



ALABAMA BOARD OF MEDICAL EXAMINERS **NEWSLETTER**

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OIG Issues Home Health Fraud Alert

The Office of the Inspector General was established at the Department of Health and Human Services by Congress in 1976 to identify and eliminate fraud, abuse and waste in Health and Human Services programs and to promote efficiency and economy in departmental operations. The OIG carries out this mission through a nationwide program of audits, investigations and inspections.

To help reduce fraud and abuse in the Medicare and Medicaid programs, the OIG actively investigates schemes to fraudulently obtain money from these programs and, when appropriate, issues Special Fraud Alerts which identify segments of the health care industry that are particularly vulnerable to abuse. This Special Fraud Alert focuses on the home health industry and identifies some of the illegal practices the OIG has uncovered.

What is Home Health Care and Who is Eligible to Receive it?

Medicare's home health benefit allows people with restricted mobility to remain non-institutionalized and receive needed care at home. Home health services and supplies are typically provided by nurses and aides under a physician-certified plan of care.

Medicare will pay for home health services if a beneficiary's physician certifies that he or she:

- is homebound—i.e., confined to the home except for infrequent or short absences or trips for medical care; and
- requires one or more of the following qualifying services; physical therapy, speech-language pathology, or intermittent skilled nursing.

If a homebound patient requires a qualifying service, Medicare also covers services of medical social workers and certain personal care such as bathing, feeding, and

assistance with medications. However, a beneficiary who needs only this type of personal or custodial care does not qualify for the home health benefit.

Fraud and Abuse in the Home Health Industry

Home care is consuming a rapidly increasing portion of the federal health budget. This year, Medicare payments for home health will reach close to \$16 billion, up from \$3.3 billion in 1990—nearly a five fold increase. Home health care is particularly vulnerable to fraud and abuse because:

- Medicare covers an unlimited number of visits per patient;
- Beneficiaries pay no co-payment except on medical equipment;
- Patients don't receive explanations of benefits (EOBs) for bills submitted for a home health service; and
- There is a limited direct medical supervision of home health services provided by non-medical personnel.

The OIG has learned of several types of fraudulent conduct, outlined below, which have or could result in improper Medicare reimbursement for home health services.

False or Fraudulent Claims Relating to the Provision of Home Health Services

The government may prosecute persons who submit or cause false or fraudulent claims for payment to be submitted to the Medicare or Medicaid programs. Examples of false or fraudulent claims include claims for services that were never provided, duplicate claims submitted for the same service, and claims for services to ineligible patients. A claim for a service that a health care provider knows was not medically necessary may also be a fraudulent claim.

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Home Health Fraud Alert

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Submitting or causing false claims to be submitted to Medicare or Medicaid may subject a person to criminal prosecution, civil penalties including treble damages, and exclusion from participation in the Medicare and Medicaid programs. OIG has uncovered the following types of fraudulent claims related to the provision of home health services.

Claims For Home Health Visits That Were Never Made and For Visits to Ineligible Beneficiaries

OIG has uncovered instances where home health agencies are submitting false claims for home health visits. These include:

- **Claims for visits not made.**
- **Claims for visits to beneficiaries not homebound.**
- **Claims for visits to beneficiaries not requiring a qualifying service.**
- **Claims for visits not authorized by a physician.**

One home health agency billed Medicare for 123 home health visits to a patient who never received a single visit, and submitted claims for beneficiaries who were in an acute care hospital during the period the agency claimed to have provided home visits. Another agency provided a home health aide to a beneficiary so mobile that he volunteered at a local hospital several times a week.

A third agency claimed nearly \$26 million during one year in visits that were not made, visits to patients that were not homebound, and visits not authorized by a physician. OIG interviews indicated that beneficiary signatures were forged on visit logs and physician signatures were forged on plans of care. This agency had subcontracted with other entities to provide home health care to its patients, and claimed that the subcontractors falsely documented that visits were made and services were provided.

Medicare permits a home health agency to contract with other organizations, including agencies not certified by Medicare, to provide care to its patients. However, the agency remains liable for all billed services provided by its subcontractors. The use of subcontracted care imposes a duty on home health agencies to monitor the care provided by the subcontractor.

Home health agencies, as well as the physicians who order home health services, are responsible for ensuring the medical necessity of claims submitted to Medicare. A physician who orders unnecessary home health care services may be liable for causing false claims to be submitted by the home health agency, even though the

physician does not submit the claim. Furthermore, if agency personnel believes that services ordered by a physician are excessive or otherwise inappropriate, the agency cannot avoid liability for filing improper claims simply because the physician has ordered the services.

Paying or Receiving Kickbacks in Exchange for Medicare or Medicaid Referrals

Kickbacks in exchange for the referral of reimbursable home health services is another type of fraud that OIG has observed. The Medicare program guarantees freedom of choice to its beneficiaries in the selection of health care providers. Because kickbacks violate that principle and also increase the cost of care, they are prohibited under the Medicare and Medicaid programs. Under the anti-kickback statute, it is illegal to knowingly and willfully solicit, receive, offer or pay anything of value to induce, or in return for, referring, recommending or arranging for the furnishing of any item or service payable by Medicare or Medicaid.

OIG is aware of home health providers offering kickbacks to physicians, beneficiaries, hospitals, and rest homes in return for referrals. Kickbacks have taken the following forms:

- **Payment of a fee to a physician for each plan of care certified by the physician on behalf of the home health agency.**
- **Disguising referrals fees as salaries by paying physicians for services not rendered, or in excess of fair market value for services rendered.**
- **Offering free services to beneficiaries, including transportation and meals if they agree to switch home health providers.**
- **Providing hospitals with discharge planners, home care coordinators, or home care liaisons in order to induce referrals.**
- **Providing free services, such as 24-hour nursing coverage, to retirement homes or adult congregate living facilities in return for home health referrals.**
- **Subcontracting with retirement homes or adult congregate living facilities for the provision of home health services, to induce the facility to make referrals to the agency.**

Parties that violate the anti-kickback statute may be criminally prosecuted, and also may be subject to exclusion from the Medicare and Medicaid programs.

Marketing Uncovered or Unneeded Home Care Services to Beneficiaries

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Home Health Fraud Alert

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IG has learned of high pressure sales tactics employed by some agencies in the home health community to maximize their patient population and their profits. These agencies target health beneficiaries on the street or in their homes and offer non-covered services, such as grocery shopping or housekeeping, in exchange for Medicare identification numbers.

Physicians have also reported that some agencies attempt to pressure them to order unnecessary personal care services by informing them that their patients are requesting these services and will find another physician if their demands are not met.

These abusive marketing practices can result in false claims liability on the part of agencies and/or physicians, and may also constitute illegal kickbacks. ■

Alabama Board of Medical Examiners Public Action Report September 1995 through December 1995

On September 20, 1995, the Alabama Board of Medical Examiners voted to terminate the voluntary restriction previously entered against the certificate of qualification and license to practice medicine in Alabama of Matthew David Warren, M.D., Selma, Alabama, license number 15483. Dr. Warren's certificate of qualification and license have been reinstated to full, unrestricted status.

On October 30, 1995, Depew E. Bradford, M.D., Birmingham, Alabama, license number 177, signed a voluntary surrender of Schedules II and IIN controlled substances concerning his Alabama controlled substances registration certificate. The surrender was accepted by the Board of Medical Examiners, and Dr. Bradford is no longer authorized to prescribe Schedule II and IIN controlled substances in Alabama.

On November 15, 1995, the Alabama Board of Medical Examiners voted to terminate the voluntary restriction previously entered on January 20, 1989 against the certificate of qualification and license to practice medicine in Alabama of Mary E. Traynor, M.D., Huntersville, Alabama, license number 4019. Dr. Traynor's certificate of qualification and license have been reinstated to full, unrestricted status.

On December 16, 1995, a voluntary restriction was entered against the certificate of qualification and license to practice medicine in Alabama of George L. Barker, M.D., Tennessee, license number 2976. The restrictions mirror the terms of probation entered against Dr. Barker's license to practice medicine in Mississippi which require continued aftercare monitoring for drug abuse and dependency. ■

Medical Licensure Commission Public Action Report September 1995 through December 1995

On September 27, 1995, the Medical Licensure Commission entered a Stipulation and Consent Order concerning the license to practice medicine/osteopathy in Alabama of Robert B. Parsa, D.O., Demopolis, Alabama, license number DO-377. The Commission found that Dr. Parsa had engaged in unprofessional conduct and had submitted untrue statements in a licensure application. The Commission issued a Reprimand and assessed an administrative fine in the amount of \$5,000.00.

On October 25, 1995, the Medical Licensure Commission entered a Stipulation and Consent Order placing on probation the license to practice medicine in Alabama of Eduardo L. Santiago, M.D., Russellville, Alabama, license number 8912. The Commission found that Dr. Santiago had endangered the health of a patient to whom he had provided obstetrics care. Additionally, Dr. Santiago was assessed an administrative fine in the amount of \$2,500.00.

On October 31, 1995, the Medical Licensure Commission entered an Order reinstating the license to practice medicine in Alabama of C. Wayne Starnes, M.D., Arkansas, license number 8126, to full, unrestricted status. Dr. Starnes Alabama medical license had been under disciplinary action since February 1989.

On December 5, 1995, the Medical Licensure Commission entered an Order reinstating the license to practice medicine in Alabama of Lloyd J. Gordon, III, M.D., Mississippi, license number 8405, to full, unrestricted status. Dr. Gordon's Alabama medical license had been subject to disciplinary action since August 1988. ■

CME Calendar - 1996 Dates

February 6—Huntsville AL
Advanced Managed Care Seminar
Contact: MASA Education Department
(334) 263-6441

February 7—Birmingham AL
Advanced Managed Care Seminar
Contact: MASA Education Department
(334) 263-6441

February 7-10—Lake Buena Vista FL
Adolescent Medicine Seminar
Contact: George Converse, M.D.
Lloyd Noland Hospital (205) 783-5276
CME Credit: 15 hours of Category 1
14.25 AAFP

February 8—Montgomery AL
Advanced Managed Care Seminar
Contact: MASA Education Department
(334) 263-6441

February 17—Huntsville AL
Cardiology Update 1996
Contact: Huntsville Hospital Foundation
(205) 517-8077 **CME Credit:** TBA

February 25-26—Washington D.C.
MASA Washington Trip
Contact: MASA Governmental Affairs
(334) 261-2000
CME Credit: TBA

March 10-13—Lake Buena Vista FL
Internal Medicine Seminar "Advances &
Changing Trends"
Contact: George M. Converse, M.D.
Lloyd Noland Hospital (205) 783-5276
CME Credit: 15 hours of Category 1

March 13-16—Lake Buena Vista FL
Pediatrics Seminar "Advances & Changing
Trends"
Contact: George M. Converse, M.D.
Lloyd Noland Hospital (205) 783-5276
CME Credit: 15 hours of Category 1
14.25 hours of AAFP

March 26-30—Huntsville AL
The Twelfth National Symposium on Child
Sexual Abuse
Contact: National Children's Advocacy
Center (205) 533-6129
CME Credit: TBA

April 10-14—Hilton Head Island SC
General Surgery Update
Contact: George M. Converse, M.D.
Lloyd Noland Hospital (205) 783-5276
CME Credit: 18 hours of Category 1

April 11-13—Orange Beach AL
AL Psychiatric Society Annual Meeting
Contact: Dee Mooty (334) 263-6441
CME Credit: 12 hours of Category 1

April 11-14—Destin FL
Alabama Section, ACOG Annual Meeting
Contact: Natalie Munroe (334) 263-6441
CME Credit: TBA

April 18-20—Huntsville AL
Fourteenth Annual Review of Modern
Therapeutics
Contact: UAH, Office of CME
(205) 551-4490
CME Credit: 15 hours of Category 1

April 19-21—Orange Beach AL
MASA Annual Session
Contact: MASA Education Dept.
(334) 263-6441
CME Credit: 10 hours of Category 1

April 23—Dothan AL
Medical Collections Workshop
Contact: MASA Education Department
(334) 263-6441

April 24—Auburn AL
Medical Collections Workshop
Contact: MASA Education Department
(334) 263-6441

April 24-27—Hilton Head Island SC
Pediatrics Update
Contact: George M. Converse, M.D.
Lloyd Noland Hospital (205) 783-5276
CME Credit: 15 hours of Category 1
14.25 hours AAFP

April 25—Tuscaloosa AL
Medical Collections Workshop
Contact: MASA Education Department
(334) 263-6441

May 2-5—Orange Beach AL
AL Orthopaedic Society Annual Meeting
Contact: James G. Davis, M.D.
(205) 930-9331
CME Credit: 10 hours of Category 1

May 3-5—Guntersville AL
Spring Seminar Carraway & Norwood
Clinic - "Current Controversies in Primary
Care"
Contact: Linda McNair/Dr. David Haigler
(205) 226-6358 **CME Credit:** TBA

May 16—Birmingham AL
Annual Practical Day of Pediatrics
Contact: Mardi Morard Trimble, Children's
Hospital Office of CME (205) 939-9898
CME Credit: TBA

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