Home Health

BUSINESS REPORT

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A WEEKLY REPORT ON NEWS, TRENDS & STRATEGIES FOR THE HOME HEALTHCARE EXECUTIVE

Administration vows to put fraud fighters on site at carriers

By MATTHEW HAY
***HHBR* Washington Correspondent**

WASHINGTON – The Clinton Administration is hoping to increase the number of federal agents who investigate Medicare fraud, including a Medicare fraud unit in the office of every Medicare contractor in the country.

President Clinton tabled the proposal in his national radio address Jan. 22, saying his FY01 budget would also fund new technologies to track false claims. While the president's plan lacked specifics, the administration plans to propose $48 million for Medicare contractors' anti-fraud efforts.

Health Care Financing Administration (HCFA; Baltimore) spokesman Craig Polaski says the details of the president's plan will be released along with his budget next month.

Clinton's formula for purging fraud extends well

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Home healthcare industry sees increase in 4Q99 M&A activity

By MEREDITH BONNER
***HHBR* Editor**

While the number of mergers and acquisitions (M&As) reported in the entire healthcare services industry hit its lowest level in four years, the home health sector in 4Q99 saw an increase.

According to **Irving Levin Associates**' (New Canaan, CT) 4Q99 *Health Care Merger and Acquisition Report*, there were 16 publicly announced M&As in the home healthcare sector in 4Q99, compared to 12 in 4Q98, an increase of 33%. The number of transactions is up 45% from 3Q99, when the sector announced 11 deals.

Stephen Monroe of Irving Levin said statistically, the increases "could be a quirky thing." But he said that, more likely, the home healthcare industry is beginning to see a turnaround.

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Leading attorney sees focused government anti-fraud effort

By MATTHEW HAY
***HHBR* Washington Correspondent**

WASHINGTON – Home care providers can expect to see a focused government attack on fraud and abuse in the short term, but probably no sweeping investigations, according to one leading attorney.

"It is fair to say the area of compliance is not going away," Stuart Kurlander, a partner with **Latham and Watkins**, said at the **National Association for the Support of Long Term Care**'s annual meeting in Washington Jan. 28. He noted President Clinton's recent request for additional money to hire fraud fighters to put on-site at **Health Care Financing Administration** (HCFA; Baltimore) contractors and said there is no indication the government is giving up or going home.

"I do think the efforts are going to be selective," Kurlander

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Fresenius slapped with record FCA settlement worth $486B

By MATTHEW HAY
***HHBR* Washington Correspondent**

Fresenius Medical Care, the world's largest provider of kidney dialysis products and services, entered into the largest healthcare fraud settlement ever Jan. 19, when it agreed to pay the U.S. government $486 million to settle an investigation of **National Medical Care** (NMC), its kidney dialysis subsidiary. The agreement was announced at the U.S. Courthouse in Boston.

In all, three NMC subsidiaries agreed to plead guilty to three separate conspiracies and hand over a record $101 million in criminal fines. Fresenius also agreed to pay a record $385 million to resolve related, civil False Claims Act accusations. The whistle blowers in the case will pocket $65.8 million.

The settlement may signal healthcare providers

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Anti-fraud

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added. In a number of areas that concern long term care providers, Kurlander said the government has already been "in our face for five or six years," and he predicted the government is not likely to initiate broad new efforts across some areas, such as durable medical equipment.

Many of the problems were driven by overutilization, which have been minimized by reductions in allowables, as well as increased focus on coverage criteria, according to Kurlander. But he added that providers continue to see targeted reviews that are documentation-oriented, aimed at companies with higher reimbursement rates. That includes greater scrutiny of certificates of medical necessity (CMN), as well as an overall effort to contact beneficiaries by phone to see whether they actually required the product provided.

"We have had some victories, and we have had some losses," said Kurlander. For example, he noted a success last year in the area of power wheelchairs when the government issued a new evaluation form on top of the CMN. Industry representatives successfully argued to the **Office of Management and Budget** (Washington) that it violated the Paperwork Reduction Act, and HCFA was forced to withdraw the form.

Kurlander said he has also seen some efforts targeted at manufacturers. Several recent inquiries raised questions about marketing practices and violations of the anti-kickback statute, as well as potential violations of the False Claims Act. He said that the government stated the investigation was not tied to a whistleblower.

Instead, Kurlander said the government indicated it had examined Web sites and found some interesting language in some of those sites. He predicted providers will see additional focus in the e-commerce area as healthcare moves into that area. "If you are developing programs along those lines, I would be cautious about the way you advertise yourself on those pages," he warned. "The government is looking at them."

Kurlander also noted that in both the Balanced Budget Act of 1997 and the Balanced Budget Reform Act of 1997 the government has cracked down on the reasonable cost system. "They generally have gotten rid of it almost across the board," he said.

But Kurlander said that the government's best weapon against overutilization and fraud and abuse is not paying providers in a way that reimburses them for their actual costs. "If they reimbursing them on more of a prospective payment basis, there is less maneuvering room for that particular entity and less of a problem on the compliance side," he said. ■

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ATLANTA NEWSROOM: Executive Editor: **Jim Stommen**. Managing Editor: **Lee Landenberger**. Editor: **Meredith Bonner**. Washington Correspondent: **Matthew Hay**.

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EDITORIAL
Meredith Bonner **(404) 262-5478**

VICE PRESIDENT/GROUP PUBLISHER
Donald R. Johnston **(404) 262-5439**

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COMPANIES IN THE NEWS

Chemed and Capital Trust extend exchange offer

Chemed (Cincinnati) and **Chemed Capital Trust** said last week they have extended their offer to exchange convertible trust preferred securities of Chemed Capital Trust for up to 2 million shares of capital stock of Chemed until today, Jan. 31. Chemed and Chemed Capital Trust also said they have waived the minimum distribution condition, which requires that for purposes of listing the convertible trust preferred securities on the New York Stock Exchange, as of the expiration date, there be at least 1 million shares validly tendered by at least 400 record or beneficial holders of Chemed stock. Chemed said that as a result of the waiver, the convertible trust preferred securities may not be listed on the New York Stock Exchange following the consummation of this offer.

The exchange offer began Dec. 23, said Chemed. More than 562,000 shares had been tendered as of the close of business on Jan. 24.

Infu-Tech renews contracts with three HMOs

Infu-Tech (Carlstadt, NJ) has renewed contracts to provide infusion therapy and specialty pharmaceuticals to **Independence Blue Cross of Pennsylvania**, **Keystone Health Plans East** of Pennsylvania and **Amerihealth** of Pennsylvania and New Jersey. These HMOs represent 1.5 million enrollees, Infu-Tech said. In aggregate, Infu-Tech's managed care network includes more than 70 HMOs with 25 milllion enrollees.

Infu-Tech Chairman Jack Rosen said the company's **Smartmeds.com** initiative will be enhanced by the contracts the company has with the HMOs, as "they are a critical referral source for us in the expansion of our disease state management customer base."

In other news, Infu-Tech said it has signed an agreement with **Precision Health Corp**. to provide mobile diagnostic imaging services to the healthcare community, including physicians, hospitals, long term care and assisted living facilties, and managed care organizations, through Infu-Tech's Smartmeds.com Web site. Infu-Tech said the healthcare Internet B2B sector is expanding and said the company will be able to compete in the market with the new agreement. Through the Web site, Precision will provide X-rays, EKGs, and ultrasound. Results will be posted on the site and can be obtained using a password, Infu-Tech said.

McKesson HBOC sees improved results in 3Q00

McKesson HBOC (San Francisco) reported 3Q00 total revenues of $9.9 billion, compared to 3Q99 reveneus of $8.3 billion. The company saw a 3Q00 net income of $166.8 million, 58 cents per share, up from a 3Q99 net income of $50.7 million, 18 cents per share.

Mallinckrodt's 2Q00 sales up from 2Q99

Mallinckrodt (St. Louis) reported 2Q00 net sales of $681. 8 million, up from 2Q99 net sales of $637.9 million. The company posted a 2Q00 net income of $46.8 million, 67 cents per share, compared to a 2Q99 net income of $35.1 million, 49 cents per share.

Mallinckrodt said it has taken several strategic and operational actions to enhance the company's profitability and the growth prospects of the Respiratory segment. These actions include divestitures and consolidations, the company said.

Priority given strong buy rating

Priority Healthcare (Lake Mary, FL) has been given a strong buy/high risk rating from **Prudential Securities** (New York). Prudential said it sees attractive growth prospects in the rapidly emerging specialty pharmacy/distribution sector, driven by an increasing number of new and complex biopharmaceuticals expected to enter the market. Prudential added that it expects Priority's competitive and strategic position to allow it to achieve above average growth. Prudential gave Priority a 12-month price target of $36 per share.

Saunders Group introduces new traction device

The Saunders Group (Chaska, MN) introduced a new home lumbar traction device that simplifies home traction treatments. Saunders says the new device, the Saunders Lumbar HomeTrac, is light, easy to use, and provides effective traction with a minimum of fuss. The Lumbar HomeTrac is small, Saunders said, weighing only 18 pounds. For more information on the traction device, call (800) 778-1870.

Sharps introduces new, convenient IV poles

Sharps Compliance Corp. (Houston) has developed a new concept in intravenous poles. Called Pitch-It, these disposable, convenient, user-friendly IV poles are the first line designed specifically for home healthcare patients receiving gravity- or pump-administered infusions.

The Pitch-It poles eliminate the need for home healthcare nurses or drivers to transport and store large, bulky IV poles in their vehicles. The poles unfold in seconds, with no assembly required. Designed to be disposable, the collapse to fit into any ordinary-sized garbage container upon completion of treatment or may be recycled.

"The disposability after use compliments our mailback product line and will allow home healthcare companies to reduce the travel and labor costs associated with retrieving equipment after patient treatment is completed," said Sharps President/CEO Burt Kunik.

Sunrise appoints new president

Sunrise Medical (Carlsbad, CA) appointed Michael Hammes president/CEO. Interim Chairman/ CEO Murray

Hutchison will continue as chairman of the company's board, Sunrise said. Hammes was previously chairman/CEO of **Guide Corp**.

On the financial front, Sunrise reported a 2Q00 ended Dec. 31 net income of $1.1 million, 5 cents per share, compared to a 2Q99 net income of $1.8 million, 8 cents per share. Total sales in 2Q00 were $161 million, up from total sales in 2Q99 of $156 million.

Sunrise paid down $25 million in debt during the quarter, using $21 million in cash generated from the sale of a portion of its installment receivable portfolio together with $4 million generated from operations.

U.S. HomeCare sees Y2K problems

U.S. HomeCare Corp. (USHC; Hartsdale, NY), which is traded on the over-the-counter market, said last week that it is not aware of any basis for the recent increase in the price and trading volume of its common stock. As noted in its most recent filing with the **Securities and Exchange Commission** (Washington), for some time, the company has not had sufficient cash flow to operate its business without significant advances from its lenders.

Additionally, USHC is experiencing Y2K problems resulting from the company's thrid-party software vendor's failure to deliver promised and necessary software upgrades. These Y2K problems could have a negative impact on the company's cash flow, USHC said. ■

CALENDAR

• **Medtrade**'s *Medtrade West* is May 3-6 in Las Vegas. At the meeting, new products in the home medical equipment arena will be introduced. For more information, call (800) 241-9034, or visit the Web site at *www.medtrade.com*.

• The 15th annual *Northeast Healthcare Conference and Exposition* is May 10-11 in Mashantucket, CT. The conference is sponsored by *Healthcare Review* and brings together the entire healthcare delivery system. Admission to the expo and conference programs is free. For more information, call (800) 243-9774.

• The home care associations in Louisiana, New Mexico, Oklahoma, and Texas are offering the *Southwest Regional Home Care Conference and Exhibition 2000* May 10-May 12 in Dallas. For more information, call (800) 880-8893.

• The **National Association for Home Care** (Washington) announces four conferences in one, which will be May 7-10 in Arlington, VA, including the *New Home Care Business Development Conference*, the *15th National Home Care Aide Service Conference*, the *National Adult Day Services Conference*, and the *Home Healthcare Nurses Association Annual Gathering*. For more information, call (202) 547-7424. ■

REGIONAL DIGEST

• Canadians say they are generally happy with the healthcare they get and the system that provides it. But according to the most recent *HealthInsider*, a national survey conducted semi-annually by the Canadian healthcare practive of **PricewaterhouseCoopers**, many say they believe that home care services, as well as waiting times in the emergency room, need improvement. Most Canadians feel that minor changes are necessary, according to the study, however 7% of the respondents reported that "we have to completely restructure it." Dale Murphy, author of the report, said respondents had a strong message for government and the Canadian healthcare industry in general. "Although they're generally happy with the service at the local hospital and in their doctors' offices, Canadians feel that our healthcare can be improved – especially when it comes to home care," Murphy said. According to the report, 81% of the respondents said home care should be covered by the Canada Health Act in addition to physician and hospital care. More information can be found at *www.pwc-global.com/healthinsider*.

• Anne Huey, who ran **Lehigh Valley Hospice**'s (Allentown, PA) operations for 15 years, has left the operation in protest. Huey disagreed with program executives who recently blended the services of Lehigh Valley Hospital's home care and hospice nurses, reported the *Allentown Morning Call*. Huey said the two types of nurses "don't mix well . . . and are being combined, in part, because of financial reasons." Huey accepted a position with a Philadelphia area visiting nurse hospice program that retains an exclusive hospice staff, but she said fears that the financial pressures on hospice programs across the country will force more integration, the *Morning Call* reported.

• **CareAlliance Health Services** (Charleston, SC) consolidated the home care operations of **Roper** and **Bon Secours-St. Francis Xavier**. The merger became official last week and created one of the largest home healthcare organizations in South Carolina, reported the *Post and Courier* of Charleston, SC. Together, the two operations served 4,600 patients in 1998 and made 150,000 visits. Consolidation is a natural money saver, said John Hales, CareAlliance's vice president of operations, because it costs CareAlliance less to run one big organization than two smaller ones. The operation will have 200 employees, the *Post and Courier* reported. Officials told the *Post and Courier* that the only way patients will know a change ocurred will be by reading the new organization's name on their paperwork. The merger is coming about two years after **Roper-Care Alliance** and **Bon Secours-St. Francis Xavier** merged into what is now CareAlliance Health Services.

• **Kaleida Health** (Buffalo, NY) has laid off about 20 part-time home care nurses. The cuts come as the organization is working to close an expected budget gap, reported the *Buffalo News*. Another five or six office personnel also lost their jobs as a series of layoffs expected to exceed 100 continue, the company told the *Buffalo News*. The company had reported in December that it expected to eliminate more than 100 jobs.

• Home healthcare advocates in Massachusetts are saying Gov. Paul Cellucci's administration is holding back $7.8 million earmarked for frail seniors in an effort to have enough money for a tax cut. But administration officials said they were just adjusting the accounts to reflect the shortened budget year, reported the *Patriot Ledger* of Quincy, MA. Al Norman, executive director of **Mass Home Care**, said last week that nearly 900 seniors would not get the care they needed because the administration would spend less than appropriated by the Legislature. He added that the savings to the administration is a "down payment" on Cellucci's proposed $1.4 billion tax cut, the *Patriot Ledger* reported. But the administration said it was standard fiscal practice not to pay out 12 months worth of services for the remaining seven months of the fiscal year, which ends June 30, reported the *Patriot Ledger*. ■

PPM/MSO NEWS

• The new owners of **Medpartners** laid off about 100 employees last week, the second round of cuts in three months. The layoffs by owner **KPC Medical Management** (Hemet, CA) come on top of the layoff in October of 500 southern California employees and the closure of 29 clinics, including four in Orange County, reported the *Orange County Register*. The latest job cuts are primarily in Orange and Los Angeles counties, the *Register* reported. KPC purchased what was left of the Medpartners network in September, after state regulators seized Medpartners' network last spring and placed it in bankruptcy.

• **PhyCor** (Nashville, TN) has appointed Tarpley Jones executive vice president/CFO. Jones served as CFO of **Surgical Care Affiliates** from 1992 until its sale to **Healthsouth** (Birmingham, AL) in 1996. In other news, **CareWise**, a PhyCor company, named Craig Russell president/CEO. Russell previously served as vice president of marketing, sales, and service for CareWise.

• **Complete Wellness Centers** (CWC; Winter Park, FL) said last week that phase I of the restructuring of its Web site, *www.completewellness.com*, has been completed. Since the restructuring, CWC's corporate office and member clinics have been set up to accept e-mail through the Web site, said CWC. The site also allows consumers to search Medline for recent articles on healthcare subjects. ■

Fresenius

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that the government is now pursuing some fraud investigations, said healthcare attorney Eugene Tillman with **Reed Smith Shaw & McClay** (Washington).

Medicare, the principal source of NMC's reimbursement, covered intradialythic parenteral nutrition (IDPN) under the prosthetic device benefit only if the patient suffered from a severe pathology of the alimentary tract, which did not allow absorption of sufficient nutrients. It was not covered as a supplemental nutrition even if it was prescribed by a physician to treat malnutrition.

According to Tillman, the first set of issues surround false documentation to support medical necessity. "What is interesting here is that you had a longstanding issue about whether the IDPN coverage criteria are too restrictive or whether the durable medical equipment regional carriers are interpreting them too narrowly" said Tillman.

He said there have been numerous denials and appeals, but that this case extends well beyond those cases.

"What is alleged here," he explained, " is manufacturing medical necessity documentation, including information that was false and known to be false."

The second area Tillman highlights involves IDPN administration kits. He said disputes frequently surface over whether a carrier is properly interpreting the law and guidance or is being unduly restrictive.

"At the root of the allegation is basically not a statute and not a regulation, but a directive from a carrier," asserted Tillman. He said that suggests that even when providers are dealing with directives, they must be cautious. "The fact that it involves a carrier guideline is not going to immunize you from potential liability, including criminal liability," he warned.

Tillman also pointed to the government's interpretation of IDPN bag-hanging fees. He said it has been debated for years whether bag-hanging fees are appropriate, but he added that in this case, the government is focusing on what they consider a manipulation of numbers. "The underlying issue here that is raised in the context of a conspiracy charge is whether the payment of a bag-hanging fee to a dialysis provider is a kickback in order to induce the dialysis provider to use the IDPN company that is offering the bag-hanging fee," he explained.

"What is interesting is the government comes very close to acknowledging that a payment to an IDPN supplier to a dialysis facility would be proper, so long as it is based on the actual cost that the dialysis facility incurred in supporting the delivery of the IDPN," he added. ■

M&As

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"When home health hit the wall, so to speak, everyone starting saying, 'Yes there are mistakes; there is the fraud and all the problems,' but what I could tell was that home health is not going to go away."

He says what the industry is experiencing now is that after there were so many closings, and so many companies going out of business, there are a number of people that did stay.

"Now the tides seem to be turning," Monroe said. "Four months ago, when some home health companies started reporting profits – and, lo and behold, they were not losing money anymore – they were saying they were over the hump." He added that it is still going to be ugly for a while, but the industry seems to be over the hump.

"These companies, on a smaller scale, will start to be active in the acquisition market again," said Monroe.

As a whole, the healthcare services market did not fare as well in 4Q99, reporting 141 M&As, 16% fewer deals than in 3Q99 when the industry announced 168. The healthcare arena reported 217 deals in 4Q98, according to the report. The number of deals in 4Q99 is at its lowest level since 2Q95 when 139 deals were announced, Monroe said.

But for now, home health seems to be emerging from the shadow of the last two years' troubles. Monroe said another light at the end of the tunnel for the industry could be the emerging technology associated with home healthcare. But providers nor investors should get their hopes up too quickly.

"I think it still will be slow go in 2000, compared to the heyday of a couple of years ago," Monroe said, adding that more investors and lenders are "still cautious about the industry." He also said another big factor is what the government is going to do.

To purchase a copy of the *Health Care Merger and Acquisition Report*, call (800) 248-1668. ■

MANAGED CARE REPORT

• **Blue Cross and Blue Shield of South Carolina**'s (BCBSSC; Columbia, SC) Medicare subsidiary, **Palmetto Government Benefits Administrators** (GBA), has saved the federal government more than $1 billion through various payment safeguard activities, BCBSSC said. According to Sue Pearcy, BCBSSC vice president of the **Medicare Integrity Program Division**, saved or recouped more than $1 billion in federal tax dollars through four functions designed to ensure correct payment of Medicare claims. GBA holds the Medicare part A and part B contracts in South Carolina, as well as a contract to administer home health claims and hospice benefits in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Ohio, Indiana, and Illinois.

• **Moody's Investors Service** has changed the outlook on **Oxford Health Plan**'s (Norwalk, CT) debt ratings to stable from negative. The ratings affected were the company's B3 senior secured bank facility, its Caa1 senior notes, and its B3 senior implied. Moody's said the change was "due to stabilized operating performance, which should enable the parent company to maintain current levels of cash over the near to intermediate term." About $500 million in debt is affected, Moody's said. ■

Fraud fighters

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beyond anything contemplated by Congress to date. Last summer, the House Commerce Committee held hearings in which it blasted carriers for shoddy oversight. But this move was not suggested.

Congress may float a proposal of its own when it releases a thorough report next month on waste and fraud throughout federal government spending that cites "a substantial error rate" in Medicare payments. House Budget Committee spokesman Terry Holt said his committee is preparing a hearing that will address those issues as early as next week.

Clinton's proposal comes as two new reports cite major inroads in reducing healthcare fraud.

"Perhaps the most concrete evidence of the success of anti-fraud and oversight efforts is the significant reduction in the error rates in Medicare fee-for-service payments – an overall 45% reduction in improper payments in just two years," the **Department of Health and Human Services' Office of Inspector General** (Washington) and **Department of Justice** (Washington) assert in their joint annual report on healthcare fraud and abuse control programs for FY99, expected to be formally released shortly.

According to the report, the Health Care Fraud and Abuse Control Program resulted in judgments and settlements totaling $524 million last year. As a result of program activities, the federal government collected $490 million in 1999, while another $4.7 million was recovered as the federal share of Medicaid restitution.

Meanwhile, HCFA reported last week that its Medicare Integrity Program prevented $5.3 billion in inappropriate payments in the last half of 1998 and the first half of 1999, including provider audits ($1.4 billion) and prepayment activities ($2.6 billion).

Overall, the government says the most recent audit for FY98 shows the error rate has dropped to 7.1% and that estimated improper fee-for-service payments have dropped to $12.6 billion a year.

The initial audit for FY96 showed an estimated error rate of 14% and estimated improper payments of about $23.2 billion a year. ■