STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
January 14, 2011

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General, in a joint investigation with the U.S. Attorney's Office for the Northern District of New York and the U.S. Department of Health and Human Services Inspector General's Office, determined that for at least 10 years Lee Ballard, an employee of the New York State Office of Children and Family Services (OCFS), engaged in a scheme to defraud medical providers into supplying him with narcotic pain medication to satisfy his drug addiction, and also defrauded his medical insurance provider, the Empire Plan, into paying over $709,000. Ballard visited over 75 emergency rooms, hospitals, and other medical offices in New York, New Jersey, Connecticut, Vermont, and Pennsylvania, sometimes several on the same day, in order to obtain prescription drugs. To further his fraudulent scheme, Ballard filed over 2,200 sham insurance claims.

The Inspector General further found that Ballard misappropriated more than $52,000 in insurance reimbursements from the Empire Plan for medical services rendered to him or to his dependents that he owed to medical providers outside of the insurance company's network of physicians. Ballard retained the insurance money rather than remit it to any medical provider.

Ballard was arrested on December 7, 2009, and on August 4, 2010, he pleaded guilty in the U.S. District Court for the Northern District of New York to two federal criminal charges: making false statements relating to health care matters, and acquiring a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge. On January 14, 2011, he was sentenced by Senior U.S. District Judge Lawrence Kahn in Albany to six months of home detention, 400 hours of community service, and five years probation, and was ordered to pay $709,000 in restitution. He was also ordered to continue substance abuse treatment.

ALLEGATION

The New York State Department of Civil Service, which administers the Empire Plan, advised the Inspector General that OCFS employee Lee Ballard might be engaging in health insurance fraud by improperly using hospitals and emergency care facilities in an attempt to obtain prescription drugs. Additionally, Ballard was suspected of

submitting to the Empire Plan bills for services rendered by non-participating medical providers and failing to remit payments to these providers.

SUMMARY OF INVESTIGATION

Background

Lee Ballard, a resident of Middletown, was employed by OCFS as a Youth Division Aide (YDA) from 1993 until his retirement in December 2010. Beginning in 2000, Ballard was assigned to OCFS's Goshen Secure Residential Center, a facility that houses youths sentenced by adult courts as juvenile offenders or juvenile offender/youthful offenders as well as youths deemed juvenile delinquents by Family Court. YDAs are responsible for monitoring the care of residents, providing direct oversight of the residents' daily activities, and maintaining the security of the facility. Ballard, however, is neither a peace officer nor police officer.

As a state employee, Ballard participated for more than 10 years in New York State's Empire Plan, a "health care benefit program."[1] As an Empire Plan member, Ballard received hospital insurance, health insurance, and prescription drug benefits for himself and his eligible dependents. Hospital bills are paid by Empire Blue Cross/Blue Shield insurance company while major medical services received in hospital visits are paid by United HealthCare.

Between 1989 and 1999, Ballard was hospitalized on multiple occasions for surgery and other medical illnesses. In connection with these hospital stays, Ballard was prescribed Demerol and other narcotic medicines that are classified as analgesics or opioids (such as morphine, hydrocodone, and oxycodone) and are administered to treat moderate to severe pain. These drugs are classified as controlled substances,[2] and cannot be legally possessed or consumed without a valid prescription. These drugs are also commonly abused because of their euphoric and sedative effects, and abusers who become dependent on the drugs often suffer severe withdrawal symptoms. According to Ballard, he became addicted to Demerol and the other aforementioned drugs in or around 1999.

Under federal law, it is a felony to make false representations or engage in fraudulent activities in connection with payments for health care benefits and in order to obtain controlled substances. Section 1035 of Title 18 of the United States Code provides that: "(a) Whoever, in any matter involving a health care benefit program, knowingly and willfully (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or (2) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both." Section 843(a)(3) of Title 21 of the United States Code provides that: "It shall be unlawful for any person knowingly or intentionally . . . to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge."

[1] 18 U.S.C. § 24(b).
[2] 21 U.S.C. § 812 (Schedule II).

Ballard Fraudulently Obtained Prescription Medication Billed to the Empire Plan

Concerns about Ballard abusing prescription medications at substantial cost to the Empire Plan were brought to the attention of the Inspector General by the New York State Department of Civil Service, which provides administrative oversight for state employees participating in the plan. The Inspector General launched an investigation with assistance from Civil Service, OCFS, the State Insurance Fund, the Department of Health's Bureau of Narcotics Enforcement, the Workers' Compensation Inspector General, and the Insurance Department's Frauds Bureau. The Inspector General's investigation was subsequently joined by the United States Attorney's Office for the Northern District of New York and United States Department of Health and Human Services (HHS) Inspector General. Thousands of pages of medical and billing records were analyzed during the course of the investigation. Visual surveillance of Ballard was conducted along with court-ordered electronic surveillance to track Ballard's trips to hospital emergency rooms and other medical providers to fraudulently obtain controlled substances.

The Inspector General, along with the U.S. Attorney and the HHS Inspector General, determined that Ballard, over a 10-year span, visited more than 75 hospital emergency rooms in New York, New Jersey, Connecticut, Pennsylvania, and Vermont to fraudulently obtain Demerol and other controlled substances. Most of the hospital emergency room visits were part of a scheme by Ballard in which he repeatedly made materially false and fraudulent statements to health care professionals to obtain the controlled substances and to bill the Empire Plan for his treatment and medication.

When in search of pain medications, Ballard typically visited different hospital emergency rooms every few days, and often presented himself at more than one emergency room on the same day. Despite living less than two miles from a hospital, Ballard frequented other hospitals farther from his residence. In some instances, Ballard drove to other states in search of a hospital. Moreover, Ballard routinely left hospitals against medical advice, and at times did so without informing hospital staff, driving directly to another medical facility. While at the hospital, Ballard frequently made false and fraudulent statements including fake or exaggerated claims of pain or injury, and false or inaccurate descriptions of his medical history. Additionally, Ballard never informed medical staff that he had just left another hospital where he had been evaluated, tested, and provided narcotic pain medicine.

The Inspector General's investigation identified patterns of drug-seeking behavior by Ballard. For example, Ballard engaged in a scheme to obtain controlled substances from May 23, 2008, through May 30, 2008, when he sought narcotics from multiple hospitals, claimed two different ailments, and twice departed against medical advice. May 23, 2008, was a scheduled day off for Ballard, but his attendance records indicate he worked an overtime shift at the Goshen Center from 8:00 a.m. to 2:30 p.m. After work, he drove to Dobbs Ferry Hospital in Westchester County (more than 53 miles from Goshen) and presented himself in the emergency room at 4:30 p.m. complaining of back pain. He told medical personnel he had injured his back while weightlifting in preparation for a police athletic competition. He was treated with Toradol, Dilaudid, and Valium, and discharged at 8:20 p.m. Hospital staff notified the local police after

observing Ballard, who had asserted he would be given a ride home by a third party, drive away from the hospital on his own. However, the police were unable to locate him.

That same evening, at 10:34 p.m., Ballard arrived at Northern Dutchess Hospital in Dutchess County (more than 80 miles from Dobbs Ferry), where he complained of chest pains which he said had begun in the morning and worsened at 7:30 p.m. Unbeknownst to medical staff at Northern Dutchess Hospital, Ballard had been at Dobbs Ferry Hospital at the very time he reported his alleged chest pains had worsened. Several tests were performed on Ballard; he was given multiple doses of Demerol; and as a precaution to rule out a pulmonary embolism, he was transferred to Vassar Hospital in Poughkeepsie for further testing and admittance. No evidence of an embolism was found, and Ballard was discharged from Vassar on May 25. Ballard's OCFS time and attendance record indicated he was in the hospital and could not report for work that day. Ballard returned to work at the Goshen Center on May 26.

On May 29, 2008, Ballard worked from 6:30 a.m. to 5:00 p.m., earning 2.5 hours of overtime. At 10:04 p.m., Ballard arrived at the emergency room of the Jersey City Medical Center in Hudson County, New Jersey (more than 68 miles from Ballard's residence), where he complained of chest pains. He told hospital staff that he had been treated for a pulmonary embolism in a Texas hospital five days earlier, but had to leave the hospital so he would not miss his flight back to New York. In fact, as noted, Ballard was in Vassar Hospital in Poughkeepsie five days earlier. He was treated at the Jersey City Medical Center with multiple doses of Dilaudid and morphine. Sometime after 4:00 a.m. on May 30, 2008, while other tests were being prepared, Ballard left the hospital against medical advice.

The same morning, at 7:39 a.m., Ballard arrived at Good Samaritan Hospital in Rockland County, New York (more than 37 miles from his residence) complaining to emergency room staff that he was suffering from chest pains. Ballard maintained that he developed the chest pains while driving from Texas to New York. In fact, not only was Ballard not in Texas on May 30, 2008, he had not been there in several years. Ballard was treated with Percocet and Demerol and left Good Samaritan Hospital at 6:30 p.m. against medical advice. An attending physician wrote in Ballard's chart, "patient likely drug seeking."

Another series of Ballard's fraudulent acts to obtain narcotics occurred from October 18 through October 25, 2008. Ballard was not scheduled to work at the Goshen Center on October 18, 2008. At 4:13 p.m. on October 18, he arrived at Northern Dutchess Hospital emergency room (more than 65 miles from his residence) complaining of chest pain. After being treated with multiple doses of Demerol and while other tests were being prepared, he departed the hospital at 9:35 p.m. against medical advice. The hospital unsuccessfully attempted to contact Ballard to request that he return for treatment. Within 38 minutes of leaving Northern Dutchess Hospital, Ballard arrived at Benedictine Hospital emergency room in Ulster County, 12 miles away, again complaining of chest pain. He was treated with multiple doses of Dilaudid and left the hospital early in the morning of October 19, a scheduled work day at the Goshen Center. Time and attendance records indicate he arrived at work at 8:30 a.m. and left at 11:30 a.m.

Ballard also was scheduled to work at the Goshen Center on October 22, 2008, but did not appear for work or call in to report his absence. At 10:03 p.m., Ballard arrived at Northern Dutchess Hospital and presented himself at the emergency room with chest pains. He was treated with multiple doses of Demerol.

Three days later, on October 25, 2008, a scheduled day off, Ballard arrived at 12:33 a.m. at St. Luke's Cornwall Hospital in Orange County, New York (29 miles from his residence). On this occasion, he reported to emergency room staff that he was experiencing back pain. Ballard told medical staff that he injured his back after weightlifting 500 pounds. He was treated with multiple doses of oxycodone, hydromorphone, and Demerol, and left the hospital at 3:43 a.m. with a prescription for Vicodin.

Less than an hour later, at 4:35 a.m., Ballard arrived at St. Anthony Community Hospital emergency room in Orange County (34 miles from the previous hospital), again complaining of back pain. Ballard told hospital staff he had injured himself lifting weights, but did not mention he had just left another hospital. He was treated with Toradol, Demerol, and oxycodone, and departed the hospital with a prescription for Percocet at 6:35 a.m. Hospital staff observed Ballard driving out of the hospital parking lot and, concerned that his ability to drive was impaired by the medications, notified the State Police. At 7:05 a.m. the same day, Ballard arrived at a third emergency room: Orange Regional Medical Center, Arden Campus, in Orange County (11 miles from the previous hospital). Once again, Ballard claimed back pain. As he did at the previous two hospitals, Ballard told medical personnel that he had injured himself weightlifting. Ballard, however, neglected to mention he just had been treated at two other hospitals within the past seven hours. He was given multiple doses of Demerol, and he departed this hospital at 8:51 a.m. with another prescription for Vicodin. Ballard returned to work at the Goshen Center the following day, October 26, 2008, at 6:30 a.m.

A third series of Ballard's fraudulent acts occurred on August 22, 2009. On that date, Ballard worked at the Goshen Center from 6:30 a.m. until 2:30 p.m. At 5:14 p.m., Ballard arrived at Northern Dutchess Hospital emergency room, more than 67 miles away, and informed hospital staff that he had injured his back weightlifting. Ballard was treated with Ibuprofen and Lidoderm, and was discharged at 5:49 p.m.

Approximately two hours later, Ballard arrived at the emergency room at Ellis Hospital in Schenectady (approximately 75 miles from the previous hospital) claiming to medical personnel that he was suffering from chest pain and shortness of breath. Ballard also claimed that he had been treated for a pulmonary embolism at a hospital in Texas in March 2009. Not only was Ballard's claim of chest pain and shortness of breath dubious, records confirm that he was not treated for an embolism in Texas earlier that year. Ballard ultimately received multiple doses of morphine and Dilaudid at Ellis Hospital.

Ballard's Fraudulent Insurance Claims Totaled More Than $709,000

The Inspector General determined that Ballard's numerous misrepresentations regarding chest pain, shortness of breath, back pain, and prior treatments in Texas for a pulmonary embolism were intended to improperly influence health care professionals to

prescribe and administer controlled substances to him and to mislead the Empire Plan into paying for the unnecessary drugs and medical treatment.

The Inspector General's examination of Ballard's insurance records from 2000 through 2010 revealed that he submitted 2,248 fraudulent insurance claims. This total includes all claims with a diagnosis related to the ailments identified as those used by Ballard as part of his fraudulent scheme to obtain pain medication (e.g., chest pain, pulmonary embolism, back pain, and lumbar strain, etc.). Other diagnosis codes for other injuries or illness (e.g., a sprained ankle) that were not associated with the common scheme were not included. This analysis established that 91 percent of Ballard's insurance claims were fraudulent. As a result, the Empire Plan was defrauded out of more than $709,000. The following chart summarizes the Inspector General's analysis of Ballard's insurance claims.[3]

Analysis of Ballard's Insurance Claims

Year	Number of Insurance Claims	Total Paid Value of Claims	Number of Fraudulent Insurance Claims	Total Value of Fraudulent Claims	Percentage of Fraudulent Claims Based on $ Value
2000	7	$ 0	7	$ 0	0
2001	2	$ 0	2	$ 0	0
2002	291	$28,310.62	264	$26,944.90	95%
2003	429	$180,007.47	359	$173,357.17	96%
2004	382	$114,997.35	323	$84,112.31	73%
2005	282	$109,023.12	246	$106,026.72	97%
2006	358	$112,778.36	333	$99,738.19	88%
2007	387	$145,427.96	357	$140,026.15	96%
2008	184	$59,999.77	173	$59,376.72	99%
2009	175	$18,570.12	161	$17,349.22	93%
2010	92	$13,288.97	23	$2,401.94	18%
Totals	**2,589**	**$782,403.74**	**2,248**	**$709,333.32**	**91%**

Ballard Misappropriated $52,000 in Insurance Payments Intended for Non-Participating Providers

The Inspector General determined that Ballard not only abused his insurance plan to obtain prescription pain medication, but also kept more than $52,000 in insurance payments that he should have remitted to health care providers.[4] Under the Empire Plan, most medical services are covered under the "participating provider program" or the "basic medical program" for non-participating providers. When an insured individual is treated by a participating provider, the individual is only responsible to pay a co-payment, and the insurance company pays the participating provider directly for the

[3] Not included in the summary are seven additional fraudulent insurance claims for 2000 and two additional fraudulent claims for 2001 for which no insurance payment information could be located.

[4] Ballard's wife, Pamela Ballard, pleaded guilty in Ulster County Court in 2000 to a state felony charge of grand larceny in the second degree for stealing over $65,000 from United HealthCare from 1993 to 1998. Pamela Ballard admitted she had altered, forged, and submitted for reimbursement 82 medical insurance paper claim forms from non-participating providers for services that were never rendered. Lee Ballard was not charged in this scheme.

medical services rendered. If the insured individual chooses medical treatment from a non-participating provider, however, the payment arrangement is more complex. Initially, before the covered medical expenses can be reimbursed by the insurance carrier, the insured must meet an annual medical deductible. Claims are submitted to United HealthCare, and for covered services and supplies, once the deductible has been met, the Empire Plan reimburses the insured individual 80 percent of the "reasonable and customary charges for covered services and supplies or the scheduled pharmaceutical amount for pharmaceutical products, or the actual billed charges, whichever is less." The insured individual is responsible for paying the remaining 20 percent (coinsurance) until the coinsurance maximum is met. The insured individual must also pay any charges above the reasonable and customary amount.

Additionally, as for hospital emergency room treatment, if Empire BlueCross/BlueShield determines that the insured received emergency care in a hospital emergency room, covered charges billed separately by the attending emergency room physician and providers who administer or interpret radiological exams, laboratory tests, electrocardiograms, and/or pathology services, will be paid in full by United Healthcare. Services provided by other specialty physicians in a hospital emergency room are considered under the "participating provider program" or the "basic medical program" depending on whether the physician participates.

Since Ballard frequently sought medical services through hospital emergency rooms, he was not required to meet annual deductibles that an enrollee, or family, typically must meet through medical office visits. However, he never made any co-payments to hospitals when he visited emergency rooms for the purpose of receiving pain medications. For example, records from Orange Regional Medical Center in Goshen, one of the several hospitals that Ballard visited to commit fraud, reported in July 2008 that Ballard owed the hospital $855 in co-payments for emergency room visits.

On occasion, particularly in hospitals located outside New York, an attending physician at an emergency room where Ballard sought drugs was not an Empire Plan participating provider. The attending physician electronically billed Ballard's insurance, and as a result, the Empire Plan generated and remitted payment for the medical service directly to Ballard, the enrollee of the Empire Plan. All checks for payment to non-participating providers used outside the Empire Plan were issued in Lee Ballard's name. As a member of the Empire Plan who knowingly sought treatment from a non-participating provider, Ballard assumed all financial responsibilities to pay the particular non-participating physician for the medical services rendered, which included medical services rendered to Ballard and any eligible dependents.

The Inspector General's investigation revealed that Ballard received these payment checks and cashed them, but did not remit payment to the physicians who treated him or his dependents, and for whom the payments were intended.

For example, Ballard received medical care partially through a non-participating physician from Good Samaritan Hospital, in Suffern on September 7, 2006. The treatment generated an approved insurance payment of $1,305, and a check for that amount was issued to Ballard. Ballard, in turn, was responsible for the payment to the medical provider and the check served as a reimbursement to Ballard as he was

financially responsible to pay any non-participating physician who treated him. The Inspector General contacted the physician's office and learned that no payment by Ballard had ever been received and his account was sent to a collection agency. An office manager at the physician's office informed the Inspector General that she had requested by telephone that Ballard pay the bill, sent numerous letters to Ballard's home, and even asked for partial payment. The non-participating provider never received payment, yet business records from United Check Cashing in Middletown reveal that Ballard cashed the check on September 29, 2006.

In another instance, Ballard went to Vassar Hospital in Poughkeepsie on February 9, 2008, and received care partially through non-participating physicians. The medical care generated an approved insurance payment of $1,067, and a check in that amount was issued to Ballard. On April 3, 2008, Ballard cashed the check at the same check cashing company and never made any payments for the services provided to him.

Similar checks for medical services provided through non-participating physicians for Ballard's dependents were also generated and sent to Ballard. These checks also served as a reimbursement since Ballard was financially responsible to pay any non-participating physician who treated his eligible dependents who are members of the Empire Plan. According to records supplied by United HealthCare, United Check Cashing and other banking institutions once used by Ballard, these insurance checks were cashed by Lee Ballard and Pamela Ballard. None has been used to pay any of the approved medical provider claims for which the checks were issued.

From January 13, 2004, to September 10, 2008, Ballard received 122 checks from the Empire Plan that total $52,765.02, as summarized in the below chart.

Ballard's Non-Participating Provider Check-Cashing Scheme 2004-2008

Institution	Number of Instances	Value
Fleet/Bank of America	6	$1,367.14
Charter One	24	$8,088.10
Citizens Bank	14	$3,649.24
Other	2	$492.80
United Check Cashing	76	$39,167.74
Total =	**122**	**$52,765.02**

The checks were remitted to Ballard as reimbursement and subsequent payment to non-participating Empire Plan providers who had treated Ballard or one of his eligible dependents. However, Ballard or his wife cashed the checks, but did not remit payment to the medical providers.

Ballard's Confession

On December 7, 2009, Ballard was arrested by the New York State Inspector General and the U.S. Health and Human Services Inspector General, and after being

provided *Miranda* warnings, agreed to speak with investigators. In his interview, Ballard admitted that he has had a drug problem since 1989, following surgery for which he was prescribed narcotic pain medications. Ballard added that in 1999 he again was treated with narcotic pain medications for another ailment. Ballard said that he believes he became addicted to narcotic pain medication during this time and has not been able to overcome his addiction. Ballard related that he first became addicted to Demerol, but then built a tolerance and later developed a craving for the drug and others such as Dilaudid and morphine.

Ballard provided conflicting reasons for traveling to various hospitals during the past 10 years. He initially claimed that he was legitimately in pain when he went to a hospital, but at times he referred to that pain as having a panic or anxiety attack, particularly on several incidents regarding visits dealing with pain in his chest. Nevertheless, Ballard freely admitted that he also went to hospitals seeking narcotic pain medications because he was addicted to them. Ballard disclosed that he would drive around until he saw a blue hospital "H" sign on a highway and follow the signs to a hospital.

The Inspector General then questioned Ballard about his practice of leaving hospitals against medical advice. Ballard replied that he would sign out of the hospital if he started to feel better soon after being given pain medications because he wanted no further tests performed on him. He also claimed that he would leave a hospital if he did not like how he was treated by hospital staff. He indicated that he went to some of the same hospitals for years and certain staff knew him and did not treat him well. The Inspector General then suggested to Ballard that hospital staff likely did not believe him or did not want to dispense the drugs he wanted, to which Ballard nodded his head in agreement.

The Inspector General further queried Ballard about his conduct while at the various hospitals. When asked about his multiple emergency room visits on the same day, Ballard admitted that he failed to notify medical staff at the subsequent hospital that he had been treated at another hospital earlier that day. Ballard also conceded that he did not inform medical professionals that he was addicted to pain medications. Ballard readily admitted to his "untruthfulness" and to "misleading" medical personnel to obtain narcotic pain medications. Additionally, when asked if after an emergency room visit he went to his treating physician for follow-up care, Ballard conceded that he had not. When it was suggested to Ballard that he was spinning out of control regarding his addiction, he responded, "No, I have spun out of control."

Ballard further admitted that he received and subsequently cashed checks from the Empire Plan that were intended as reimbursement for his medical expenses. Ballard acknowledged that he understood the terms of the Empire Plan and that when he had received checks in the mail, he cashed these checks and did not remit payment to the non-participating physicians. When queried as to why he violated the terms of the Empire Plan by failing to fulfill his obligation to pay non-participating medical providers, Ballard appeared nonchalant and stated, "I thought they would just start garnishing my paycheck." He conceded that he has never attempted to pay for any treatment by non-participating providers, a delinquency which unjustly enriched Ballard by over $52,000 in insurance payments that should have been remitted to the health care providers.

In the course of the investigation, the Inspector General questioned Ballard's supervisors at the Goshen Center and reviewed his personnel records to determine if Ballard's admitted addiction to pain medications affected his work performance. Three supervisors who had managed Ballard over the previous several years stated that despite Ballard's time and attendance problems and resulting discipline, they considered him an effective employee in dealing with residents. The supervisors stated that they were not aware of Ballard's drug abuse and that there was no indication that his work was affected or that he was providing drugs to co-workers or residents. Ballard himself stated that he never brought drugs into the secure area of the facility and never gave or sold narcotic pain medications to any residents. During the investigation, the Inspector General's review of Unusual Incident Reports from the Goshen Center revealed no allegations of misconduct by Ballard relating to residents. When queried by the Inspector General as to whether employees of the Goshen Center were aware of his behavior, Ballard responded that two unnamed co-workers had once attempted to convince him to get help for what they suspected was his drug problem.

Additionally, the Inspector General conferred with the U.S. Drug Enforcement Administration and the New York State Department of Health's Bureau of Narcotics Enforcement. Both agencies advised that the quantities of pain medications Ballard procured were consistent with individual abuse.

The U.S. Attorney's Office for the Northern District of New York prosecuted Ballard. On August 4, 2010, Ballard pleaded guilty in U.S. District Court for the Northern District of New York to two federal criminal charges: making false statements relating to health care matters, in violation of 18 U.S.C. § 1035; and acquiring a controlled substance by misrepresentation, fraud, forgery, and subterfuge in violation of 21 U.S.C. § 843(a)(3).

Even after his arrest on December 7, 2009, Ballard continued his scheme to obtain pain medication improperly. The Inspector General notified the U.S. Attorney's Office of Ballard's continuous fraudulent conduct, and Ballard was subsequently admitted into an inpatient substance abuse treatment program.

The Inspector General found that Ballard was a chronic time and attendance abuser, with hundreds of unauthorized absences from work at the Goshen Center. On four occasions between 2002 and 2007, OCFS commenced formal disciplinary proceedings against Ballard, resulting in fines, reprimands, and counseling. In two instances, OCFS unsuccessfully sought Ballard's termination. Following this investigation, OCFS began new disciplinary proceedings, again seeking Ballard's dismissal. This action resulted in Ballard retiring from state service effective December 23, 2010.

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FINDINGS AND RECOMMENDATIONS

The Inspector General, in a joint investigation with the U.S. Attorney for the Northern District of New York and the U.S. Department of Health and Human Services Inspector General, determined that Lee Ballard, while employed as a Youth Division Aide at OCFS's Goshen Secure Residential Center, engaged in a scheme to defraud medical providers into supplying him with narcotic pain medication to satisfy his drug

addiction, and also defrauded his medical insurance provider, the Empire Plan, into paying more than $709,000 in false claims.

The Inspector General further found that Ballard misappropriated over $52,000 in reimbursements from the Empire Plan for medical services rendered to him or to his dependants that he owed to non-participating medical providers. Ballard pocketed the insurance money rather than remitting it to the medical providers.

Ballard was arrested on December 7, 2009, and on August 4, 2010, he pleaded guilty in federal court to making false statements relating to health care matters and acquiring a controlled substance by misrepresentation, fraud, forgery, or subterfuge. On January 14, 2011, he was sentenced by Senior U.S. District Judge Lawrence Kahn in Albany to six months of home detention, 400 hours of community service, and five years probation, and was ordered to pay $709,000 in restitution. He was also ordered to continue substance abuse treatment.

When OCFS commenced disciplinary action seeking his termination, Ballard retired effective December 23, 2010.

Concerned that Ballard's improper and illegal activities occurred over a span of years without detection or effective response, the Inspector General conferred with OCFS, Civil Service, and insurance carriers to inquire of their fraud detection practices relevant to the issues raised in this investigation.

The Inspector General notes that chronic time and attendance abuse can be an indicator of other potentially more serious problems, as existed in Ballard's case. Time abuse can also contribute to excessive overtime costs incurred by state agencies. The Inspector General has communicated with OCFS and will work with the agency to develop means to identify serious time and attendance abusers in a timely manner. Additionally, the joint effort will seek to establish the causes of the abuse and implement appropriate and effective remedies.

The Inspector General also has communicated the results of this investigation to Civil Service. In light of these findings, it is recommended that Civil Service officials review the mechanisms in place to identify these types of fraud and report to the Inspector General so that both agencies can determine the most effective means to enhance fraud detection and deterrence.