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DOJ: Large Health Insurers Knowingly sent Illegal Kickbacks to Brokers and Discriminated Against Disabled

On May 1, the United States Department of Justice filed a False Claims Act complaint against Medicare Advantage insurance giants Humana, Aetna and Anthem, along with Medicare Advantage brokers eHEALTH, GoHealth and SelectQuote.

The sweeping lawsuit alleges that the insurers paid hundreds of millions of dollars in illegal kickbacks to the defendant brokers in exchange for enrollments into the insurers' Medicare Advantage (MA) plans.

Under Medicare Advantage, Medicare beneficiaries rely on insurance brokers to help them choose an MA plan that best suits their needs. However, according to the lawsuit, the brokers directed MA beneficiaries to the plans where insurers paid them the most in kickbacks, rather than acting in the unbiased manner required by law.

The lawsuit also claims high ranking executives brazenly joked about their practices. According to the complaint, defendants knew full well what they were doing was illegal, but attempted to hide the true nature of their illegal agreements behind contracts and invoices for marketing and administrative services. "When discussing a purported 'marketing' agreement with Humana, one eHealth executive joked that Humana was paying eHealth '\$15M/year for a [web]site that drives 15 enrollments per year. CMS will surely never figure that one out... Luckily the govt are generally morons."

In addition to this, the lawsuit alleges Aetna and Humana conspired with brokers to discriminate against Medicare beneficiaries with disabilities that would be less profitable by threatening to withhold kickbacks unless they enrolled fewer disabled beneficiaries. The DOJ claims Aetna and its brokers used data filters and call-routing strategies to screen out or divert disabled individuals from enrolling in its plans.

This new DOJ lawsuit comes on the heels of a separate lawsuit filed by DOJ against UnitedHealth Group's Medicare billing practices, alleging them of inflating patient assessments to trigger billions in additional payments.

The DOJ said these actions illustrate the government's emphasis on combating health care fraud.

"It is concerning, to say the least, that Medicare beneficiaries were allegedly steered towards plans that were not necessarily in their best interest – but rather in the best interest of the health insurance companies," said U.S. Attorney Leah B. Foley for the District of Massachusetts. "The alleged efforts to drive beneficiaries away specifically because their disabilities might make them less profitable to health insurance companies are even more unconscionable. Profit and greed over beneficiary interest is something we will continue to investigate and prosecute aggressively.

Contact WHA Vice President of Federal and State Relations Jon Hoelter with questions.

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Governing Body and Medical Staff Conditions of Participation

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Critical Access Hospital (CAH) Conditions of Participation Series

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2025 WHA Workforce Forum