

Department of Children's Services

**Falsification of State Insurance Forms and
Subsequent Submission of Improper Claims on
Behalf of an Ineligible Recipient**

OCTOBER 1999

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Editor

October 28, 1999

The Honorable Don Sundquist, Governor
and
Members of the General Assembly
and
The Honorable John Ferguson, Commissioner
Department of Finance and Administration
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is a special report on our review of falsification of state insurance forms by Ms. Sammie D. Mitchell, Case Manager II, Tennessee Preparatory School, Department of Children's Services, and subsequent improper payments of insurance claims totaling \$52,983.33 on behalf of her ex-spouse, Mr. Robert L. Mitchell. Ms. Mitchell had been employed by Tennessee Preparatory School since September 1, 1990. Before being employed by the Tennessee Preparatory School, Ms. Mitchell had been employed by the Department of Mental Health.

During our review, Ms. Mitchell admitted listing Mr. Mitchell as her legal spouse on state insurance forms dated August 24, 1990, and November 15, 1991, even though they were not married. The Mitchells divorced on May 2, 1988. As a result of this misrepresentation, the State of Tennessee Comprehensive Medical and Hospitalization Program paid \$52,983.33 in medical benefits on behalf of Mr. Mitchell to which he was not entitled. Of this amount, \$46.19 was paid directly to Ms. Mitchell through reimbursements for medication Mr. Mitchell purchased.

Ms. Mitchell was placed on paid administrative leave on April 14, 1999. Ms. Mitchell's employment with the preparatory school was terminated for gross misconduct, effective April 30, 1999. Ms. Mitchell appealed her termination on May 6, 1999. On June 2, 1999, Ms. Mitchell requested to bypass a level-four grievance hearing and to proceed to a level-five grievance

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hearing. On July 9, 1999, the department responded by letter, instructing Ms. Mitchell to appeal directly to the Civil Service Commission within 30 days of receipt of the letter. According to Civil Service Commission staff, Ms. Mitchell had not filed an appeal as of October 26, 1999. Consequently, Ms. Mitchell's 30-day appeal period had lapsed.

On March 26, 1999, this matter was referred to the District Attorney General's Office, Twentieth Judicial District (Davidson County), for possible criminal prosecution. Ms. Mitchell was arrested on August 31, 1999, and charged with theft of property over \$10,000, a class C felony under *Tennessee Code Annotated*, 39-14-105(4).

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/msc/rm

State of Tennessee

A u d i t H i g h l i g h t s

Comptroller of the Treasury

Division of State Audit

Special Report

Department of Children's Services

**Falsification of State Insurance Forms and Subsequent
Submission of Improper Claims on Behalf of an Ineligible Recipient**

October 1999

REVIEW OBJECTIVES

The objectives of the review were to determine whether Ms. Sammie D. Mitchell, Case Manager II, Tennessee Preparatory School, Department of Children's Services, falsified state insurance forms and inappropriately claimed her ex-spouse, Mr. Robert L. Mitchell, as a dependent in her state insurance plan; to determine the amount the State of Tennessee Comprehensive Medical and Hospitalization Program (hereinafter referred to as the State Plan) paid in medical benefits on behalf of Mr. Mitchell to which he was not entitled; and to refer our findings to the Department of Children's Services, the Office of the State Attorney General, and the Office of the District Attorney General.

RESULTS OF THE REVIEW

During our review, Ms. Mitchell admitted listing her ex-spouse, Mr. Mitchell, as her legal spouse on state insurance forms she signed, even though they were not married. As a result of this misrepresentation, the State Plan paid \$52,983.33 in medical benefits on behalf of Mr. Mitchell to which he was not entitled. Ms. Mitchell had been an employee of the Tennessee Preparatory School since September 1, 1990. Ms. Mitchell was placed on paid administrative leave on April 14, 1999. Ms. Mitchell's employment with the Tennessee Preparatory School was terminated for gross misconduct, effective April 30, 1999. Ms. Mitchell appealed her termination on May 6, 1999. On June 2, 1999, Ms. Mitchell requested to bypass a level-four grievance hearing and to proceed to a level-five grievance hearing. On July 9, 1999, the department responded by letter, instructing Ms. Mitchell to appeal directly to the Civil Service Commission within 30 days of receipt of the letter. According to Civil Service Commission staff, Ms. Mitchell had not filed an appeal as of October 26, 1999. Consequently, Ms. Mitchell's 30-day appeal period had lapsed.

On March 26, 1999, this matter was referred to the District Attorney General's Office, Twentieth Judicial District (Davidson County), for possible criminal prosecution. Ms. Mitchell was arrested on August 31, 1999, and charged with theft of property over \$10,000, a class C felony under *Tennessee Code Annotated*, 39-14-105(4).

"Audit Highlights" is a summary of the special report. To obtain the complete special report, please contact

Comptroller of the Treasury, Division of State Audit
1500 James K. Polk Building, Nashville, TN 37243-0264
(615) 741-3697

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INTRODUCTION

ORIGIN OF THE REVIEW

On March 26, 1999, the Manager of Integrity Review, Division of Insurance Administration, Department of Finance and Administration, notified the Division of State Audit by memorandum of an apparent falsification of state insurance forms by Ms. Sammie D. Mitchell, Case Manager II, Tennessee Preparatory School, Department of Children's Services. According to the memorandum, claims totaling \$52,983.33 were paid on behalf of her ex-spouse, Mr. Robert L. Mitchell, during the period June 11, 1988, through October 14, 1998. Ms. Mitchell had been an employee of the Tennessee Preparatory School since September 1, 1990. Before being employed by the Tennessee Preparatory School, Ms. Mitchell had been employed by the Department of Health.

As a result of an eligibility audit of the state-administered health insurance plans by the Division of Insurance Administration, it was discovered that Ms. Mitchell had not removed her ex-spouse from her insurance plan on June 1, 1988, following their May 2, 1988, divorce. On August 24, 1990, Ms. Mitchell completed a form for the Tennessee Insurance System listing Mr. Mitchell as an eligible dependent. On November 15, 1991, Ms. Mitchell completed a change of enrollment form and recorded that Mr. Mitchell was her legal spouse on her insurance plan even though they were not married. Ms. Mitchell signed both these forms claiming Mr. Mitchell as her legal spouse.

The Division of State Audit began a review of the matter on March 26, 1999.

OBJECTIVES OF THE REVIEW

The objectives of the review were

1. to determine whether Ms. Mitchell, Case Manager II, Tennessee Preparatory School, falsified state insurance forms and inappropriately claimed her ex-spouse, Mr. Mitchell, as a dependent in her state insurance plan;
2. to determine the amount the State of Tennessee Comprehensive Medical and Hospitalization Program (hereinafter referred to as the State Plan) paid in medical benefits on behalf of Mr. Mitchell to which he was not entitled; and

3. to refer our findings to the Department of Children's Services, the Office of the State Attorney General, and the Office of the District Attorney General.

SCOPE OF THE REVIEW

Our review included an examination of state insurance forms Ms. Mitchell signed on August 24, 1990, and November 15, 1991; a marital status survey dated October 28, 1998; a printout of medical claims paid by the State of Tennessee on behalf of Mr. Mitchell for the period June 11, 1988, through May 24, 1998; and the divorce decree of Mr. and Ms. Mitchell, dated May 2, 1988. On April 13, 1999, Ms. Mitchell was interviewed by staff of the Office of the District Attorney General (Davidson County), the Department of Children's Services, and the Division of State Audit.

DETAILS OF THE REVIEW

Ms. Mitchell's situation came to the attention of the Division of Insurance Administration as a result of a datamatch performed by the division between the Tennessee Insurance System (TIS) dependent files and divorce records from the state Health Department for the years 1988 to 1997. That datamatch disclosed that Ms. Mitchell had divorced Mr. Mitchell on May 2, 1988. However, Ms. Mitchell's TIS record showed Mr. Mitchell as her dependent as of October 1998.

In October 1998, the Division of Insurance Administration sent a questionnaire to Ms. Mitchell, the insurance plan participant who listed Mr. Mitchell as a dependent. According to the questionnaire completed by Ms. Mitchell, she divorced Mr. Mitchell on May 2, 1988. Based on this information, Mr. Mitchell was not eligible to receive medical benefits under Ms. Mitchell's insurance plan after May 2, 1988.

REVIEW OF STATE INSURANCE CHANGE/ENROLLMENT FORMS MS. MITCHELL SUBMITTED

After our office was notified of Mr. Mitchell's apparent ineligibility, we reviewed information relative to Ms. Mitchell's 1988 divorce and State Plan claims made on behalf of Mr. Mitchell after their divorce. We found that on May 2, 1988, a Final Divorce Decree was filed in the Davidson County Circuit Court, effectuating the divorce between Mr. and Ms. Mitchell. However, Ms. Mitchell did not complete an "Employee Group Insurance Program Dependent Listing Card" to terminate her ex-spouse from her insurance plan coverage as required by the State of Tennessee Group Insurance Plan Employees Handbook.

On August 24, 1990, Ms. Mitchell was requested by the Division of Insurance Administration to complete a dependent list. The form Ms. Mitchell completed and signed states, "I confirm that all of the information provided above is accurate. I understand that misrepresentation may constitute fraud and may subject me to loss of benefits through the State

Group Insurance Program.” Ms. Mitchell listed Mr. Mitchell as her legally married spouse, even though they were not married.

On June 20, 1991, TIS requested Ms. Mitchell’s employer, the Tennessee Preparatory School, to inform Ms. Mitchell that she must furnish the business office a copy of a Social Security card for insurance purposes for Mr. Mitchell. Ms. Mitchell did provide the information to the business office following the request.

On November 15, 1991, Ms. Mitchell completed a “State Group Insurance Program Enrollment/Change Form” and added Mr. Mitchell to her dental insurance plan by listing him as her husband. This form contains the following statement: “I confirm that all of the information provided above is accurate.” Ms. Mitchell signed this form indicating that the information she had provided was correct and effectuating dental insurance coverage for Mr. Mitchell.

INTERVIEW WITH MS. MITCHELL ON APRIL 13, 1999

Staff of the Division of State Audit, the Department of Children’s Services, and the Office of the District Attorney General interviewed Ms. Mitchell on April 13, 1999. During her interview, Ms. Mitchell admitted falsifying state insurance forms on August 24, 1990, and November 15, 1991, when she maintained Mr. Mitchell on her plan and added dental coverage for him, even though they were not married. Ms. Mitchell told us that she and Mr. Mitchell had continued to live together, so she kept him on her policy. She stated that she knew that after their divorce, Mr. Mitchell did not have family to look after him or insurance and that she wanted to ensure he had health coverage. Ms. Mitchell stated that she understood she was responsible for adhering to the state insurance guidelines requiring true and accurate information on enrollment forms. However, she stated that she thought that continuing to pay family coverage premiums legitimized her decision to maintain Mr. Mitchell on her insurance plan.

DISCIPLINARY ACTION BY THE DEPARTMENT

In an April 14, 1999, letter to Ms. Mitchell, Mr. Dan Burks, Director, Tennessee Preparatory School, Department of Children’s Services, placed Ms. Mitchell on administrative leave with pay, pending a due process hearing on Friday, April 16, 1999. The letter stated that the leave was the result of gross misconduct.

Following an April 16, 1999, due process hearing on the matter, Ms. Mitchell’s employment with the Tennessee Preparatory School was terminated for gross misconduct, effective April 30, 1999. Her 18.5 hours of accrued annual leave were applied to her period of paid administrative leave. Ms. Mitchell appealed her termination by letter on May 6, 1999. On June 2, 1999, Ms. Mitchell requested to bypass a level-four grievance hearing and to proceed to a level-five grievance hearing. On July 9, 1999, the department responded by letter, instructing Ms. Mitchell to appeal directly to the Civil Service Commission within 30 days of receipt of the letter. According to Civil Service Commission staff, Ms. Mitchell had not filed an appeal as of October 26, 1999. Consequently, Ms. Mitchell’s 30-day appeal period had lapsed.

VIOLATIONS OF LAW

Based on presently available information, Ms. Mitchell's actions violated *Tennessee Code Annotated*, Section 39-16-402, which states, "A public servant commits an offense who, with intent to obtain a benefit or to harm another, intentionally or knowingly ... receives any benefit not otherwise authorized by law." Ms. Mitchell's actions also violated *Tennessee Code Annotated*, Section 39-16-504: "It is unlawful for any person to knowingly make a false entry in, or false alteration of, a governmental record; Make, present, or use any record, document or thing with knowledge of its falsity and with intent that it will be taken as a genuine governmental record." In addition, Ms. Mitchell violated *Tennessee Code Annotated*, Section 39-14-103: "A person commits theft of property if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner's effective consent." Ms. Mitchell further violated *Tennessee Code Annotated*, Section 39-14-133: "Any person who intentionally presents or causes to be presented a false or fraudulent claim, or any proof in support of such claim, for the payment of a loss, or other benefits, upon any contract of insurance coverage ... with intent that the same may be presented or used in support of such claim, is punished as in the case of theft."

REFERRAL TO DISTRICT ATTORNEY GENERAL

On March 26, 1999, this matter was referred to the District Attorney General's Office, Twentieth Judicial District (Davidson County), Tennessee, for possible criminal prosecution.

On September 1, 1999, the District Attorney General's Office informed the Division of State Audit that Ms. Mitchell was arrested on August 31, 1999, and charged with theft of property over \$10,000, a class C felony under *Tennessee Code Annotated*, 39-14-105(4).



STATE OF TENNESSEE
 DEPARTMENT OF CHILDREN'S SERVICES
 TENNESSEE PREPARATORY SCHOOL
 OFFICE OF THE SUPERINTENDENT
 1200 Foster Avenue
 Nashville, Tennessee 37210-4494
 (615) 741-4022

MEMORANDUM

TO: Sammie Mitchell, Case Manager 2
FROM: George W. Hattaway, Commissioner, D.C.S. *GH*
THRU: Dan Burks, Superintendent *DB*
DATE: April 14, 1999
SUBJECT: Administrative Leave With Pay

Effective this date you are being placed on administrative leave with pay pending a due process hearing tentatively scheduled for Friday, April 16, 1999 at 2:00 p.m. You will need to insure that my office is aware of how to contact you during the time you are on administrative leave.

You will not discuss this matter and/or associated issues with anyone this includes other staff members (past, present and future), students (past, present and future), all persons associated with or under contract to this department, any members of the community, and especially any individuals whom you may feel are involved in making the subject allegations. Any breach of the confidentiality of this matter by you prior to its conclusion will be looked upon severely.

Tennessee Department of Personnel:

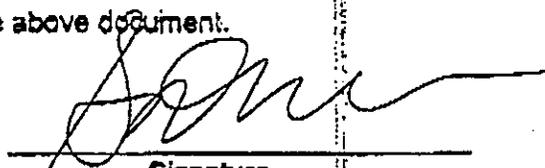
1120-10.06	Index #8	<u>Gross Misconduct</u>
1120-10.06	Index #18	<u>Insubordination</u>
1120-10.06	Index #21	<u>Betrayal of Confidential Information</u>

Tennessee Code Annotated:

39-16-402 - Official Misconduct
 39-16-404 - Misuse of Official Information

I acknowledge receipt and understanding of the above document.

DATE: 4/14/99



 Signature



STATE OF TENNESSEE
DEPARTMENT OF CHILDREN'S SERVICES
TENNESSEE PREPARATORY SCHOOL
OFFICE OF THE SUPERINTENDENT
1200 Foster Avenue
Nashville, Tennessee 37210-4494
(615) 741-4022

MEMORANDUM

TO: Ms. Sammie Mitchell
Case Manager 2

FROM: Mr. Dan Burks 
Superintendent

DATE: April 14, 1999

SUBJECT: Due Process Hearing

It has been alleged that:

- You did violate Tennessee Code Annotated (TCA) 39-16-402 Official Misconduct, in that you, as a public servant, committed an offense by knowingly and intentionally allowed your former husband to receive health benefits not authorized by law. This deception began on or about May 11, 1988 and continued through November 6, 1998.

This action as noted is also defined as a violation of the State of Tennessee Department of Personnel Rules , Chapter 1120-10-.06, Index # 8, to wit: Gross Misconduct.

- On August 23, 1990 and again on November 15, 1991, you did violate T.C.A. 39-16-504; Destruction of and Tampering with Governmental Records in that you knowingly and intentionally made a false entry on a governmental record, to wit: State Insurance Records. You falsely identified Mr. Robert Mitchell as your legally married spouse, when in fact, he was not.

This violation of law constitutes another act of Gross Misconduct as defined in TDOP 1120-10-.06, Index # 8.

Due Process Notification, Mitchell

April 14, 1999

Page 2

- Beginning on or about March 17, 1998 and continuing through October 23, 1998 you did feloniously and intentionally obtain medical services by deception and fraudulent means in order to benefit another (Robert Mitchell), who was not entitled thereto.

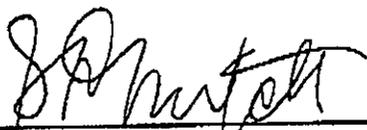
This action by you constituted a violation of T.C.A. 39-14-101, Theft. This violation constitutes a Class B Felony Offense due to the amount of funds exceeding eighty-five thousand (\$85,000) dollars. The reported actions likewise constitutes a violation of TDOP 1120-10-.06, Index #8, to wit: Gross Misconduct.

The totality of the circumstances as outlined also detail specific violations of TDOP Rules 1120-10-.06 Index # 10, Misappropriation of State Funds, Property or Equipment, Index #11, Falsification of an Official Document relating to or affecting employment.

To determine the validity of these allegations and determine if any/or what type of disciplinary action should be taken, I have scheduled a Due Process Hearing to be conducted at 2:00 p.m., Friday, April 16, 1999, in my office in the administration building.

The purpose of this Due Process Hearing is to provide you the opportunity to submit documentation (oral or written) to show that the allegations are not true and/or matters in extenuation or mitigation which would cause me to believe that punishment is not warranted. Should you fail to appear at the designated time and location, Due Process will have been considered served and I will make a decision based on all available information. If you are unable to attend, you must notify my office forty-eight (48) hours prior, so the Due Process Hearing may be rescheduled if warranted.

I acknowledge receipt and understanding of the above document.



Sammie D. Mitchell

April 14, 1999



STATE OF TENNESSEE
DEPARTMENT OF CHILDREN'S SERVICES
TENNESSEE PREPARATORY SCHOOL
OFFICE OF THE SUPERINTENDENT
1200 Foster Avenue
Nashville, Tennessee 37210-4494
(615) 741-4022

2061037 242
MEMORANDUM

TO: Sammie D. Mitchell, SSAN: 415-62-1666
Social Counselor 2

FROM: George W. Hattaway *GWH*
Commissioner, Department of Children's Services

THROUGH: Dan Burks *DB*
Superintendent

DATE: April 21, 1999

SUBJECT: Termination

On April 16, 1999 a Due Process Hearing was conducted concerning allegations that:

- You violated Tennessee Code Annotated (TCA) 39-16-402 Official Misconduct, in that you, as a public servant, committed an offense by knowingly and intentionally allowing your former husband to receive health benefits not authorized by law. This deception began on or about May 11, 1988 and continued through November 6, 1998. This action as noted is also defined as a violation of the State of Tennessee Department of Personnel Rules, Chapter 1120-10-.06, Index # 8, to wit: Gross Misconduct.
- On August 23, 1990 and again on November 15, 1991, you violated T.C.A. 39-16-504; Destruction of and Tampering with Governmental Records in that you knowingly and intentionally made a false entry on a governmental record, to wit: State Insurance Records. You falsely identified Mr. Robert Mitchell as your legally married spouse, when in fact, he was not. This violation of law constitutes another act of Gross Misconduct as defined in TDOP 1120-10-.06, Index # 8.

- Beginning on or about March 17, 1988 and continuing through October 23, 1998 you did feloniously and intentionally obtain medical services by deception and fraudulent means in order to benefit another (Robert Mitchell), who was not entitled thereto.

This action by you constituted a violation of T.C.A. 39-14-101, Theft. This violation constitutes a Felony Offense due to the amount of funds exceeding fifty thousand (\$50,000.) dollars. The reported actions likewise constitute a violation of TDOP 1120-10-.06, Index #8, Gross Misconduct.

The totality of the circumstances as outlined also detail specific violations of TDOP Rules 1120-10-.06 Index # 10, Misappropriation of State Funds, Property or Equipment, Index #11, Falsification of an Official Document relating to or affecting employment.

After careful consideration of all available facts it is my decision that your employment as a Social Counselor 2 shall be terminated. The law, rules and regulations entitle you to a least ten (10) calendar days notice of your separation from State service, therefore, the effective date of your dismissal will be the close of business on April 30, 1999. Since your termination is for gross misconduct your ten calendar days notice will be deducted from your annual leave balance and you will forfeit any annual leave you may have accrued in excess of the ten days. Further, you will not be recommended for rehire with the State of Tennessee.

You may appeal this decision through the Appeal Procedures for Employees of the State Special Schools as set out in the State Rule 0520-4-4 et al. For procedures under this rule, the Commissioner of the Department of Education has designated the Commissioner of the Department of Children's Services to hear appeals concerning the Tennessee Preparatory School. If you wish to appeal through the appeal procedures, you should obtain a grievance form (CS-0517) from your facility's personnel officer or Central Office Personnel. You may review the appeal procedures in Chapter 0520-4-4 Rules of the Tennessee Department of Education. Any appeal must be filed within thirty (30) calendar days after receiving this notification.

If you have any questions concerning your appeal rights on any disciplinary action, you should contact Dezanne Russell at (615) 741-9185.