



Client Alert

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Doctor Sentenced 72 Months in Prison as Part of Continuing Wave of Healthcare Fraud Prosecutions

On April 26, 2010, a physician in Detroit was sentenced by a federal district court judge to 72 months imprisonment for conspiring to commit healthcare fraud. The physician had been convicted by a jury in January 2010. In addition to going to jail, the physician was also ordered to pay more than \$4.9 million in restitution.

The physician, and other coconspirators, caused millions of dollars of false and fraudulent claims to be submitted to Medicare, purportedly for services provided at two infusion clinics. According to the evidence at trial, the physician routinely prescribed drugs for patients that they did not need, and in many cases, the medications were not even provided. Additionally, the Medicare beneficiaries were not referred to the infusion clinics by their primary care physicians, but instead were recruited by a coconspirator. In exchange for cash kickbacks, the Medicare beneficiaries would visit the infusion clinics and sign documents falsely claiming that they had received the services billed to Medicare.

While certainly the facts presented by the government in this case are egregious, it is important to place this case in the context of the ever-increasing government crackdown on healthcare fraud. In fiscal year 2009, the government opened more than 1,000 new criminal healthcare fraud investigations on top of the approximately 1,600 pending investigations. More than 800 individuals and entities were indicted and hundreds convicted.

In addition to the increase in criminal prosecutions, the government recovered more than \$2.5 billion for the Medicare Trust Fund. This amounted to an increase of more than \$500 million from the year prior. This trend is likely to continue as the Justice Department's budget for healthcare fraud investigations has increased. Indeed, the authors recently spoke with the newly appointed Acting Deputy Chief for healthcare fraud at the Justice Department, who said that he was in the process of hiring 15 additional prosecutors.

While the Justice Department is quick to point out that most healthcare providers are honest and hardworking, the microscope being placed on the healthcare industry is being more sharply focused. The government views this focus as a viable measure to decrease healthcare costs. Moreover, recent healthcare fraud prosecutions and civil settlements provide the government



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with continued justification for its direction of additional resources to combat such fraud. The government proclaims that there is a problem with healthcare fraud and abuse, then publicizes convictions and civil settlements. Then, the government relies on these convictions and significant civil settlements as proof, both of the existence of healthcare fraud and abuse and of the government's strong stance to combat it.

It is not likely that this cycle will be broken any time soon, so doctors and other healthcare providers must be especially diligent and devote time, energy and resources to developing and maintaining effective compliance programs. Compliance programs do not provide total insulation against a government investigation, but they will reduce the likelihood of such investigations.

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