

## Part B Insider (Multispecialty) Coding Alert

### Fraud and Abuse: Program Safeguard Contractors Create Havoc for Physicians

#### Now an extra hand stirs the pot, but are the watchdogs talking to each other?

If you thought your Part B carriers were making your life complicated by themselves, you could be in for a surprise.

The Centers for Medicare & Medicaid Services has been ramping up a new set of contractors in charge of fighting fraud and abuse. In many cases, these providers will work alongside your carrier. And in quite a few cases, these Program Safeguard Contractors may be the same entity as your carrier, but with different rules and procedures.

"It seems like there's a little bit of confusion sometimes as to who you're dealing with," says attorney **Chris Crosswhite** with Duane Morris. It's bad enough that physicians sometimes find themselves dealing with the durable medical equipment regional carriers. Now you have another set of contractors in the mix. "The Web sites are helpful, but it's still confusing as to what the relationships are," Crosswhite says. "I don't see that reported in a cohesive, organized fashion by CMS."

"It is a nightmare," says attorney **Alice Gosfield** with **Alice Gosfield & Associates** in Philadelphia. "We got one case recently where we couldn't get straight who had authority for which part of the process."

Not only was her client subjected to a dizzying array of prepayment review, payment suspension and postpayment audits, but the PSC and the carrier were practically the same entity with a split personality. The PSC was Tricenturion, a joint venture that included the Part B carrier, Trailblazer Health Enterprises. Tricenturion received a number of Medicare integrity contracts in 2002 and 2003.

Gosfield's client's case was split between Tricenturion and Trailblazer, and often the same personnel would go back and forth between the two entities. "We'd get correspondence and say, 'Which hat is she wearing?'" Gosfield says. The Tricenturion and Trailblazer offices appeared to be in the same complex. "It was unbelievably confusing," Gosfield adds. The letters her client received were non-communicative, and it was hard to tell who had authority. The only way to get a straight answer was to talk to the attorneys at the carrier and PSC.

In the end, Gosfield's client was able to get the payment suspension and prepayment audits lifted, but still ended up owing \$300,000 in a postpayment audit. The client, a podiatrist, was accused of seeing patients in a skilled nursing facility without communicating with the attending physician, a requirement that doesn't apply to patients in outpatient settings.

It was hard to tell where to appeal the \$300,000 overpayment, Gosfield says. "It depends how it plays itself out and who has the authority. We ended up getting a fair hearing at the carrier."

But some attorneys say the rise of the PSCs hasn't really changed anything. "The carrier had their fraud units, so it's the same," says **Diane Signoracci**, healthcare attorney with **Bricker & Eckler** in Columbus, Ohio. The PSCs are still not as aggravating as the HHS Office of Inspector General or the Department of Justice.

"My basic view is working with the carriers alone is so bad that it's not that much marginally worse," says attorney **David Glaser** with **Fredrickson & Byron** in Minneapolis. "There are more places in there where things can get screwed up," and more opportunities for the contractors to make up rules and refuse to budge on them. But "I haven't yet run into cases where the carrier and the PSC were taking radically different positions," Glaser says.

