

DHS Investigations of Alleged Kickbacks in the EIDBI Program

Special Review

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Objectives

- Complaint received in 2024
- We examined:
 - The reasons why DHS Office of Inspector General (OIG) closed complaints about EIDBI providers without further investigation
 - Whether OIG staff took reasonable steps when determining whether to investigate allegations of fraud, theft, abuse, and error by EIDBI providers

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EIDBI Benefit

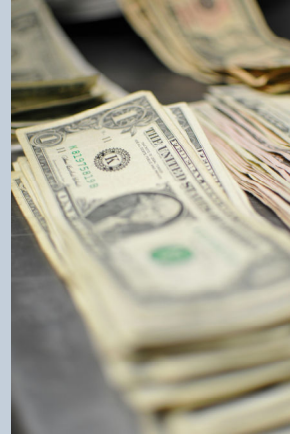
- DHS oversees the administration of EIDBI
- Benefit was established in 2013
- Early intervention for children and youth with autism spectrum disorder
- 5,600 recipients in 2024

Conclusions

- Most decisions we reviewed were reasonable
- DHS stated that it did not have authority to investigate allegations of kickbacks alone
- We identified several ways DHS could have utilized its existing authority to address allegations of kickbacks
- We also identified a potential limit to DHS's current authority

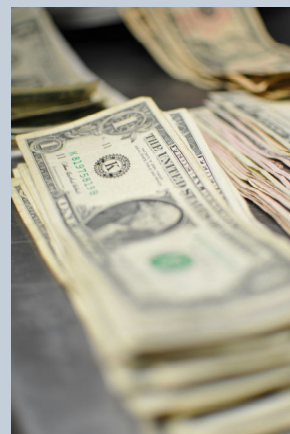
Kickbacks

- Money or something of value offered or given to induce referrals or business
- Can lead to overuse of health care services and increased program costs



Kickbacks (cont.)

- Illegal under federal law for decades
- 2025 Legislature criminalized kickbacks at the state level
- 2025 Legislature added explicit authority for DHS to sanction for kickbacks



DHS Has Long Had Authority

- Statute has long authorized DHS to impose sanctions for kickbacks
 - DHS “may impose sanctions...[for] **any reason** for which an individual or entity **could be** excluded from participation in the Medicare program” under specified sections of the Social Security Act
 - One reason is kickbacks

DHS Also Could Have Corrected an Error in Rule

- DHS’s rule defining “fraud” contains an error
- DHS relies on this definition when acting on allegations of provider misconduct
- The error is an incorrect citation to federal law and was made in 1995
- Had DHS corrected the error, it would have had authority to act on allegations of kickbacks

Possible Ongoing Limit to Authority

- Unclear whether DHS has legal authority to suspend payments while investigating credible allegations of kickbacks alone
- DHS may impose sanctions after prior notice and opportunity for hearing
- DHS may withhold or reduce payments to providers if it “determines there is a credible allegation of fraud for which an investigation is pending”

Possible Ongoing Limit to Authority (cont.)

- Statute defines “credible,” but “fraud” is defined in rule
- The error in rule means DHS’s authority is unclear

Recommendation

- DHS should amend its administrative rule defining “fraud” to clearly include kickbacks
- If DHS does not pursue an amendment, the Legislature should act to resolve this issue

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