

Reproduced with permission from BNA's Health Care Policy Report, 24 HCPR 222, 2/15/16. Copyright © 2016 by The Bureau of National Affairs, Inc. (800-372-1033) <http://www.bna.com>

### Budget

## President's Budget Plan Would Boost Health-Care Anti-Fraud Funding to \$725M

The Obama administration's fiscal year 2017 proposed budget would provide \$725 million in discretionary funds for health-care anti-fraud efforts, a 6.5 percent jump from the estimated \$681 million spent in FY 2016.

The Feb. 9 budget request would fund the Health Care Fraud and Abuse Control Account (HCFAC), which coordinates federal, state and local law enforcement activities related to health-care fraud and abuse.

Out of the \$725 million in proposed funding, \$487 million would go toward program integrity activities at the Centers for Medicare & Medicaid Services, \$122 million would go the Health and Human Services Office of Inspector General and \$116 million would go to the Department of Justice.

The \$44 million increase in discretionary HCFAC funding is significant, and depending on how the DOJ and the OIG spend it, the increase could provide some help to those agencies in handling investigations, settlements and litigations, Laurence Freedman, an attorney with Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC, Washington, told Bloomberg BNA Feb. 9.

"However, to make a bigger impact, I suggest that each of the agencies might do a much better job prioritizing the issues and using their attorney resources well," Freedman said.

Kirk Ogrosky, an attorney with Arnold & Porter in Washington, told Bloomberg BNA Feb. 9 that any increase in HCFAC funding that goes toward hiring additional staff at the OIG and the DOJ can have a dramatic effect on anti-fraud efforts.

Ogrosky said it remains to be seen how the agencies would use the additional funds, if Congress passes the funding increase.

---

**"I hope that all government stakeholders come together to have a unified plan to fight fraud—rather than fight each other for greater share of the money."**

KIRK OGROSKY, ARNOLD & PORTER

---

"I hope that all government stakeholders come together to have a unified plan to fight fraud—rather than fight each other for greater share of the money," Ogrosky said.

The HCFAC funding would be available through Sept. 30, 2018.

**Program Integrity Initiatives.** Beyond the HCFAC funding increase, the budget request included several legislative proposals intended to strengthen health-care program integrity, including:

- allowing the CMS to retain a higher percentage of recovery audit contractor recoveries and use the money for anti-fraud efforts;
- suspending Medicare Part D coverage and payment for prescriptions that either pose a direct risk to patients or come from physicians who have a history of overprescribing;
- expanding prior authorization for all Medicare fee-for-service items and services;
- increasing the funding for the Medicaid Integrity Program by \$580 million over the next 10 years, on top of existing funding; and

■ tracking physicians with a high Medicaid prescription rate and Medicaid beneficiaries with high drug utilization rates.

While the proposed HCFAC increase is moving in the right direction, it's barely keeping up with the overall growth of the federal health-care programs, Louis Saccoccio, chief executive officer of the National Health Care Anti-Fraud Association, told Bloomberg BNA Feb. 9.

In FY 2014, for example, the Medicare program grew by 5.5 percent, and Medicaid grew by 11 percent, with total expenditures of \$1.1 billion, Saccoccio said, and Medicare and Medicaid were projected to grow by roughly 5 percent and 7 percent, respectively, in FY 2015.

"Nevertheless, the increase can make a difference if the increased funding is used to improve fraud prevention," Saccoccio said.

Linda Baumann, an attorney with Arent Fox LLP in Washington, told Bloomberg BNA Feb. 9 that the \$44 million funding increase likely would have a significant impact on enforcement if it were to be enacted.

For example, Baumann said there are likely many cases, perhaps involving small amounts of money, that the government hasn't pursued in the past due to a lack of resources.

With the additional funding, the government would have the opportunity to investigate and prosecute more cases, Baumann said.

"Similarly, there may be additional new issues identified for enforcement," Baumann said.

**Senior Medicare Patrol Support.** In addition to funding program integrity efforts within government agencies, the budget would use HCFAC funds to support the Senior Medicare Patrol program. The patrols, active in all 50 states, the District of Columbia, Puerto Rico, Guam and the Virgin Islands, are currently grant-funded by the HHS's Administration for Community Living.

Since its inception in 1997, the Senior Medicare Patrol program has resulted in more than \$122 million in savings for Medicare, Medicaid and beneficiaries. Medicare beneficiaries volunteer to join the Senior Medicare Patrol and help educate other beneficiaries about identifying and deterring fraud.

The budget also would increase the OIG's direct funding to \$85 million, an \$8 million increase in funding from FY 2016's estimated \$77 million.

The additional 2017 funding would go toward cars for OIG investigations, as well as to provide protection to the HHS secretary and to investigate child-support cases.

The budget request would allow the OIG to add 214 full-time-equivalent employees, increasing to 1,830 employees in FY 2017 from 1,616 in FY 2016.

By JAMES SWANN

To contact the reporter on this story: James Swann in Washington at [jswann1@bna.com](mailto:jswann1@bna.com)

To contact the editor responsible for this story: Janey Cohen at [jcohen@bna.com](mailto:jcohen@bna.com)

*The Obama administration's proposed FY 2016 budget request is at <http://src.bna.com/cwZ>.*

*The HHS budget-in-brief is at <http://www.hhs.gov/about/budget/fy2017/budget-in-brief/index.html>.*