

Department of Veterans Affairs

Memorandum

Date: May 21, 2014

From: Assistant Inspector General for Investigations (51)

Subj: Administrative Investigation, Alleged Misuse of Government Resources,
W.G. (Bill) Hefner VA Medical Center, Salisbury, NC (2014-01737-1Q-0006)

To: Director, VA Mid-Atlantic Health Care Network (10N6)

1. The VA Office of Inspector General (OIG) Administrative Investigations Division investigated an allegation that Dr. (b) (7)(C) (b) (7)(C) (b) (7)(C), W.G. (Bill) Hefner VA Medical Center (VAMC), misused Government resources when he purchased a treadmill desk—a computer desk that is adapted so that the user walks on a treadmill while performing office tasks—for his personal use at the medical center in light of a projected budget deficit. We also investigated whether Ms. (b) (7) (b) (7) (b) (7)(C), misused her position when she authorized the purchase of the treadmill after the VAMC Equipment Committee (EC) denied the request. To assess these allegations, we interviewed Ms. (b) (7)(b) (7) (b) (7)(C); Dr. (b) (7)(C) Ms. (b) (7) and other VA employees. We also reviewed Government purchase card and email records, as well as applicable Federal laws, regulations, and VA policy.

2. We concluded that Dr. (b) (7)(C) did not misuse funds when he requested that a treadmill desk be purchased or that he planned to put it in his office for personal use. However, we found that Dr. (b) (7)(C) failed to establish a detailed action plan to comply with OPM guidelines prior to requesting the purchase of this exercise equipment. He told us that his intent was to promote a healthier working lifestyle at the VAMC, but he said that there was no designated space for the treadmill. He said that they were “toying with many different spaces.” We also found that Ms. (b) (7) did not overturn the EC’s decision to deny the purchase. The EC did not approve or deny the request to purchase the treadmill but instead deferred Dr. (b) (7)(C) request. After their deferral, Ms. (b) (7) approved the purchase of the treadmill. We suggest that you emphasize to all senior officials within the VA Mid-Atlantic Health Care Network to first construct a detailed action plan prior to purchasing any exercise equipment and to also comply with all Federal laws, regulations, OPM guidance, and VA policy governing fitness programs. We also suggest that prior to the purchase of any physical fitness equipment, they first confer with the Offices of General Counsel (OGC) and Human Resources (OHR) to ensure compliance, address any VA liability concerns, and to discover any “lessons learned” of previous initiatives. **No response is necessary.**

3. Federal law states that the head of each U.S. Government agency may establish, within the available appropriations limits, a health service program to promote and maintain the physical and mental fitness of employees under their jurisdiction. 5 USC § 7901(a). The U.S. General Accounting Office (GAO) *Principles of Federal*

Appropriations Law (Red Book), 3rd Edition, Volume I, dated January 2004, states that the Office of Personnel Management (OPM) revised its regulations to include physical fitness programs and facilities as permissible preventive health services. It further states that an agency may use appropriated funds to provide access to a private fitness center's exercise facilities, although both GAO and the Office of Personnel Management (OPM) caution that expenditures of this type should be carefully monitored and taken only when all other resources have been considered and rejected.

4. OPM's guidance states that an agency may establish on-site fitness facilities. It further states that an agency has several responsibilities to include, but not limited to: determining the need for and extent of the employee health program, establishing a statement of goals and objectives, assuring that programs are safe, appropriate, and meet legal and ethical requirements, and making services convenient and available to all employees. OPM Human Resources Flexibilities and Authorities in the Federal Government, August 2013.

5. VA's Wellness is Now (WIN) website states that VA is dedicated to helping employees establish and maintain healthy lifestyles. To support VA employees in meeting their health and wellness goals, VA launched the WIN Employee Health & Wellness Program as a pilot project within the VA Midwest Health Care Network. The mission of the program was to focus on the overall health and well-being of VA employees by helping employees establish and maintain healthy lifestyles through online programs and services, providing educational tools and materials, and increasing awareness of the benefits of physical activity. The overarching goals for the program was to provide programs that benefited all VA employees by enhancing the quality of their lives and by making VA an employer of choice.

6. W.G. (Bill) Hefner VA Medical Center Memorandum 659-90-11 states that the EC will receive, review, evaluate and prioritize all routine equipment requests from the VAMC Service Chiefs and that EC was responsible for prioritizing the discretionary equipment listing for submission to the VAMC (b) (7)(C) being responsible for approval or disapproval prior to the (b) (7)(C) of an item. A VAMC equipment request worksheet reflected that on November 4, 2013, Dr. (b) (7)(C) submitted a purchase request for a treadmill desk to EC to "promote a healthier working lifestyle." The November 2013 EC meeting records reflected that the treadmill desk purchase was never denied but that it was deferred until their December 2013 meeting. The December EC meeting records reflected that Ms. (b) (7) approved the purchase of a treadmill desk out of committee. Ms. (b) (7) told us that EC's purpose was to assess the VAMC staff equipment needs and requests and that they were only a recommending body, with Ms. (b) (7) having the final authority to purchase an item. Purchase card records reflected that on February 14, 2014, a VAMC Purchasing Agent bought the treadmill desk for \$2,995.

7. A VA OGC attorney told us that treadmill desks can and have been purchased with appropriated funds for use at VA offices; however, she said that they should not

be assigned to an individual employee for their personal use. She said that she suggests that VA officials consult with OHR, prior to purchasing a treadmill desk, to see if there have been any "lessons learned" from the WIN pilot project initiative. She said that OGC previously voiced a number of VA liability and Worker's Compensation concerns to OHR regarding purchases of such equipment, and said that "one can only assume that they weighed the potential benefits against the risks." The OGC attorney also said that the WIN program treadmill desks were purchased under 5 USC § 7901, which states that agencies may establish and operate physical fitness programs and facilities designed to promote and maintain employee health.

8. Ms. (b) (7) told us that at that time of her approving the purchase there was no known budget deficit, and if there were one, it would not be until September 30, 2014, referring to the end of the fiscal year, that they would be aware of any deficit. She said that the term "budget deficit" was a misnomer, and that VA Central Office did not understand the term very well. Dr. (b) (7)(C) told us that the treadmill desk was never intended for his personal use and that if someone told him there was a projected budget deficit at the time the request was made, he would have further evaluated whether the potential for increased employee wellness would offset the appearance of wasteful spending.

9. Email records reflected that the VHA Office of Congressional and Legislative Affairs received Questions for the Record (QFR) from the House Committee on Veteran's Affairs (HVAC) in preparation of the FY 2015 Budget Hearing. On behalf of the VAMC, Dr. (b) (7)(C) submitted a response to the designated VA official to be forwarded to VA Central Office. In his response, he said that the "desk-treadmill will be available for use to all staff and was not purchased for a sole individual or department. It is a work-related item for employee wellness, not a luxury item. If proven viable, the plan was to purchase similar desk treadmills for targeted use in the facility." He told us that the treadmill was to improve wellness and employee satisfaction by allowing staff to schedule use in 30 minute increments. However, they did not first create an action plan that followed OPM guidance for on-site fitness facilities; there was no guidance in place on how to regulate use of the treadmill; no determination of a need for or extent of the employee health program, statement of goals and objectives, assuring that programs are safe and appropriate; met legal and ethical requirements; and there was no designated space for the treadmill to ensure everyone had equal access.

Conclusion

10. We concluded that Dr. (b) (7)(C) did not misuse funds when he requested that a treadmill desk be purchased or that he planned to put it in his office for personal use. However, we found that Dr. (b) (7)(C) failed to establish a detailed action plan to comply with OPM guidelines prior to requesting the purchase of this exercise equipment. He told us that his intent was to promote a healthier working lifestyle at the VAMC, but he said that there was no designated space for the treadmill. He said that they were "toying with many different spaces." We also found that Ms. (b) (7)

did not overturn the EC's decision to deny the purchase. The EC did not approve or deny the request to purchase the treadmill but instead deferred Dr. (b) (7)(C) request. After their deferral, Ms. (b) (7) approved the purchase of the treadmill. We suggest that you emphasize to all senior officials within the VA Mid-Atlantic Health Care Network to first construct a detailed action plan prior to purchasing any exercise equipment and to also comply with all Federal laws, regulations, OPM guidance, and VA policy governing fitness programs. We also suggest that prior to the purchase of any physical fitness equipment, they first confer with OGC and OHR to ensure compliance, address any VA liability concerns, and to discover any "lessons learned" of previous initiatives. .

11. We are providing this memorandum for your information and official use and whatever action you deem necessary. It is subject to the provisions of the Privacy Act of 1974 (5 USC § 552a). You may discuss the contents of this memorandum with individuals named in it, within the bound of the Privacy Act; however, it may not be released to them. If you have any questions please contact [REDACTED]

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