

## LEGAL AND REGULATORY: SESSION 606

### Zone Program Integrity Contractors (ZPICs), and How the U.S. Department of Justice Uses Aberrations in Claims Data to Develop Leads in Case Development



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(Opinions expressed herein are solely those of the authors and do not reflect the positions of U.S. Department of Justice)

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### Get Into the Zone

- Zones based on MAC jurisdictions
- Five Key Zones:
  - Florida, California, Texas, Michigan, and New York
  - Key zones align with Program Integrity field offices
  - Fast response to fraud and administrative actions
  - Reduce emphasis on fraud referrals
  - Coordinate with law enforcement to assure fraud referrals and active investigations are working together
- Two Other Zones:
  - 24 states with lower incidence of fraud
  - Continue using PSC processes

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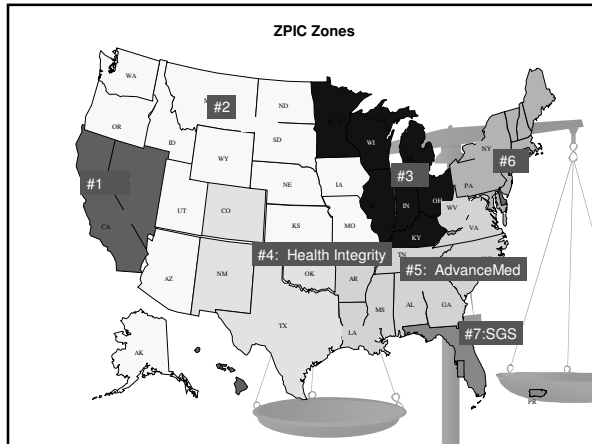
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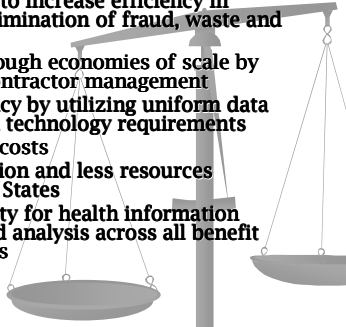
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### Zone Benefits

- **By analyzing providers across all benefit categories hope to increase efficiency in detection and elimination of fraud, waste and abuse.**
- **Reduce cost through economies of scale by consolidating contractor management**
- **Increase efficiency by utilizing uniform data and information technology requirements**
- **Streamline CMS costs**
- **Better coordination and less resources required for the States**
- **Increased security for health information with coordinated analysis across all benefit claims categories**



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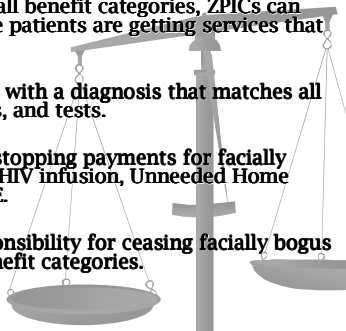
### Zone Opportunities to Reduce Fraud

**By having access to all benefit categories, ZPICs can assure that Medicare patients are getting services that make sense.**

**Physician evaluation with a diagnosis that matches all other services, items, and tests.**

**ZPICs can focus on stopping payments for facially invalid services like HIV infusion, Unneeded Home Healthcare, and DME.**

**ZPICs can take responsibility for ceasing facially bogus claims across all benefit categories.**



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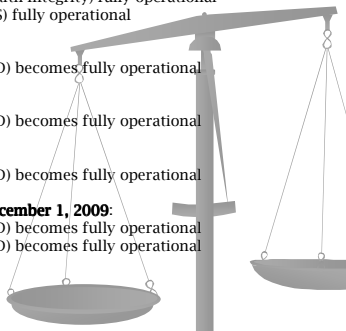
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### ZPIC Implementation

- **February 1, 2009:**
  - Zone 4 (Health Integrity) fully operational
  - Zone 7 (SGS) fully operational
- **March 1, 2009:**
  - Zone 5 (TBD) becomes fully operational
- **June 1, 2009:**
  - Zone 2 (TBD) becomes fully operational
- **July 1, 2009:**
  - Zone 1 (TBD) becomes fully operational
- **October 1 – December 1, 2009:**
  - Zone 3 (TBD) becomes fully operational
  - Zone 6 (TBD) becomes fully operational



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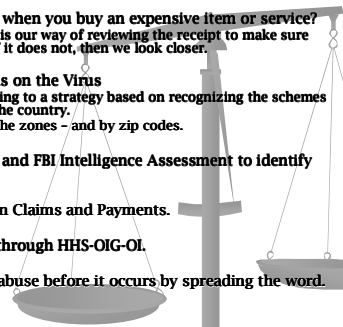
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### How DOJ Uses Aberrations in Claims Data to Develop Leads in Case Development: Read Your Receipts

- **Do you read the receipt when you buy an expensive item or service?**
  - Analyzing claims data is our way of reviewing the receipt to make sure that it makes sense. If it does not, then we look closer.
- **Get into the Zone: Focus on the Virus**
  - HCF is viral: DOJ shifting to a strategy based on recognizing the schemes in particular areas of the country.
  - Know the schemes in the zones - and by zip codes.
- **Working with the ZPICs and FBI Intelligence Assessment to identify shifts in schemes.**
- **Assessing Aberrations in Claims and Payments.**
- **Real Time Data Access through HHS-OIG-OL.**
- **Deter fraud, waste and abuse before it occurs, by spreading the word.**



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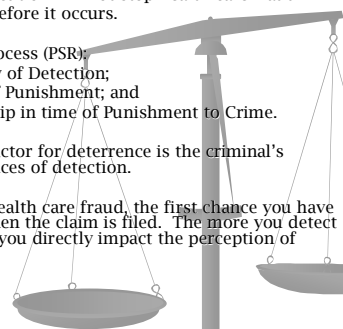
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### DETERRENCE IS BETTER THAN PRISON

- Prison following prosecution will not stop health care fraud - we must deter crime before it occurs.
- Criminal's Thought Process (PSR):
  - i. Probability of Detection;
  - ii. Severity of Punishment; and
  - iii. Relationship in time of Punishment to Crime.
- The most important factor for deterrence is the criminal's perception of the chances of detection.
- In most instances of health care fraud, the first chance you have to detect a crime is when the claim is filed. The more you detect at this level, the more you directly impact the perception of detection.



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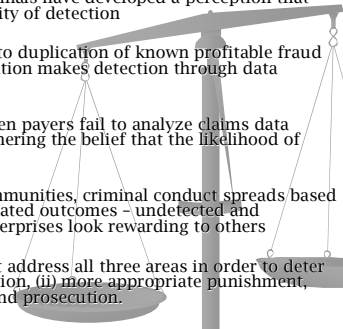
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### HEALTH CARE FRAUD SPREADS LIKE A VIRUS

- Health care fraud criminals have developed a perception that there is a low probability of detection
- This perception leads to duplication of known profitable fraud schemes. This duplication makes detection through data analysis possible.
- Opportunity exists when payers fail to analyze claims data accurately - thus, furthering the belief that the likelihood of detection is low
- Within geographic communities, criminal conduct spreads based upon exposure to repeated outcomes - undetected and profitable criminal enterprises look rewarding to others
- Law enforcement must address all three areas in order to deter crime: (i) better detection, (ii) more appropriate punishment, and (iii) faster arrest and prosecution.



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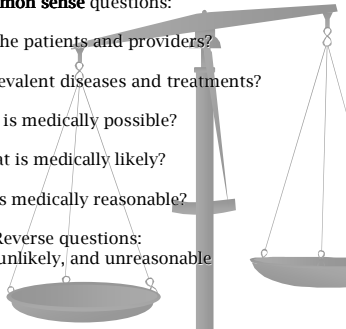
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## MEDICAL CLAIMS, CODES AND MODIFIERS AS EVIDENCE

- **Common sense** questions:
  - Who are the patients and providers?
- What are the prevalent diseases and treatments?
  - What is medically possible?
  - What is medically likely?
- What is medically reasonable?
  - Reverse questions:  
impossible, unlikely, and unreasonable



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## 2009 Fraud Trends

- Home Healthcare Agencies
- DME
- Infusion
- CORFs
- Infusion



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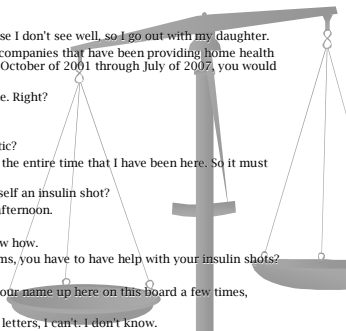
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## The Miami HHA Scam:

February 2008 Trial Testimony of Medicare Beneficiary Elena Rodriguez:

- Q. Let me ask you, did you also get home health care?  
A. No, no.  
Q. You're not home-bound?  
A. I go out with my daughter because I don't see well, so I go out with my daughter.  
Q. Well, if there are three different companies that have been providing home health care to you during the period of October of 2001 through July of 2007, you would know that. Right?  
A. Yes, because they come to see me. Right?  
Q. That's what I'm asking. Do they?  
A. No.  
Q. How long have you been a diabetic?  
A. Oh, it has been quite some time, the entire time that I have been here. So it must be 10, 11, 12 years.  
Q. And how often do you give yourself an insulin shot?  
A. Well, in the morning and in the afternoon.  
Q. Do you need any help with that?  
A. Yes. I cannot see and I don't know how.  
Q. So, because of your sight problems, you have to have help with your insulin shots?  
A. Yes.  
Q. But you have been able to read your name up here on this board a few times, haven't you?  
A. Yes, because it's large, but small letters, I can't. I don't know.



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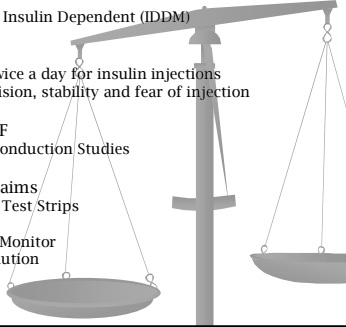
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## HOME HEALTHCARE AGENCIES

- ICD-9-CM  
250 -- Diabetes Mellitus, Insulin Dependent (IDDM)
- HHA Plan of Care
  - Home Health Visits twice a day for insulin injections
  - Stated reason being vision, stability and fear of injection
- Physician Claims - IDTF
  - 95900-95904 Nerve Conduction Studies
- Corresponding DME Claims
  - A4253 Blood Glucose Test Strips
  - A4259 Lancets
  - E0607 Blood Glucose Monitor
  - A4256 Calibration Solution



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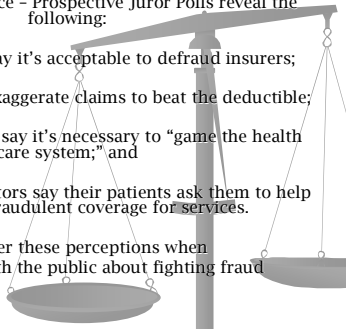
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## PUBLIC PERCEPTION OF ENFORCEMENT IS IMPORTANT

- Department of Justice - Prospective Juror Polls reveal the following:
- 20% of Americans say it's acceptable to defraud insurers;
- 40% say it's okay to exaggerate claims to beat the deductible;
- One-third of doctors say it's necessary to "game the health care system;" and
- Over one-third of doctors say their patients ask them to help them obtain fraudulent coverage for services.
  - Remember these perceptions when communicating with the public about fighting fraud



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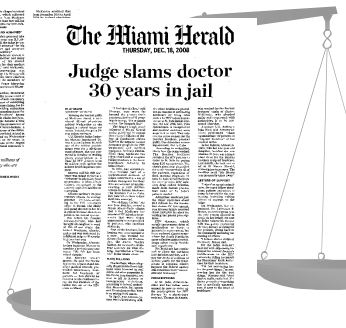
## The Miami Herald Medicare scam draws another stiff sentence

By [unreadable] Staff Writer  
[unreadable] 11/10/09

[unreadable text]

## The Miami Herald THURSDAY, DEC. 10, 2009 Judge slams doctor 30 years in jail

[unreadable text]



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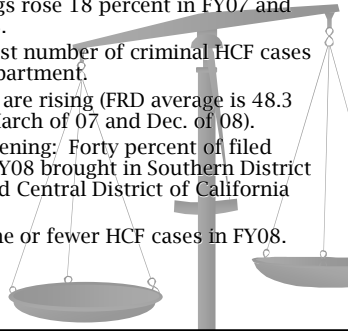
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## U.S. DOJ Criminal Statistics

- Criminal case filings rose 18 percent in FY07 and 14 percent in FY08.
- FY08 had the largest number of criminal HCF cases brought by the Department.
- Average sentences are rising (FRD average is 48.3 months between March of 07 and Dec. of 08).
- Where is this happening: Forty percent of filed criminal cases in FY08 brought in Southern District of Florida (32%) and Central District of California (8%).
- 38 Districts had one or fewer HCF cases in FY08.




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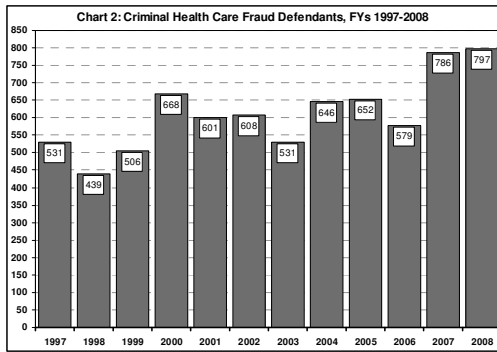
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## Criminal Defendants 1997-2008




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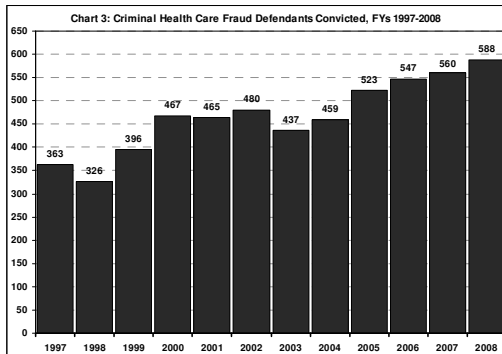
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## Convictions 1997-2008




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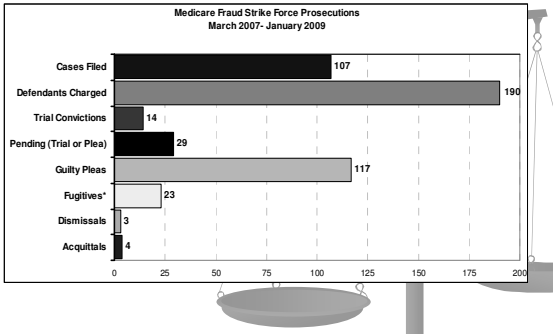
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## Medicare Fraud Strike Force Results



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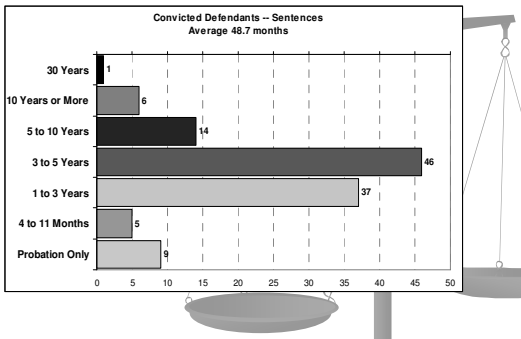
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## Medicare Fraud Strike Force - Sentences (National Average 31 months for Non-MFSF cases)



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## Rate of Fraud

- GAO (10%) and NHCAA (3%) estimates.
- Estimates do not account for regional variations.
- Variations by sector.
- Risk of resource availability.
- Prepare for increased rate of fraud by sector - analyze aberrations in claims data.
- CHOWs and SARs.

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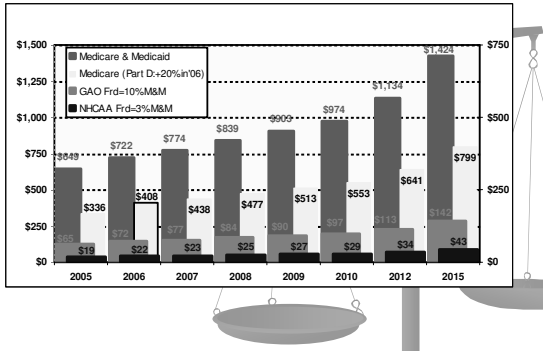
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Projected Medicare & Medicaid Spending & Estimated Fraud 2005-2015 (\$ in Billions) under Current System




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