Texas Healthcare Fraud Cases Examples Of A Growing National Problem

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In recent years, federal, state, and local law enforcement agencies have attempted to step up efforts to arrest and prosecute individuals and companies suspected of committing health care fraud – with only negligible success. For the fiscal year ending last September, for example, federal prosecutors charged 803 people with defrauding medical insurers, only a 2 percent increase since the federal government began deploying its fraud-fighting “strike force” teams in 2007.1 The cost to American consumers is notable however – more than $60 billion annually is lost to healthcare fraud.2 “That’s a staggering amount of money,” noted U.S. Attorney General Eric Holder in a recent statement at the National Summit on Health Care Fraud.3 “It’s more than the net worth of America’s eight largest private foundations. And it’s 33 times the amount of money that Avatar – now the highest-earning movie of all time – has made at the box office.”4

At the summit meeting, Attorney General Holder asked the Obama Administration and Congress to strengthen its efforts to combat health care fraudsters nationwide through increased funding and legislation. Although cases of Medicare and Medicaid fraud and other forms of healthcare fraud are found in every state, Texas has its fair share.

Background

In May 2009, the Department of Justice (DOJ) and the Department of Health and Human Services (HHS) teamed up to combat growing incidences of healthcare fraud through the creation of the Health Care Fraud Prevention and Enforcement Action Team (HEAT).5 The HEAT team joint venture was added to coincide with federal strike force teams

4 Id.
already in place in Detroit, Houston, Los Angeles, and the first team established in South Florida in 2007. In short, the mission of HEAT is:

- to collectively use resources across government to prevent waste, fraud, and abuse in the Medicare and Medicaid programs;
- to reduce health care costs and improve the quality of care by securing convictions of those defrauding the government; and
- to highlight the practices of those healthcare providers who successfully end waste and fraud as an example for others to follow.

According to Attorney General Holder, the establishment of the HEAT task force made sense. At the national fraud summit meeting, he said, “[w]e realized that we have a serious problem on our hands, and we decided it was time to redouble our efforts. We also recognized that the best way to strengthen our individual work is to combine forces and collaborate.”

In 2009, Holder said HEAT enabled strike forces to act with greater speed and efficiency and “to root out criminals who purport to operate as legitimate health care providers and suppliers.” As a result, more than 60 cases were filed in the last eight months, 200 offenders were charged and the federal government uncovered more than a quarter of a billion dollars in fraudulent billings. But more needs to be done, according to the attorney general. At the summit meeting he said:

First, we must strengthen HEAT. We will continue to combine and leverage our agencies’ resources and expertise, including the FBI and the Office of Inspector General at HHS, to prevent and prosecute fraud...

Second, we’ll continue to support our Medicare Fraud Strike Forces and work to expand these teams to areas of the country where our efforts are most needed…

Third, we will continue to push for the investments necessary to meet our duties and do our jobs. I’m pleased that Congress and the Administration have provided strong support. In FY2010, the Administration’s fraud-fighting budget will increase from nearly $200 million to more than $300 million…

Fourth, our agencies will continue to work with Congress to identify and pursue the legislative and regulatory reforms necessary to prevent, deter and prosecute health care fraud. These reforms range from removing

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6 Id.
7 Id.
8 See U.S. Dep’t of Justice, supra note 3.
9 Id.
10 Id.
barriers that impede information-sharing to increasing sanctions and penalties…

Finally, the department will continue to engage the private sector in our anti-fraud efforts. We’ll seek out guidance from representatives of the insurance industry and in the health care-provider community…

The growing problem of health care fraud targeted by HEAT does not occur solely in large, populated cities, such as Houston, Dallas, Los Angeles, and Miami. It is also the smaller, rural healthcare provider that seeks to siphon large amounts of money in fraudulent billings. The following cases are some examples of healthcare fraud wins for in Texas.

**Houston Business Owners Given Lengthy Prison Sentences**

Owners of several durable medical equipment (DME) companies in the Houston area were recently sentenced to lengthy jail terms and ordered to pay significant restitution after being found guilty of conspiracy to defraud Medicare and Medicaid, wire fraud, and money laundering last April.12

Rhonda Fleming, owner of Hi-Tech Medical Supply & Delivery,13 E&R Medical Supply, and Medical Equipment and Supply Center, was sentenced by a federal district court judge to serve 30 years in federal prison without parole and ordered to pay $6.29 million in restitution.14 Another defendant, Rose Ebhamen, owner of the DME First Advantage Nursing, was sentenced to serve 135 months and ordered to pay $1.9 million restitution.15 Co-defendants, Khira Guillory, Billy Perkins, and James Chaney pleaded guilty prior to the Fleming and Ebhamen trial and testified for slightly reduced sentences.16

The scheme which landed Fleming and Ebhamen behind bars net the duo millions in Medicare funds even though virtually none of the durable medical equipment was actually purchased or delivered to beneficiaries. Fleming purchased Medicare beneficiary information, including names and Medicare numbers from James Chaney. Then, co-defendant Billy Perkins and others created fictitious delivery tickets to give the appearance that the equipment had been delivered by the various companies to Medicare beneficiaries. Ebhamen then allowed Fleming to use her Medicare supplier numbers to

11 *Id.*
13 The co-owner of Hi-Tech, King Arthur, was additionally tried and convicted. He was sentenced to serve 95 months in prison and ordered to pay $4 million in restitution.
14 *Id.*
15 *Id.*
16 Guillory was sentenced to serve 12 months and 1 day; Perkins was sentenced to serve 70 months imprisonment; and Chaney was sentenced to serve 60 months. All three were additionally ordered to pay varying amounts of restitution.
execute the scheme and receive payments. Khira Guillory testified that, at the direction of Fleming, she personally billed Medicare $7.5 million for equipment that was never delivered.\textsuperscript{17}

**Laredo Dentist and Orthodontist Charged With Defrauding Medicaid**

A Laredo, Texas, husband and wife were recently charged with 17 counts of health care fraud.\textsuperscript{18} Carlos Armin Morales-Ryan, a dentist, and his wife Nelia, an orthodontist, were owners of the Orthogenesis International Centre in Laredo. According to the indictment, the couple fraudulently submitted Medicaid claims for services during times they were not in the state or even the country.\textsuperscript{19} The pair is accused of bilking the Medicaid program for over $700,000 and could each possibly face 10 years imprisonment, for each count, as well as a hefty fine.

**McAllen-Area Podiatrist Pleads Guilty to Fraud**

Franklin Beltre, a licensed podiatrist, pleaded guilty to defrauding Medicare and Medicaid for more than $536,000 when he submitted fraudulent claims for services performed by an unlicensed podiatrist, Manuela Alana, and for billing for services he claimed were performed while he was vacationing outside the state.\textsuperscript{20} Both Beltre and Alana face possible jail sentences of up to 10 years in prison and a maximum fine of $250,000.

**Conclusion**

Initially, the financial rewards in the form of fines, penalties, and restitution, captured from combating healthcare fraud were intended to help pay the tab for overhauling health care.\textsuperscript{21} However, given that recent health care reform legislative efforts have dissipated, it is unclear whether Attorney General Holder’s request for additional funding and legislation has as much weight as it once did.

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\textsuperscript{17} Id.


\textsuperscript{19} Id. Physical presence of the provider is a prerequisite under Texas law and Medicaid regulations for a claim to be submitted and paid on behalf of a Medicaid beneficiary.


\textsuperscript{21} See Heath, supra note 1.
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