

## Report on Medicare Compliance Volume 27, Number 24. July 02, 2018 Broader Enforcement Puts Providers on Alert; Feds Use Travel Act, Payers Sue Providers

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By Nina Youngstrom

It sounds like something fun you do over the summer, but the Travel Act is deadly serious: It's a longstanding law that federal prosecutors have recently applied in health care cases, and a manifestation that health care organizations are facing new enforcement tools, sometimes outside the familiar realm of the False Claims Act and Stark Law, as well as private enforcement actions.

The government and commercial insurers are pursuing health care fraud, often using sophisticated data analytics, in different ways, attorneys say. Sometimes it's the ramped up use of the Travel Act, which comes from the Racketeering chapter of the federal criminal code. There also are more audits and/or investigations by state and federal government agencies, including TRICARE, workers' compensation programs and Medicaid managed care organizations, said Dallas attorney Sean McKenna, who spoke at a Health Care Compliance Association webinar on June 21. Meanwhile, the Department of Justice announced in early June that it is hiring more than 300 attorneys for all types of prosecutions.

"Providers need to include non-traditional government enforcement players in their compliance efforts," said Dallas attorney Brad Smyer, with Alston & Bird, who spoke at the webinar. "Historically, compliance has focused primarily on Medicare and Medicaid and that makes sense—they are primary risk areas. But we're seeing a lot more nontraditional enforcement. Those are things compliance programs may not traditionally touch on. We need to be better about including compliance officers and assessing those areas like any other claims."

This is driven partly by the government's success in traditional Medicare and Medicaid enforcement. "Health care enforcement has become a primary funding mechanism for a lot of government services, especially as Medicare and Medicaid have had success and use phrases like 'return on investment,'" Smyer noted. "I suspect other government agencies are taking note and upping their enforcement."

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