

Fraud, Waste, and Abuse In Government-Run Medical Programs

Written by Lawrence Huntoon, M.D., Ph.D.
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Interview - Contact Dr. Huntoon directly at editor@jpands.org , [\(716\) 627-7759](tel:7166277759) (reporters and journalists welcome!)

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Preview: Politicians, who have promised more than taxpayers can pay for, often point to those who provide medical care as the main source of fraud, waste, and abuse in Medicare and Medicaid. However, a report prepared by the Department of Health and Human Services (HHS) Office of Inspector General (OIG) provides conclusive evidence of overbilling fraud on a massive scale committed by government itself.

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There is a lot of talk these days about fraud, waste and abuse in government-run medical programs. Politicians, who have promised more than taxpayers can pay for, often point to those who provide medical care as the main source of fraud, waste, and abuse in Medicare and Medicaid.

However, a report prepared by the Department of Health and Human Services (HHS) Office of Inspector General (OIG) provides [conclusive evidence](#) of overbilling fraud on a massive scale committed by government itself.

The House Committee on Oversight and Government Reform estimates that [New York State overbilled the federal government by \\$15 billion](#) over the past 20 years for Medicaid costs for developmentally disabled patients, an amount that exceeded the entire Medicaid budgets of 14 states! The committee reported: “The failure...suggests an institutional failure and a pattern of irresponsible actions that have cost taxpayers billions.”

What’s worse is that the federal government was complicit in this fraud. HHS officials, who are responsible for oversight of Medicare and Medicaid, acknowledged that they were aware of this massive overbilling by New York State since 2007, yet took no effective action to stop it. The deputy director for the Center for Medicaid and CHIP Services described the overbilling as “excessive and inappropriate.”

The OIG report details how New York State took advantage of rate-setting methodology instituted by the federal government, which significantly inflated the Medicaid daily rate paid to Developmental Centers caring for disabled patients. The CMS admitted that this rate setting formula was based on “apparently incorrect” assumptions about costs.

The complex rate-setting methodology involves a federal waiver that allows New York State to bill for “total reimbursable costs” as opposed to “actual costs.” In a gross understatement, the OIG report acknowledged that “total reimbursable operating costs do not reflect the State’s

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actual costs.” The federal government allows New York State to bill 64% of its prior reimbursement for a patient even after the patient is discharged from the care facility. And, if a patient is transferred to another facility financed by Medicaid, the taxpayers end up paying twice for the same patient.

The OIG report revealed that Medicaid reimbursement per patient in a developmental center in New York State went from \$195 per day in 1985 to \$4,116 per day in 2009, which for 2009 translated to \$1.5 million per year per Medicaid patient. Actual costs were 63% less than reimbursable costs paid. In 2011, taxpayers were charged a whopping \$5,118 per day per patient in a New York State developmental care facility. One could likely rent a lavish resort on an island for that extraordinary sum.

The report also revealed that State-owned developmental centers were reimbursed at ten times the rate of privately owned intermediate care facilities providing comparable services in the same region.

Incredibly, instead of punishing the perpetrators of this overbilling scheme, the federal government actually rewarded New York State between 2009 and 2011 by increasing Medicaid payment rates by 8%. This was done as part of a 2009 Stimulus Package designed to boost the economy.

The OIG report concluded that “CMS’s efforts did not prevent the rate from increasing to its current level, which might not be consistent with efficiency and economy.” That’s a little like telling the victim of an armed robbery that the thief’s actions were not consistent with the victim’s economic goals and efficient use of his money.

In 2004, we learned of indisputable evidence that Medicare is an [incompetence-based bureaucracy](#), which according to the government’s own GAO study provides the wrong answer 90% of the time in response to questions about how to properly bill the Medicare program. Now we have indisputable evidence that government itself is a major source of fraud in government-run medical programs.

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