

U.S. Department of Labor

Office of Inspector General—Office of Audit

EMPLOYMENT STANDARDS ADMINISTRATION



OFFICE OF WORKERS' COMPENSATION PROGRAMS LICENSING AND CONFIDENTIALITY PROCEDURES FOR CONTRACT NURSES

Date Issued: September 29, 2006
Report Number: 02-06-207-04-431

**Department of Labor
Office of Inspector General
Office of Audit**

BRIEFLY...

Highlights of Report Number: 02-06-207-04-431, to the Assistant Secretary for Employment Standards Administration

WHY READ THE REPORT

In 2005, the Office of Workers Compensation Programs (OWCP) reported contract nurses handled 17,186 cases and were able to have 8,088 workers return to work. Contract nurses are assigned to newly injured workers to obtain information, evaluate the level of disability, and notify District Offices (DOs) of pending surgery or prolonged recovery. Contract nurses also coordinate medical care and return-to-work issues, and can transfer cases for vocational rehabilitation or more aggressive medical intervention.

WHY OIG DID THE AUDIT

This audit was conducted in response to a complaint from a former OWCP contract nurse whose allegations included noncompliance with nurse licensure policies and unnecessary access to confidential medical records. Our audit was limited to examining the OWCP procedures used to verify contract nurse licensure and also the procedures that restrict contract nurse access to confidential medical records. Our objectives were to determine if: (1) OWCP license verification procedures were adequate for contract nurses; and (2) OWCP procedures restricting contract nurse access to confidential medical records were adequate. Our audit period was January 1, 2003, through December 31, 2005.

READ THE FULL REPORT

To view the report, including the scope, methodology and agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2006/02-06-207-04-431.pdf>

SEPTEMBER 2006

OWCP: Licensing and Confidentiality Procedures for Contract Nurses

WHAT OIG FOUND

OWCP had procedures in place requiring verification of nurse licenses during contracting and hiring. However, these procedures did not require periodic review to ensure that licenses were renewed and in good standing. Rather, OWCP policy was to leave the periodic review process to the discretion of the individual DO. Consistent license verification can reduce OWCP's risk of not timely identifying license restrictions or the failure to renew licenses.

OWCP's policy requires the claimant to be responsible for notifying medical providers when a contract nurse should or should not receive medical information. However, OWCP communications with claimants do not state the claimant's level of responsibility for notifying medical providers regarding nurse access to medical information and claimants were not notified when contract nurses were no longer actively assigned the claim. As a result, contract nurses may unnecessarily receive access to confidential medical records.

WHAT OIG RECOMMENDED

The OIG recommended the Assistant Secretary for Employment Standards:

1. Establish and implement policies and procedures for verification of licenses to determine renewal and good standing at regular intervals for its contract nurses.
2. Establish practices to clearly and consistently communicate with claimants delineating their responsibilities so that contract nurses do not have unnecessary access to confidential medical records.

In her response to the draft report, the Assistant Secretary for Employment Standards concurred with the findings and recommendations. She stated that procedures will be developed by October 31, 2006.

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Executive Summary

The Office of Inspector General (OIG) performed an audit of the Office of Workers' Compensation Programs' (OWCP) procedures for ensuring contract nurses with the Nurse Intervention Program were properly licensed and had access to confidential medical records restricted to only assigned cases. This audit was conducted in response to a complaint from a former OWCP contract nurse whose allegations included noncompliance with nurse licensure policies and unnecessary access to confidential medical records.

Our audit was limited to examining the OWCP procedures for the Nurse Intervention Program used to verify contract nurse licensure and also the procedures that restrict contract nurse access to confidential medical records. Our objectives were to determine if:

1. OWCP license verification procedures were adequate for contract nurses?
2. OWCP procedures restricting contract nurse access to confidential medical records were adequate?

Results and Findings

OWCP generally had procedures for documenting contract nurse licenses and restricting access to medical records in claimant files. However, these procedures need to be strengthened to improve controls for the Nurse Intervention Program.

1. License Verification Procedures Need to be Strengthened

OWCP had procedures in place requiring verification of nurse licenses during contracting and hiring. However, these procedures did not require periodic review to ensure that licenses were renewed and in good standing. Rather, OWCP policy was to leave the periodic review process to the discretion of the individual District Offices (DO). Consistent license verification can reduce OWCP's risk of not timely identifying license restrictions or the failure to renew licenses.

2. Communication Procedures on Confidential Medical Records Need to be Strengthened

OWCP generally had procedures for restricting contract nurse access to medical records. OWCP's policy requires the claimant to be responsible for notifying medical providers when a contract nurse should or should not receive medical information. However, OWCP communications with claimants do not state the claimant's level of responsibility for notifying medical providers regarding nurse access to medical

information and claimants were not notified when contract nurses were no longer actively assigned the claim.

As a result, contract nurses may unnecessarily receive access to confidential medical records. While we found no evidence that medical information was misused, clear communications with claimants should reduce incidences where contract nurses receive unnecessary access to medical records.

Recommendations

We recommend the Assistant Secretary for Employment Standards:

1. Establish and implement policies and procedures for verification of licenses to determine renewal and good standing at regular intervals for its contract nurses.
2. Establish practices to clearly and consistently communicate with claimants delineating their responsibilities so that contract nurses do not have unnecessary access to confidential medical records.

Agency Response

In her response to the draft report, the Assistant Secretary for Employment Standards concurred with the findings and recommendations. She stated that procedures will be developed by October 31, 2006.

OIG Conclusion

Based on ESA's planned actions, both recommendations are resolved and will be closed when we verify that the corrective actions were implemented.

***Audit of Office of Workers' Compensation Programs
Licensing and Confidentiality Procedures for Contract Nurses***

U.S. Department of Labor

Office of Inspector General
Washington, DC 20210



Assistant Inspector General's Report

Ms. Victoria A. Lipnic
Assistant Secretary for Employment Standards
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

The OIG performed an audit in response to a complaint from a former OWCP contract nurse whose allegations included noncompliance with nurse licensure policies and unnecessary access to confidential medical records.

Our audit was limited to examining the OWCP procedures for the Nurse Intervention Program used to verify contract nurse licensure and also the procedures that restrict contract nurse access to confidential medical records. Our objectives were to determine if:

1. OWCP license verification procedures were adequate for contract nurses?
2. OWCP procedures restricting contract nurse access to confidential medical records were adequate?

We conducted our audit in accordance with Generally Accepted Government Auditing Standards for performance audits. Our objectives, scope, methodology and criteria are detailed in Appendix B.

Objective 1 – Were OWCP License Verification Procedures Adequate for Contract Nurses?

Results and Findings – License Verification Procedures Need to be Strengthened

According to OWCP's Procedure Manual, Chapter 3, section 0202-5, OWCP had procedures in place requiring verification of nurse licenses during its contracting and hiring process. However, these procedures did not require the periodic review to ensure that licenses were renewed and in good standing. Rather, OWCP policy was to leave the periodic review process to the discretion of the individual DO.

Each state had different licensing and renewal requirements. Most states' licenses were valid for 2 years, but license renewals ranged between 1 and 4 years. The New York District Office (NYDO) contract nurses were licensed in New Jersey, New York and Puerto Rico: New Jersey licenses were valid for 2 years; and New York and Puerto Rico licenses were valid for 3 years.

NYDO established a policy requiring the verification of licenses quarterly, but did not regularly do so for most of its active nurses. As of March 2006, NYDO had 39 contract nurses actively managing cases; and the nurses held 54 current licenses in New York, New Jersey and Puerto Rico. However, a review of records disclosed 31 out of 54 nurse licenses were verified by the NYDO, but not quarterly. Subsequent verification was performed for the other 23 licenses and disclosed the licenses were considered in good standing.

Consistent license verification can reduce OWCP's risk of not timely identifying license restrictions or the failure to renew licenses.

Recommendation

1. We recommend that the Assistant Secretary for Employment Standards establish and implement policies and procedures for verification of licenses to determine renewal and good standing at regular intervals for its contract nurses.

Agency Response

In her response to the draft report, the Assistant Secretary for Employment Standards concurred with the finding and recommendation. She stated that procedures will be developed by October 31, 2006.

OIG Conclusion

Based on ESA's planned action, the recommendation is resolved and will be closed when we verify that the corrective action was implemented.

Objective 2 – Were OWCP Procedures Restricting Contract Nurse Access to Confidential Medical Records Adequate?

Results and Findings –Communication Procedures on Confidential Medical Records Need to be Strengthened

OWCP generally had procedures for restricting contract nurse access to medical records. OWCP's policy requires the claimant to be responsible for notifying medical providers when a contract nurse should or should not receive medical information.

OWCP sends an introduction letter to advise the claimant that a contract nurse has been assigned to help coordinate the flow of information between the claimant, OWCP, the employing agency, and medical providers. However, OWCP communications with claimants do not state the claimant's level of responsibility for notifying medical providers regarding nurse access to medical information and claimants were not notified when contract nurses were no longer actively assigned the claim.

As a result, contract nurses may unnecessarily receive access to confidential medical records. While we found no evidence that medical information was misused, clear communications with claimants should reduce incidences where contract nurses receive unnecessary access to medical records.

Recommendation

2. We recommend the Assistant Secretary for Employment Standards establish practices to clearly and consistently communicate with claimants delineating their responsibilities so that contract nurses do not have unnecessary access to confidential medical records.

Agency Response

In her response to the draft report, the Assistant Secretary for Employment Standards concurred with the finding and recommendation. She stated that procedures will be developed by October 31, 2006.

OIG Conclusion

Based on ESA's planned action, the recommendation is resolved and will be closed when we verify that the corrective action was implemented.



Elliot P. Lewis
April 11, 2006

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Appendices

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APPENDIX A

BACKGROUND

The Nurse Intervention Program is a comprehensive approach to minimize the length and extent of disability in worker compensation cases. In the early 1990's, OWCP formalized the use of contract nurses as facilitators to create a more comprehensive approach to case management. Research had indicated that the use of nurses might serve to shorten the periods of disability and increase the likelihood of returning to work. Nurses were used to ensure injured employees receive prompt and appropriate treatment for their injuries, and therefore, return to work as soon as possible.

In 2005, OWCP issued its *Annual Report to Congress* on its fiscal year 2002 operations. OWCP reported nurses handled 17,186 cases and were able to have 8,088 workers return to work. Contract nurses are assigned to newly injured workers to obtain information, evaluate the level of disability, and notify DOs of pending surgery or prolonged recovery. Contract nurses also coordinate medical care and return-to-work issues, and can transfer cases for vocational rehabilitation or more aggressive medical intervention.

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APPENDIX B

OBJECTIVES, SCOPE, METHODOLOGY, AND CRITERIA

OBJECTIVES

Our audit was limited to examining the OWCP procedures for the Nurse Intervention Program for the period January 1, 2003, through December 31, 2005, used to verify contract nurse licensure and also the procedures that restrict contract nurse access to confidential claimant medical records. Our objectives were to determine if:

1. OWCP license verification procedures were adequate for contract nurses?
2. OWCP procedures restricting contract nurse access to confidential medical records were adequate?

SCOPE

Our performance audit was conducted in accordance with Generally Accepted Government Auditing Standards for performance audits and included such tests as we considered necessary to satisfy the objectives. A performance audit includes an understanding of internal controls considered significant to the audit objectives and testing compliance with significant laws, regulations and other compliance requirements. In order to plan the audit, we considered whether internal controls significant to the audit were properly designed and placed in operation.

Our audit period was January 1, 2003, through December 31, 2005. Our audit was limited to OWCP procedures to verify contract nurse licensure and restrict contract nurses access to confidential medical records. We obtained an understanding of the applicable controls and their effectiveness.

As of December 31, 2005, OWCP had approximately 640 contract nurses. NYDO had 39 active contract nurses. Fieldwork was conducted at OWCP National Headquarters in Washington, DC, and NYDO in New York, NY, from January 25, 2006, through April 11, 2006.

METHODOLOGY

We obtained an understanding of OWCP's policies and procedures over nurse licensure and confidential claimant medical information through inquiries with appropriate personnel, review of policies and procedure manuals, and inspection of relevant documentation. We reviewed policies and procedures from the OWCP Procedure Manual and Department of Labor Manual Series, and standard practices established in the NYDO. We interviewed the Northeast Regional Director, NYDO Director and staff nurse, and OWCP headquarters chief nurse. We reviewed documents and procedures

for the nurse certification process, contracts with nurses, and introduction letters to claimants.

For the NYDO, we reviewed license documentation for the 39 active contract nurses and analyzed the frequency of license verifications performed by the DO staff nurse. For nurses without recent license verifications, we established the current status of their licenses from Internet websites maintained by the States of New York and New Jersey, and through written correspondence with Puerto Rico.

CRITERIA

We tested compliance with Federal requirements using the following criteria:

- OWCP Procedure Manual, Chapters 1 and 3
- Department of Labor Manual Series, Part 5, Chapters 200 and 300

APPENDIX C

ACRONYMS AND ABBREVIATIONS

DO	District Office
NYDO	New York District Office
OIG	Office of Inspector General
OWCP	Office of Workers' Compensation Programs

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APPENDIX D

AGENCY RESPONSE TO DRAFT REPORT

U.S. Department of Labor

Assistant Secretary for
Employment Standards
Washington, D.C. 20210



SEP 29 2006

MEMORANDUM FOR ELLIOT P. LEWIS
Assistant Inspector General
for Audit

FROM: VICTORIA A. LIPNIC

SUBJECT: OWCP Nurse Intervention Program—Licensing and
Confidential Procedures for Contract Nurses
Draft Report No. 02-06-207-04-431

D. M. W. For

This responds to your September 18, 2006 memorandum requesting comments on the subject draft audit report. The audit was conducted in response to a complaint received by the OIG hotline that alleged non-compliance with nurse licensure policies and unnecessary access to confidential medical records. The OIG found OWCP generally had procedures for documenting contract nurse licenses and restricting access to medical records in claimant files. It was further found that these procedures need to be strengthened to improve controls for the Nurse Intervention Program. Our response to the findings and recommendations is as follows:

Recommendations

1. Establish and implement policies and procedures for verification of licenses to determine renewal and good standing at regular intervals for its contract nurses.
2. Establish practices to clearly and consistently communicate with claimants delineating their responsibilities so that contract nurses do not have unnecessary access to confidential medical records.

Agency Response

ESA concurs with the findings and recommendations. Procedures are being developed to address the concerns and will be provided under separate cover by October 31, 2006.

If you have any questions concerning this response, please contact Rose Broadwater of my staff on 693-0285.