

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



COMPLIANCE REVIEW

ENTITIES:
OHIO BUREAU OF WORKERS' COMPENSATION
CAREWORKS OF OHIO, LTD.

FILE ID NO.: 2019-CA00006
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The Office of the Ohio Inspector General ... The State Watchdog

“Safeguarding integrity in state government”

The Office of the Ohio Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. The Inspector General may investigate the management and operation of state agencies on his own initiative. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41 through 121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*.

The Ohio General Assembly enacted Ohio Revised Code §121.52, effective September 10, 2007, which created the deputy inspector general for the Ohio Bureau of Workers’ Compensation (OBWC) and the Industrial Commission of Ohio (ICO). This statute requires a deputy inspector general be designated who “... shall investigate wrongful acts or omissions that have been committed by or are being committed by officers or employees ...” of both OBWC and the ICO, and provides the deputy inspector general the same powers and duties as specified in Ohio Revised Code §s 121.42, 121.43, and 121.45 for matters involving the OBWC and ICO.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General’s Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



OFFICE OF THE OHIO INSPECTOR GENERAL EXECUTIVE SUMMARY

SCOPE OF REVIEW

On December 18, 2018, the Office of the Ohio Inspector General received a complaint alleging that CareWorks of Ohio, LTD¹ (CareWorks), a managed care organization, was manipulating Return to Work (RTW) data submitted to the Ohio Bureau of Workers' Compensation (OBWC) to exclude holidays and/or weekends from the Days Absent calculation. The complaint alleged these manipulations allowed CareWorks to improve its Days Absent score which was used to allocate incentive pool funds using the Measurement of Disability (MoD) metric described in the contract between OBWC and the managed care organizations. As a result, the complaint alleged that CareWorks received a larger share of the incentive pool funds and reduced the amount available to the remaining MCOs.

On February 19, 2019, the Office of the Ohio Inspector General opened an investigation to examine the identification, recording, and submission of Return to Work (RTW) data to OBWC and its impact on the MoD Days Absent measure. This investigation also examined the level of oversight exercised by OBWC when validating the RTW data used in subsequent MoD metric and incentive pool allocation calculations and the MCO contract terms and conditions.

On February 28, 2019, the Office of the Ohio Inspector General and the Ohio Bureau of Workers' Compensation agreed to conduct a joint investigation into this matter.

¹ Effective December 21, 2020, CareWorks of Ohio Ltd., merged with Sedgwick Managed Care Ohio and ceased to exist.

FINDINGS

Investigators from the Office of the Ohio Inspector General and the Ohio Bureau of Workers' Compensation (OBWC) determined the contract between the Ohio Bureau of Workers' Compensation and the managed care organizations (MCOs) which included CareWorks of Ohio, Ltd. (CareWorks) stated that OBWC and the MCOs agreed to a quarterly incentive fee payment based on the MCOs performance as measured by the Measurement of Disability (MoD) metric. This metric consisted of two parts, Days Absent and Recent Medical. Investigators determined OBWC paid the MCOs a total of \$132.3 million for snapshots taken for the period October 1, 2017, through June 30, 2019,² for the MoD Days Absent metric of which CareWorks received \$51.1 million, or 38.6% of the funds paid.

Investigators examined the practices, job aids, training, and management guidance provided to CareWorks staff for the gathering, recording, and submitting of Return to Work data to OBWC. Investigators determined CareWorks had implemented processes for CareWorks staff to elicit questions in a manner to obtain a response of "no missed time" or similar language and used that response to document and submit the same date for the Last Day Worked and Actual Return to Work date. This resulted in a zero-day scoring claim, which is the best score possible for the MoD Days Absent score.

Investigators also examined the Return to Work data submitted by CareWorks for 603 injured claim files and found CareWorks improperly submitted Return to Work data for 195 claims and inaccurately submitted a date for the Last Day Worked for 50 claims and the Actual Return to Work date for 181 claims. Further examination of these inaccuracies found that the 195 claims should have been excluded from the MoD Days Absent calculation. Had the Actual Return to Work data inaccuracies been reported correctly, investigators found the correct dates would decrease CareWorks' MoD Days Absent score for 112 claims. Investigators determined the removal of, or correction of the Actual Return to Work dates in the total of 307 claims³ (50.9%) would decrease individual claim's MoD Days Absent score.

² This period encompasses the snapshots taken for the 4th quarter 2017 through 2nd quarter 2019.

³ The 307 claims consist of the 195 claims that Return to Work data was improperly submitted and the 112 claims where CareWorks submitted the wrong Actual Return to Work date and as such, positively impacted the claim's MoD Days Absent score.

CareWorks' practices which led to the increase of the number of zero-day claims included in the MoD Days Absent calculation and reporting fewer Days Absent increased both the individual claim's and CareWorks' overall MoD Days Absent score for CareWorks, improved their status when compared with their peers, and potentially increased the share of the incentive pool funds received quarterly from OBWC. In addition to these practices, investigators found that CareWorks staff only followed up on additional allowance denials, submitted updated manual class codes or SOC data, or submitted an appeal to OBWC to remove holidays, weekends, and non-scheduled workdays from the Days Absent calculation when there was a positive impact that would increase the claim's MoD Days Absent score. This was in furtherance of CareWorks' overall goal to improve the overall MoD Days Absent score and as such, receive a larger share of the incentive pool from OBWC.

In addition, the Office of the Ohio Inspector General found OBWC failed to clearly define "days absent" and explain how benchmarks were established for the MoD measures in Appendix E of the contract between OBWC and the MCOs. Investigators further determined that the Return to Work Data policy in Appendix A of the contract between OBWC and the MCOs contained subjective, unclear language. Lastly, investigators found OBWC did not have a process in place to verify the accuracy of the Return to Work Data submitted by the MCOs and failed to include a review of the Return to Work data results for five years of on-site audits conducted.

RECOMMENDATIONS

The Office of the Ohio Inspector General is making 28 recommendations to the administrator of the Ohio Bureau of Workers' Compensation in an effort to strengthen the agencies' internal control systems related to the oversight of the terms and conditions in the contract with the managed care organizations. The Office of the Ohio Inspector General requests a response within 60 days with a plan detailing how these recommendations will be implemented.

In addition, the Office of the Ohio Inspector General provided to OBWC on December 13, 2021, 27 preliminary recommendations which at that time could have impacted ongoing changes being implemented by OBWC over the next year. Like the 28 recommendations contained in this report of investigation, the preliminary recommendations provided were developed by a joint

team of investigators from OBWC and the Office of the Ohio Inspector General and address OBWC guidance and administration of the contract between OBWC and the MCOs. On July 29, 2022, OBWC provided a response to these recommendations to the Office of the Ohio Inspector General. [\(Exhibit 1\)](#)

To assist the Ohio Bureau of Workers' Compensation in the management of internal procedures and administration of the contract between OBWC and the MCOs, the Office of the Ohio Inspector General has issued three additional comments for the agency's consideration.