

# Fraud in Health Care and Organized Crime

James F. Dube, JD

**FALSE CLAIMS TO MEDICARE AND MEDICAID ARE** nothing new. Billions of dollars are being lost in Medicare and Medicaid programs to waste, fraud and abuse. Fraud has been characterized by the FBI as intentional deception or misrepresentation of facts to gain an illegitimate benefit. Abuse has been defined as unnecessary costs associated with actions and services that are inconsistent with accepted practices. There are countless schemes being perpetrated that take advantage of taxpayer dollars on both the state and federal levels. The schemes move from state to state and business to business in an attempt to avoid detection. They run for a limited time, referred to as a “rip-period.” New efforts aimed at helping those in need can also open the door to those seeking ways to take advantage of the system. The Global Medicaid Waiver in Rhode Island indeed will increase home health care and assist many people in a very positive way; however, it also undoubtedly will open up opportunities for fraudulent activity in that area. This article highlights some of the fraud risks in Rhode Island, as well as the state-level protections we have implemented to prevent it. Finally, we offer some recommendations to Rhode Island health care providers on how to avoid being ensnared in the local and federal law enforcement apparatus.

To compound matters, it isn't simply just individuals seeking to take advantage of the system. New organized groups are finding that health care fraud schemes are far less dangerous and more lucrative than other more dangerous crimes such as drug trafficking and the like. Health care fraud has grown over the years. As new people turn to crime, different schemes are uncovered. The fraud across the country is found in many different areas of practice. There are cases involving doctors, dentists, chiropractors, nurses, home health care aides, personal care attendants, nursing homes, ambulance companies, etc. If someone can think of a new way to perpetrate a fraud on our system, they give it a try. If successful, they keep on billing an already burdened system during a “rip-period,” then suddenly stop and move on to another scheme at a different location.

On the state side, the single-state agency through which the Medical Assistance Program is administered is the Rhode Island Department of Human Services (DHS).

The Rhode Island Department of Attorney General's Medicaid Fraud and Patient Abuse Unit (MFCU) investigates many complaints and offenses. Among those, are allegations of fraud being perpetrated upon the system by individuals, corporations or other groups. The MFCU consists of two attorneys (Unit Chief / Director and Deputy Director), a case coordinator/paralegal, one chief investigator, one nurse investigator, one auditor, and five additional investigators. The MFCU handles both civil and criminal matters in the fight against fraud and abuse. Many investigations are opened through routine investigative efforts and complaints while others are started after billing anomalies are detected through data analysis and the use of various algorithms.

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The Attorney General's Office works closely with the United States Attorney's Office for the District of Rhode Island, as well as federal investigators from **United States Department of Health and Human Services, Office of Inspector General, Office of Investigations (HHS OIG OI)**, the FBI, the FDA, and other agencies to uncover and prosecute these cases.

Recently, the MFCU Director, a Rhode Island State Assistant Attorney General, has been cross-designated as a Special Assistant United States Attorney

in order that cases could be prosecuted jointly by both agencies. The entry of the state into the federal prosecution system also assists in allowing the state the use of the greater federal resources in the fight against fraud. The HHS administers the Medicare program. It may be hard to imagine, however, that the budget for HHS<sup>1</sup> is approximately 100 billion dollars larger than that of the United States Department of Defense,<sup>2</sup> with two wars going on. This information serves to illustrate the immense budget and taxpayer dollars at stake. Such a large amount of funds requires extraordinary protection from those seeking to abuse it. Those of us charged with that duty are making a coordinated and dedicated effort to afford that protection and seek out and prosecute the offenders.

Now, a new purveyor of fraud in health care has emerged. Organized crime has started to become involved in Medicaid and Medicare fraud. False claims and exaggerated claims have been occurring right along by individuals and groups, but now, criminal organizations are in the mix. Identity theft is playing a large role in the schemes being conducted. Russians, Nigerians and Armenian gangs have been arrested in Los Angeles by federal authorities for scamming millions of dollars from the health care system. There are also other groups from Cuba, Philippines, Ukraine, Mexico, Italy, as well as those from the United States, including street gangs getting involved in health care fraud. These groups are turning to health care fraud because it is lucrative, not physically dangerous and there is only a small capital investment that is required to get started.

Millions of Americans depend on Medicaid and Medicare and efforts are being made to protect these programs.

In May 2009, United States Attorney General Eric Holder and HHS Secretary Kathleen Sebelius announced the creation of the **Health Care Fraud Prevention and Enforcement Action Team (HEAT)** and renewed their commitment to fighting health care fraud as a Cabinet-level priority at both departments.

The mission of HEAT is clear:

- To marshal significant resources across government to prevent waste, fraud and abuse in the Medicare and Medicaid programs and crack down on the fraud perpetrators who are abusing the system and costing us all billions of dollars.
- To reduce skyrocketing health care costs and improve quality of care by ridding the system of perpetrators who are preying on Medicare and Medicaid beneficiaries.
- To highlight best practices by providers and public sector employees who are dedicated to ending waste, fraud and abuse in Medicare.
- To build upon existing partnership that already exists between the two agencies, including our Medicare Fraud Strike Forces to reduce fraud and recover taxpayer dollars.<sup>3</sup>

Since the federal government began with the HEAT Task Force, they have charged over 800 defendants with defrauding Medicare of nearly 1.9 million taxpayer dollars.<sup>4</sup>

Providers must be cognizant of the importance of protecting patient demographics. Identity theft from patients' files can lead to major losses in the health care system. The theft of patient identities brings fraudulent billing for goods and services and many other abuses and fraud-

ulent schemes. Providers must vigilantly protect that information from those who would illegally seek it. Prospective medical employees with access to such information should be thoroughly screened to fill such positions. Office and other medical staff should be on the lookout for co-workers making unauthorized copies of patient demographic information.

The state and federal governments are making greater efforts to protect the system, including the Affordable Care Act. New legislation is being sought and enacted to assist in the prosecution of the types of crimes discussed. Existing statutes, such as **Racketeer Influenced Corrupt Organizations (RICO)** are and will be added to charges where appropriate to enhance penalties of those convicted of such crimes. Strike Forces are being formed throughout the country along with training and outreach efforts being employed and proposed in an attempt to significantly reduce health care fraud.

Some suggestions to help avoid fraud investigations would include staff training of proper coding and billing procedures. Sometimes, physicians can have staff billing incorrectly without even knowing it. It is, however, the physician who is ultimately held responsible. Unbundling, billing for procedures citing the wrong location, i.e. in-office procedure billed inadvertently as performed at a facility and other ministerial errors. It would also be prudent to review your systems to make sure that all patient information, both hard copy and electronic, is protected

from improper access to protect against HIPPA violations as well as medical identity theft.

Finally, physicians should protect their own information and be wary of unscrupulous individuals seeking to use their credentials to conduct fraudulent schemes.

If you suspect fraud or abuse in health care, please report it. In addition to making sure that the funds will be there for those who need the help from this system, it is all of our tax dollars that we are working to protect.

## REFERENCES

1. [www.hhs.gov/budget/09budget/2009BudgetInBrief.pdf](http://www.hhs.gov/budget/09budget/2009BudgetInBrief.pdf).
2. [www.budget.mil](http://www.budget.mil).
3. <http://blogs.usdoj.gov/blog/archives/934>.
4. <http://blogs.usdoj.gov/blog/archives/934>.

*James F. Dube, JD, is an Assistant Attorney General, and Director of the Rhode Island Medicaid Fraud and Patient Abuse Unit.*

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## CORRESPONDENCE

James F. Dube, JD  
RI Department of Attorney General  
150 South Main St.  
Providence RI 02903  
phone: (401) 274-4400 x2410  
e-mail: [jdube@riag.ri.gov](mailto:jdube@riag.ri.gov)



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