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legal alert



Patient Protection and Affordable Care Act

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The Patient Protection and Affordable Care Act (PPACA), the recently adopted federal health care reform law was signed into law on March 23, 2010 by President Obama. The provisions that have attracted the most attention deal with the delivery of care, insurance coverage and the cost of each.

However, PPACA also contains a substantial expansion in the government's efforts to deal with fraud, waste and abuse under Medicaid. Section 6402 of PPACA requires the reporting and return of any overpayment of funds by the later of (a) 60 days after the overpayment was identified, or (b) the date on which a cost report was due to the relevant government office (for those entities obligated to file cost reports).

What is significant about Section 6402 is that there is now a continuing obligation to report and repay, because the obligation arises from the date of identification of the overpayment and not, as was the case previously, from the date of the overpayment itself.

Moreover, under Section 6402, any person who retains an overpayment after the reporting and repayment deadline is now subject to liability under the federal False Claims Act, including possible triple damages and penalties.

Reports of overpayments are to be made to the New York State Office of Medicaid Inspector General (OMIG).

Because there has been little publicity about this aspect of PPACA, OMIG has been reaching out to the health care community to educate its members about their obligations under the law, including the delivery of webinars. More can be found on the OMIG website at <http://omig.ny.gov/data/>.