

Employee Health Benefits Fraud Involving a Medical Spa

Date: October 14, 2020
To: Audit Committee
From: Auditor General
Wards: All

SUMMARY

This report summarizes an investigation into allegations of health benefits fraud involving three City of Toronto employees. It is our view that health benefits fraud against the City occurred on several occasions in this case.

We bring this matter to the attention of City Council, City management and City employees for three reasons:

- 1) To communicate that by implementing past Auditor General recommendations, the City now has a more robust claims monitoring regime and an audit system in place that will likely catch more fraud. Fraud detection and fraud prevention help improve the sustainability of benefit plans.
- 2) To report that management is taking appropriate actions to address all concerns raised in this case, including referring some matters to regulatory bodies for further consideration.
- 3) To make City employees aware of the increased sophistication in monitoring benefit claims and to stress the importance of not becoming involved in schemes like the one identified in this report.

The case revolves around three City employees and the spouses of two of the City employees (the claimants), who independently attended a medical spa to receive treatment for various conditions. These claimants received documentation stating that a doctor (an obstetrician and gynecologist) diagnosed them with the skin condition of actinic keratosis and prescribed the drug Levulan Kerastick (Levulan) to them as the treatment. They received invoices from the spa stating they had been treated with Levulan for the condition of actinic keratosis (and other conditions). Actinic keratosis treatments with Levulan are covered by the City health benefits plan, whereas many other treatments offered by medical spas are not covered.

They all submitted claims that were reimbursed by the City's health benefits plan.

The claims submissions process is basically an honour system. It is the employee's responsibility to ensure the claims they submit for reimbursement are legitimate and correct. Audits and reviews are conducted after claims are submitted.

Our investigation was extensive and involved interviews with the City employees, the spa owner, the spa's chief operations officer and three spa employees who treated the claimants. We also reviewed treatment records, spa invoices, spa receipts, emails, and analyzed health claim data. We sought information from subject matter experts in handwriting, dermatology, and pharmacology. We also conducted research on the drug Levulan and how it is dispensed, the condition actinic keratosis, and the rules for physicians and nurses in Ontario.

Although fraud has occurred, we cannot be absolutely sure of the extent and depth of the role or the exact knowledge of each person or organization (the spa, the doctor, some of the City employees, the treating technicians and/or registered practical nurse) played in these events because the very nature of a fraud often involves information that is concealed, altered and/or fabricated. In our view, not all those interviewed were always truthful or forthright.

However, based on all of the evidence we have reviewed, the diagnoses recorded on the Drug Special Authorization Forms were false and/or misleading for two of the employees. For the last employee, the invoices contain diagnoses she said she did not have. Some of the reimbursements helped employees to pay for treatments that were not covered by the City's health benefits plan. In all three cases, it is our view that health benefits fraud has occurred.

It is not the Auditor General's role to determine the consequences for employees found to have committed benefits fraud – that is up to City management. The lessons employees should take away from this investigation is that the City is much better at detecting benefits fraud and that benefits fraud can have repercussions beyond the loss of benefits: it can include termination of employment, criminal charges and regulatory investigations.

The Auditor General has made five recommendations to help the City learn from this investigation.

RECOMMENDATIONS

The Auditor General recommends that:

- 1) City Council request the Director, Pension, Payroll and Employee Benefits, and Green Shield Canada, to implement training for staff around the issue of health benefits fraud. This should be recurring and updated as the nature of common types of fraud evolve.
- 2) City Council request the Director, Pension, Payroll and Employee Benefits, undertake extra verification procedures to examine health claims coming from health spas.

3) City Council request the Director, Pension, Payroll and Employee Benefits, to direct all employees in this case to reimburse the City for all past claims for themselves and their spouses for services involving the spa because they are not properly supported by legitimate invoices for approved services.

4) City Council request the Director, Pension, Payroll and Employee Benefits seek to include in future collective agreements that health services must be medically necessary, and that 'off-label' use be supported by a physician and authorized by Green Shield Canada (GSC) prior to reimbursement.

5) City Council to direct the City Manager to provide an update on actions taken related to this report, including any referrals that are made to other agencies and regulatory bodies.

FINANCIAL IMPACT

The financial impact of the recommendations in this report is not determinable at this time.

DECISION HISTORY

Management of the City's Employee Extended Health and Dental Benefits Phase Two: Ineffective Controls and Plan Design Leaving the City Vulnerable to Potential Benefit Abuse March 20, 2017

<https://www.toronto.ca/legdocs/mmis/2017/au/bgrd/backgroundfile-102168.pdf>

COMMENTS

In the past, the Auditor General made recommendations to ensure the City's Employee Health Benefits Plan administrator has adequate tools, controls and adjudication processes in place to identify unusual trends and patterns, and to detect and prevent fraud and abuse at both the provider and individual plan member level. This includes establishing predetermined criteria with the plan administrator for identification of unusual trends and patterns, and requesting periodic reports back from the plan administrator on actions taken. The City has implemented this recommendation. Detection techniques have improved.

In 2019, the director of the City's Pension, Payroll and Employee Benefits division (PPEB) forwarded three files to the Auditor General's attention. These files included information on health benefit claims for three City employees and the spouses of two of the employees.

Green Shield Canada (GSC), through their Claim Watch program, detected unusual claim patterns while performing reviews of the claims it had paid to City of Toronto employees and passed their concerns to PPEB.

GSC, PPEB and the divisions where the employees work conducted their own internal investigations by trying to obtain supporting documents from employees, and in the case of the divisions where the employees work, by interviewing them.

The Auditor General launched a more thorough investigation into these claims. The attached report includes the details and results of the Auditor General's investigation.

The Employees

Actinic keratosis is a precancerous spot that can usually form on parts of the body that have long been exposed to the sun, such as the face, upper body and hands. Most people who are treated for this condition require two to six treatments of Levulan.

According to the invoices they submitted to GSC for reimbursement from 2017 to 2019:

- Employee A was treated with Levulan 3 times
- Employee B was treated with Levulan 26 times
- Employee B's spouse was treated with Levulan 5 times
- Employee C was treated with Levulan 28 times
- Employee C's spouse was treated with Levulan 34 times

In total, the employees were reimbursed about \$38,000 for the drug Levulan to treat the condition of actinic keratosis and other conditions between 2017 and 2019. Employee C and her spouse were reimbursed more than \$20,000 in 2018 alone. This same employee and her spouse also claimed several thousand dollars in Levulan treatments between 2014 and 2016 under the City of Toronto's previous benefits plan administrator.

All three employees and two of those employees' spouses went to the same medical spa for treatment, but were treated at different branches by different spa employees. They received prescriptions and/or drug authorization forms signed by an obstetrician/gynecologist diagnosing them with actinic keratosis and prescribing treatments with Levulan. All received and submitted invoices from the spa saying they were treated for that condition and all were reimbursed. None of the employees ever met the diagnosing doctor. None seemed to know what actinic keratosis or Levulan even was.

Employee A

Employee A went to the spa for hair loss treatment. The treatment was not covered by City's health benefits plan, and the employee was concerned about the price. He told us that the spa explained that he could submit invoices for a condition (actinic keratosis) he did not have and for a drug (Levulan) he did not receive. The reimbursement for these false invoices would pay for this hair loss treatments. Further, forms could be completed and signed by a doctor showing the false condition and drug. The employee proceeded, knowing the invoices and forms he was submitting for reimbursement contained false information. Health benefits fraud occurred. He repaid what he had been reimbursed, and was cooperative in our investigation.

Employee B

Employee B went to the spa for laser toenail fungus treatment. This treatment is not covered by the City's health benefits plan. The spa provided him with a Drug Special Authorization Form, signed by the doctor, saying that he was to be treated with Levulan for toe fungus. The form was rejected by GSC because the drug is not approved for use on toe fungus. He brought the rejected form back to the spa where the diagnosis was changed to say that he was being treated for a different condition, actinic keratosis on his face and shoulders. However, he was receiving laser toenail fungus treatments on his feet. In total, he was reimbursed almost \$10,000 for 26 treatments. He claimed that he didn't notice that the invoices showed something different than the treatments he was receiving, but we confirmed that he did see that the condition on his Drug Special Authorization Form changed from treating his feet to treating his face and shoulders. In our view, health benefits fraud has occurred. He has not repaid the amount he was reimbursed.

Employee C

Employee C heard about the spa from an online discount website. She went there for a facial in 2014. On the spa intake form, Employee C noted that she was concerned about 'lines' and sagging skin. Rosacea was an option on the intake form, but she did not select it as a concern. Six days after the date on her intake form, a spa invoice claims she was treated for rosacea and actinic keratosis with Levulan. Her husband attended the same spa starting in 2015, and invoices show he was treated for the same conditions with the same drug. By August 2018, toenail fungus treatment was added to their invoices. Since 2017, Employee C and her husband were reimbursed for 62 claims totalling over \$26,000. She conveyed that she doesn't really know what actinic keratosis is, and that she doesn't know much about the medication Levulan, despite both items being listed on her and her husband's invoices since 2014. She denies receiving toenail fungus treatments – but over 20 invoices, spa records and the spa staff who treated her appear to demonstrate otherwise. In any event, if she didn't receive treatment for toenail fungus, she should not have submitted invoices showing that she was treated for conditions she didn't have. In our view, she must have known that she was submitting false and/or misleading support to obtain reimbursement. On a balance of probabilities, health benefits fraud also occurred in this case. She has not repaid the amount she was reimbursed.

How the Recommendations will benefit the City

We believe that this report will:

- 1) Inform employees and service providers that the City has sophisticated fraud detection controls in place
- 2) Educate employees and others about the various forms of health benefits fraud so that those providing or receiving services can help to: identify, report and stop fraud
- 3) Help to deter those thinking about committing benefit fraud against the City

CONTACT

Beverly Romeo-Beehler, Auditor General

Tel: 416- 392-8461, Fax: 416-392-3754, Email: Beverly.Romeo-Beehler@toronto.ca

Laura Wright, Advisor: Investigations, Research & Strategic Communications, Auditor General's Office

Tel: 647-460-5247, Fax: 416-392-3754, Email: Laura.Wright@toronto.ca

SIGNATURE

Beverly Romeo-Beehler
Auditor General

ATTACHMENT

Attachment 1: Employee Health Benefits Fraud Involving a Medical Spa