

# Report on Medicare Compliance Volume 31, Number 15. April 25, 2022 CMS Administrative Actions Are Added to National COVID-19 Fraud Takedown; PIM Is updated

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By Nina Youngstrom

CMS administrative actions against providers are a quieter part of the sweeping national enforcement action for alleged health fraud schemes related to the COVID-19 pandemic announced by the federal government April 20.<sup>[1]</sup> Administrative actions like payment suspensions and billing revocations should ring alarm bells because they happen much faster than civil and criminal cases and put a hold on a provider's Medicare reimbursement without appeal rights, an attorney said.

At the same time, an April 21 *Medicare Program Integrity Manual* (PIM) update "further demonstrates CMS's intention to act quickly in cases of suspected fraud," said attorney Judy Waltz, with Foley & Lardner LLP in San Francisco.<sup>[2]</sup>

The Department of Justice (DOJ) announced it has charged 21 people, including a cardiologist, nurse practitioner, hospital pharmacist, medical business owners and medical director of an urgent care center, in nine federal districts with various crimes that have a common theme: the specific fact patterns didn't exist before the COVID-19 pandemic.<sup>[3]</sup> For example, Ron Elfenbein, M.D., an owner and medical director of Drs ERgent Care LLC, d/b/a First Call Medical Center and Chesapeake ERgent Care in Maryland, was indicted on three counts of health care fraud for submitting false claims to Medicare and other insurers, the U.S. Attorney's Office for the District of Maryland said.<sup>[4]</sup> Elfenbein allegedly told employees of Drs ERgent Care to bill for moderately complex office visits (30 to 39 minutes long for established patients and 45 to 59 minutes for new patients) even though he knew that the visits were five minutes or less for some or all the COVID-19 testing patients.

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