



Modern Healthcare

2013 ASHPE WINNER
GOLD AWARD Best news article
SILVER AWARD Best website

HEALTH CARE HALL of FAME | Modern Healthcare

Join, Follow & Connect

 

- News
- Topics
- Research
- Opinion
- Blog
- Recognition
- Videos & Webinars
- Events
- Marketplace
- Jobs

MODERN HEALTHCARE APP
ON-DEMAND INSIGHT
ANYWHERE. ANYTIME.



SPONSORED BY NAVIGANT HEALTHCARE

Download on the App Store
ANDROID APP ON Google play

Healthcare Business News



This Week's Issue

Painful side effects

Drug-abuse problems evade paltry anti-fraud efforts in Medicare Part D

By [Joe Carlson](#)

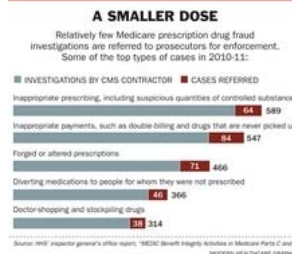
Posted: April 12, 2013 - 12:01 am ET

Tags: [Feature](#), [Fraud](#), [Legal](#), [Medicare](#), [Pharmaceuticals](#), [Recovery Audit Contractor \(RAC\)](#)

The abuse of prescription painkillers causes more fatalities than heroin and cocaine use combined—more than 40 deaths every day.

Yet programs that could stop the types of Medicare fraud that commonly lead to powerful drugs being diverted into the black market aren't working as well as they should.

Such breakdowns are often framed largely in terms of financial losses, such as the widely touted statistic that prescription drug fraud costs public and private insurers about \$73 billion a year. But unlike other areas of Medicare fraud, prescription drug abuse levels a heavy human toll seen in the rising rates of deaths and addictions, the births of drug-addicted babies and destruction wrought on rural towns hard-hit by the painkiller epidemic.



Outlook 2014: Healthcare industry can expect promises, challenges and growth

Startup insurer Oscar Inc. hopes high-tech, service will trump incumbents

Table of Contents
Digital Edition
Subscribe

Stanford team answers call to aid typhoon victims

By the numbers: Uninsured young Americans by state

Advertisement | [View Media Kit](#)

Rankings, lists, charts and more to inform decisions throughout the year!



BY THE NUMBERS 2013
DOWNLOAD TODAY - USE IT ALL YEAR!

A report from the Government Accountability Office found in 2011 that 170,000 Medicare beneficiaries got prescription painkillers from five or more doctors, which is a warning sign for fraudulent "doctor-shopping" by drug-seeking individuals. About 600 Medicare patients got prescriptions from more than 20 doctors each, in the same year, according to the study.

"The GAO has tracked abundant fraud amongst Medicare Part D patients, and if we don't get control of the issue, we face a rising financial and human toll nationwide," U.S. Rep. Hal Rogers (R-Ky.) said in an e-mail. His legislative district has been significantly affected by the growing incidence of painkiller abuse. "We've nearly lost an entire generation, and now we're tallying up a bill that our children and grandchildren will be left to pay."

The gaps in Medicare drug-benefit enforcement are occurring despite the fact that the CMS has erected multiple lines of defense against fraud in its \$60 billion Medicare prescription drug program, known in health-policy circles as Medicare Part D, which had 37 million enrollees as of March. The drug program took effect in January 2006.

The health plans that contract to provide Part D drug coverage are required to monitor for fraud, and the CMS now has two auditing companies that are also charged with scanning the vast trove of Medicare Part D data for aberrant billing patterns that could point to doctor-shopping, drug diversion and payments to doctors to prescribe, among other common swindles.

Yet a series of reports from HHS' inspector general's office for evaluations and inspections have documented some systemic flaws:

- While the private plan sponsors are mandated to have compliance programs, they are not under orders to investigate every lead and they don't have to turn over investigative results to auditors or even document what work they do.
- One of the two auditing contractors—Health Integrity, the Medicare drug integrity contractor since 2006—lacks enforcement powers when outside investigators decline to prosecute a case. The company even lacked access to timely prescribing data until 2012.

Related Articles

More in:

[Teva taps board member Vigodman as president and CEO](#)

[Forest Labs buying Aptalis for \\$2.9 billion](#)

[Forest Laboratories near \\$3 billion acquisition of Aptalis](#)

[More Pharmaceuticals Articles](#)

Most Requested Articles

[U.S. Chamber looks to fix, not repeal Obamacare](#)

[HMA shareholders OK \\$3.9B deal to sell company to Community Health Systems](#)

[Montana hospital sues developer over electronic health-record certification](#)

[CMS seeks Part D, Advantage changes to save \\$1.3B, curb abuses](#)

[CHI, Baylor and Texas Heart Institute announce collaborations in Houston](#)

Most Recent Research

[By the numbers: Uninsured young Americans by state](#)

[By the Numbers: Rewarding Quality--The 10 most- and least-improved hospitals](#)

[By the Numbers: Largest EHR vendors: 2013](#)

[By the Numbers: Hospitals with the highest, lowest mortality rates](#)

[BTN: Largest skilled-nursing companies: 2013](#)

[Submit, Nominate & Register](#)

- The Patient Protection and Affordable Care Act created a new contract for a Part D recovery audit contractor, but that firm is still new on the job and its contract doesn't require it to specifically target fraud.

"Part D auditing is really in its infancy, and what we are seeing today is not what we will be seeing in two years or five years from now," says Jessica Gustafson, a partner with Health Law Partners, Southfield, Mich. "My takeaway would be that the Part D plans should be aware that there will be more auditing in the future."

Some of the problems in auditing Part D are a result of the program's design. It's funded through a complex, population-based system known as capitation that pays health plans to provide for prescription drug coverage across large groups, which reduces the incentive to find individual incidents of fraud. Part D also has to compete for attention with the other fraud-prone sectors of Medicare that carry even larger price tags, such as the program's hospital and physician benefits.

But those complexities offer little comfort to people affected by diverted drugs prescribed by Medicare doctors whose aberrant practice patterns could have been caught by a quick-witted auditor or an algorithm.

"This problem is breaking down communities and killing people," says Dennis Jay, executive director of the Washington-based advocacy group Coalition Against Insurance Fraud, which has studied the issue in the past.

Medicare Part D is "probably one area where there isn't enough focus being put on by government and the contractors, and that's because they're looking at other parts of Medicare right now," Jay says. "We've been pushing them a little bit to focus more on drugs."

No estimates exist for how severely prescription-abuse fraud affects Medicare Part D. A 2008 study from the insurance coalition said such fraud costs all insurers, public and private, about \$72.5 billion—a price from a 2008 consultants' study that includes both direct costs of the drugs, the ancillary services and physicians' time used, and the cost of hospitalization and drug treatment for addicted individuals.

Meanwhile, the Centers for Disease Control and Prevention in Atlanta reported that the death rate for overdoses from prescription painkillers such as oxycodone, methadone, hydrocodone and oxymorphone tripled during the past decade, killing 15,500 people in 2009, the most recent year for which national data were available.

CMS officials and their auditing contractors declined interview requests for this story, but wrote in an e-mail, "CMS takes seriously fraud and abuse in Medicare Parts C and D, as well as oversight of those programs."

But HHS' inspector general's office has issued numerous reports since 2006 noting a lack of oversight and aggressiveness in monitoring.

In January, an inspector general's report concluded that the Medicare drug integrity contractor, Health Integrity—whose job specifically includes a mandate to proactively find fraud in Part D—had done little of its own investigative work in looking for problems.

The inspector general's office cited numerous weaknesses in the system, including that health integrity lacked access to the data it needed. That has since been solved, CMS officials say, but the company still lacks the power to take enforcement actions like Medicare's zone program integrity contractors have over the program's hospitalization and physician benefits.

Instead, the company must rely on enforcement agencies such as the Justice Department or local prosecutors to take action. Yet of the 1,807 new investigations the company opened into Part D in 2011, only 184 were eventually referred to outside agencies. And of those referred cases, only 10% were developed by the company's own data analysis, according to the inspector general's January audit report. The rest of the cases came from tips from plan sponsors.

Officials with Health Integrity did not respond to requests for comment, though a CMS spokeswoman says the company's contract with the government forbids media interviews.

The Part D plan sponsors are a prime source of outside investigative leads for Health Integrity.

Pharmacy benefits manager Express Scripts is one such plan sponsor, holding Part D contracts to provide benefits directly to Medicare beneficiaries as well as pharmacy management services for other private insurers that outsource the service.

Express Scripts performs auditing work monitoring other government contractors that administer Plan D on behalf of Medicare.

Jo-Ellen Abou Nader, senior director of program integrity at Express Scripts, says her company uses sophisticated, proprietary algorithms to examine 290 different potential red flags for fraud and abuse in the 1.4 billion prescriptions the company manages per year, which include its Part D business.

"I'd say it's very active now," Abou Nader says. "We've been in this space for several years."

She says Express Scripts turns over to auditors every suspected case of fraud it finds among its direct Part D beneficiaries. Issues that Express Scripts finds in other insurers' populations are turned over to those companies. Abou Nader didn't know how many of those tips get forwarded for investigation.

Past reports from HHS' inspector general's office show that some Part D plan sponsors were far more active than others in reporting cases of suspected fraud. In 2008, 28% of the plan sponsors reported no fraud at all.

"Plan sponsors are the first line of defense against Part D fraud and abuse. However, we found that some plan sponsors did not identify any potential fraud and abuse incidents," according to the 2008 inspector general's report. The office is already conducting a new review along the same lines as the 2008 study to track changes, with a due date in 2014.

Both the 2008 and 2013 reports from the inspector general's office noted that the CMS has not made it mandatory for the

[Voting begins for 50 Most Influential Physician Execs](#)

[Deadline extended for Hall of Fame nominations](#)

[Nominees sought for Top 25 Minority Executives in Healthcare awards](#)

[Trustee nomination deadline extended to Jan. 6](#)

Part D sponsors to turn over investigative findings, which it recommended reversing. The CMS demurred on the topic in its official responses.

Abou Nader says one immediate change that could help the problem would be to give health plans the ability to "lock in" certain patients, as private insurers do. This would mean that Medicare patients whose records show unusual activity, such as visiting multiple doctors or pharmacies, could be locked into seeing a single provider or pharmacy for their pain drugs. She says the proposal comes up "in every meeting" regarding the issue of drug diversion in Part D.

"The CDC is calling this a national epidemic, which it is," she says. "There are plenty of government officials behind this now, and they know that we need to make a change, and it is going to take everyone in the community to make a difference. It is not just law enforcement; it is everyone in the healthcare community.

"We have to get out in front of this," Abou Nader says.

Follow Joe Carlson on Twitter: [@MHJCarlson](#)

 1
  1
  0
  6

Today's Headlines

- [New CDC report holds clues for battling superbugs](#)
- [CMS to address issues with data systems for dual eligibles](#)
- [Angela Kennedy begins year-long term as AHIMA president, board chair](#)
- [Former acting CMS Administrator Kerry Weems named CEO of TwinMed](#)

[More Headlines](#)



What do you think?

Share your opinion. [Send a letter to the Editor](#) or Post a comment below.

Post a comment

You must be logged in to post a comment. [FAQ](#) | [Log in](#) | [Register](#)

Please login to post a comment.

Search ModernHealthcare.com: 

News by Section

- 35th Anniversary
- Healthcare Breaking News
- Today's Newsmakers
- This Week's Issue
- Daily Dose Archives
- Exclusive Series
- Special Reports
- Special Features
- Regular Features
- Live@ Event News
- International News
- Outliers Online
- Most Requested Articles
- Regional News
- Modern Physician

Multimedia

- Videos
- Webinars
- Podcasts
- Photo Galleries

News by Topic

- Affordable Care Act
- ACOs
- Finance
- Government Affairs
- Healthcare IT
- Payers
- Physician News
- Safety and Quality
- Supply Chain
- More Topics

Regular Features

- Construction
- Information Edge
- International Healthcare
- Legal Affairs
- Long Term Care
- Medical Technology
- Outpatient Care
- Patient Safety
- Payers and Purchasers
- Rural Health
- Staffing & Labor
- Strictly Finance

Data Center

- Surveys, Lists and Data
- Mergers & Acquisitions
- Market Facts
- Technology Price Index
- Open Surveys
- Survey Respondents
- By the Numbers

Opinion

- From the C-Suite
- Guest Commentary
- Editorials
- Reporter's Notebook

Blog

- Vital Signs

Community

- Letters to the Editor
- Daily Reader Forum
- HITS Reader Forum
- LinkedIn Group
- Twitter Feed
- Facebook Page

Recognition Programs

- All Recognition Programs
- 100 Most Influential People in Healthcare
- 100 Top Hospitals
- 50 Most Influential Physician Executives
- ACHE Awards
- Architectural Design
- Best Places to Work in Healthcare
- CEO IT Awards
- Community Leadership
- Design Awards
- Healthcare's Hottest
- Health Care Hall of Fame
- National Quality Forum
- Physician Entrepreneur
- Spirit of Excellence
- Top 25 Clinical Informaticists
- Top 25 Minority Executives
- Top 25 Women in Healthcare
- Trustee of the Year
- Up & Comers

Healthcare Events

- Building Tomorrow's Delivery Model
- Virtual Conference
- Best Places to Work in Healthcare
- Conference and Gala
- Top 25 Minority Executives Gala
- Women Leaders in Healthcare
- Conference
- Industry Events
- Live@ Event News
- Webinars

Sponsored Content

- Perspectives
- What's Right in Health Care
- Waller Outsourcing Survey
- Nashville Health Care Council
- Healthcare Jobs
- Case Studies
- Classifieds
- Marketplace

Partners

- Crain Publications

Reader Services

- Free Registration
- Your Account Center
- Subscribe
- RSS/News Feeds
- Prize Center
- We're Everywhere You Are

Advertising Opportunities

- Media Kit
- Editorial Calendar
- Email List Rental
- Reprints & Licensing
- Reasons to Advertise

Contact Us

- About Us
- Business Staff
- Customer Service
- Editorial Staff
- Editorial Awards
- Marketing Staff
- Crain Communications
- Commentary Submission
- Guidelines
- Partnership Proposals
- Speaker Request Form



Copyright 1996-2014 Crain Communications, Inc. | Privacy Statement | Terms of Use