

Former Doctor Sentenced to Prison for Health Care Fraud: A former physician from Illinois who had been convicted in Federal Court of falsely certifying elderly patients for in-home care has recently been sentenced to Federal prison and required to reimburse the government for \$1.5 million in losses which he was found to have caused. Banio Koroma was involved in a company named “Mobile Doctors USA,” which had contracted with physicians in Michigan, Illinois, Indiana, and elsewhere to provide in-home medical care. He was indicted in 2013 along with the company’s CEO, who pled guilty and was sentenced to 15 months in prison in May. The company went out of business following the indictments. The government initially alleged that the CEO had fraudulently billed Medicare some \$34 million under two CPT Codes with the highest reimbursement rates between 2006 and 2012, although this figure was subsequently reduced to \$1.8 million. In addition to his involvement in the Mobile Doctors scheme, while out on bond pending sentencing it was alleged Koroma had violated the bond by committing fraud by mailing phony checks to strangers. The Judge who sentenced Koroma stated that his prison sentence would have been longer but for his age (67), and that he would spend a total of forty (40) months in prison. In addition, he is to be subject to three years of supervision following his release, assuming Koroma, who is a native of Sierra Leone, is not deported first. Koroma’s attorney argued for leniency, pointing out the 15-month sentence passed upon the CEO and arguing that Koroma, who had lost his surgical privileges in 2008 and suffered from a gambling addiction, had been manipulated by the CEO. The Judge rejected this argument, pointing out that the CEO had repaid the \$1.8 million he had received and had accepted responsibility, while Koroma had not, although the sentence imposed was less than the five year sentence requested by the government.

Aetna Inc.’s Planned Merger With Humana Inc. Meets Additional Objections From DOJ: In the ongoing bench trial taking place before the Hon. John Bates, U.S.D.J. in the United States District Court for the District of Columbia, Case No. 1:16-cv-01494, the United States Department of Justice (“DOJ”) is challenging a proposed \$37 billion merger between Aetna and Humana. Aetna had sought to remedy the perceived anticompetitive effects of the proposed merger by selling off some 290,000 private Medicare Advantage plans to managed care company Molina Health, but an expert testifying for the government opined that this attempted remedy would not mitigate the merger’s anticompetitive effects. Lawton R. Burns, Ph.D., M.B.A., a health care professor at the University of Pennsylvania’s Wharton School of Business, testified that this divestiture will not serve to reduce the anticompetitive effects upon senior citizens which the DOJ claims the merger is likely to have. The professor testified that Molina is essentially a Medicaid company and thus would be unable to build a sufficiently large Medicare Advantage provider network in order to be competitive in the marketplace. Dr. Burns pointed out that Molina’s efforts to enter the Medicare Advantage market on its own had largely failed, as the high provider rates in its small-scale network resulted in a 95 percent medical cost ratio, leaving insufficient revenue for administrative costs and profits, pointing out that Molina now has only 424 enrollees in its Medicare Advantage network. The doctor opined that scale is important in order to maintaining competitiveness in the health care market, and that Molina is simply too small to be competitive.

Changes to New York’s Medical Marijuana Law Add a Qualifying Condition: The New York State Department of Health announced on December 1, 2016 that it will add chronic pain as a qualifying condition for medical marijuana. The Department of Health will develop a proposed regulatory amendment, which will include language specifying the chronic pain conditions that would qualify for medical marijuana. The proposed regulation will be published for public comment shortly. The law currently identifies the following severe debilitating or life threatening conditions: cancer, HIV infection or AIDS, amyotrophic lateral sclerosis (ALS), Parkinson’s disease, multiple sclerosis, spinal cord injury with spasticity, epilepsy, inflammatory bowel disease, neuropathy, and Huntington’s disease. However, in addition to having one of the aforementioned conditions, patients must also have one of the following associated or complicating conditions: cachexia or wasting syndrome, severe or chronic pain, severe nausea, seizures, or severe or persistent muscle spasms. For more information pertaining to the NYS Medical Marijuana Program, please see the program’s website at: http://www.health.ny.gov/regulations/medical_marijuana/practitioner/.

For more information on the above items, contact Kern Augustine, P.C. at 1-800-445-0954 or via email at info@DrLaw.com.



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