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CMS Proposes Changes to Medicare Incentive and Enrollment Programs to Combat Fraud

On April 29, 2013, the Centers for Medicare and Medicaid Services (CMS) issued a proposed rule to modify the *Medicare Incentive Reward Program* to further incentivize individuals to report known incidents of Medicare fraud and abuse. The proposed rule also provides several updates for the Medicare enrollment program[1] with the goal of maintaining the integrity of the Medicare program by preventing the enrollment of fraudulent enterprises, and to facilitate further success of programs such as *Health Care Fraud and Abuse Control Program* (*HCFAC*) to identify and prosecute Medicare fraud schemes.[2] Refer to "Health Care Fraud and Abuse Program Nets $4.2 Million in FY 2012", appearing in the April 2013 issue of Health Capital Topics, for more information regarding recent activity of HCFAC.[3]

The Medicare Incentive Reward Program was first established on June 8, 1998, with the intent of encouraging individual reporting of potential and known cases of fraud and abuse.[4] Since then, CMS has recovered $3.5 million in Medicare fraud and abuse funds, while paying out only $16,000 in rewards.[5] Updates to the Incentive Program for reporting Medicare fraud and abuse include both an increase in potential reward money—from 10 to 15 percent of the total amount collected—and the program cap for which an individual can be rewarded (from $10,000 to $66 million, netting out to a total potential individual reward of $1,000 and $9.9 million, respectively).[6] It is anticipated that the proposed incentive program will result in a net increase of $24.5 million per year in recoveries for the Medicare program.[7]

The recently proposed changes to provider enrollment provisions update the screening rule published in the February 2, 2011 edition of the Federal Register.[8] The recently proposed rule allows CMS to control enrollment, specifically by restricting the ability of an individual or entity to re-enroll to avoid repayment of existing program debt and by revoking billing privileges and the enrollment ability of any provider with either: (1) a managing employee having a felony conviction; or, (2) a pattern of inappropriate billing practices.[9] CMS has not yet defined what the term "managing employee" will encompass.[10]

CMS is accepting comments on several parts of the proposed rule through June 28, 2013. Given the emphasis on identifying and combating fraud and abuse in the healthcare system over the past decade, and most notably during the reign of the Obama administration, it appears likely that the healthcare system will continue to see provisions such as those contained in the April 29 proposed rule, going forward.

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1 "CMS Issues Proposed Rule to Increase Rewards for Reporting of Fraud and Abuse", Homecare Insider, May 6, 2013, http://www.hcpro.com/HOM-291807-7200/CMS-issues-proposed-rule-to-increase-rewards-for-reporting-of-fraud-and-abuse.html (Accessed 5/12/13)

2 "Medicare Program; Requirements for the Medicare Incentive Reward Program and Provider Enrollment: Proposed Rule", Centers for Medicare and Medicaid Services, Federal Register, April 29, 2013, Vol. 78, No. 82, p. 25013-25033

3 "Health Care Fraud and Abuse Program Nets $4.2 Million in FY 2012", Health Capital Consultants, Health Capital Topics, April 2013, Vol. 6, No. 4

4 "Medicare Program; Incentive Programs-Fraud and Abuse", Centers for Medicare and Medicaid Services, Federal Register, June 8, 1998, Vol. 63, No. 019, p. 31123-31129

5 "Fact Sheet: CMS Proposes New Safeguards and Incentives to Reduce Medicare Fraud", Centers for Medicare and Medicaid Services, April 24, 2013, http://www.cms.gov/apps/media/press/factsheet.asp?Counter=4584&intNumPerPage=10&checkDate=&che%E2%80%A6 (Accessed 5/12/13)

6 *Ibid*, Homecare Insider, May 6, 2013

7 *Ibid*, Centers for Medicare and Medicaid Services, Federal Register, April 29, 2013

8 "Medicare, Medicaid, and Children's Health Insurance Programs; Additional Screening Requirements, Application Fees, Temporary Enrollment Moratoria, Payment Suspensions and Compliance Plans for Providers and Suppliers; Final Rule", Centers for Medicare and Medicaid Services, February 2, 2011, Federal Register, Vol. 76, No. 22, p. 5862-5971

9 *Ibid,* Homecare Insider, May 6, 2013

10 Ibid, Centers for Medicare and Medicaid Services, Federal Register, April 29, 2013

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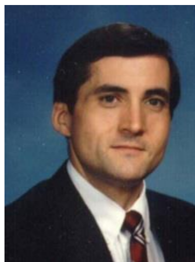
Health Capital Consultants (HCC) is an established, nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, Missouri, with regional personnel nationwide. Founded in 1993, HCC has served clients in over 45 states, in providing services including: valuation in 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.



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Mr. Cimasi holds a Masters in Health Administration from the University of Maryland, as well as several professional designations: Accredited Senior Appraiser (ASA – American Society of Appraisers); Fellow Royal Intuition of Chartered Surveyors (FRICS – Royal Institute of Chartered Surveyors); Master Certified Business Appraiser (MCBA – Institute of Business Appraisers); Accredited Valuation Analyst (AVA – National Association of Certified Valuators and Analysts); and, Certified Merger & Acquisition Advisor (CM&AA – Alliance of Merger & Acquisition Advisors). He has served as an expert witness on cases in numerous courts, and has provided testimony before federal and state legislative committees. He is a nationally known speaker on healthcare industry topics, the author of several books, the latest of which include: "*Accountable Care Organizations: Value Metrics and Capital Formation*" [2013 - Taylor & Francis, a division of CRC Press], "*The Adviser's Guide to Healthcare*" – Vols. I, II & III [2010 – AICPA], and "*The U.S. Healthcare Certificate of Need Sourcebook*" [2005 - Beard Books]. His most recent book, entitled "*Healthcare Valuation: The Financial Appraisal of Enterprises, Assets, and Services*" will be published by John Wiley & Sons in the Fall of 2013.

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