

Gavel to Gavel: OIG improves health care provider transparency

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The U.S. Department of Health and Human Services Office of Inspector General recently announced it is increasing transparency of enforcement actions against health care providers by revising its practices in three significant ways.

Going back 10 years, the OIG began posting on its website a list of closed corporate integrity agreements, or CIAs. A CIA is an agreement between the OIG and a health care

provider negotiated as part of a settlement of a federal health care investigation or enforcement action. CIAs are typically in effect for five years and require health care providers to agree to obligations intended to ensure compliance with health care laws. In exchange for entering into a CIA, the provider usually avoids exclusion from participation in Medicare, Medicaid, or other federal health care programs. As a result of this change, federal and state regulators and the taxpaying public will have improved access to compliance histories of repeat and prior offenders.

The OIG has added information to its website regarding its assessments of the future risk presented by defendants in False Claims Act cases. The mechanics of the assessments will remain the same, with the exception that the assessments will now be available in the public domain.

These assessments evaluate offending health care providers on a risk continuum from highest to lower risk by focusing on: the nature and circumstances of the offender's conduct, including financial loss to any federal health care program and impact on program beneficiaries; the offender's level of cooperation during the investigation; ameliorative efforts of the offender, including disciplinary action against responsible individuals, additional training, and increased investment in compliance activities; and the offender's compliance history, including self-disclosure activity and existence of a robust compliance program.

Beginning in fiscal year 2019, the OIG will publish the identities of health care providers who refuse to enter into corporate integrity agreements with the OIG. The OIG believes these defendants pose a heightened risk to federal health care programs and their beneficiaries.

The OIG's recent announcement regarding its efforts to increase transparency in federal enforcement actions against health care providers highlights the need for such providers to review their compliance programs or implement a formal compliance program and confirm internal practices are compliant with state and federal law.

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