


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

## Federal Update – Healthcare Fraud, Waste, and Abuse



Steven Ryan – Special Agent In Charge  
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 June 2017


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## Overview

- Understanding the role of the HHS OIG
- Recent cases and audits relating to current trends in Healthcare Fraud, Waste, and Abuse
  - Home Health Services
  - Hospice
  - Lab Tests
  - Chiropractic Services
  - Managed Care Risk Adjustments
  - Opioids
- Compliance Program




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## What does the HHS OIG oversee?

**Mission:** To protect the integrity of HHS programs and the welfare of the people they serve.

**Vision:** To drive positive change in HHS programs and in the lives of the people served by these programs.

**Values:** To be relevant, impactful, customer focused, and innovative.




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## Scope of HHS

- **\$1 trillion** in spending, including grants and contracts, for HHS programs administered by agencies such as:


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## OIG Jurisdiction

“Conduct . . . audits and investigations relating to the programs and operations of [HHS] . . . .”

Inspector General Act § 2  
(Pub. L. No. 95-452, codified at 5 U.S.C. App. § 2)




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## OIG Jurisdiction

What **CAN** we investigate, audit and evaluate?

- Recipients of HHS funds - **“Follow the \$\$”**
- Internal operations/employee misconduct
- Anyone acting in collusion
- Oversight of agency programs and operations


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## Who is the HHS OIG?

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## Where is the HHS OIG?

1,550+ employees

70+ offices

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## Criminal Enforcement: Medicare Fraud Strikeforce Teams

- Began in 2007
- Miami, Los Angeles, Detroit, South Texas, Brooklyn, Louisiana, Tampa, Chicago, and Dallas
- As of June 30, 2016:
  - Opened 1,522 cases
  - Obtained 2,185 criminal convictions
  - Recovered \$1.98 Billion

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## Home Health Services

**Requirements:**

- Homebound AND in need of:
  - skilled nursing,
  - physical therapy, or
  - speech-language pathology
- Doctor must certify NEED for services
- Must be reasonable and necessary




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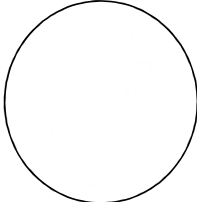
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## Home Health Services

**Things To Look For:**

- Admissions based on marketing, not medical necessity
- Orders signed by a physician who is NOT the patient's primary-care physician
- Re-admissions without any change in the patient's condition




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## Home Health Services

- Kickbacks
- Medically unnecessary services
- Services not rendered
- Services provided by unlicensed provider




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## Kickbacks

- **Anti-kickback statute**
  - 42 U.S.C. § 1320a-7b(b)
  - Prohibits offering, giving, or asking for or receiving anything of value to induce or reward referrals of Federal health care program business
- **Stark law**
  - 42 U.S.C. § 1395nn
  - Safe Harbors




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## Hospice

- Medicare pays a daily rate for each day a patient is enrolled in the Hospice benefit
- Payments are made based on the level of care required to meet the patient's and family's needs
- Levels of Care:
  - Routine home care (RHC) (higher payment rate for first 60 days, reduced payment for 61 days and over)
  - Continuous home care
  - Inpatient respite care
  - General inpatient care


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## Hospice

**Table 1: FY 2017 Hospice Payment Rates for RHC for Hospices that Submit the Required Quality Data**

Code	Description	FY 2017 Payment Rate	Labor Share	Non-Labor Share
651	Routine Home Care (days 1-60)	\$190.55	\$130.93	\$59.62
651	Routine Home Care (days 61+)	\$149.82	\$102.94	\$46.88
652	Continuous Home Care Full Rate = 24 hours of care Hourly rate=\$40.19	\$964.63	\$662.80	\$301.83
655	Inpatient Respite Care	\$170.97	\$92.55	\$78.42
656	General Inpatient Care	\$734.94	\$470.44	\$264.50


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## Hospice

- Place patients in hospice who are not terminally ill
- Bill for higher reimbursed level of care
- Falsify records – false certifications, re-certifications, election forms, revocation forms, back dating of documents, and care notes
- Make beneficiaries appear sicker than they really are
- Kickbacks


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## Lab Tests – Urine Drug Screening

- For some codes, only 1 unit of service may be billed per visit regardless of number of drug classes tested
- Providers were paid for more than 1 unit of service due to:
  - Units billed on different claims or different claim lines
  - Units billed with a modifier not supported by documentation
- Overpayments identified for repayment and, in some cases, CIAs used and CMPs assessed

  

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## Chiropractic Services

### Audit Referrals for Investigation and Legal Action

- **Los Angeles**
  - Reported stolen car with medical records
  - Pled guilty to healthcare fraud & filing false police report
- **New York**
  - Submitted claims for services that were not medically necessary or provided as claimed
  - Exclusion

  

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## Chiropractic Services

**Nationwide Review**

- **\$359 million** paid in 2013 for unallowable services
- Recommended that CMS determine if there should be a limit to the number of services

At the number of services that a beneficiary receives increases, the percentage of allowable payments increases.

Group	Number of Services	Percentage of Unallowable Payments
Group 1	1-12 Services	76%
Group 2	13-20 Services	95%
Group 3	21+ Services	100%

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## Managed Care Risk Adjustments

- Determined whether monthly payments for some beneficiaries were supported by medical records
- Issues:
  - Records did not support diagnosis indicated
  - Provider signature/credentials were missing
- Identified invalid risk scores and overpayments

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## Opioids

Spending on Part D benefits projected to rise from 14% to 17% of total Medicare spending

Year	Spending in Billions
2006	\$51
2007	\$62
2008	\$68
2009	\$74
2010	\$78
2011	\$85
2012	\$90
2013	\$104
2014	\$121
2015	\$137

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## Opioids


**Medicare**

- \$8.4 billion spent on controlled drugs (6%)
- \$129 billion spent on non-controlled drugs

**Medicaid**

- \$50 billion




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## Opioids

- Most pharmacies bill 3% schedule II and 5% schedule III
- Approximately 80% of heroin users started with prescription opioids
- Future costs:
  - Substance abuse programs
  - Hepatitis C
  - HIV


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## Opioids

- Drug-Induced Overdose Deaths in 2014:
  - More than motor vehicle crashes
  - More than firearms
  - More than suicide
- Drug-Induced Overdose Deaths in 2015:
  - 52,404



Source: CDC


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## Opioids

- Drug poisoning deaths involving Heroin:
  - 2011:** 3,036
  - 2015:** 12,989
- Drug poisoning deaths involving prescription opioids:
  - 1999:** 4,030
  - 2015:** 22,598

Source: CDC


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## Heroin Overdose Deaths 2015



Source: CDC


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## Compliance Program Basics

### What is a compliance program?




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## Compliance Program Basics

### Seven Fundamental Elements

1. Written policies and procedures
2. Compliance professionals
3. Effective training
4. Effective communication
5. Internal monitoring
6. Enforcement of standards
7. Prompt response



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