

Health Care Fraud Overview

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HHS Overview

Executive Branch Leadership:
Secretary Sylvia Mathews Burwell

Employees: 75,500

Budget: Almost \$1 Trillion


Medicare/Medicaid:
Mandatory Spending is 85% of HHS Budget




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 **OIG - Who We Are**


- Established in 1976
- Forefront of efforts to fight fraud, waste and abuse in Medicare, Medicaid and more than 300 other DHHS programs
- Largest Inspector General's Office
- More than 1,600 employees dedicated to combating fraud, waste, and abuse and improving the efficiency of DHHS programs

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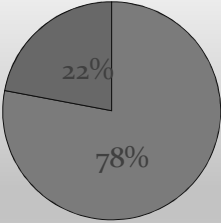
 **OIG Mission**

PROTECT

- Integrity of DHHS programs
- Health and welfare of program beneficiaries


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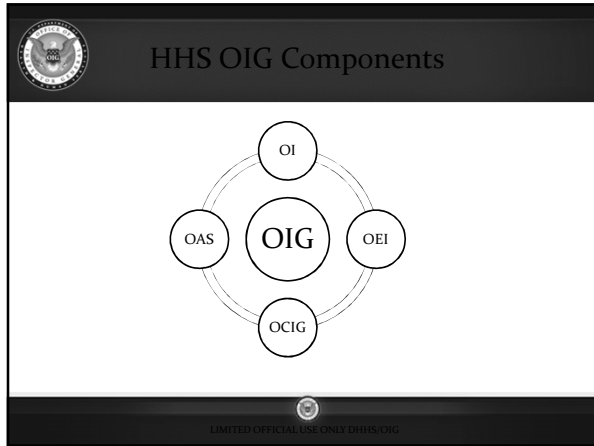
OIG WORK



Much of our work involves Medicare & Medicaid, but we also deal with the Affordable Care Act, FDA, CDC, Child Support Enforcement, NIH, Head Start, Unaccompanied Minors, and more.

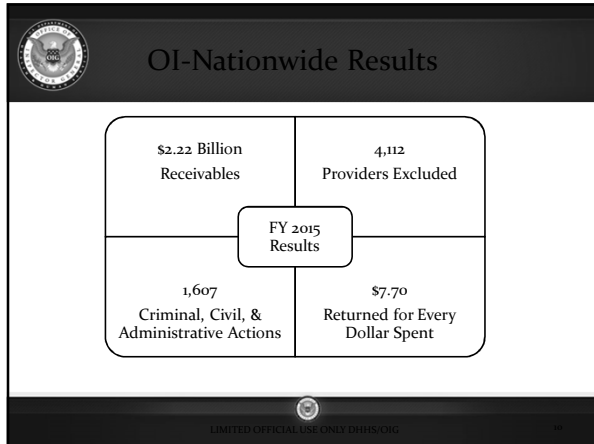
■ Medicare & Medicaid

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- ### OIG Component Responsibilities
- Office of Investigations – OI
 - Criminal, civil, administrative investigations of fraud
 - Office of Audit Services – OAS
 - Audits / examines the performance of HHS programs
 - Office of Evaluation and Inspections – OEI
 - National evaluations on significant issues
 - Office of Counsel to the Inspector General – OCIG
 - Legal services to OIG

- ### OI- Nationwide
- OI consists of HQ, 10 Regional Offices, and multiple Field Offices.
 - 583 employees nationwide, including 449 Criminal Investigators
 - Criminal Investigators are sworn Federal law enforcement officers and have the authority to carry weapons and execute search and arrest warrants.





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- OI Ohio**
- Two Offices in Cleveland and Columbus
 - 5 Agents in Cleveland
 - 5 Agents and 1 Analyst in Columbus
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- Ohio Caseload**
- 73% Criminal cases
 - 27% Civil, CMPL, Administrative
 - Almost all cases are prosecuted through the U.S. Attorneys Office.
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 **OI Ohio Results**


- CY 2013: \$18,047,024
- CY 2014: \$151,800,801
- CY 2015: \$93,091,762

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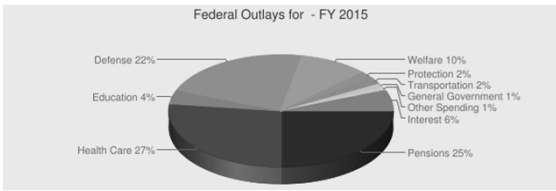
 **Law Enforcement Partners**

- U.S. Attorneys Office
- FBI
- DEA - Tactical Diversion Squad
- IRS-CID
- FDA-OCI
- Ohio Attorney General's Office, Medicaid Fraud Control Unit
- Ohio Bureau of Workers Compensation
- Local Law Enforcement
- State Boards (Medical, Chiropractor, Pharmacy)
- Private insurance companies (O.H.I.O. meetings)
- Citizens (hotline complaint, whistle blower...)


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 **Federal Budget**

Federal Outlays for - FY 2015



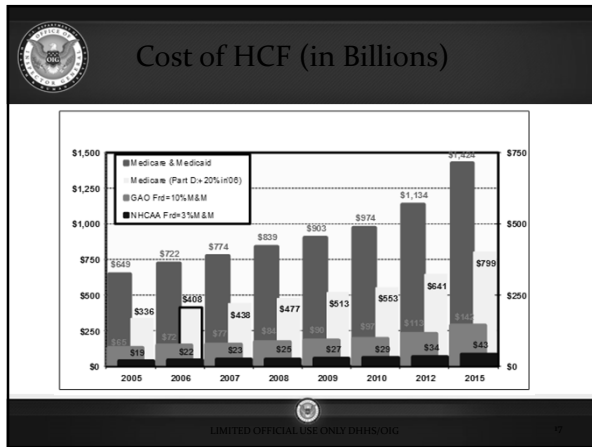
Category	Percentage
Health Care	27%
Pensions	25%
Defense	22%
Welfare	10%
Interest	6%
Education	4%
Protection	2%
Transportation	2%
General Government	1%
Other Spending	1%

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Federal Budget

- As federal health care spending increases, so does fraud.

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Wasted Money

We all pay for HCF:


- ↑ health insurance premiums
- ↑ co-payments
- ↑ taxes
- ↓ benefits
- Loss of benefits


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 **Vulnerabilities**


Medicare, Medicaid and Private Insurance are largely based on **Trust!!!**


- The belief that medical providers will do what's in the best interest of the patient and provide services which are medically necessary

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 **Investigations**

Medicare & Medicaid Fraud	Child Support Enforcement
INVESTIGATE	
Grant & Contract Fraud	Employee Misconduct Cybercrime Incidents

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 **How We Get Cases**

- Medicare Contractors (proactive data analysis)
- Private Insurance
- Other Law Enforcement Agencies
- Hotline
- Patients
- Employees
- Whistleblowers

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Medicare Part A - Allegations

<p>Hospitals</p> <p>Manipulation of Diagnosis Related Group</p> <p>Inflation of Reimbursement</p>	<p>Nursing Homes</p> <p>Manipulation of Resource Utilization Group</p> <p>Inflation of Reimbursement</p>
<p>Billing for Services Not Rendered</p> <p>Medically Unnecessary Services</p> <p>Payment of Kickbacks for Patient Referrals</p> <p>Up-coding</p>	
<p>Home Health Agencies</p> <p>PT/OT/ST</p> <p>Non-Homebound</p>	<p>Hospice</p> <p>Non-Terminal Patients</p> <p>Increasing the Level of Care</p>

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Medicare Part B - Allegations


<p>Physicians Services</p> <p>Billing for Services Not Rendered</p> <p>Medically Unnecessary Services</p>	<p>Durable Medical Equipment</p> <p>Supplies Never Delivered</p> <p>Medically Unnecessary Supplies</p>
<p>Billing for Services Not Rendered</p> <p>Medically Unnecessary Services</p> <p>Payment of Kickbacks for Patient Referrals</p>	
<p>Transportation Services</p> <p>Advanced Life Support vs Basic Life Support</p> <p>Non-Ambulatory vs Ambulatory</p>	<p>Clinical Laboratories</p> <p>Individuals Tests vs Group Tests</p>

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Ohio Health Care Fraud Trends

- **Home Health**
 - Independent providers
 - Conspiracy: HHC and MD
- **Kickbacks**
 - Hospital, nursing home, home health
- **Drug Diversion**
 - Pain management
- **Compounding**
- **Grant Fraud**
 - Embezzlement


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Kickbacks

- Kickbacks
 - knowingly and willfully
 - offered, paid, solicited, or received
 - remuneration (anything of value)
 - to induce, or exchange for, a referral of business payable by a Federal healthcare program


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False Claims Act

- The **False Claims Act** provides that liability may be imposed:
 - on any person who *knowingly* presents,
 - or *causes* to be presented to the United States,
 - a false or fraudulent claim for payment or approval.


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False Claims Act

- Intent to defraud not necessary
- Burden of proof is by a preponderance of the evidence
- FCA's penalty provision gives the Government leverage in negotiating settlements


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FCA - Damages and Penalties

- Civil penalties between \$5,500 and \$11,000 for each false claim
 - Built-in inflationary adjustment mechanism: 28 CFR §85.3(9)
- Treble (3x) damages authorized in addition to penalties


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Mandatory Exclusion

- **Program-Related Conviction**
Related to the delivery of an item or service under the Medicare, Medicaid, or State health care programs
- **Patient Neglect/Abuse Conviction**
In connection with the delivery of a health care item or service meeting physical, mental, or emotional needs or well-being of any patient
- **Felony conviction relating to a controlled substance**
Unlawful manufacture, distribution, prescription, or dispensing
- **Health Care Fraud Conviction**


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Exclusion Periods

- **Mandatory Exclusion**
 - 5 years, 1st conviction
 - 10 years, 2nd conviction
 - Permanent, 3rd conviction
- **Permissive**
 - 3 year benchmark
 - Can be increased or decreased based on aggravating or mitigating factors
- **License Revocation**
 - Indefinite
 - Eligible for reinstatement once license reinstated

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Exclusion

- Excluded individuals can:
 - Work in non-Federal health care program payment settings
 - Provide care to non-Federal health care program beneficiaries
 - Non-patient care employment options such as facilities management or graphic design

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The screenshot shows the 'REPORT FRAUD' page of the Office of Inspector General, U.S. Department of Health & Human Services. It features a search interface for the 'List of Excluded Individuals/Entities Search' with fields for Last Name, First Name, and *Business Name. The page also includes navigation links for About OIG, Reports & Publications, Fraud, Compliance, Recovery Act Oversight, Exclusions, and Newsroom.



Heritage Home Healthcare

- Sharon Ward excluded in 2005 for a program violation related to health care fraud.
- MFCU investigation on unrelated matter. Queen Ward states Sharon Ward is Director of Nursing and responsible for opening cases, providing skilled nursing visits, and billing.
- Confronted by HHS/OIG in 2014.
- Thereafter, Sharon Ward requests reinstatement claiming she has been working as a cosmetologist since 2007. Does not mention work at Heritage in reinstatement application.
- Subpoenas served and a search warrant executed in 2014.


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Heritage Home Healthcare

- Queen Ward worked as the office manager at Heritage.
- Falsified criminal background checks since 2008 enabling disqualified Heritage employees with criminal records to care for Medicaid patients in their homes.
- Despite being told of Sharon Ward's exclusion in February 2014, continued to allow Sharon to work at Heritage and paid her until the search warrant was executed (Medicaid suspension).
- Sharon: Information charging HCF (18 USC 1347) and Aggravated ID Theft (18 USC 1028A). Note: Sharon R Ward v Sharon E Ward.
- Queen: Information charging 1 count of HCF.


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Heritage Home Healthcare

- Sharon Ward was sentenced to 70 months imprisonment on the HCF count, followed by 24 consecutive months for Aggravated ID theft, 3 years supervised release, and ordered to pay \$18,149,122 in restitution. Amount represents amount billed by Heritage since 2005 (year Sharon was excluded).
- Queen Ward was sentenced to 8 months home confinement, 5 years probation, 300 hours of community service, and \$434,747 in restitution (amount Heritage billed for disqualified employees).
- Investigated by HHS/OIG, Ohio MFCU and FBI.


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Kroger Company (CMPL case)

- July 2014, Kroger made a submission to the OIG's self disclosure protocol.
- Disclosed that from July 2001 to October 2014 Kroger employed 98 excluded individuals who filled prescriptions, or provided items or services, for which payment was made under a Federal health care program.
- OPM/OIG involved due to billings submitted to FEHB.
- December 2015, Kroger agrees to settle with the OIG for \$21,523,047 (1.5X).
- Investigated by HHS/OIG.


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Dr. Peter Tsai

- Dr. Peter Tsai, owner of Advanced Family Medical and Watkins-Tsai Imaging Center – both in Coal Grove, Ohio (pop. 2,159).
- Peter’s parents, Ruey Tsai and Dr. Tahsiung Tsai (funded imaging center), and cousin Wei Lih (biller) involved in medical practices.
- Peter ranked #1 in Ohio and #1 in the United States for CPT code 77011 (computer tomography guidance for stereotactic localization). One year Peter accounted for 25% of all Medicare paid claims for CPT 77011.


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Dr. Peter Tsai

- Also determined to be using a non-FDA approved version of Synvisc on patients (1:10).
- Everyone going to Advanced Family Practice went to Watkins-Tsai Imaging.
- Scripts for scans.
- Federal search warrants executed.
- One patient had over 100 scans during a two year period.

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Dr. Peter Tsai

June 4, 2015:

- Peter Tsai sentenced to 78 months incarceration and \$1,458,215 in restitution, 3 years supervised release.
- Ruey and Tahsiung Tsai were each sentenced to 6 months home confinement, 3 years supervised release, 200 hours community service and J&C restitution with Peter.
- Wei Lih was sentenced to 6 month home confinement, 3 years supervised release and J&C restitution with Peter.
- Investigated by HHS/OIG, DCIS, Ohio MFCU, and FDA/OCI.


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Dr. Harold Persaud

- During September 2012, a Cleveland area hospital began notifying patients that Dr. Persaud may have placed unnecessary stents in patients arteries.
- Investigators did a review of Persaud's entire practice. Determined that 44% of patients received a nuclear stress test - ranking him #1 among his peers in N. Ohio.
- October 2012, search warrant executed.
- Persaud began moving money after the search warrant. Government seized \$343,632 from two bank accounts.
- August 2014, indictment filed alleging Persaud performed unnecessary catheterizations, tests, stent insertions and causing unnecessary coronary artery bypass surgeries as part of scheme to overbill Medicare and other insurers by \$7.2 million.

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Dr. Harold Persaud

Scheme included:

- Billing E/M codes that reflected a service more costly than that which was actually performed;
- Performed nuclear stress tests (NST) that were not medically necessary;
- Knowingly recorded false results of patients NST to justify cardiac catheterization procedures;
- Performed catheterizations on patients and falsely recorded the existence and extent of lesions (blockage) observed during the procedures.


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Dr. Harold Persaud

- Inserted cardiac stents in patients who did not have 70% or more blockage in the vessel;
- Improperly referred patients coronary artery bypass surgery when there was no medical necessity for such surgery;
- Performed medically unnecessary aortagrams, renal angiograms and procedures and tests.


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Dr. Harold Persaud

- On September 25, 2015 following a 4 week jury trial, Persaud was convicted of 1 count of HCF, 13 counts of false statements related to health care matters, and 1 count of engaging in monetary transactions in property derived from criminal activity.
- On December 18, 2015 Persaud was sentenced to 20 years incarceration. Restitution pending.
- Investigated by HHS/OIG and FBI.


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Healthy Solutions Home Health Services

- Home health company marketing to low income families by promised to hire parents at \$10 per hour to be a home health aide for their own children.
- Ohio Medicaid notified HSHHS that parents are not permitted to act as their own child's aide.
- HSHHS management matched up parents to simply swap timesheets, giving the appearance they were taking care of each other's children while actually continuing to only take care of their own children.
- HSHHS owner Joanna Ochieng also directed nursing staff to split up documentation of nursing visits to in order to bill Medicaid at a higher rate of reimbursement for nursing services.


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Healthy Solutions Home Health Services

- Ochieng transferred approximately \$1 million to an off-shore account under the name of a nominee holding company in the Turks and Caicos Islands in an attempt to conceal a portion of her illegal proceeds.

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Conspiracy

Law: If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both (18 USC 371).

Definition: When people work together by agreement to commit an illegal act.

Scenario: Investigation revealed that a compliance officer for a large health care provider knew that a person providing "medical services" was not a licensed medical provider and was billing services under a licensed provider's number. However, the compliance office did not act on the information due to pressure from board members and influential physicians.


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OIG Hotline

- 138,290 OIG hotline complaints received during FY2015
- Ohio averages 4 to 8 per week
- Helpful hotline information:
 - Specific activity alleged
 - Duration of alleged activity
 - Leave contact information
 - List additional witnesses
 - Not the forum for billing disputes

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Report HCF

If you suspect health care fraud, waste, or abuse, please report it by calling:

1-800-HHS-TIPS (800-447-8477)

To learn more about health care fraud prevention and enforcement go to www.stopmedicarefraud.gov.

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