

Joint Annual Interagency Coordination Report



**Office of the Attorney General
Medicaid Fraud Control Unit
Civil Medicaid Fraud Division**



**Office of Inspector General
Texas Health and Human
Services**

State Fiscal Year 2019

September 1, 2018 - August 31, 2019

OAG and OIG Joint Annual Interagency Coordination Report

State Fiscal Year 2019

Introduction

This joint interagency report between the Health and Human Services Commission (HHSC) Office of Inspector General (OIG) and the Office of the Attorney General (OAG) is pursuant to Texas Government Code §531.103(c). The report summarizes statistical data and other information involving the collective efforts of the OIG and OAG to identify and deter fraud, waste, and abuse in the state Medicaid program for the period of September 1, 2018, through August 31, 2019.

The OIG, OAG Medicaid Fraud Control Unit (MFCU) and OAG Civil Medicaid Fraud Division (CMF) recognize the critical importance of collaboration and regular communication in the ongoing coordinated effort to identify and deter fraud, waste, and abuse in the Medicaid program. The OIG, MFCU, and CMF have worked closely to strengthen collaboration efforts and information sharing during the reporting period through:

- Meetings between the MFCU Director and the OIG Inspector General and key staff.
- Regular meetings involving MFCU and OIG-Medicaid Program Integrity (MPI) provider investigation and litigation staff to focus resources and efforts on (a) specific cases under investigation to maximize recoveries and minimize provider abrasion and duplicative efforts, and (b) unusual provider billing trends and other concerning provider activity.
- Dedicated attorney and analyst resources to support and coordinate efforts of MFCU and CMF involving violations of both the state and federal false claims acts and multi-state settlement negotiations.

Highlights of Coordination Activities

The OIG and OAG are committed to collaboration and coordination in all aspects of the joint efforts to identify and deter fraud, waste, and abuse in the Medicaid Program. These efforts range from the alignment of cross-agency processes to opportunities for management and staff at OIG and MFCU to participate in joint training opportunities. A summary of the collaboration and coordination activities during the current report period include:

- Continuation of a cross-agency processes to recoup provider overpayments when no criminal charges are filed and to de-conflict overlapping administrative and criminal investigations. Development of an additional “request & response” shared spreadsheet

OAG and OIG Joint Annual Interagency Coordination Report

State Fiscal Year 2019

maintained by dedicated personnel of OIG staff and MFCU to track evidence requests and process de-confliction requests.

- The completion and implementation of “eProsecutor”, an automated case management system for the MFCU. This includes a “Disposition Report” that allows for prompt sharing with HHSC-OIG the results of every referral submitted by HHSC-OIG, removing the need for HHSC-OIG to individually request investigation outcomes.
- Continuation of timely responses by OIG-MPI supervisors and MFCU Field Office supervisors to schedule informal telephone conferences to discuss pros and cons of parallel investigations when there is a subject matter overlap.
- Execution of a new Memorandum of Understanding (MOU) between HHSC-OIG, the MFCU and CMF. The MOU is updated every five years as a federal requirement for MFCU’s and Medicaid single state agencies and governs interagency cooperation and exchanges of information.
- Establishment of HHSC-OIG points of contact to facilitate access to and review of documentary evidence in possession of the Medicaid Program Integrity Division or the Litigation Division by criminal prosecutors from the MFCU.
- Continuation of sharing the MFCU closed case report with OIG to assist identification of the correct provider name when restitution checks are received from court agencies that only reference a single defendant name.
- The MFCU continues to coordinate and accept assistance from OIG when data requests from Managed Care Organizations (MCOs) are not received within the agreed time frame.
- Participation of OIG personnel providing training specifically for the MFCU on topics including nursing home Resource Utilization Group (RUG) rate analysis; intake section cross-cooperation; multiple prong program integrity initiatives; and using data to identify potential patient solicitation.
- Joint participation with the MCO Special Investigative Units (SIUs) and the Texas Fraud Prevention Partnership (TFPP). The focus of these collaborative efforts is to coordinate among the OIG, MFCU, and the Medicaid health and dental managed care organizations (DMOs) in conducting investigations to deter fraud, waste, and abuse. The TFPP SIU meetings take place three times a year.

OAG and OIG Joint Annual Interagency Coordination Report

State Fiscal Year 2019

Key Metrics

The activities in the latest annual reporting period reflect progress and success in identifying and deterring fraud, waste, and abuse in the Medicaid Program. The following activities reflect the efforts in FY19.

HHSC Office of Inspector General (OIG)

Action	FY 2019
Provider Enrollment Inventory (applications and informal desk reviews) Processed	33,241
Individual Screenings Processed	112,241
Investigation Cases Opened	2,070
Investigation Cases Completed	2,299
Referrals to MFCU	382
Referrals to Other Entities	576
Hospital Claim Reviews Completed	18,098
Nursing Facility Onsite Reviews	528
Settlement Agreements Executed	48
Credible Allegation of Fraud Provider Payment Holds Imposed	1
Medicaid Providers Excluded	300
Audits Completed	34
Total Amount Recovered	\$421,219,066

During FY19, OIG executed 48 settlement agreements for a total recovery of \$6,098,716.04.

These include:

- A \$1,210,376 settlement with a durable medical equipment provider in El Paso. An OIG audit of the DME company found the provider violated Medicaid policy by using expired or incomplete Title XIX forms (a physician order), billing for supplies without the proper authorization forms and inadequate or missing delivery documentation.
- A \$297,549 settlement with a physician in Pharr. The investigation determined that the provider was reimbursed for after-hours services when reimbursement was not appropriate.
- A \$150,000 settlement with a dental provider in Garland who was found to have been reimbursed for medically unnecessary services.

OAG and OIG Joint Annual Interagency Coordination Report

State Fiscal Year 2019

- A \$119,099 settlement with a durable medical equipment provider in Corpus Christi. The investigation found that the provider violated Medicaid policy by failing to maintain proof of delivery slips for spacers and to maintain documentation to support items billed.
- A \$104,000 settlement with a licensed professional counselor in Brenham. An investigation found the provider billed Medicaid for counseling services that were provided in settings that were improper and were not for the length of time claimed in the billings.

OAG Medicaid Fraud Control Unit (MFCU)

Action	FY 2019
Referrals Received	1,564
Cases Pending	1,377
Cases Opened	524
Charges Obtained	81
Medicaid Overpayments Identified	\$18,926,221.67
Convictions	72
Fines and Restitution*	\$140,893,436.69*

*Medicaid = \$20,893,591.91; non-Medicaid = \$119,999,884.78

OAG Civil Medicaid Fraud (CMF) Division

Action	Total FY 2019
Cases Opened	97
Cases Closed	85
Cases Pending	445
Total Amount Recovered	\$163,692,156.95

During FY19, CMF settled and recovered funds in five matters with recoveries of \$2 million or higher. These include:

1. State of Texas v. Xerox- Total settlement was \$235,942,000. Of the total settlement, \$117,971,000 was paid in FY 2019 and the remainder will be paid in FY 2020.
2. State of Texas v. Mallinckrodt - Total recovery including state, federal and relator portions was \$19,500,000.

OAG and OIG Joint Annual Interagency Coordination Report

State Fiscal Year 2019

3. United States and State of Texas et al v. Walgreens - Total recovery including state, federal and relator portions was \$8,198,249.19
4. State of Texas v. Kremers Urban- Total recovery including state, federal, and relator portions was \$8,000,000.
5. United States and State of Texas et al v. Amerisource, et al- Total recovery including state, federal and relator portions was \$2,862,763.28.

CMF also resolved 2 separate matters against national pharmacy chain CVS and drug manufacturer Lupin Pharmaceuticals; however, those settlements were not finalized before the end of FY 2019.

CMF continues to pursue significant cases against the following defendants:

1. Several matters against multiple dental and orthodontia providers, including: M&M Orthodontics, National Orthodontix, Richard Herrscher, Harlingen Family Dental, RGV Smiles, Navarro Orthodontix, Richard Malouf, and Antoine Dental for misrepresentations to Texas Medicaid.
2. Pharmaceutical manufacturer Janssen for improper marketing of its opioid, Duragesic.

CMF also continues to investigate multiple other matters that are under seal and cannot be described in detail at this time.