

# Health Care Enforcement Defense Group Alert: Fighting Health Care Fraud - This Time, It's Personal

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By [Jennifer E. Williams](#)

While the fate of a comprehensive overhaul of the nation's health care system remains uncertain, several recent initiatives have underscored Congress' and government enforcement agencies' common goal of eliminating fraud, waste, and abuse in the federal programs. In the past week alone, health care fraud has been the focus of both a national summit and a new bill, and health care fraud prevention and enforcement activities received a boost in the Fiscal Year 2011 (FY 2011) Budget unveiled by President Obama.

## National Summit on Health Care Fraud

On January 28th, Health and Human Services (HHS) Secretary Kathleen Sebelius and Attorney General Eric Holder convened a National Summit on Health Care Fraud. The summit marked the first time the public and private sectors had come together to share ideas on how to eliminate fraud and abuse in the nation's health care system.

In her opening address, Secretary Sebelius declared that the Obama administration has "zero tolerance" for health care fraud and stated that fighting and preventing fraud "is a personal priority of the President's and a personal priority of mine." Acknowledging the current economic climate, she noted that, "[w]hen American families are struggling to make every dollar count, we need to be even more vigilant about how their money is spent."

Attorney General Holder then highlighted the Department of Justice's 2009 accomplishments, which included a record number of health care fraud defendants charged (more than 800), more than 580 convictions, and civil health care fraud recoveries under the False Claims Act of \$2.2 billion. He outlined a five-point strategy for continuing the fight against fraud that included:

- strengthening the Health Care Fraud Prevention and Enforcement Action Team (HEAT)
- supporting and expanding the Medicare Fraud Strike Forces
- continuing to push for funding for fraud prevention and enforcement efforts
- working with Congress to identify and pursue legislative and regulatory reforms to prevent, deter, and prosecute fraud
- engaging the private sector in anti-fraud efforts.

The full text of Secretary Sebelius' and Attorney General Holder's remarks, as well as webcasts of the morning and afternoon sessions, may be found online at <http://www.stopmedicarefraud.gov/>.

## Grassley Bill

Also on January 28th, Senator Chuck Grassley (R-Iowa) introduced a [new bill](#) intended to fight fraud, waste, and abuse in the federal health care programs. The "Strengthening Program Integrity and Accountability in Health Care Act" (the Act) will look familiar to those who have been following the fraud and abuse provisions included in the health care reform bills passed by the House and the Senate, as many of the Act's provisions appear to have been lifted directly from the Senate bill. The bill includes provisions that would, among other things:

- strengthen provider and supplier screening requirements
- reduce the maximum period during which claims may be submitted from three years to one year
- enhance civil monetary penalties (CMPs) and expand the types of activities subject to CMPs
- increase funding to the Health Care Fraud and Abuse Control (HCFAC) program by \$10 million for the years 2011-2020
- require the return of overpayments within 60 days of discovery of the overpayment.

The fraud and abuse provisions included in the House and Senate health care reform bills, summarized by Mintz Levin [in a previous Advisory dated December 28, 2009](#), were well-received. Senator Grassley may therefore have introduced the Act in response to the possibility that Democrats will pursue a strategy of passing the most "politically popular" provisions of the health care reform bill. To monitor continuing developments in health care reform, please visit the [Health Care Reform: Analysis & Perspectives page on mintz.com](#).

## Fiscal Year 2011 Budget

On February 1st, President Obama unveiled the FY 2011 Budget. The \$3.83 trillion budget allocates \$911 billion to HHS in FY 2011, and dedicates \$1.7 billion to fraud fighting. This \$1.7 billion is expected to generate \$9.9 billion in savings from increased recoveries and prevention efforts and includes \$561 million in HCFAC discretionary funding—an increase of \$250 million over the FY 2010 enacted level—and \$52 million in discretionary funding for the HHS Office of Inspector General (OIG)—an increase of \$1.5 million over the FY 2010 enacted level.

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Health care fraud has become a high-profile issue, and the zealous enforcement efforts of government agencies and private parties will surely continue, and likely will increase. The increase in attention paid—and resources dedicated—to preventing, detecting, and prosecuting

health care fraud underscores the importance of maintaining a strong compliance program that prevents and detects fraud, mistakes, and other legal noncompliance within an organization.

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