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Administration Announces New Public/Private Partnership to Combat Fraud [Ober|Kaler]

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On July 26th, Health and Human Services (HHS) Secretary Kathleen Sebelius and Attorney General Eric Holder announced a new fraud detection and prevention program featuring a partnership between government enforcement authorities and private health insurers. In its press release, CMS noted that the program is "designed to share information and best practices in order to improve detection and prevent payment of fraudulent health care billings." Notably, the information-sharing aspects of the program are intended to enable authorities to act *before* any payments are made with regard to potentially fraudulent schemes and to identify certain types of fraud (where, for instance, both a private and public payer are billed for the same services) that might otherwise have gone undetected until after payment was made.

As of the time of this article, few details have emerged regarding the structure or procedures of the new program. CMS's press release, for instance, notes that the "The Executive Board, the Data Analysis and Review Committee, and the Information Sharing Committee" will each hold their first meeting in September, but, prior to that "several public-private working groups will continue to meet to finalize the operational structure of the partnership and develop its draft initial work plan." CMS's description of the goals of the program (including to "share information on specific schemes, utilized billing codes and geographical fraud hotspots" and "spot and stop payments billed to different insurers for care delivered to the same patient on the same day in two different cities") indicate that the functionality of the program will revolve around data sharing and analysis.

CMS's announcements note that participation in the new program (for private payers) is voluntary, but the list of organizations that have already committed to participate is impressive:

- America's Health Insurance Plans
- Amerigroup Corporation
- Blue Cross and Blue Shield Association
- Blue Cross and Blue Shield of Louisiana
- Centers for Medicare & Medicaid Services
- Coalition Against Insurance Fraud
- Federal Bureau of Investigations
- Health and Human Services Office of Inspector General
- Humana Inc.
- Independence Blue Cross
- National Association of Insurance Commissioners
- National Association of Medicaid Fraud Control Units
- National Health Care Anti-Fraud Association
- National Insurance Crime Bureau
- New York Office of Medicaid Inspector General
- Travelers
- Tufts Health Plan
- UnitedHealth Group

- U.S. Department of Health and Human Services
- U.S. Department of Justice
- WellPoint, Inc.

It is likely that additional payers and payer organizations will seek membership in the program if it proves successful at curbing fraud perpetrated on private payers.

Ober|Kaler's Comments

Preventing fraud is a laudable goal, but data sharing and analysis at the scale contemplated, across both private and public payment structures, raises some important questions. As the program develops, and more details are made public, it will be interesting to see how concerns regarding patient privacy and data protection will be addressed. It will be similarly interesting to see how the information flow is structured – whether it is the government collecting and analyzing data provided by private entities, or whether it is the private entities who are being asked to serve as a de facto enforcement arm of the government, collecting and analyzing government data. In either case, providers would do well to remain attentive to public announcements of program plans so that they may prepare accordingly.

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