



**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**CMS SHOULD USE  
TARGETED TACTICS TO CURB  
QUESTIONABLE AND  
INAPPROPRIATE PAYMENTS FOR  
CHIROPRACTIC SERVICES**



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OEI-01-14-00200



# CHIROPRACTIC SUMMIT



“Statistically, most statistics used for sociopolitical point-making are quoted out of context.”





## WHY WE DID THIS STUDY (2015)

*Chiropractic services have the highest rate of improper payments among Part B services, according to the Centers for Medicare & Medicaid Services' (CMS) Comprehensive Error Rate Testing program. ...*

*Past OIG work has found that between 40 and 47 percent of all paid chiropractic claims were for maintenance therapy.*



## 2009 STUDY OBJECTIVE

*To determine the extent to which:*

*(1) chiropractic claims allowed in 2006 for beneficiaries **receiving more than 12 services** from the same chiropractor were appropriate*

**May 2009**

**OEI-07-07-00390**





## 2009 STUDY METHODOLOGY

*We identified allowed claims with the AT modifier for beneficiaries **with more than 12 claims** from the same chiropractor in 2006. We then contracted with a medical review contractor to review medical records from a simple **random sample of 188 claims**. ( Out of population of 13,827,382 not randomly selected from a total of 22,964,790 claims)*

**May 2009**

**OEI-07-07-00390**



## 2009 STUDY METHODOLOGY

### Population Identification

*We obtained Medicare-allowed claims data for chiropractic claims ...*

*This population contained 22,964,790 claims with a total allowed amount of \$762,148,017.*

***We limited the population** to claims for beneficiaries who received more than 12 services from the same chiropractor in 2006.*

*This population contained 13,827,382 claims with a total allowed amount of \$465,959,195.*



## **2009 STUDY METHODOLOGY**

Meaning that 40% of all claims (those with less than 12 visits) were excluded from the population before the random sample of 188 claims was selected. (9,137,408 claims excluded)

**May 2009**

**OEI-07-07-00390**



## 2009 STUDY CONCLUSION

*In 2006, Medicare inappropriately paid \$178 million for chiropractic claims, representing 47 percent of all allowed chiropractic claims **that met the study criteria.***





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## HOW WE DID THIS STUDY (2015)

*We analyzed paid claims for chiropractic services from 2013 to identify chiropractors who exhibited questionable billing using four measures: (1) treatment suggestive of maintenance therapy, (2) potential sharing of beneficiaries, (3) potentially “upcoded” claims, and (4) unlikely number of services per day.*

*We then identified chiropractors who received **high** amounts of questionable payments.*



## HOW WE DID THIS STUDY (2015)

*To create our data set of chiropractic claims, we identified all claims from CMS's National Claims History Carrier File for chiropractic services (CPT codes 98940, 98941, and 98942) rendered in 2013 with a paid amount greater than \$0.33. This resulted in 19,671,262 claims for which 45,490 providers received payment.*




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**Table B1: Threshold and Summary Data for Each Measure of Questionable Payment in 2013**

Measure of Questionable Payment	Threshold for Chiropractor To Be Considered an Outlier	Summary Statistics for All Chiropractors With Paid Claims		
		Median	Minimum	Maximum
Treatment Suggestive of Maintenance Therapy	Was paid for an average of 20 services per beneficiary	Average of 8 services per beneficiary	Average of 1 service per beneficiary	Average of 160 services per beneficiary
Potential Sharing of Beneficiaries	52.5% of a chiropractor's beneficiaries had paid claims from another chiropractor	13% of beneficiaries	0% of beneficiaries	100% of beneficiaries
Potentially Upcoded Claims	Was paid for an average of 0.85 work relative value units (RVU) per service	Average of 0.63 work RVU	Average of 0.45 work RVU	Average of 0.87 work RVU
Unlikely Number of Services per Day	Was paid for 16 or more hours in 1 day	0.57 hours in 1 day	0.20 hours in 1 day	28.62 hours in 1 day

Source: OIG analysis of data from 2013 Part B claims for chiropractic services paid by Medicare.





# CHIROPRACTIC SUMMIT



**Table 9: Chiropractors and Paid Amount by Measure of Inappropriate Payment in 2013\***

Measure of Inappropriate Payment	Number of Chiropractors	Percentage of Chiropractors	Paid Amount	Percentage of Paid Amount
Claims lacking a covered primary diagnosis	17,640	38.8%	\$20,709,516	4.1%
Claims for duplicate services	225	Less than 1%	\$25,680	Less than 1%
Claims lacking the AT modifier	30	Less than 1%	\$1,579	Less than 1%
<b>Total</b>	<b>17,751</b>	<b>39.0%</b>	<b>\$20,735,315</b>	<b>4.1%</b>

Source: OIG analysis of data from 2013 Part B claims for chiropractic services paid for by Medicare.

\* Because some claims exceeded the threshold for more than one measure of inappropriate payment, the columns do not sum to the totals.





**Table B2: Chiropractic Claims by Measure of Questionable Payment in 2013\***

Measure of Questionable Payment	Number of Claims	Percentage of Total Paid Claims
Treatment Suggestive of Maintenance Therapy	1,271,815	6.5%
Potential Sharing of Beneficiaries	988,926	5.0%
Potentially Upcoded Claims	603,655	3.1%
Unlikely Number of Services per Day	24,465	0.1%
<b>Total</b>	<b>2,719,427</b>	<b>13.8%</b>

Source: OIG analysis of data from 2013 Part B claims for chiropractic services paid by Medicare.

\* Because some claims exceeded the threshold for more than one measure of questionable payment, the columns do not sum to the totals.



# CHIROPRACTIC SUMMIT



**Table B4: Totals for Questionably and Inappropriately Paid Claims for Chiropractic Services in 2013**

	Number of Claims	Paid Amount*	Percentage of Paid Amount*
Questionably paid	2,592,554	\$72,507,606	14.4%
Inappropriately paid	683,072	\$17,138,222	3.4%
Both questionably and inappropriately paid	126,873	\$3,597,093	0.7%
Neither inappropriately nor questionably paid	16,268,763	\$409,113,618	81.4%
<b>Total</b>	<b>19,671,262</b>	<b>\$502,356,538</b>	<b>100%</b>

Source: OIG analysis of data from 2013 Part B claims for chiropractic services paid by Medicare.

\* The amounts in these columns do not sum to the total because of rounding.



## WHAT WE FOUND (2015)

*In 2013, \$76 million in Medicare payments for chiropractic services were questionable.*

*Almost half of the questionable payments were for claims suggestive of maintenance therapy.*

*In addition, just **2 percent of chiropractors** were responsible for **half of the questionable payments**.*

*Beneficiaries of these chiropractors were more likely to have had paid claims for physical and occupational therapy on the same day than were beneficiaries treated by other chiropractors, especially in high-fraud areas.*



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"There are three kinds of lies: lies, damned lies,  
and statistics"

– 19<sup>th</sup> Century British Prime Minister Benjamin Disraeli



Now Here Come the Statistics!



# Medicare Coverage of Chiropractic Services

*In 2013, Medicare paid \$502 million for chiropractic services provided by 45,490 chiropractors to almost 2 million beneficiaries.*





# Medicare Coverage of Chiropractic Services

## Averages

*9.8 claims per beneficiary*

*\$251 per beneficiary*

*44 beneficiaries per chiropractor*

*432 claims per chiropractor*

*\$11,035 paid per chiropractor*



## Vulnerabilities Involving Chiropractic Services

*The Office of Inspector General (OIG) has **previously found vulnerabilities in Medicare payments for chiropractic services. OIG evaluations from 2005 and 2009 found that between 40 and 47 percent of all paid chiropractic claims were for maintenance therapy***



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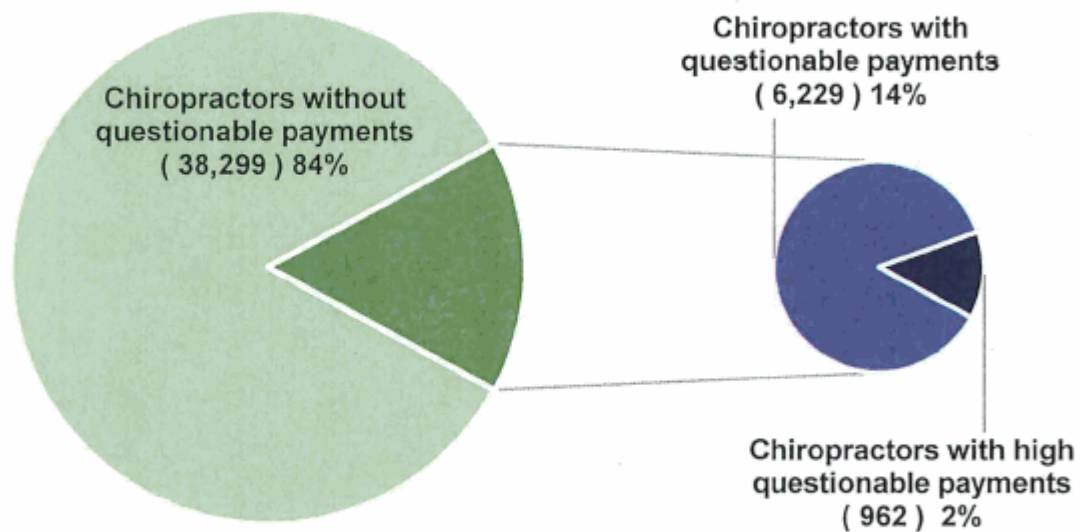
**2%**



# CHIROPRACTIC SUMMIT



**Figure 2: Number and Percentage of Chiropractors With and Without Questionable Payments in 2013\***



Source: OIG analysis of data from 2013 Part B claims for chiropractic services paid for by Medicare.

\* A total of 45,490 chiropractors were paid by Medicare in 2013. The total number of chiropractors with questionable payments in 2013 was 7,191.





# CHIROPRACTIC SUMMIT

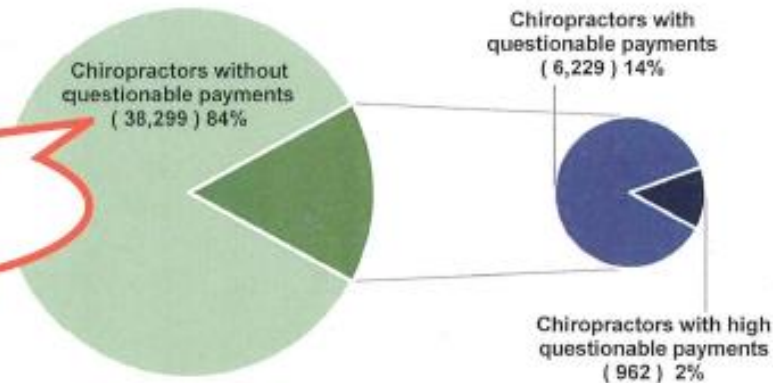


## Two percent of chiropractors were responsible for half of the questionable payments

962 chiropractors ( 2%) accounted for 50% of the questionable payments.

In 2013, 962 of the 45,490 chiropractors paid by Medicare received \$38 million of the \$76 million in questionable payments (see Figure 2). These 962 chiropractors (hereinafter, chiropractors with high questionable payments) received 9 percent (\$43.6 million) of all Medicare payments for chiropractic services in 2013. We identified 87 percent of their payments as questionable.

Figure 2: Number and Percentage of Chiropractors With and Without Questionable Payments in 2013\*



38,299 chiropractors ( 84%) had NO questionable payments in 2013.

Source: OIG analysis of data from 2013 Part B claims for chiropractic services paid for by Medicare.

\* A total of 45,490 chiropractors were paid by Medicare in 2013. The total number of chiropractors with questionable payments in 2013 was 7,191.





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Source: OIG analysis of data from 2013 Part B claims for chiropractic services paid for by Medicare.

Excluding the 962 outliers, the remaining 44,528 chiropractors had only 3% of their paid claims suggestive of maintenance therapy.

Excluding the 962 outliers, the remaining 44,528 chiropractors had only 5% of their payments for the 98942 code.

## ***Of these chiropractors' questionable payments were for treatments suggestive of maintenance therapy***

In addition to being high-volume providers, chiropractors with high questionable payments had more payments for claims suggestive of maintenance therapy. For the chiropractors with high questionable payments, 53 percent of their claims were suggestive of maintenance therapy. In contrast, just 3 percent of the claims for all other chiropractors paid by Medicare in 2013 were suggestive of maintenance therapy.

## ***Over a quarter of these chiropractors' claims were for the highest intensity chiropractic service***

Medicare paid the chiropractors with high questionable payments substantially more for treatments to five regions of the spine, CPT code 98942. Twenty-eight percent of paid services provided by chiropractors with high questionable payments were for 98942. In contrast, only 5 percent of paid services provided by all other chiropractors were for this CPT code. Finally, 30 percent of the chiropractors with high questionable payments received 95 percent or more of their Medicare payments for CPT code 98942, yet just 3 percent of all other chiropractors received 95 percent or more of their Medicare payments for this code.



# CHIROPRACTIC SUMMIT



MACs but one has local coverage determinations that align with CMS's guidance. That one MAC has a local coverage determination allowing coverage of chiropractic services for 209 primary diagnoses, but it does not include the diagnosis codes for nonallopathic lesions. As a result, we did not count the payments for claims with those 209 diagnoses in this MAC.

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See page 3 ... "CMS has instructed chiropractors to use the diagnosis codes that indicate nonallopathic lesions of the spine ...", yet the MAC serving Florida does not include those codes in their LCD!

Table 9: Chiropractors and Paid Amount by Measure of Inappropriate Payment in 2013\*

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<b>Total</b>	<b>17,751</b>	<b>39.0%</b>	<b>\$20,735,315</b>	<b>4.1%</b>

Source: OIG analysis of data from 2013 Part B claims for chiropractic services paid for by Medicare.

\* Because some claims exceeded the \$500 threshold for inappropriate payments, the columns do not sum to the totals.

This \$20,735,315 of inappropriate payments are probably associated with insufficient software edits by MACs and should be deducted from those attributable to the chiropractors.





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Of all Medicare payments made in 2013, only 6.5% were suggestive of maintenance therapy.

Table B2: Chiropractic Services Paid by Medicare in 2013\*

Measure of Questionable Payment	Number of Claims	Percentage of Total Paid Claims
Treatment Suggestive of Maintenance Therapy	1,271,815	6.5%
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# CHIROPRACTIC SUMMIT



Source: OIG analysis of data from 2013 Part B claims for chiropractic services paid by Medicare.

\* Because some claims exceeded the threshold for more than one measure of questionable payment, the columns do not sum to the totals.

**\$38 Million of the questionable payments went to 962 chiropractors (2%)**

**Table B4: Totals for Questionably and Inappropriately Paid Claims for Chiropractic Services in 2013**

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Source: OIG analysis of data from 2013 Part B claims for chiropractic services paid by Medicare.

\* The amounts

**Bottom Line: Based on a statistical analysis of ALL claims paid to chiropractors in 2013, the OIG found that 81.4% of the payments were neither inappropriate nor questionable.**

**Excluding \$38 Million from the 2% outliers and \$21 Million attributed to the MAC edit errors would result in an estimated payment error rate of about 6.8% for 98% of chiropractors.**





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## CONCLUSION AND RECOMMENDATIONS

Previous OIG work and the CERT identified questionable and inappropriate payments for chiropractic services as a longstanding concern. In this study, we used four measures to identify Medicare payments to chiropractors with billing characteristics that raise program integrity concerns, as well as payments for claims that did not meet certain Medicare rules for payment. We found that in 2013, nearly 20 percent of the payments for chiropractic services were questionable or inappropriate, based on these measures and selected requirements.

Especially concerning is that just 2 percent of chiropractors paid by Medicare in 2013 received half of the questionable payments. Many of these 962 chiropractors had a history of receiving questionable payments in prior years and/or were located in high-fraud areas. Although this study did not determine whether the questionable payments we identified for chiropractic services were fraudulent or improper, the concentration of payments to these 962 chiropractors suggests that further scrutiny of them and their payments is warranted.

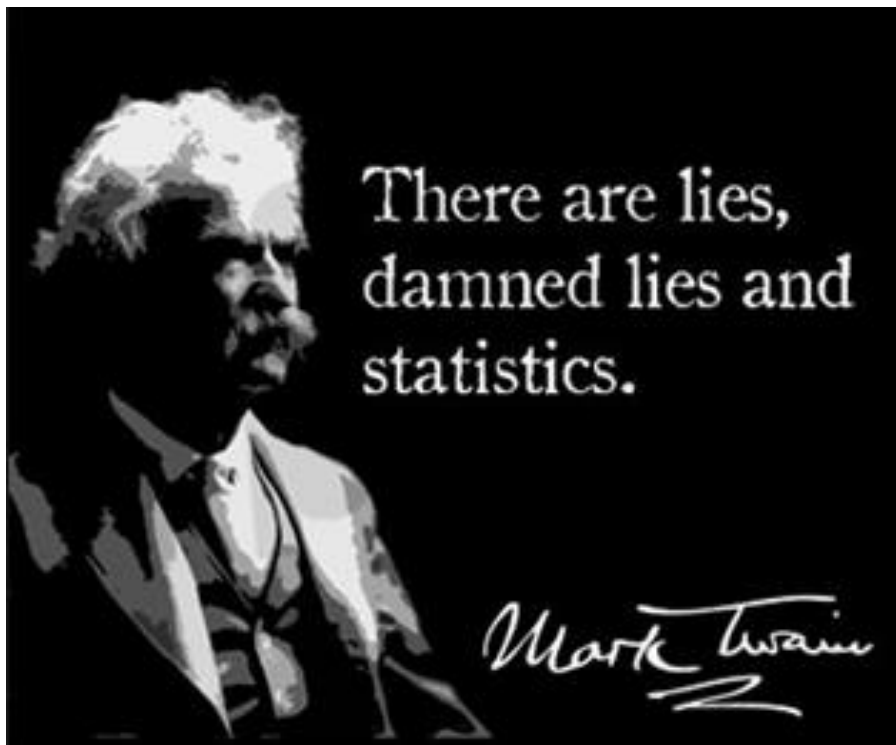
In addition, over half of the questionable payments we identified were for treatment suggestive of maintenance therapy, and almost all of the inappropriate payments that we identified were for claims lacking a covered primary diagnosis. CMS instituted the AT modifier as a control to prevent Medicare from paying for maintenance therapy. However, the evidence in this study, as well as previous OIG work, shows that the AT modifier is not an effective safeguard. In addition, the payments for services with primary diagnoses other than subluxation indicate that Medicare paid for chiropractic services that did not meet coverage requirements.

The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA), which became law in April 2015, contains provisions for oversight of Medicare chiropractic services, including requiring preauthorization for services provided by chiropractors with aberrant billing or high rates of denial.<sup>31</sup> Through targeted tactics that align with or complement these new provisions, CMS can address the vulnerabilities that we identify in this study.





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*Furthermore, **chiropractic payment errors**, while a significant vulnerability, **contribute only minimally** to the overall CERT national paid claims error rate. Medicare allowed approximately **\$191 billion** for Medicare fee-for-service claims in 2001. **Chiropractic services** accounted for \$500 million, or **0.26 percent of this amount**. Therefore, the chiropractic-specific error rate has minimal influence on the overall CERT error rate for fee-for-service claims.*

**June 2005 OEI-09-02-00530**



## CONCLUSION

This OIG report provides an excellent framework for informing stakeholders that, *with the exception of 2%* of the chiropractors, the remaining *98% have paid claim error rates* (under 7%) that were *less than the average* of all Part B claims (10.5%) in 2013.



## CONCLUSION

The Question is:

**What about the 2%?**