



## WORKING TOGETHER TO FIGHT MEDICAID FRAUD

*by* Texas Attorney General Greg Abbott

SHORTLY AFTER MY ELECTION AS TEXAS'S 50TH Attorney General, we launched a transition team and began carefully studying which issues had to be prioritized by my new administration. Almost immediately, we determined that cracking down on waste, fraud and abuse in the Medicaid program would be a top priority. At the time, just the sheer size and expense of the taxpayer-funded program – which pays for health care for economically disadvantaged Texans – told us that identifying and preventing Medicaid fraud had to be a top priority for the Office of the Attorney General (OAG).

Fortunately, our initial instincts in the earliest days of my administration have since been validated by the unprecedented successes of our expanded Medicaid fraud prevention efforts. Since 2002, the OAG's Medicaid fraud crackdown has yielded more than 900 criminal convictions, identified more than \$850 million in fraudulent overpayment, and recovered another \$1 billion for the taxpayers. Each and every dollar that is wasted on fraud is an affront to the taxpayers whose taxes support the Medicaid program – so we are not content to sit back and celebrate our past, but are instead planning to resource our efforts as we work to develop and deploy new initiatives to eradicate Medicaid fraud.

Jointly funded by state and federal government, the Texas Medicaid program is administered by the State of Texas but is subject to various federal regulations that govern its operations. Generally speaking, when a health care provider or medical supplier provides goods or services to a Medicaid beneficiary, they bill the Medicaid program – just as they bill private insurance companies for benefits provided to individuals with health insurance coverage.

Fraud can take many forms. If a medical device supplier provides one case of products to Medicaid beneficiaries and bills the Medicaid program for two boxes, then the Medicaid program has been defrauded because the taxpayers were billed for goods that were never actually delivered. The same principle applies when a therapist, dentist or doctor sends Medicaid a bill for services that were never actually provided to a patient.

Under Texas law, drug companies that want to benefit from selling their pharmaceutical products to participate in the Medicaid program must report their market prices to the State. If they report an inflated price, that causes Medicaid to over-reimburse pharmacies. That false and inflated price reporting constitutes a fraud on the program. Similarly, physicians

and dentists who provide health care to Medicaid patients are also subject to laws governing providers, so they must agree to only bill the Medicaid program for services that are authorized by state law. As a result, if an orthodontist charges Medicaid for purely cosmetic braces – which are not authorized by state law because the program generally only covers treatments that are medically necessary – then the taxpayers have been improperly billed for services that are not covered by the Medicaid program.

As a groundbreaking leader in the field, the State of Texas was the first state in the nation to pursue a pharmaceutical manufacturer for improperly reporting the price of its drugs to the Medicaid program. Since 2002, the OAG has recovered more than \$550 million in fraudulent overpayments from pharmaceutical companies that misreported inflated prices to the Medicaid program.

The \$1 billion in Medicaid fraud recoveries we have secured over the last decade overwhelmingly resulted from civil actions our Civil Medicaid Fraud Division filed against pharmaceutical companies. In contrast, the more than \$800 million in fraudulent overpayment we identified reflected the efforts of our Medicaid Fraud Control Unit (MFCU), which conducts criminal investigations on the basis of

referrals from local law enforcement authorities, citizens and state agencies like the Health and Human Services Commission's Office of Inspector General.

One important aspect of the MFCU's law enforcement efforts focuses on protecting Medicaid patients who reside in nursing homes. Together with local law enforcement officials, the MFCU investigates and prosecutes nursing home employees who neglect or abuse their patients. The Medicaid program pays nursing homes to care for their patients, so when there is abuse or neglect in a nursing home, a crime is perpetuated against the individual patient – and the Medicaid program. In these cases, our efforts are particularly important because they are not just about financial fraud, but also holding abusers accountable for harming patients entrusted to their care.

With health care costs skyrocketing across the country and the Medicaid program consuming an increasingly large portion of the state budget, it is more important than ever that we vigorously investigate and prosecute Medicaid fraud. Indeed, it is vitally important that each and every Medicaid dollar be devoted to health care for disadvantaged Texans – not fraud. In the process, we hope to continue making a billion-dollar difference for Texas taxpayers.

– March 2013