HLB's Fraud & Abuse Blog

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OIG FAQ Update and Addition

On April 23, the OIG updated its FAQ webpage to reaffirm its long-stated position that although an arrangement might qualify for a Stark exception, it may nonetheless fail to meet the requirements of an applicable anti-kickback statute (AKS) exception or safe harbor (FAQ #4). Intent remains key in the OIG's determination of whether an AKS violation exists, which is not an element of Stark's strict liability prohibition. In addition, the OIG added a new FAQ #17, which reiterates its stance that fair market value (FMV) alone is not dispositive of whether an arrangement violates AKS. While FMV is an enumerated element of several safe harbors, the OIG emphasizes that *all* elements must be satisfied for a safe harbor's protections to apply.

CMS Expands Medicaid Fraud Control Efforts

In April, CMS Administrator Dr. Mehmet Oz requested all 50 states to revalidate some Medicaid providers and respond within 30 days as to their strategies to address fraud within their Medicaid programs. This latest move is in furtherance of CMS's efforts to push states toward taking ownership of Medicaid fraud rather than relying upon the federal government. Previously, CMS focused its Medicaid program inquiries and audits largely on Democratic-led state governments.

CMS Proposes New Hospice Scoring System Designed to Target Fraudulent Billing

On April 2, CMS proposed a new rule that outlines a scoring system for hospice providers aimed at detecting potential quality of care and compliance concerns, in addition to inappropriate utilization. CMS is taking a data-driven approach to identify and address fraudulent hospice activities at hospice facilities, which has also included unannounced hospice site visits and the removal of hundreds of hospice providers engaged in inappropriate activity. Hospice facilities that receive high scores could be subject to additional review to evaluate potential program integrity or compliance issues. For additional information on CMS's recent crackdown on hospice services, see HLB's article published in *Bloomberg Law.*

Federal Judge Overturns HHS Secretary's Gender-Affirming Care Directive

On April 18, a federal district judge in Oregon issued a ruling overturning HHS Secretary Kennedy's Dec. 18, 2025 directive, which excluded from participation in Medicare and Medicaid any health care facilities providing gender-affirming care to minors. The court's opinion states that Secretary Kennedy's authority unilaterally—and without any process of law—tried to supersede professional standards of care for gender-affirming services as applicable in the states filing suit against the Secretary. For an in-depth analysis of DOJ's investigation into gender-affirming care for minors, see HLB's February Insight.

DOJ Establishes National Fraud Enforcement Division

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On April 7, acting U.S. Attorney General Todd Blanche issued a Memorandum outlining the structure and goals of the newly formed National Fraud Enforcement Division (Division) housed within the DOJ. This Division will consolidate a number of functions that were previously dispersed within the DOJ in an effort to more efficiently detect and prosecute persons defrauding the federal government. The Assistant AG for the Division will assume operational control of several units tasked with fraud enforcement, including the Health Care Fraud Control Unit. In addition, the Division will coordinate fraud enforcement efforts with other federal and state agencies, including the FBI, in an effort to recover monies fraudulently obtained from Medicare and other federal health care and non-health care programs.

CMS Issues RFI on Proposed Changes to CRUSH

On Feb. 27, CMS published an RFI soliciting public input on potential regulatory changes that could be part of a potential forthcoming Comprehensive Regulations to Uncover Suspicious Healthcare (CRUSH) proposed rule, as well as other programmatic changes that could be implemented to make CMS more effective in eliminating fraud. Comments were due to CMS by March 30.

CMS Hosts Crushing Fraud "Chili Cook-Off"

In Dec. 2025, CMS hosted what it referred to as the Crushing Fraud Chili Cook-Off Competition in which participants competed in presenting innovative, AI-driven solutions for detecting fraud, waste, and abuse (FWA) in Medicare claims. The competition was a market-based research challenge aimed at using machine learning to identify anomalies in Medicare claims data, with Milliman, Inc. winning for its AI model that flags high-risk behavioral and financial patterns.

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