



May 19, 2022

The Honorable Suzanne Murrin  
Deputy Inspector General  
Department of Health and Human Services  
Office of Inspector General  
330 Independence Avenue SW  
Washington, D.C. 20201

Dear Deputy Inspector General Murrin:

The Partnership for Medicaid Home-Based Care (PMHC) appreciates the work of the Medicaid Fraud Control Units (MFCUs) to investigate Medicaid fraud and patient abuse and neglect and the Department of Health and Human Services (HHS) Office of Inspector General's (OIG) annual reports on this important undertaking. PMHC supports efforts to prosecute Medicaid fraud and eliminate personal care services (PCS) attendants and agencies that engage in criminal activity from the Medicaid program. HHS OIG reports inform policymaking and influence the perceptions of Medicaid providers by policymakers and the general public. PMHC urges the HHS OIG to ensure clarity in its presentation of the data on fraud and convictions on personal care agencies and personal care services attendants, which should be reported separately **to avoid a misrepresentation of personal care services.**

PMHC was established in 2015 to advance the delivery of high quality, cost-effective Medicaid home-based care and services. Our membership<sup>1</sup> is comprised of providers, associations, managed care organizations, and technology solutions companies united in improving the quality and integrity of cost-effective Medicaid HCBS. As you know, home care workers, also known as direct care workers or caregivers, provide essential care and supports to the most vulnerable populations, including seniors, individuals with disabilities, and medically complex children, to help them with activities of daily living so they can remain in their homes. PMHC member companies employ approximately 300,000 direct care workers throughout the country.

Although the OIG's Medicaid Fraud Control Units Fiscal Year 2021 annual report disaggregates the data in Appendix B on criminal convictions for PCS agencies and PCS attendants, the report asserts that "significantly more convictions for fraud involved PCS attendants and agencies than any other provider type."<sup>2</sup> The statement is misleading. Appendix B shows that of the 329 reported criminal convictions in 2021, 20 (or 6 percent) were claims from personal care agencies. By comparison, 309 claims (or 94 percent) of criminal convictions were among personal care

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<sup>1</sup> Members of PMHC include: Addus Homecare, AlayaCare, Aveanna Healthcare, Axxess, BAYADA Home Health Care, BrightSpring Health Services, CareBridge, CareCentrix, Caring Home Care Inc., CellTrak Technologies, Centene Corporation, Council of State Home Care and Hospice Associations, Help at Home, HHAExchange, Home Assist Health, LHC Group, Sandata Technologies, Simplura Health Group, TEAM Public Choices, Tendercare Home Health Services, and Thrive Skilled Pediatric Care.

<sup>2</sup> U.S. Department of Health and Human Services Office of Inspector General, Medicaid Fraud Control Units Fiscal Year 2021 Annual Report (OEI-09-22-00020), March 2022, p. 5.

attendants. Similarly, there are significant differences in the recovery amount per conviction from personal care services agency providers compared to personal care services attendants. The report presents data showing the recovery amount per conviction for agencies is \$260,614, and the amount per attendant is \$20,867.<sup>3</sup> OIG should distinguish between these two types of Medicaid home care providers in highlighting rates of fraud in future reports rather than characterize agencies and PCS attendants providing care through a self-directed model as synonymous. Additionally, PMHC recommends that OIG consider the proportion of fraud convictions by provider type to the number of individuals served when drawing conclusions about which provider types have a substantially high rate of fraud.

PCS agencies have established oversight mechanisms and training programs for direct care workers to guard against fraud. Agencies regularly monitor and identify timesheet fraud. For example, one agency identified 384 incidents of potential timesheet fraud with 182 (47 percent) being substantiated. If an agency identifies fraudulent activity, the agency terminates employees and reports the fraud to the state MFCU. Moreover, the agency does not bill for the fraudulent claims by the direct care worker, which reduces the amount of fraudulent claims subject to recovery. The federal government can hold agencies as legal entities fully accountable for fraud unlike PCS attendants, who likely do not have assets to pay appropriate monetary recoveries.

We value the work of the OIG and hope that you will consider our recommendations to refine the presentation of data on Medicaid fraud and patient abuse and neglect. PMHC would appreciate the opportunity to meet with Linda Min and Matt DeFraga to begin a dialogue on these issues.

Sincerely,



Esmé Grewal  
Chairman of the Board



Darby Anderson  
Chairman, Policy Committee

CC: Linda Min, Senior Program Analyst  
Matt DeFraga, Project Leader

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<sup>3</sup> Id. at Appendix B.