

# Information Blocking Complaints & Enforcement Process

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# Agenda

- Definition of Information Blocking
- OIG's Role in Information Blocking
- Overview of Complaint & Enforcement Process

# Information Blocking Definition

“Information blocking” means a practice that except as required by law or covered by an exception set forth in subpart B, C, or D of this part, is likely to interfere with access, exchange, or use of electronic health information; and

If conducted by:

A health IT developer of certified health IT, health information network or health information exchange, such developer, network or exchange knows, or should know, that the practice is likely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information; or

A health care provider, such provider knows that such practice is unreasonable and is likely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information.

# Information Blocking Definition

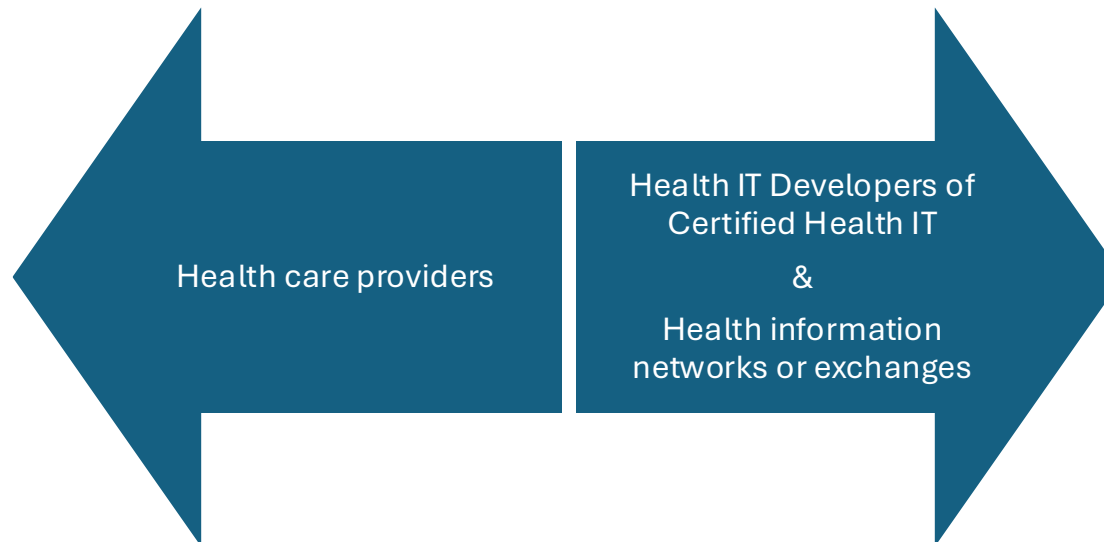
Conduct	Unless required by law or subject to an exception, a practice that is likely to interfere with the access, exchange, or use of electronic health information; and	
Actor Type	If engaged in by a health care provider,	If engaged in by a health IT developer of certified health IT, health information network, or health information exchange,
	knows that such practice is unreasonable and is likely to interfere with the access, exchange, or use of EHI.	knows, or should know, the practice is likely to interfere with the access, exchange, or use of EHI.

# OIG's Role in Information Blocking Enforcement

OIG may investigate any claim that:

- A health IT developer of certified health IT (including an offerer of certified health IT) engaged in information blocking;
- A health information exchange or network engaged in information blocking; or
- A health care provider engaged in information blocking.

Health care provider  
disincentives set  
forth by CMS



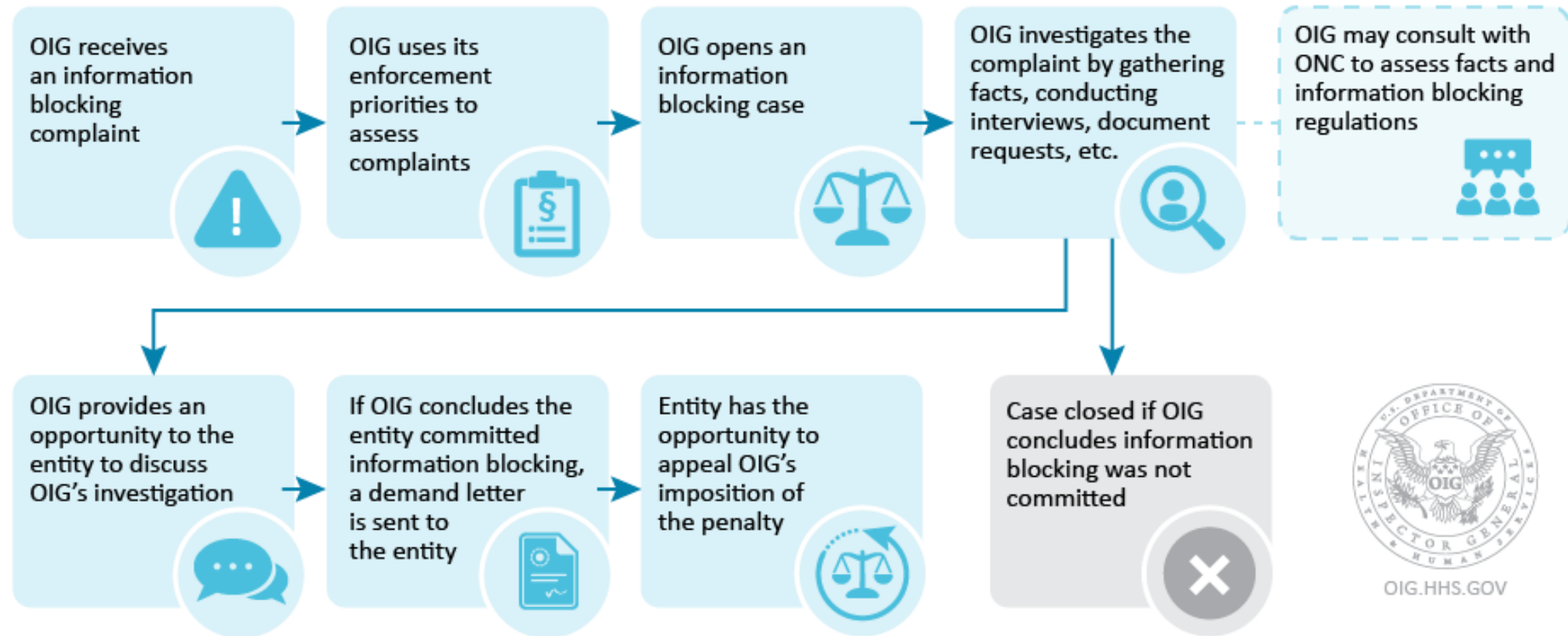
Civil Monetary Penalties (CMP)



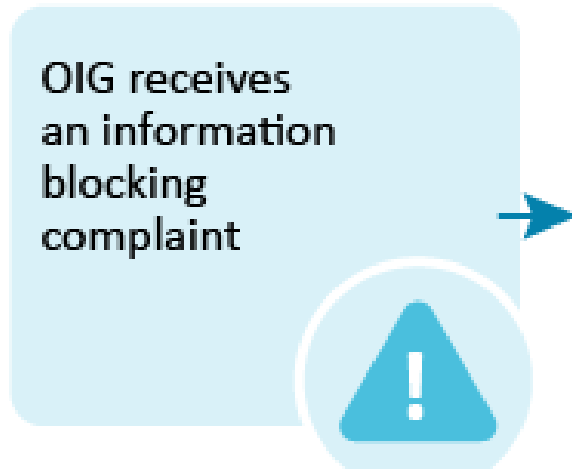
# Overview of Complaint & Enforcement Process

## Information Blocking Investigations and Enforcement For Entities Subject to Civil Monetary Penalties

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# Information Blocking Complaints



- Submission of Complaints
  - To ASTP/ONC: [Information Blocking Portal](#)
  - To OIG: [OIG Hotline](#) or 1-800-447-8477
- Potential Referrals by OIG
  - To the Assistant Secretary for Technology Policy/Office of the National Coordinator
  - To the Federal Trade Commission
  - To the Centers for Medicare & Medicaid Services
  - To the Department of Justice

# OIG's Enforcement Priorities

OIG uses its enforcement priorities to assess complaints



- Enforcement priorities are:
  - (1) resulted in, is causing, or had the potential to cause patient harm;
  - (2) significantly impacted a provider's ability to care for patients;
  - (3) was of a long duration; or
  - (4) caused financial loss to Federal health care programs, or other government or private entities.
- Enforcement priorities are not dispositive
- Each allegation will be reviewed on the specific facts and circumstances



# Information Blocking Investigations

OIG investigates the complaint by gathering facts, conducting interviews, document requests, etc.



- For over 35 years, OIG has conducted other CMP investigations and enforcement
- OIG will use similar methods to conduct investigations and enforcement
  - This may include:
    - Interviews
    - Testimonial Subpoenas (similar to depositions)
    - Document Subpoenas

# Information Blocking CMP Resolutions

- Informal Notice / Monetary Settlement
- Demand Letter
- Appeal of Demand

