OIG DEVELOPMENTS
24TH ANNUAL HCCA COMPLIANCE INSTITUTE
MARCH 30, 2020

Gregory E. Demske
Chief Counsel
HHS Office of Inspector General

OIG Developments

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

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

Flexibilities

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

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

Investigations

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

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

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
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
2019 Top Management & Performance Challenges Facing HHS

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

OIG Priorities

Minimize Risks to Beneficiaries
- Protect beneficiaries from prescription drug abuse, including opioids
- Ensure health and safety for children served by HHS grants

Safeguard Programs from Improper Payments and Fraud
- Promote patient safety & accuracy of payments in home & community settings
- Strengthen Medicaid protections against fraud & abuse
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

OIG in FY2019

• 341 Recommendations Implemented by HHS Operating Divisions
• $5 Billion Expected Investigative Recoveries
• 809 Criminal Actions
• 695 Civil Actions
• 2,640 Exclusions
OIG Legal Developments

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

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
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

OIG Civil Money Penalties

- Affirmative Litigation Branch
- 2019
- 126 Settlements
- $53 Million
**EMTALA**

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

**Corporate Integrity Agreements**

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

- Exclusions
- Self-Disclosures
- MFCUs
Select Industry Sectors

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

NATIONWIDE BRACE SCAM

Scammers are contacting Medicare beneficiaries to offer “free or low-cost” braces. Those calling claim to be from Medicare. Remember, Medicare will not call beneficiaries with a “free or low-cost” offer. Contact Medicare.

The Alleged Scheme and Key Players

1. Medicare beneficiaries receive a call from someone claiming to be from Medicare or a Medicare-approved brace company.
2. The caller offers a free or low-cost brace.
3. The beneficiary agrees to receive the brace.
4. The beneficiary is directed to a website to complete a form.
5. The beneficiary is asked to provide personal information.

Key Players

- Scammers
- Medicare beneficiaries
- Brace company

Medical Equipment Company

- Scammers claim to be from a medical equipment company.
- Scammers offer a free or low-cost brace.
- Scammers collect personal information.
- Scammers instruct beneficiaries to complete a form.

Note: Medicare will never call beneficiaries to offer a brace or require personal information over the phone. Scammers may use Medicare’s logo or name to trick beneficiaries. If beneficiaries receive a call from Medicare, they should call Medicare at 1-800-MEDICARE to verify the call is legitimate.
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.

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

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

---

Problem Areas in the Medicare Hospice Benefit

- **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.

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

oig.hhs.gov/hospice
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

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

90% had medical records containing evidence of potential physical abuse, sexual abuse, neglect or other maltreatment.

Source: OIG report A-17-17-00953, 2019

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-16-16-00900, 2019
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.
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