosis-at 20% he is not eligible for a nursing home-a live in person 24/7 will be pricey-do you want us to pursue an agency in [his/her] area?

The senior manager:

... thanks for your assistance. The Agency we have for the live-in is . . . (very highly recommended by friends).

Following this email exchange with the senior manager, email records reflected that the GEC Service Line Manager contacted other VA employees to determine if VA did business with the private in-home care provider identified by the senior manager. After finding out the company was not “vendorized” and did not have a VA provider agreement, the GEC Service Line Manager took steps to put such a provider agreement in place. The GEC Service Line Manager said that it is within her normal course of business to initiate service-level agreements with vendors so that they could provide HHA services to veterans and be added to the list of VA-

approved home health vendors. Records reflected that in early 2017, VA established an agreement with the provider.

The CFO told the OIG that over the last two years, his office tried to be “customer-service focused, not only for the veterans, but towards our vendors, too.” He said their effort was to increase the number of vendors approved to provide HHA services to veterans. He added that past bureaucracy discouraged vendors from working with VA, which reduced their numbers. Thus, he said that “it's been a real push up here to be customer service, go approach the vendor...teach them, tell our story of how we need to do this...like the Choice provider agreements. We're out there...We're saying we want partners.”

The GEC Service Line Manager said that GEC worked with about 60 private agencies in the HHA program. As of the summer of 2017, those private agencies were responsible for servicing between 400 and 450 enrolled veteran patients, for which they were paid by VA. The GEC Service Line Manager said she did not believe the senior manager acted unethically by exploring the options available to his/her family member. She noted that the senior manager's family member was a veteran. She said she did not feel compelled to assist the senior manager, as her unit considered his/her request typical of the requests that she received about available services for veterans.

The VA RN told OIG investigators that VA pays the private in-home care provider for six hours per week for the HHA services to the senior manager's family member. She said that the provider was one of a few companies in the area that provided 24/7 care, and they were “outstanding caregivers.” The senior manager stated that he did not ask any VA employee to increase the number of hours VA paid the provider to provide services to his/her family member. Additionally, as previously mentioned, the senior manager's family had a service agreement with private in-home care provider for his/her family member's 24/7 in-home care, amounting to 168 hours per week. Of these 168 hours, VA was paying for only six hours.

The CFO, the VA RN, and the GEC Service Line Manager each told OIG investigators that the senior manager did not ask them to provide additional home care while he was on vacation. Additionally, they were unaware of the senior manager making a similar request to anyone else.

Records reflected that, since summer 2016, the private in-home care provider charged the senior manager's family \$2,100 per week (\$300 daily) for home health care. Records also showed that starting in early 2017, VA paid the provider \$138 for six hours per week of home healthcare services for the senior manager's family member.

The GEC Service Line Manager told the OIG that the HHA was a “very popular program,” providing veterans with ADLs such as bathing, dressing, showering, eating, toileting, transferring, and other tasks. She confirmed that the average number of hours VA provided veterans in the HHA program was around six hours per week and that VA generally does not provide 24/7 care except in extraordinary cases.

## **The senior manager did not instruct subordinates to make adjustments to his/her family member's copayments.**

The GEC Service Line Manager told the OIG that home care agencies in Massachusetts, on average, charged around \$22 to \$26 per hour for home health aides. She also stated that she was unaware if the senior manager was subject to copays for his/her family member's care. For that reason, the GEC Service Line Manager could not confirm whether the senior manager requested subordinates to alter his/her family member's medical copays. Similarly, the senior manager said that he did not know if his/her family member was subject to copays. For that reason, he could not have discussed copays with his/her employees, let alone request that they be lowered.

The CFO stated that he was unaware of whether the senior manager's family member was subject to copays as part of the HBPC or HHA programs. He said that a veteran would not be subject to copays for treatment relating to certain service-connected conditions resulting in 10–50 percent disability. Under those circumstances, the veteran could expect to have doctor and pharmacy copays waived, or all copays waived if under a certain income threshold or above a particular age. VA and email records reflected that because of a service-connected condition, VA rated the senior manager's family member as 20 percent disabled, so his/her copays were waived. The CFO related that the senior manager did not ask him or anyone else to adjust his/her family member's copayments, and the OIG did not find any evidence suggesting that the senior manager's family member was subject to copays.

## **The senior manager's spouse did not use his/her position to obtain favored treatment in the Choice Program for the senior manager's family member.**

The senior manager testified under oath that neither he/she nor his/her spouse called any Choice Program personnel requesting that they take care of his/her family member. The CFO told the OIG that he was unaware of any incidents wherein the senior manager or his/her spouse requested favored treatment from Choice on behalf of the senior manager's family member. Based upon his/her personal assessment of the senior manager's character and integrity, the CFO ruled out the possibility that the senior manager asked for favored treatment for his/her family member. Neither the VA RN nor the GEC Service Line Manager were aware of any incidents involving the senior manager or his/her spouse improperly calling Choice program personnel to request favorable treatment for the senior manager's family member based upon the senior manager's position.

## **Conclusion**

The OIG did not substantiate that the senior manager misused his/her position or VA resources by improperly inquiring about VA's in-home care programs for his/her family member. The GEC Service Line Manager found the senior manager's inquiry in line with other inquiries her unit received about available veterans' services and programs. She did not believe that the senior

manager or his/her family member was disqualified from making inquiries about VA benefits. Their inquiries were made and processed in the same manner as requests from other veterans and their families. Further, records indicated that the senior manager's family member received only one VA-sponsored visit during the period the senior manager was on vacation in the summer of 2017. Therefore, the number of VA-sponsored visits during the senior manager's vacation did not increase, undercutting the complainant's claim of preferential treatment.

Records reflected that the senior manager's family already had a service agreement in place with the private in-home care provider to provide 24/7 care for his/her family member at a rate of \$2,100 per week (\$300 daily). Additionally, records reflected that VA paid the provider \$138 for six hours per week for the services the vendor provided to the senior manager's family member. VA employees with direct knowledge and involvement in the HBPC and HHA programs testified that the senior manager did not ask them to provide his/her family member with additional services. During the relevant time period, the amount of care received by the senior manager's family member did not increase. Further, the VA RN with knowledge of the VA's HBPC and the HHA programs reported that private in-home care provider was one of the few vendors providing 24/7 homecare and, in her professional opinion, was very competent.

The OIG did not find any evidence that the senior manager's family member was subject to copays; therefore, there was no evidence that the senior manager asked any employee to adjust his/her family member's copayments. Further, the OIG found no evidence that the senior manager or his/her spouse called the VA Choice program to request that they take care of his/her family member due to the senior manager's position. The OIG is therefore closing these allegations with this report.



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## OIG Contact and Staff Acknowledgments

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