



DEPARTMENT OF HEALTH AND HUMAN SERVICES

## OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



*[We redact certain identifying information and certain potentially privileged, confidential, or proprietary information, unless otherwise approved by the requestor(s).]*

**Issued:** June 4, 2026

**Posted:** June 9, 2026

[Address block redacted]

### **Re: Final Notice of Termination of OIG Advisory Opinion No. 21-19**

Dear [redacted]:

We are writing in reference to OIG Advisory Opinion 21-19 (“AO 21-19”), which is a favorable opinion that we issued to [redacted] (“Requestor”) on December 1, 2021. In AO 21-19, we concluded that: (i) although the arrangement for Requestor to provide free eye drops to patients that mitigate side effects for patients using one of its products (the “Original Arrangement”) would generate prohibited remuneration under the Federal anti-kickback statute if the requisite intent were present, the OIG will not impose administrative sanctions on Requestor in connection with the arrangement under sections 1128A(a)(7) or 1128(b)(7) of the Social Security Act (“Act”), as those sections relate to the commission of acts described in the Federal anti-kickback statute; and (ii) the arrangement does not constitute grounds for the imposition of sanctions under the civil monetary penalty provision prohibiting inducements to beneficiaries, section 1128A(a)(5) of the Act.

On November 2, 2025, you submitted a request to modify AO 21-19 to account for: (i) certain changes to the product that necessitates the eye drops provided under the Original Arrangement; and (ii) changes that Requestor has made to the Original Arrangement described in AO 21-19 (the “Current Arrangement”). Rather than modifying AO 21-19, we are issuing a new favorable advisory opinion, OIG Advisory Opinion 26-13 (“AO 26-13”), that reflects the Current Arrangement. Concurrently with issuing AO 26-13, we are terminating AO 21-19 solely because the Original Arrangement protected by that opinion is no longer in operation, and AO 26-13 reflects the Current Arrangement.

We provided formal written notice of our intent to terminate AO 21-19 on May 14, 2026. You formally acknowledged this notice on May 22, 2026. Therefore, pursuant to 42 C.F.R. § 1008.45(a), this letter serves as final notice of the OIG’s termination of AO 21-19. The termination of AO 21-19 means that the advisory opinion is revoked as of the termination date and is no longer in force and effect after the termination date. See 42 C.F.R. §

1008.45(b)(2). As noted above, the Current Arrangement is reflected in AO 26-13 and is protected under the terms of that advisory opinion.

Sincerely,

/Spencer K. Turnbull/

Spencer K. Turnbull  
Acting Assistant Inspector General for Legal Affairs