

## CMS Center for Program Integrity Investigations and Audits Group (IAG)



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## Medicaid Program Integrity Reviews

### Program Integrity (PI) Reviews:

- Help CMS provide effective support and assistance to states in their efforts to combat fraud, waste and abuse
- Assess the effectiveness of the state's PI efforts, including compliance with certain Federal statutory and regulatory requirements
- Identify risks and vulnerabilities to the Medicaid program and assist states to strengthen PI operations
- Help inform CMS in developing future guidance to States
- Help equip states with the tools to improve PI operations and performance
- Are a mechanism for providing technical assistance
- Help identify and promote best practices

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## Current PI Review Strategy

Focused PI reviews are conducted to determine the extent of PI oversight of the Medicaid program by the States. Traditionally, these reviews have focused on high risk areas of managed care, Affordable Care Act provisions, personal care services and non-emergency medical transportation.

Desk reviews allow CMS to increase the number of states that receive oversight. They provide both CMS and states feedback on various topics, highlight best practices, and evaluate compliance with PI and regulatory requirements.

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## FY 2019 PI Review Activity Focused Reviews

- FY2019 – CMS is scheduled to conduct seven onsite focused reviews with an emphasis on managed care (MC).
- The purpose of the MC focused reviews:
  - Determine extent of PI oversight of MC programs at state level
  - Assess PI activities performed by selected managed care entities (MCE) under contract with state
  - **States for review:** Ohio, New Jersey, Massachusetts, New Mexico, Missouri, Vermont and Pennsylvania

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## FY 2019 PI Review Activity Focused Reviews

- The purpose of PCS focused reviews:
  - The OIG has issued numerous reports highlighting vulnerabilities in home and community based services/PCS programs that are believed to have contributed to high improper payments, questionable care quality, and high amounts of fraud.
  - These focused reviews will look at what PI initiatives, if any, states have in place to protect against fraud, waste, and abuse in their PCS programs.
  - ***FY 2019 States for review:*** Tennessee, North Dakota, Connecticut, Maine and Montana

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## Common Findings/Vulnerabilities from MC Reviews

- Contracts in many states do not require:
  - reporting of for-cause terminations and checking of federal databases for excluded parties.
  - MCEs to have Special Investigative Units dedicated specifically to fraud, waste and abuse investigations.
  - MCEs to report cases of suspected fraud, waste and abuse.
  - any identified and collected overpayments be reported to state.
- Low numbers of investigations and recoveries by MCEs.
- Many states do not receive encounter data from MCEs.

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## Common Findings/Vulnerabilities from PCS Reviews

- Oversight for PCS is shared/delegated among multiple state agencies, so no clear agreements between the agencies regarding oversight responsibilities.
- Many states do not require site visits for PCS providers and PCAs.
- Lack of provider training, provider compliance programs, and provider reporting requirements in place.
- Low number of PCS investigations and recoveries.
- Few policies or procedures in place that establish minimal requirements and/or standards for PCAs.

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## FY 2019 PI Review Activity Desk Reviews

- FY2019 – CMS is conducting 77 PI desk reviews in 39 states and the District of Columbia in the following areas:
  - **PERM CAP Reviews**
  - **Focused PI Review CAPs**
  - **Terminated Provider Reviews**
  - **Payment Suspension Reviews**
  - **Opioid Reviews**
  - **Managed Care Program Integrity Activity**

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## FY 2019 PI Review Activity Desk Reviews

- **PERM CAP Reviews**
  - Assess a state's progress in implementing corrective actions developed to address errors identified in PERM measurement
- **Focused PI CAP Reviews**
  - Assess whether a state has corrected/addressed areas of non-compliance and/or areas of vulnerability identified during focused onsite review

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## FY 2019 PI Review Activity Desk Reviews

- **Terminated Provider Reviews**
  - Designed to identify program vulnerabilities related to providers who received improper Medicaid payments for billings submitted after the provider was either revoked by Medicare or terminated by a state Medicaid or CHIP program for cause
- **Payment Suspension Reviews**
  - Designed to gather information related to states' practices related to payment suspensions and compliance with applicable laws and regulations

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## FY 2019 PI Review Activity Desk Reviews

- Opioid Reviews
  - Gather information related to the current programs, delivery systems, policies and/or noteworthy practices to assess their effectiveness in combating fraud, waste and abuse in the area of opioids and other controlled substances
- Managed Care PI Activity Reviews
  - Gather follow-up information related to previously conducted MC onsite reviews. States will be asked to provide updated information (MC expenditures, number of investigations, overpayments, etc.) that will be analyzed to determine trends since last onsite review

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## Common Findings Opioid Desk Reviews

- The FY18 reviews show that majority of states have efforts in place to address opioid epidemic
  - Use of data analytics
  - Use prepayment controls
  - Patient Review and Restriction programs
- All states reported having state collaboration and/or initiatives in place to respond to opioid epidemic
- Areas for suggested improvement include:
  - Increase number of provider audits/reviews
  - Lack of beneficiary reviews
  - Encourage states to adopt pain management

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## PI Review Process Improvements

- CPI has continued to significantly reduce average number of days it takes to issue final focused PI review reports
- CPI has revised PI review report format
  - More concise
  - Executive Summary section
  - Recommendations located in the body of the report

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## Impact of PI Reviews

While there is no formal mechanism in place to monitor impact of PI Reviews, we have learned states use PI reviews to improve their Medicaid programs

- GAO report (April 2017) found that PI reviews are a benefit to states
- Findings from the PI reviews used to inform development of Medicaid MC regulation
- States are enhancing PI provisions of their MC contracts
- Many states have indicated they use reports as “leverage” when working with other state entities and state legislatures
- Have led states to engage UPICs in conducting investigations/audits

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## FY20 PI Reviews

- PI Review Strategy for FY20 is still under development
  - Will share via TAG once completed
- Will continue with both onsite reviews and desk reviews
  - Areas of review will continue to include MC, PCS, opioids, terminated providers, payment suspensions
  - New areas of review to be determined

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## Medicaid Payment Suspensions

State Medicaid agencies are required to:

- suspend payments for health care items and services when there is a credible allegation of fraud against the provider, unless “good cause” exists not to suspend payment and
- file an annual report with CMS regarding payment suspensions implemented under 42 C.F.R. § 455.23

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## Annual Reports

FFY	2015	2016	2017	2018*
Total	856	1012	766	864
Average	16.78	19.84	15.32	18
Median	7	6	5	5

- Primary bases for payment suspensions continue to be “services not rendered” and over/upcharging.
- For the FFY 2018 Report, the questions were modified to be clearer and some were removed.

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## OIG Audit - OEI 09-14-00020

In September 2017, HHS-OIG released an audit that found significant challenges experienced by Medicaid agencies appear to have prevented the Federal payment suspension provisions from achieving their full potential to protect Medicaid funds.

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### Challenges Identified

- Demonstrating sufficient evidence to support payment suspensions when providers appealed
- Not jeopardizing law enforcement investigations when providers appealed
- Sustaining payment suspensions through lengthy fraud investigations, without unintentionally driving innocent providers out of business.

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### CMS Follow-up

1. Appeals -
  - a) Type of Appeals – reviews or hearings
  - b) Burden of proof at hearing – indicia of reliability/preponderance of the evidence/clear and convincing
  - c) Evidentiary/Discovery concerns
2. Length of Law Enforcement investigations
3. Communication Issues
4. Type of Technical Assistance Needed

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## CMS Follow-up

- CPI performed desk audits on 11 states to evaluate issues faced by those states
- Responses will be evaluated to determine next steps by CMS in providing guidance and help to states
- Feel free to reach out to CMS with questions, issues and input

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## UPICs



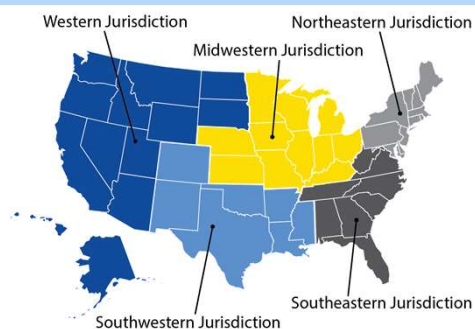
**Coordinates provider investigations across Medicare and Medicaid;**



**Improves collaboration with States by providing a mutually beneficial service; and**



**Increases contractor accountability through coordinated oversight**



### UPICs:

**MIDWESTERN JURISDICTION**  
AdvanceMed Corporation

**NORTHEASTERN JURISDICTION**  
SafeGuard Services, LLC

**WESTERN JURISDICTION**  
Qlarant

**SOUTHEASTERN JURISDICTION**  
SafeGuard Services, LLC

**SOUTHWESTERN JURISDICTION**  
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## UPIC Updates

- UPICs conducted collaborative investigations in 27 states in FY18.
- In addition to current workload, the UPICs engage in ongoing discussions and project development with most of the remaining states.
- The most common collaborative investigations and audits over the last year have been conducted in the areas of hospice, non-emergency medical transportation and general hospital services.
- During FY 2018, UPICs identified \$29.8 million in total Medicaid overpayments that were sent to states for collection. States are responsible for collecting overpayments identified by UPICs, and are permitted up to one year from the date of the final audit report to return the federal share.

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## UPIC Updates

- UPICs are working with states to conduct work in high priority areas including:
  - Managed Care: network provider investigations, MC audit of physician administered drug rebate claims
  - Opioids: investigations of aberrant prescribers and pharmacies.
  - Development of data driven overpayment projects which may identify potential Medicaid overpayments based solely upon data analysis.
  - Other: hospice, credit balance, DME, home health

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## T-MSIS Current Status

- For the first time, all 50 states, DC, Puerto Rico, and Virgin Islands are now submitting data on their programs to T-MSIS
  - All states' T-MSIS data are available for CPI in the Integrated Data Repository, except one.
- CMS continues to monitor ongoing monthly T-MSIS data submissions and to work with the remaining U.S. territories and entities not yet submitting data.
- Over the course of the coming months CMS will continue to validate the quality and completeness of the data for Program Integrity use.

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## Overview of CPI's T-MSIS goals

The UPICs and Program Integrity Analytics Contractors are helping CPI assess:

1. The current completeness and quality of T-MSIS data;
2. Whether, and to what degree T-MSIS data can be used for PI activities;
3. Ways that T-MSIS data can be improved for optimal PI use.

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## Process after T-MSIS data approved for use

- Once T-MSIS data is approved for PI use by CPI, Investigations and Audits Group will engage the state Medicaid agency to inform them the data is ready for use. At that time IAG will confirm areas of investigative / audit priority with the state.
- The UPIC will be instructed to utilize T-MSIS data as the primary source of Medicaid data for all new Medicaid workload.
- In states where the UPIC has access to Medicaid Management Information System (MMIS) data, IAG will instruct the UPIC to validate early T-MSIS results with MMIS to ensure any data quality issues previously unnoticed are identified.
- Work with the states on any needed issues to be addressed.

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## UPIC/State Collaboration: MII

- CMS held the first UPIC and State Symposium in July at the Medicaid Integrity Institute (MII).
- 102 participants from 32 states and the US Virgin Islands, 5 UPICs, and CMS staff.
- The symposium focused on State/UPIC coordination and collaboration with emphasis placed on investigation/audit development.
- Generated a lot of leads UPICs will be prioritizing.
- As a result of state feedback CMS is working to implement a number of process improvements.

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## Questions

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