



Applied  
Self-Direction

# Fraud in Self-Directed Personal Care Services: *What Does the Data Tell Us?*

April 12, 2022

# Agenda

*Today we will discuss:*

- Review our analysis of quantitative data from the Office of the Inspector General (OIG) on personal care fraud
- Policy implications
- Discussion



# Analysis of Personal Care Fraud



# Background on Fraud Analysis

- Applied Self-Direction sought to address the pervasive myth that personal care services, especially self-direction, are highly susceptible to fraud.
- This myth persists despite the following:
  - Research on self-direction has shown that fraud is rare in self-direction.
  - Robust self-direction programs have numerous protections in place to prevent fraud
    - Protective program design features
    - FMS entities implement pre- and post-payment controls and provide education to participants
    - Information and assistance providers (aka support brokers, counselors, etc.) provide ongoing support and oversight



# Why address this issue now?

- States continue to make decisions regarding how to utilize American Rescue Plan Act funds to invest in their HCBS programs.
- The inaccurate narrative that self-direction is vulnerable to fraud may dissuade some states from developing or expanding programs.
- The need and interest in self-direction is greater than ever.



# OIG Reporting on Personal Care Fraud

## (1/2)

- OIG reporting portrays fraud in personal care as an area of concern.
  - For years, OIG has consistently reported that “*significantly more convictions for fraud involving personal care services attendants and agencies than any other provider type.*”
  - FY 2020 Annual Report: 360 convictions involving personal care attendants and agencies out of 774 total MFCU cases resulting in fraud convictions, 47% of total convictions.
  - FY 2021 Annual Report: 329 convictions out of 780 cases, 42% of convictions



# OIG Reporting on Personal Care Fraud

## (2/2)

- While personal care fraud may make up the largest share of OIG convictions, that does NOT mean that fraud is prevalent *within* the personal care industry.
  - The myth that personal care is fraught with fraud likely stems from this misunderstanding.



# OIG & National Inventory Data Sets

- In January 2021, ASD submitted a Freedom of Information Act (FOIA) request to obtain state-by-state personal care fraud data from FY2020 as reported to OIG by each state's MFCU.
- OIG was able to distinguish data involving individual personal care attendants versus personal care agencies.
  - Presumably, any cases that involve self-direction would be included in the subset of data on personal care workers.
- [2019 National Inventory of Self-Direction Programs](#) found there were over 1.2 million people self-directing.
  - ASD conservatively estimates that there were over 1.8 million personal care workers working in self-direction in 2019 (assumes 1.5 workers per every person self-directing).



# Our Findings on FY2020

- The estimated prevalence rate of fraud in self-direction is exceedingly low.
- 360 personal care attendant convictions out of 1.8 million self-direction workers equals a .0002 conviction rate.
- State by state analyses mirrored similarly low rates with the highest rate in Ohio at .001.
- These estimates are almost certainly overinflated as the OIG data lumps self-direction in with traditional personal care convictions and our estimate of the number of self-directed workers is conservative.



# Data Limitations (1/2)

- Reported convictions may cross multiple calendar years, given the lag time between the start of an investigation until conviction.
- Some states have large numbers of personal care workers, but no reported convictions in the FY 2020 MFCU Annual Report.
- No publicly available data on fraud that was remediated at the Medicaid agency program integrity level without progressing to criminal prosecution.



# Data Limitations (2/2)

- MFCUs each prioritize their investigations differently and approaches vary greatly nationwide.
- OIG does not track self-direction as a subcategory of personal care.
- More research is needed to understand why certain states have personal care attendant fraud cases involving huge sums of recoveries.



# Recommendations (1/2)

- Closer collaboration between MFCUs, Medicaid Integrity Directors, state program administrators, Financial Management Services (FMS) entities, and managed care organizations (MCOs).
- OIG should require MFCUs to specifically track and report on personal care fraud cases that involve self-direction programs.
- States should continue to take appropriate measures to prevent fraud.



# Recommendations (2/2)

- OIG should consider their findings on rates of personal care fraud in the broader context.
  - While personal care may continue to represent the largest share of fraud cases in the OIG portfolio, this does not equate to a high rate of fraud across the vast field of personal care workers or self-direction workers specifically.
  - Future OIG reports should make note of this distinction.



# Policy Implications



# What Does This Mean for EVV? (1/2)

- Electronic visit verification (EVV) requirements were put in place based on the belief that fraud is pervasive across personal care services.
- In FY2020, the Congressional Budget Office estimated that EVV would save taxpayers \$21 million (and significantly more for every year thereafter).
- However, OIG reported a total of \$6,065,610 in fraud recoveries for cases involving personal care workers in FY2020.



# Cost of EVV (State Survey – Oct. 2021)

Do you believe EVV has resulted in cost savings for your state?

Answer	Percentage	Responses
Yes, we already observe savings	8%	1
No, but I am optimistic we will see cost savings in the near future	25%	3
<b>No, I do not think EVV will save the state money</b>	<b>33%</b>	<b>4</b>
<b>Unsure</b>	<b>33%</b>	<b>4</b>



# What Does This Mean for EVV? (2/2)

- State spending on EVV implementation is not well-documented, but anecdotal reports suggest costs are in the tens, if not hundreds, of millions of dollars.
  - The Coalition of Texans with Disabilities (FMS entity) recently submitted a FOIA request for TX state expenses associated with EVV and learned:
    - State EVV Costs FY2017 – FY2021: **\$96,743,410**
    - State EVV Costs FY2021: **\$32,628,077**
    - FMS EVV Projected Costs FY2021: **\$2,270,626**
- Further research is needed to understand the financial impact of EVV requirements nationwide



# Cost of EVV (State Survey – Oct. 2021)

2021)

What do you estimate your state has spent on EVV implementation thus far?

Answer	Percentage	Responses
Under \$1,000,000	27%	3
Between \$1,000,000 - \$10,000,000	27%	3
Between \$10,000,000 - \$50,000,000	27%	3
Between \$50,000,000 - \$100,000,000	0%	0
Over \$100,000,000	18%	2



# Cost of EVV (FMS Survey – Oct 2021)

Has EVV implementation increased your administration cost?		
Answer	Percentage	Responses
<b>Yes, the cost has significantly increased</b>	<b>63%</b>	<b>19</b>
Yes, the cost has slightly increased	17%	5
No, the cost is the same	7%	2
No, the cost has slightly decreased	3%	1
No, the cost has significantly decreased	0%	0
Unsure	10%	3



# Cost of EVV (FMS Survey – Oct. 2021)

Have the state(s) you work with increased your compensation rate to account for the increased responsibilities associated with EVV implementation?		
Answer	Percentage	Responses
Yes, our rates have permanently increased	7%	2
Yes, our rates have temporarily increased	7%	2
<b>No, our rates have stayed the same</b>	<b>83%</b>	<b>25</b>
Unsure	3%	1



# Cures 2.0 Act (1/2)

- [Cures 2.0](#) (H.R. 6000) was introduced in November 2021 by Reps. Diana DeGette (D-CO) and Fred Upton (R-MI)
- Expansive bill that includes provisions to advance medical research, increase access for patients to novel therapies, remove barriers to telehealth, new agency within NIH to conduct cross-disciplinary research, etc.
- Bipartisan support in the House, strong push for passage in 2022 from bill sponsors. Committee hearing was held in March 2022.
- Brief provision in the current draft would **prohibit the use of geographic tracking features and biometrics** within Medicaid EVV systems



# Cures 2.0 Act (2/2)

- Applied Self-Direction recently partnered with the National EVV Consumer Employer Coalition, ADvancing States, and NASDDDS to recommend the following revisions:
  - Make EVV optional for states to use in self-direction
  - Prohibit the use of GPS and biometrics in EVV for self-directed services for those states that elect to use EVV in those services
  - Provide states with a variety of options to use in lieu of GPS and biometrics for self-direction
    - Electronic dual verification timesheets
    - An electronic random number generator regardless of whether it is in a fixed location
    - Telephonic verification
    - An alternative methodology proposed by the state and approved by the secretary



# Discussion

