

## ALERT

### Ruskin Moscou Faltischek's Health Law Capabilities

- Strategic Planning
- Corporate Reorganizations, Mergers and Joint Ventures
- Federal and State Regulation Compliance, including HIPAA
- Purchases/Sales of Hospitals and Practices
- Intellectual Property Issues
- Contracts – Managed Care, Insurance, Management and Employment
- Equipment Acquisitions
- Certificates of Need
- Professional Licensing and Disciplinary Proceedings
- Hospital and Physician Privilege Disputes
- Creation of Compliance Plans and Fraud Detection Systems
- Anti-Referral Law Counseling
- Formation of PCs and LLCs and Shareholder Agreements
- Defense of Medicare/Medicaid Investigations

For additional information on this or any health law-related issue, please contact RMF's Health Law Department co-chairs: Alexander G. Bateman, who can be reached at 516-663-6589 or abateman@rmfpc.com or Jay B. Silverman, who can be reached at 516-663-6606 or jsilverman@rmfpc.com



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### New Federal Crackdown on Medicare and Medicaid Waste and Abuse

President Obama recently signed a presidential memorandum in support of a renewed effort by the federal government to crack down on waste and fraud in Medicare, Medicaid and other government programs through the expanded use of payment recapture audits. This newly announced effort will also include the use of bounty hunters, known as RACs (Recovery Audit Contractors), who typically get to keep from 9 to 12 percent of the total amount they recover for the government.

Given this renewed focus by the federal government, together with incentives available to RACs, it should come as no surprise that doctors and hospitals will be subject to greater scrutiny in the coming months and years. Penalties for Medicare and Medicaid fraud can range from return of the monies improperly or fraudulently obtained to more significant penalties, including exclusion from participation in federal programs and jail time for major offenders. As a result, providers need to be cognizant of this federal crackdown and need to understand their rights and obligations.

### Integrity Provisions within the Patient Protection & Affordable Care Act

The Patient Protection & Affordable Care Act (PPACA) includes a number of new integrity provisions that you should be aware of, including a tougher screening process and additional disclosure requirements.

#### Tougher Screening

For providers and suppliers enrolling or re-enrolling in Medicare or Medicaid, the PPACA requires Health and Human Services (HHS) to determine the level of screening according to the risk of fraud, waste and abuse with respect to each category of provider or supplier. Should you be deemed to pose a special risk, you may be forced to submit to fingerprinting and criminal background checks and be subject to unannounced site visits. At a minimum, all providers and suppliers will be subject to licensure checks. Further, pursuant to the PPACA, we fully expect HHS to develop additional screening procedures within the next 6 months

#### Additional Disclosure

Additionally, you may not be aware that the PPACA will also require additional disclosure when enrolling or revalidating your existing enrollment. Effective one year after enactment of the PPACA, providers and suppliers are required to disclose current or previous affiliations with any provider or supplier that has uncollected debt, has had their payments suspended, has been excluded from participating in a Federal health care program or has had their billing privileges revoked. Enrollment may be denied on the basis of these affiliations. We will continue to bring relevant provisions of the PPACA to your attention and we advise providers and suppliers to become familiar with these important aspects of the newly enacted health care law as well.