

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
JEFF SESSIONS, ALABAMA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
JEFF FLAKE, ARIZONA
DAVID VITTER, LOUISIANA
DAVID A. PERDUE, GEORGIA
THOM TILLIS, NORTH CAROLINA

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
CHARLES E. SCHUMER, NEW YORK
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
AL FRANKEN, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, Chief Counsel and Staff Director
KRISTINE J. LUCIUS, Democratic Chief Counsel and Staff Director

June 30, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Loretta Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Lynch:

In January of 2012, then-Chairman Max Baucus and I began an investigation into several corporate dentistry practices that were allegedly engaging in abuse and fraudulent use of Medicaid tax dollars by rendering unnecessary dental procedures on children. Following our inquiry, in March of 2014 some corporate dentistry practices were disqualified from Medicaid. Yet, according to media reports, dental fraud against the taxpayer is still occurring.¹ Fraud on the taxpayer is always of concern, but it is truly disturbing if children needlessly suffer at that the hands of even a small minority of dentists out for a quick buck.

Media reports regarding predatory dental fraud practices were recently corroborated by an audit conducted by the Department of Health and Human Services' Office of Inspector General (HHS OIG) that identified 329 general dentists and six orthodontists in California's Medicaid program who engaged in questionable billing practices.² The report cited the example of one dentist who billed Medicaid for **over 1,000 pediatric services a day** for nearly 100 days.³ Another dentist performed 33 procedures—which included multiple stainless steel crowns and root canals—on a four year-old during a single office visit.⁴ The HHS OIG confined the audit to analyzing claims data and did not examine medical charts; thus, the audit did not make explicit findings about whether the dentists were engaged in fraudulent billing practices or if the dentists were performing dental procedures that were not medically necessary. However, the HHS OIG

¹ Please see media reports: <https://www.youtube.com/watch?v=brea8stHyI4>; <http://abcnews.go.com/US/florida-investigating-allegations-dentist-performed-unnecessary-procedures-collect/story?id=31229153>; https://www.youtube.com/watch?v=J_rWj0gvnyY; <https://www.youtube.com/watch?v=NLnNaUW4NCk>

² Department of Health and Human Services, Office of Inspector General, *Questionable Billing for Medicaid Pediatric Dental Services in California*, Report Number: OEI-02-14-00480, May 2015.

³ *Id.* at 8.

⁴ *Id.* at 9.

found that the “concentration of providers with questionable billing in chains raises concerns that these chains may be encouraging their providers to perform unnecessary procedures to increase their profits.”⁵ The HHS OIG further noted, “our findings raise concerns that certain providers may be billing for services that are not medically necessary or were never provided. They also raise concerns about the quality of care provided to children with Medicaid.”⁶

HHS OIG has performed audits of questionable billing practices for Medicaid pediatric dental services in four states: California, New York, Louisiana, and Indiana.⁷ All of these audits identified questionable billing practices that suggest Medicaid dental providers are performing medically unnecessary procedures on children.⁸ This conclusion has been echoed by a variety of news sources who have reported on troubling practices performed by dentists treating Medicaid children.

For example, CNN and ABC have reported on a Florida based dentist who has allegedly subjected hundreds of children to abusive dental practices that include unneeded tooth extractions, improper dental fixtures, failure to provide adequate anesthetic, and instances of children being strapped down to a dental chair and physically manhandled if they resisted treatment.⁹ News reports indicate that mothers have brought their children to the dental office for a single tooth extraction only to find out that the dentist extracts two, three, four and sometimes up to 7 more teeth than necessary.¹⁰ Some children have entered a dentist office for a simple 30 minute procedure that ends up lasting 3 hours.¹¹

Fox News has reported that Medicaid officials have noticed a marked increase in the number of high-cost stainless steel crowns for cavities.¹² Some states pay more for crowns than regular fillings, such as Connecticut which reportedly pays \$230 for the crowns compared to \$100 for a regular filling.¹³ In addition, Medicaid investigators found a dentist in Indiana who billed Medicare for 343 services in a single day.¹⁴ According to ABC, a dentist in Florida told a mother that her son needed one metal cap, but instead implanted 13.¹⁵

⁵ *Id.* at 2 (Executive Summary).

⁶ *Id.*

⁷ Dep’t of Health and Human Services, Office of Inspector General, *Questionable Billing for Medicaid Pediatric Dental Services in New York*, Report No. OEI-02-12-00330 (March 2014), Dep’t of Health and Human Services, Office of Inspector General, *Questionable Billing for Medicaid Pediatric Dental Services in Indiana*, Report No. OEI-02-14-00250 (November 2014), Dep’t of Health and Human Services, Office of Inspector General, *Questionable Billing for Medicaid Pediatric Dental Services in Louisiana*, Report No. OEI-02-12-00120 (August 2014).

⁸ *Id.*

⁹ Please see media reports: <https://www.youtube.com/watch?v=brea8stHyI4>; <http://abcnews.go.com/US/florida-investigating-allegations-dentist-performed-unnecessary-procedures-collect/story?id=31229153>;

https://www.youtube.com/watch?v=J_rWj0gvnyY; <https://www.youtube.com/watch?v=NLnNaUW4NCk>

¹⁰ *Id.*

¹¹ *Id.*

¹² Lacie Glover, “Dental billing fraud is more common than you think,” FOXNEWS (January 9, 2015).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Matt Gutman and Dan Good, “Florida Investigating Allegations Dentist Performed Unnecessary Procedures to Collect on Medicaid,” ABC (May 22, 2015).

Some dentists are clearly performing unwanted and unneeded medical procedures on children without the consent of parents and bilking Medicaid for the privilege. Accordingly, please provide my staff with the following:

1. The HHS OIG audits strongly suggest that a considerable degree of the fraudulent treatment and billing practices occurs at dental offices that are part of dental chains.¹⁶ Please provide the number of criminal and civil fraud referrals from the HHS OIG relating to Medicaid dentistry chains in the past 5 years. Please list the referrals by state and how each criminal and civil case was resolved.
2. Please detail the number of ongoing Department of Justice Medicaid dental chain fraud investigations by state.
3. Please describe the Department of Justice's plan to address the findings by HHS OIG that indicate healthcare fraud in the context of dental procedures provided to children on Medicaid.

Please number your responses according to their corresponding questions. Please respond no later than July 16, 2015. If you have any questions, please contact Josh Flynn-Brown of my Committee staff at (202) 224-5225. Thank you for your cooperation in this important matter.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

¹⁶ Department of Health and Human Services, Office of Inspector General, *Questionable Billing for Medicaid Pediatric Dental Services in California*, Report Number: OEI-02-14-00480, May 2015. Footnote 9.