

# Combating Fraud in Federal Health Care Programs



# Delta Dental's Anti-Fraud Efforts

- Delta Dental monitors, detects, and investigates fraud, waste, and abuse (FWA), and has a specific department that educates, detects, corrects, prevents, reports, and deters insurance FWA.
- As an administrator of dental benefits, Delta Dental has a responsibility to ensure claims are paid accurately.
- This is accomplished by review, analysis, and investigation of suspicious claims and investigations from members, clients, dental offices, employees, and others to ensure that benefits are administered in accordance with all applicable contract, policies, and regulations.

# Enforcement Landscape

- The US recovered \$4.20 for every \$1 spent on enforcement
- Estimated fraud: between \$99 billion and \$330 billion
  - Enforcement is only recovering about 1/10<sup>th</sup> of this amount
- 2017 Department of Justice opened:
  - 967 new criminal cases
  - 948 new civil cases



# Our Role in Federal Health Care Programs

Medicaid	Administering the dental benefit in Colorado
Medicare	Contracting with Medicare Advantage plans to provide their members with a supplemental dental benefit

# Identifying Fraud

- Traditional Fraud is broadly defined to include intentional deception or misrepresentation
- Healthcare Fraud is sometimes counterintuitive
- Common Statutes Relating to Fraud
  - False Claims Act
  - Anti-Kickback Statute
  - Unlawful Patient Inducement

# State and Federal False Claims Act

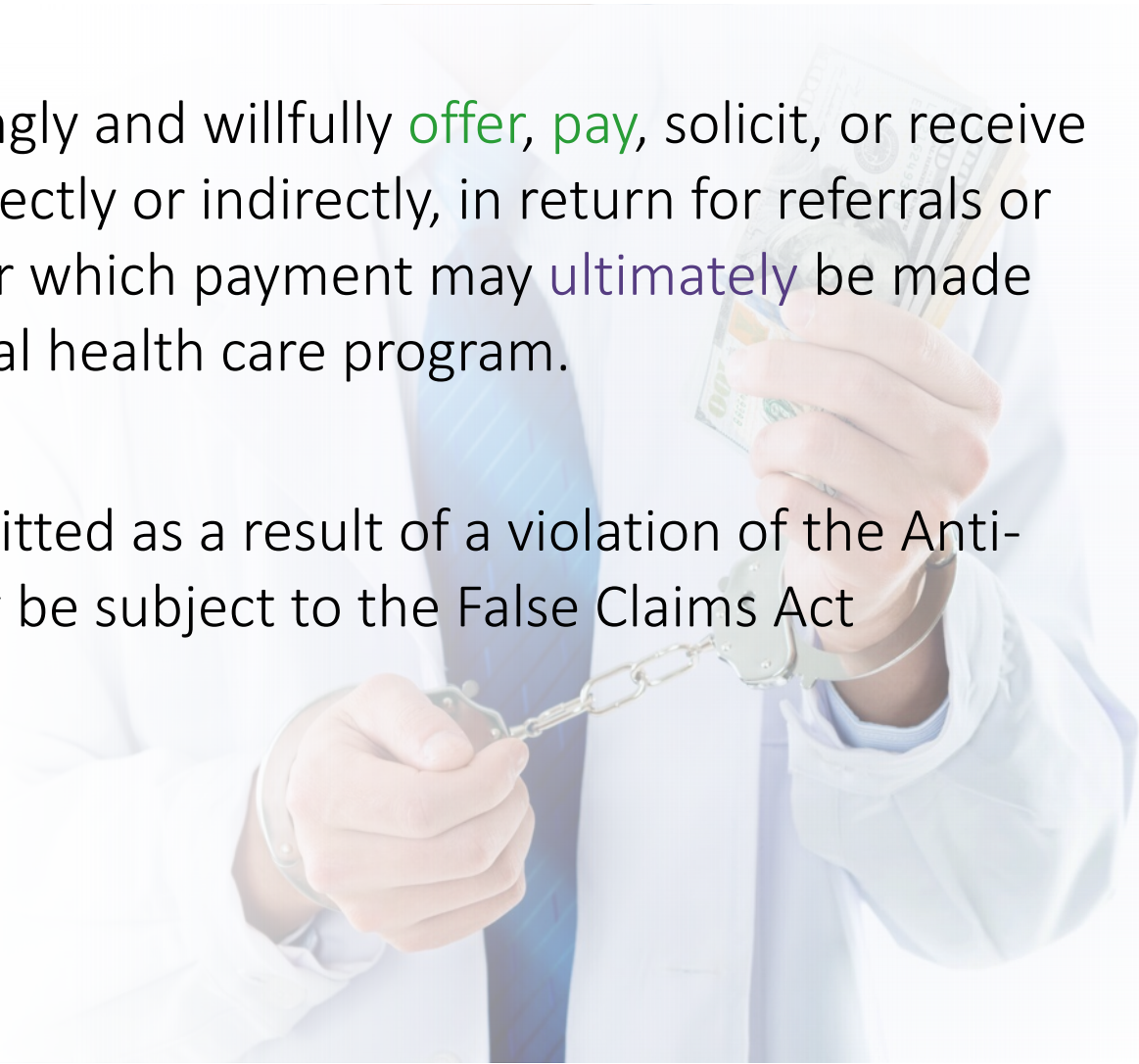
- Knowingly submitting a “false or fraudulent” claim
- Knowing means:
  - Actual knowledge
  - Deliberate ignorance
  - Reckless disregard
- Simple error is not enough

# Examples of False Claims

- A dental group paid \$5.1 million to settle a case alleging that they
  - Upcoded Simple Tooth Extractions (D7140) and improperly billed Surgical Extractions (D7210)
  - Improperly billed for Scale and Root Planing (Deep Cleaning) when they were either not performed or not medically necessary
- A dental group paid \$23.9 million to settle a case alleging that they billed for
  - Procedures that were not medically necessary including pulpotomies (baby root canals), tooth extractions, and stainless steel crowns
  - Procedures that were never actually performed

# Anti-Kickback Statute

- It's a **crime** to knowingly and willfully **offer, pay**, solicit, or receive **anything of value**, directly or indirectly, in return for referrals or to induce referrals for which payment may **ultimately** be made **in part** under a federal health care program.
- Claims that are submitted as a result of a violation of the Anti-Kickback Statute may be subject to the False Claims Act





# Unlawful Patient Inducement

- Unlawful to offer remuneration that the offeror knows or should know is likely to influence the selection of a particular provider, practitioner or supplier.
- Exception:
  - de minimis items and services less than \$15, and less than \$75 per year

# Examples of Kickbacks/Inducements

- A dental group paid \$8.45 million to settle a case alleging that they:
  - Paid parents of Medicaid patients to bring their children in
  - Paid marketing companies to refer Medicaid patients to the clinic



# Penalties

- Penalties for individuals and entities submitting false claims include:
  - Criminal prosecution
  - Fines up to \$21,916 per claim
  - Treble damages (i.e., 3 times the amount paid)
  - Exclusion from participation in Medicare and Medicaid
- Penalties for Employees/ Network Providers
  - Disciplinary action up to and including termination
  - Termination of provider agreement

Thank You