



OIG DEVELOPMENTS

24TH ANNUAL HCCA COMPLIANCE INSTITUTE
MARCH 30, 2020

Gregory E. Demske

Chief Counsel
HHS Office of Inspector General



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OIG Developments

- COVID-19
- HHS Top Challenges
- OIG in FY 2019
- Legal Developments
- Select Industry Sectors



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gov FDA Emergency Use A... phe.gov Can't reach this p... Can't reach this p... Medicare Expand... Can't reach this p... Int

An official website of the United States government [Here's how you know](#)

U.S. Department of Health and Human Services
Office of Inspector General

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About OIG Reports Fraud Compliance Exclusions Newsroom Careers **COVID-19 Portal**

COVID-19 Portal

Find all of OIG's COVID-19 information in one location.

[Go to the Portal](#)

What's New

March 24, 2020

- > [FAQ: Waiving Telehealth Cost-Sharing During COVID-19 Outbreak](#)
- > [Florida Made Almost \\$4 Million in Unallowable Capitation Payments for Beneficiaries Assigned Multiple Medicaid ID Numbers](#)
- > [Updated Corporate Integrity Agreements](#)

March 23, 2020

- > [Fraud Alert: COVID-19 Scams](#)
- > [Montana Medicaid Fraud Control Unit: 2019 Onsite Inspection](#)
- > [Read More What's New](#)

Enforcement Actions

March 17, 2020; U.S. Attorney's Office, Eastern District of Pennsylvania

- > [Doctor Who Pleaded Guilty to Health Care Fraud for "Goodie Bags" Agrees to Resolve Civil Fraud and Controlled Substance Liability for \\$2.8 Million](#)

March 13, 2020; U.S. Attorney's Office, Western District of Pennsylvania

- > [Southwestern PA Family Practitioner Charged in 161-Count Superseding Indictment with Dispensing Drugs in Exchange for Sex and Health Care Fraud](#)
- > [Villages Dermatologist Agrees To Pay More Than \\$1.7 Million To Settle False Claims Act Liability For Inflated Medicare Claims](#)

Most Shared This Week

- 1 [Inappropriate Denial of Services and Payment in Medicare Advantage](#)
- 2 [Hospice Home Care - Frequency of Nurse On-Site Visits to Assess Quality of Care and Services](#)
- 3 [CMS Could Take Actions To Help States Comply With Federal Requirements Prohibiting Medicaid Payments for Inpatient Hospital...](#)
- 4 [Cleveland Clinic Lerner College of Medicine Inappropriately Drew Down Hurricane Sandy Disaster Relief Act Funds and Did Not...](#)
- 5 [Open Payments Data: Review of Accuracy, Precision, and Consistency in Reporting](#)

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COVID-19 Portal

Last Updated: 03-24-2020

COVID-19 Fraud

Infectious Disease Preparedness & Response

Telehealth Cost-Sharing

Resources

- [Centers for Disease Control and Prevention](#)
- [Food and Drug Administration](#)
- [Federal Emergency Management Agency](#)

News

03-24-2020

- > [Frequently Asked Questions on Waiving Telehealth Cost-Sharing During COVID-19 Outbreak](#)

03-24-2020

- > [The HHS OIG Headquarters Offices in the Cohen Building in Washington, D.C., will be closed starting Tuesday, March](#)

COVID-19 Questions

Submit your questions regarding OIG's authorities during the COVID-19 public health emergency.

HHS OIG COVID-19 Questions

Share this Page

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COVID-19

- First Priority is Patient Care
- Flexibilities
- Fraud Investigations
- Evaluations
- Audits
- Legal Developments



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Flexibilities

- Minimize Burden
- Covid-Related Resource Issues
- OIG Deadlines
- Extensions
- Accommodations



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OIG Coordination

- HHS
- CMS
- DOJ
- MFCUs
- Non-Governmental Stakeholders



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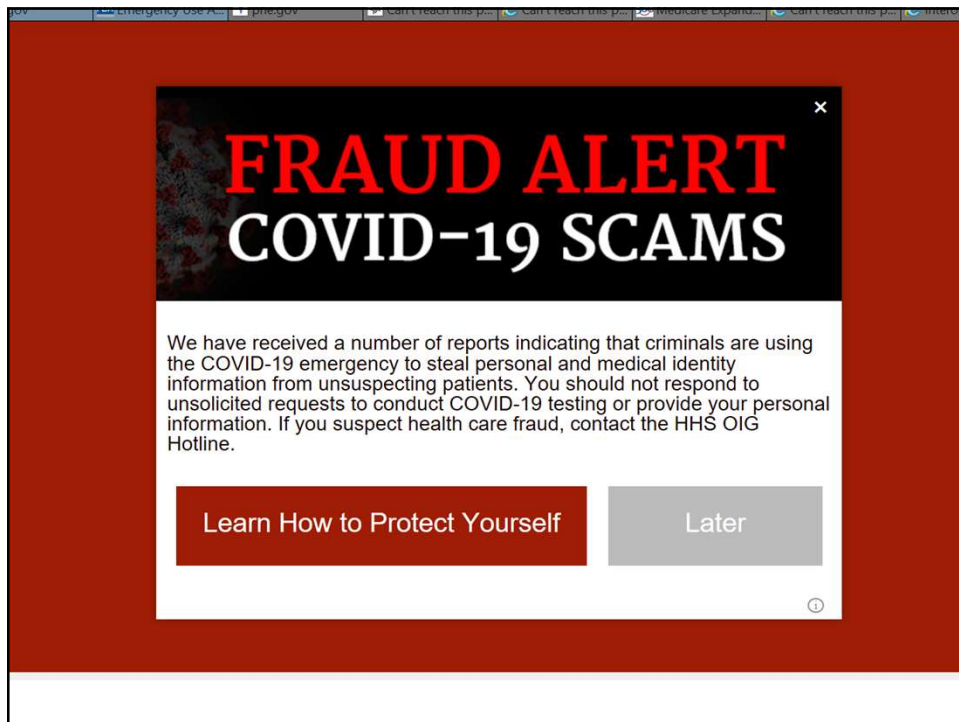


Investigations


- Vigilant Investigation of Wrongdoers Exploiting Emergency
- Fraud on Beneficiaries
 - Fake vaccines
 - Cyber
 - See Fraud Alert
- Prescriptions
- More



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Department of Justice

- AG Urges Americans to Report COVID-19 Fraud
- Coronavirus Fraud Coordinator in every US Attorney's Office
- National Center for Disaster Fraud (NCDF)
 - Telephone (1-866-720-5721)
 - E-mail (disaster@leo.gov)

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OIG Emergency Reviews

- Past Work
- Hospital Preparedness
- Repatriation and Quarantine
- Medicaid Nursing Home Life Safety and Emergency Preparedness
- More to Come



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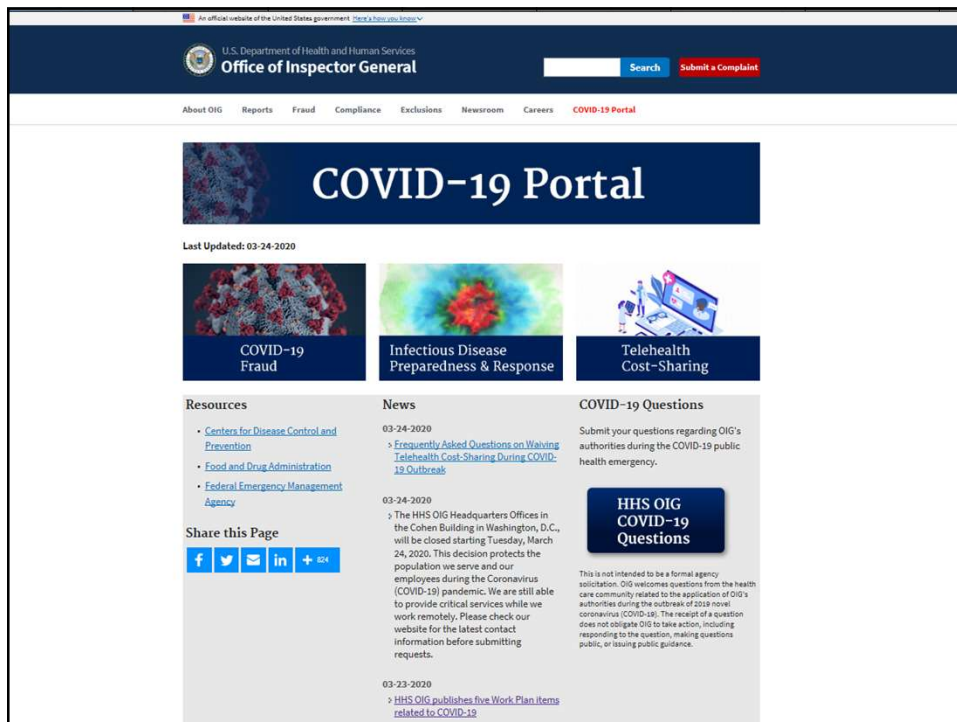


Legal Issues


- Provide Flexibility and Protect Patients/Programs
- Secretary's Waiver Authorities
 - Section 1135 of the Social Security Act
- OIG Consideration of Context
- Policy Statement on Telehealth
- FAQs



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Other OIG Developments

- Big Picture
 - HHS Top Management and Performance Challenges
 - OIG Strategic Plan
 - OIG Priorities
- OIG in FY 2019
- OIG Legal Developments
- Selected Industry Segments



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Emergency Use Author... hhs.gov HHS AIDS Attorney General W... HHS OIG COVID-19...

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2019 Top Management & Performance Challenges Facing HHS

2019 Top Management and Performance Challenges Facing HHS Overview

Ensuring the Financial Integrity of HHS Programs

Delivering Value, Quality, and Improved Outcomes in Medicare and Medicaid

Protecting the Health and Safety of HHS Beneficiaries

Safeguarding Public Health

Harnessing Data to Improve Health and Well-Being of Individuals

Working Across Government to Provide Better Service to HHS Beneficiaries





- 1 [Ensuring the Financial Integrity of HHS Programs](#)
- 2 [Delivering Value, Quality, and Improved Outcomes in Medicare and Medicaid](#)
- 3 [Protecting the Health and Safety of HHS Beneficiaries](#)
- 4 [Safeguarding Public Health](#)
- 5 [Harnessing Data to Improve Health and Well-Being of Individuals](#)
- 6 [Working Across Government to Provide Better Service to HHS Beneficiaries](#)

[Top Management and Performance Challenges Archive](#)

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U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

OIG Priorities

| | Minimize Risks to Beneficiaries | Safeguard Programs from Improper Payments and Fraud |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Priority Outcomes |  <p>Protect beneficiaries from prescription drug abuse, including opioids</p> |  <p>Promote patient safety & accuracy of payments in home & community settings</p> |
| |  <p>Ensure health and safety for children served by HHS grants</p> |  <p>Strengthen Medicaid protections against fraud & abuse</p> |

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OIG in FY2019

- 163 Audit Reports Issued
- 46 Evaluation Reports Issued
- \$819,151,000 Expected Audit Recoveries
- \$913,475,000 Questioned Costs
- \$836,422,000 Potential Savings for HHS
- 582 New Audit & Evaluation Recommendations



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OIG in FY2019

- 341 Recommendations Implemented by HHS Operating Divisions
- \$5 Billion Expected Investigative Recoveries
- 809 Criminal Actions
- 695 Civil Actions
- 2,640 Exclusions



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OIG Legal Developments

- Regulatory Sprint to Coordinated Care
- Advisory Opinions
- Civil Money Penalties
- EMTALA
- CIAs
- Other



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Regulatory Sprint to Coordinated Care

- HHS – Multi-Agency Initiative
- Proposed Regulation – October 2019
- Seven Proposed New Safe Harbors
 - Value-Based Arrangements (Three)
 - Patient Engagement and Support
- Proposed Revisions to Safe Harbors



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Advisory Opinions

- Ad Op 20-02 – Financial assistance for travel, lodging, other expenses by a pharma company
- Ad Op 19-02 – Provision of limited-use cell phones to patients by pharma company
- Ad Op 19-03 – Provision of free in-home follow-up care for CHF or COPD patients by Medical Center



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OIG Civil Money Penalties

- Affirmative Litigation Branch
- 2019
- 126 Settlements
- \$53 Million



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EMTALA

- Maryland General Hospital
 - 106K
- Rockdale Medical Center
 - 70K
- Park Royal Hospital
 - 52K
- Transylvania Regional Hospital
 - 25K



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Corporate Integrity Agreements

- Board Compliance Oversight Responsibilities
- Management/CEO Certifications
- Risk Assessments
- Summary of Government Audits
- Risk-Based Claims Review
 - Including medical necessity



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Legal Developments

- Exclusions
- Self-Disclosures
- MFCUs



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Strike Force Locations



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Select Industry Sectors

- DME / Telemedicine
- Genetic Testing
- Hospice
- Laboratories
- Managed Care
- Opioids
- Skilled Nursing Facilities




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Genetic Testing SCAM


Scammers are offering Medicare beneficiaries “free” genetic testing or cheek swabs in order to obtain beneficiaries’ personal information for fraudulent purposes.

**Recruiter**

The recruiter (who may also be called a marketer or telemarketer), targets the beneficiary to take a genetic test in person or by mail.

**Doctor**

The doctor orders a test for the beneficiary even if it’s not medically necessary. The doctor gets a kickback from the recruiter for ordering the test.

**Lab**

The lab runs the test and receives the reimbursement payment from Medicare. The lab shares the proceeds of that payment with the recruiter.


The alleged scheme is current as of September 2019.

Learn More: oig.hhs.gov/geneticscam
Report Fraud: 1-800-HHS-TIPS or oig.hhs.gov/fraud/hotline

U.S. Department of Health and Human Services
Office of Inspector General


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Problem Areas in the Medicare Hospice Benefit




U.S. Department of Health
& Human Services
Office of Inspector General


oig.hhs.gov/hospice

**Beneficiaries have limited access to hospice quality of care information.**


Centers for Medicare & Medicaid Services (CMS) should improve its Hospice Compare website so beneficiaries can be more informed about the quality of care provided by each hospice.

**Most hospices that participate in Medicare have at least one deficiency in the quality of care they provide, and hundreds are poor performers.**

CMS should educate hospices about common deficiencies and increase oversight of hospices with a history of serious deficiencies.

**Hospice beneficiaries face barriers to making complaints, and hospice and surveyor reporting requirements are limited.**

CMS should make it easier to file complaints and strengthen hospice and surveyor reporting requirements.

**Hospices with patient harm cases do not always face serious consequences from CMS.**

CMS should seek statutory authority to extend beneficiary protections found in other health care settings to hospices and ensure remedies are available to address poor performers.

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Appalachian Region Takedown

Largest Ever Prescription Opioid Law Enforcement Operation, in terms of:

60 Defendants Charged

53 Medical Professionals Charged

Over **24K** Opioid Patients Affected

Over **350K** Opioid Prescriptions

Over **32M** Opioid Pills Prescribed

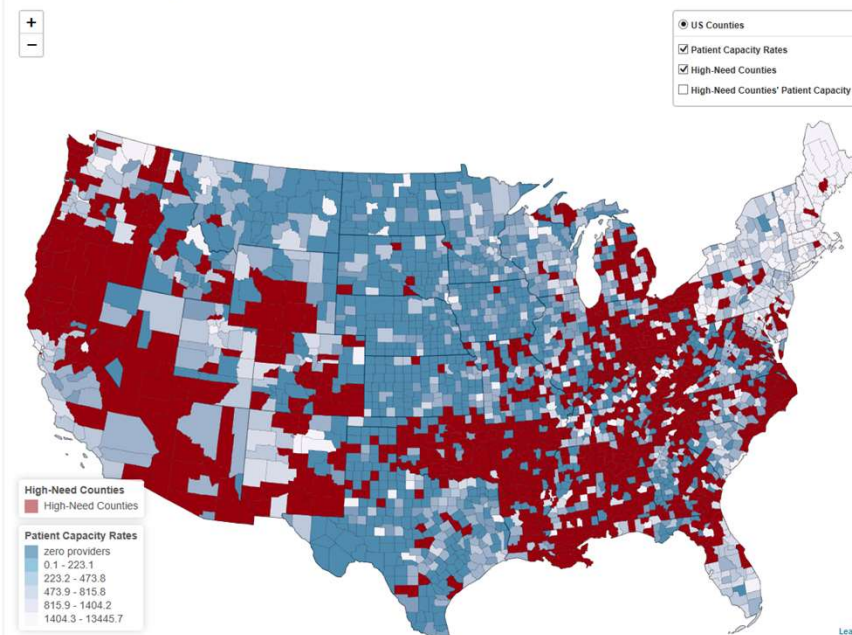


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Rates of Patient Capacity and OUD Treatment Need in the United States by County, 2018



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CMS Could Use Medicare Data to Identify Instances of Abuse or Neglect

Of nearly 35,000 Medicare claims from 2015–2017 indicating potential abuse or neglect:



had medical records containing evidence of potential physical abuse, sexual abuse, neglect or other maltreatment.



Source: OIG report A-01-17-00513, 2019

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Review of Potential Abuse and Neglect at Skilled Nursing Facilities

Nearly 38,000 high-risk Medicare emergency room claims in 2016 involved skilled nursing facility residents and identified serious conditions like:

- ✂ Traumatic brain injuries
- ✂ Broken legs
- ✂ Shoulder dislocations
- ✂ Medication errors



Source: OIG report A-01-16-00509, 2019

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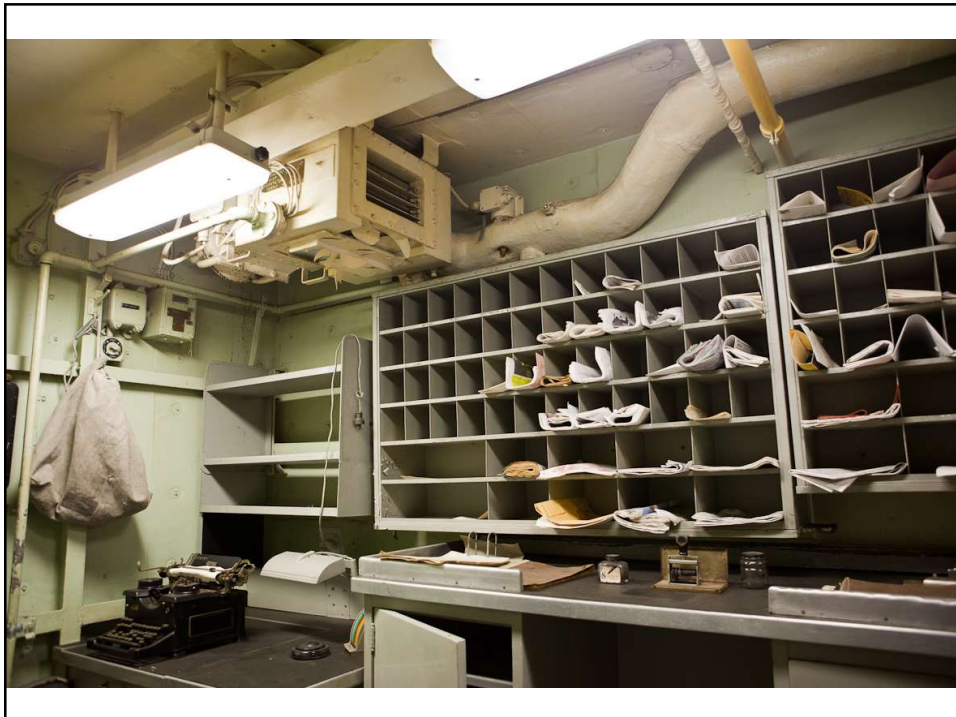
Review of Potential Abuse and Neglect at Skilled Nursing Facilities

If you suspect that your loved one is the victim of abuse or neglect, contact your local authorities immediately.



U.S. Department of Health and Human Services, Office of Inspector General

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Contacting OIG

- Do not send physical mail
- Email us
- Existing contact
- Process on website (oig.hhs.gov)
 - Self-Disclosures
 - Advisory Opinions
- Other OCIG: officeofcounsel@oig.hhs.gov



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The screenshot shows the official website of the U.S. Department of Health and Human Services Office of Inspector General. The header includes the HHS seal, the text "U.S. Department of Health and Human Services Office of Inspector General", and a search bar with a "Submit a Complaint" button. The main navigation bar lists: About OIG, Reports, Fraud, Compliance, Exclusions, Newsroom, Careers, and COVID-19 Portal. The main content area features a large "COVID-19 Portal" banner with a virus graphic. Below the banner, it states "Last Updated: 03-24-2020". There are three main sections: "COVID-19 Fraud" with a virus graphic, "Infectious Disease Preparedness & Response" with a virus graphic, and "Telehealth Cost-Sharing" with an illustration of people using a laptop. Below these are three columns: "Resources" with links to CDC, FDA, and FEMA; "News" with two dated items (03-24-2020) about telehealth cost-sharing and office closures; and "COVID-19 Questions" with a submission prompt and a "HHS OIG COVID-19 Questions" button. A "Share this Page" link is at the bottom left.

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