



STATE OF NEW YORK
OFFICE OF THE INSPECTOR GENERAL
EMPIRE STATE PLAZA
AGENCY BLDG. 2, 16TH FLOOR
ALBANY, NEW YORK 12223
(518) 474-1010

61 BROADWAY, SUITE 2100
NEW YORK, NEW YORK 10006
(212) 635-3150

Catherine Leahy Scott
INSPECTOR GENERAL

65 COURT STREET, 5TH FLOOR
BUFFALO, NEW YORK 14202
(716) 847-7118

July 25, 2013

James C. Cox
Medicaid Inspector General
NYS Office of the Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

NYSIG Case No. 1422-165-2012

Dear Medicaid Inspector General Cox:

On November 20, 2012, I received a complaint from [REDACTED], alleging that two former OMIG employees, Management Specialist [REDACTED] and Health Program Director [REDACTED], spoke to the press, as evidenced by a November 19, 2012 *Times Union* article entitled, "Fraud Agency Called Adrift," and disclosed what OMIG believed to be confidential, internal agency information relating to pending audits and investigations.

On November 29, 2012, my office received additional information from [REDACTED] alleging that current OMIG employee Registered Nurse [REDACTED] might also have inappropriately disclosed internal agency information to the *Albany Times Union*, also published in the aforementioned article.

The New York State Code of Ethics prohibits state employees from disclosing confidential state information. It proscribes, "No officer or employee of a state agency . . . should disclose confidential information acquired by him in the course of his official duties nor use such information to further his personal interests."¹ OMIG policy similarly mandates, "A State employee shall not disclose confidential information acquired in the course of official duties, nor shall such information be used to further the state employee's personal interests."² Notably, neither the State Code of Ethics nor OMIG policy prohibit *former* employees from disclosing confidential information acquired in the course of official duties.

¹ Public Officers Law § 74(3)(c)

² OMIG APPM Series 633.3 (Dated 11.16.2009)

A review of the Albany *Times Union* article "Fraud Agency Called Adrift" found that statements attributed to [REDACTED] and [REDACTED] revealed internal agency information. Specifically, the article attributes statements to [REDACTED] and [REDACTED] that pertain to OMIG's audits of the Visiting Nurse Services of New York and Marra's Pharmacy in Cohoes. [REDACTED] and [REDACTED] referred to the approximate total dollar amounts of overpayments to Visiting Nurse Services and the proposed audit penalty for Marra's Pharmacy, among other things. Notably, both [REDACTED] and [REDACTED] retired from state service more than five months before the *Times Union* article was published.³

As for [REDACTED] a current OMIG employee, the article also contained a single statement attributed to her which reads, "I liked the work I did." "I want to do it. I want to do it without being mistreated – that's all I want." [REDACTED] statement refers to a 2011 incident involving allegations of verbal abuse by an OMIG Deputy Director, which resulted in [REDACTED] and several other OMIG employees filing a complaint with the Menands Police Department.⁴ Despite the fact that [REDACTED] disclosure to the *Times Union* regarded alleged verbal abuse by a fellow OMIG employee, it neither involved confidential OMIG information nor pertained to solely internal agency matters.

The Inspector General's investigative file is available upon request for your review. If you require further information or assistance, please feel free to contact me or Deputy Inspector General Audrey Maiello Cunningham at (518) 474-1010.

Sincerely /

[REDACTED]
Catherine Leahy Scott
Inspector General

³ Arroyo retired on June 7, 2012, and Gembala retired on April 27, 2012.

⁴ Burns provided to the Times Union a copy of the complaint she filed with the Menands Police Department.