

United States Senate

WASHINGTON, DC 20510

September 14, 2017

Daniel R. Levinson
Inspector General
U.S. Department of Health and Human Services
330 Independence Avenue, SW
Washington, DC 20201

Dear Inspector General Levinson:

The opioid epidemic continues to devastate communities across our nation, impacting my home state of Pennsylvania with particular virulence. As Chairman of the Senate Finance Subcommittee on Health Care, I have worked with my colleagues on both sides of the aisle in efforts to improve our nation's response to this crisis. Today, I am writing to ask you to investigate allegations of arrangements in the city of Philadelphia that take advantage of vulnerable Medicaid beneficiaries struggling with substance abuse in violation of the federal anti-kickback statute (42 U.S.C. § 1320a-7b(b)).

Recently, your office uncovered disturbing statistics underscoring that this crisis is unlikely to abate anytime soon. While the Centers for Disease Control and Prevention (CDC) has reported that opioid prescribing per person has decreased in recent years,¹ your office found that one in three Medicare Part D beneficiaries still received opioids in 2016.² Medicaid beneficiaries are even more at risk for opioid abuse and the disastrous consequences that result. According to the Centers for Medicare and Medicaid Services (CMS), "Medicaid beneficiaries are prescribed painkillers at twice the rate of non-Medicaid patients and are at three-to-six times the risk of prescription painkillers overdose."³

As this crisis continues with no end in sight, there has been an appropriate focus on improving the availability of evidence-based treatment for substance abuse. As such, Medicare and Medicaid spending on a wide range of treatment options have understandably increased dramatically in recent years.

Unfortunately, accompanying this substantial investment in substance abuse treatment is a proliferation of opportunists who shamelessly take advantage of individuals in the depth of their disease and profit off of their despair. Specific to my concerns, recent reporting by the *Philadelphia Inquirer* uncovered such a scheme that also appears to be a clear violation of the federal anti-kickback statute.

¹ "Vital Signs: Opioid Prescribing," Centers for Disease Control and Prevention, July 6, 2017, <https://www.cdc.gov/vitalsigns/opioids/index.html>

² "Opioids in Medicare Part D: Concerns about Extreme Use and Questionable Prescribing," U.S. Department of Health & Human Services Office of Inspector General, OEI-02-17-00250, <https://oig.hhs.gov/oei/reports/oei-02-17-00250.pdf>

³ Vikki Wachino (Director, Center for Medicaid and CHIP Services), "Best Practices for Addressing Prescription Opioid Overdoses, Misuse and Addiction," Centers for Medicare & Medicaid Services, January 28, 2016, <https://www.medicare.gov/federal-policy-guidance/downloads/cib-02-02-16.pdf>

The June 1, 2017 article, the result of investigative reporting and over 140 interviews, alleges that multiple Philadelphia outpatient facilities reimbursed by Medicaid are paying monthly, under-the-table kickbacks to “recovery homes” that are willing to provide a direct and steady supply of individuals needing treatment for substance abuse.⁴

While not all “recovery homes” are involved in such fraudulent arrangements, the environment is ripe for such abuse. In Philadelphia, the Medicaid contract for behavioral health and substance abuse was nearly \$1 billion in 2015.⁵ The *Inquirer* article estimated there are around 4,000 individuals suffering from substance abuse living in between 300 to 400 mostly unlicensed “recovery homes” in the city.

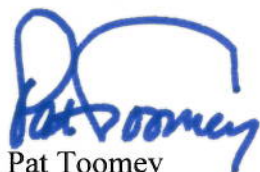
Prior reporting has indicated that these arrangements have become so extensive that the network even reaches into Puerto Rico. In seven cities on the island, vulnerable individuals are identified, flown to Philadelphia with promises of state-of-the-art care, and then trapped in poverty at these “recovery homes” that receive illegal remunerations from outpatient clinic operators who bill the Pennsylvania Medicaid program.⁶

Equally as troubling, it is unclear that these organizations are even attempting to provide their patients the care they need to overcome their disease. Investigative reporting by the *Philadelphia Daily News* indicated that in some cases “group therapy,” reimbursed for with Medicaid dollars, consists simply of watching films such as “Caddyshack,” “Titanic,” and “Teenage Mutant Ninja Turtles.”⁷

To overcome the opioid crisis, our nation needs to approach it from all angles. More must be done to curb overprescribing, stop illegal diversion, and improve treatment options. However, it is also crucially important that we make sure the investments we are already making and expanding upon are not taken advantage of at the expense of taxpayers and those with substance abuse disorders. That is why I believe it is of utmost importance that you investigate these serious and disturbing allegations of fraud in Philadelphia and the state Medicaid program.

Thank you for your prompt attention to this matter.

Sincerely,



Pat Toomey

United States Senator

Chairman, Senate Finance Subcommittee on Health Care

⁴ Alfred Lubrano, “‘Pimping out’ drug addicts for cash,” *Philadelphia Inquirer*, June 1, 2017, http://www.philly.com/philly/health/addiction/Philadelphia_exploited_heroin_addicts_recovery_houses_treatment_centers_kickbacks_Medicaid.html

⁵ Contract Number 1520419, Office of Behavioral Health/Intellectual disAbility Services, City of Philadelphia, January 2015, <http://dbhids.org/wp-content/uploads/2015/10/OBH-CBH-2015-Contract-CY2015.pdf>

⁶ Alfred Lubrano, “How Puerto Rico uses a network called Air Bridge to export its addicts to Philly,” *Philadelphia Inquirer*, November 13, 2016, http://www.philly.com/philly/news/special_packages/Puerto_Ricos_solution_to_heroin_crisis_one-way_tickets_to_Phillly.html

⁷ Wendy Ruderman and Barbara Laker, “‘Caddyshack’ is therapy for drug abusers?,” *Philadelphia Daily News*, December 3, 2014.