

Part B Insider (Multispecialty) Coding Alert

In other news

If your company undergoes a HIPAA investigation, will your directors and officers insurance policy cover the costs? Maybe or maybe not.

Drug-testing company **Millennium Laboratories Inc.** is facing just such a problem. The lab has sued its liability insurer **Allied World Assurance Co.** (AWAC) for attempting to get out of covering Millennium's defense costs related to a HIPAA investigation by the **U.S. Department of Justice** that began in early 2012, Law360 reports.

Millennium and AWAC have each filed motions for summary judgment. Millennium argued that AWAC should pay out its \$5 million directors and officers insurance policy to cover the laboratory's defense costs, Law360 explained. But AWAC stated that certain conditions and exclusions in the policy bar coverage for the HIPAA investigation, and even if not barred entirely the coverage would be subject to a \$100,000 sublimit of liability.

Nevertheless, AWAC has already advanced the \$100,000 to Millennium, which is supposed to cover claims for regulatory wrongful acts. But AWAC refuses to pay out the rest of the policy because it alleged that the DOJ investigation doesn't qualify as a coverage "claim," and that the coverage is barred because the laboratory had already been on notice of prior actions before the AWAC policy took effect, according to Law360.

The case is: Millennium Laboratories Inc. v. Allied World Assurance Company (U.S.) Inc., Case No. 3:12-cv-02280, U.S. District Court for the Southern District of California.