

Eli's Rehab Report

Industry Notes

Therapists Agree to Settlement in Qui Tam Suit

Submission of false claims for non-reimbursable rehabilitation therapy services has led to a monetary penalty for the owners of Fairfax, Va.-based skilled nursing facility **Fairfax Nursing Center (FNC)**. They have agreed to make a settlement of \$700,000 to resolve allegations of violation of the False Claims Act which arose out of a lawsuit filed by two former FNC therapists and one former contract therapist under the qui tam, or whistleblower provisions, according to a Feb. 16 **Department of Justice Office of Public Affairs** press release.

"The settlement resolves claims that FNC provided excessive, medically unnecessary, or otherwise non-reimbursable physical, occupational, and speech therapy services to 37 Medicare beneficiaries serviced by FNC between January 2007 and December 2010," according to the release.

"Today's settlement is another example of the Department's efforts to hold skilled nursing facilities accountable for the rehabilitation therapy services they deliver to some of the most vulnerable in our society," said **Stuart F. Delery**, principal deputy assistant attorney general for the Civil Division of the Department of Justice in the release. "The provision of excessive and medically unnecessary therapy services will not be tolerated."

Home Care Therapy Could Save Medicare Money

A new study backs up the home care industry's assertions about therapy services. Law- and policymakers looking to cut home care funding could be shooting themselves in the foot, the study suggests.

Long-stay home care patients who received physical and/or occupational therapy were more likely to show functional improvements and less likely to be institutionalized, compared to patients who didn't receive therapy, says the study published in the February issue of the Archives of Physical Medicine and Rehabilitation.

The study observed nearly 100,000 clients who had deficiencies in IADLs or ADLs in Ontario, Canada from 2003 to 2008.

Conclusion: "Our findings suggest that investment in Physical and Occupational Therapy services for relatively short periods may provide savings to the health care system over the longer term," according to the study's abstract, available online at [www.archives-pmr.org/article/S0003-9993\(13\)00100-7/abstract](http://www.archives-pmr.org/article/S0003-9993(13)00100-7/abstract).

Can You Still Send Unencrypted Emails Under HIPAA Rule?

Don't be confused about whether changes to the HIPAA privacy rule bar sending unencrypted emails. You still can in some cases. The HIPAA rule published on Jan. 25 extended the HIPAA regulations to business associates (including any contractors your practice uses), and they must be in compliance by Sept. 23. However, the encryption standards have not changed, said **Leon Rodriguez** of **HHS's Office of Civil Rights** during a Jan. 29 **Centers for Medicare & Medicaid Services** Open Door Forum.

If you're communicating with the patient in this manner, "you do need to take appropriate security precautions," Rodriguez says. While there are basic guidelines in the regulation as to what those precautions are, there's more than one way to do it. "However, an unencrypted email would ordinarily be at a level of risk of inappropriate disclosure that would be inconsistent with the HIPAA security requirement, and therefore it would be ill-advised."

CMS Helps Ensure Your Mobile Devices Are HIPAA-Compliant

Many practices have adapted to using mobile electronic devices such as tablets, laptops, and smartphones to help maintain patient records. But with new technology comes new concerns about ensuring that protected health

information (PHI) stays private. The **Department of Health and Human Services** (HHS) aims to help you secure that information with the release of a new initiative called "Mobile Devices: Know the Risks. Take the Steps. Protect and Secure Health Information."

"The use of mobile health technology holds great promise in improving health and health care, but the loss of health information can have a devastating impact on the trust that patients have in their providers. It's important that these tools are used correctly," said **Joy Pritts**, HHS' **Office of the National Coordinator for Health Information Technology** (ONC) chief privacy officer in a Dec. 12 statement. "Health care providers, administrators and their staffs must create a culture of privacy and security across their organizations to ensure the privacy and security of their patients' protected health information."

According to the new publication, you can take steps such as encryption, passwords, firewalls, and other methods to confirm that your PHI remains private. In addition, the agency suggests you keep your mobile devices with you at all times and delete any information you won't need any longer.

To read all of HHS's resources on this topic, visit
www.healthit.gov/providers-professionals/your-mobile-device-and-health-information-privacy-and-security.