STATE OF OHIO

OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

AGENCY: OHIO BUREAU OF WORKERS' COMPENSATION
FILE ID NO.: 2012-CA00093
DATE OF REPORT: MARCH 28, 2013

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The State Watchdog

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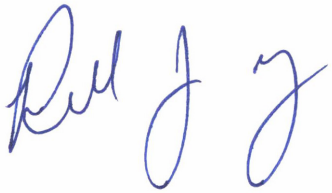

Randall J. Meyer
Ohio Inspector General

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL
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REPORT OF INVESTIGATION

FILE ID NUMBER:	2012-CA00093
SUBJECT NAME:	Lisa Anderson
POSITION:	Claims Services Specialist
AGENCY:	Ohio Bureau of Workers' Compensation
BASIS FOR INVESTIGATION:	Agency Referral
ALLEGATIONS:	Failure to comply with state law and/or regulations
INITIATED:	August 21, 2012
DATE OF REPORT:	March 28, 2013

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On August 9, 2012, the Office of the Ohio Inspector General received a complaint forwarded by the Ohio Bureau of Workers' Compensation (OBWC) Special Investigations Department regarding an employee in the OBWC Portsmouth Service Office. The complainant, Karen Mershon, an injury management supervisor, alleged Claims Services Specialist Lisa Anderson had accessed several claimant files which were not assigned to her, containing confidential personal information. OBWC's Digital Forensic Unit found Anderson accessed her boyfriend's claim 129 times on 34 separate days between May 3, 2012, and August 2, 2012, and accessed claim files of a female with the same last name as the boyfriend's claim, on 18 occasions on four separate days between June 6, 2012, and July 24, 2012. Additionally, confidential personal information reports showed Anderson had accessed 402 injured worker claims not assigned to her during the period of May 1, 2012, through August 2, 2012.

BACKGROUND

The Ohio Bureau of Workers' Compensation (OBWC) is responsible for providing workers' compensation insurance to all public and private employees except those that qualify for self-insurance. It is the largest exclusive workers' compensation system in the United States. The administrator/chief executive officer of OBWC is appointed by the governor. OBWC is also overseen by an 11-member board experienced in financial accounting, investments, and securities, and actuarial management. OBWC is funded through assessments paid by employers.[1]

OBWC maintains 14 service offices located throughout the state to meet the needs of their clients. These offices, including the Portsmouth Service Office, provide injury and employer management services in person and by telephone. Claims service specialists, such as Anderson, are responsible for providing these services to the injured worker.

Ohio Revised Code (ORC) §1347.15 (B) requires each state agency to adopt rules in accordance with Chapter 119 of the Ohio Revised Code, which regulates "access to the confidential personal information the agency keeps, whether electronically or on paper." This ORC section requires

[1] Source is the OBWC Annual Report.

the agency to maintain a confidential personal information access log for instances unrelated to official agency purposes or at the claimant's request. This section also requires the agency to establish a training program to make employees aware of "all applicable statutes, rules, and policies governing their access to personal information."

To comply with this requirement, OBWC implemented two policies which were reviewed as part of this investigation: Memo 4.42 Confidential Personal Information (CPI) Access and Logging, **(Exhibit 1)** and Memo 4.21 COEMP and Special Handling Claims Policy **(Exhibit 2)**. Memo 4.42 defines Confidential Personal Information as "any injured worker data that contains a name or any other identifier, and which describes anything about, done by or done to a person."

INVESTIGATIVE SUMMARY

On August 9, 2012, the Office of the Ohio Inspector General was notified by OBWC of an allegation that Portsmouth Service Office Claims Services Specialist Lisa Anderson improperly accessed confidential personal information of her boyfriend, a female with the same last name as the boyfriend, and 402 injured worker claims during the period May 1, 2012, through August 2, 2012. OBWC indicated that Anderson was not assigned to the claims she accessed.

On February 25, 2013, the Office of the Ohio Inspector General conducted an interview with Injury Management Supervisor Karen Mershon who reported speaking with Claims Service Specialist Lisa Anderson several times about contacting new claimants in a timely manner. To confirm Anderson was following through with the request, Mershon reviewed the confidential personal information logs to determine what claims Anderson accessed.

From conversations among co-workers, Mershon recalled hearing the name of a person identified as Anderson's boyfriend, and that the person was receiving permanent total disability claim payments. During Mershon's review of Anderson's compliance with her request to contact new claimants without delay, Mershon found Anderson had accessed her boyfriend's claim multiple times and confirmed the boyfriend was receiving benefit payments from OBWC because of a permanent total disability claim. Mershon explained that two years earlier, OBWC transferred the management of all permanent total disability claims to the Dayton Service Office,

and that there was no legitimate reason for Anderson, who worked in the Portsmouth Service Office and on a completely different team, to access her boyfriend's records or files. Because of this discovery, Mershon reviewed OBWC's policies and contacted her assigned labor relations department representative. With the advice of the representative, Mershon completed a "fraud referral," as required by OBWC policy.

On September 28, 2012, and February 13, 2013, the Office of the Ohio Inspector General interviewed Lisa Anderson, who has held the position of claims service specialist at OBWC since about 1994, and was responsible for processing and managing injured worker claims. In addition to processing claims related to an assigned list of employers, Anderson stated there were occasions when other claims service specialists were out of the office, and it was necessary for her to access claimants' records that were not specifically assigned to her. Anderson said, sometimes, it was at the request of a supervisor to access claimants' records for absent coworkers. Anderson said that usually she would make notes in claimants' files that she accessed; however, there were times when multiple incoming calls prevented her from entering the necessary notes.

On February 25, 2013, during a telephone conversation with the Office of the Ohio Inspector General, Mershon confirmed that Anderson, in the event of another claims specialist's absence, could have accessed claims assigned to other OBWC employees and added that a note should have been written to explain the access. Mershon considered this practice acceptable if Anderson had been assisting another member of her team with an assignment; however, Anderson would never have had a reason to assist an unrelated team whose duties were to work with permanent total disability claimants.

During interviews conducted by the Office of the Ohio Inspector General on September 28, 2012, and February 13, 2013, Anderson was asked about the claimant Mershon had earlier identified as having a personal relationship with Anderson. Anderson admitted dating the claimant since May 2012 and had begun talking with him in March 2012. Anderson also admitted to accessing her boyfriend's records, and stated she wanted "to see if he was telling me the truth about things." Anderson acknowledged she was not the claims specialist assigned to

manage his claim. Anderson said she did not realize she had accessed her boyfriend's claim records 129 times over 34 days, and in some instances, multiple times during the course of one day. When asked whether she discussed the information learned from accessing the records with anyone else, Anderson replied, "No." Anderson also admitted to accessing the claim files of her boyfriend's former wife "to see where she was," and Anderson explained she attempted to find the former wife's home address to make sure it was not the same address used by her boyfriend.

OBWC's Digital Forensics Unit provided the Office of the Ohio Inspector General a listing of the files for 402 claimants Anderson accessed without authorization from OBWC management. At first, Anderson denied accessing these claims, but was then told the OBWC's system documented she had accessed these claims using her login. When asked why she accessed these claims, Anderson stated, "I don't know… phone calls whatever." Anderson offered an alternative explanation, stating she would overhear other claims services specialists talking about a specific claim or issue and would access the claim files to see how the issue was resolved. Anderson was asked if such a practice was permissible under OBWC policy or if a supervisor had authorized her to access the claim files, and Anderson responded, "No."

During the interviews conducted by the Office of the Ohio Inspector General, Anderson stated she was familiar with OBWC's Memo 4.42 Confidential Personal Information Access and Logging **(Exhibit 1)** and confirmed the manual logging procedures described in the policy applied to her. Additionally, Anderson recalled being trained on the manual logging process. Anderson said she did not note or log her access to the claim files being discussed. Anderson acknowledged her access of the 402 claim files was a violation of policy. When asked whether she violated the policy when she failed to manually record in the Confidential Personal Information Access Log that she had accessed the claim files, Anderson responded, "yeah."

On February 25, 2013, the Office of the Ohio Inspector General interviewed Karen Mershon, an injury management supervisor. Mershon was asked whether it was an acceptable practice to access a claim to review how another claims service specialist resolved an issue. Mershon stated this should rarely occur and that the claims service specialists typically discuss issues among themselves. When asked whether Anderson should have logged her access to these claim files,

Mershon explained it was not an issue because the access was for the "clear business purpose" of learning how to resolve an issue. Mershon reiterated that this type of access should seldom occur, and that Anderson's 402 instances over an approximate four-month period were not reasonable.

On February 26, 2013, Mershon contacted the Office of the Ohio Inspector General by telephone to offer an alternative explanation for Anderson's access. Mershon stated that Anderson may have accessed the 402 claims for verification purposes. When processing a new claim, Mershon explained the claims services specialists were required to search the OBWC claims database by entering the new claimant's Social Security number to determine whether another claim existed. If a prior claim was located on the claimant, the claim services specialist would need to review the earlier claim as part of OBWC's investigation.

At the Office of the Ohio Inspector General's request, OBWC provided evidence, showing Anderson had opened an email message dated June 6, 2011, with an attachment of the most recent revision of the confidential personal information policy. OBWC was unable to provide electronic verification that Anderson acknowledged reading the policy. **(Exhibit 3)**

CONCLUSION

On August 9, 2012, the Office of the Ohio Inspector General received notification from the Ohio Bureau of Workers' Compensation Special Investigations Department of a supervisor's complaint alleging Claims Services Specialist Lisa Anderson used OBWC's claims management system to access claim records of Anderson's boyfriend and a female with the boyfriend's same last name. OBWC confidential personal information logs documented that, in violation of policy and without authorization from supervisors, Anderson accessed her boyfriend's claim records 129 times and the claim records of a female determined to be the boyfriend's former wife 18 times.

During interviews conducted by the Office of the Ohio Inspector General on September 28, 2012, and February 13, 2013, Anderson admitted accessing the claim records of her boyfriend

and her boyfriend's former wife multiple times. While failing to recall whether she modified the records, Anderson admitted such actions were a violation of OBWC Policies 4.42 and 4.21.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.

Anderson also admitted to accessing injured worker claims to see how particular issues were resolved, and accessing the claims to respond to phone calls. Anderson indicated she did not make modifications to the claims, and did not log access of 402 claims, even though Anderson was familiar with OBWC Policies 4.42 and 4.21 which required employees to log when they access claims in certain instances. During a February 25, 2013, telephone call, Injury Management Supervisor Karen Mershon stated Anderson was permitted to access claims not assigned to her when standing in for absent coworkers from her team. Though Anderson was required to enter a note in certain instances, Mershon did not consider Anderson's failure to enter a note unacceptable when she was assisting an absent team coworker, or in the rare occasion when accessing a claim to determine how an issue was resolved. However, Mershon stated there was no valid business reason for Anderson to access claims assigned to claims service specialists assigned to a different team.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the Ohio Bureau of Workers' Compensation to respond within 60 days with a plan detailing how these recommendations will be implemented. The Ohio Bureau of Workers' Compensation should:

1. Review the files for each of the 402 claimants which were not assigned to, but accessed by Lisa Anderson , and determine in each instance, if Anderson's reason for access was either for (i) confirming if an new claim was a duplicate, (ii) assisting an absent claims service specialist, or (iii) reviewing a co-worker's method for resolution of an issue. In the absence of any of the above three reasons, or any other legitimate business purpose, determine whether a confidential personal information violation as

defined in ORC §1347.15 or OBWC Memos 4.21 and 4.42 has occurred and notification of the associated claimant is required.

2. Review the conduct of Lisa Anderson and determine whether administrative action or discipline is warranted.
3. Consider whether additional changes in policy and procedure are needed to include current practices in managing and safeguarding the personal confidential information of OBWC claimants.
4. Conduct periodic refresher trainings for employees accessing confidential personal information to ensure the employees understand when accessing a claim file is permissible, and to understand when manually logging access is required, providing anecdotal examples of past violations and the corrective procedures to abate the violation.

REFERRALS

1. The Office of the Ohio Inspector General will forward a copy of this report of investigation to the City of Portsmouth Solicitor's Office for further consideration.

(Click here for Exhibits 1-3 combined.)

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OFFICE OF THE INSPECTOR GENERAL
RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Bureau of Workers' Compensation

FILE ID #: 2012-CA00093

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

Jill Jones
KEEPER OF RECORDS

CERTIFIED
March 28, 2013

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