

## Will Another Bounty Hunter Be Conducting Medicare Audits?



**(March 25, 2010):** Yesterday, the [White House](#) announced that President Obama intends to back additional bipartisan plans to stamp out waste in government-run medical programs for the elderly and needy. The White House said this new effort, which is being called nothing more than another bounty hunter program by its critics, is intended to root out improper payments in the Medicare and Medicaid programs could double taxpayer savings over the next three years to at least \$2 billion.

***“We cannot afford nor should we tolerate this waste of taxpayer dollars,”*** the White House said. The government believes that approximately \$54 billion was lost through improper Medicare and Medicaid payments in 2009. Medicare is the government-run program covering elderly Americans and Medicaid is for the country’s poorest. President Obama is seeking to crack down on waste and fraud as his administration strives to secure an overhaul of the \$2.5 trillion healthcare system to contain costs and expand coverage to tens of millions of more Americans. The action endorses Republican-backed proposals on alleged health care wrongdoers.

### **I. How Does the New Bounty Hunter Proposal Work?**

Similar to the current RAC reimbursement scheme, the proposed new bounty hunter type plan will offer private Medicare audit companies a share of the money that they recoup in order to encourage them to work harder to uncover improper payments under Medicare and Medicaid. President Obama is also expected to back bipartisan legislation to expand the ability of government agencies to undertake these so-called payment recapture audits by providing more funds. No additional information on how this will impact CMS was given.

### **II. What Steps Can Providers Take When Faced with Medicare Audits?**

As many health care providers will readily attest, over the past year, it appears that there has been a marked increase in PSC and ZPIC Medicare audits, almost all of which are accompanied by demands for extrapolated damages. Once again, this points to the importance of self-assessment and an effective compliance strategy.

This new Medicare audit risk will increase the likelihood that providers who have not been

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subjected to RAC or other Medicare audits in the past may now find themselves being examined by RAC-like auditors in the future. Coupled with existing PSC and ZPIC Medicare audits, sole practitioners, small practice groups and clinics will find their coding and billing practices under the spotlight. Unfortunately, based on recent cases we have handled, it appears that ZPICs are increasingly imposing their own views regarding what is required, well beyond the four corners of CMS-authorized provisions set out under LCDs and LMRPs covering the services at issue. Fortunately, when faced with the facts, ALJs have applied a reasonable approach and most of the claims at issue have been found to be payable. We recommend that health care providers carefully review their documentation practices to lessen the likelihood that a Medicare bounty hunter contractor and these new third-party reviewers can successfully argue that the claims don't qualify for coverage during a Medicare audit.



**Liles Parker Health Care attorneys have extensive experience representing providers in the appeal of post-payment Medicare audits by ZPICs and other Medicare contractors. Should you have any questions regarding these issues, don't hesitate to contact us. For a complimentary consultation, you may call Robert W. Liles or one of our other attorneys at 1 (800) 475-1906.**