



Pharmaceutical Diversion in Medicare and Medicaid

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Disclaimer

I have no financial relationships to disclose.





Prescription Drug Abuse

- Described by the CDC as a epidemic.
- Prescription Drug Abuse is a Transnational issue.





Learning Objectives

- Understand the mission of HHS/OIG
- Recognize that drug diversion and health care fraud includes both controlled and non-controlled medications
- Learn the common healthcare fraud/ drug diversion schemes and common methods how this is accomplished
- Describe the various drugs frequently found in drug diversion/healthcare fraud schemes





Notable HHS/OIG Components

- **Office of Evaluations & Inspections:**
 - Conducts and publishes studies on various vulnerabilities in Medicare/Medicaid. Reports on OIG website with recommendations. Several drug related reports.
- **Office of Audit:**
 - Conducts independent audits of HHS programs/grantees. Also create reports and make recommendations.
- **Office of Investigations:**

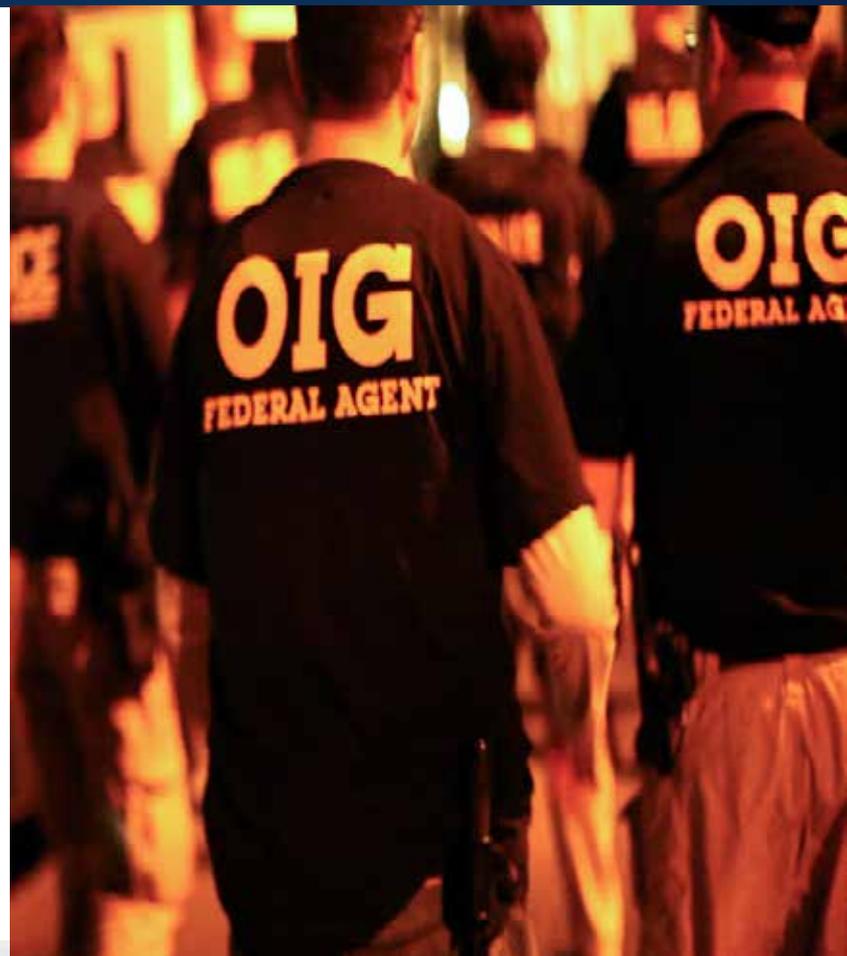
Law enforcement arm of OIG. Traditional law enforcement techniques with contemporary data analytic tools to identify trends and targets for investigations and prosecution.





HHS Office of Inspector General: Background

- **Mission:** Protect the integrity HHS programs as well as the health and welfare of program beneficiaries
- Fight fraud, waste, abuse in over 100 HHS programs
- Largest Inspector General's office in Federal Government
- Office of Investigations performs criminal, civil and administrative enforcement



OIG Statistics

Office of Inspector General Statistics

OIG Action	FY10	FY11	FY12	FY13	FY14	Total
Criminal Actions	647	723	778	960	971	4,079
Civil Actions	378	382	367	472	533	2,132
Exclusions	3,340	2,662	3,131	3,214	4,017	16,364
HHS Investigative Receivables	\$3.2 Billion	\$3.6 Billion	\$4.3 Billion	\$4.0 Billion	2.9 Billion	\$ 18.2 Billion
Non-HHS Investigative Receivables	\$576.9 Million	\$952.8 Million	\$1.7 Billion	\$1.02 Billion	1.1 Billion	\$5.3 Billion
Total Investigative Receivables	\$3.8 Billion	\$4.6 Billion	\$6.0 Billion	\$5.0 Billion	4.1 Billion	\$ 23.6 Billion





OIG Collaborative Effort

- Tactical Diversion Squads (with DEA)
- Strike Force Units (FBI on HEAT initiative)
- With state, local LE
- Use/encourage Prescription Drug Monitoring Programs (PDMP)
- Support education of industry, patients, providers, pharmacists - Can't prosecute our way out of this problem



Increasing Trend in Medicare Pharmaceutical Payments

Medicare Part D Total Expenditures

- **2013 - \$69.7 Billion (10% of Medicare Spending)**
- **2023 - \$171.7 Billion (Projection)**
 - 2014 Boards of Trustees Annual Report





Example HHS Programs

- Medicare (CMS)- Annual avg allowance \$385 Billion
- Medicaid (CMS) Annual avg allowance \$350 Billion
- Center for Disease Control (CDC)
- Indian Health Services (IHS)
- National Institutes of Health (NIH)
- Substance Abuse & Mental Health Services Admin (SAMHSA)
- Agency for Healthcare Research and Quality (AHRQ)
- Food and Drug Administration (FDA)





OIG Drug Reports

- **Inappropriate Medicare Part D Payments for Schedule II Drugs Billed as Refills**
 - \$25M
- **Prescribers with Questionable Patterns in Medicare Part D**
 - 736 general care physicians
- **Retail Pharmacies with Questionable Part D Billing**
 - Over 2600 pharmacies identified
- **Medicare Inappropriately Paid for Drugs Ordered by Individuals Without Prescribing Authority**
 - Massage Therapists, Athletic Trainers, Home Repair Contractors, etc.



Where Does OIG Get Referrals?



INDUSTRY



HOTLINES



LAW ENFORCEMENT PARTNERS



SENIOR MEDICARE PATROL



DATA ANALYTICS





Common Pharmacy Schemes

- Billed but not dispensed
- Fictitious scripts/name
- Auto refills
- Add-on scripts
- Dispense generic/bill for brand
- Paying patients for scripts
- Payment for referrals

Other Issues:

- Medical Identity Theft
- Prescription shorting
- Narcotics without prescriptions (backdoor sales)





Different Drug Jurisdictions

- **DEA:** Controlled substance laws and regulations of the United States
- **HHS/OIG:** Pharmaceuticals billed to federal healthcare programs
 - Those paid by Medicare, Medicaid
 - Includes Controlled Substances paid by federal programs
 - But also includes Non-Controlled Substances





Polypharmacy Cocktails Potentiators

- Abilify + Seroquel Snort (“jailhouse heroin”)
- Soma + Codeine (“Soma Coma”)
- Seroquel + Zyprexa + Ativan + ETOH + Cocaine
- HIV Protease Inhibitors + Percocet
- Caffeine + ETOH + Eyeball
- Promethazine/Codeine + Tampon
- ETOH + Albuterol Inhaler
- Adderall + Albuterol + Sleep deprivation
- Adderall + Lexapro + Cannabis
- Meth/Ecstasy/Viagra (Rectally)=“Royal Flush”





Re-shelving of “dispensed” Drug

- **Over 200 pills jammed into a 90 count bottle**
- (mixes lot numbers and expiration dates!)



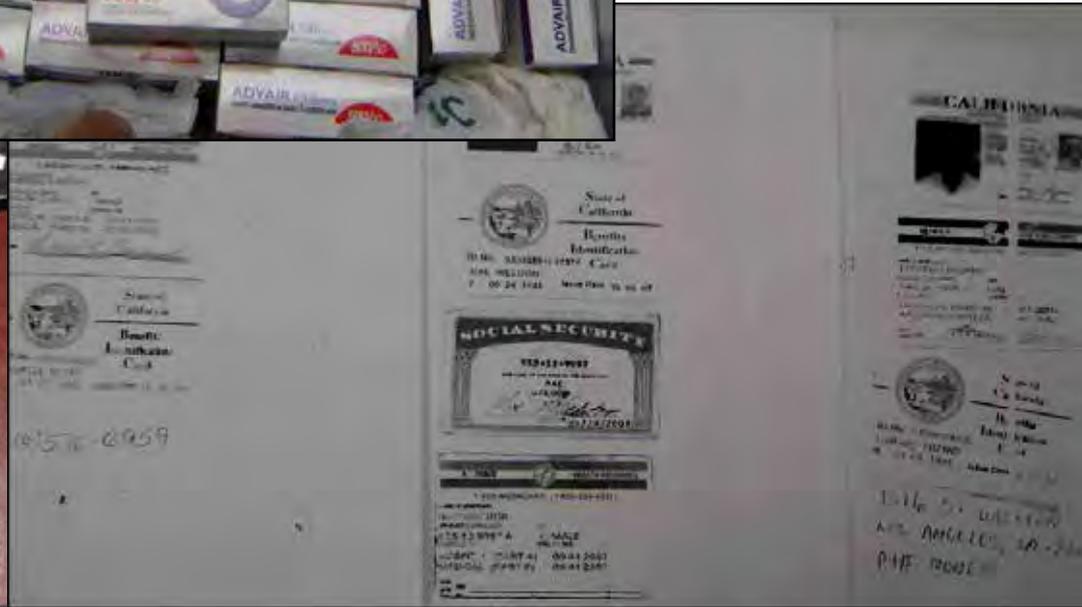


Why Divert Non-Controlled?

- **Controlled Drugs:**
 - Diverted for recreational use
 - \$57B in societal costs
- **Non-Controlled:**
 1. High reimbursement—financial crime. Not dispensed, just billed. It’s not “the government’s money” – it’s YOUR money.
 2. Some diverted to other countries
 3. Others mixed into street cocktails with controlled substances; are “POTENTIATORS”



Medical Identity Theft



Inside Pharmacy





Basis for Many Pharmaceutical Frauds Involve **KICKBACKS**

Antikickback Statute - 42 U.S.C. Section 1320a-7b(b) provides:

- (1) Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe or rebate) directly or indirectly, overtly or covertly, in cash or in kind –
 - (A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or
 - (B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program,shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.





Interpretation

Statute is violated if person:

1. Knows the law prohibits offering or paying remuneration to generate business
2. Engages in prohibited conduct with specific intent to disobey the law





Exclusion Authorities

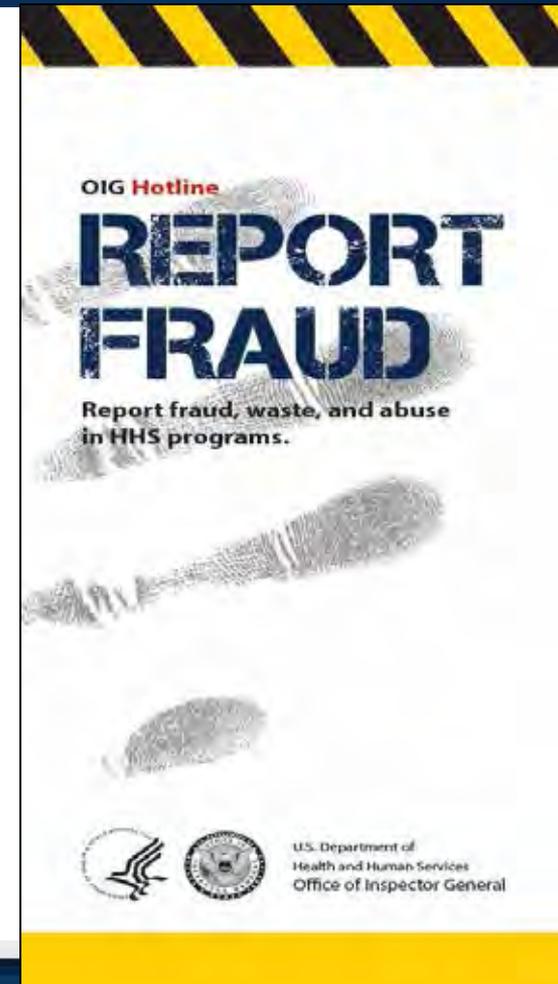
- **Social Security Act (Sections 1128 and 1156)**
- **Approximately 3000 actions per year**
- **Duration from 3 years to Permanent**
- **47% Based on License
Revocation/Suspension/Surrender**
- **48% Based on Convictions**
 - **Health Care Fraud or other Program Related Offense,**
 - **Patient Abuse/Neglect,**
 - **Controlled Substance**





What To Do if you Suspect Fraud or Diversion Activity?

- Use available databases to scrutinize scripts; including your state PDMP database
- If receive a clearly fraudulent script, forged script, ID theft; engage law enforcement immediately
- If you suspect a Medicare provider or beneficiary is diverting, contact
 - 800-HHS-TIPS or at
 - oig.hhs.gov/report-fraud





V. CONCLUSION



- QUESTIONS?

