

WORKERS' COMPENSATION FRAUD IDENTIFICATION AND REFERRAL PROCESS

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After completing this training, you will be able to:

- Define Workers' Compensation Fraud
- Understand why identifying potential fraud is important
- Recognize your responsibilities in identifying and determining potential WC fraud
- Identify fraud prevention efforts
- Recognize red flag indicators of potential fraud
- List the steps to evaluate cases for potential fraud
- Understand how to refer cases for fraud investigation

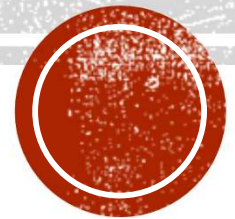


The Federal Workers' Compensation Program is an essential employee benefit. It entitles those employees who are injured on the job to compensation and medical benefits while they recover from an on-the-job injury or illness.

Office of Inspector General (OIG) efforts in the Workers' Compensation Program (WCP) area indicate that only 3-4% of claimants commit program fraud; however, the cost of this fraud to the administration can be significant.



PENALTIES



PENALTIES

Several statutory provisions make it a crime to file a false or fraudulent claim or statement with the Federal Government in connection with a claim under the FECA, or to wrongfully impede a FECA claim.

Enforcement of the provisions that may apply to claims under the FECA is within the jurisdiction of the Department of Justice.

Generally, the penalties result in either a monetary fine to the individual (not the agency) and/or jail time.



These resources may be useful in identifying and evaluating a Workers' Compensation case for suspected fraud.

18 U.S.C. 205, Activities of officers and employees in claims against and other matters affecting the Government

18 U.S.C. 287, False, Fictitious or Fraudulent Claims

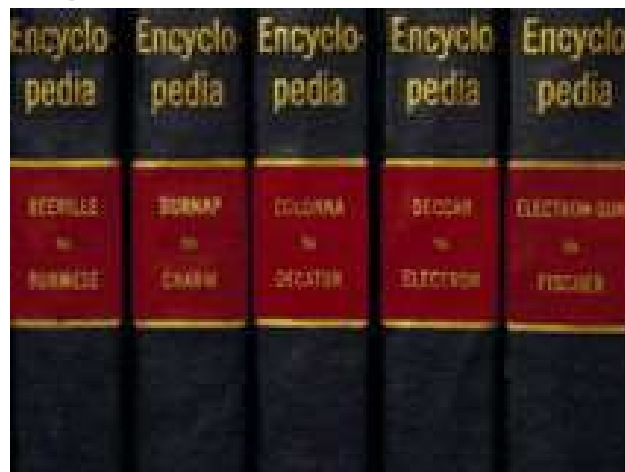
18 U.S.C. 1001, Fraud and False Statements, Statements of Entries Generally

18 U.S.C. 1920, False Statement or Fraud to Obtain Federal Employees' Compensation

18 U.S.C. 1922, False or Withheld Report Concerning Federal Employees' Compensation

31 U.S.C. 3729-3733, False Claims Act

31 U.S.C. 3801-3812, Program Fraud Civil Remedies Act of 1986



WHAT IS FRAUD?

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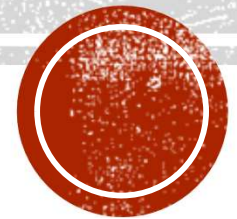
Fraud is an intentional deceptive act, or series of acts, committed by an individual with the intent to gain benefits that would not normally be provided under FECA.

Fraud occurs when employees deliberately apply for FECA benefits that they are not entitled to receive such as:

- Applying for and receiving compensation benefits due to being totally disabled from work while being self-employed doing handy work for others and not claiming the income or the ability to work.
- Claiming an adult child who lives in the home as a dependent which allows them to get a higher compensation rate of 75%. DOL only allows minor children to be claimed as a dependent unless enrolled full-time in school or disabled where they cannot care for themselves.



ROLES AND RESPONSIBILITIES



WC PROGRAM STAFF

- Inform supervisors, managers and employees of their obligations under FECA
- Identify and report all suspected fraudulent activity
- Evaluate initial claims for potential fraud
- Monitor all cases for potential fraud and abuse
- Gather information to support referral
- Refer cases to OIG for further investigation
- Track status and results of referred cases



PREVENTION EFFORTS

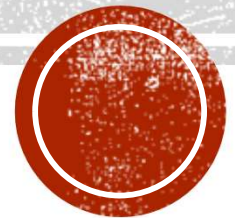


The employing agency has an obligation to prevent fraud and abuse by:

- ➔ Notifying the injured employees of their rights and obligations under FECA
- ➔ Ensuring that appropriate agency personnel such as supervisors understand their responsibilities under FECA.
- ➔ Controverting and disputing questionable claims
- ➔ Assisting employees with returning to work as soon as possible by providing light or modified work duties
- ➔ Identifying dual benefits and refer to appropriate agency
- ➔ Monitoring the medical status of injured employees
- ➔ Authorizing and tracking COP appropriately



RED FLAG INDICATORS





Fraud "Red Flag" indicators may be used to identify potential program fraud and claims that require additional scrutiny.

The red flag indicators are not always present in every case.

The indicators may assist with determining whether to make a referral of cases where there might be fraud or abuse of the FECA.



RED FLAG INDICATORS

- Claimant lives out of state or has a post office box address
- Diagnosis is inconsistent with treatment
- Employee fails to report the injury in a timely manner
- Employees that are about to be terminated or have an adverse personnel action
- Evidence of deceased claimant and continued compensation
- High compensation costs with little or no medical costs
- History of personal injury, multiple WCP claims, and reporting subjective injuries
- Medical bills and/or reports are inconsistent



RED FLAG INDICATORS

- Minor injuries resulting in long-term disability
- Outside physical activities not consistent with medical restrictions
- Previously denied leave or leave abuse issues
- Temporary or seasonal work about to end
- Tips from facility employees or other sources such as local media or social networking
- Treating physician with questionable billing, long term disability claims and multiple claims
- Outside employment
- Unwitnessed accident and/or conflicting stories surrounding the injury



CHECKLIST OVERVIEW



CHECKLIST OVERVIEW



The VHA National WCP Office has developed the *Characteristics for Potential Fraud Checklist*. It is used to streamline fraud evaluation efforts by WC personnel.

The checklist items are compiled from the VA OIG report and make the process of identifying potential characteristics more efficient.

Once the checklist has been completed, it should be reviewed by higher levels to determine if an investigation is necessary.



CHECKLIST OVERVIEW



- Complete for each new case at claim initiation
- Review periodically throughout the life of WC case
- SHOULD NOT be included as part of the WC case file
- 3 or more items checked, may warrant referral to OIG for investigation



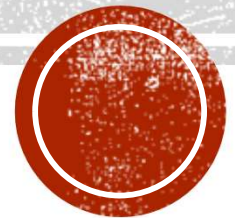
Claimant Name: _____ Date of Injury: _____ OWCP Case Number: _____
 Nature of Injury: _____ Person Completing Checklist: _____ Date Started: _____

ID	QUESTION	SOURCE DATA	RESPONSE	COMMENTS
1	The injury occurs prior to or just after a job termination, completion of temporary work assignment, or end of seasonal work.	Correspondence from HRM and personnel file.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
2	Employee reports an alleged injury immediately following disciplinary action, notice of probation, demotion, or being passed over for promotion.	Correspondence from HRM and personnel file.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
3	Employee has a history of personal injury, workers' compensation claims, and/or of reporting subjective injuries.	Medical Reports, CA-1032s, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
4	There are no witnesses to the accident or witness's version of the accident conflict with the employee's version or with one another.	CA-1, CA-2, and VA Form 2162 Accident Record	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
5	Employee fails to report the injury in a timely manner or employee's version of the accident has inconsistencies.	CA-1, CA-2, and VA Form 2162 Accident Record	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
6	The alleged injury relates to a preexisting injury or health problem.	CA-1, CA-2, Medical Reports, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
7	Employee uses addresses of friends, family, or post office boxes; has no known permanent address and moves frequently.	Changes of address records, correspondence to and from claimant, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
8	Employee frequently changes physicians, or does so after being released to return to work.	Medical Reports, Election of Treating Physician, Requests to change providers	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
9	Employee undergoes excessive treatment for soft tissue injuries.	Medical reports, long periods of light duty without progression.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
10	Medical treatment is inconsistent with injuries originally alleged by employee. The nature of the alleged injury conflicts with claim file documentation.	CA-1, CA-2, VA Form 2162 Accident Record, Medical Reports, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
11	The claimant cancels or fails to keep appointments, or refuses diagnostic procedures to confirm injury.	Medical Reports, Contact from Physician's office	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
12	Diagnosis is inconsistent with the treatment rendered. The alleged injuries are all subjective.	Medical reports, expansion of diagnoses, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
13	Address of medical provider is only a Post Office Box.	Billing address in ACS Portal, Correspondence from provider.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
14	Medical facility uses multiple names or changes name often or the medical reports appear to be "boilerplate" reports.	ACS Portal and WCOSH/MIS medical billing review.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	

Signature of person completing checklist: _____

Date Completed: _____

EVALUATION TIPS



EVALUATION TIPS



Employees, customers, supervisors, managers, or visitors may provide tips; however, the evaluation of WC cases for potential fraud should be a confidential process and limited to only WC personnel.

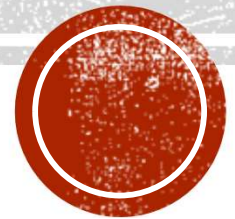
Some facilities have the use of an independent investigator to gather additional evidence.

WC personnel should consult with their supervisor to determine whether a confidential referral to the investigator is appropriate.

When this occurs, WC personnel indicate referral to the independent investigator on the checklist.



REFERRAL PROCESS



REFERRAL PROCESS

1. Consult with Agency management
2. Contact local OIG , when appropriate
3. Complete referral package with all available evidence or documentation



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OFFICE OF INSPECTOR GENERAL



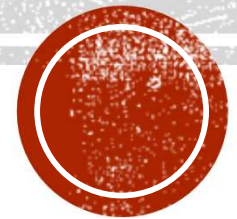
The investigation of WC cases involving possible fraud is the responsibility of the OIG.

The objective of the OIG is to assist WCP staff in reducing compensation costs resulting from fraudulent claims.

They also assist in gathering information leading to the removal of dishonest employees and medical providers from the Workers' Compensation Program.



REFERRAL FOLLOW UP



REFERRAL FOLLOW UP



WCP Office should track referrals and whether OIG accepted the case for investigation.

Cases accepted should be tracked to resolution.

WC staff should make sure that any information about convictions are forwarded to OWCP for their follow-up action. OWCP will change the case status and benefits as needed.



REPERCUSSIONS



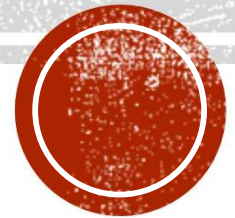
REPERCUSSIONS

Employees who are found guilty of fraud have all WC benefits terminated and depending on the fraud, may be removed from their Federal employment and face criminal prosecution.

Medical providers who are found guilty are put on the "Unauthorized providers list" and cannot be a Workers' Compensation provider. In some cases, they can have their license revoked.



CASE STUDY



CASE STUDY

A Nursing Assistant suffers a back injury and is placed off work. She returns to work but can only do minimal activity – no pushing, pulling, bending, no lifting over 10 pounds – and can only work 4 hours per day due to the severity of her injury. She needs to go home and rest in the afternoons.

Tips were provided from her co-workers that she was running a liquor store in the city. She goes to work at the store every afternoon after she left her federal position.

Online research of public records showed the business was in her name as the sole proprietor and the liquor license was also in her name as the owner.



WHAT DO YOU DO?



Q: YOU SHOULD

- ✓ Complete the OIG Fraud Checklist
- ✓ Refer to an independent investigator
- ✓ Consult with Supervisor
- ✓ Prepare a referral package to OIG
- ✓ Document possible fraud using the red flag indicators



THE REST OF THE STORY



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Department of Justice
U.S. Attorney's Office
Western District of New York

FOR IMMEDIATE RELEASE

Thursday, May 8, 2014

Rochester Woman Sentenced for Workers Compensation Fraud

ROCHESTER, N.Y.—U.S. Attorney William J. Hochul, Jr. announced today that Amelia Jackson, 43, of Rochester, N.Y., who was convicted of workers compensation fraud, was sentenced to five years of probation, with the first six months on home detention, by U.S. District Court Judge Charles J. Siragusa. The defendant was also ordered to pay \$14,524 in restitution.

Assistant U.S. Attorney Craig R. Gestring, who handled the case, stated that the defendant claimed to have sustained a work related injury in August of 2008 while employed by the United States Department of Veterans Affairs. As part of this claim, Jackson was limited in the amount of hours that she could work each day and was required to regularly report all outside income and employment. The defendant would regularly certify under oath that she was not engaged in any outside employment and that she was not receiving any other income. However, during this same time, Jackson opened and operated a liquor store in Rochester called "Last Call Liquors."

Federal investigators observed the defendant going to her liquor store directly from her job at the VA during times she was falsely claiming to be home resting. During the times she was observed, Jackson did not seem to have any difficulty navigating the short staircase, reaching for, picking up, replacing bottles, or carrying the bag containing bottles to the door to give to customers. On at least one occasion, the defendant was recorded wearing her VA Identification while she was working in the liquor store.

As part of the investigation, Jackson appeared for an interview with a Workers Compensation Program representative to review her compensation file and current medical condition. Unknown to the defendant, the Workers Compensation Representative was actually an undercover federal agent. During this recorded interview, the defendant denied having any outside employment or income. At no time during this interview did Jackson disclose her ownership of a liquor store or any other



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CASE INFORMATION



- United States v. Tonawanda Coke Corporation Part 1
- United States v. Tonawanda Coke Corporation Part 2
- Submit Victim Impact Statements

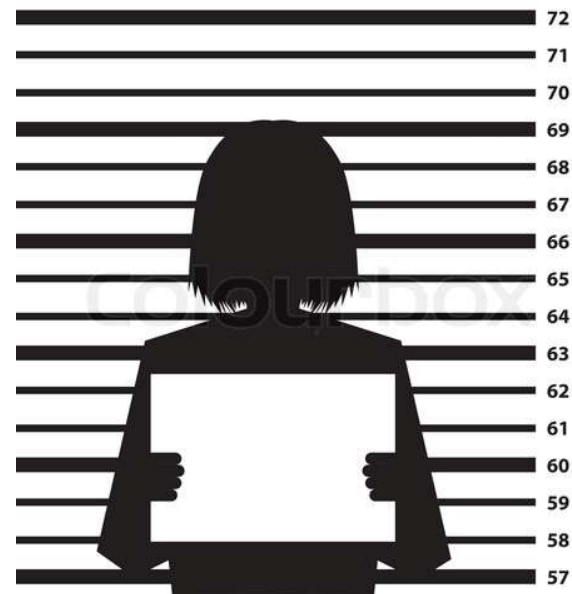
VWA
VICTIM
WITNESS
ASSISTANCE

Making sure that victims of federal crimes are treated with compassion, fairness and respect.



Claimant was:

- Convicted of WC Fraud
- Sentenced to five years of probation, with the first six months on home detention
- Ordered to pay \$14,524 in restitution





Office of Inspector General for the U.S. Department of Labor OIG Investigations Newsletter

April to May 31, 2019
Volume XXII

Aluminum Workers at Risk Endured for Two Weeks to Secure a Defunct Federal Health Care Program of Over \$100 Million

On May 13, 2019, Louis Barkwood was sentenced to one year in prison followed by a one-year period of supervised release. Barkwood was ordered to pay over \$20 million in restitution to the Office of Workforce Compensation Programs (OWCP). On the same date, Louis Taylor was sentenced to two years of probation and ordered to pay \$1 million in restitution in 2019.

Barkwood learned Union Global Supplies and Equipment (UGSE), an OWCP-licensed supplier, had already received in 2017, the total OWCP estimate for its value-added equipment that the contractor never needed or received. Barkwood admitted to selling these bills despite knowing the contractor had sold OWCP for some unexplained and unknown reasons.

Taylor was an outreach coordinator for OWCP in February 2015. Taylor provided guilty to failure to disclose a financial interest on her employment declaration. She failed to disclose in 2016 that she worked for UGSE, an OWCP-licensed company, when she applied for a new role. Barkwood admitted guilty to aiding and abetting Taylor's failure to disclose a financial interest to the government. Barkwood managed the day-to-day operations of UGSE.

Barkwood and Taylor were responsible for shipping the bills to the customer, although some of the bills were never shipped. In two instances where the bills were shipped, Barkwood often failed to update the status of the equipment. Later in the process, Barkwood paid Taylor for time in Dallas and included the cost as an item on OWCP.

This was a joint investigation with OIG, Postal Service-OIG, United States v. Louis Barkwood and United States v. Louis Taylor, OIG, Texas.



OIG Investigations Newsletter Volume XXII

Vol. XXII: April 1, 2019 – May 31, 2019



WHAT'S NEW

AUDIT AND OTHER REPORTS

- Reporting Over the U.S. Department of Labor's FY 2018 Compliance with the Improper Payments Elimination and Recovery Act Report No. 22-19-007-13-001 (June 3, 2019)

OIG PUBLICATIONS

Semiannual Report to Congress, Volume 81 (October 1, 2018 - March 31, 2019)

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Office of Inspector General for the U.S. Department of Labor

OIG Investigations Newsletter

April 1–May 31, 2019
Volume XXII

The Office of Inspector General (OIG) for the U.S. Department of Labor (DOL) is pleased to present the *OIG Investigations Newsletter*, containing a bimonthly summary of selected investigative accomplishments.

The OIG conducts criminal, civil, and administrative investigations into alleged violations of federal laws relating to DOL programs, operations, and personnel. In addition, the OIG conducts criminal investigations to combat the influence of labor racketeering and organized crime in the nation's labor unions in three areas: employee benefit plans, labor-management relations, and internal union affairs.

Arkansas Woman and Niece Sentenced for Their Roles in Scheme to Defraud Federal Health Care Program of Over \$26 Million

On May 15, 2019, Lydia Bankhead was sentenced to one-year in prison followed by a one-year period of supervised release. Bankhead was ordered to pay over \$26 million in restitution to the Office of Workers' Compensation Programs (OWCP). On the same date, Lydia Taylor was sentenced to two years of probation and ordered to pay more than \$265,000 in restitution to OWCP.

Bankhead opened Union Medical Supplies and Equipment (UMSE), an OWCP enrolled company, with Tshombe Anderson in 2013. They billed OWCP claimants for durable medical equipment that the claimants neither wanted nor needed. Anderson continued to submit these bills despite knowing the companies were billing OWCP for items unassociated with claimants' injuries.

Taylor was an unpaid intern for OWCP. In February 2018, Taylor pleaded guilty to failure to disclose a financial interest on her employment application. She failed to disclose to OWCP that she worked for UMSE, an OWCP-enrolled company, when she applied for the internship. Bankhead pleaded guilty to aiding and abetting her niece's failure to disclose a financial interest to the government. Bankhead managed the day-to-day operations of UMSE.

Bankhead and Taylor were responsible for shipping the items to the claimant, although most of the billed items were never shipped. In the instances where the items were shipped, claimants often refused or rejected the durable medical equipment. Later in the scheme, Bankhead paid for Taylor to move to Dallas and facilitated her role as an intern with OWCP.

This was a joint investigation with U.S. Postal Service-OIG. *United States v. Lydia Bankhead and United States v. Lydia Taylor* (N.D. Texas)



QUESTIONS



"...And the court awards you twenty five thousand pounds for the loss of faculty in your right arm..."

