

## DOJ and Federal Law Enforcement Agencies Coordinate Efforts in Expanded Pursuit of Healthcare-Related COVID-19 Fraud

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### What You Need to Know

- The federal government is broadening its multi-agency law enforcement effort to address pandemic-related fraud beyond PPP-related cases to encompass alleged instances of healthcare-related COVID-19 fraud.
- The subjects and targets of these investigations and prosecutions include alleged bogus telemedicine encounters, falsifying COVID-19 vaccination cards, and the misuse of healthcare provider relief funds by medical professionals, manufacturers, distributors and others.
- Healthcare providers, healthcare business owners, and healthcare marketers and manufacturers should keep careful track of all billing practices, including those related to telemedicine, and should institute appropriate safeguards to ensure that COVID-19 relief funds are not being intentionally or negligently misused.

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In a previous Client Alert, we addressed the federal government's recently announced nationwide law enforcement effort to address the misuse of Paycheck Protection Program (PPP) loan funds and PPP loan fraud schemes.

The list of U.S. Department of Justice (DOJ) investigations and prosecutions has continued to grow and expand beyond PPP-related cases, however, with the DOJ now looking to cast a wide net around what it sees as healthcare-related COVID-19 fraud. To date, nearly two dozen defendants from across the U.S. have been charged for their alleged

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## Published Articles (Cont.)

participation in such schemes. Federal law enforcement agencies that are involved include, but are certainly not limited to, the Federal Bureau of Investigations Department of Homeland Security, the Department of Health and Human Services Office of the Inspector General, the Food and Drug Administration Office of Criminal Investigations, and the Postal Inspection Service. The DOJ's Director for COVID-19 enforcement, Kevin Chambers, has described these coordinated efforts as "extraordinary" with the purpose being "to prosecute some of the largest and most-wide ranging pandemic frauds detected to date."

The subjects and targets of these cases vary from alleged bogus telemedicine encounters, to falsifying COVID-19 vaccination cards, to misuse of relief funds, and from medical professionals to manufacturers and distributors, respectively. For example, in a case out of the Southern District of Florida, a medical professional was charged with healthcare fraud for allegedly billing bogus telemedicine encounters that did not legitimately occur during the pandemic. In another case out of the Northern District of California, a pharmacy director was accused of using actual vaccine lot numbers to falsify COVID-19 vaccination cards. In yet another case out of the District of New Jersey, a Postal Service employee was charged with conspiracy for allegedly participating in a scheme to distribute fraudulent COVID-19 vaccination record cards to unvaccinated people. Most recently, in the Middle District of Pennsylvania an individual was charged with knowingly creating and possessing an unauthorized COVID-19 vaccination card which bore an official government insignia, and in the Eastern District of North Carolina a lawyer pled guilty and was ordered to forfeit over \$2 million as a result of being involved in a fraudulent assistance loans scheme that funded her plastic surgery and several vacation homes, including one in Miami.

Additionally, charges have been brought against individuals for misappropriating the CARES Act Provider Relief Fund (PRF) monies meant to reimburse eligible medical providers for increased costs or lost revenue caused by the COVID-19 pandemic. For example, earlier this month in the Northern District of California, an individual who owned and operated healthcare and hospice companies pleaded guilty to theft of government property because of his misuse of PRF monies. In that case, the individual misappropriated nearly \$200,000 worth of allocated PRF monies for personal use rather than for its intended purpose – to ensure continued relief and access to medical care. Moreover, the Center for Program Integrity, as a part of the Centers for Medicare & Medicaid Services (CPI/CMS), has taken corresponding administrative actions against medical providers accused of such alleged wrongdoings.

### Next Steps

As outlined above, law enforcement actions to hold accountable instances of alleged healthcare-related COVID-19 fraud – and to deter further instances of the same – are being brought more frequently and are extensive in scope. Healthcare providers, owners and executives of medical businesses, physicians, and healthcare marketers and manufacturers should keep careful track of their billing practices, including billing for telemedicine, and should institute appropriate safeguards to ensure that COVID-19 relief funds are not being intentionally or negligently misused.

## Published Articles (Cont.)

It is essential to consult with legal counsel or other experts who can accurately assess whether there was sufficient compliance, what any potential exposure might be, and how, if necessary, to effectively address that exposure. If you are contacted by a law enforcement or regulatory authority regarding accusations or inquiries associated with healthcare-related COVID-19 fraud, or have other questions or concerns, please contact the authors of this Alert to discuss your specific circumstances. **Christopher D. Adams**

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