



Written by [Brian Koenig](#) on June 20, 2012

## Report: \$4.2M in Fraudulent Medicare Claims for ED Treatment Devices

Federal auditors recently issued a [report](#) charging a Kansas-based medical manufacturer with potentially paying out more than \$4 million in fraudulent Medicare claims for “male vacuum erection systems,” more commonly known as “penis pumps.” In turn, the auditors requested that the company reimburse all the money to the federal government and “implement policies and procedures to help ensure that it collects and maintains the required documentation.”



The Health and Human Services (HHS) Inspector General said the agency sampled 100 claims submitted by Pos-T-Vac Medical, a manufacturer offering treatment products for Erectile Dysfunction (ED), and found that 51 claims failed to comply with the program’s documentation requirements. All in all, the HHS estimated that unsupported paid claims for the company resulted in overpayments equaling as much as \$4.2 million from the period of January 2008 through December 2009. Specifically, the report [stated](#):

For 50 claims, Pos-T-Vac did not maintain proof of delivery in its files; for 2 claims, Pos-T-Vac did not maintain sufficient documentation of the patients’ medical condition to substantiate the necessity for the items ordered; and for 1 claim, the physician’s written order lacked the signature of the treating physician (2 claims were missing more than 1 piece of required documentation).

Fraudulent dollars attached to this hundred-claim sample amounted to \$18,007 in billings, and when compounded across the company’s entire catalog of 28,088 claims, the potential for fraudulent billings spiked to more than \$4 million. “Pos-T-Vac submitted unsupported claims because it lacked adequate internal controls to ensure that it collected and maintained the required documentation,” the auditors affirmed in the report, which was released late Thursday.

Responding to the HHS on behalf of Pos-T-Vac, Wayne van Halem, president of a Medicare-compliance consultant group, contended that the company tried to maintain enough documentation to ensure that products were distributed properly. “In question here is not if these services were delivered, but the format of the proof of delivery,” van Halem [asserted](#). “We have provided proof that the packages were delivered, which includes the elements requested by Medicare and has been confirmed by the third-party delivery service.”

According to [data](#) obtained by the Centers for Medicare and Medicaid Services (CMS), the Medicare program has doled out more than \$240 million of taxpayer dollars on penis pumps for seniors over the past decade — and should exceed a quarter of a billion dollars in 2012 for costs since 2001.

The bill to taxpayers for the devices more than quadrupled during that 10-year period, from a base of \$11 million to a cap of over \$47 million in 2010. And these costs account for only external devices, which means that billings for oral drugs and implantable devices are not included in this figure.



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How the process works is if a senior on Medicare receives a diagnosis of ED, he becomes eligible for a broad range of products and services under the Medicare Prosthetic benefit. Treatment options that may be covered include “oral medications, pharmacological injections, intra-urethral suppositories, vacuum erection devices, and implantable penile pumps.” The *Heartlander*, a news site published by the Heartland Institute, [reported](#) on how Medicare eligibility for these products can open the door to widespread fraud:

One area of concern for CMS is the rise in fraud in relation to the pump devices. Earlier this year an Illinois man pled guilty to collecting more than \$2 million from Medicare in a fraudulent operation where he repackaged \$26 items from adult websites and sold them to seniors as medical devices, charging Medicare \$284 apiece.

Device fraud has become an increasingly common way for criminals to bilk the taxpayers. Durable medical equipment (DME) is widely perceived as a “high risk” area for fraud, according to a spokesman for the HHS Office of the Inspector General. And a report released last month by CMS found the error and improper payment rate for DME was above 60 percent, whereas no other area even entered double digits.

Of course, many lawmakers and health experts have questioned whether these are legitimate medical services that should be covered under Medicare, especially when skyrocketing deficits have placed the United States on the path to fiscal ruin. “At a time when the federal government borrows 43 cents of every dollar it spends, do we really need to be spending money on this? I doubt you need a ‘Super Committee’ to realize that this is the epitome of wasteful spending,” said John Nothdurft, director of government relations for The Heartland Institute.

Fraudulent activity has become rampant in this broadening Medicare market, prompting one Republican congressional aide who examined the auditor’s report to quip that it attached a new understanding to government stimulus spending. “Now we know what [economist and *New York Times* columnist] Paul Krugman and the Keynesians mean by priming the pump,” the aide affirmed. “This is Exhibit A in the case against government-run health care.”

*Photo: Product illustration from the Pos-T-Vac Medical website*



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