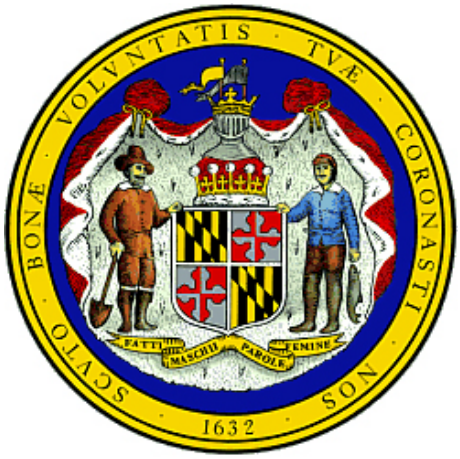
STATE OF MARYLAND



OFFICE OF THE INSPECTOR GENERAL FOR HEALTH

ANNUAL REPORT OF
OFFICE OF THE INSPECTOR GENERAL FOR HEALTH
Fiscal Year 2024

Pursuant to

Md. Code Ann., Health-General § 2-506

Maryland

OFFICE OF THE INSPECTOR GENERAL FOR HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Jennifer S. Forsythe, Acting Inspector General

December 13, 2024

The Honorable Wes Moore
Governor
100 State Circle
Annapolis, MD 21401-1991

Madam Secretary Laura Herrera-Scott
201 W. Preston St,
Baltimore, MD 21201

RE: Health-General Article § 2-506, Annotated Code of Maryland (MSAR # 13007)
Maryland Office of the Inspector General for Health 2023 Annual Report

Dear Governor Moore and Madam Secretary Herrera-Scott:

The Office of the Inspector General for Health (hereinafter "OIGH") an independent unit of the State charged investigating fraud, waste, abuse of departmental funds, and behavior in the Maryland Department of Health that threatens public safety or demonstrates negligence, incompetence, or malfeasance. Section 2-506 of the Md. Code Ann., Health Gen. requires the OIGH to report certain information regarding the Office's activities during the prior fiscal year. Attached is the report for the period of July 1, 2023, to June 30, 2024.

If you have any questions or comments concerning the report, please contact Jennifer S. Forsythe, Acting Inspector General, Office of the Inspector General for Health, at jennifer.forsythe@maryland.gov.

Sincerely,

Jennifer S. Forsythe
Acting Inspector General

cc: Sen. Guy Guzzone, Senate Budget and Tax Committee
Sen. Pamela Beidle, Senate Finance Committee
Del. Ben Barnes, House Appropriations Committee
Del. Joeslyn Pena-Melnyk, House Health and Government Operations Committee
Sen. Clarence K. Lam and Del. Jared Solomon, Joint Audit and Evaluation Committee
Sarah Albert, Department of Legislative Services (MSAR # 13007)

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 of 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

When fully staffed, the OIGH is comprised of 47 auditors, investigators, clinicians and administrative staff responsible for investigating 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. Thirty-two auditors, investigators, data analysts and clinicians serve in the program integrity division ("Program Integrity Division") and are responsible for investigating allegations of fraud, waste and abuse in administration of the Medicaid Program. The OIGH, like many state agencies, has had difficulty filling open vacancies during FY24 and is continually working to recruit for open positions.

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, to 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 the activities during the immediate preceding fiscal year including: **(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[1] by the Office; **(iii)** Recoveries by the Office of mistaken claims paid, 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, payments 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. The report should also reference 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.

[1] The Medicaid Fraud Control Unit has changed its name to the Medicaid Fraud and Vulnerable Victims Unit ("MFVUU").

Maryland Medicaid is a 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"). The Program Integrity Division received 316 referrals and initiated 83 investigation involving Medicaid providers during FY24. Eighty referrals are still under preliminary review for determination. The Program Integrity Division received 178 referrals alleging that individuals obtained Medicaid eligibility and/or benefits that they were not entitled to receive. Out of these 178 referrals, the Program Integrity Division initiated 118 investigations. The remaining referrals received were closed based on completion of investigations or because they were directed to another agency.

In addition to responding to referrals and tips, the Program Integrity Division also conducts routine surveillance of Medicaid claims to identify possible instances of fraud, waste and abuse through data analytics. During FY24, the Program Integrity Division initiated 399 cases and identified over $1 million in overpayments due to Medicaid by providers who inappropriately billed for services. The OIGH has initiated the recovery of those overpayments, and the recovery process will continue throughout FY25.

The Program Integrity Division also works closely with the nine 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 trainings. During FY24, the MCOs initiated 502 investigations and/or reviews into providers within their respective networks. The MCOs also referred 16 of those investigations to the Medicaid Fraud and Vulnerable Victims Unit in the Office of the Attorney General for possible civil and/or criminal action.

During FY24, the External Audits division within the Office of the Inspector General for Health completed 18 provider audits with over $470 million in grant funds. This included 7 local health departments and 11 private providers. The audit findings identified $2,936,874 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 and Vulnerable Victims Unit by the Office

The OIGH referred 15 matters to the Medicaid Fraud and Vulnerable Victims Unit for further investigation and possible civil or criminal prosecution. The Medicaid Fraud and Vulnerable Victims Unit declined to accept four of those referrals. Three of the original 15 referrals were initially accepted but subsequently closed without further action.

Out of the eight referrals accepted, six of those matters involved Behavioral Health Providers who are alleged to have billed for services not rendered. One of the matters involved a pharmacy and one alleged that the recipients were not receiving Adult Medical Day Care Services as billed. Disclosing additional details at this time regarding these investigations (including the identity of the providers, claims billed, referral sources, etc.) may jeopardize and/or negatively impact the case. The final outcome of these cases will be disclosed in future reporting.

(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 often handled by other state agencies such as the Department of Health-Division of Recoveries, Central Collections, or the Attorney General's Office. During FY24 $8.3M was recovered on behalf of the State for payments obtained in error or fraudulent claims paid to a Medicaid provider. This amount includes cases filed under the Maryland Civil False Claims act, civil settlements, overpayments identified and recovered by OIGH, and restitution. 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 thereby remitted to the Federal government by the state.

Eighty-six percent of the Medicaid population are enrolled in a Managed Care Organization ("MCO"). There are currently 9 MCOs in the Maryland Medicaid program. The MCOs are responsible 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 FY24, the MCOs reported 91 provider investigations leading to the identification of overpayments totaling $1,232,899.

(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 $1,053,124 in identified overpayments.

(v) Summary of matters referred to prosecutive authorities and the resulting prosecutions and convictions[2]

Criminal Convictions

The Office of the Inspector General for Health referred the matter of primary care physician Vitalis Ohakwe Ojiegbe, to the Medicaid Fraud and Vulnerable Victims Unit in the Attorney General's Office for further investigation and prosecution. Vitalis Ojiegbe, a physician specializing in internal medicine, owned and operated Sunrise Medical Clinic. Through data mining, the OIGH identified Vitalis Ojiegbe as an outlier among his peers for prescribing high quantity, high dose Oxycodone for patients with a history of opioid abuse problems. The OIGH also determined that his patients were enrolled in Medicaid but neither Ojiegbe nor Sunrise Medical Clinic billed Maryland Medicaid for office visits.

[2] See also section ii for a summary of matters referred to the Medicaid Fraud and Vulnerable Victims 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 and Vulnerable Victims 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.

Vitalis Okawke Ojiegbe pled guilty to one count of Medicaid Fraud for writing prescriptions for controlled dangerous substances without a legitimate medical purpose in the Circuit Court for Prince George's County. Mr. Ojiegbe was given a five-year suspended sentence with three years supervised probation and ordered to pay $16,035.11 in restitution. Mr. Ojiegbe was also excluded from participating in any federally funded healthcare program.

During FY24, Tahir Afzal, Mehmood Ashraf Afzal, and Ayesha Afzal (the "Afzal Defendants") pled guilty to Medicaid fraud. The Afzal Defendants owned and operated Adam Medical Equipment, Inc., a durable medical equipment supplier. The Afzal Defendants defrauded the Maryland and District of Columbia Medicaid programs of more than $550,000 by billing for durable medical equipment that was not medically necessary and oftentimes not delivered to Medicaid recipients.

Civil Settlements[3]

Often, the State resolves cases after an investigation, but prior to the filing of a civil action. During FY2024, the State entered into the following civil settlements in matters referred by the OIGH:

Deborah Huber, LCPC

Pursuant to a settlement agreement, Deborah Huber agreed to pay the State $36,000 to resolve allegations that she billed Medicaid for substance abuse services that were not provided.

Edwin Aguilar Lopez, MD

Pursuant to a settlement agreement, Edwin Aguilar Lopez agreed to pay the State $50,000 to resolve allegations that he billed Medicaid for services that were not provided and/or not delivered in compliance with applicable law and regulations.

Proactive Behavioral Health, LLC and Gary Allen Smith, Jr.

Pursuant to a settlement agreement, Gary Allen Smith, registered owner of Proactive Behavioral Health LLC, agreed to pay the State $70,000 to resolve allegations that from June 15, 2017, through May 30, 2018, Smith submitted claims for payment to Medicaid for psychiatric rehabilitation services to eleven clients that were not provided.

Star Medical Supply, Inc. and Leonid Shayayev

[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 and Vulnerable Victims 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 FY24 are outlined in that report and was previously submitted to the General Assembly.

Pursuant to a settlement agreement, Star Medical Supply, Inc. and its owner Leonid Shayayev agreed to pay the State $932,000 to resolve allegations that the company submitted claims to Medicaid for disposable medical supplies that were delivered to recipients who did not need or use such supplies and for which there was no valid Certificate of Medical Need from a physician.

(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. The OIGH was without legal representation for the duration of FY24 which prevented OIGH from negotiating the appropriate memorandums of understanding with the appropriate state agencies. The OIGH will work with counsel to develop all the necessary MOUs during FY25.

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