DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201

AUG 19 2015

The Honorable Tim Murphy
Committee on Energy and Commerce
Subcommittee on Oversight and Investigations
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing in response to your August 5, 2015, letter containing questions for the record from Representative Susan Brooks and Representative Michael Burgess following my testimony before the Subcommittee on Oversight and Investigations on Tuesday, July 14, 2015, at the hearing entitled "Medicare Part D: Measures Needed to Strengthen Program Integrity."

If you have any questions, please contact me or your staff may contact Christopher Seagle, Director of External Affairs, at (202) 260-7006 or Christopher.Seagle@oig.hhs.gov.

Sincerely,

Ann Maxwell
Assistant Inspector General

cc: Representative Dianna DeGette, Ranking Member, Subcommittee on Oversight and Investigations

Enclosures:
Responses to QFR's from Representative Brooks and Representative Burgess

Ann Maxwell, Assistant Inspector General, Office of Inspector General, U.S. Department of Health and Human Services, response to question for the record following "Medicare Part D: Measures Needed to Strengthen Program Integrity"

The Honorable Michael C. Burgess: QFR from the July 13, 2015, hearing before the House Energy and Commerce Subcommittee on Oversight and Investigations regarding Medicare Part D issues.

"Has the $18 million paid to Dr. Tariq Mahmood for fraudulent EHR system development been recovered?"

OIG investigated a case on Dr. Mahmood who was later convicted of conspiracy, health care fraud, and aggravated identity theft. These convictions were primarily related to health care billing matters and identity theft (as opposed to EHR Meaningful Use payments). Dr. Mahmood was sentenced in April 2015 to 139 months in Federal prison and ordered to pay restitution in the amount of $599,128. The OIG case is now closed. Dr. Mahmood Sentencing: http://www.justice.gov/usao-edtx/pr/texas-doctor-sentenced-prison-health-care-fraud-scheme

However, OIG additionally investigated a case on Joe White, the Chief Financial Officer of Shelby County Hospital (owned by Dr. Mahmood), regarding Medicare EHR Incentive Program funds. Mr. White pleaded guilty and in June 2015 was sentenced to 23 months in Federal prison and ordered to pay restitution in the amount of $4,483,089 to Medicare's EHR Incentive Program. The OIG case is now closed. Joe White Sentencing: http://www.justice.gov/usao-edtx/pr/former-shelby-county-hospital-cfo-sentenced-ehr-incentive-case

Since the funds were ordered back to Medicare's EHR Incentive Program that CMS administers (http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/index.html?redirect=/EHRIncentivePrograms/), they are the best source to answer Rep. Burgess's question about whether the funds were returned.

Ann Maxwell, Assistant Inspector General, Office of Inspector General, U.S. Department of Health and Human Services, response to question for the record following "Medicare Part D: Measures Needed to Strengthen Program Integrity"

The Honorable Susan W. Brooks: QFR from the July 14, 2015, hearing before the House Energy and Commerce Subcommittee on Oversight and Investigations regarding Medicare Part D issues.

"Since the Part D program went into effect in 2006, the Office of Inspector General (OIG) has had ongoing concerns about abuse and diversion of Part D drugs. What is the basis for these concerns? Is there data to support this concern?"

In the 9 years since Part D began, OIG has produced a wide range of investigations, legal guidance, audits, and evaluations related to fraud, waste, and abuse in Part D. OIG work has revealed questionable billing associated with pharmacies, prescribers, and beneficiaries involving both controlled and non-controlled substances. A recent OIG report found that spending for Part D drugs has more than doubled since 2006. Further, OIG found that spending for commonly abused opioids grew faster than spending for all Part D drugs (from $1.5 billion to $3.9 billion) between 2006 and 2014. This growth appears to have been driven by an increase in both the number of beneficiaries receiving these opioids and in the average number of prescriptions per beneficiary.

Yes, there is data that supports OIG's concern regarding the abuse and diversion of Part D drugs. OIG's work relies upon many sources, including but not limited to interviews, discussions with Department employees, claims data, and review of policies and procedures. OIG work has identified thousands of retail pharmacies with questionable billing, including billing for extremely high numbers of prescriptions per beneficiary or per prescriber. OIG has also identified questionable Part D payments for (1) drugs ordered by individuals without the authority to prescribe, such as athletic trainers and massage therapists; (2) refills of Schedule II drugs, which are prohibited by Federal law; and (3) claims for HIV drugs for beneficiaries with no indication of HIV in their medical histories, who received an excessive dose or supply of HIV drugs, received HIV drugs from a high number of pharmacies or prescribers, or received HIV drugs that should not be used in combination with one another. Although some of this billing may be legitimate, all of these payments warrant further scrutiny, as inappropriate claims may be associated with abuse and diversion of both controlled and non-controlled prescription drugs.

OIG has conducted Part D investigations that resulted in 339 criminal actions, 31 civil actions, and over $720 million in investigative receivables from 2012 to 2014. These investigations have identified criminal enterprises committing health care fraud and medical identity theft. OIG investigations have also identified beneficiaries who act as perpetrators of fraud by reselling their prescription medications to drug-trafficking organizations. These cases serve as confirmation that drug diversion has occured in Part D.

Ann Maxwell, Assistant Inspector General, Office of Inspector General, U.S. Department of Health and Human Services, response to question for the record following "Medicare Part D: Measures Needed to Strengthen Program Integrity"

The results of OIG's data analyses and investigations serve as the basis for OIG's concerns about drug abuse and diversion. OIG will continue to monitor these vulnerabilities, as well as any other emerging program integrity issues in Part D.