

OIG and HHS Turn On The HEAT

Several recent events have highlighted the Office of the Inspector General's (OIG) and the Department of Health & Human Services' (HHS) increased scrutiny of fraudulent healthcare activities.

At the American Bar Association's 19th annual National Institute on Healthcare Fraud, OIG Chief Counsel, Lewis Morris stated the OIG's intention to increase its monitoring of physician financial activities, including both physician referral and billing patterns.¹ The ABA's conference also included discussions of the recent expansion of the False Claims Act (FCA) and the Fraud Enforcement and Recovery Act (FERA).¹

As mentioned in the May 2009 issue of *Health Capital Topics*, FERA expands the scope of the False Claims Act by redefining the definition of "knowingly," thereby reducing the government's burden of proof and allowing for easier conviction for violation of the FCA.¹ One amendment to FERA, which was signed by President Obama on May 20, 2009, involved civil investigative demands (CIDs). CIDs are "subpoenas to compel documents and testimony,"¹ and are currently approved by the attorney general. The amendment to FERA allows other top officials in the Department of Justice (DOJ) to approve CIDs. Further, the amendment requires information obtained from a CID that is determined to be necessary to the FCA investigation to be shared with the qui tam relator. The amendment also expands the definition of "official use" to allow the government to use the information in communications with other government departments and counsel for other parties.¹

During the week of May 18, 2009, newly-appointed HHS Secretary Kathleen Sebelius discussed the creation or expansion of several HHS antifraud programs. First, Sebelius announced the establishment of the HHS' *Healthcare Fraud Prevention and Enforcement Action Team (HEAT)*, a team composed of both DOJ and HHS members. The team, funded by allocations in President Obama's budget for increasing fraud prevention, will focus on fraud prevention and elimination. Additionally, HEAT will increase site visits to Durable Medical Equipment (DME) providers to ensure only Medicare-approved contractors are providing necessary services.¹

Sebelius also announced the expansion of the *Medicare Fraud Strike Forces*. Previously focused in South Florida and Los Angeles, CA, the expanded Strike

Forces will focus efforts on Detroit, MI and Houston, TX. Sebelius additionally announced the expansion of government funding for: (1) Medicare Integrity monitors to ensure compliance under Medicare Parts C & D; (2) Medicaid provider audit program; (3) information-sharing among government organizations; (4) implementation of technology to assist in combating fraud; and, (5) training on Medicare compliance.¹ The HHS has also stated its intent to roll-out additional antifraud initiatives in the coming weeks, as well as to create a website to track the progress of the above antifraud initiatives.¹

Thus far, the HHS and the OIG have demonstrated that government investment in fraud investigation and prevention programs is a prudent investment as the government has recovered four dollars for every one dollar spent on antifraud programs.¹ Additionally, in 2008, the government's antifraud programs helped secure 337 civil administrative actions, 588 criminal convictions and recovered over one billion dollars for the Medicare Trust Fund. Antifraud efforts in 2009 will likely surpass those of 2008 as joint efforts between the HSS and the OIG have already secured over 300 convictions and have recovered over one billion dollars.¹

¹ "Physicians Under Increased Scrutiny in Health Fraud Cases, OIG Official Says," by William H. Carlile, Bureau of National Affairs Health Law Reporter, 18 HLR 654, May 21, 2009

² Sec. 4 Clarifications to the False Claims Act to Reflect the Original Intent of the law," United States Senate, Fraud Enforcement and Recovery Act S.386, April 2009, <http://thomas.loc.gov/cgi-bin/query/F?c111:3:./temp/~c111f3yFGF:e10867>: (Accessed 5/01/09)

³ Sec. 4 Clarifications to the False Claims Act to Reflect the Original Intent of the law," United States Senate, Fraud Enforcement and Recovery Act S.386, April 2009, <http://thomas.loc.gov/cgi-bin/query/F?c111:3:./temp/~c111f3yFGF:e10867>: (Accessed 5/01/09)

⁴ "Obama Signs Law That Redefines False Claims Act Terms," By Ben Amirault, Health Leaders Media, May 26, 2009; "Senate Unanimously Agrees to Include FCA Amendments in Fraud Bill Passed by House," Bureau of National Affairs Health Law Reporter, 18 HLR 656, May 21, 2009

⁵ "Physicians Under Increased Scrutiny in Health Fraud Cases, OIG Official Says," by William H. Carlile, Bureau of National Affairs Health Law Reporter, 18 HLR 654, May 21, 2009; "Senate Unanimously Agrees to Include FCA Amendments in Fraud Bill Passed by House," Bureau of National Affairs Health Law Reporter, 18 HLR 656, May 21, 2009

⁶ "Sebelius: New Fraud Prevention Team Will Turn Up Heat," By Ben Amirault, Health Leaders Media, May 21, 2009, http://www.healthleadersmedia.com/content/233446/topic/WS_HL

(Continued from previous page)

M2_FIN/Sebelius-New-Fraud-Prevention-Team-will-Turn-up-Heat.html (Accessed 5/21/09)

⁷ “Background: Turning up the Heat to Stop Medicare and Medicaid Fraud,” Department of Health and Human Services, <http://www.hhs.gov/stopmedicarefraud/background.html> (Accessed 5/21/09); “Sebelius: New Fraud Prevention Team Will Turn Up Heat,” By Ben Amirault, Health Leaders Media, May 21, 2009, http://www.healthleadersmedia.com/content/233446/topic/WS_HL_M2_FIN/Sebelius-New-Fraud-Prevention-Team-will-Turn-up-Heat.html (Accessed 5/21/09); “Turning up the HEAT to Stop Medicare and Medicaid Fraud,” Department of Health and Human Services, <http://www.hhs.gov/stopmedicarefraud/> (Accessed 5/21/09)

⁸ “Turning up the HEAT to Stop Medicare and Medicaid Fraud,” Department of Health and Human Services,

<http://www.hhs.gov/stopmedicarefraud/> (Accessed 5/21/09)

⁹ “Sebelius: New Fraud Prevention Team Will Turn Up Heat,” By Ben Amirault, Health Leaders Media, May 21, 2009, http://www.healthleadersmedia.com/content/233446/topic/WS_HL_M2_FIN/Sebelius-New-Fraud-Prevention-Team-will-Turn-up-Heat.html (Accessed 5/21/09)

¹⁰ “Background: Turning up the Heat to Stop Medicare and Medicaid Fraud,” Department of Health and Human Services, <http://www.hhs.gov/stopmedicarefraud/background.html> (Accessed 5/21/09)



(800) FYI - VALU
*Providing Solutions
in the Era of
Healthcare Reform*

Founded in 1993, HCC is a nationally recognized healthcare economic financial consulting firm

- [HCC Home](#)
- [Firm Profile](#)
- [HCC Services](#)
- [HCC Experts](#)
- [Clients Projects](#)
- [HCC News](#)
- [Upcoming Events](#)
- [Contact Us](#)
- [Email Us](#)

HEALTH CAPITAL CONSULTANTS (HCC) is an established, nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, Missouri, with regional personnel nationwide. Founded in 1993, HCC has served clients in over 45 states, in providing services including: valuation in all healthcare sectors; financial analysis, including the development of forecasts, budgets and income distribution plans; healthcare provider related intermediary services, including integration, affiliation, acquisition and divestiture; Certificate of Need (CON) and regulatory consulting; litigation support and expert witness services; and, industry research services for healthcare providers and their advisors. HCC's accredited professionals are supported by an experienced research and library support staff to maintain a thorough and extensive knowledge of the healthcare reimbursement, regulatory, technological and competitive environment.



Robert James Cimasi, MHA ASA, CBA, AVA, CM&AA, President. Mr. Cimasi is a nationally recognized healthcare industry expert, with over 25 years experience in serving clients, in over 49 states, with a professional focus on the financial and economic aspects of healthcare industry including: valuation consulting; litigation support & expert testimony; business intermediary and capital formation services; certificate-of-need and other regulatory and policy planning; and, healthcare industry transactions, joint ventures, mergers and divestitures.

Mr. Cimasi holds a Masters in Health Administration from the University of Maryland, and several professional certifications. He has been certified and has served as an expert witness on cases in numerous states, and has provided testimony before federal and state legislative committees.

Mr. Cimasi is a nationally known speaker on healthcare industry topics, is the author of several nationally published books, chapters, published articles, research papers and case studies, and is often quoted by healthcare industry press. Mr. Cimasi's latest book, "*The U.S. Healthcare Certificate of Need Sourcebook*", was published in 2005 by Beard Books. In 2006, Mr. Cimasi was honored with the prestigious "*Shannon Pratt Award in Business Valuation*" conferred by the Institute of Business Appraisers and was elevated to the Institute's College of Fellows in 2007.



Todd A. Zigrang, MHA, MBA, CHE, Senior Vice-President. Mr. Zigrang has over twelve years experience in providing valuation, financial analysis, and provider integration services to HCC's clients nationwide. He has developed and implemented hospital and physician driven MSOs and networks involving a wide range of specialties; developed a physician-owned ambulatory surgery center; participated in the evaluation and negotiation of managed care contracts, performed valuations of a wide array of healthcare entities; participated in numerous litigation support engagements; created pro-forma financials; written

business plans and feasibility analyses; conducted comprehensive industry research; completed due diligence analysis; overseen the selection process for vendors, contractors, and architects; and, developed project financing.

Mr. Zigrang holds a Masters in Business Administration and a Master of Science in Health Administration from the University of Missouri at Columbia. He holds the Certified Healthcare Executive (CHE) designation from, and is a Diplomat of, the American College of Healthcare Executives and a member of the Healthcare Financial Management Association.



Lance A. Haynes, MSF, Vice President. Mr. Haynes focuses on the area of financial and economic analysis and consulting. His main responsibilities are comprised of business, tangible asset and intangible asset valuations, as well as financial analysis and forecasting for healthcare services related enterprises. Mr. Haynes has performed valuations for many types of ancillary services providers including Surgical/Specialty Hospitals and Ambulatory Surgery Centers, Cardiac Catheterization Labs, Diagnostic Imaging Centers and Kidney Dialysis Centers, and has also performed valuations and financial analyses for Home Healthcare

Providers, Long-term Care Facilities and Physician Medical Practices across various specialties. In addition, Mr. Haynes has performed joint venture service line and lease arrangement valuations for hospitals and physician groups, and has assisted with numerous litigation support engagements. Prior to joining HCC, Mr. Haynes was a Research Associate with Flagstone Securities, a specialty investment bank, located in St. Louis, Missouri, where his main responsibilities included the development and maintenance of company earnings models and proprietary stock indices for publicly traded companies.

Mr. Haynes received his Bachelor of Arts in Finance from the University of Northern Iowa and his Master of Science in Finance from St. Louis University. Mr. Haynes is a Level III candidate in the Chartered Financial Analyst (CFA) Program, and is a member of both the CFA Institute and CFA Society of St. Louis.



Anne P. Sharamitaro, Esq., Vice President. Ms. Sharamitaro focuses on the areas of Certificate of Need (CON); regulatory compliance, managed care, and antitrust consulting. Ms. Sharamitaro was admitted to the Missouri Bar in 2005 after graduating with J.D. and Health Law Certificate from St. Louis University School of Law. At St. Louis University, served as an editor and staff member of the Journal of Health Law, published by the American Health Lawyers Association. She has presented healthcare industry related research papers before Physician Hospitals of America (f/k/a American Surgical Hospital Association) and the National Association of Certified Valuation Analysts.



Kelly Gordon is a Research Associate at Health Capital Consultants (HCC). Ms. Gordon is in her second year of the Master of Health Administration program at Saint Louis University and will graduate in May 2009. Ms. Gordon also has a Master of Social Work from Washington University in Saint Louis. At HCC, Ms. Gordon provides research support in the areas of medical specialty trends related to a wide and diverse array of healthcare industry enterprises.