LEGAL UPDATES

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Missouri Attorney General Targets Home Health, In-Home Care, and Hospice Services to Uncover Medicaid Fraud

Service

Hospice & Palliative Care

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Over the past six months, the Missouri Attorney General's office has actively pursued allegations of Medicaid fraud by home health, in-home care and hospice Medicaid providers. Attorney General Koster identified Medicaid fraud as one of his top priorities in ongoing efforts to recover misappropriated public funds. Two recent cases highlight his commitment to this pronouncement.

First, on April 27, 2011, the Attorney General's office announced that CMV In-Home Assistance, Inc. had agreed to pay $375,000 to settle improper billing allegations. The Office alleged that the Caruthersville, Mo. based company, which provides in-home personal care services, improperly billed Medicaid from 2007 through 2010 for in-home services for five Medicaid recipients who were institutionalized. The Office further alleged that CMV failed to ensure that 30 of its employees were registered with the Family Care Safety Registry before allowing them to provide in-home services, as required by law.

Second, on July 28, 2011, the Office announced a settlement with Smith & Associates Home Care following an investigation by its Medicaid Fraud Control Unit that led to the prosecution of a company employee. The employee pled guilty to charges that she submitted false claims to Medicaid for personal care services she did not provide to a Medicaid recipient, her ex-mother-in-law. In addition, the Hayti, Mo., based company that provides in-home personal care services agreed to pay just over $74,000 to resolve allegations that it failed to diligently scrutinize the employee's timesheets before billing Medicaid. According to the press release, "Medicaid pays companies like Smith

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& Associates to supervise and ensure Medicaid personal care services are delivered appropriately. In this case, the company failed to carry out its duties." Missouri regulations prohibit providers from submitting bills for services that were provided to a member of an employee's immediate family, and the Missouri Department of Social Services commonly investigates claims to determine whether services were provided in violation of this prohibition. As the Smith case illustrates, violating this prohibition creates liability not only for the employee but also for the healthcare provider that submitted the claim.

In addition to routine audits and investigations, the government frequently mines reimbursement data from multiple providers to look for inconsistent billing. For example, if an in-home provider submitted bills for services during a time period in which an inpatient or skilled nursing facility also submitted bills for the same patient, it is likely that the Fraud Control Unit will conclude that the patient was institutionalized during the relevant time period and pursue charges against the in-home provider for improper or fraudulent billing, as in the CMV case.

What This Means To You

Despite being a proportionately insignificant source of revenue for hospital systems and large healthcare providers, ancillary services can result in large Medicaid repayment obligations. In the current enforcement environment in which the Attorney General's office is aggressively investigating wrongdoing and improper billing, healthcare entities that provide home health, in-home care and hospice services should review existing compliance procedures associated with their operations and billing practices. Whether the services are provided by an independent company, or a department or subsidiary of a larger healthcare provider, procedures that enable the company to comply with regulatory requirements and provide proper oversight should be in place. The procedures should also include a process through which issues that arise can be addressed and resolved within the organization.

Contact Info

If you have any questions about this or any other issue involving healthcare, please contact your Husch Blackwell attorney or one of the attorneys listed below.

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