



Defense Health Agency



Program Integrity Operational Report

January 1, 2017
through December 31, 2017



*"Guarding the Health Care
of Those Who Guard Us"*



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Office of Program Integrity

Mission

Our mission is to manage healthcare anti-fraud and abuse activities for the Defense Health Agency to safeguard beneficiaries and protect benefit dollars. Program Integrity develops and executes anti-fraud and abuse policies and procedures, provides oversight of contractor program integrity activities, coordinates investigative activities, develops cases for criminal prosecutions and civil litigations, and initiates administrative measures.

Vision

Our vision is to ensure the Defense Health Agency and its contractors have an effective healthcare anti-fraud program in place that can be considered a model of excellence for the industry, ensure high quality health care for beneficiaries and protect benefit dollars.

Organization



Section 1.0 Defense Health Agency Program Integrity - General

On 1 October 2013, the Department of Defense (DoD) establish the Defense Health Agency (DHA) to manage the activities of the Military Health System (MHS). These activities include those previously managed by TRICARE Management Activity, which was disestablished on the same date.

TRICARE is the DoD health care program serving Uniformed Service members, retirees and their families. As a major component of the MHS, TRICARE brings together the worldwide health care resources of the Uniformed Services (often referred to as “direct care”) and supplements this capability with network and non-network civilian health care professionals, institutions, pharmacies, and suppliers (often referred to as “purchased care”).

The DHA Office of Program Integrity (PI) is responsible for healthcare anti-fraud activities to protect benefit dollars and safeguard beneficiaries. This includes both the purchased care and direct care settings. DHA PI develops and executes anti-fraud and abuse policies and procedures, provides oversight of contractor program integrity activities, coordinates investigative activities, develops cases for criminal prosecution and civil litigation, and initiates administrative measures.

DHA PI as part of the DHA Special Staff and reports directly to the DHA Deputy Director and Chief of Staff. This reporting structure facilitates DHA PI’s anti-fraud activities. Because of the nature and scope of the work performed by DHA PI, its reporting line is separate and distinct organizationally from the day-to-day operational activities of other departments to avoid the appearance or potential of undue influence or conflict of interest.

To encourage the early identification of fraud, DHA PI engages in multiple proactive activities designed to identify areas that may be vulnerable to fraudulent and abusive billings. DHA PI develops areas of focus and analyzes claims data to identify outliers. Recognizing the importance of sharing information with the investigative community, DHA PI (often a presenter) regularly attends task force meetings, information

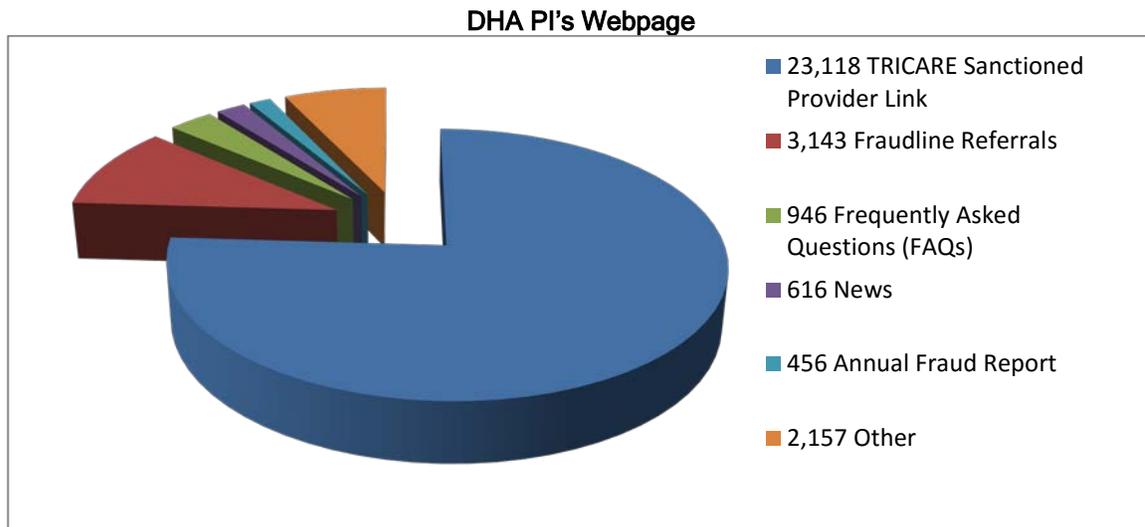
sharing meetings, and healthcare anti-fraud meetings. These meetings foster collaborative anti-fraud efforts across government agencies and private organizations.

Through a Memorandum of Agreement, DHA PI refers its fraud cases to the Defense Criminal Investigative Service (DCIS). DHA PI also coordinates investigative activities with Military Criminal Investigative Offices (MCIOs), as well as other federal, state, and local agencies. DHA PI provides technical assistance, subject matter expertise, and support to U.S. Attorney Offices (USAOs), law enforcement agencies, and others in developing cases for criminal prosecution, civil litigation and/or settlements. This includes providing witness testimony related to the TRICARE program and range of benefits. This support is continuous and ongoing throughout the investigative, settlement, and/or prosecutorial phases of cases.

In addition to saving and recovering benefit dollars, DHA PI actions contribute to patient safety. In the course of investigations, DHA PI may become involved in coordinating notification alerts for beneficiaries who may have potential exposure arising from re-use of syringes, the use of single dose vials of medication on multiple patients, watering down of immunizations, dilution of chemotherapy solutions, and other such potentially harmful situations.

1.1 TRICARE's Fraud and Abuse Website

In 2017, DHA PI's homepage which is located at www.health.mil/fraud continued to experience significant access by the public. The number of visits on DHA PI's homepage during 2017 was 30,436¹. Our most popular feature was our listing of Sanctioned Providers with 23,118 pageviews. Fraudline Referrals identifying alleged fraudulent or abusive activities may be reported through the above homepage directly to the DHA PI Office by clicking the "Report Health Care Fraud" button. During 2017 a total of 3,143 Fraudline Referrals were made directly to DHA PI through our homepage.



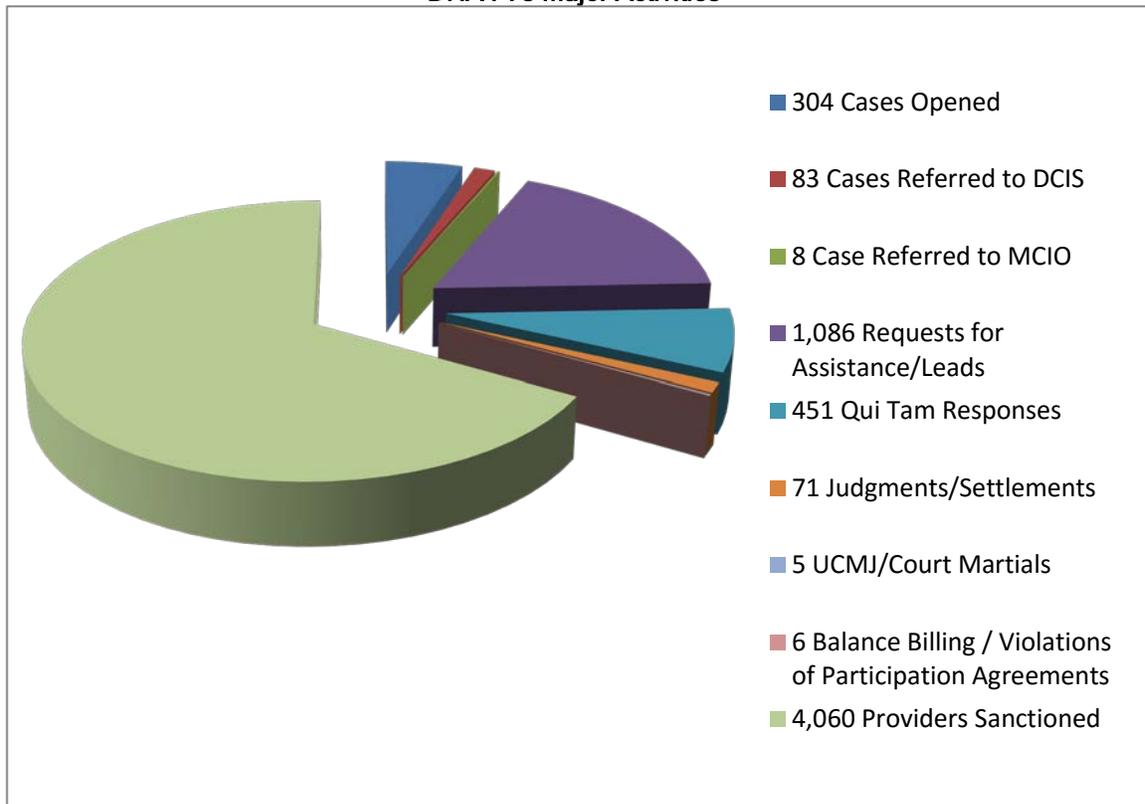
Section 2.0 DHA PI Activity Report

DHA PI had another active year in supporting ongoing investigative actions. During calendar year 2017, 690 active investigations were managed, 304 new cases were opened, and 1,086 leads/requests for assistance were responded to. DHA PI received and evaluated 451 new *qui tams*. A *qui tam* is a provision of the Federal Civil False Claims Act (FCA) that allows private citizens, known as relators, to file lawsuits in the name of the U.S. Government alleging that private companies—usually their employer—

¹ In 2015, DHA switched to a more accurate tracking measure for visits to a homepage site. Previous year measurements were based on "hits" which included automated "bot crawls", "image loads", and "body content copy loads". DHA is now tracking through a more accurate "Pageviews" which is the number of actual views and repeated views and removes "bot crawl", "image load", and "body content copy load" counts.

have submitted fraudulent claims for government payment. The private whistleblowers who file these *qui tam* lawsuits receive a percentage of the settlement or judgment amount if a settlement or judgment is reached.

DHA PI's Major Activities



Section 3.0 Cost Avoidance

This section details the results of cost avoidance activities.

3.1 Prepayment Duplicate Denials

TRICARE's Managed Care Support Contractors (MCSC) along with International, SOS (ISOS), Wisconsin Physician Service (WPS), Express Scripts Incorporated (ESI), United Concordia Dental (UCCI), and Met Life utilize claim software that screens and audits claim coding. One significant area reviewed is that of duplicate claims submissions. When duplicate claims submissions are identified the duplicate claim is denied. For calendar year 2017 prepayment duplicate denials amounted to \$624,450,950.

3.2 Rebundling/Mutually Exclusive Edits

TRICARE's MCSC's and ISOS, WPS, ESI, UCCI and Met Life are required to use prepay claims processing software that utilizes rebundling and mutually exclusive edits. The rebundling edits are designed to detect and correct the billing practice known as unbundling, fragmenting, or code gaming. Unbundling involves the separate reporting of the component parts of a procedure instead of reporting a single code, which includes the entire comprehensive procedure. This practice is improper and is a misrepresentation of the services rendered. Providers are cautioned that such a practice can be

considered fraudulent and abusive. For calendar year 2017, the prepayment claims processing software in use by the MCSCs accounted for \$98,878,272 ² in cost avoidance for TRICARE.

3.3 Prepayment Review

Prepayment review prevents payment for questionable billing practices or fraudulent services. Providers/beneficiaries with atypical billing patterns may be placed on prepayment review. Once on prepayment review their claims and supporting documentation are subjected to prepayment screening to verify that the claims are free of billing problems. The results of a review may result in a reduction of what was claimed or a complete denial of the claim. The following chart shows by contractor, cost avoided as a result of prepayment review activities.

Calendar Year 2017 Prepayment Review³

CONTRACTORS	COSTS AVOIDED
Humana Military Healthcare Services, South	\$45,597,515
Health Net Federal Services, North	\$4,779,555
International SOS, Overseas	\$1,353,145
United Healthcare Military & Veterans, West	\$1,678,715
WPS TDEFIC, National	\$200,889
UCCI, National	\$0
TOTALS:	\$53,609,819

3.4 Pharmacy Daily Claims Audits

Express Scripts Inc. Retail Pharmacy Contract claims processing is "real" time. While not an actual prepayment review process, the daily claims audit process identified and prevented \$632,457 of inappropriate pharmacy billing errors prior to payment.

3.5 Excluded Providers

DHA has exclusion and suspension authority based on Title 32, Code of Federal Regulations (CFR), Part 199.9(f). An Exclusion applies to medical claims, pharmaceuticals, and durable medical equipment, or any medical services performed or ordered or performed by any excluded provider or excluded entity whether in an institutional or non-institutional setting. Additionally, an exclusion would apply to any medical facilities or other medical entities, in which the excluded provider would have a financial interest in.

DHA PI works with the DHA Office of General Counsel to recommend exclusions when necessary. TRICARE's exclusion list is available on the internet at www.health.mil/fraud. This online searchable database allows searches by provider or facility name.

From this website users may also access the Department of Health and Human Services (DHHS), Office of Inspector General (OIG) List of Excluded Individuals/Entities (LEIE). The LEIE is an online searchable database which allows searches by provider or facility name.

² Data Acquired from TRICARE Claims Data Repository.

³ Data as reported by TRICARE Contractors.

During 2017 DHA excluded seven providers and two medical clinics under its own authority. The following providers were excluded:

Dr. Katherine D. Falwell, Jacksonville, Florida – 10 Year Exclusion.

On 1 December 2017, Dr. Falwell was excluded from TRICARE under 32 CFR 199.9(f) due to activities by key management employees under Dr. Falwell's supervision to engage in fraudulent activities to cover up the neglectful or lack of appropriate care to one of the most helpless patient populations, autistic children. Due to the administrative burden placed upon the TRICARE Program and the substantial fraudulent and abusive activity directed against TRICARE and its beneficiaries Dr. Falwell was excluded under 32 CFR 199.9(f) in the best interest of TRICARE and its beneficiaries.

Dr. Ronald Mansolo, Leander, Texas – 10 Year Exclusion.

On 9 June 2016, Dr. Mansolo pled guilty to one count of unlawfully dispensing controlled substances under Title 21 U.S.C. 841(a)(1) and (b)(1)(C). Dr. Mansolo was sentenced to 5-years' probation, ordered to pay a \$10,000 fine, and a special assessment fee of \$100. A criminal conviction involving TRICARE requires a mandatory exclusion.

Dr. Gary Small, Miami, Florida – 10 Year Exclusion.

On 15 March 2017, Dr. Small pled guilty to one count of conspiracy to defraud the United States and to pay health care kickbacks under Title 18 U.S.C. 371. Dr. Small was sentenced to 60-months incarceration, 3-years' probation, ordered to pay a special assessment fee of \$100, and restitution in the amount of \$4,357,433, joint and several with co-conspirators. A criminal conviction involving TRICARE fraud requires a mandatory exclusion.

Dr. Fernando Garcia-Dorta, Deerfield Beach, Florida – 10 Year Exclusion.

On 19 October 2016, Dr. Garcia-Dorta pled guilty to one count of conspiracy to commit health care fraud and mail fraud under Title 18 U.S.C. 1349. Dr. Garcia-Dorta was sentenced to 60-months incarceration, 3-years' probation, 200-hours community service, ordered to pay a special assessment fee of \$100, and restitution in the amount of \$19,980,987, joint and several with co-conspirators. A criminal conviction involving TRICARE fraud requires a mandatory exclusion.

Dr. Arlon Jahnke, Augusta, Georgia – 10 Year Exclusion.

On 5 April 2017, Dr. Jahnke pled guilty to one count of conspiracy to receive health care kickbacks under Title 18 U.S.C. 371. Dr. Jahnke was sentenced to 10-months incarceration, three 3-years' probation, 12-months home confinement, and 1500-hours community service, ordered to pay a special assessment fee of \$100, and restitution in the amount of \$800,000 to the Defense Health Agency. A criminal conviction involving TRICARE fraud requires a mandatory exclusion.

Dr. Mark Messenger, Thomson, Georgia – 10 Year Exclusion.

On 2 November 2016, Dr. Messenger pled guilty to one count of conspiracy to receive health care kickbacks under Title 18 U.S.C. 371. Dr. Messenger was sentenced to 60-months incarceration, 3-years' probation, ordered to pay a \$2,500 fine, a special assessment fee of \$100, and restitution in the amount of \$4,469,753, joint and several with co-conspirators. A criminal conviction involving TRICARE fraud requires a mandatory exclusion.

Dr. Victoria Garcia-Dorta, Doral, Florida – 10 Year Exclusion.

On 19 October 2016, Dr. Garcia-Dorta pled guilty to one count of conspiracy to commit health care fraud and mail fraud under Title 18 U.S.C. 1349. Dr. Garcia-Dorta was sentenced to 60-months incarceration, 3-years' probation, 200-hours community service, ordered to pay a special assessment fee of \$100, and

restitution in the amount of \$19,980,987, joint and several with co-conspirators. A criminal conviction involving TRICARE fraud a mandatory exclusion.

Keystone Behavioral Pediatrics LLC., Jacksonville, Florida. – 10 Year Exclusion.

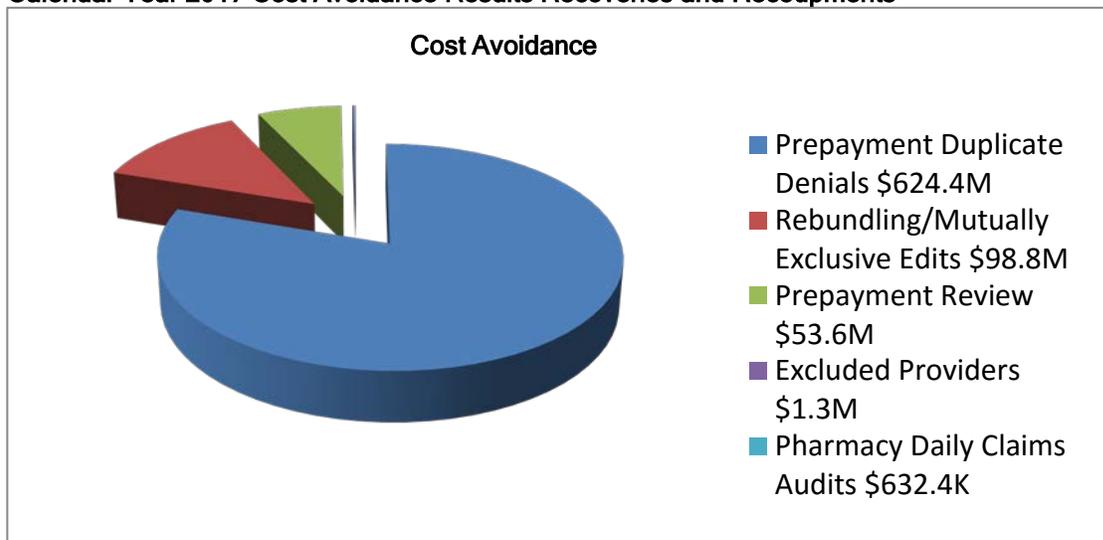
Keystone Behavioral Pediatrics, LLC., was excluded from TRICARE under 32 CFR 199.9(f) due to activities by key management employees of the organization to engage in fraudulent activities to cover up the neglectful or lack of appropriate care to one of the most helpless patient populations, autistic children. Additionally, Keystone Behavioral Pediatrics, LLC., was found to be in non-compliance of TRICARE reimbursement policies. Due to the administrative burden placed upon the TRICARE Program and the substantial fraudulent and abusive activity directed against TRICARE and its beneficiaries, Keystone Behavioral Pediatrics, LLC., was excluded under 32 CFR 199.9(f)(1)(v) in the best interest of TRICARE and its beneficiaries.

Dr. Victoria Garcia-Dorta and Associates LLC., Doral, Florida – 10 Year Exclusion.

Dr. Garcia-Dorta and Associates, LLC., was excluded from TRICARE under 32 CFR 199.9(f) due to acts of deception, fraud, and abuse directed towards our beneficiaries to include billing for services already paid and refusing to return monies due back to our beneficiaries. Dr. Garcia-Dorta and Associates, LLC actions have harmed our beneficiaries in the form of significant financial losses and unnecessary mental anguish. These actions demonstrated a severe lack of empathy for TRICARE beneficiaries. Dr. Garcia-Dorta and Associates, LLC., was excluded in the best interest of TRICARE and its beneficiaries.

An agreement between DHA PI and the DHHS OIG enables sharing of information between our two agencies. As part of the agreement, DHHS OIG provides DHA PI with updates from its LEIE on a monthly basis, which lists providers who have been excluded, terminated, or suspended, as well as a list of providers who have been reinstated. This list is used by TRICARE contractors to flag sanctioned providers to ensure that no payments are made for services prescribed or provided by sanctioned providers. DHA PI also provides the sanction list to the Surgeons General (SGs), TRICARE Regional Offices (TROs), Uniformed Services Family Health Plan (USFHP), Pharmacy Operation Center (POC), National Quality Monitoring Contract (NQMC), DCIS, and the Defense Logistics Agency (DLA). DHHS OIG took sanction action against 4,060 providers in calendar year 2017. The basis for exclusion includes convictions for program-related fraud, patient abuse, and state licensing board actions.

Calendar Year 2017 Cost Avoidance Results Recoveries and Recoupments ⁴



⁴ Rebundling/Mutually Exclusive Edits amount acquired from TRICARE’s data repository. All other categories as reported by TRICARE contractors.

Section 4.0 Recoveries and Recoupments

This section details recoveries and recoupments. Money recovered and recouped is applied towards funding our beneficiaries' healthcare entitlements.

4.1 Fraud Judgments and Settlements

TRICARE judgments and settlements for calendar year 2017 totaled \$66,328,091. Depending on ability to pay, a partial or full payment for any given judgment or settlement may carry over into future fiscal years. Total payments actually received in 2017 from past and present settlements and judgments were \$18,572,126.⁵

4.2 Post-payment Duplicate Claims Denials

Post-payment duplicate claim software was developed by the DHA Policy and Operations Directorate and is used by the MCSCs. This software was designed as a retrospective auditing tool to identify paid duplicate claims. While most duplicate claims are identified through prepayment screening \$13,553,463 was identified for recoupment or offset on a post payment basis.

4.3 Pharmacy Post Payment Audits

Post pay audits represent amounts recovered from paid pharmacy claim submission errors identified as part of Express Scripts' audit and monitoring activities. In 2017, \$16,326,398 was recovered.

4.4 Administrative Recoupments

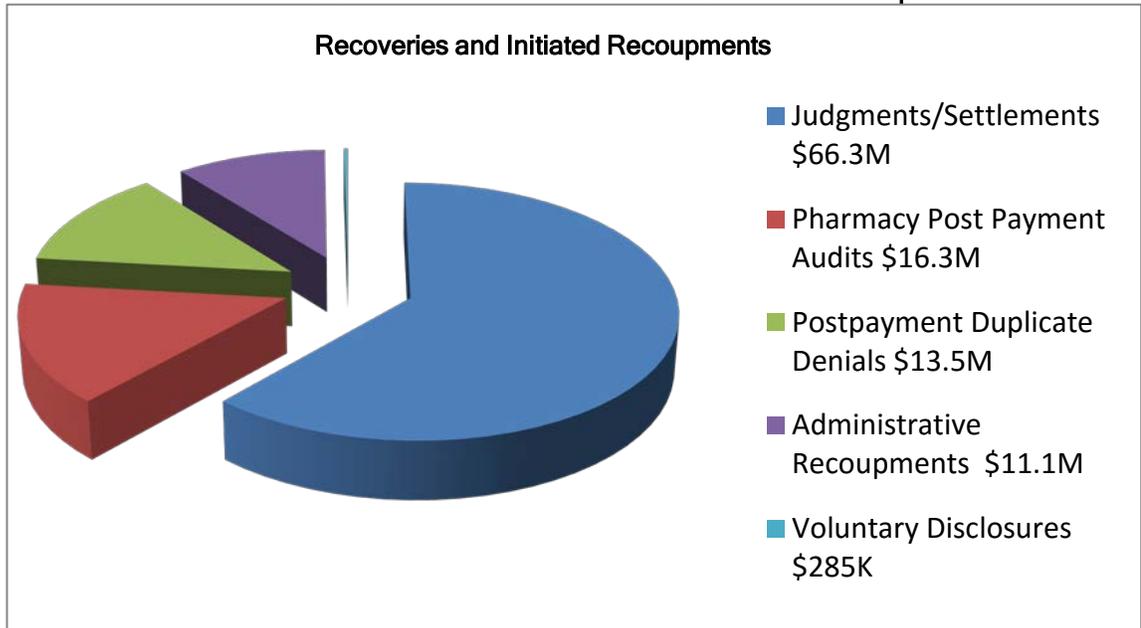
On occasion a payment may be issued resulting in an overpayment. Overpayments occur for a variety of reasons including: erroneous calculation of the allowable charge, erroneous coding of a procedure, erroneous calculation of the cost-share or deductible, a payment made for services rendered by unauthorized provider, etc. The general rule for determining liability for overpayments is that the person who received the payment is responsible for the refund. In 2017, \$11,155,821 was recovered through administrative recoupments.

4.5 Voluntary Disclosures

In its continuing efforts to protect the integrity of its program from provider fraud and abuse, DHA encourages providers to "police" themselves by conducting voluntary self-evaluations and making voluntary disclosures. By participating in voluntary disclosure programs, providers hope to avoid being subjected to criminal penalties and civil actions. While not protected from civil or criminal action under the FCA, the disclosure of fraud or self-reporting of wrongdoing by a provider could be a mitigating factor in recommendations to prosecuting agencies. Self-reporting offers providers the opportunity to minimize the potential cost and disruption of a full scale audit and investigation, and to negotiate a fair monetary settlement. Because a provider's disclosure may involve anything from a simple error to outright fraud, full disclosure and cooperation generally benefits the individual or company. As a result of the voluntary compliance and self-audits by medical providers under the current program, DHA receives voluntary disclosures of overpayments. In 2017, TRICARE received five voluntary disclosures from medical providers totaling \$285,940 returned to the TRICARE Program.

⁵ Payments received in calendar year 2017 as reported by DHA Office of General Counsel, Appeals, Hearings and Claims Collection Division.

Calendar Year 2017 Anti-Fraud Recoveries and Initiated Recoupments



Section 5.0 Balance Billing and Violation of Participation Agreements

In addition to handling the more familiar types of health care fraud against the program, DHA PI is also dedicated to addressing issues involving billing violations of participation agreements.

In 2017, the majority of balance billing and violation of participation cases were resolved at the contractor level, resulting in a cost savings to our beneficiaries totaling \$269,029.

5.1 Balance Billing

When TRICARE's MCSC's cannot resolve Balance Billing issues at their level, DHA PI takes steps to ensure that non-participating providers comply with Public Law 102-396, Section 9011, passed by Congress as part of the DoD Defense Authorization Act of 1993. The text of this Public Law limits the billed charges to no more than 115% of the allowable rate. This law specifies that non-participating providers are allowed to collect a maximum of 15% over the CHAMPUS Maximum Allowable Charge (CMAC) from a TRICARE beneficiary. The term "Balance Billing" has been derived from this limitation.

Balance Billing matters that TRICARE's MCSC's are unable to resolve are referred to DHA PI. Two Balance Billing matters were referred to DHA PI in 2017, additionally six other balance billing case previously referred to DHA PI were resolved in 2017.

5.2 Violation of the Participation Agreement

DHA PI is also responsible for ensuring participating providers do not collect more than the CMAC when participating on a claim. Participating providers (those marking "yes" to accept assignment on the claim form) are prohibited from collecting from beneficiaries any amount in excess of the CMAC. This is commonly referred to as a "Violation of the Participation Agreement".

Violations of Participation Agreement matters that TRICARE's MCSC's are unable to resolve are referred to DHA PI. TRICARE received four referrals from the MCSC's with one resolved in 2017.

Section 6.0 Eligibility Fraud

TRICARE and Uniformed Service regulations require changes in eligibility under a sponsor record to be reported to the Services within 30 days. Each branch of the Uniformed Services is responsible for determining eligibility for its members, dependents and retirees. The Defense Manpower Data Center (DMDC) maintains eligibility information in the Defense Eligibility and Enrollment Reporting System (DEERS). TRICARE's claim processors use DEERS to determine whether a beneficiary is eligible for benefits on the dates services were received.

A TRICARE beneficiary, parent or legal representative, when appropriate, must provide the necessary evidence to establish and update dependent eligibility in DEERS. Sponsors are responsible for reporting eligibility changes within 30 days to the appropriate Uniformed Service. Failure to timely report changes may result in the sponsor being held financially liable for the cost of any health care services that are received through the MTF's or TRICARE. Fraudulent use of DoD health care entitlements is a violation of federal law.

In 2017, MCSC's and the PBM received 104,901 names from DMDC to review for potential eligibility fraud and abuse related to late-reported eligibility changes and initiated recoupments totaling \$59,949,837.

Eligibility matters that appear to be fraudulent in nature are referred to DHA PI by the MCSC and PBM. In 2017, this resulted in 2 referrals to law enforcement and \$11,767 in recoupment actions.

Section 7.0 Program Integrity Affiliations

DCIS is the primary investigative agency for the Department of Defense TRICARE Program. DHA PI and DCIS work in close cooperation in the fight against health care fraud and abuse. In 2017, DCIS continued to recognize health care fraud as one of its investigative priorities. In doing so, DCIS strongly supports DHA PI's anti-fraud program. DCIS commitment to investigating health care fraud resulted in increased numbers of cases accepted for investigative purposes.

DHA PI also routinely collaborates with Military Criminal Investigative Offices, Federal prosecutors and investigators (e.g., DOJ, HHS-IG, FBI, and DEA) as well as those on state and local levels. Additionally, DHA PI participates in public-private sector partnerships with the NHCAA, NICB, and private plan Special Investigative Units. DHA PI also actively participates on health care task forces throughout the United States.

Section 8.0 Program Integrity Snapshot of Cases Involving TRICARE

This section reviews a sampling of significant fraud cases involving TRICARE in calendar year 2017. During this calendar year record setting 41 individuals/entities were criminally convicted and 23 individuals were incarcerated for committing health care fraud against the TRICARE program.

Case Study: U.S. v. Dr. John P. Couch and Dr. Xiulu Ruan – Kickbacks, Patient Harm, and Billing for Non-Covered Services – Criminal Conviction

Dr. Couch and Dr. Ruan were convicted of (1) RICO conspiracy; (2) Conspiracy to prescribe Schedule II and III Controlled Substances outside the usual course of professional practice; (3) Conspiracy to prescribe more than 40 grams of fentanyl outside the usual course of professional practice; (4) Conspiracy to commit healthcare fraud; (5) Conspiracy to commit mail and wire fraud; (6) Conspiracy to receive illegal kickbacks from IPM/CRX related to the workers compensation dispensary; and (7) Conspiracy to receive illegal kickbacks from Insys Therapeutics in exchange for prescribing Subsys. In addition, Dr. Ruan was convicted of both conspiracy and substantive money laundering counts. Each doctor was also convicted of several substantive illegal drug distribution counts related to prescriptions written to particular patient. Dr. Couch and Dr. Ruan, operated two pain management clinics and it was alleged that they had run one of the biggest high volume pill mills in the country. The court found that the doctors perjured themselves and that they utilized special skills to carry out their criminal enterprise. Dr. Couch was sentenced to 240 months, and Dr. Ruan to 252 months, in federal prison. Dr. Ruan received a

longer sentence based on a finding that he was the leader of the criminal enterprise. Dr. Couch and Dr. Ruan were ordered to pay TRICARE restitution in the amount of \$2,285,170.70.

Case Study: U.S. v. Forest Pharmaceuticals - Kickbacks – Civil Settlement

A settlement was obtained by the U.S. Attorney's Office, Eastern District of Wisconsin, with Forest Laboratories and its subsidiary, Forest Pharmaceuticals. The settlement resolves allegations that Forest Pharmaceuticals violated the False Claims Act and Anti-Kickback Statute by providing payments and meals to certain physicians in connection with speaker programs about Bystolic®, Savella®, and Namenda® from 1 January 2008 and ending 31 December 2011. Forest Pharmaceuticals agreed to pay TRICARE restitution in the amount of \$2,447,415.

Case Study: U.S. v. Mr. Rashad Barr – Kickbacks – Civil Settlement

Mr. Rashad Barr entered into a Pretrial Diversion Agreement with the Middle District of Florida regarding his involvement in a conspiracy to pay kickbacks in connection with a federal health care benefit program, TRICARE. Mr. Barr was a United States Army Reservist on active duty at MacDill Air Force Base and conspired with two active duty service members who were sales representatives for Centurion Compounding, a marketing firm located in Florida who utilized sales representatives to market compounded medications to TRICARE beneficiaries. Mr. Barr must comply with all terms of this agreement, which include supervision and services administered by the U.S. Probation Service, restitution to TRICARE, and testifying against co-conspirators or he may face future prosecution. Mr. Barr was ordered to pay TRICARE restitution in the amount of \$400.

Case Study: U.S. v. Ms. Deanna Dutting – Kickbacks – Criminal Conviction

Ms. Dutting, former marketer for MGTEN Marketing, was sentenced to one year and one day, three years supervisory release. This is after pleading guilty to both counts charged in the Information filed against her for Conspiracy to Receive Federal Healthcare Kickbacks and Forfeiture. Ms. Dutting was ordered to pay TRICARE restitution in the amount of \$234,263 jointly with four other co-conspirators, as well as pay a special assessment fee of \$100.

Case Study: U.S. v. Carlos Mazariegos and Benjamin Nundy – Kickbacks and Billing for Non-Covered Services – Criminal Conviction

Mr. Mazariegos and Mr. Nundy, both licensed pharmacist who co-owned LifeCare Pharmacy, pled guilty to conspiracy to commit health care fraud directed against TRICARE. Centurion Marketing recruited active duty military, beneficiaries, and a physician who wrote the prescriptions that LifeCare Pharmacy filled and billed TRICARE. The proceeds were used to pay kickbacks to recruiters, beneficiaries, and physicians. An example of the kickback payment is when Mr. Mazariegos wrote a check to a car dealership for \$71,900, funded with the proceeds from the operation of LifeCare, to pay for a BMW for the physician who wrote compound prescriptions, which only partially satisfied the kickbacks owed to the physician. Mr. Mazariegos and Mr. Nundy were ordered to pay TRICARE restitution in the amount of \$5,340,064

Case Study: U.S. v. Pacific Pulmonary Services – Billing for Non-Covered Services and Kickbacks – Civil Settlement

A settlement was reached by the U. S. Attorney's Office, Northern District of California, in order to resolve allegations that Pacific Pulmonary Services (PPS) submitted claims for home oxygen without obtaining physician authorization, as well as engaging in a cross-referral kick-back scheme to make patient referrals to sleep testing clinics in exchange for those clinics' agreement to refer patients to PPS for sleep therapy equipment. Pacific Pulmonary Services agreed to pay TRICARE restitution in the amount of \$204,199.

Case Study: U.S. v. Corporal Patrick Hope, USMC – Kickbacks - UCMJ, NJP

An active duty Marine Corporal, Patrick Hope, accepted NJP action taken under the UCMJ for receiving illegal kickbacks. Corporal Hope was ordered to repay \$51,497 of kickbacks he received for prescriptions billed to TRICARE by a compound pharmacy under investigation. Corporal Hope was also reduced in rank to Lance Corporal, E-3 and restricted to base for 60 days.

Case Study: U.S. v. Paul Robinson – Kickbacks – Criminal Conviction

Mr. Robinson, former marketer, was sentenced in U.S. District Court, Southern District of Florida, to eight months confinement, three years of supervised release. Mr. Robinson previously pled guilty to an Information charging him with violations of Conspiracy to receive Federal Healthcare Kickbacks and Forfeiture. Mr. Robinson was ordered to pay TRICARE restitution in the amount of \$177,575 in joint restitution with co-conspirators and a \$100 special assessment fee.

Case Study: U.S. v. Celgene Corporation– Non-Covered Services and Kickbacks – Civil Settlement

Celgene Corporation entered into a settlement with the U.S. Attorney's Office, Central District of California, to settle allegations that Celgene engaged in unlawful promotion of Thalomid and Revlimid, which included off-label promotion and payment of illegal kickbacks to physicians. Although Celgene's drugs were not approved for any cancer use until 2005 and were approved to treat a narrow subset of cancers. Thereafter, the company began promoting Thalomid and Revlimid for a wide variety of cancers as soon as the drugs were introduced into the market. Additionally, Celgene allegedly paid kickbacks in the form of speaker fees, paid clinical trials, advisory board positions, and authorship of ghost-written articles to physicians in exchange for prescriptions of its drugs. Celgene's efforts were successful in causing physicians to prescribe Thalomid and Revlimid, and that some of the resulting prescriptions were submitted to, and paid by, Medicare, various state Medicaid programs, TRICARE, and the Department of Veterans Affairs. Celgene agreed to pay TRICARE restitution in the amount of \$8,000,000

Case Study: U.S. v. Cordera Hill– Kickbacks – Criminal Conviction

Mr. Hill a co-conspirator with Lifecare Pharmacy & Centurion Marketing fraud scheme was sentenced to 24 months imprisonment, three years' probation. Mr. Hill was also ordered to pay TRICARE restitution (jointly and severally with four other defendants) in the amount of \$813,584 and a \$300 special assessment. In addition, the court ordered a forfeiture money judgement of \$43,830, which constituted the proceeds Mr. Hill obtained through his participation in the illegal compound drug conspiracy.

Case Study: U.S. v. Nikkos Hamlett – Kickbacks – Criminal Conviction

Mr. Hamlett, previously an active duty Airman, U.S. Air Force, stationed at MacDill Air Force Base in Tampa and a co-conspirator with Lifecare Pharmacy & Centurion Marketing fraud scheme was found guilty of one count of offering or paying a kickback in connection with a Federal Health Care program, in violation of Title 42 U.S.C. SECTION 1320-7A(B)(2)(B). Mr. Hamlett also pled guilty to one count of a superseding information, and was sentenced to five years' probation and 180 days of home detention. Mr. Hamlett was also required to participate in a mental health treatment program. The court did not order Mr. Hamlett to pay restitution and his sentence was reduced in exchange for his cooperation and testimony against the other defendants.

Case Study: U.S. v. Prostraken Pharmaceuticals – Kickbacks – Civil Settlement

A settlement was reached by the U.S. Attorney's Office, District of New Jersey. According to the settlement, Prostraken Pharmaceuticals violated the False Claims Act by providing kickbacks to doctors to prescribe the drug Abstral, which is an immediate-release form of fentanyl that is indicated for cancer pain in patients receiving around-the-clock opioid therapy. Prostraken agreed to pay TRICARE restitution in the amount of \$1,161,467.

Case Study: U.S. v. Serge Francois and Mr. Patrick Tonge – Kickbacks – Non-Covered Services and Kickbacks – Criminal Conviction

Mr. Serge Francois, owner of Atlantic Pharmacy and Mr. Patrick Tonge an employee of Atlantic Pharmacy, were found guilty on multiple charges. Mr. Francois was found guilty of conspiracy to commit health care fraud, twelve counts of health care fraud, conspiracy to pay kickbacks in connection with a federal health care program, five counts of paying such kickbacks, and twelve counts of money laundering. In addition, Francois was found guilty of eight counts of introducing misbranded drugs into interstate commerce, four counts of making false statements related to health care matters, and one count of making a false statement on a DEA form. Mr. Tonge was found guilty of the same conspiracy charges, as well as eleven counts of health care fraud, three counts of paying kickbacks, and two counts of money laundering. Mr. Francois and Mr. Tonge were ordered to pay TRICARE restitution in the amount of \$15,629,626.

Case Study: U.S. v. Aegerion Pharmaceuticals – Off-Label Marketing and Kickbacks – Civil Settlement

A civil settlement was reached by the U.S. Attorney's Office, District of Massachusetts. According to the settlement, Aegerion Pharmaceuticals engaged in promoting the unapproved use of JUXTAPID® (lomitapide) during the period from 24 December 2012 through 31 December 2015. The company will plead guilty to two counts of violating the Food, Drug, and Cosmetic Act (FDCA) by giving inadequate directions for JUXTAPID® and for failing to comply with a Food and Drug Administration requirement to provide a Risk Evaluation and a Mitigation Strategies program for the drug. Aegerion Pharmaceuticals agreed to pay TRICARE restitution in the amount of \$2,111,088.

Case Study: U.S. v. Harvest Drug and Gift – Billing for Non-Covered Services and Kickbacks – Civil Settlement

A settlement was reached by the U.S. Attorney's Office, Northern District of Texas with the owner of Harvest Drug & Gift, Janet Beard. Harvest Drug & Gift is located in Wichita Falls, TX. Ms. Beard entered into an Agreement for Pretrial Diversion and a Civil Settlement, for knowingly and willfully submitting claims to the Government omitting unapproved dietary over-the-counter supplement ingredients contained in compounded prescriptions. Harvest Drug and Gift agreed to pay TRICARE restitution in the amount of \$359,787.

Case Study: U.S. v. Bobbi Gibson – Non-Covered Services – Criminal Conviction

Ms. Gibson the owner of Agency for Behavioral Services, Inc., an ABA provider, was sentenced to 16 months imprisonment and ordered to participate in the 500 hour intensive drug program. Ms. Gibson defrauded the TRICARE program by fraudulently certifying that paraprofessional providers she employed had received the required 40 hours of classroom training in Applied Behavior Analysis techniques. Ms. Gibson then assigned these unqualified individuals to provide one-on-one autism services to beneficiaries diagnosed with Autism Spectrum Disorders, and billed for these services. In addition Ms. Gibson was ordered to pay restitution. Ms. Gibson was ordered to pay TRICARE restitution in the amount of \$1,500,000.

Case Study: U.S. v. LCDR Warren Karr IV, USN – Kickbacks – Non-Covered Services and Kickbacks – UCMJ, Court Martial

LCDR Warren Karr IV, was charged with violating UCMJ Article 92 (Dereliction in the performance of duties) on 19 October 2017. The charge stated that on or about February 2015 to April 2015 LCDR Karr was derelict in the performance of those duties in that he willfully failed to request approval from Commanding Officer, Naval Hospital Jacksonville prior to engaging in off-duty employment. LCDR Karr was employed off-duty as a pharmaceutical sales representative for DCRX a compounding pharmacy and was paid kickbacks for referrals. For LCDR Karr's cooperation with the investigation he received a

reduced sentence of a reprimand, reduction in rank to Lieutenant, and ordered to pay full restitution to TRICARE in the amount of \$9,750.

Case Study: U.S. v. Pine Creek Medical Center, LLC. – Kickbacks – Civil Settlement

A settlement was reached in the U.S. Attorney's Office, Northern District of Texas in order to resolve allegations that Pine Creek Medical Center, LLC violated the Stark Law and the Anti-Kickback Act by inducing and accepting referrals of Medicare and TRICARE patients from physicians with whom they had financial relationships. Pine Creek Medical Center, LLC., agreed to pay TRICARE restitution in the amount of \$562,500

Case Study: U.S. v. PA Nalita Rajkumar – Kickbacks – Medically Unnecessary Services, Billing for Non-Covered Services, and Kickbacks – Criminal Conviction

Mr. Rajkumar appeared in U.S. District Court, Middle District of Florida, and was sentenced to five years' probation, to include home detention. Mr. Rajkumar pled guilty to a single count of conspiracy to Commit Healthcare Fraud. Mr. Rajkumar, a physician assistant licensed in Florida, wrote medically unnecessary prescriptions for a compounding prescription fraud scheme. Mr. Rajkumar was ordered to pay restitution to TRICARE in the amount of \$1,347,996 and a \$100 special assessment.

Case Study: U.S. v. Michael Ayotunde – Billing for Non-Covered Services – Criminal Conviction

Mr. Ayotunde appeared in U.S. District Court, Middle District of Florida, and was sentenced to 41 months in jail, followed by supervised release for three years. Mr. Ayotunde pled guilty to a single count of conspiracy to Commit Healthcare Fraud for his involvement in a compounding pharmacy fraud scheme. Mr. Ayotunde, a pharmacist licensed in Florida, was owner of Life Worth Living Foundation d/b/a as Life Worth Living Pharmacy. Mr. Ayotunde was ordered to pay restitution to TRICARE in the amount of \$5,792,210 and a \$100 special assessment.

Case Study: U.S. v. Robin Halliburton – Kickbacks – Criminal Conviction

Ms. Halliburton was sentenced for her participation in a compounding pharmaceutical scheme perpetrated against TRICARE. Ms. Halliburton was a former marketer for MGTEEN Marketing. Ms. Halliburton was sentenced to five years' probation, indefinite home detention, 300 hours of community service, \$10,000 fine, \$100 penalty assessment fee, and ordered to pay TRICARE restitution in the amount of \$62,732.

Case Study: U.S. v. Dr. Atif Babar Malik and Dr. Sandeep Sherlekar – Falsifying Medical Records, Billing for Non-Covered Services, and Kickbacks – Criminal Conviction

Dr. Malik was found guilty in the U.S. District of Maryland on 26 felony counts arising from two criminal schemes that involved referring patients for urine toxicology specimens in return for \$1,376,000 in kickbacks and fraudulently billing for anesthesia services provided in connection with spinal nerve block injections. Dr. Malik was convicted on one count of conspiracy to violate the federal Anti-Kickback Act and the Travel Act; twelve counts of violating the Anti-Kickback Act; three counts of violating the Travel Act; six counts of health care fraud; and three counts of making false entries in patients' medical records. Dr. Malik's practice co-owner and co-defendant Dr. Sandeep Sherlekar, was also charged with participating in the referrals-for-kickbacks conspiracy and the fraudulent anesthesia billing scheme, as well as falsifying medical records. Following the return of an indictment in late June 2016, Dr. Sherlekar committed suicide shortly before his scheduled initial appearance and arraignment in early October 2016.

Case Study: U.S. v. Dr. Iris N. Ayala – Medically Unnecessary Services and Kickbacks – Criminal Conviction

Dr. Ayala appeared in U.S. District Court, Middle District of Florida, and was sentenced to six months in jail, followed by supervised release for three years. Dr. Ayala pled guilty to a single count of conspiracy to Commit Healthcare Fraud. Dr. Ayala, a physician licensed in Florida, wrote medically unnecessary

prescriptions for a compounding prescription fraud scheme. Dr. Ayala was ordered to pay restitution to TRICARE in the amount of \$2,322,078 and a \$100 special assessment.

For more information on the content of this report, please contact the DHA PI Office in writing at the address below:

*Defense Health Agency
ATTN: Program Integrity Office
16401 East Centretech Parkway
Aurora, CO 80011-9066*

APPENDIX A: ACRONYM INDEX

ABA	Applied Behavior Analysis	ESI	Express Scripts, Inc.
ASD (HA)	Office of the Assistant Secretary of Defense for Health Affairs	FAQ	Frequently Asked Questions
BAQ	Basic Allowance for Quarters	FBI	Federal Bureau of Investigation
BCAC	Beneficiary Counseling and Assistant Coordinator	FCA	False Claims Act Administration
CAP/DME	Capital Expense and Direct Medical Education	FDA	Food and Drug Administration
CFR	Code of Federal Regulations	FDCA	Food, Drug, and Cosmetic Act
CHAMPVA	Civilian Health and Medical Program of the Veterans Administration	HB&FP	Uniform Business Office
CIA	Corporate Integrity Agreement	HCSR	Health Care Service Record
CMAC	CHAMPUS Maximum Allowable Charge	KEPRO	Keystone Peer Review Organization
CMS	Centers for Medicare and Medicaid	ISOS	International SOS
DCIS	Defense Criminal Investigative Service	LEIE	List of Excluded Individuals/Entities
DEA	Drug Enforcement Administration	MCIO	Military Criminal Investigative Organizations
DHHS	Department of Health and Human Services	MCSC	Managed Care Support Contractor
DHP	Defense Health Program	MHS	Military Health System
DLA	Defense Logistics Agency	MOU	Memorandum of Understanding
DMDC	Defense Manpower Data Center	MTF	Military Treatment Facility
DoD	Department of Defense	NCIS	Naval Criminal Investigative Service
DoDI	Department of Defense Instruction	NDC	National Drug Code
DOJ	Department of Justice	NHCAA	National Health Care Anti-Fraud Association
DRG	Diagnosis Related Group	NICB	National Insurance Crime Bureau
EOB	Explanation of Benefits	NQMC	National Quality Monitoring Contract

OIG	Office of Inspector General	TDEFIC	TRICARE Dual Eligible Fiscal Intermediary Contractor
OPM	Office of Personnel Management	TED	TRICARE Encounter Data
PCDIS	Purchased Care Detail Information System	TED	TRICARE Encounter Data
PCDW	Purchased Care Data Warehouse	DHA	TRICARE Management Activity
PDTS	Pharmacy Data Transaction Service	TOM	TRICARE Operations Manual
PEC	Pharmacoeconomic Center	TQMC	TRICARE Quality Monitoring Contract
PI	Program Integrity	TRDP	TRICARE Retiree Dental Program
POC	Pharmacy Operation Center	TRO	TRICARE Regional Office
ProDUR	Prospective Drug Utilization Review	USAO	United States Attorney's Office
SG	Surgeon General	USFHP	United States Family Health Plan
SIU	Special Investigation Unit	VA	Department of Veterans Affairs
SME	Subject Mater Expert	WPS	Wisconsin Physician Services