

A Pattern of ‘Upcoding’ at North American Health Care

Skilled nursing facilities operated by North American Health Care, Inc. (NAHC) may be defrauding the Medicare program by **tens of millions of dollars a year**, representing what could be the largest ever nursing home Medicare fraud. SEIU examined Medicare claims and hospital acuity measures to assess the appropriateness of skilled nursing facility (SNF) billing and found NAHC to be the likely industry leader in “**upcoding**,” a known practice in which SNFs inappropriately classify Medicare patients into higher paying categories than justified by federal regulations, typically by falsifying records and/or providing medically unnecessary services. These findings could become early proof of the Medicare cost savings President Obama has identified as possible through the reduction of waste, fraud, and abuse—this case alone amounts to nearly \$100 million over the last seven years and the government could potentially recover more than three times that in damages and penalties.

Specifically, the SEIU research found:

- **NAHC has the nation’s highest level of suspicious SNF billing:** A nationwide analysis of more than 11,000 SNFs reveals *NAHC operates 21 of the 30 facilities* with the highest percentage of Medicare resident days in two of the highest paying Medicare therapy reimbursement categories, “RUC” and “RUX”. Overall, NAHC facilities place 67% of their Medicare days in these most lucrative categories, while the national median is just 5%.
- **A suspicious pattern repeated at every NAHC facility:** Every NAHC facility is at or above the 97th percentile of all SNFs in the nation in their use of these high paying rehab therapy categories. In addition, the percentage of Medicare days in these categories skyrocketed at two facilities after they were acquired by NAHC, with one facility increasing from just 3% prior to the ownership change in 2006 to 90% in 2008, the highest rate of any SNF in the country.
- **A successful investigation could generate significant recoveries:** NAHC’s aberrant billing generates higher costs for Medicare estimated at \$27.2 million in 2008 alone and \$98.7 million over the last seven years, which is the amount beyond what other SNFs receive for treating similar residents. A successful prosecution under the False Claims Act could add treble damages and significant penalties to the government’s potential recovery. This could amount to the largest ever nursing home fraud recovery and begin to deliver on President Obama’s promise of finding cost savings through reducing waste, fraud, and abuse.

The company: NAHC is a private, for-profit skilled nursing facility management company. Headquartered in Orange County, CA, NAHC operates 35 facilities: 29 in CA, four in WA, and one each in AZ and UT. Individual facilities are organized as separate corporations with ownership links evident only at the officer level. In many cases NAHC officers also control LLCs that own facilities’ real estate and lease it back to NAHC. NAHC’s California facilities are highly profitable, with average 2008 operating margins of 15.6%, more than three times the state average of 4.7% for all for-profit nursing homes. Individual NAHC facilities reported margins as high as 27.4%.

Potential settlements* for apparent NAHC upcoding, 2004-2008:

- Value of Overpayments: \$89.0 million
- Double Damages: \$177.9 million
- Treble Damages: \$266.9 million

*Note: Under the False Claims Act, the federal government may also assess penalties of \$5,500 to \$11,000 per claim. We estimate NAHC facilities submitted tens of thousands of suspicious claims to the Medicare program between 2004 and 2008.