

**Testimony of
Daniel R. Levinson
Nominee for Inspector General
Department of Health and Human Services**

Mr. Chairman and members of the Committee, thank you for this opportunity to appear before you today as the President's nominee for Inspector General (IG) of the Department of Health and Human Services (HHS). I am grateful for the President's nomination and am mindful of the crucial role that the Finance Committee plays in a wide array of matters concerning HHS, including its Office of Inspector General (OIG). I also want to thank members of the Committee's staff who gave of their time generously in preparation for this hearing.

This Office of Inspector General is charged with protecting the integrity of HHS programs, as well as the health and welfare of beneficiaries of those programs. As in other agencies, the IG serves pursuant to the Inspector General Act of 1978 as chief audit and law enforcement executive, with dual reporting roles to the Department and to the Congress. An IG is charged with providing the Secretary and program managers objective and independent findings and recommendations to improve program efficiency and effectiveness, and to undertake investigations to identify and hold accountable those who defraud our programs and beneficiaries.

The IG must carry out a wide variety of tasks in the effective administration of many key government management laws, among them the Federal Information Security Act, the Chief Financial Officers Act of 1990, the Single Audit Act, and the Government Performance and Results Act, as well as OMB circulars and directives. The IG, through Hotlines and other integrity awareness efforts, also assists in the fulfillment of the important public policy goals embodied in the Ethics in Government Act, the Whistleblower Protection Act, and other similar laws, rules, and policies.

These are roles with which I am familiar, as it has been my privilege and honor to serve as the Inspector General of the General Services Administration for the past three-and-a-half years. The multidisciplinary nature of IG activities always presents a challenge to integrate effectively a variety of internal tasks for the benefit of both internal and external uses. The size and scope of HHS, however, makes managerial demands of the highest order. I, therefore, am aware of the differences, as well as of the similarities, of the positions that I am leaving and for which I am being considered.

Indeed, I am cognizant that the HHS OIG is in some respects truly different from its peer organizations. Not only is it the largest office of its kind in the Federal Government, but its duties and responsibilities are unusually broad, encompassing significant regulatory and enforcement powers not typically available to OIGs elsewhere. I pledge that, if confirmed, I will devote my efforts and energies toward ensuring that the office exercises all the authorities given it by the Congress.

An important demonstration of the unique features of the HHS OIG is apparent in its role in the Medicare Modernization Act (MMA) of 2003. In making the most significant changes to Medicare in its 40-year history, the MMA, which goes fully into effect next January, both modifies the prices of drugs currently paid by the Medicare program and creates a new voluntary drug benefit for the program's 41 million beneficiaries.

As recent OIG semiannual reports indicate, within the Medicare and Medicaid programs, which are the exclusive focus of approximately 80 percent of OIG activity, prescription drugs are especially vulnerable to fraud, waste, and abuse. It is therefore essential that the Centers for Medicare & Medicaid Services (CMS) build a sound infrastructure for program implementation, with strong internal controls, adequate data collection to enable proper oversight, and sound financial management systems. The OIG will have a parallel responsibility to conduct audits, investigations, and evaluations that help ensure that resources are in place and that MMA implementation is on track and being accomplished in an efficient and effective manner.

To fulfill the specific responsibilities mandated by Congress to the OIG in the area of pharmaceuticals, work is underway to monitor market prices and trends of Medicare-covered drugs, audit drug manufacturers' prices, establish a safe harbor related to the electronic transmission of drug prescriptions, assess the effects of Medicare payment rates on the availability of hematology and oncology drugs, and study prices of drugs included in the end stage renal disease composite rate.

In addition to providing new responsibilities under MMA in the prescription drug area, the Congress also directed the OIG to review payment methods for training residents in nonhospital settings, and to assess notices to beneficiaries relating to hospital lifetime reserve days. The OIG already has met the statutory deadlines for this work and is planning additional projects as part of its commitment to prudent oversight of the new law.

In order to meet both the preexisting and new responsibilities faced by the OIG today, this office will require an extraordinary level of collaboration and partnership internally, with a sufficient level of resources dedicated to an unusually diverse collection of disciplines. The HHS OIG now employs over 1400 public servants who bring to the mission an impressive expanse of experience and expertise in criminal investigations, audit and accounting, inspections and evaluations, management analysis, law, and staff support.

To maximize the reach of the OIG in its mission to protect HHS program integrity, steps should be taken not only to ensure that human capital is deployed in the most efficacious manner possible, but that sufficient resources are available for new, as well as continuing responsibilities. I will, if confirmed, work with the OIG senior management team to make these determinations and share our progress and concerns with you.

For most of the past 20 years, I have worked to promote internal integration of resources so as to improve government effectiveness. In my capacities as inspector general, general counsel, chief of staff, head of agency, and consultant to agencies and the Public Administration Academy, I have sought to find and implement policies that marshal a public organization's internal strengths

and to do so, when feasible, across disciplinary lines. This is especially useful in light of the complex nature of IG responsibilities. As fraud examiners, for example, we are instructed to appreciate the interrelationship among discrete but related disciplines, including criminology, investigations, financial transactions, law and ethics, and to employ this knowledge holistically. I will endeavor, if confirmed, to apply these strategies to the HHS OIG.

My previous work in central management and public safety agencies also has sensitized me to the crucial personal investments that must be made by the office leadership in building effective bridges to other parties whose oversight or enforcement powers touch, or perhaps overlap, with one's own.

Indeed, in view of the enlarged and complex mission of this OIG, effective internal integration and collaboration only set the stage for the critical partnerships that need to be maintained between the office and external parties. In OIG's role as a health care law enforcement leader, it is critically important for the OIG and CMS to have a mutual understanding of their complementary roles in effectuating program integrity. Along similar lines, it is important that the OIG relate to other major components of the Department, such as the National Institutes of Health, the Food and Drug Administration, and the other public health agencies, in a manner that reflects an appreciation for the respective roles of each office in ensuring that the public interest in honest and effective government is promoted. If confirmed, I will devote my attention and energies to these important goals.

Successful partnerships also must be maintained beyond the Department. Congress has enacted a range of authorities empowering the OIG and the Department of Justice (DOJ) to pursue those who would undermine the beneficial purposes of our nation's health and welfare laws through fraud or other unlawful means. Those authorities, which include the False Claims Act, particularly its *qui tam* provisions, the anti-kickback statute, the Civil Monetary Penalties Law, EMTALA, and program exclusions, typically depend on effective coordination between the OIG and DOJ, including its Civil and Criminal Divisions, the Marshals Service, and offices of the United States Attorneys nationwide. Through joint participation in the Health Care Fraud and Abuse Control Program, created in 1996 as an important part of the Health Insurance Portability and Accountability Act, the OIG and DOJ together ensure that the Federal Government will effectively prosecute health care fraud and obtain appropriate judgments, settlements, and administrative impositions.

In a parallel manner, the OIG must work effectively with its partners at the State level, principally through the various State Medicaid Fraud Control Units, which investigate and prosecute providers charged with defrauding the Medicaid program or abusing or neglecting patients. As Medicaid has become, in terms of Federal and State outlays, larger than Medicare, it is imperative for the OIG to devote increasing attention to this program. One way this is being accomplished, as indicated in OIG's most recent semiannual reports, is to work with State auditors to conduct joint audits of Medicaid so as to help ensure more effective use of scarce audit resources in both Federal and State audit sectors.

The OIG also must maintain effective relations with the Congress and the Government Accountability Office (GAO). It is of vital importance for IGs to deliver timely and accurate information to the Congress so it can fulfill its oversight role. And in order to respect the relevant jurisdictions of the two entities, enhance coordination between them, and avoid duplicative work, it is important for the IG and GAO to share the focus and the timetable of their work plans. I remain committed to these objectives as important foundations for effective IG operations.

In view of the enormous investment that the nation's taxpayers make in our health and welfare laws, it also is important that the OIG find effective means to maximize opportunities and incentives for the health care industry to adopt preventive policies, engage in preventive practices, and assist Government authorities in uncovering instances of fraud, waste, and abuse.

Among its outreach tools, the OIG has issued advisory opinions, special fraud alerts, special advisory bulletins, and industry-specific compliance program guidance, all directed toward promoting the highest level of ethical and lawful conduct by the health care industry. The OIG also has established a set of guidelines for voluntary self-disclosure, known as the Provider Self-Disclosure Protocol, giving providers and suppliers a process for structuring a disclosure of conduct that appears to constitute a potential violation of Federal laws. Through these and other potential avenues, I will, if confirmed, seek to build on successful strategies that make the industry, in many instances, a first line of defense in the protection against Federal health care fraud, waste, and abuse.

The challenges involved in this position are great. For any Inspector General, they probably could not be greater. But the opportunities to make a positive difference in the lives of millions of Americans, especially those who are most needy and vulnerable, are also great. While I trace my career interests in the disciplines encompassed by Inspector General positions to my father, a lawyer and a CPA with a distinguished career as a financial executive, it is the rest of the members of my family, my mother and my siblings, who together combine over a century of service and scholarship to health and human services, that contribute so greatly in forming my personal commitment to make the HHS OIG as successful in its mission as possible.

Thank you for this opportunity to appear before you today, and I am pleased to respond to your questions.

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