

PUBLICATION

Fraud and Abuse Enforcement Activities - A Key Component of Health Care Reform

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Significant developments occurring over the last six months reflect the government's commitment to increased fraud and abuse enforcement in the health care industry. Congress, the President, the Department of Justice (DOJ), the Health and Human Services (HHS) Administration and state enforcement authorities continue to raise the stakes by providing increased and expanded enforcement tools, resources and focus by senior leadership to recover Medicare and Medicaid funds lost to fraud. Through increased transparency, oversight and enforcement activities, the government is stepping up efforts to stem the loss of federal and state health care program dollars to fraud. As these dollars could be spent on needed health care services their recovery will be a key component of health care reform.

On May 20, 2009, the President signed into law the Fraud Enforcement and Recovery Act of 2009 (FERA), which was passed by both the House and Senate with overwhelming majorities. Although primarily targeted at fraud related to economic stimulus funds in the financial services industry, FERA made significant changes to the federal False Claims Act (FCA). These changes will expand the scope of FCA liability for health care providers, extend the FCA statute of limitations, provide new whistleblower rights and enhance the ability of enforcement agencies to pursue health care fraud cases. In addition, President Obama's Fiscal Year (FY) 2010 budget includes increased funding for fraud prevention and enforcement activities. The President proposes \$311 million be spent to strengthen Medicare and Medicaid program integrity activities.