



Government's stepped-up focus on Medicare fraud in home health care: learning from recent criminal prosecutions

By Michele Masucci, Valerie Breslin Montague, Edward Clancy and Kristen Marotta

Government regulators are laser-focused on Medicare fraud in the home health industry. In Louisiana, providers have been found to defraud the Medicare program by recruiting ineligible patients for home health care services. Certain fraudulent activities include the following: hosting health fairs and encouraging attendees who supposedly cannot leave their homes to apply for home health care services; manipulating patients' Outcome and Assessment Information Set forms to reflect false diagnoses to support doctors' certifications of being homebound; billing Medicare for home health care services never provided; and paying physicians, employees and others for referring patients for home health care services.

The government has been charging and prosecuting providers and others for these types of practices. A large majority of these actions have resulted in either guilty pleas or convictions. In April 2015, the U.S. Department of Justice (DOJ) announced that Louisiana physician Winston Murray pleaded guilty for authorizing false home care health certifications, amounting to \$56 million in health care fraud. In addition to forfeiting their assets, defendants are receiving sentences of years in prison. For example, on December 16, 2015, the DOJ announced the sentences of 50 to 80 months in prison of two doctors and a registered nurse in New Orleans for their part in a \$50 million Medicare fraud scheme.

Looking forward, we anticipate additional indictments of health care professionals in relation to defrauding Medicare's \$18 billion home health care program. The Medicare Fraud Strike Force promises to take an active stance in protecting Medicare dollars by prosecuting those who defraud the program. U.S. Attorney for the Eastern District of Louisiana, Kenneth A. Polite Jr., has been one of the more aggressive prosecutors for home health care fraud, and we expect to see similar enforcement actions across the country.

To prevent Medicare fraud for home health care services, providers should be aware of what constitutes such fraud and what steps they can take to prevent it. Internally, providers should educate and oversee their staff on program compliance. Providers' medical records should be of high quality, and their verification of the legitimacy of the need for home health care services should be well supported. Externally, providers and physicians should stay abreast of recent

Medicare fraud trends in order to recognize and ultimately shield their practices from being involved in a fraud scheme.

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