

# HCAA REPORTS

HEALTH CARE ADMINISTRATORS ASSOCIATION NEWSLETTER • SEPT/OCT 2007

*Reducing the Prevalence of  
Healthcare Fraud and Abuse:*

## The Challenge Facing Payers

BY ANDRIA JACOBS

RN, MS, CEN, CPHQ, CCP

Chief Operating Officer, PCG Software



The statistics are staggering. Of the four-billion-plus healthcare claims processed each year in the United States, representing nearly \$2 trillion spent annually on healthcare in this country, experts say that perhaps

five percent of all claims are fraudulent or abusive, meaning that providers have filed claims for work that was never performed, was performed solely to obtain reimbursement, or that they inappropriately coded claims or utilized services. If the total spent on healthcare in the U.S. annually is now approaching \$2 trillion, that five percent would add up to nearly \$100 billion a year in fraudulent or abusive claims. And some experts believe the percentage could be higher, perhaps even as high as ten percent of claims.

What does this quantity of fraudulent and abusive billing mean for the healthcare system and for society as a whole? Ultimately, it means that, in a world of finite resources, there is less money available to take care of patients. It means that health insurers and health plan members have fewer dollars to work with. This is not an abstract concern.

**PRESIDENT CONT. ON PAGE 3**

## President's Perspective

BY LINDA LUDWICK

*Mountain States Administrative Services*

*"First comes thought;*

*Then organization of that thought  
into ideas and plan;*

*Then transformation of those plans into reality.*

*The beginning, as you will observe,*

*is in your imagination." – Napoleon Hill*



Linda Ludwick  
2007-08 HCAA President

Our imagination is limitless! As a member of HCAA have you continued to imagine where our organization is going and has come from? This year our membership committee is driving to expand our membership nationally.

Our benchmark survey will be delivered to almost every TPA in the nation.

Our sponsors for the events we host each year are asking us for more opportunities at each event. All of these innovations come from an active board of volunteers. VOLUNTEERS!

Can you imagine what we can do in our own businesses if we apply the strategy that Napoleon Hill had? To take that a thought further, if we allow our employees to have the ability to IMAGINE! The power within our imagination is limitless. If you

share that power with the staff, you will find that your staff generates thoughts, ideas and plans that help to improve and grow your business.

We at HCAA commit to you, our members, the continued use of our imagination. We are working hard to create an excellent Forum agenda for February 7&8, 2008 at the Venetian. Our topics range from "Clients as Partners" to "What's happening to your bottom line?" We will be providing a legal update and will address current PPO and PBM topics. Our agenda should be up on the web site as early as next week, but at least in the next couple of weeks. Mark your schedule to save the date!

*"Let your imagination release your  
imprisoned possibilities." – Robert Schuller*

Think outside of the box to keep the TPA industry on the cutting edge of health care administration. Those of us at HCAA will join you and appreciate your support and your IMAGINATION!

As a side note, some organizations have started to call their meetings "TPA University". The TPA University has been a HCAA event for over five years now. DON'T BE FOOLED into to thinking that if you see "TPA University" that the quality of the meeting will be that of an HCAA event! Our "HCAA TPA University" will be held in July 2008 (in San Francisco) watch for further details soon!

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**2008 SPONSORSHIP OPPORTUNITIES NOW OPEN! TURN TO PAGES 9-10**

# HCAA REPORTS

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# Reducing Healthcare Fraud and Abuse

CONTINUED FROM PAGE 1

Many health plan members have lifetime limits on their healthcare coverage—an individual may have a \$1 million limit, so if one dollar is lost, that dollar will not be available later on. A neighbor of mine, a 50-year-old woman who is not an alcoholic, went into liver failure, and suffered cardiac arrest and respiratory arrest, and spent nearly a year in the hospital, at a cost of \$2.5 million. Fortunately, she had unlimited lifetime benefits, but this is not the case for many others.

As a nurse, I spent many years working in an integrated healthcare system. And I saw with my own eyes how sub-optimal billing methods and procedures can lead to a reduction in the resources available for patients. And as a nurse specializing in the care of geriatric patients, the aged, blind and disabled, I wanted every penny possible to be available for the care of those patients. So for me, the consequences of fraud and abuse have always been very personal.

## THE CONTINUING CHALLENGE AND POSSIBLE SOLUTIONS

I'm well aware that most healthcare providers do not bill with the intent to fraudulently increase their reimbursement or pad their accounts receivable. Let's face it: billing is not easy. There are thousands of rules and thousands of codes, and there has always been a shortage of highly qualified healthcare coders. In addition, all the rules and codes change regularly, sometimes more than once a year. In many cases, improper billing occurs simply because a provider's office has not kept up with all the coding changes and payers' revised

recommendations.

Still, real fraud does occur. In one highly publicized recent case, many patients were flown from across the country to clinics in Southern California, where they were given tests and diagnostic procedures they did not need. In another case, millions of dollars were spent in Harris County, Texas on powered operated vehicles for patients who never saw a clinician and who did not meet the medical necessity criteria to qualify for the equipment. In fact, since the inception of the Medicare and Medicaid programs, over 37,000 providers and individuals have been sanctioned by or excluded from those programs.

Given the desire on the part of the vast majority of providers to submit legitimate, clean claims and receive rapid reimbursement in return, and the desire on the part of insurers to pay legitimate claims promptly and in a streamlined way, what can be done to solve these challenges facing the industry? The good news is that the percentage of managed care organizations adopting proactive strategies is increasing. And those organizations adopting such strategies are making use of new or evolving tools in the struggle to master the fraud and abuse challenge. In fact, the managed care industry is moving in accelerating numbers toward automated solutions that will help to identify and curb fraudulent and abusive claims.

What elements will be needed in the systems to be developed? While the implementation of automated claims adjudication systems has drastically improved upon the use of older, manual claims review processes, these systems have not proven effective in identifying

unclean claims, code exceptions, outliers and abusive billing practices. Among the elements that will be needed going forward will be the augmentation of existing claims adjudication systems with enhanced editing software that monitors the internal claims process, as well as allowing payers to customize edits by provider and line of business. Solutions to contain cost will also need to be able to evaluate claims for third-party liability/coordination of benefit recoveries, case management opportunities and physician billing education needs. In fact, the augmentation of existing claims adjudication systems with cost containment solutions can act as an effective anti-fraud and recovery program that directly affects health insurance and employer/employee costs.

The identification of bad billing practices is really the responsibility of all the stakeholders involved in the claims process – not just the provider's. Will health insurers move forward decisively to take advantage of the new automated solutions available to them, solutions that are evolving forward every day? The ability of the healthcare system to be able to sustain the resources necessary to support society's growing healthcare needs may well depend on the answer.

*Andria Jacobs, RN, MS, CEN, CPHQ, CCP is chief operating officer of PCG Software, a Malibu, California-based provider of comprehensive software tools that contain cost through more accurate and efficient claims adjudication and code review for national and regional health plans, independent physician associations, and third-party administrators.*

## New HCAA Members-Only Benefit

Members Only List Serv Now Available!

HCAA is pleased to announce a new members-only benefit for HCAA members. As of January 1, a members-only List Serv has been launched and is an opportunity for



members to network with other TPAs to ask questions related to running their business. The purpose of the new list serv is to provide a forum for members to inform, educate and engage one another to enhance the TPA profession. It's a place to find the newest ideas and best insight on various topics related to TPAs.

This great new benefit will also allow contributions shared with the group to be learning opportunity for everyone who subscribes. Think of this as an ongoing roundtable discussion.

**Sign up now for this new members-only benefit by visiting [www.hcaa.org](http://www.hcaa.org)**



## HCAA Members

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## NEWSBYTE

September 2nd, QVI Risk Solutions celebrated its 4th anniversary. The office is currently undergoing reconfiguration to accommodate the growing staff. QVI's growth is primarily in their remote (back-end) claim and health plan processing divisions.

The Phia Group, LLC as well as its partner law firm, The Law Offices of Russo & Minchoff, are honored to be listed in the 2008 A.M. Best's Directory of Recommended Attorneys, Adjusters and Expert Service Providers.

### ON THE MOVE...

HCAA Board Member Brian D. Vervynck is in a new position serving as Vice President of Sales for Allmed Healthcare Management Inc. AllMed provides independent medical reviews that help insurance payers and claims managers control healthcare costs. Brian's new contact information is:

Brian D. Vervynck  
Vice President of Sales  
AllMed Healthcare Management, Inc  
Office: 800-400-9916  
Cell: 425-457-6387  
brian@allmedmd.com  
www.allmedmd.com

James M. Haidet is now serving as the Regional Vice President of Sales for MemberHealth Inc., a national pharmacy benefits company. Jim's new contact information is:

James M. Haidet  
Regional VP Sales  
MemberHealth Inc.  
Office:(925) 208-1016  
Cell:(216) 346-0143  
jhaidet@mhrx.com

HCAA Board Member Nancy Young, RHU announces the opening of Integrated Solutions for Benefits & Insurance Services with focus on assisting employers manage their group employee benefit programs. As an insurance broker/consultant, Nancy has aligned herself with TPAs providing unique solutions to self funded health plans. Nancy's new contact information is:

Nancy Young, RHU  
Integrated Solutions for Benefits  
& Insurance Services  
2279 Eagle Glen Parkway, Suite 112-122  
Corona, CA 92883  
951.479.1680 Office; 951.403.2491 Cell  
951.737.2345 Fax  
Lic. 0681653  
www.integratedsolutionsforbenefits.com  
Email: nancy.young@is-benefits.com

## Join a Committee!

### Continuing Education (Chair: Carol Berry, PCG Software)

The continuing education committee oversees the continuing education approval process for the Executive Forum and the TPA University. In addition, the CE committee will be developing two programs to support the growth of the self-funded industry in the area of broker education and employer education.

### Communications (Chair: Brad Gossen, EBA&M)

The communications committee is responsible for overseeing the publication of HCAA Reports and the administration of the website (www.hcaa.org). Their goals in the coming year include reviewing the newsletter for opportunities to enhance its content and design, developing an educational component for the website, and developing a contact survey for the members.

### TPA University Committee (Chair: Debi Hardwick, Coastal TPA)

The TPA University Committee will be planning the content of the 2008 conference which will be held July 16-18 at the Hotel Nikko in San Francisco.

### Sponsorship Committee (Chair: Dolores Green, Foundation Administrative Services)

The sponsorship committee designs and develops a comprehensive sponsorship campaign that includes sponsorship opportunities for both the annual Executive Forum and the TPA University. The committee's goals for the upcoming year include evaluating the current sponsorship program, surveying the current sponsors, and formalizing a package for the 2008 sponsorship year.

**If you are interested in joining a committee, contact Jaime Nolan at [jnolan@hcaa.org](mailto:jnolan@hcaa.org)**

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## LEGAL NEWS

# Subrogation Provisions – Look at Them Once In a While

BY ADAM V. RUSSO, ESQ. *The Phia Group LLC*

It seems like every week I work on an extremely promising subrogation file with a chance to recover 100 percent of the plan's money only to feel disgusted after reviewing the subrogation and reimbursement provision in the plan document. Why do so many plans make it so difficult for me to recover their money? Why not include the latest and best recovery rights to ensure that plan assets are protected? Maybe it is because people just do not care about subrogation. That must be why every subrogation provision is located around page 75 in the plan document!

There is a lack of subrogation knowledge in the self-funded industry. Too many administrators believe that subrogation is an irrevocable right, but that just is not the case. To protect a plan's assets, you have to have strong and clear reimbursement provisions ensuring the plan's ability to recover funds under state and Federal law.

In my experiences, I have found a common scenario regarding a plan's extreme interest in subrogation. The only time that a plan wants to arrange a conference call with their lawyers, brokers, administrators, and friends is when there are hundreds of thousands of dollars in claims paid by the plan and everyone involved wants me to recover 100 percent of the money. When I explain that their subrogation provision has not been updated since 1985 and that the attorney for the patient has requested a copy of the plan document in writing, they begin to ask for new, updated language. The problem is that the plan provisions at the time of the accident, or at least when the claims were paid, is the language that will be in effect. New language that I had recently

drafted cannot be applied after the fact. Faced with this scenario, I explain that the chance to recover 100 percent in this particular large dollar case may be gone. We need to have plan administrators recognize the importance of subrogation provisions, not only after experiencing a large bill that cannot be recouped, but right now, so that we can ensure proper plan rights for the future.

Personal injury lawyers have plenty of state and Federal case law at their disposal to diminish a plan's right to recovery. These include the "made whole" rule, the "common fund" doctrine, anti-subrogation statutes, and collateral source rules. Many states have adopted a "made whole" rule that discriminates against health insurers. This doctrine provides that a plan is not to be reimbursed unless the injured person is first made whole as to their damages. Guess how often personal injury lawyers admit that their clients have been made whole? In my years of practice, I have never seen it. To the extent that the patient is not made whole in the case, the health plan's right to subrogation is reduced or eliminated. Without proper subrogation language, there is no possible way to combat this argument. A plan document with updated subrogation and reimbursement rights gives us the upper hand. Hundreds of millions of dollars are lost by health plans each year because their language is not based upon the most recent case law.

So what exactly does plan language need to give you the best chance of winning your case? It is vitally important to have specific language stating that the plan has a full right to reimbursement regardless of whether the plan participant

has been made whole. The plan must also have specific language stating that the common fund doctrine will not apply. In order to maximize recovery dollars, the plan's benefits should be excess to any other coverage. Specify every type of insurance that the plan can be excess to in a subrogation opportunity – examples are medical payment coverage, no-fault coverage, uninsured or underinsured motorist coverage, worker's compensation, and school insurance coverages. Penalties must be in place to ensure that plan provisions are not violated. Offset provisions have become more common over the years. These provisions state that the failure to comply with a subrogation provision will result in a forfeiture of future medical claim payments.

The message that I hope to express in this article is simple – open up a random plan document and turn to page 75. If your subrogation and reimbursement provisions look like they have not been read or reviewed in a while, then have an expert take a look at it – it will save you and your clients hundreds of thousands a year in claim costs.

*Adam V. Russo, Esquire is co-founder of the The Phia Group LLC., a claims recovery subrogation company, based in Braintree, MA. Mr. Russo can be contacted at arusso@phiagroup.com or 781-535-5678. The contents of this document are not deemed to be legal advice. Specific facts and circumstances should be reviewed and analyzed by your in-house legal counsel, as well as any individual self-funded welfare benefit plan and its legal counsel, in light of specific facts, circumstances, SPDs, subrogation, reimbursement and/or set-off provisions and specific state and federal laws and regulations.*



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## HCAA Board of Directors Welcomes Todd E. Archer as a New Director



**Todd E. Archer, President & CEO**  
Mutual Assurance Administrators, Inc.

Todd is a native of Tennessee where he graduated from Jackson Central Merry High School, and then from the University of Tennessee with a Bachelor of Science Degree in Business Administration. He then successfully completed a management training program with Integon Life Insurance Co. in Winston-Salem, North Carolina. After completing the program, he was assigned a Group Representative position in Memphis, Tennessee.

In 1983, Todd accepted a position with Safeco Life Insurance Company where he held numerous positions

culminating in his managing the marketing and underwriting of their Medical Excess Loss, Life and Disability products for the Regional Office in Dallas, Texas. Todd joined MAA in 1990 as Vice President of Marketing. In 1996, his responsibilities were expanded when he was named MAA's Executive Vice President, and he has served as MAA's President since 2002.

With MAA, Todd has served as a panelist for national conferences on Medical Stop-Loss and Self-Insurance; as a guest lecturer at the University of Central Oklahoma on the topic of employee benefits; on the Board of Advisors for the Oklahoma City Chamber of Commerce, and served on a TPA Advisory Council for the Oklahoma State Department of Insurance. He is involved in numerous community service activities including being a graduate of Leadership Oklahoma City, a member of the Downtown Oklahoma City Rotary Club, and is a member of the Rebuilding Together Board of Directors.

## 2007 Benchmarking Survey Coming Soon!

As part of our ongoing commitment to promoting education, information and exchange of ideas, HCAA administered the first annual benchmarking study for all HCAA members in January 2007. This survey reached out to TPAs across the country to collect data related to 2006 productivity, staffing, and sales performance. The survey was completed by 55 companies and helped us gather trend data and compile it to create industry standards.

Be sure to watch for the 2007 study which will be coming out in January 2008. Remember! Survey results are available to participants only. Information we will be requesting includes your TPA's 2007 general financial information, productivity and staffing numbers and sales performance. We ask you to prepare this information in advance, as it will be very helpful in facilitating a faster survey completion. We appreciate your participation as we work together to promote best standards in the TPA industry!

## An Update from the Continuing Education Committee

The CE committee is making quite a bit of progress. We have completed a survey for brokers about having a self-funding CE course. The initial responses have been very favorable. It is envisioned this would consist of several training courses, each obtaining Life and Health CE credits, cumulating in the award of a self funded / ERISA certification. There appears to be agreement among brokers that there is a need. We are designing

the program so that there will be several courses, each receiving CE credits, and once all have been completed they will earn a designation. We are interviewing some educational firms to see who would be best to partner with to develop the courses. There is tremendous excitement in the benefit community about this program. For more information, contact Carol Berry at [cberry8@sbcglobal.net](mailto:cberry8@sbcglobal.net) or Dave Reynolds at [Dreynolds@capitolAdm.com](mailto:Dreynolds@capitolAdm.com)

## WELCOME NEW MEMBERS

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Corona, CA 92883  
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# Standard Stop-Loss Employer Disclosure Form Endorsed

As reported in the Sept/Oct 2005 issue of HCAA Reports, the Self Insurance Institute of America (SIIA) and the Society of Professional Benefit Administrators (SPBA) met to develop a system to “standardize” the disclosure reporting process, with the objective that all insurers would come to accept the reporting system/form as an industry standard. As a result, they have endorsed a standardized stop-loss disclosure form, which also includes ICD-9 codes. The documents are intended to help facilitate the sharing of health data information between self-insured entities/TPAs and stop-loss insurers/MGUs for the purpose of medical stop-loss underwriting.

HCAA Reports will begin running a recurring notice in each issue of the Stop Loss Carriers and MGUs that have adopted the Standardized Form. If your company has adopted the form, please contact Jaime Nolan at [jnolan@hcaa.org](mailto:jnolan@hcaa.org)

## STOP LOSS CARRIERS AND MGUs ADOPTING THE STANDARDIZED FORM:

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<ul style="list-style-type: none"> <li>• One discounted registration fee*</li> <li>• Marketing slip in event binder, if supplied</li> <li>• Appear on signage at event</li> </ul>	<ul style="list-style-type: none"> <li>• One discounted registration fee*</li> <li>• Back cover used as advertising using slip sheet, if provided</li> <li>• Appear on signage at event</li> </ul>
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<ul style="list-style-type: none"> <li>• One discounted registration fee*</li> <li>• Marketing slip in event binder, if supplied</li> <li>• Appear on signage at event</li> </ul>	<ul style="list-style-type: none"> <li>• One discounted registration fee*</li> <li>• Marketing slip sheet in event binder, if supplied</li> <li>• Appear on signage displayed at breakfast</li> </ul>

\*Discounted registration fee is equal to 50 percent off the member/non-member (as applicable) registration fee for the conference selected.



## 2008 HCAA SPONSORSHIP OPPORTUNITIES

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Title: \_\_\_\_\_

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