



Department of Veterans Affairs Office of Inspector General

Administrative Investigation Improper Salary Supplementation Veterans Health Care System of the Ozarks, Fayetteville, Arkansas

Redacted



DEPARTMENT OF VETERANS AFFAIRS
Office of Inspector General
Washington, DC 20420

TO: Director, South Central VA Health Care Network

SUBJECT: Administrative Investigation – Improper Salary Supplementation, Veterans Health Care System of the Ozarks, Fayetteville, Arkansas (2008-03126-IQ-0002)

Summary

We substantiated that a [REDACTED] worked as a fulltime [REDACTED] and performed only title 5 duties that did not require the knowledge, skills and abilities of a title 38 health care professional for almost 2 years, resulting in [REDACTED] receiving \$28,613.80 in special pay supplementation for which [REDACTED] was not entitled. We also found that Ms. Kathleen R. Fogarty, Director of the Veterans Health Care System of the Ozarks, as well as other Medical Center officials, failed to take appropriate action to discontinue the title 38 special pay for the [REDACTED] that performed fulltime in a title 5 capacity. (b)(6)

Introduction

The VA Office of Inspector General Administrative Investigations Division investigated an allegation that the [REDACTED] gave preferential treatment to a [REDACTED] when [REDACTED] allowed [REDACTED] to work fulltime as an [REDACTED] that did not require the clinical knowledge, skills, and abilities of a [REDACTED] and to maintain a [REDACTED] classification with the special pay rate. To assess this allegation, we interviewed Ms. Fogarty, the [REDACTED] the [REDACTED] and other VA Medical Center staff. We also reviewed time and attendance records, VA Medical Center Resources Committee meeting minutes, personnel files, and relevant Federal laws regulations, and VA policy. We investigated but did not substantiate other allegations, and they will not be discussed further in this report. (b)(6)

Results

Issue: Whether a [REDACTED] Received Improper Salary Supplementation (b)(6)

VA policy states that responsible officials are to assign title 38 employees duties that require clinical skills; the use of title 38 employees in competitive civil service positions is prohibited; and positions that do not require clinical skills be placed in the competitive

civil service. Facility Directors are responsible for ensuring that positions that do not require the knowledge, skills, and abilities of a health care professional are not removed from the competitive civil service by placing a title 38 employee in the position and that they are responsible for converting positions that do not require clinical skills to the competitive civil service. VA Handbook 5005, Part III, Appendix N (April 15, 2002). VA policy further states that Facility Directors are responsible for establishing, adjusting, or canceling special pay rates for health care personnel appointed to hybrid positions listed under 38 USC 7401 (3). VA Handbook 5007/30, Part VI, Chapter 6, Paragraph 2, (December 6, 2007).

Personnel records reflected that the [REDACTED] began working for the VA Medical Center as a part-time employee on [REDACTED] 2004, and payroll records reflected that as a part-time [REDACTED] received a special pay rate higher than that of the general schedule. Records also showed that in [REDACTED] 2007, the VA Medical Center issued a job announcement, [REDACTED], for a part-time position with dual responsibilities of both a [REDACTED] and as an [REDACTED] citing that the position required generalized [REDACTED] duties within [REDACTED]. Records reflected that the [REDACTED] selected the [REDACTED] for that position with an effective date of [REDACTED] 2007. (b)(6)

The [REDACTED] told us that [REDACTED] initially hired the [REDACTED] for a part-time position and that [REDACTED] worked solely as a [REDACTED] until [REDACTED] 2007 when [REDACTED] selected [REDACTED] for the position with duties as both a [REDACTED] and [REDACTED]. [REDACTED] further said that [REDACTED] needed an [REDACTED] because the [REDACTED] workload increased to a point where [REDACTED] needed the [REDACTED] support. VA Medical Center Resources Committee minutes, dated [REDACTED] 2006, which were approved by the then Acting Medical Center Director, reflected that the Committee approved the dual-duty, part-time position. The [REDACTED] said that two employees applied for the position, one being the [REDACTED]. [REDACTED] said that the interview panel consisted of [REDACTED] and a [REDACTED]; that they interviewed both applicants and each independently evaluated them; and they both selected the [REDACTED] for the position. The [REDACTED] told us that [REDACTED] was a member of the interview panel for the position and that the [REDACTED] was the best candidate. (b)(6)

The [REDACTED] 2007, VA Medical Center Resources Committee minutes, which Ms. Fogarty approved after making several handwritten comments, reflected that [REDACTED] requested, and the Committee approved, converting the part-time dual-duty position, then held by the [REDACTED] to fulltime, as well as increasing another part-time [REDACTED] position to fulltime to backfill the position vacancy left by the [REDACTED]. The minutes stated that “a full-time [REDACTED] will provide much-needed support to the [REDACTED]...” The [REDACTED] told us that [REDACTED] initially thought that [REDACTED] only needed part-time [REDACTED] help; however, [REDACTED] said that [REDACTED] later determined that it required someone fulltime. The [REDACTED] (b)(6)

Services said that the [REDACTED] began working fulltime as an [REDACTED] [REDACTED] in [REDACTED] 2007; [REDACTED] was aware of the prohibition against using a title 38 employee in a competitive service position; and [REDACTED] knew that [REDACTED] still received the special pay associated with [REDACTED] title 38 [REDACTED] duties. The [REDACTED] 2007 [REDACTED] [REDACTED] organizational chart, which Ms. Fogarty approved by signing on [REDACTED], (b)(6) 2007, reflected one [REDACTED] position; however, it also reflected that the employee filling the position was a [REDACTED]. The Office of Personnel Management defines the [REDACTED] series as one that has the principal duties of supervising or performing [REDACTED] work. VA Medical Center records reflected that the [REDACTED] [REDACTED] last provided title 38 health care services to a patient on [REDACTED] 2008.

The [REDACTED] said that in [REDACTED] 2008, Human Resources notified [REDACTED] that they needed to reclassify the [REDACTED] position, and [REDACTED] said that after several meetings with the [REDACTED], [REDACTED] tried to reclassify the position to a [REDACTED] [REDACTED] position in [REDACTED] 2009, but [REDACTED] said that the Chief (b)(6) of Staff did not concur until [REDACTED] 2009. On [REDACTED], 2009, the VA Medical Center Resources Committee agreed to submit the [REDACTED] position for classification, and the Committee minutes were again approved by Ms. Fogarty. Personnel records reflected that the position was converted to title 5, [REDACTED], and that the [REDACTED] began working in the position effective [REDACTED], [REDACTED], with a reduction in pay due to the elimination of the title 38 special pay rate.

The [REDACTED] told us that in the part-time position, [REDACTED] was both a [REDACTED] [REDACTED] and an [REDACTED]. [REDACTED] said that [REDACTED] managed the [REDACTED], handled reports, policies, information technology issues, and various other duties. [REDACTED] said that [REDACTED] was very involved in a project coordinating treatment between private [REDACTED] and the VA Medical Center, authorizing care, and taking care of the [REDACTED] paperwork. [REDACTED] said that [REDACTED] began receiving [REDACTED] special pay in 2004 when [REDACTED] accepted [REDACTED] initial part-time [REDACTED] position and that [REDACTED] began (b)(6) working as a [REDACTED] and [REDACTED] in [REDACTED] 2007. The [REDACTED] [REDACTED] said that [REDACTED] continued attending patients until about [REDACTED] 2008, when [REDACTED] began working as a fulltime [REDACTED] however, [REDACTED] said that [REDACTED] continued receiving the [REDACTED] special pay while working as a fulltime [REDACTED]. Payroll records reflected that the [REDACTED] received this special pay from [REDACTED] 2008 to [REDACTED] 2010 or \$28,613.80 in special pay doing fulltime duties of a title 5 [REDACTED] while improperly classified as a title 38 [REDACTED].

The [REDACTED] told us that [REDACTED] was concerned that [REDACTED] position description did not accurately reflect the work [REDACTED] did and that [REDACTED] subsequently contacted HR. [REDACTED] said that [REDACTED] discussed the situation several times with HR and that ultimately [REDACTED] concerns were forwarded to [REDACTED] in [REDACTED] 2008. [REDACTED] further said that [REDACTED] and the [REDACTED] [REDACTED] both spoke to the HR Chief and that [REDACTED] told them that it was at (b)(6) the [REDACTED] discretion as to how [REDACTED] utilized [REDACTED]. To the contrary, VA

policy states that Human Resources Management officials are responsible for exercising classification and employment authorities, assuring compliance with appropriate standards and VA policy, and making certain that personnel actions are taken in accordance with pertinent legal and regulatory requirements. VA Handbook 5001, Part II, Paragraph 6 (April 15, 2002).

██████████ told us that the ██████████ requested the dual position of a ██████████ and ██████████ due to an increase in the ██████████ workload and a need to follow-up on ██████████ matters. ██████████ said that the initial goal was to fill the position with a ██████████ who would also do part-time ██████████ duties and within a year, re-evaluate and assess whether the position should be fulltime. (b)(6) ██████████ said that the VA Medical Center Resources Committee, of which ██████████ was a member, approved the position and the ██████████ performed the duties as both a ██████████ and an ██████████. ██████████ further said that ██████████ did not know that using a title 38 employee to perform title 5 duties was contrary to VA policy until ██████████ read the policy recently concerning another position. As a result, ██████████ said that ██████████ re-wrote the position for a title 5 and obtained a classification for the position description. ██████████ told us that ██████████ was aware that the ██████████ continued receiving special pay, but ██████████ said that ██████████ was not aware that the ██████████ worked fulltime as an ██████████. However, ██████████ signed the 2007 ██████████ organizational chart showing the ██████████ was a fulltime position.

Ms. Fogarty told us that the ██████████ requested that they create a dual position with both ██████████ and ██████████ duties for ██████████ through the VA Medical Services Resources Committee. ██████████ said that the Committee (b)(6) reviewed new position descriptions, classifications, re-classifications, fee-basis appointments, and any kind of human capital assets, and ██████████ said that she approved all Committee minutes. ██████████ said that typically, clinical services used a ██████████ to be an administrative officer or assistant, and as an example, she said that in Radiology Services, there was a radiology technician that was also an ██████████. She further said that it was common to see “super techs” in those dual roles. Ms. Fogarty said that she believed that the ██████████ wanted help with administrative matters but not on a fulltime basis. She said that the ██████████ communicated to the VA Medical Center Resources Committee that ██████████ thought ██████████ could use a ██████████ (b)(6) ██████████ more efficiently. Ms. Fogarty said, however, that she was not aware that the ██████████ continued receiving ██████████ special pay while working as a fulltime ██████████. She said that she thought that the ██████████ would continue to perform patient care and that it was not proper to use a title 38 employee in a title 5 position and continue receiving a special rate of pay.

Conclusion

We concluded that Ms. Fogarty failed to take appropriate action to discontinue the special pay supplementation of a [REDACTED] that performed as a fulltime [REDACTED] (b)(6) for almost 2 years. Although Ms. Fogarty said that she thought the [REDACTED] would continue working in a dual capacity, we found that Ms. Fogarty read, made comments on, and approved the [REDACTED] 2007 Resources Committee minutes in which the [REDACTED] requested the [REDACTED] position be converted to fulltime, as [REDACTED] needed an [REDACTED] fulltime. Additionally, the minutes reflected a request and approval to increase another [REDACTED] position to fulltime to backfill the health care portion of the [REDACTED] dual responsibilities. Moreover, Ms. Fogarty approved the revised [REDACTED] organizational chart, dated [REDACTED] 2007, which showed the [REDACTED] listed as a fulltime [REDACTED] in [REDACTED]; however, the organizational chart still reflected that [REDACTED] maintained the position series of a [REDACTED]. We found that the [REDACTED] (b)(6) performed no duties requiring the knowledge, skills, and abilities of a title 38 health care professional from [REDACTED] 2008 to [REDACTED] 2010, yet [REDACTED] continued receiving a higher rate of pay associated with [REDACTED] former health care responsibilities, resulting in [REDACTED] receiving \$28,613.80 in pay for which [REDACTED] was not entitled. Although VA policy holds the facility director responsible for discontinuing the special rate of pay, we also believe that [REDACTED] and the [REDACTED] by virtue of their positions, were also responsible for taking immediate corrective measures in this matter.

Recommendation 1. We recommend that the Director, South Central VA Health Care Network, take appropriate administrative action against officials at Veterans Health Care System of the Ozarks, Fayetteville, Arkansas, for failing to comply with VA policy to (b)(6) discontinue the special rate of pay for a [REDACTED] that performed title 5 duties as a fulltime [REDACTED] for almost 2 years.

Recommendation 2. We recommend that the Director, South Central VA Health Care Network, ensures that a review is conducted of the Veterans Health Care System of the Ozarks title 38 positions to determine if anyone else receives a special rate of pay reserved for positions requiring the knowledge, skills, and abilities of a health care professional but performing only title 5 duties and take appropriate corrective action.

Recommendation 3. We recommend that the Director, South Central VA Health Care Network, ensure that a bill of collection is issued to the [REDACTED] for \$28,613.80 (b)(6) to recoup the pay supplementation improperly paid to [REDACTED]

Comments

The South Central VA Health Care Network Director concurred with the recommendations, and his response is in Appendix A. We will follow up to ensure that all actions are fully implemented.

(original signed by:)

JAMES J. O'NEILL
Assistant Inspector General for
Investigations

Director Comments

**Department of
Veterans Affairs**

Memorandum

Date: July 8, 2010

From: Director, South Central VA Health Care Network

Subject: Administrative Investigation - Improper Salary
Supplementation, Veterans Health Care System of the
Ozarks, Fayetteville, Arkansas

To: Office of Inspector General

1. The following Network Director's comments are submitted in response to the recommendations in the office of Inspector General's Report:

The action described in this section is directly related to failure of the [REDACTED] at Veterans Healthcare System of the Ozarks, Fayetteville, AR, to take appropriate action by notifying the facility management of the work actually being performed by the [REDACTED] in questions. The [REDACTED] also failed to take appropriate action in discontinuing the [REDACTED] special salary rate as well. (b)(6)

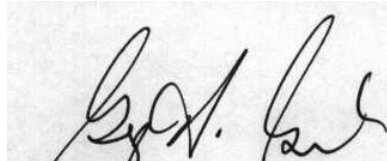
Issues regarding the [REDACTED] failure to take appropriate action to discontinue the title 38 special rate of pay for the [REDACTED] are as follows: (b)(6)

a. As supervisor of the [REDACTED] the [REDACTED] [REDACTED] signed a functional statement certifying that [REDACTED] duties would include appropriate [REDACTED] responsibilities. However, [REDACTED] did not assign duties nor allow [REDACTED] to work in this role. (b)(6)

b. All [REDACTED] organizational charts for the time in question prepared by the [REDACTED] reflect that this was an [REDACTED] position. (b)(6)

c. The [REDACTED] did not communicate to the facility's Resources Management Committee or the Medical Center Director that the incumbent would no longer be performing [REDACTED] duties once the request of the position was approved. (b)(6)

2. If you have questions or need additional information, please contact [REDACTED]. (b)(6)



George H. Gray, Jr.

Director's Comments to Office of Inspector General's Report

The following Director's comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

OIG Recommendation(s)

Recommendation 1. We recommend that the Director, South Central VA Health Care Network, take appropriate administrative action against officials at Veterans Health Care System of the Ozarks, Fayetteville, Arkansas, for failing to comply with VA policy to discontinue the special rate of pay for a [REDACTED] that performed title 5 duties as a fulltime [REDACTED] for almost 2 years. (b)(6)

Concur **Target Completion Date:** September 30, 2010

Recommendation 2. We recommend that the Director, South Central VA Health Care Network, ensures that a review is conducted of the Veterans Health Care System of the Ozarks title 38 positions to determine if anyone else receives a special rate of pay reserved for positions requiring the knowledge, skills, and abilities of a health care professional but performing only title 5 duties and take appropriate corrective action.

Concur **Target Completion Date:** August 15, 2010

Recommendation 3. We recommend that the Director, South Central VA Health Care Network, ensure that a bill of collection is issued to the [REDACTED] for \$28,613.80 to recoup the pay supplementation improperly paid to [REDACTED] (b)(6)

Concur **Target Completion Date:** July 15, 2010

OIG Contact and Staff Acknowledgments

OIG Contact	Linda Fournier (202) 461-4500
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Acknowledgments	Alexander Carlisle
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