

Article missed real angle of Blue Cross lawsuit

To the editor:

I was much offended by your article headlined, "Businesses Aid Blues' Whistle-blower" that appeared in the April 29 weekly issue. The headline and article somehow suggest that the suppliers' willingness to support this lawsuit was somehow improper or that the lawsuit was otherwise frivolous. Nothing could be further from the truth. Also, the focus of this irrelevant fact is merely a way to avoid focusing on the real perpetrator of wrongdoing in this case, Florida Blue Cross. Instead, the article should have been entitled "Businesses aid tax taxpayers and Medicare beneficiaries in the suit against Blues for the Blues' confirmed wrongdoing in the processing of Medicare claims."

The story seems to go out of its way to avoid the real issue in this case — why is Blue Cross willing to settle this case for even \$10 million, which is now on the table, if it had done no wrong? Is it because the wrongdoing is now in the past? The only issue that the Journal seems to want to focus its readers on is who may have financed some court costs, a footnote under this landmark Medicare case.

For your information, it has already been documented in the Florida press that both the Medicare beneficiaries and the suppliers, including physicians, suffered greatly when Florida Blue Cross underwent a change in computer systems back in 1988. Although it was clear from the lack of payment that there was a problem, we as suppliers and Medicare beneficiaries could only speculate about how bad the problem was. Ms. Burr and others within Florida Blue Cross had the courage to come forward in 1989 with an affidavit to Congress to let the federal government know that Florida Blue Cross' representations regarding the claims processing backlog and its ability to correct these problems were not true statements. Yet, it was not until 1993 that the *Jacksonville Business Journal* reported, "Blue Cross claims in its May 13 breach of contract suit in Duval County Circuit Court that GTE Data Services did not deliver its computer

system on time, has failed to maintain the system and knew its computer system would not do what Blue Cross wanted it to do if bid for the contract." "The system and services were unmerchantable and unfit for processing and paying Medicare claims." Why was Blue Cross only willing to go public with this GTE lawsuit in 1993 for wrongdoings that it should have told the public about back in 1989?

Also, suppliers under the Medicare law have only a limited ability to seek retribution against a Medicare carrier for the wrongful processing of Medicare claims. In contrast, a former employee such as Ms. Burr is in a better legal position to address this wrongdoing in a court of law for the benefit of the taxpayers and Medicare beneficiaries.

This case represents one of the first times that a Medicare carrier has been held accountable in a court of law for its wrongful actions regarding the processing of Medicare claims. If a physician or supplier had wrongly submitted claims to the Medicare program, you know that the carrier and the government would have wasted no time in seeking fines and penalties against that person such as expulsion from the Medicare program. Yet, in a Feb. 10, 1991, *Miami Herald* article, it was stated that "We have determined there were erasures," said Jim Cottos, a senior criminal investigator with the U.S. Department of Health and Human Services. "We are now trying to determine how extensive they were and who at Florida Blue Cross was responsible for ordering them."

Maybe the headline and angle of the "business" article should have been "Blues are able to keep their Medicare carrier contract despite payment to the government under a whistle-blower suit."

As this landmark Medicare case proceeds through the court system, I hope to see more responsible reporting.

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