



Why Are the Feds Willing to Pay the Cost of Fraud?

October 3, 2011 by Patrick A. Malone

Kathleen Sharp tells a good, if scary, story. In “Blood Feud: The Man Who Blew the Whistle on One of the Deadliest Prescription Drugs Ever,” she describes how two Big Pharma companies conspired to develop and market an anti-anemia drug despite evidence of devastating side effects.

In a recent op-ed in the New York Times, she argues that scarily rampant **fraud in health care** is partly the fault of the feds. The Obama administration announced plans to cut \$320 billion over 10 years from the projected growth of Medicare and Medicaid by raising premiums and deductibles, lowering payments to providers and requiring recipients of home health care to make co-payments.

But, Sharp asks, what if instead of charging consumers more and eliminating services, the focus was on diminishing the estimated \$100 billion that’s lost every year from these programs in the form of fraud? And the additional 150 billion fraudulent dollars collected in the rest of the health-care industry?

- Here’s how taxpayers are defrauded:

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- hospital chains buy drugs at steep discounts, then bill Medicare the retail cost;
- doctors bill for procedures never performed and drugs they receive free from pharmaceutical companies;
- pharmaceutical companies promote drugs for uses not approved by the FDA;
- laboratories pay kickbacks and/or offer discounts to doctors and hospitals that refer patients.

Individual cases of fraud would have more muscle, Sharp says, if the Justice Department moved front and center, rather than allowing individual state attorneys general to prosecute them. Although chronically understaffed, the department had more than 1,300 whistle-blower cases under investigation in the beginning of 2011; can anyone but the most dogged reporter track their progress? Two years ago, an additional \$198 million was appropriated to fight health-care fraud, and where did that go?

“The only way to tell if taxpayers are getting their money’s worth of fraud-fighting,” Sharp writes, “is for the Department of Justice to routinely publish, among other statistics on corporate fraud, a breakdown of the number of cases it opens and the number originating from whistle-blowers.”

So how would a more actuarial accounting of federal investigations boost successful prosecutions and fight fraud? The \$2.5 million recovered in health-care fraud cases in 2010 is peanuts, Sharp says, because even if cases are settled, Big Pharma writes it off as a cost of doing business: If it costs \$1 million to sell \$10 million in drugs, that’s a good return.

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