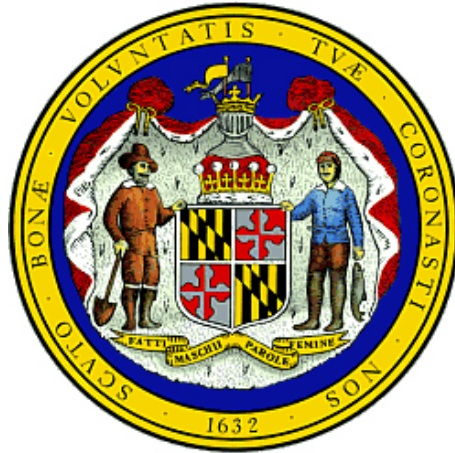


STATE OF MARYLAND



OFFICE OF THE INSPECTOR GENERAL FOR HEALTH

**ANNUAL REPORT OF
OFFICE OF THE INSPECTOR GENERAL FOR HEALTH
Fiscal Year 2023**

**Pursuant to
Md. Code Ann., Health-General § 2-506**

I. Introduction

Effective July 1, 2022, the State legislature established the Maryland Office of the Inspector General for Health (hereinafter “OIGH”) as an independent unit of the state for the purpose investigating fraud, waste, abuse of departmental funds, and behavior in the Department that threatens public safety or demonstrates negligence, incompetence, or malfeasance. Section 2-506 of the Md. Code Ann., Health Gen. requires that the Office of the Inspector General for Health to report annually the following information regarding the Office’s activities during the prior fiscal year.

II. Personnel

The OIGH is comprised of 40 auditors, investigators and clinicians investigate fraud, waste and abuse of departmental funds. Eleven of those auditors (“External Audits Division”) are responsible for reviewing the expenditure of over \$550 million in Maryland Department of Health grants to Maryland’s 24 local health departments and 25 private providers. The remaining 29 auditors, investigators and clinicians serve as the program integrity division (“Program Integrity Division”) and are responsible for investigating allegations of fraud, waste and abuse in administration of the Medicaid Program.

III. Fiscal Year Summary

Section 2-506 of the Md. Code Ann., Health Gen. requires the Office of the Inspector General for Health to report annually to the Secretary, the Governor, and, in accordance with § 2-1257 of the State Government Article, the Senate Budget and Taxation Committee, the Senate Finance Committee, the House Appropriations Committee, the House Health and Government Operations Committee, and the Joint Audit and Evaluation Committee, the following information: (i) Investigations of fraud, waste, and abuse of departmental funds undertaken by the Office, including specific findings and recommendations related to the investigations; **ii)** A summary of matters referred to the Medicaid Fraud Control Unit by the Office; **iii)** Recoveries by the Office of mistaken claims paid or payments obtained in error or fraudulent claims paid to or obtained by a provider; **iv)** Recoveries by the Office of the cost of benefits mistakenly paid or obtained in error, or fraudulently paid to or obtained by a recipient; and **v)** A summary of matters referred to prosecutive authorities and the resulting prosecutions and convictions; and **(2)** Any regulatory or statutory changes necessary to ensure compliance with applicable federal and State laws.

(i) Investigations of fraud, waste and abuse of departmental funds undertaken by the Office.

Maryland Medicaid is a 14 billion dollar federal and state partnership that provides essential healthcare coverage to over 1.7 million Maryland citizens through a network of more than 80,000 providers and 9 managed care organizations (hereinafter “MCO”). On the basis of referrals, tips and in-house data analytics, the Program Integrity division initiated over 190 investigations in FY23.

Program Integrity also works closely with the managed care organizations to identify fraud, waste, and abuse within each MCO. Meetings are held on a quarterly basis to discuss pending investigations, fraud trends and conduct training. During FY23, the MCO's initiated 410 investigations and/or reviews into providers within their respective networks.

During FY23, the External Audits division within the Office of the Inspector General for Health completed 17 providers audits with over \$550 million in grant funds. This included 9 health departments and 8 private providers. These audits identified \$498,755 in overstated or disallowed costs due back to MDH and made over 200 recommendations to improve their operating controls.

(ii) A summary of matters referred to the Medicaid Fraud Control Unit by the Office

The OIGH referred 10 matters to the Medicaid Fraud Control Unit for further investigation and possible civil or criminal prosecution. Six (6) of those matters involved Behavioral Health Providers who are alleged to have billed for services not rendered. Two (2) of the matters involved dental providers, one (1) involved the delivery of home health services and one (1) of the matters alleged that the recipients were not receiving Adult Medical Day Care Services as billed. Disclosing additional details regarding these investigations (including the identity of the providers, claims billed, referral sources, etc.) may jeopardize and/or negatively impact the case.

(iii) Recoveries by the Office of mistaken claims paid, or payments obtained in error or fraudulent claims paid or obtained by a provider.

The Office of the Inspector General for Health routinely identifies payments obtained in error or fraudulent claims paid to or obtained by a provider. However, the collection of these recoveries is handled by other state agencies such as the Department of Health, Division of Recoveries, Central Collections, the Behavioral Health Administrative Services Organization, or the Attorney General's Office. The OIGH identified \$9,166,902.74¹ for recovery. Please note, this amount may include sums owed to the Federal government under Section 1903(d)(3)(a) of the Social Security Act. The amount collected by the state related to the Federal government match portion is remitted to the Federal government by the Maryland Department of Health.

Eighty-six percent of the Medicaid population are enrolled in a Managed Care Organization ("MCO"). There are currently 9 MCOs in Maryland. The MCOs are at risk for the majority of medical services for their enrollees and are required to report to the Maryland Office of the Inspector General for Health possible instances of fraud and overpayments identified. During FY23, the MCOs reported 91 overpayments totaling \$1,391,416.56.

¹ Federal Regulations require that Maryland establish a Medicaid Recovery Audit Contractor (RAC) Plan. Medicaid RACs identify improper Medicaid payments through the collection of overpayments and reimbursements of underpayments made on claims for health care services provided to Medicaid beneficiaries. Historically, the OIGH has overseen the Recovery Audit Contractor ("RAC"). The FY23 recovery amount includes the amount identified by the RAC. Oversight of the RAC has since been transferred from under the OIGH to the Medicaid Program. As such, any RAC overpayments identified will not be included in OIGH's recoveries moving forward.

(iv) Recoveries by the Office of the cost of benefits mistakenly paid or obtained in error, or fraudulently paid to or obtained by a recipient

Investigations of recipients who provided false or misleading information to obtain Medicaid benefits resulted in \$495,080.69 in identified overpayments.

(v) Summary of matters referred to prosecutive authorities and the resulting prosecutions and convictions²

Criminal Convictions

The Office of the Inspector General for Health referred the matter of WellSpring Therapy Services, LLC, a speech and occupational therapy practice in Anne Arundel County, to the Medicaid Fraud Control Unit for further investigation and prosecution. WellSpring Therapy Services, LLC pleaded guilty to felony Medicaid fraud in Baltimore City Circuit Court. The Honorable Judge Fletcher-Hill ordered WellSpring to pay \$399,228.62 in restitution to the State. In addition, the company must terminate its participation in the Medicaid program and its owner, Thembi DePass, must also terminate her participation in the Medicaid program for 3 years.

Civil Settlements³

The Office of the Inspector General for Health referred House of Still, Inc. and its owner, Necole Martinez to the Medicaid Fraud Control Unit for further investigation and prosecution. House of Still and Necole Martinez agreed to pay the State \$80,000 to resolve allegations that they billed Medicaid for services provided by unqualified personnel and not rendered in compliance with applicable laws and regulations.

Prosecution of Recipients

Although the OIGH reviewed all allegations of potential recipient fraud received during FY23, section 6008 of the Families First Coronavirus Response Act (hereinafter “FFCRA”) prohibited the OIGH from pursuing prosecution during the COVID-19 public health emergency (hereinafter “PHE”). Under FFCRA the Department of Health opted to receive an increase in the Federal Medical Assistance Percentage (hereinafter “FMAP”), effective January 1, 2020. To receive the increased FMAP, FFCRA requires States to continue to provide benefits to individuals who were enrolled in Medicaid at the start of the PHE or become enrolled in Medicaid during the emergency period. These individuals should remain eligible for Medicaid through the last day of the month in which the COVID-19 PHE ends (continuous enrollment period), unless the individual

² See also section ii for a summary of matters referred to the Medicaid Fraud Control Unit in the Attorney General’s Office. By statute, the OIGH is required to referral all matters involving a credible allegation of fraud to the Medicaid Fraud Control Unit for possible civil and/or criminal prosecution. Additionally, it is important to note that once a matter is referred to a prosecutive authority, the OIGH does not have control over the resolution of the matter.

³ The Maryland False Health Claims Act of 2010 (the “Act”), Md. Code Ann., Health Gen. 2-601 et seq., requires the Director of the Medicaid Fraud Control Unit in the Office of the Attorney General and the Office of the Inspector General for Health to report annually certain information regarding actions filed and settlements reached under the Act for the prior fiscal year. Civil Settlements obtained under the Act during FY23 are outlined in that report and was previously submitted to the General Assembly.

requests a voluntary termination of eligibility, or the individual ceases to be a resident of the State.

(vi) Regulatory or statutory changes necessary to ensure compliance with applicable federal and State laws

The Office of the Inspector General for Health is in its infancy and still in the process of working with the Department of Health on delegation of duties and responsibilities. In order to preserve the independency of the OIGH, it is essential that an Assistant Attorney General be appointed to represent it to negotiate the appropriate memorandums of understanding, outline the delegation of duties and ensure compliance with all applicable federal and State laws.

IV. Conclusion

The Office of the Inspector General for Health is committed to providing objective oversight to promote integrity of the State's Medicaid program as well as accountability for the expenditure of health department funds. In furtherance of that objective, the Office will disseminate actionable and meaningful recommendations with the goal of protecting the interests of the State and its resources.



Jennifer S. Forsythe

Acting Inspector General

Maryland Office of the Inspector
General for Health