

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 2021

September 1, 2020 - August 31, 2021

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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, 2020, through August 31, 2021.

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:

- Conducted meetings between the MFCU Director and the OIG Inspector General and key staff.
- Engaged in regular meetings with MFCU, OIG Investigations and Reviews Division (OIG I&R), and OIG Chief Counsel 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 activities.
- Dedicated attorney, analyst, and investigator resources to support and coordinate efforts of MFCU and CMF involving violations of the Texas Medicaid Fraud Prevention Act and the Federal False Claims Act and to participate in multistate investigations and 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, MFCU and CMF to participate in joint training opportunities. A summary of the collaboration and coordination activities during the current report period include:

- Continued cross-agency processes to recoup provider overpayments when no criminal charges are filed and to de-conflict overlapping administrative and criminal investigations. Developed and used “request & response” shared spreadsheet

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

- Ensured timely responses by OIG I&R supervisors and MFCU Field Office supervisors to include the scheduling of informal telephone and virtual conferences to discuss pros and cons of parallel investigations when subject matter overlapped.
- Continued working collaboratively under the current Memorandum of Understanding (MOU) between OIG, MFCU, and CMF. The MOU is updated every five years as a federal requirement for MFCUs and Medicaid single state agencies; it governs interagency cooperation and exchanges of information.
- Continued working with OIG points of contact to facilitate access to and review of documentary evidence in possession of OIG I&R or the Litigation Division by criminal prosecutors from MFCU.
- Continued sharing the MFCU closed case report with OIG to assist in the identification of the correct provider when restitution checks are received from court agencies that only reference a single defendant name.
- MFCU coordinated and accepted assistance from OIG when data requests from Managed Care Organizations (MCOs) were not received within the agreed time frame.
- Participated in joint meetings 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 in conducting investigations to deter fraud, waste, and abuse. The TFPP SIU meetings take place three times a year.
- MFCU submitted a program proposal to include the delivery method and location in pharmacy claims data.
- MFCU and CMF coordinated and collaborated on multistate civil matters which included attorneys and auditors from both divisions serving on national investigation and settlement teams.
- MFCU and CMF engaged in de-confliction communications.
- When appropriate, MFCU made referrals to CMF.

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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 FY 2021.

HHS Office of Inspector General (OIG)

| Action | FY 2021 |
|--|---------------|
| Provider Enrollment Inventory (applications and informal desk reviews) Processed | 29,227 |
| Individual Screenings Processed | 93,639 |
| Investigation Cases Opened | 1,792 |
| Investigation Cases Completed | 1,885 |
| Referrals to MFCU | 506 |
| Referrals to Other Entities | 819 |
| Hospital Claim Reviews Completed | 16,766 |
| Nursing Facility Onsite Reviews | 220 |
| Settlement Agreements Executed | 118 |
| Credible Allegation of Fraud Provider Payment Holds Imposed | 0 |
| Medicaid Providers Excluded | 201 |
| Audits Completed | 38 |
| Total Amount Recovered | \$424,185,645 |

Note: Figures include Medicaid and non-Medicaid amounts.

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OAG Medicaid Fraud Control Unit (MFCU)

| Action | FY 2021 |
|----------------------------------|-------------------|
| Referrals Received | 2,073 |
| Cases Pending | 1,532 |
| Cases Opened | 497 |
| Charges Obtained | 75 |
| Medicaid Overpayments Identified | \$24,370,151.55 |
| Convictions | 49 |
| Fines and Restitution* | \$325,991,641.42* |

*Medicaid = \$25,647,326.34; non-Medicaid = \$300,344,315.08

OAG Civil Medicaid Fraud (CMF) Division

| Action | Total FY 2021 |
|------------------------|----------------------|
| Cases Opened | 85 |
| Cases Closed | 0 |
| Cases Pending | 421 |
| Total Amount Recovered | \$52,160,120.06 |

* At end of FY21, CMF had 178 cases pending physical closure due to the pandemic. In the interim, cases pending closure were removed from CMF's active case list.

During FY21, CMF settled and recovered funds in several matters with recoveries of \$2 million or higher. These include:

1. A State civil action against Apotex Corp. yielding a total Texas recovery of \$25,999,990.00, including state, federal and relator portions.
2. A State civil action against Nephron Pharmaceuticals Corporation, yielding a total Texas recovery of \$4,500,000, including state, federal and relator portions.
3. A Federal/State investigation against Novartis Pharmaceuticals Corporation yielding a total Texas recovery of \$4,675,588.46, including state, federal and relator portions.
4. A Federal/State investigation against Indivior, Inc., yielding a total Texas recovery of \$2,257,969.16, including state, federal and relator portions.
5. A Federal/State investigation against Progenity, Inc., yielding a total Texas recovery of \$7,443,954.34 including state, federal and relator portions.
6. A State civil action against Harlingen Family Dentistry and related business entities, Dr. Juan Villareal and Dr. Vivian Teegardin, yielding a total Texas

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recovery of \$2,000,000.00, including state, federal and relator portions.

7. A State civil action against M&M Orthodontics, Drs. Scott and Diana Malone, and Michelle Smith, yielding a total Texas recovery of \$2,000,000.00, including state, federal and relator portions.
8. A Federal/State investigation against Mark P. Kuper, D.O. and Mark P. Kuper, D.O., PLLC d/b/a Texas Center for Orthopedic and Spinal Disorders, yielding a total Texas recovery of \$4,973,432.00, including state, federal and relator portions. Recovery may be higher dependent on defendant's sale of real estate.
9. A Federal/State investigation against Gaurav Puri and Gunjan Dhir and several of their Dental Practices and Dental Management Companies, yielding a total Texas recovery of \$3,100,000.00, including state, federal and relator portions.

CMF continues to pursue significant cases against the following defendants:

1. Dental Provider Richard Malouf for misrepresentations to Texas Medicaid. The trial court entered a \$16 million final judgment in favor of the State in this matter. The case is on appeal to the Eighth Court of Appeals.
2. Pharmaceutical manufacturer Janssen for misrepresentations to Texas Medicaid related to the improper marketing of its opioid, Duragesic. This case is abated pending final settlement.
3. Lab testing company LabCorp for misrepresentations to Texas Medicaid related to kickbacks and Texas Medicaid best price rules.

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