



*United States Attorney
Southern District of New York*

FOR IMMEDIATE RELEASE
JANUARY 11, 2011

CONTACT: U.S. ATTORNEY'S OFFICE
ELLEN DAVIS,
EDELI RIVERA,
JESSIE ERWIN
PUBLIC INFORMATION OFFICE
(212) 637-2600

**MANHATTAN U.S. ATTORNEY SUES THE CITY OF NEW YORK
ALLEGING FALSE CLAIMS RELATING TO THE AUTHORIZATION
OF PERSONAL CARE SERVICES**

*Lawsuit Seeks Civil Penalties and Damages Against New York City
for Improperly Authorizing 24-Hour Home Care Services for
Medicaid Beneficiaries*

PREET BHARARA, the United States Attorney for the Southern District of New York, announced today that the United States has filed a civil fraud lawsuit against the City of New York, alleging that the City improperly overcharged the Medicaid program for the provision of 24-hour Personal Care Services. The Personal Care Services program is a Medicaid funded program designed to provide cleaning, shopping, grooming, and basic aid services to Medicaid beneficiaries meeting certain criteria. Under applicable state law, an applicant may not receive Personal Care Services without a determination of eligibility, which requires assessments from a treating physician, a social worker, and a nurse, and, in the case of 24-hour continuous care, the determination by a local medical director that such care is appropriate.

The Complaint alleges that from 2000 to 2010, the City routinely re-authorized 24-hour continuous Personal Care Services for applicants without the required local medical director assessment; that in some cases, City administrators overruled the findings of the local medical director that Personal Care Services were inappropriate for the patient; and that the City knowingly re-authorized 24-hour care for patients where the nursing and social worker assessments were missing or were not reviewed by the City.

Manhattan U.S. Attorney PREET BHARARA stated: "It goes without saying that ultimate medical decisions about patient care should be made by doctors and nurses, not government bureaucrats, and they should be based first and foremost on the best interests of the patient. The allegations here are serious and unfortunately reflect a systemic failure to responsibly administer the Medicaid program."

According to the Complaint filed in Manhattan Federal Court today:

The City's alleged conduct has resulted in patients receiving more services through the program than necessary or warranted by their condition, resulting in substantial additional costs to taxpayers. For example, a medical director determined that a 65-year old female should receive services for a limited number of hours each day, and did not require 24-hour care. That determination was based on a doctor's examination, which specifically noted that the patient had little trouble ambulating, was alert, was not on medication, and had good judgment. That same day, an administrator from the City overruled the doctor's determination and authorized the more expensive and unwarranted 24-hour services for the patient.

The City's conduct also allegedly resulted in some patients receiving a lower level of services than those patients truly needed, thus potentially endangering the welfare of those patients. For example, a local medical director determined that a 75-year old patient was ineligible for the 24-hour care program because she required a higher level of service, which is unavailable under the Personal Care Services program. In that case, the local medical director reported that the patient "tries to jump out of window several times a day and punches daughter so is dangerous to self and others and is inappropriate for home attendant service and a Higher Level of Care such as psychiatric facility is indicated." Accordingly, this doctor determined that the patient should be placed in an "appropriate facility." Despite the dangers posed by the patient to herself and others, however, she was not placed in a facility but remained in the Personal Care Services Program. In fact, continuous 24-hour care was re-authorized for this patient on multiple occasions, but without the nursing assessments required by law.

Since 2000, approximately 17,500 people have received 24-hour personal care services from the City. Currently, the annual cost of such services ranges from \$75,000 to \$150,000 per individual. The City allegedly improperly authorized services for a substantial percentage of the thousands of individuals receiving this 24-hour care, resulting in damages to the United States of at least tens of millions of dollars.

The case is being handled by the Office's Civil Frauds Unit. Mr. BHARARA established the Civil Frauds Unit in March 2010 to bring renewed focus and additional resources to combating health care fraud and financial fraud.

Assistant U.S. Attorneys REBECCA MARTIN, ALLISON PENN, and DANIEL FILOR are in charge of the case.

11-008

###