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Testimony

Before the Subcommittee on Oversight and Investigations,
Committee on Commerce, House of Representatives

For Release on Delivery
Expected at
10:00 a.m. EST
Thursday
March 19, 1998

MEDICARE

Improper Activities by
Mid-Delta Home Health

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Medicare: Improper Activities by Mid-Delta Home Health

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me here today to discuss the results of our investigation into allegations of improper Medicare billings¹ by Mid-Delta Home Health, one of the largest home health care providers in Mississippi.²

As you know, under the Medicare program, home health care providers are reimbursed for their reasonable costs of serving beneficiaries. Costs submitted for reimbursement must be necessary, proper, actual, and related to patient care.³ However, in our opinion, Mid-Delta Home Health improperly claimed, and was reimbursed for, certain payroll costs that it had not incurred. These costs included unused leave payments and bonuses that the employees had been asked to return to Mid-Delta and the full-time salary paid to the owner's daughter while she attended nursing school in 1996.⁴

We also question the propriety of certain other costs that Mid-Delta claimed for Medicare reimbursement. These questionable costs included

- large bonuses⁵ given to the owner's daughter that amounted to 119 percent of her salary,
- "community education" costs that were primarily related to marketing and not patient care,⁶
- a \$10,000 bonus used to help purchase a business and then claimed to Medicare as a payroll cost, and
- claims for apparently unneeded Mid-Delta visits to a number of patients and for visits to other patients whose eligibility for homebound status⁷ was questionable.

¹See also Medicare: Improper Activities by Mid-Delta Home Health (GAO/OSI-98-5, Mar. 12, 1998).

²Mid-Delta Home Health (now known as Mid-Delta Health Systems, Inc.) is owned and operated by Mrs. Clara T. Reed, who is Chief Executive Officer and Chief Financial Officer.

³42 U.S.C. sections 1395x(v)(1)(A) and 1395y(a)(1)(A); 42 C.F.R. section 413.9(a).

⁴42 C.F.R. section 413.9(a).

⁵The daughter received a \$10,000 bonus in July 1996 and a \$55,000 bonus in December 1996.

⁶2 Medicare & Medicaid Guide (CCH) para. 5996B.

⁷1 Medicare & Medicaid Guide (CCH) para. 1414.

Leave/Bonus Paybacks

Mid-Delta Home Health, in our opinion, improperly claimed the full amounts of unused leave payments and employee bonuses. The company had asked—or, according to some employees, coerced—the employees to give back to the company all of the leave payments and part of the bonuses. Mid-Delta’s employees were told that their returned moneys were for, among other things, a Mid-Delta-sponsored indigent care fund. We determined that the money had not been used for indigent patient home health care but was deposited to Mid-Delta’s operating account.

The Paybacks

In the 1993-96 period, Mid-Delta Home Health presented about \$226,000 in checks to its employees as payment for unused leave. Mid-Delta’s owner asked the employees to endorse the checks and give them back to the company. Some current and former employees told us that they had felt coerced into returning the checks. The company then, in our opinion, improperly claimed the full amounts of the leave to Medicare as a payroll cost and was reimbursed.

The owner also requested—or, again according to some employees, coerced—employees to return about 20 percent or more of their 1996 bonuses to the company. Those on a “special employee” list received larger bonuses by agreeing to return certain amounts (on average, 29 percent) of their bonuses to the company. The bonus paybacks totaled about \$170,000, including \$80,000 from the owner’s \$125,000 bonus. Mid-Delta then, in our opinion, improperly claimed the full bonuses as actual costs and received Medicare reimbursement for them. However, both the Health Care Financing Administration and a court formally ruled⁸ that such returned “contributions” by employees of an unrelated home health care agency had reduced that agency’s costs and therefore had been improperly claimed for Medicare reimbursement. Of interest, we noted that the husband and daughter of Mid-Delta’s owner hadn’t returned any of their December 1996 bonuses, \$75,000 and \$55,000 respectively.

Indigent Care Fund

The employees were told that the returned money was needed for, among other things, a Mid-Delta Home Health-sponsored “indigent care fund.” However, Mid-Delta officials told us the money had been used to offset the unpaid balances of patients of its affiliated rural health clinics. (See app. I for flow of employees’ moneys.) Although Mid-Delta categorized these unpaid balances as “indigent pay,” Mid-Delta’s controller told us that the balances were primarily those of insured private-pay patients. Further, we

⁸Sta-Home Home Health Agency, Inc. v. Shalala, No. 3:91-CV-23 WC (S.D. Miss. Aug. 25, 1993).

determined that money was transferred from the indigent care fund to the operating account of Mid-Delta's administrative services entity, P&T Management, Inc. Again of interest, we noted that among the patients whose unpaid balances were categorized as "indigent pay" were several Mid-Delta employees; the owner's granddaughter; and the owner's daughter, a P&T Management executive vice president.

Improper/ Questionable Payroll Costs of Owner's Daughter

Mid-Delta Home Health also improperly claimed other costs that did not meet Medicare cost reimbursement principles⁹ since they were not related to patient care. One example involved salary paid to the owner's daughter as an executive vice president while she attended nursing school full time from June to December 1996. The daughter's employment time sheets showed that about 53 percent of her 40-hour work week (from June to December 1996) was spent at school and related activities. However, Mid-Delta submitted those payroll costs to Medicare for reimbursement. Further, after reviewing the daughter's 1996 compensation, we question the reasonableness of Mid-Delta's claiming the daughter's \$65,000 in bonuses for Medicare reimbursement. The bonuses represented approximately 119 percent of her base salary of about \$54,660.

Questionable Marketing and Promotion Activities

In another matter, Mid-Delta was reimbursed by Medicare for the payroll costs of employees whose positions appeared to focus on marketing activities. We question the propriety of these claims because Medicare does not reimburse providers for marketing costs, as they are not properly related to patient care.¹⁰

Medicare reimbursement is available for expenses associated with educating the community on home health care; it is not available for the expenses of promoting and marketing the company.¹¹ Mid-Delta officials should have known that its marketing expenses were not allowable for Medicare reimbursement because the Medicare intermediary¹² had previously disallowed various expenses, in part, because they were related

⁹42 C.F.R. section 413 et seq.

¹⁰2 Medicare & Medicaid Guide (CCH) para. 5996B.

¹¹42 C.F.R. section 413.85(c); 2 Medicare & Medicaid Guide (CCH) para. 5996B.

¹²An intermediary is an entity under contract with the Health Care Financing Administration to determine the amount of, and to make, Medicare payments to medical entities such as home health agencies and rural health clinics. Under 42 C.F.R. section 421.100(a)(2)(ii), an intermediary determines if a home health agency's services are reasonable and necessary.

to marketing functions. The intermediary's review of Mid-Delta's 1993 and 1994 cost reports noted such disallowed expenses.

However, according to company records and knowledgeable former employees, Community Education staff primarily promoted and marketed the services of Mid-Delta Home Health and its affiliated rural health clinics to other providers and the public. Indeed, according to a former P&T Management vice president, "Community Education is a euphemism for marketing." Further, according to Community Education staff, Mid-Delta's owner changed documents and receipts for marketing-related activities to make it appear that the activities were related to Community Education and were therefore Medicare-reimbursable. For example, in December 1995, the owner had staff purchase about \$4,000 in Christmas gifts for physicians. When an employee noted the purpose of the gifts on the receipt, the owner changed the note to show that the gifts were for Mid-Delta employees, which could qualify for Medicare reimbursement.

Bonus Improperly Used to Purchase Business

In another matter related to payroll costs, Mid-Delta's owner initiated the purchase of a business from a third party; hired that individual as an employee; and in December 1996, gave the individual a \$10,000 bonus as partial payment of the purchase price. Mid-Delta then improperly claimed the bonus as a payroll cost and was reimbursed for it by Medicare. The purchase of a business does not qualify as a payroll cost, and Medicare does not reimburse providers for the cost of purchasing a business. When we asked her in July 1997, Mid-Delta's owner confirmed that the \$10,000 bonus was a payment toward the purchase of the business. But after consulting her controller and her Director of Finance, the owner informed us that the bonus should not have represented partial payment for the business and that she still owed the individual \$10,000. As of February 1998, the individual had not received that \$10,000 payment.

Questionable Mid-Delta Home Health Services

Finally, as alleged by current and former Mid-Delta Home Health nurses, in their professional opinions, Mid-Delta claimed costs for visits to individual Medicare beneficiaries whose need or eligibility for the visits was questionable.¹³ We coordinated our work in this area with Mid-Delta's Medicare intermediary, asking the intermediary to review patient-related information. In addition, we visited and/or reviewed case files for 41 of the

¹³Medicare patients qualify for home visits if they are confined to their home, i.e., homebound (except when receiving outpatient services); are under the care of a physician who prescribes and periodically reviews a plan of home care for them; and need intermittent skilled nursing care or physical or speech therapy. 42 C.F.R. section 424.22. See also 1 Medicare & Medicaid Guide (CCH) para. 1414.

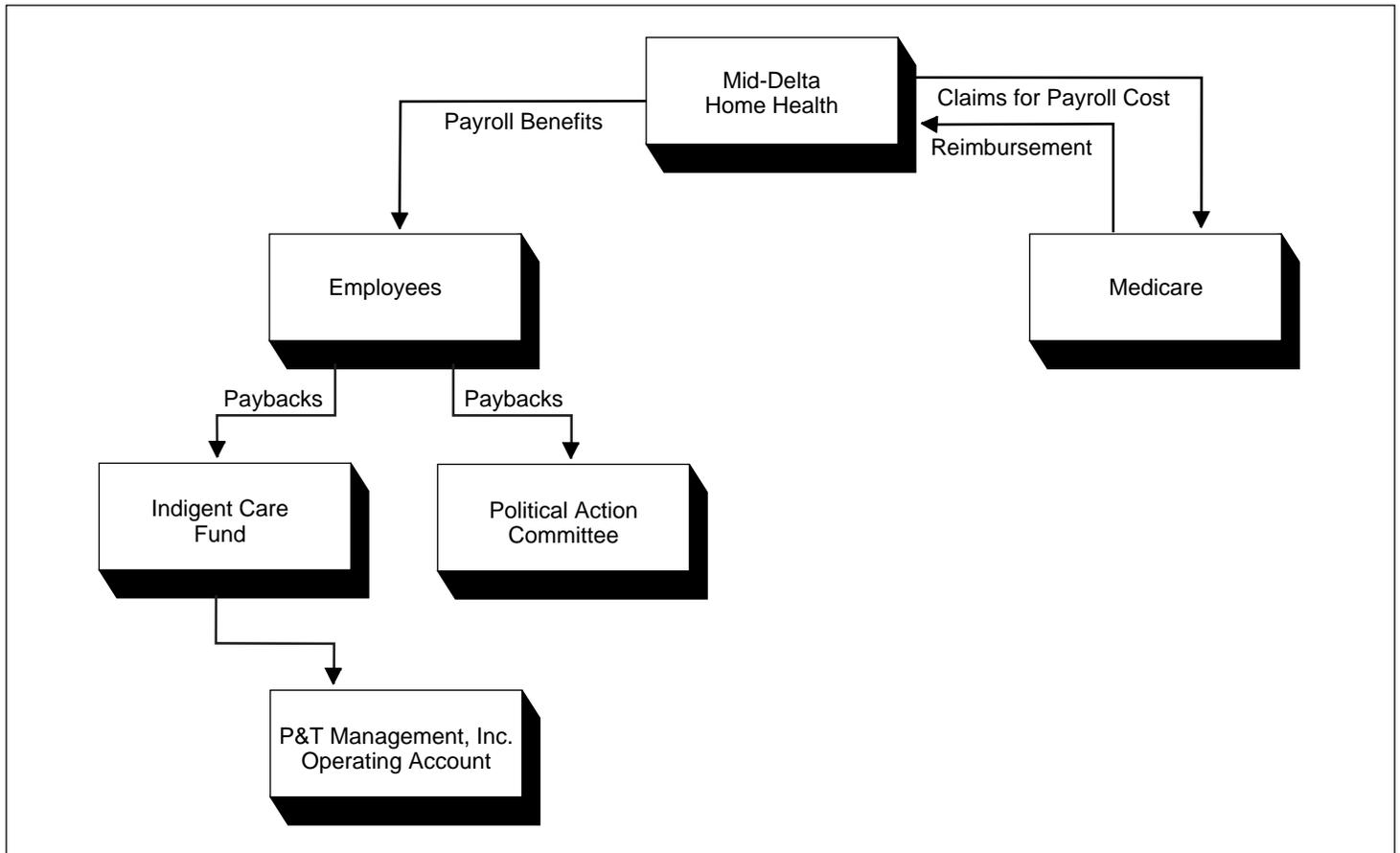
patients identified by the nurses. The intermediary and we questioned the necessity of Mid-Delta's Medicare-reimbursed services for at least 14—or 34 percent—of the patients. In addition, we both question the eligibility of some of these Mid-Delta patients for homebound status.

One instance involved a Mid-Delta patient receiving services for about 2 years to monitor her blood pressure and a heart condition. However, when we visited her, she was providing day care in her home for four children aged 5 years or younger. Mid-Delta's Medicare intermediary and we question the necessity of Mid-Delta's home health care visits to this patient. Her activity was unlikely for someone who was unable to leave home without "considerable, taxing effort"—a condition for homebound status.¹⁴ In another instance, a Mid-Delta Home Health patient was moving a 5-foot section of a telephone pole in his yard when we visited. The patient's actions contradicted Mid-Delta's patient records, relied on by the intermediary to determine eligibility, that indicated that the patient had poor endurance, walked with a cane, and appeared homebound. A third Mid-Delta patient who received home health care visits told us that he regularly walked 2 to 3 miles a day.

Mr. Chairman, this completes my prepared statement. I would be happy to respond to any questions that you or other members of the Subcommittee may have.

¹⁴1 Medicare & Medicaid Guide (CCH) para. 1414.

Flow of Mid-Delta Employees' Leave/Bonus Moneys



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