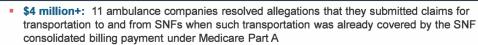


OIG Recovers \$2.73B **DOJ Recovers \$2.2B** from Criminal and from False Claims Civil Actions in FY22 **Act Cases in FY22 OIG Semiannual**  FY 2022 recoveries less than The half of the \$5.6B in FY21 Report to Congress **Numbers** (Apr. 1, 2022-Sept. 30, 2022) Recovery amount below pre-pandemic levels Recoveries down from \$3B in FY21 But second highest number of settlements and judgments OIG expects to recover additional \$1.2B from audits Recoveries from declined qui OIG brought 710 criminal tams up by 40% from FY21 actions and 736 civil actions OIG excluded 2,332 individuals and entities from participation DWT.COM

# OIG - CMPs and Self-Disclosures





\$919,000: Dr. Kenneth P. Martinez and Kenneth P. Martinez, M.D., d/b/a Neurology and Pain Specialty Center, allegedly submitted claims for medically unnecessary or up-coded services



- \$4.9 million: InSite Diagnostic Health allegedly submitted claims to Medicare, Medicaid, and Tricare that misused the Q5 modifier (indicating a substitute physician under a reciprocal billing arrangement) and listed the incorrect name of the rendering provider on the claims
- \$12.7 million: Lee Health and Cape Coral Hospital allegedly submitted claims for professional and technical pain management procedures and E&M services performed by 2 independent contractors that did not meet Federal health care program coverage criteria
- \$6.2 million: AMITA Health Mercy Medical Center and AMITA Health Saints Mary and Elizabeth Medical Center allegedly submitted claims to Medicare Part A for inpatient psychiatric admissions that were not medically necessary

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# **Enforcement Trends**

### **Large Recent Recoveries**

- Kickbacks to providers by pharmaceutical and device companies almost \$1B between 2 settlements in Sept. 2022 alone
  - Bayer \$40M
  - Biogen \$900M
- EHR Companies \$45M settlement of kickback allegations arising from donations to providers (Nov. 2022)

### **OIG Special Fraud Alert: Telemedicine**

- Issued July 20, 2022 --Alert emphasizes the inherent fraud and abuse risk associated with providers entering into arrangements telemedicine companies
- Alert lists seven characteristics that indicate potential risk for fraud and abuse
- Alert was designed to provide practical compliance guidance and help establish guardrails for telemedicine arrangements

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# National Healthcare Fraud Takedown: July 20, 2022

- DOJ announced nationwide enforcement action involving criminal charges against 36 charged defendants across 13 federal districts fraudulent billing schemes tied to telemedicine, genetic and cardiovascular testing, and equipment \$1.2 billion in false and fraudulent claims
- Charges focus on Anti-Kickback Statute violations
  - Payments by laboratory owners and operators in exchange for the referral of patients for testing services from medical professionals and fraudulent telemedicine and digital medical technology companies
  - International telemarketing network used deceptive techniques to induce thousands of elderly and disabled patients to agree to unnecessary genetic testing and durable medical equipment
- At the same time, CMS took administrative actions against 52 health care providers involved in similar schemes

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# DOJ Aggressively Pursuing Enforcement of COVID-19 Fraud

### April 20, 2022: Nationwide COVID-19 Takedown

Enforcement actions filed in 9 districts, criminal charges against 21 individuals involving more than \$149M in allegedly fraudulent claims: fake cures, forged vaccination cards, misuse of Provider Relief Fund, and COVID-19 testing by clinical laboratories

### **COVID-19 Fraud Enforcement Examples**

- April 2022: Physician Partners of America paid \$24.5M to settle
  allegations of unnecessary testing, improper remuneration to
  physicians, and false statements in connection with COVID-19 relief
  funds
- June 2022: MorseLife Health System agreed to pay \$1.75M to settle allegations that it facilitated COVID-19 vaccinations for ineligible donors
- January 2023: Colorado physician convicted of theft for misappropriating federal COVID-19 relief funds (both MAAPP payments and PPP Loans)

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