

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.: 2016-CA00018  
DATE OF REPORT: NOVEMBER 9, 2016

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*“Safeguarding integrity in state government”*

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Randall J. Meyer  
Ohio Inspector General



STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

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RANDALL J. MEYER, INSPECTOR GENERAL

**REPORT OF INVESTIGATION**

**FILE ID NUMBER:** 2016-CA00018

**SUBJECT NAME:** Shannon Marshall, Accountant/Examiner 2  
Sandra Anderson, Director of Risk at The Matrix  
Companies, Vendor

**AGENCY:** Ohio Bureau of Workers' Compensation

**BASIS FOR INVESTIGATION:** Referral

**ALLEGATIONS:** Failure to Comply with State Law and/or  
Regulations;  
Failure to Comply with State or Department Rules,  
Procedures, or Policies; and  
Misuse of State Property or Equipment.

**INITIATED:** May 4, 2016

**DATE OF REPORT:** November 9, 2016

## **INITIAL ALLEGATION AND COMPLAINT SUMMARY**

On May 3, 2016, the Ohio Bureau of Workers' Compensation (OBWC) contacted the Office of the Ohio Inspector General alleging Cincinnati-Governor's Hill Service Office employee, Shannon Marshall, exchanged more than 100 work-related emails with her mother, Sandra Anderson. Anderson is employed by The Matrix Companies as the director of Risk. The Matrix Companies is a third-party administrator and is responsible for managing the workers' compensation program for employers who either are self-insured or participating in the OBWC state insurance fund.

OBWC provided the Office of the Ohio Inspector General with 233 instances of work-related email correspondence between Marshall and Anderson from April 10, 2015, through April 7, 2016. Anderson sent emails requesting Marshall provide her (Anderson) with the status of new applications or with information on potential clients identified on the Temporary Authorization to Review Information (AC-3) forms submitted by Anderson. In many instances, Marshall responded to these email inquiries with the requested information and when needed, processed the forms sent to her by Anderson.

On May 12, 2016, the Office of the Ohio Inspector General opened an investigation to review Marshall's actions.

## **BACKGROUND**

The Ohio Bureau of Workers' Compensation 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. An administrator, or chief executive officer, of OBWC is appointed by the governor. OBWC is also overseen by an 11-member board with members experienced in financial accounting, investments and securities, and actuarial management. OBWC is funded through assessments paid by employers.<sup>1</sup>

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 and

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<sup>1</sup> Source: OBWC annual report.

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 §121.42, §121.43, and §121.45 for matters involving OBWC and ICO.

*Relevant Statutes and Policies*

OBWC Memo 1.01 *Code of Ethics* cites Ohio Administrative Code §4123-15 ([Exhibit 1](#)), which is referred to as the "Code of Ethics for Employees of the Bureau of Workers' Compensation and the Industrial Commission of Ohio." This memo references Ohio Administrative Code §4123-15-03<sup>2</sup> (B)(1) (j) which prohibits the "... use or disclosure of confidential information protected by law, unless appropriately authorized" and (G) which provides that,

... The overall intent of this code of ethics is that employees avoid any action, whether or not prohibited by the preceding provisions, which result in, or create the appearance of:

- (1) Using public office for private gain, or
- (2) Giving preferential treatment to any person, entity, or group.

The purpose of the OBWC Memo 1.01 *Code of Ethics* is,

... to ensure that the public may have confidence and trust that Bureau of Workers' Compensation (BWC) employees are impartial, fair, and act only in the interest of the people, uninfluenced by any consideration of self-interest, except those inherent in the proper performance of their duties.

Ohio Administrative Code §4123-15-07 states,

Representatives of claimants and employers as well as their employees and agents shall conduct their business with the employees of the bureau of workers' compensation, and the industrial commission in accordance with the highest moral principles and are expected to support the "Code of Ethics of the Bureau of Workers' Compensation and the

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<sup>2</sup> This Ohio Administrative Code section was incorporated by OBWC into Memo 1.01 *Code of Ethics*.

Industrial Commission of Ohio” by conduct that will not tempt employees of the bureau and commission to violate that code but will encourage them to fully observe it.

This section also contains a reporting requirement for employees to notify their immediate supervisor of an activity “... which is, or appears to be, in violation of this rule.”

### *Shannon Marshall*

Shannon Marshall is employed by OBWC, serving as an accountant/examiner 2 in its Cincinnati-Governor’s Hill Service Office. Marshall’s job description states that her job duties include, but are not limited to: answering verbal and or written inquiries from internal and external OBWC customers regarding manual classifications, entities, rates, entity dissolutions, coverage issues, and accounts receivable; investigating and resolving employer questions relating to billing statements; updating the complaint and assignment tracker databases; accepting employer’s payments; processing documents received; completing independent reviews and processing employer-related documentation for compliance and accuracy; and scanning, copying, and updating documents in the Workers’ Compensation Information System<sup>3</sup> (WICS), an OBWC internal computer system.

Marshall acknowledged the receipt of OBWC Memo 1.01 *Code of Ethics*, including Ohio Administrative Code §4123-15 Ethics Rules, on August 28, 2015, and again on May 16, 2016. OBWC also provided a training transcript showing Marshall had completed an ethics training on November 12, 2014, and again on September 8, 2015.

### **INVESTIGATIVE SUMMARY**

On May 19, 2016, the Office of the Ohio Inspector General interviewed OBWC Cincinnati-Governor’s Hill Service Office Manager Patricia Harris and Employer Management Supervisor Tim Clark about the allegations involving Accountant/Examiner 2 Shannon Marshall. Clark recalled that during the first week of April 2016, he was discussing an issue with Marshall. While speaking with Marshall, Clark observed an email from Sandy Anderson had appeared on

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<sup>3</sup> This is an internal OBWC computer system that tracks payroll, coverage, and other information for an employer’s workers’ compensation policy.

Marshall's computer screen. At this time, Clark stated that Marshall was facing him, not her computer screen.

Clark was concerned about why Marshall was receiving an email from Anderson, her mother and an employee of a third-party administrator, at work. Clark did not say anything to Marshall at the time and instead, spoke with Harris to determine the next steps. Clark explained he and Harris contacted the OBWC Labor Relations Department and requested Marshall's emails be reviewed to determine whether Marshall was "... providing services to her mother."

Shortly after Marshall was promoted to an accountant/examiner 2 in 2013, Harris told investigators she had observed Anderson speaking with Marshall in the Cincinnati-Governor's Hill Service Office lobby after a meeting attended by OBWC employees, attorney groups, and third-party administrator representatives. Based on her concern that the discussion between Anderson and Marshall may have been work-related, Harris stated she directed Marshall's then-supervisor, Employer Management Supervisor Roger Aber,<sup>4</sup> to have a conversation with Marshall regarding her mother (Anderson) and interactions with her mother about employer policies.

On May 11, 2016, OBWC provided 233 instances of work-related email correspondence between Marshall and Anderson. Investigators evaluated and categorized the content of many of the 233 emails between Anderson and Marshall in the following chart:

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<sup>4</sup> Aber retired from OBWC in the fall of 2015.

<b>Content of Emails Between Anderson and Marshall</b>		
<b>Category of Request for Assistance and Response</b>	<b>Emails from Anderson to Marshall</b>	<b>Emails from Marshall to Anderson</b>
Requests to Process a Form (U-117, U-118, U-59 and others)	51	9
Requests containing Temporary Authorization to Review Information form (AC-3)	23	11
Employer Payment Questions	18	6
Employer Policy Information Questions	12	9
Complaint Filings	11	7
Status of New Applications and other Forms	11	10
Employer Payroll Updates	7	3
Appeals Processing	2	2
	135	57

The remaining 41 emails sent by Marshall or Anderson involved interactions with other OBWC personnel or departments; faxed documents forwarded by Marshall to Anderson; expressions of appreciation for the assistance; or conversations personal in nature.

Investigators also obtained Marshall's desk phone records for 215 working days from June 1, 2015, to May 16, 2016. An analysis of the phone records identified 1,072 calls made between Marshall's desk phone and Anderson's work, cell, and home telephone numbers for a total of 59 hours and 9 minutes. The calls ranged from a few seconds up to 32 minutes, with an average call length of 3 minutes 19 seconds.

Investigators compared emails and phone activity between Anderson and Marshall to the WICS Change History report provided by OBWC and the related employer's electronic risk file<sup>5</sup> maintained in the OBWC Uniform Document System (UDS). The WICS Change History report showed the changes Marshall made to an employer policy using WICS during the period under investigation.

Investigators noted that Anderson sent Marshall 15 Temporary Authorization to Review Information (AC-3) forms. OBWC Policy EP-05-01 Employer Authorized Representatives

<sup>5</sup> The employer risk file contains all documents received from or sent to the employer about their OBWC policy.

Section IV(C)(1) ([Exhibit 2](#)) requires third-party administrators to submit OBWC Form AC-3 to obtain temporary authorization for "... limited authority to view an employer's payroll, National Council on Compensation Insurance (NCCI) classifications, and loss experience." The policy describes a process for the third-party administrator to request data from the OBWC Policy Information Request System. The AC-3 form directs the employer or third-party administrator to complete the form, select either the Employer Services or Self-Insured Department, and to mail the form to OBWC in Columbus.

On June 21, 2016, OBWC Employer Programs Supervisor Michael Sendelbach told investigators that a completed AC-3 form provides authorization to the third-party administrator for a period of nine months, unless the employer provides an expiration date. Sendelbach explained that third-party administrators can obtain employer policy information by making a request to OBWC Employer Programs identifying the policies for which they are requesting information. These forms are typically faxed to OBWC Employer Programs at the central office in Columbus, but may also be faxed to the OBWC local services offices throughout the state. Faxes sent to OBWC service offices or other departments are typically forwarded to OBWC Employer Programs. Upon receipt of the AC-3 form by Employer Programs, OBWC verifies the requestor is authorized, processes the request, and sends the requested information to the third-party administrator using a secured file transfer protocol.<sup>6</sup>

The Office of the Ohio Inspector General spoke with representatives at other OBWC service offices who verified the service office accountant/examiner 2 typically forwards the AC-3 form to the Columbus fax number. Garfield Heights Service Office Manager Sheilah Hampton also stated in an email that the accountant/examiner 2 would provide the requested information to the authorized representative "... because it can take up to 2 weeks to receive the information from Columbus."

Of the 17 email messages Anderson sent Marshall with AC-3 forms, investigators noted Marshall sent back to Anderson, 11 email messages containing the requested employer rate,

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<sup>6</sup> Secured File Transfer Protocol is a network protocol that provides encrypted file access, transfer, and file management using a network connection. Source: [www.techopedia.com](http://www.techopedia.com).

payroll, premium, or injured worker claim summary information. By doing so, Anderson received the information quicker than had the AC-3 form been sent to Columbus for processing. Investigators also noted that Anderson emailed .PDF<sup>7</sup> files of three AC-3 forms with the certification line left blank or without the required employer contact information. The certification line identifies who is authorized to receive the information on a temporary basis. According to Sendelbach, these incomplete forms should have been returned and completed by the employer prior to Marshall releasing the information to the third-party administrator. In each instance, Sendelbach determined Marshall scanned each of the three incomplete AC-3 forms Anderson emailed to her and added the form to the employer's risk file in the OBWC Uniform Document System.

Further analysis of the emails and phone activity between Anderson and Marshall associated with the three incomplete AC-3 forms revealed interactions between Marshall and Anderson which resulted in Marshall sending employer policy information to Anderson. For example, Anderson sent the following email to Marshall on December 2, 2015, at 1:28 p.m.:

From: Sandra L. Anderson  
To: Marshall, Shannon  
Cc:  
Bcc:  
Subject: FW: AC-3  
Date: Wed Dec 02 13:28:50 EST 2015

Attachment:SKM\_4750151123173600.pdf

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Shannon,

Attached are two AC-3s. Can you just send me the rate letter (it has all their risk info and NCCI codes and claims) and the claims list for both?

Thanks!

Sandie

<sup>7</sup> Portable Document Format (PDF) is a file format used to present and exchange documents reliably, independent of software, hardware, or operating system. Source: [acrobat.adobe.com](http://acrobat.adobe.com)

Minutes after the above email was sent, Anderson used her employer-assigned work phone to call Marshall at 1:34 p.m., for a call lasting 1 minute 24 seconds. Marshall then used her OBWC desk phone to call Anderson's home telephone number at 1:36 p.m. for a call lasting 15 minutes 32 seconds. Investigators noted that one of the two attached AC-3 forms was incomplete and did not list The Matrix Companies as authorized to receive the information. However, Marshall emailed Anderson at 2:10 p.m. on December 2, 2015, with the requested employers' policy information for both employers, including the rating plan, manual class number, and premium. On December 4, 2015, Marshall sent additional requested information to Anderson for the same two employers, including manual class numbers, reported payroll, and the associated premium. However, no additional AC-3 form was emailed by Anderson to Marshall with the certification line completed authorizing The Matrix Companies to receive this information for one of the two employers.

Investigators also noted Anderson sent Marshall an email at 3:01 p.m. on March 14, 2016, containing an AC-3 form for Company X, signed by the employer on January 21, 2016, with a February 29, 2016, expiration date. At 3:02 p.m., a phone belonging to Anderson called Marshall and the call lasted for 1 minute 16 seconds. At 3:06 p.m., Anderson sent a second email to Marshall with another AC-3 form for Company X and immediately called Marshall again. The two forms Anderson sent Marshall are shown on the following page:

March 14, 2016

Sent at 3:01 p.m.

**Ohio** Bureau of Workers' Compensation  
**Temporary Authorization To Review Information**

TO: Ohio Bureau of Workers' Compensation  
 Employer Services Department, 22nd Floor  
 Self-Insured Department, 22nd Floor

Please mark a box and return to:  
**Matrix Claims Management**  
 844 Linn Street, Suite 900  
 Cincinnati, Ohio 45203  
 513.351.1222 Phone  
 513.842.0111 Fax

From: Policy number [redacted]  
 [redacted]  
 IDA [redacted]  
 Address [redacted]

NOTE: For this to be a valid letter, the self-insured department for self-insured employers, or the employer services department for all other employers, must stamp it. Being temporary in nature, BWC will not record via computer or retain this authorization. Representative must possess a copy when requesting service relative to the authority granted herein.

This is to certify that **Matrix Claims Management, Inc.** Reg. Id. 1740-80 including its agents or representatives identified to you by them, has been retained to review and perform studies on certain workers' compensation matters on our behalf.

- The limited letter of authority provides access to the following types of information relating to our account:
1. Risk files;
  2. Claim files;
  3. Merit-rated or non-merit-rated experiences;
  4. Other associated data.
- This authorization does not include the authority to:
1. Review protest letters;
  2. File protest letters;
  3. File form Application for Handicap Reimbursement (CHP-4);
  4. Notice of Appeal (IC-12) or Application for Permanent Partial Reconsideration (IC-88);
  5. File self-insurance applications;
  6. Represent the employer at hearings;
  7. Pursue other similar actions on behalf of the employer.

I understand this authorization is limited and temporary in nature and will expire on 02-29-2016 or automatically nine months from the date received by the employer services or self-insured departments, whichever is appropriate. In either case, the length of authorization will not exceed nine months.

Telephone number	Fix number	E-mail address
[redacted]	N/A	[redacted]
Signature	Title	Date
[redacted]	PERMANENT	01-21-2016

Completion of the temporary authorization provides a third-party administrator (TPA) limited authority to view an employer's payroll and loss experience. By signing the AC-3, the employer grants permission to the BWC to release information to the employer's authorized representative(s). The form allows a TPA to view an employer's information regarding payroll, claims and experience modification.

- Attention group rating prospects:**
- Employers may complete the AC-3, for as many TPAs or group-rating sponsors as they feel are necessary to obtain quotes for a group-rating program.
  - Group Sponsors must notify all current group members if they will not be accepted for the next group-rating year. The deadline for this notification is prior to the last business day in October for private employers and prior to the last business day in April for public employers.
  - All potential group-rating prospects must have:
    - Active BWC coverage status as of the application deadline;
    - Active coverage from the application deadline through the group rating year;
    - No outstanding balances;
    - Operations similar in nature to the other members of their group.
  - Any changes to a group member's policy will affect the group policy. Changes can result in either debits or credits to each of the members.
- Note: For complete information on rules for group rating, see Rules 4123-17-61 through 4123-17-68 of the Ohio Administrative Code or your TPA. All group-rating applicants are subject to review by the BWC Employer Programs Unit.

BWC-0603 (Rev. Feb. 26, 2015)  
AC-3

Sent at 3:06 p.m.

**Ohio** Bureau of Workers' Compensation  
**Temporary Authorization To Review Information**

TO: Ohio Bureau of Workers' Compensation  
 Employer Services Department, 22nd Floor  
 Self-Insured Department, 22nd Floor

Please mark a box and return to:  
**Matrix Claims Management**  
 844 Linn Street, Suite 900  
 Cincinnati, Ohio 45203  
 513.351.1222 Phone  
 513.842.0111 Fax

From: Policy number [redacted]  
 [redacted]  
 IDA [redacted]  
 Address [redacted]

NOTE: For this to be a valid letter, the self-insured department for self-insured employers, or the employer services department for all other employers, must stamp it. Being temporary in nature, BWC will not record via computer or retain this authorization. Representative must possess a copy when requesting service relative to the authority granted herein.

This is to certify that **Matrix Claims Management, Inc.** Reg. Id. 1740-80 including its agents or representatives identified to you by them, has been retained to review and perform studies on certain workers' compensation matters on our behalf.

- The limited letter of authority provides access to the following types of information relating to our account:
1. Risk files;
  2. Claim files;
  3. Merit-rated or non-merit-rated experiences;
  4. Other associated data.
- This authorization does not include the authority to:
1. Review protest letters;
  2. File protest letters;
  3. File form Application for Handicap Reimbursement (CHP-4);
  4. Notice of Appeal (IC-12) or Application for Permanent Partial Reconsideration (IC-88);
  5. File self-insurance applications;
  6. Represent the employer at hearings;
  7. Pursue other similar actions on behalf of the employer.

I understand this authorization is limited and temporary in nature and will expire on [redacted] or automatically nine months from the date received by the employer services or self-insured departments, whichever is appropriate. In either case, the length of authorization will not exceed nine months.

Telephone number	Fix number	E-mail address
[redacted]	N/A	[redacted]
Signature	Title	Date
[redacted]	PERMANENT	01-21-2016

Completion of the temporary authorization provides a third-party administrator (TPA) limited authority to view an employer's payroll and loss experience. By signing the AC-3, the employer grants permission to the BWC to release information to the employer's authorized representative(s). The form allows a TPA to view an employer's information regarding payroll, claims and experience modification.

- Attention group rating prospects:**
- Employers may complete the AC-3, for as many TPAs or group-rating sponsors as they feel are necessary to obtain quotes for a group-rating program.
  - Group Sponsors must notify all current group members if they will not be accepted for the next group-rating year. The deadline for this notification is prior to the last business day in October for private employers and prior to the last business day in April for public employers.
  - All potential group-rating prospects must have:
    - Active BWC coverage status as of the application deadline;
    - Active coverage from the application deadline through the group rating year;
    - No outstanding balances;
    - Operations similar in nature to the other members of their group.
  - Any changes to a group member's policy will affect the group policy. Changes can result in either debits or credits to each of the members.
- Note: For complete information on rules for group rating, see Rules 4123-17-61 through 4123-17-68 of the Ohio Administrative Code or your TPA. All group-rating applicants are subject to review by the BWC Employer Programs Unit.

BWC-0603 (Rev. Feb. 26, 2015)  
AC-3

Further analysis of the two forms revealed the second form was signed by the same employer representative on the same date. However, the second form is black and white and does not have an expiration date. OBWC Employer Services Supervisor Michael Sendelbach reviewed UDS and determined Marshall had scanned the second black and white AC-3 form into UDS on March 14, 2016, at 3:06 p.m., shortly after Anderson emailed her the second AC-3 form.

Records provided by OBWC showed The Matrix Companies had previously requested and received Company X's employer information from OBWC on January 28, 2016, prior to the expiration of the employer's authorization. Investigators did note that the OBWC internal computer systems reflected that Company X contracted with The Matrix Companies as their third-party representative effective March 31, 2016. The Matrix Companies also made subsequent requests for employer information after March 31, 2016. It is unknown why Anderson emailed Marshall the two AC-3 forms.

Investigators also noted Marshall received 15 U-117 forms from Anderson. According to the OBWC website, the U-117 Notification of Policy Update form is used to update business information, address and contact information, or to cancel elective coverage or the OBWC policy. The instructions stated the completed form should be mailed or faxed to OBWC Policy Processing located in Columbus, Ohio.

Interviews conducted in June 2016 with OBWC representatives revealed that these forms could also be filed at an OBWC service office. When this occurs, the service office accountant/examiner 2 is responsible for scanning the U-117 form, adding it to the employer's risk file in UDS, and making the requested changes to the employer's demographic information. If the changes involve an ownership change, the accountant/examiner 2 is supposed to send the form to OBWC Policy Processing and add the form to WorkFlow<sup>8</sup> in UDS.

Investigators determined Marshall processed changes in the Workers' Compensation Information System for four U-117 forms on the same date Anderson emailed the form to her. For example, Anderson emailed Marshall on February 3, 2016, at 2:43 p.m., stating, "Please process U-117 for entity change" and attached a U-117 form. The WICS Change History report showed Marshall changed the business' contact name and business federal id number; added an email address; and deleted and then added a trade name on the same date. Phone records showed that four minutes after receiving this email, Marshall called Anderson and the call lasted for three minutes and 27 seconds.

Investigators determined that Anderson had sent Marshall 15 U-118 Notification of Acquisition/ Merger or Purchase or sale forms. Investigators also found Marshall had scanned and added four of the U-118 forms on the same day she received them from Anderson. According to the OBWC website, this form is used to notify OBWC of "... when an existing business was acquired or purchased." Like the U-117, the U-118 form instructions state the completed form should be mailed or faxed to the OBWC Policy Processing department located in Columbus. However, OBWC representatives acknowledged the form could be filed at a local service office.

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<sup>8</sup> WorkFlow is a centralized worklist for several departments to access within the OBWC Uniform Document System (UDS). This permits multiple people in a pool to access documents that need to be processed.

The OBWC Underwriting and Policy Processing staff located in Columbus are responsible for processing the U-118 forms. Employers or their representatives typically fax the form directly to Columbus. However, a service office accountant/examiner 2 can scan the U-118 forms received into UDS and place the forms into WorkFlow for processing. OBWC representatives acknowledged that an accountant/examiner 2 adding the U-118 form to WorkFlow could result in the U-118 being processed quicker than had it been faxed to Policy Processing, especially if there was a backlog in processing faxes received.

Investigators further determined Marshall received emails from Anderson requesting Marshall to process certain forms, to review employer account activity, and respond to Anderson's questions. In addition, Anderson sent emails to Marshall regarding certain OBWC programs or procedures instead of sending the complaints or questions to the assigned employer service specialist. Anderson also sent an Application for Adjudication Hearing form to Marshall for processing instead of sending it to the OBWC Legal Department who manages the hearing process. In each of these instances, Marshall scanned and added the form received from her mother into the employer's risk file in UDS.

According to OBWC Memo 1.01 *Code of Ethics*, Ohio Administrative Code §4123-15-03<sup>9</sup> (G) provides that employees should "avoid any action, whether or not prohibited by the preceding provisions, which result in, or create the appearance of ... giving preferential treatment to any person, entity, or group." Harris and Clark told investigators during an interview that Marshall's job responsibilities involved interacting with employers and their third-party representatives. Harris and Clark both stated Marshall should not be speaking with Anderson using her OBWC desk telephone for work-related matters. Harris explained that Marshall "... should not be handling anything that's coming directly from her mother" and should not process AC-3 forms sent by Anderson to her. Harris explained,

... at this point, it's not fair and impartial. Um her mother is an agent of a third-party administrator which is one of our partners and customers, so to speak. And um she shouldn't be servicing her mother [sic] requests. Um for one, we have a process for

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<sup>8</sup>This OAC section was incorporated by OBWC into Memo 1.01 *Code of Ethics*.

AC3s and um in this case, her mother's circumventing the process and actually utilizing her daughter um to get the work done quicker.

Clark stated that any third-party administrator could send the documents to Marshall for processing. Clark acknowledged that OBWC wants its employees to provide,

... good, fast customer service and respond quickly. But the fact that this came from her mother and she knows we have to avoid the appearance of impropriety and you can't give information to a family member, um, she [Marshall] should have immediately sent this to me ...

or her supervisor at the time. Clark explained further,

Sandy [Anderson] knows ---- having worked here, she knows our policies too; and she should have been sending this kind of information directly to the Employer Service Specialist to avoid putting her daughter in a spot of having to make a decision that obviously was bad.

On May 26, 2016, the Office of the Ohio Inspector General conducted an interview with Marshall who stated her job duties involved working with employers, updating policy information, and answering questions from both employers and third-party administrators by email or telephone. Marshall then stated she often received documents from employers or their representatives.

During the interview, Marshall confirmed to investigators her general understanding of the OBWC Memo 1.01 *Code of Ethics*, noting that employees were prohibited from accessing claims or employer policies associated with a family member; that employees were not to give information to anyone not entitled to it; and that employees were not to do anything that created the appearance of giving preferential treatment to anyone.

Marshall acknowledged to investigators that her mother, Anderson, is employed by The Matrix Companies. Marshall was then informed by investigators that her OBWC desk phone records show phone calls between her and a phone assigned to Anderson. Marshall explained that the majority of the calls were "... for just doing normal business with Matrix."

When receiving AC-3 forms, Marshall explained there were certain documents requested by Anderson that she would print, scan, and then send by email to Anderson. Marshall stated she also scans AC-3 forms and saves them in employers' risk files in UDS. Marshall further explained she is only able to provide information to third-party administrators who have filed with OBWC an AC-3 or AC-2 (Permanent Authorization) form which has been signed by the employer.

Investigators showed Marshall an email dated December 2, 2015, from Anderson to her with two AC-3 forms attached. In the email, Anderson requested Marshall provide the rate letter, risk information, and National Council on Compensation Insurance codes. Marshall explained this type of information is typically requested by a third-party administrator. Investigators then informed Marshall that her OBWC desk phone records showed Anderson called Marshall six minutes after sending the email. Marshall explained that Anderson would sometimes call Marshall to verify she had received the email and then would ask a question about another matter.

Marshall was shown the two AC-3 forms attached to the December 2, 2015, email. Investigators asked Marshall why she processed Anderson's request when one AC-3 form did not identify who was certified to receive the information. Marshall replied, "... I didn't even realize it. That was my fault." Marshall confirmed that if an AC-3 form is not complete, she is supposed to return the form back to be completed correctly. Marshall further stated, "... and that just must have been my error. I must not have realized that."

Investigators showed Marshall an AC-3 form for Company X indicating an expiration date of February 29, 2016, which Anderson sent her by email on March 14, 2016. Marshall stated that, based on the document, Marshall could not provide Anderson with any information at the time it was sent to her. Marshall recalled telling Anderson, "That's expired. We need to get a new one." Investigators then showed Marshall the revised form that was sent by Anderson and noted the form was identical, with the exceptions that the expiration date was removed and the handwriting was in black ink.

When questioned whether she was permitted to provide the information to Anderson, Marshall replied, "It's kind of a gray area because in a sense then at that point the employer's saying use nine months." After reviewing both forms, Marshall stated, "... it's a bad, bad call judgement [sic] because looking at it if I hadn't received it then they would have said okay, we can use it 'cause it says nine months." Marshall then stated, "I didn't even think to look at the dates (inaudible) say we need to get a new signed one. So that was my error."

During the interview, Marshall acknowledged she would process U-117 forms sent to her by her mother, Anderson. For the U-118 forms Anderson sent her, Marshall stated she would add them to WorkFlow for OBWC Policy Processing staff to process. Marshall justified her actions by stating she would do the same for any other third-party administrator who sent her documents, and that other Matrix employees, as well as employees of another third-party administrator, also emailed her documents.

Investigators then showed Marshall an email sent January 13, 2016, to her by Anderson about an employer's problem and included Marshall's alleged comments to the employer. Marshall responded to her mother in an email, stating, "I am going by what I saw on the invoices and from on-line. I think that I'm going to run it by one of the girls back hear and see what they say." Marshall was told by investigators that her desk phone records showed she had called a Dayton Service Office employer service specialist.

Marshall recalled there was a problem with one of the policies and they were trying to determine why the policy lapsed on the same day the coverage was obtained. Marshall recalled contacting the Dayton Service Office employer service specialist to question what was happening with this policy and indicated it was an issue the employer service specialist would have to resolve.

Investigators told Marshall her OBWC desk phone records showed she had called Anderson on January 27, 2016, at 10:19 a.m. for approximately 19 minutes. The WICS Change History report indicated Marshall had requested a "payroll local reprint" for this employer's policy. At 11:06 a.m., Marshall emailed to Anderson the employer's payroll reports for the policy she (Anderson) had requested using her OBWC email account. Anderson then called Marshall at 11:06 a.m. and

spoke with her for approximately 15 minutes. Based on the information sent to Anderson, Marshall admitted to investigators that Anderson had requested the information and it was "... most likely because she [Anderson] was helping the employer to try to get their records in." Marshall explained the 15-minute call from Anderson "most likely" involved discussing the email Marshall had sent or involved "... other employer issues."

Investigators questioned Marshall about the discussions she had with her supervisor regarding work-related interactions between Marshall and Anderson. Initially, Marshall was unable to recall a discussion with her then-supervisor Roger Aber. When questioned whether she had been instructed not to interact with her mother about work-related issues, Marshall replied, "... no. I think it was one of those things where as long as it's work related and that she's able to receive that access information ---- or receive the information." In addition, Marshall did not recall Aber requesting she refer her mother to him, another supervisor, or an employer service specialist if Anderson contacted her.

On July 1, 2016, the Office of the Ohio Inspector General interviewed via telephone former OBWC Employer Management Supervisor Roger Aber, who confirmed that he supervised Marshall. Aber explained Marshall often did not attend all-hands staff meetings and instead remained at her desk answering phone calls. Aber stated that after the all-hands staff meeting, he would discuss with Marshall only those items that pertained to her job duties.

Aber recalled Anderson often went to lunch with Marshall after attending meetings at the Cincinnati-Governor's Hill Service Office. After Harris observed these interactions, Aber acknowledged Harris had instructed him to speak with Marshall about her interactions with Anderson. Aber stated he told Marshall she should interact with her mother "... in the normal course of business" and she should avoid any appearance of impropriety. Aber further stated he had instructed Marshall to avoid doing anything beyond her normal duties when considering Anderson's requests.

Aber's direction to Marshall is contrary to OBWC's Memo 1.01 *Code of Ethics* and Ohio Administrative Code §4123-15-03 (G), which provides that OBWC employees "... should avoid

any action, whether or not prohibited by the preceding provisions, which result in, or create the appearance of: ... giving preferential treatment to any person, entity, or group.” OBWC Cincinnati-Governor’s Hill Service Office Manager Patricia Harris told investigators during an interview that Marshall should not process anything provided by her mother because, “... at this point, it’s not fair and impartial. Um her mother is an agent of a third-party administrator which is one of our partners and customers, so to speak. And um she shouldn’t be servicing her mother [sic] requests.”

Marshall explained to investigators that when she received an email from her mother, she might open it, but did not typically respond immediately. In the case of a phone call, Marshall stated she took calls as they came in. However, Marshall acted outside of Aber’s direction by processing incomplete AC-3 forms to provide information to Anderson and contacting Anderson by telephone shortly after receiving her (Anderson’s) email request for information.

Aber did not recall requesting Marshall to notify him, another supervisor, or employer service specialist when receiving a request from Anderson. Aber acknowledged that many of the employer forms specify a Columbus fax number or mailing address. However, Aber stated he was unaware such forms were being sent directly to Marshall. Aber reiterated he had instructed Marshall that the forms were to be processed through “... the normal channels” and she was directed not to go around those “normal channels.”

Investigators asked Marshall whether her actions from an outsider’s perspective could be seen as giving preferential treatment to Anderson, her mother. Marshall replied, “It could. I guess.”

## **CONCLUSION**

OBWC Memo 1.01 *Code of Ethics* cites Ohio Administrative Code §4123-15 ([Exhibit 1](#)), referred to as the “Code of Ethics for Employees of the Bureau of Workers’ Compensation and the Industrial Commission of Ohio.” This memo references Ohio Administrative Code §4123-15-03<sup>10</sup> (G) which provides that,

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<sup>9</sup>This OAC section was incorporated by OBWC into Memo 1.01 *Code of Ethics*.

... The overall intent of this code of ethics is that employees avoid any action, whether or not prohibited by the preceding provisions, which result in, or create the appearance of: (1) Using public office for private gain, or (2) Giving preferential treatment to any person, entity, or group.

On May 11, 2016, the Office of the Ohio Inspector General received from the Ohio Bureau of Workers' Compensation, 230 emails exchanged between Cincinnati-Governor's Hill Service Office Accountant/Examiner 2 Shannon Marshall and The Matrix Companies' Director of Risk Sandy Anderson from April 10, 2015, through April 7, 2016, which were alleged to be work-related. The Office of the Ohio Inspector General analyzed the emails provided by OBWC and found Marshall:

- Responded to Anderson's email questions about specific employer policies or applications;
- Provided employer policy information including, but not limited to, premium rates, payroll, manual class numbers, or injured worker claim summary information for the attached AC-3 forms;
- Updated employer information in WICS the same day the U-117 form was sent; and
- Provided employer policy information the same day, even in one instance when The Matrix Companies was not authorized under the terms of the attached AC-3 form, contrary to Ohio Administrative Code §4123-15-03 (B)(1)(j).

Marshall admitted during a May 26, 2016, interview with investigators that her mother, Sandy Anderson, had sent her emails asking her to process documents. Marshall admitted to printing, scanning, and emailing documents responsive to Anderson's requests for information; assisting Anderson in determining why an employer's policy lapsed on the same day the coverage was obtained; processing U-117 forms sent to her by Anderson; and adding U-118 forms to WorkFlow for OBWC Policy Processing staff to process.

Marshall also acknowledged the phone calls between her OBWC desk phone and a work phone assigned to Anderson existed and the majority of phone calls from her mother were "... for just doing normal business with Matrix." Investigators asked Marshall whether her actions from an

outsider's perspective could be seen as giving preferential treatment to Anderson, her mother. Marshall replied, "It could. I guess."

Marshall's actions of processing documents on the same date and providing information in response to incomplete documents submitted by Anderson supports the appearance that she had given preferential treatment to her mother, which is contrary to Ohio Administrative Code §4123-15-03 (B)(1)(j) and §4123-15-03 (G).

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

Ohio Administrative Code §4123-15-07 states,

Representatives of claimants and employers as well as their employees and agents ... are expected to support the "Code of Ethics of the Bureau of Workers' Compensation and the Industrial Commission of Ohio" by conduct that will not tempt employees of the bureau and commission to violate that code but will encourage them to fully observe it.

The Office of the Ohio Inspector General determined Anderson sent Marshall 135 emails between April 10, 2015, and April 7, 2016, either requesting Marshall to process a form or provide information based on the form provided or requesting assistance with questions related to an employer's account, policy, or status of their application. In addition, there were instances in which Anderson sent an email to Marshall and then immediately called her to confirm Marshall had received the email request.

During the period examined, by sending 135 email requests to process forms or answer questions, and making in excess of 1,072 telephone calls Marshall had described as "... doing normal business for Matrix," Anderson engaged in conduct with Marshall that violated the Code of Ethics of the Ohio Bureau of Workers' Compensation and Industrial Commission of Ohio which is contrary to Ohio Administrative Code §4123-15-07.

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

**RECOMMENDATION(S)**

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

1. Review the conduct of employee identified in this report and determine whether administrative action is warranted.
2. Determine if training is warranted for Shannon Marshall on the proper handling of requests from a family member for processing of forms, filing of complaints, and requests for assistance received by her mother, an employee of a third-party administrator.
3. Consider the benefits of incorporating the responsibilities of third-party administrators, pursuant to Ohio Administrative Code §4123-15, in future OBWC publications for delivery to third-party administrators.
4. Consider the benefits of requiring employees to sign-in when attending all-hands meetings to identify which employees did not hear the policies and procedures discussed at the meeting. It is recommended the supervisors discuss the policies and procedures with the absent employees and to document that the discussions occur.

**REFERRAL(S)**

The Office of the Ohio Inspector General has determined that no referrals are warranted for this report of investigation.



STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

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RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Bureau of Workers' Compensation**

**FILE ID #: 2016-CA00018**

**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**  
**November 9, 2016**

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