

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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January 23, 2023

The Honorable Kiran Ahuja  
Director  
U.S. Office of Personnel Management  
1900 E Street, N.W.  
Washington, D.C. 20415

Dear Director Ahuja:

The Committee on Oversight and Accountability is conducting oversight of the Office of Personnel Management’s (OPM) failure to prevent waste, fraud and abuse in the Federal Employees Health Benefits program (FEHB). On January 9, 2023, the U.S. Government Accountability Office (GAO) revealed that FEHB is riddled with ineligible “participants” who are receiving benefits under the program.<sup>1</sup> GAO estimates that “the program may be spending up to \$1 billion per year on payments for ineligible members.”<sup>2</sup> This is a flagrant waste of funds and may be driving up premium costs for eligible participants. The Committee seeks documents and information to understand how these improper payments were allowed to happen, and what OPM is doing to fix this problem moving forward.

GAO’s report suggests OPM has been aware of this problem for years but has consistently failed to address it effectively. As GAO recounts, OPM acknowledged the possibility of a problem when it issued regulations in 2018 allowing agencies and participating insurers to request proof of eligibility for federal employees’ family members.<sup>3</sup> OPM did not, however, actually require proof of eligibility.<sup>4</sup> Three years later, OPM issued verification requirements for “certain types” of new enrollments, but left other new enrollments and all pre-existing enrollments out of this verification regime.<sup>5</sup> To this day, according to GAO, “OPM does not plan to establish a monitoring mechanism to identify and remove ineligible family members who already have FEHB coverage.”<sup>6</sup> Making matters worse, GAO determined OPM’s annual

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<sup>1</sup> U.S. Government Accountability Office, *Federal Employees Health Benefits Program: Additional Monitoring Mechanisms and Fraud Risk Assessment Needed to Better Ensure Member Eligibility*, Report No. GAO-23-10522 (Dec. 9, 2022; released Jan. 9, 2023).

<sup>2</sup> *Id.* at 1, 15.

<sup>3</sup> *Id.* at 1, 10-11

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 1, 11.

<sup>6</sup> *Id.* at 1; *see also id.* at 12, 14.

fraud risk assessment of the FEHB program fails to cover “fraud risks associated with ineligible members in the program.”<sup>7</sup>

As GAO highlighted in its report, OPM’s failures in the instance of *one* enrollee’s family, which contained just two ineligible individuals, led to the wrongful payout of \$100,000 in benefits over twelve years.<sup>8</sup> Imagine the levels of waste, fraud and abuse that OPM could already have uncovered and corrected if it had in place during each relevant year adequate verification, monitoring and auditing requirements for the FEHB program—which has covered approximately 8 million members annually since 2000.<sup>9</sup> Yet GAO stressed in its report that “OPM has not required employing offices or carriers to verify eligibility *since the program’s inception in 1960[.]*”<sup>10</sup> If GAO’s \$1 billion estimate of annual impacts is correct, it is entirely possible OPM’s failure has led to several tens of billions of dollars in waste, fraud and abuse over the program’s 60-plus year existence.

To assist the Committee in understanding what OPM is doing to remedy this situation, please provide the following documents and information no later than February 6, 2023:

- 1) All documents and communications since the inception of rulemaking for OPM’s 2018 rule “Federal Employees Health Benefits Program: Removal of Eligible and Ineligible Individuals from Existing Enrollments”<sup>11</sup> (Removal Rule) that document the history of OPM’s awareness of the participation of ineligible participants in the FEHB program;
- 2) All documents and communications containing any OPM analysis of or decision to adopt the measures in the Removal Rule, or whether subsequently to adopt measures in addition to the Removal Rule, to mitigate or eliminate the problem of ineligible individuals participating in the FEHB program;
- 3) All documents and communications documenting the annual amount of money paid out under the FEHB program to pay for benefits claims by ineligible participants in the program;
- 4) All documents and communications documenting whether and, if so, by how much OPM’s failure to remove ineligible individuals from FEHB participation has impaired in any year the availability of funds to cover FEHB claims on behalf of eligible individuals, or contributed in any year to increased premium costs for FEHB enrollees; and

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<sup>7</sup> *Id.* at 1, 20-21.

<sup>8</sup> *Id.* at 1, 21.

<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.* at 12 (emphasis added).

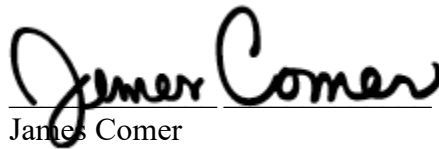
<sup>11</sup> 83 Fed. Reg. 3059 (Jan. 23, 2018).

- 5) All documents and communications documenting OPM's plans and timeline to achieve full compliance with recommendations made by GAO in GAO Report No. GAO-23-10522.

Additionally, please make arrangements to schedule a staff-level briefing on this matter, including OPM's plans to achieve full compliance with GAO's four recommendations, as soon as possible, but no later than January 30, 2023.

To arrange for the delivery of responsive documents, schedule the briefing, or ask any related follow-up questions, please contact Committee on Oversight and Accountability Majority staff at (202) 225-5074. The Committee on Oversight and Accountability has primary legislative jurisdiction over the "[f]ederal civil service," "[g]overnment management and accounting measures, generally," and the "[o]verall economy, efficiency, and management of government operations and activities" pursuant to House Rule X. Additionally, the Committee is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,



James Comer  
Chairman

Committee on Oversight and Accountability

cc: The Honorable Jamie B. Raskin, Ranking Member  
Committee on Oversight and Accountability