

Report on Medicare Compliance Volume 32, Number 29. August 14, 2023 Physician Is Convicted in E/M Scheme Tied to COVID-19 Tests; Relief Funds Are a Target

By Nina Youngstrom

A Maryland physician was convicted of health care fraud for billing Medicare, the COVID-19 uninsured program (UIP) and other payers for medically unnecessary or upcoded evaluation and management (E/M) services in connection with COVID-19 tests, the U.S. Attorney's Office for the District of Maryland said Aug. 4.^[1]

Ron Elfenbein, M.D., owner of Drs ERgent Care, LLC, doing business as First Call Medical Center and Chesapeake ERgent Care, is the first physician convicted at trial by the Department of Justice (DOJ) for health care fraud caused by billing for office visits when patients were seeking COVID-19 tests. A jury lowered the boom after a three-week trial.

"There's a strong push within the department to criminally prosecute individuals who took advantage of various COVID relief programs," said attorney Anthony Burba, a former prosecutor in the fraud unit of the DOJ Criminal Division. COVID-19 relief funds factor in this case in terms of the UIP, which paid for COVID-19 testing, treatment and vaccines for people without insurance.

Elfenbein operated drive-through COVID-19 testing sites in Anne Arundel and Prince George's counties. According to the indictment, Elfenbein, through Drs ERgent Care, offered COVID-19 tests but required them to be bundled with E/M services that lasted 30 minutes or more and had moderate or high levels of medical decision-making—although the E/M services didn't happen as represented.^[2]

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