

Part B Insider (Multispecialty) Coding Alert

Compliance: What's Under the OIG Microscope Right Now? Find Out

A motorcycle gang's "pill mill" just got schooled by the federal watchdogs.

As a general rule, if you want to avoid the audit spotlight, don't buck the system. And if you choose to push the federal limits, the HHS Office of Inspector General (OIG) usually finds out.

Background: "OIG remains committed to working collaboratively with our partners to protect beneficiaries and oversee HHS programs," said Inspector General **Daniel R. Levinson** in the OIG's latest report on why the agency aggressively pursues offenders. He added that the "OIG's diverse workforce combines traditional disciplines ... with additional expertise in medicine, technology, data analytics, and economics to prevent fraud and abuse," with the hope of improving programs, detecting issues, and enforcing the federal healthcare laws.

Fraud and abuse overview: \$2.04 billion □ that's the amount that the OIG recovered from HHS programs' misappropriations through fraud and abuse for the first half of the fiscal year 2017 (October 2016 to March 2017), according to the OIG's Spring 2017 Semiannual Report to Congress. The cases varied with 468 falling into the criminal category, 461 for civil actions, and 1,422 exclusions from federal healthcare programs, the report mentioned.

Watch Your Communication Breakdowns, Report Suggests

Improper payments continue to be a source of frustration, costing the government billions. "In FY 2016, the Department reported estimated improper payments of more than \$96 billion," the report notes. Though medical documentation shortcomings remain a central key to payment deficiencies, the report points to other serious disconnect problems related to beneficiary eligibility across various state and federal programs that led to the issues in this latest OIG disclosure.

Here's why: Many of Medicare and Medicaid's payment issues stemmed from a lack of communication regarding beneficiaries' eligibility, the report suggests, highlighting the vigilance of providers and their staffs to ensure their patients' healthcare records are up-to-date.

In particular, three CMS areas accounted for the bulk of the problems. Here is a breakdown of the stats that led to the improper payments:

- Inaccurate auxiliary agencies' data, which is used to determine beneficiary eligibility under the States' "Express Lane Eligibility" program for Medicaid and the Children's Health Insurance Program (CHIP), resulted in \$284.1 million in "improper Medicaid payments on behalf of potentially ineligible beneficiaries" while "CHIP payments for potentially ineligible beneficiaries totaled \$10.6 million," the report said.
- Medicare and Medicaid payments were improperly made on behalf of deceased beneficiaries with \$26 million alone due to a flaw in Florida's capitation of Medicaid payments under its managed care organizations (MCO).
- Incarcerated beneficiaries rounded out the top three amounting to over \$34 million in improper payments.

Here Are Some of the Other Highlights on the OIG Hit List

Home health: Home health continues to be a focus for the OIG as it tightens the net, suggesting it is "tracking its own performance in priority areas, such as ... reducing improper payments for home health services in fraud 'hot spots,'" the report says. Key areas for enforcement included "fraud in non-institutional settings, including in Medicare home health services and HCBS, including personal care services (PCS)," the report adds.

In one Health Care Fraud Strike Force case example out of the Detroit area, the OIG puts the spotlight on home health. Zafar Mehmood and Badar Ahmadani were convicted last year of obtaining patients by paying cash kickbacks to

recruiters, who in turn paid cash to patients to induce them to sign up for home care with Mehmood's companies. The defendants also paid kickbacks to physicians to refer patients to the defendants' companies for unnecessary home care services.

The result: Mehmood was sentenced to 30 years in prison and \$40.4 million in restitution and Ahmadani was sentenced to eight years in prison and \$38.1 million in restitution, the report notes.

Medicare Part D: As the opioid epidemic lures patients into its web, the OIG puts the heat on providers who abuse the system. "The OIG remains committed to combating drug diversion and pursues numerous cases against providers who knowingly engage in drug diversion," the report maintains.

In one instance, Pennsylvania physician William J. O'Brien was found guilty of running a "pill mill" in coordination with criminals known as the Pagan's Motorcycle Gang out of his office. The illicit operation, whereby the gang members brought "pseudo" patients to O'Brien for drugs, spanned three years from 2012 to 2015. During that time, the group "distributed more than 700,000 pills containing oxycodone and other Schedule II controlled substances," the report says.

Consequences: The doctor was sentenced to 30 years in prison and fined \$5.3 million for the pill distribution that resulted in death from the illegally begotten drugs. Others involved were also found guilty and sentenced "to a combined 49 years and 10 months in prison," the report states.

Devices and services: Many of the OIG's audits concerned medically unnecessary services and devices billed to Medicare during the period covered by the Semiannual Report.

For example, under the services category, the sample results showed that approximately "\$358.8 million (82 percent) of \$438.1 million paid by Medicare for chiropractic services was unallowable," the report notes.

Unnecessary devices rank high on the improper payment scale, which is why a focus on cochlear ear devices remains a perennial favorite of the OIG bullseye. "Medicare spent \$2.7 million inappropriately for cochlear devices (hearing aid devices) that were replaced without cost to the hospital or beneficiary," the report says.

Resource: To read the complete report, visit <https://oig.hhs.gov/reports-and-publications/archives/semiannual/2017/sar-spring-2017.pdf>.