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DOJ Attorneys Focus on COVID-19 Fraud, MA; More Cases Go to Trial

By Nina Youngstrom

Attorneys from the main Department of Justice (DOJ) who work in the health care arena say their departments are well staffed and taking aim at COVID-19 fraud, telemedicine, lab billing and Medicare Advantage. More cases are going to trial and data analysis is baked into the work of DOJ and the HHS Office of Inspector General (OIG), both to point them in the direction of a potential violation and to refute bad information.

“We are up to nearly 80 prosecutors,” said Allan Medina, chief of DOJ’s health care fraud unit, Nov. 9 at the Healthcare Enforcement Compliance Conference sponsored by Health Care Compliance Association.^[1] “For anyone who has worked with the health fraud unit, the idea of having 80 prosecutors is pretty significant. We have a heavy docket throughout the country.” That means about one-fifth of the prosecutors in DOJ’s Criminal Division, which is also responsible for violations like money laundering and computer crimes, is dedicated to health care fraud, said attorney Kirk Ogrosky, who moderated the session.

Medina attributed the increase to two major developments. First, significantly more cases are going to trial than five years ago. “The reason for that is a lot of cases we are charging involve complex schemes,” he said. “I have seen an evolution in the types of schemes” fueled partly by technology changes. “One provider in Chicago can potentially treat a patient in Florida.” On a related note, DOJ established a data analytics group about three years ago. While it has always used claims data, DOJ is analyzing other types of data as well, including insurance and financial data, cell phone records and emails relevant to health fraud cases. The second major development is greater collaboration with partners and the broadening of the scope of the health fraud unit to include other laws, such as the Eliminating Kickbacks in Recovery Act.

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