



American Conference Institute's

SYMPOSIUM ON HEALTHCARE FRAUD INVESTIGATIONS

Responding to & Managing Government Investigations of Medicare and Medicaid Providers

MARCH 31-APRIL 1, 2008 – THE LATHAM HOTEL GEORGETOWN, WASHINGTON, DC

GAIN INSIGHT FROM TOP ENFORCEMENT OFFICIALS:

Jamie M. Bennett
Assistant U.S. Attorney
District of Maryland

Christopher Godialis
Director, Connecticut Medicaid Fraud
Control Unit

Rick Lober
Director, Florida Medicaid Fraud
Control Unit

Daniel R. Miller
Director, Delaware Medicaid Fraud
Control Unit

Kirk Ogrosky
Deputy Chief for Healthcare Fraud
U.S. Department of Justice

Cynthia O'Keeffe
Deputy Chief
Civil Medicaid Fraud Section
Office of the A.G. of Texas

Viveca Parker
Assistant U.S. Attorney, Eastern
District of Pennsylvania

Donald H. Romano
Director, Division of Technical
Payment Policy, CMS

Michael J. Sullivan
U.S. Attorney
District of Massachusetts

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Top government officials, senior in-house counsel, and expert private practitioners will help you:

- ✓ **LEARN** what to do when the government is making allegations of Healthcare Fraud & Abuse
- ✓ **DETERMINE** when to provide voluntary disclosures and who to present them to
- ✓ **IMPLEMENT** measures to decrease coding and billing errors
- ✓ **MAXIMIZE** the internal audit function to avoid surprises during an investigation
- ✓ **IDENTIFY** suspect financial agreements as potential Stark and anti-kickback violations
- ✓ **NEGOTIATE** with the government on case settlements and the use of a CIA



PLUS SPECIAL ADDRESSES BY:

Brian Flood
Former Inspector General, Texas Health
and Human Services Commission

Mark R. Paoletta
Former Chief Counsel for Oversight and
Investigations for the U.S. House Committee
on Energy & Commerce

Donald H. Romano
Director
Division of Technical Payment Policy,
Centers for Medicare and Medicaid Services

Michael J. Sullivan
U.S. Attorney
District of Massachusetts

POST-CONFERENCE WORKSHOP • WEDNESDAY APRIL 2, 2008

Assessing the Effectiveness of Your Compliance Program
in Light of Changing Regulations



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PARTICIPATING FACULTY:

Jamie M. Bennett

Assistant U.S. Attorney
District of Maryland
(Baltimore, MD)

David C. Blake

Vice President Compliance, Chief
Compliance and Privacy Officer
Cedars-Sinai Medical Center

Shawn DeGroot

Vice President of Corporate Responsibility
Regional Health

Brian Flood

Former Inspector General, Texas Health
and Human Services Commission

Joseph V. Geraci

Brown McCarroll LLP

Christopher T. Godialis

Director, Connecticut Medicaid Fraud
Control Unit

Ankur J. Goel

McDermott Will & Emery
Former Federal Prosecutor
Department of Justice Criminal Division
Fraud Section

Hervé Gouraige

Epstein Becker & Green, P.C.
Former Assistant U.S. Attorney for the
Southern District of New York

Gabriel L. Imperato

Broad and Cassell
Former Deputy Chief Counsel
Office of the General Counsel
United States Department of Health
and Human Services

Susan V. Kayser

Duane Morris LLP
Former Assistant Regional Counsel
U.S. Department of Health
and Human Services

Carole A. Klove

Chief Compliance Officer
& Privacy Officer
UCLA Medical Sciences

Edward S. Kornreich

Proskauer Rose LLP

Rick Lober

Director
Florida Medicaid Fraud Control Unit

Gregory M. Luce

Jones Day
Former Assistant Attorney General,
Commonwealth of Virginia

Kathleen McDermott

Sonnenschein Nath & Rosenthal LLP
Former Assistant U.S. Attorney and
Health Care Fraud Coordinator for
the District of Maryland

Daniel R. Miller

Deputy Attorney General
Director, Delaware Medicaid Fraud
Control Unit

J. Scott Newton

Baker, Donelson, Berman, Caldwell &
Berkowitz P.C.
Former Special Agent, Federal Bureau of
Investigation and Former Assistant U.S.
Attorney, Southern District of Mississippi

Janet S. Nolan

Counsel, Health Law
Fulbright & Jaworski L.L.P.
Former Assistant U.S. Attorney and Civil
Health Care Fraud Coordinator for the
District of New Jersey

Cynthia O'Keeffe

Deputy Chief
Civil Medicaid Fraud Section
Office of the Attorney General of Texas

Kirk Ogrosky

Deputy Chief for Health Care Fraud,
Fraud Section, Criminal Division
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Committee on Energy & Commerce

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Assistant U.S. Attorney
Eastern District of Pennsylvania

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Former First Assistant Attorney General
for the Commonwealth of Massachusetts

Frederick Robinson

Fulbright & Jaworski L.L.P.

Donald H. Romano

Director, Division of Technical Payment
Policy, CMS

John E. Steiner, Jr.

Chief Compliance Officer
UK HealthCare

Michael J. Sullivan

U.S. Attorney
District of Massachusetts

Matthew F. Tormey

Corporate Director of Compliance
Health management Associates, Inc.

Benjamin Vernia

Covington & Burling LLP
Former Federal Prosecutor, Department
of Justice, Criminal Division and Civil
Division, Fraud Section

Dear Colleague:

The challenge of obtaining full comprehension of the complex and constantly changing, laws and regulations governing Medicare and Medicaid is well documented. Nonetheless, in the current environment of ever increasing government scrutiny of the healthcare industry, there is no room for error. With staggering settlements extracted to date and the increased potential for criminal penalties, it is imperative that you fully understand the implications of every statement and action you, your client, and employees of your institution make when you are the target of an investigation into Medicare and Medicaid practices.

American Conference Institute has created this program specifically to address the challenges being faces by the healthcare industry today. Led by an exceptional faculty packed with current and former Medicare and Medicaid regulatory and enforcement officials, senior compliance and audit professionals, and white collar experts, this event will prepare you for any queries, formal inquiries, and investigations. By the end of the **Symposium on Healthcare Fraud Investigations** you will be thoroughly grounded in liability-limiting approaches for:

- Providing voluntary disclosures that will help to mitigate penalties
- Navigating the ins and outs of provider financial agreements in violation of the evolving Stark laws and anti-kickback regulations

- Determining the consequences for refusing to waive attorney-client privilege for specific types of information requested by investigators
- Mobilizing your internal audit function to detect misconduct in Medicare and Medicaid practices

In addition, to complete your overall conference experience, be sure to attend the post-conference workshop, **Ensuring the Effectiveness of Your Compliance Program in Light of Changing Regulations**. Our expert panel of healthcare compliance professionals will provide you with the best practices for conducting an annual audit of the healthcare compliance program and the best ways to incorporate new regulatory developments into the existing program.

This is a one-of-a-kind event you won't want to miss. Reserve your space today by calling **888-224-2480** or by faxing your registration to **877-927-1563**, or visit us online at **www.americanconference.com/healthcare_fraud**. Be sure to register before spaces are filled for this unique event.

I look forward to seeing you in Washington in March.

Sincerely,



Holly B. Goldberg
Legal Conference Director

AGENDA-AT-A-GLANCE

Day 1

- Best Practices for Preventing Fraud Allegations: Strategic Measures to Ensure Accuracy of Medicare/Medicaid Billing
- Preventing and Defending False Claims Act Violations and Qui Tam Lawsuits in Healthcare
- Enhancing the Internal Audit Function to Detect Potential Misconduct
- Special Address by Mark Paoletta: Congressional Actions on Healthcare Fraud
- Maintaining Attorney-Client Privilege in Healthcare Fraud Investigations
- Recognizing and Responding to Potential Stark and Anti-Kickback Violations
- Minimizing the Risks of Using Joint Defense Agreements

Day 2

- Keynote Address by Donald Romano
- Enforcement Panel: The View from the Other Side
- Voluntary Disclosures: How, When and When Not to Provide Them
- Special Address by Brian Flood: Working with State Investigators: Benefits, Risks and Limits of Cooperation
- Strategies for Responding to Healthcare Fraud Investigations
- Negotiating Corporate Integrity Agreements in Case Settlements



WHO YOU WILL MEET

Healthcare Providers:

- ✓ Compliance Officers
- ✓ Audit Professionals
- ✓ Corporate Counsel

Private Practice Attorneys

Specializing in:

- ✓ Healthcare
- ✓ Healthcare Fraud & Abuse

- ✓ White-Collar Crime
- ✓ Government & Internal Investigations

MONDAY, MARCH 31, 2008

8:00 REGISTRATION OPENS AND
CONTINENTAL BREAKFAST

8:45 CO-CHAIRS' OPENING REMARKS



John E. Steiner, Jr.
Chief Compliance Officer
UK HealthCare (Lexington, KY)



Joseph V. Geraci
Partner, Health Care
Brown McCarroll LLP (Austin, TX)

9:00 **BEST PRACTICES FOR PREVENTING
FRAUD ALLEGATIONS: STRATEGIC
MEASURES TO ENSURE ACCURACY
OF MEDICARE/MEDICAID BILLING**

Moderator:



John E. Steiner, Jr., JD
Chief Compliance Officer
UK HealthCare
(Lexington, KY)

Panel:



Shawn DeGroot, CHC, CCEP
Vice President of Corporate Responsibility
Rapid City Regional Health (Rapid City, SD)

Carole A. Klove, RN, JD
Chief Compliance Officer & Privacy Officer
UCLA Medical Sciences (Los Angeles, CA)

With Medicare and Medicaid billing errors the basis of so many government investigations into healthcare providers, it is crucial that billing practices are kept as accurate as possible and minimize the potential for false claims. This panel of in-house Compliance Officers will provide strategic and practical methods for updating billing practices with the goal of reducing chances of committing errors that will lead to a government investigation into potentially fraudulent billing practices. You will also learn about tips for documenting the billing practices so that, if the institution does become the target of an investigation, the documentation is clean and you are ready to respond to requests.

10:15 COFFEE BREAK ☞

10:30 **PREVENTING AND DEFENDING FALSE
CLAIMS ACT VIOLATIONS IN HEALTHCARE
AND QUI TAM LAWSUITS**



Daniel R. Miller
Deputy Attorney General
Director, Delaware Medicaid Fraud Control Unit
(Wilmington, DE)



Ankur J. Goel
Partner, Health Department
McDermott Will & Emery (Washington, DC)
Former Federal Prosecutor, Department of Justice
Criminal Division, Fraud Section



Dean Richlin
Partner, Government Investigations
Foley Hoag LLP (Boston, MA)
Former First Assistant Attorney General
for the Commonwealth of Massachusetts

- The power of qui tam
- How to prevent employees from filing qui tam lawsuits
- What turns a compliance issue into a False Claims Act case
- Navigating the grey areas: scenarios that lead to a finding of 'reckless indifference'
- Assessing the potential for treble damages and civil money penalties
- Potential impact of proposed amendments to the Federal False Claims Act
- Who is protected by the Non-Retaliation provisions
- Effect of repayments on the investigation and prosecution
- Key strategies for defending False Claims Act investigations
- Handling allegations of fraud from terminated employees and their counsel
- Applicability of State False Claims Acts
- Examples of specific types of healthcare fraud prosecuted under the False Claims Act

11:30 **ENHANCING THE INTERNAL
AUDIT FUNCTION TO DETECT
POTENTIAL MISCONDUCT**



David C. Blake, PhD, JD
Vice President Corporate Compliance
Chief Compliance and Privacy Officer
Cedars-Sinai Health System (Los Angeles, CA)

- Conducting a rational risk assessment to identify areas of potential liability
- Utilizing employees to detect prospective risk areas
- Using the annual OIG Work Plan as part of the process of risk identification
- Quantifying and ranking areas of legal, financial, and public policy risk
- Implementing processes to mitigate identified risks
- Incorporating claim scrubbers and coding programs into the audit process
- Initiating a monitoring process for pre-submission claims review
- Maximizing the audit function to review submitted claims

12:30 **NETWORKING LUNCHEON FOR
DELEGATES AND SPEAKERS**



Special Address:



Michael J. Sullivan
U.S. Attorney
District of Massachusetts (Boston, MA)

1:45 SPECIAL ADDRESS: CONGRESSIONAL ACTIONS ON HEALTHCARE FRAUD



Mark R. Paoletta

Chair, Congressional and Corporate Investigations
Dickstein Shapiro LLP (Washington, DC)
Former Chief Counsel for Oversight and Investigations for the U.S. House Committee on Energy & Commerce

Prior to joining Dickstein Shapiro LLP in January 2007, Mr. Paoletta served as Chief Counsel for Oversight and Investigations for the U.S. House Committee on Energy & Commerce. During his ten-year tenure, Mr. Paoletta conducted numerous investigations in the healthcare industry leading to legislation that revamped the Medicare and Medicaid drug reimbursement system. Mr. Paoletta is the head of the Congressional and Corporate Investigations practice in the Washington office of Dickstein Shapiro LLP.

2:15 APPLICATION OF ATTORNEY-CLIENT PRIVILEGE IN HEALTHCARE FRAUD INVESTIGATIONS

Moderator:



Gabriel Imperato

Chair, White Collar Crime
Broad and Cassel (Ft. Lauderdale, FL)
Former Deputy Chief Counsel, Office of the General Counsel, United States Department of Health and Human Services

Panel:

Kirk Ogrosky

Deputy Chief for Health Care Fraud, Fraud Section, Criminal Division
U.S. Department of Justice (Washington, DC)



Matthew F. Tormey

Corporate Director of Compliance
Health management Associates, Inc. (Naples, FL)

Stephen C. Payne

Partner, Health Care Group
Sidley Austin LLP (Washington, DC)
Former Special Assistant United States Attorney for the Middle District of Georgia

This session will examine the context within which the application of the attorney-client and related privileges arise in health care fraud investigations. The panelists will discuss the application of the privilege in an internal investigation of organization misconduct, as well as during an external investigation by a state or Federal enforcement agency. The discussion will also include the recent history of the application of the attorney-client privilege in Federal enforcement actions with perspectives from both the Department of Justice and defense counsel. The panelists will discuss the originations of the Thompson/McNulty memo and its current status and the different ways to address the issue of waiver of privilege within the context of cooperation with law enforcement officials.

3:30 REFRESHMENT BREAK

3:45 RECOGNIZING AND RESPONDING TO POTENTIAL STARK AND ANTI-KICKBACK VIOLATIONS



Joseph V. Geraci

Partner, Health Care
Brown McCarroll LLP (Austin, TX)



Edward S. Kornreich

Co-chair, Health Care Law
Proskauer Rose LLP (New York, NY)

- Implications of Phase III amendments to Stark: the “stand in the shoes” rule and the recruitment and retention exceptions
- Recognizing the activities protected as inadvertent non-compliance
- Clarification of the rules regarding physicians in a group practice
- Significance of the Purchased Diagnostic Services Rules as amended by the Physician Fee Schedule regulations
- Examples of activities in violation of the Stark laws
- Status of Anti-Kickback issues
- When it may be prudent to obtain an advisory opinion from OIG

4:45 MINIMIZING THE RISKS OF USING JOINT DEFENSE AGREEMENTS



Hervé Gouraige

Partner, Co-group Leader, Litigation Department, Health Care and Life Sciences
Epstein Becker and Green P.C. (Newark, NJ)
Former Assistant U.S. Attorney for the Southern District of New York



Kathleen McDermott

Partner, Health Care
Sonnenschein Nath & Rosenthal LLP (Washington, DC)
Former Assistant U.S. Attorney and Health Care Fraud Coordinator for the District of Maryland

- Determining when a joint defense agreement is in your best interest
- Ensuring a thorough conflict check before entering into an agreement
- When erecting an ethical screen is not enough
- Key issues to consider when drafting the joint defense agreement
- Additional measures to take to avoid vicarious and group disqualification
- Avoiding accidental representation
- Combating an implied attorney-client relationship
- Steps to take in resolving undiscovered conflicts
- When is it necessary to reveal the existence of a joint defense agreement

5:45 CONFERENCE ADJOURNS FOR THE DAY

TUESDAY, APRIL 1, 2008

8:30 CONTINENTAL BREAKFAST

9:00 KEYNOTE ADDRESS

Donald H. Romano
Director, Division of Technical Payment Policy
Centers for Medicare and Medicaid Services
(Baltimore, MD)

Donald H. Romano is the Director of the Division of Technical Payment Policy, Center for Medicare Management, within the Centers for Medicare & Medicaid Services. Prior to assuming that position he was Senior Attorney in the Office of the General Counsel for the Department of Health and Human Services, where he handled various litigation, program policy and program integrity issues related to the Medicare program.

9:30 ENFORCEMENT PANEL: THE VIEW FROM THE OTHER SIDE

Moderator:



J. Scott Newton
Chair, Government Services
Baker, Donelson, Berman, Caldwell & Berkowitz PC
(Jackson, MS)
Former Special Agent, Federal Bureau of Investigation and Former Assistant U.S. Attorney, Southern District of Mississippi

Panel:



Christopher T. Godialis
Director
Connecticut Medicaid Fraud Control Unit
(Rocky Hill, CT)

Rick Lober
Director, Florida Medicaid Fraud Control Unit
(Tallahassee, FL)



Viveca D. Parker
Assistant U.S. Attorney
Eastern District of Pennsylvania (Philadelphia, PA)

Jamie M. Bennett
Assistant U.S. Attorney
District of Maryland
(Baltimore, MD)

11:00 COFFEE BREAK ☕

11:15 VOLUNTARY DISCLOSURES: HOW, WHEN AND WHEN NOT TO PROVIDE THEM



Gregory M. Luce
Co-Chair, Health Care
Jones Day (Washington, DC)
Former Assistant Attorney General
Commonwealth of Virginia



Carol A. Poindexter
Co-Chair, Health Law Industry
Shook Hardy & Bacon LLP (Kansas City, MO)



Frederick Robinson
Practice Group Head, Health Law
Fulbright & Jaworski L.L.P. (Washington, DC)

- Assessing the benefits of self-reporting based on the circumstances
- Maintaining control of the situation after providing a self-disclosure
- How to properly prepare a self-disclosure
- Evaluating the appropriate level of disclosure
- Deciding who to provide with the self-disclosures
- How to evaluate the likelihood of relief in the potential penalties

12:45 NETWORKING LUNCHEON FOR DELEGATES AND SPEAKERS



2:00 SPECIAL ADDRESS

WORKING WITH STATE INVESTIGATORS: BENEFITS, RISKS AND LIMITS OF COOPERATION



Brian Flood
Managing Director
KPMG Forensics
Former Inspector General
Texas Health and Human Services Commission

Prior to joining KPMG in August 2007, Mr. Flood served as the Inspector General for the Health and Human Services Commission of Texas. Mr. Flood testified before the United States Congress about the establishment of an independent OIG to oversee waste, abuse, and fraud activities for all Texas HHS agencies. Prior to his appointment in Texas as an IG he was a white collar crimes prosecutor for 9 years. Mr. Flood writes and speaks frequently on the subject of Medicaid fraud and abuse.

2:30 STRATEGIES FOR RESPONDING TO HEALTHCARE FRAUD INVESTIGATIONS

Cynthia O'Keeffe
Deputy Chief, Civil Medicaid Fraud Section
Antitrust & Civil Medicaid Fraud Division
Office of the Attorney General of Texas
(Austin, TX)



Susan V. Kayser
Partner, Health Law
Duane Morris LLP (New York, NY)

- Cooperating with investigators to minimize disruption of the investigation
- Understanding employees' rights and obligations during an investigation

- Apprising employees of their rights and obligations without appearing to influence witnesses
- Preparing employees for questioning by investigators
- Defending actions when quality-of-care is in question
- In-house executives and outside counsel cooperating to provide investigators with requested documents
- How and when to reveal an investigation to employees

3:45 REFRESHMENT BREAK

4:00 NEGOTIATING CORPORATE INTEGRITY AGREEMENTS IN CASE SETTLEMENTS



Janet S. Nolan
Counsel, Health Law
Fulbright & Jaworski L.L.P. (Washington, DC)
Former Assistant U.S. Attorney and
Civil Health Care Fraud Coordinator
for the District of New Jersey



Benjamin Vernia
Special Counsel, Health Care
Covington & Burling LLP (Washington, DC)
Former Federal Prosecutor, Department
of Justice, Criminal Division and Civil
Division, Fraud Section

- Making the case for limiting the scope of monitoring requirements
- Integrating existing compliance program elements into the CIA
- Preparing the organization to meet its obligations under a CIA
- Implementing the reporting requirements
- Easing the burden of monitoring and reporting requirements resulting from CIAs
- Renegotiation of the terms of the agreement

5:15 CONFERENCE CONCLUDES

WEDNESDAY APRIL 2, 2008 POST-CONFERENCE WORKSHOP

ENSURING THE EFFECTIVENESS OF YOUR COMPLIANCE PROGRAM IN LIGHT OF CHANGING REGULATIONS

9:00 AM – 12:00 PM
(REGISTRATION OPENS AT 8:30 AM)



John E. Steiner, Jr.
Chief Compliance Officer
University of Kentucky HealthCare (Lexington, KY)



Frederick Robinson
Practice Group Head, Health Law
Fulbright & Jaworski (Washington, DC)

In the current enforcement climate, the key to staying afloat is in the strength of the compliance program. In this interactive workshop, you will learn how to be proactive in the maintenance of a compliance program. Among the things that will be addressed is the best way to use the annual OIG Work Plan to conduct an internal audit of your compliance program and determine what your potential risks are before the government does. The expert panelists will guide you through practical steps for bolstering the compliance program including the following strategies:

- What to include in the internal compliance education of employees
- Distinguishing between what must be included and what should be included in employee compliance training
- Assessing the pros and cons of using consultants to conduct employee compliance training
- Drafting a Whistleblower Policy that encourages employee participation in detecting potential risks
- Establishing an open-door policy that encourages employees to report an issue without fear of retaliation
- Instilling a sense of confidence in the institution which promotes the feeling that the institution will act with integrity

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**Responding to & Managing Government Investigations
 of Medicare and Medicaid Providers**

**POST-CONFERENCE
 WORKSHOP**

Assessing the Effectiveness
 of Your Compliance
 Program in Light of
 Changing Regulations

Wednesday April 2, 2008

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ORGANIZATION _____

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