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Adventures of an undercover OIG agent

by Eric Hafener, MBA, CHC, CHPC

Dog drool. Lots of it. I spent months planning this, trying to anticipate everything that might happen, every question I might be asked. But I hadn't expected drool from a very large, very friendly dog who was now trying to comfort my fictional distress as I sat reclined on the couch in Jill's office. I hoped the drool would not damage the electronic equipment I hid under my shirt.

The start

Six months earlier, I was sitting at my desk at the U.S. Department of Health & Human Services Office of the Inspector General (OIG), reviewing a complaint about a counselor who allegedly billed two visits every time she saw a patient. "A double" was what my witness said Jill called it.

I spent 19 years as a special agent with OIG. We received complaints from a variety of sources—data mining, competitors, our audit staff, current and former employees, and, in this instance, from a patient who noticed duplicate billing on a Medicare explanation of benefits.

Whenever I received a complaint at OIG, I tried to determine if the subject was aware of the investigation. If not, I would assess whether covert investigative techniques could be used.

OIG special agents attend the Federal Law Enforcement Training Center alongside other agencies such as the Naval Criminal Investigative Service, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Marshals Service, and others. They receive training in undercover operations, physical surveillance, electronic surveillance, and other investigative techniques and methods.

In Jill's case, I queried the Medicare claims database and analyzed the resulting data for any trends after receiving the complaint. I noticed Jill's claims showed a pattern of contiguous dates of service, such as Monday–Tuesday or Thursday–Friday. Aware that the Medicare contractor had not been in contact with Jill, I requested and received approval to conduct an undercover operation.

The preparation

During my career, I worked closely with drug agents investigating prescription drug trafficking involving Medicaid recipients. Unlike an undercover drug buy—which typically involves a brief encounter with the subject—my plan for investigating Jill was to receive five individual counseling sessions of one hour each and then observe how she billed for those services.

I spent the next several months preparing. We believed that part of Jill's practice involved treating substance use

disorders, so out of an abundance of caution, we applied for and were granted a court order authorizing the use of an undercover agent in a treatment program (see 42 C.F.R. § 2.67).

While waiting for the court order to be approved, I began growing a beard, as I felt this would lend more credibility to my character. I obtained an official undercover driver's license and Medicare card (I tried unsuccessfully to get an undercover Medicaid card) and received approval from the Centers for Medicare & Medicaid Services (CMS) to pay the counseling claims.

Since I had an undercover Medicare card, I needed to develop a backstory about my "disability" to explain why an otherwise healthy-looking 42-year-old was on Medicare. Jill had a clinical background, and I anticipated she would ask about my medical condition, so I researched conditions that might qualify for Social Security disability but which could also go into remission. I selected lupus and memorized the medications I would need to take to treat it.

I spent several weeks researching the signs and symptoms of clinical depression since I would need to present with these symptoms to convince Jill that I needed counseling.

And finally, since Jill worked out of a home office in a small rural New England town of fewer than a thousand people, I spent extensive time in and around her town. Unless I lived relatively close, I would have to drive through a much larger town on my way to her office, with many more options for counseling services. Because of this, I needed to "live" nearby. I claimed to live in the town next to Jill's and spent several days thinking through and practicing how and where I would carry out daily activities.

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