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Using OIG's cross-component audit and enforcement data to strengthen your compliance program

by Matthew J. Westbrook and David M. Blank

The U.S. Department of Health and Human Services (HHS) Office of Inspector General's (OIG) core responsibility is to promote efficiency and economy in myriad programs by eliminating fraud, waste, and abuse. While HHS deploys multiple tools to oversee \$2.4 trillion in federal expenditures spread across more than 100 programs, OIG's creation and promotion of industry compliance standards remains one of its most mission-critical functions.^[1]

For years, compliance professionals have come to rely on OIG's advisory opinions, special fraud alerts, advisory bulletins, and industry-specific guidance to develop and evaluate compliance programs. In recent years, OIG has modernized its compliance outreach for the digital age by producing podcasts, videos, brochures, web-based training sessions, tool kits, roadmaps, and even fact pattern-based FAQs to better connect with the healthcare industry. These additional resources have assisted participants in federal healthcare programs (FHCPs) to stay current on emerging issues and strengthen their existing compliance programs.

OIG's modernization efforts have extended beyond developing these additional compliance resources. OIG's strategic Work Plans have also detailed its approach to strengthening program integrity through increased cross-component collaboration, focusing on data-driven enforcement. Achieving such enforcement has been premised on the sharing of information, resources, and talent between and among OIG's key components:

- **Office of Audit Services (OAS):** Audits HHS programs to identify program risks, vulnerabilities, and mismanagement and also leverages HHS data to identify and target emerging high-risk areas to ensure the best use of resources.
- **Office of Evaluation and Inspections (OEI):** Conducts evaluations to inform and advise interested stakeholders on significant program-related issues and to make practical recommendations to improve operations.
- **Office of Investigations (OI):** Conducts criminal, civil, and administrative investigations of alleged fraud, waste, and abuse related to HHS programs and operations.
- **Office of Counsel to the Inspector General (OCIG):** Provides legal advice to OIG and is responsible for representing OIG in False Claims Act (FCA) cases, monitoring integrity agreements, publishing compliance guidance, and imposing penalties, assessments, and exclusions under the Civil Monetary Penalties Law

(CMPL)^[2] and Exclusion Statute.^[3]

While most compliance professionals incorporate aspects of OIG's traditional compliance guidance into daily work, more are beginning to utilize OIG's audit and enforcement data to better identify and understand emerging compliance risk areas. Evaluating such audit and enforcement data in real time is important for developing and improving proactive compliance monitoring tools and allocating compliance resources more efficiently and effectively. If the audit and enforcement data relate to any business line of an organization, the compliance response should mirror the OIG's audit, investigative, and enforcement efforts.

The compliance benefits of this approach are not theoretical. Since 2018, OIG has entered at least 67 CMPL settlements totaling nearly \$17 million in CMPL recoveries in matters originating as an OAS audit. These results stress the importance of understanding OIG's internal collaborations to identify emerging industry-specific risks and develop proactive compliance measures. This article focuses on three specific, current enforcement action areas resulting from a partnership between OCIG and OAS as an example of such internal collaboration.

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