



# Department of Veterans Affairs

## Office of Inspector General

### November 2010 Highlights

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#### **OIG REPORTS**

##### **Audit Identifies \$2.9 Million in Unrecoverable Overpayment of Education Benefits**

The Office of Inspector General (OIG) conducted an audit to determine whether the Veterans Benefits Administration (VBA) processed claims and payments for students and schools timely and accurately under the Post-9/11 GI Bill. Although claims processing times were slow throughout the fall 2009 school term, they were generally accurate and at or near the VBA performance standard. Processing delays and some systemic errors occurred due to limited software functionality and inadequate staffing. VBA underpaid \$294,000 in housing allowances and overpaid \$2.9 million for books and supplies. VBA will need to pay the housing underpayments; however, VA regulations state that recipients are not liable for overpayments which are administrative errors. VBA has begun implementing corrective actions to address these issues which, if implemented consistently and successfully, should reduce the claim delays and systemic payment issues. OIG recommended that the Acting Under Secretary for Benefits address the education benefits payment errors identified during the audit.

[\[Click here to access report.\]](#)

##### **Review Finds Opportunities to Improve Communication and Suicide Risk Training at Dayton, Ohio, VA Medical Center**

At the request of Congressman Steven Buyer, OIG evaluated the care of a patient who committed suicide on the grounds of the Dayton, OH, VA Medical Center (VAMC), after leaving the emergency department (ED). OIG found that the ED staff made reasonable efforts to provide treatment to the patient in the hours preceding his suicide, and providers made appropriate efforts to manage the patient's pain and treat his mental health conditions from August 2008 to April 2010. However, OIG found opportunities to improve communication and suicide risk management training. OIG recommended that the Veterans Integrated Service Network (VISN) Director and VAMC Director require providers to optimize appropriate "hand-off" and intra-staff communication and require clinical staff to complete the Veterans Health Administration (VHA) mandatory suicide risk management training. [\[Click here to access report.\]](#)

##### **VHA Medical License Tracking Needs Improvement**

OIG evaluated the systems and processes designed to ensure that physicians' medical licenses were current and in good standing in VHA medical facilities. OIG determined that the processes used to capture and monitor medical license expiration dates were inconsistent and fragmented across VHA medical facilities. OIG made two recommendations for improvement. [\[Click here to access report\]](#)

##### **Northport, New York, VAMC Nuclear Medicine Residency Training Program Discontinued Due to OIG Findings**

OIG conducted an inspection to determine the validity of five allegations regarding Nuclear Medicine Service at the Northport, NY, VAMC. As a result of the inspection,

the VAMC Director discontinued the nuclear medicine residency training program in June 2010 and removed the two unlicensed trainee physicians. In addition, the VHA Office of Academic Affiliations discontinued the funding for nuclear medicine resident positions at the VAMC. [\[Click here to access report.\]](#)

### **Alleged Issues in Fee Basis Care at the Martinsburg, West Virginia, VAMC**

The purpose of OIG's review was to determine the validity of an allegation that the Interim Chief of Staff denied Fee Basis Service (FB) consults because of cost at the Martinsburg, WV, VAMC. OIG did not substantiate the allegation. However, OIG did identify a process during the review that required improvement and recommended that staff receive education on the VAMC's process for FB approval. [\[Click here to access report.\]](#)

### **Community Based Outpatient Clinic Reviews Conducted at VISNs 18 and 21**

OIG reviewed eight Community Based Outpatient Clinics (CBOCs) to assess whether they are operating in a manner that provides Veterans with consistent, safe, high quality health care. OIG acknowledged accomplishments at two facilities, while also noting several opportunities for improvement. OIG made 22 recommendations to VISN Directors and facility managers. [\[Click here to access report.\]](#)

## **CRIMINAL INVESTIGATIONS**

### **Pharmaceutical Company Pleads Guilty to Distribution of Adulterated Drugs**

The subsidiary of a major pharmaceutical company agreed to plead guilty to charges relating to the manufacturing and distribution of certain adulterated drugs made at their now-closed manufacturing facility. The resolution includes a criminal fine and forfeiture totaling \$150 million and a civil settlement under the *False Claims Act* and related state claims of \$600 million. The criminal information was filed as a result of a multiagency investigation that alleged that the manufacturing plant's operations failed to ensure that various drugs were free of contamination from microorganisms. This is the first time the civil *False Claims Act* was used to recover damages for current Good Manufacturing Practices (cGMPs) violations. The major pharmaceutical company expressly certified in VA contracts that they would comply with cGMPs, as laid out in the *Food, Drug and Cosmetic Act*. From 2001 to 2005, VA purchased approximately \$13.5 million worth of the four suspect drugs, which is the amount considered to be single damages and will be returned directly to the VA Pharmaceutical Supply Fund. VA's entire portion of the civil settlement is \$40,705,753.

### **Veteran Indicted for Threats to VA Physician**

A Veteran was indicted for threats to murder a Government employee. An OIG investigation determined that the defendant made specific threats to kill his Sierra Vista, AZ, outpatient clinic VA physician because the Veteran claimed he did not receive the treatment he requested. The defendant has prior felony convictions involving firearms.

### **Pharmaceutical Company Pleads Guilty for Off-Label Marketing**

A pharmaceutical company pled guilty to obstructing justice, distributing an unapproved new drug in interstate commerce, and distributing a misbranded drug in interstate

commerce. Under the plea agreement, the company will pay a criminal fine of \$150 million and will forfeit an additional \$14 million in assets. A multiagency investigation determined that the company was involved in the off-label marketing of various drugs and engaged in kickbacks to physicians.

### **Defendants Sentenced for Robbing and Killing Veteran**

A defendant was sentenced to 22 years' incarceration and 5 years' supervised release after pleading guilty to manslaughter in the first degree and a co-defendant pled guilty to attempted robbery. An OIG and local police investigation of the robbery and murder of a Veteran participating in the VA's Supportive Housing initiative with Housing and Urban Development revealed that the Veteran was murdered in his subsidized apartment and that his checkbook, debit card, and vehicle were stolen. Both defendants were known to the Veteran. The defendants used the money they stole from the bank account to purchase drugs.

### **Nephew of Deceased Beneficiary Sentenced for Theft**

The nephew of a deceased VA beneficiary was sentenced to 3 years' probation and ordered to pay restitution of \$56,067 after pleading guilty to theft of Government funds. The defendant, who held a Power of Attorney for his aunt, failed to notify VA of her death and subsequently stole VA funds that were direct deposited after her death in October 2004.

### **Veteran and Wife Indicted for Theft of Government Funds**

A Veteran and his wife were indicted for theft after an OIG and Social Security Administration (SSA) OIG investigation revealed that they used false identities to obtain VA and Social Security benefits. The Veteran obtained VA pension benefits under his true identity, while working and eventually retiring under a false identity. Both defendants also obtained Social Security benefits to which they were not entitled. The defendants' scheme to defraud VA and SSA lasted over 40 years, and the fraud amount is approximately \$328,000. The loss to VA is \$61,460.

### **Widow Arrested for Theft of VA Benefits**

The widow of a Veteran was arrested for theft of Government funds and false statements. An OIG investigation determined that the defendant fraudulently received VA Dependency and Indemnity Compensation benefits from March 1997 to December 2009 by failing to report her remarriage. The loss to VA is \$148,943.

### **Portland, Oregon, VAMC Nurse Pleads Guilty to Computer Crime and Identity Theft**

A Portland, OR, VAMC nurse pled guilty to computer crime and identity theft. An OIG and VA Police investigation revealed that the defendant used his position as a VA employee to gain access to the identities of patients no longer under his care and then used the identities to access a VA narcotic dispensing machine, falsely recording that the narcotics were for these patients. The defendant then self administered the narcotics, to include fentanyl and midazolam, while on duty and providing health care services to patients.

**Nashville, Tennessee, VAMC Employee Found Guilty of Fraud**

A Nashville, TN, VAMC employee was found guilty at trial of activities related to time and attendance fraud and making false statements to Federal agents. An OIG investigation revealed that the defendant had taught classes as a professor at a local university during his scheduled tour of duty at the VAMC since 1995. The loss to VA is over \$47,000.

**Former Jackson, Mississippi, VAMC Nurse Pleads Guilty to Drug Diversion**

A former registered nurse at the Jackson, MS, VAMC pled guilty and entered into a pretrial diversion agreement for a period of 3 years after being indicted for prescription fraud. An OIG investigation disclosed that the nurse falsified 47 prescriptions using the names of numerous Veterans. For over 7 months, the defendant diverted over 6,000 tablets of pain medication from the VAMC and admitted to stealing the drugs for her personal use.

**Veteran Arrested for Making Threats to VA Employees**

A Veteran was arrested for making telephonic threats to employees of a VA Fiduciary Hub. An OIG, Federal Protective Service, and local law enforcement investigation determined that the defendant stated that he was coming to the VA facility because “he was not afraid to die and to take 30 or 40 people with him.” The defendant has prior arrests and felony convictions for assault.

**VA Patient Arrested for Assault of VA Police Officer**

A VA patient at the Palo Alto, CA, VAMC was arrested and charged with assaulting an on-duty VA Police Officer. The defendant entered the VAMC emergency room complaining about knee pain and demanded specific types and quantities of narcotics. The defendant became belligerent after the attending physician denied his request and VA Police Officers were dispatched to the emergency room. The patient lunged at the first responding officer, spit in his face, and called him a derogatory racial term. The officer was immediately taken for bio-hazard evaluation and treatment because the spit went into the officer’s eyes and mouth.

**VA Contractor Enters into Agreement with Government**

A VA contractor entered into a civil Settlement Agreement with the Department of Justice and agreed to pay \$150,000 to VA after an OIG and Small Business Administration (SBA) OIG investigation. The joint investigation revealed that the company submitted false statements in order to obtain a Historically Underutilized Business Zone (HUBZone) set-aside contract from the Fayetteville, NC, VAMC. In order to obtain their HUBZone certification, the contractor submitted a HUBZone application to SBA falsely stating that the location of the company’s principal office was located in a HUBZone. Based upon this fraudulently obtained HUBZone certification, VA awarded a \$462,500 fire alarm upgrade contract to the company.

**Veterans Indicted for Travel Fraud**

Four Veterans were indicted for fraud after an OIG investigation determined that the defendants submitted fraudulent vouchers for cash reimbursement for travel expenses. The Veterans were fraudulently claiming to travel between 150 and 475 miles roundtrip from their homes to the Albuquerque, NM, VAMC. The loss to VA is approximately \$88,000.

**Veteran Indicted for Fraud**

A Veteran was indicted for wire fraud and health care fraud after fraudulently claiming Post-Traumatic Stress Disorder (PTSD) symptoms and other extreme physical disabilities that qualified him for a higher rate of compensation. An OIG investigation revealed that the defendant falsely reported his physical disabilities to the VAMC staff and the VA Regional Office (VARO) in his claim for benefits. Witness interviews and surveillance videos of the Veteran using lawn mowers, tilling a garden, and lifting 95 pound landscape boulders revealed that the defendant was able-bodied and capable of strenuous work. The defendant also engaged an undercover agent in a conversation and coached him on how to fraudulently represent symptoms of PTSD to VA, even after being told by the agent that he did not have any PTSD symptoms. VA rescinded the defendant's compensation for PTSD and has downgraded his percentage for other disabilities, reducing his overall benefits. The loss to VA is over \$200,000.

**Fiduciary Sentenced for Theft**

A Veteran's daughter was sentenced to 8 years' probation and ordered to pay \$11,391 in restitution after pleading guilty to the misapplication of fiduciary property of the elderly. An OIG investigation revealed that the defendant misappropriated approximately \$72,500 in VA and Social Security benefits intended for her father, an elderly Veteran confined to a nursing home. The defendant had been serving as her father's legal custodian under a Durable Power of Attorney.

**Non-Veteran Sentenced for Identity Theft**

A non-Veteran was sentenced to 15 months' incarceration, 3 years' probation, and ordered to pay \$125,285 in restitution after pleading guilty to misuse of a Social Security number and false statements related to health care matters. An OIG and SSA OIG investigation revealed that the defendant stole the identity of a Veteran and redirected the Veteran's VA compensation benefits and military retirement to his own bank account. The loss is approximately \$150,000.

**Veteran Pleads Guilty to Bank Fraud**

A Veteran pled guilty to bank fraud and aggravated identity theft after an OIG, Secret Service, and Federal Bureau of Investigation (FBI) investigation revealed the he used a false Social Security number and other false identification documents in order to secure a \$204,000 VA home loan. The loss to VA is approximately \$36,000.

**Veteran Pleads Guilty to Stolen Valor Fraud**

A Veteran pled guilty to forgery after an OIG investigation revealed that he had altered his DD-214, falsely claimed to have served in Vietnam, and that he earned a Purple Heart and the Vietnam Service Medal. The defendant submitted the fraudulent DD-214 to the VARO to establish support for a fraudulent claim for VA disability compensation benefits, to include PTSD. The DD-214 was accompanied by multiple statements claiming heroic combat action in Vietnam and wounds incurred from that action. The loss to VA is approximately \$22,000.

**West Los Angeles, California, VAMC Employee Charged with Sale of Marijuana and Theft**

A West Los Angeles, CA, VAMC employee was charged with grand theft and possession of marijuana after an OIG investigation determined that the employee was selling marijuana at work and defrauding the transit benefit program.

**Phoenix, Arizona, VAMC Employee Pleads Guilty to Drug Possession**

A Phoenix, AZ, VAMC employee, who was terminated from her employment, pled guilty to possession or use of drug paraphernalia and was sentenced to 50 hours' community service and 12 months' probation. Additionally, a VARO employee resigned from his position, and a second former VARO employee pled guilty to criminal facilitation to commit possession of dangerous drugs for sale and was sentenced to 2 years' probation. An OIG and Drug Enforcement Administration (DEA) Drug Diversion Task Force investigation determined that the VAMC employee purchased VA narcotics from the two former VARO employees. The investigation revealed that for approximately 2 years the subjects illegally sold their narcotics to the VAMC employee in and around the parking lot of VA offices.

**Defendants Arrested for Drug Distribution**

Two defendants were arrested for distribution of heroin and conspiracy to violate drug laws. An OIG, DEA, VA Police Service, and local police investigation determined that the defendants were selling illicit drugs to at least two Veterans receiving treatment for substance abuse at the Bedford, MA, VAMC. The director of the VAMC informed OIG that the Veterans, who were receiving treatment for substance abuse, complained about the illicit drugs being dealt in and around the VAMC. A search of the defendant's residence and two vehicles conducted after their arrest led to the discovery of illegal drug packaging material and customer lists.

**Subject Arrested for Theft from VA Construction Site**

A defendant was arrested for burglary, grand theft, and resisting arrest. An OIG and local police investigation revealed that since June 2010, there had been multiple thefts of copper from a VA construction site. During this investigation, OIG agents and local police developed leads, conducted several surveillances, and ultimately arrested the defendant while burglarizing the site. The thefts delayed the construction project and created a loss of approximately \$5,000.

**Fugitive Veteran Arrested with Assistance of OIG**

A Veteran wanted for over 21 years for the sexual assault of his 12-year-old niece was arrested based on information provided by OIG. The Veteran's current address in South Carolina was forwarded to California law enforcement officers, resulting in the fugitive's arrest and subsequent extradition.

*(original signed by Richard J. Griffin,  
Deputy Inspector General for:)*

**GEORGE J. OPFER**  
Inspector General