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# Three Charged in $1 Billion Medicare/Medicaid Fraud Scheme

Last Friday the Justice Department charged a Miami-area healthcare operator, a hospital administrator, and a physician's assistant with conspiracy involving submitting fraudulent bills to Medicare and Medicaid exceeding, for the first time, $1 billion.


The three included Philip Esformes, the owner of more than 30 Miami-area nursing and assisted-living facilities, hospital administrator Odette Barcha, and physician assistant Arnald Carmouze. They were charged with money laundering, conspiracy to defraud the U.S. government, and receiving kickbacks, along with other charges.

The conspiracy had been going on for 14 years, and came to a end with the help of the Medicare Fraud Strike Force (MFSF), which began investigating healthcare fraud in March 2007. Since that time, nearly 3,000 defendants, including doctors, nurses, physicians' assistants, hospital administrators, pharmacists, and other healthcare providers have been charged with bilking Medicare for more than $10 billion.

This is the first instance where the amount has exceeded $1 billion, and, according to the MFSF, the case is still under investigation with many more charges likely to be announced.

Officials said that Esformes was the key conspirator in operating a network of corrupt doctors and hospitals that referred thousands of patients to their facilities even though many of them didn't qualify under Medicare rules. Medicare was billed for services that either weren't rendered, or were rendered but not needed. When certain limits were reached, the patients were then moved to another facility where the scam would begin once more.

The kickbacks were disguised as charitable donations, said the MFSF, or just paid under the table in cash.

Esformes settled a similar case with the Justice Department in 2006 for $15 million, but apparently he just considered that as a cost of doing business, as he continued to defraud the programs. Leslie Caldwell, head of the Justice Department's criminal division, described his operation: "This was a whole network of people scratching each other's backs, paying kickbacks and giving each other referrals. It shows what people can do when they're determined to put their hand into the Medicare pot."

The Medicare Fraud Strike Force has uncovered various ways that criminals such as Esformes have learned to bilk the system. There's "phantom billing," where the medical services provider bills Medicare for unnecessary procedures, or for procedures or services never performed. These could be tests that weren't necessary or were never completed, or equipment that was charged but never

delivered to the patient.

There's "patient recruiting," where Medicare numbers are obtained by bribing people at homeless shelters or soup kitchens whose numbers were then used to bill the system. And there's "inflation billing" or "upcoding," where bills are inflated using a billing code that indicates that the patient needs more expensive treatment than what he or she actually received.

The underlying temptation for the fraud is explained by Robbins Geller Rudman & Dowd, a whistleblower law firm specializing in healthcare fraud:

> The Medicare program is a target for fraud because it is based on the "honor system" of billing, where the government would reimburse a doctor for services without first verifying the validity of those services. It was originally set up to assist honest doctors who helped the needy with medical services.… Due to the sheer volume of healthcare claims submitted … the government … cannot effectively combat healthcare fraud.

In 2010, the MFSF charged 94 people nationwide for submitting fraudulent charges totaling $251 million, including doctors, medical assistants, and healthcare facility owners and operators. In 2011 the fraud task force charged 91 people for engaging in defrauding Medicare of $295 million. In 2013 it charged another 89 people for defrauding the program of $223 million, while in June 2015 it charged 243 people (including 46 doctors, nurses, and other medical professionals) in a scheme that netted them approximately $712 million. That was the largest bust until the one announced last week.

If convicted, Esformes could face life in prison.

The task force is trying to plug leaks in a system so rife with fraud that it threatens to overwhelm it. Combined, Medicare and Medicaid handle the healthcare needs for 100 million people, at a cost of nearly one trillion dollars a year. According to the Office of Management and Budget (OMB), Medicare's "improper payments" back in 2010 totaled $47.9 billion. Updated figures are not available, and besides, says Robbins Geller, "not all fraud is detected and not all suspicious claims turn out to be fraudulent."

The trouble with the "honor system" is that it doesn't work when there is no honor.

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