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MA Plans Face 'Headwinds' of DOJ Cases, OIG Strategic Plan, CMS Extrapolated Audits

By Nina Youngstrom

Two things stand out about the false claims settlement with Martin's Point Health Care—a Medicare Advantage (MA) plan—which agreed to pay \$22.4 million on July 31: one thing was the allegation that Martin's hired vendors to review charts for medical conditions that were the basis for additional codes never reported by physicians but used to get more money from CMS, and the other was the smaller size of the MA target, an attorney said.^[1]

"That's been a real vulnerability for Medicare Advantage plans—the use of vendors" to mine for risk adjustment codes, according to attorney Mary Inman with Constantine Cannon in San Francisco. "It's one of the biggest cautionary tales. Be very wary of vendors promising big things who are not talking about the importance of accuracy," Inman said Aug. 30 at the Collaborative Compliance Conference sponsored by the AAPC and the American Health Law Association.

And while the U.S. Department of Justice (DOJ) and/or whistleblowers "went after the big dogs" during the first wave of enforcement, "now we are in the second wave. Smaller plans are being hit," Inman said. Meanwhile, False Claims Act (FCA) cases are pending against the big names, including Cigna Corp.,^[2] Anthem, Inc.^[3] and Kaiser,^[4] and Sutter Health has already paid \$90 million to settle allegations it submitted unsupported diagnoses for enrollees to inflate MA payments.^[5]

FCA cases are only one aspect of the crackdown on MA plans. The HHS Office of Inspector General (OIG) on Aug. 28 unveiled its strategic plan for Oversight of Managed Care for Medicare and Medicaid, noting that half of Medicare enrollees were in MA plans last year.^[6] "This Managed Care Strategic Plan outlines risks in managed care and articulates OIG's goals to help address those risks," Inspector General Christi Grimm said in the opening. It promises more rigorous oversight of managed care plans and accountability for fraud, waste and abuse. "Managed care oversight and enforcement is among the most complex work that OIG performs," OIG noted.

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