

HCA Healthcare chain may have charged federal government \$1.8 billion for unnecessary admissions

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U.S. Rep. Bill Pascrell, Jr. (D-NJ-09), the Chairman of the House Ways and Means Subcommittee on Oversight, has called on U.S. Health and Human Services (HHS) Secretary Xavier Becerra to probe possible Medicare fraud by the HCA Healthcare chain.

"I write regarding alleged fraud and staffing issues at HCA Healthcare (HCA) facilities," Chairman Pascrell writes. "In light of reports that there may be misconduct and potentially the improper shifting of taxpayer dollars, I ask that HHS launch an investigation into the allegations leveled against HCA regarding its emergency department admissions practice."

Press and investigative reporting have identified that patients in HCA's emergency departments may have been admitted for inpatient stays regardless of medical necessity. One recent report estimates that these unnecessary admissions by HCA may have charged \$1.8 billion in excess amounts to the Medicare program from 2008-to-2019. There have also been allegations that HCA sets corporate admission targets and routinely threatens retaliation against staff if those targets are not met.

In a separate letter to the CEO of HCA, Chairman Pascrell demanded answers from the checkered health giant.

Because of its mammoth size, HCA sets the pace for both for-profit and not-for-profit hospitals in the United States. In 2021, HCA's profits were almost \$7 billion, up nearly 100 percent in one year.

HCA has a negative history of health care fraud settlements with both federal and state authorities. This includes a settlement for \$1.7 billion in the early 2000s that resolved multiple criminal counts and civil fraud allegations - at the time the largest health care fraud in U.S. history - as well as other health fraud settlements involving HCA in subsequent years.



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The full of text of Chairman Pascrell's letter to Secretary Becerra is below.

September 13, 2022

The Honorable Xavier Becerra

Secretary

U.S. Department of Health and Human Services

200 Independence Avenue, S.W.

Washington, D.C. 20201

Dear Secretary Becerra:

I write regarding alleged fraud and staffing issues at HCA Healthcare (HCA) facilities. As HCA is the largest health system in America, transparency and oversight are essential to ensuring that hospitals, like those in HCA's system, are honest stewards of taxpayer dollars. Recent reports of systematic, unnecessary inpatient admissions intended to raise more- profitable reimbursement rates, in addition to severe understaffing issues, raise disturbing questions about HCA's corporate policies and practices.

Because of its mammoth size, HCA sets the pace for both for-profit and not-for-profit hospitals in the United States. In 2021, HCA's profits were almost \$7 billion, up nearly 100 percent in one year.[1] This is welcome news for shareholders, since HCA repurchased \$8.2 billion worth of its shares in 2021[2] and recently authorized an additional \$8 billion of share repurchases,[3] all during the COVID-19 pandemic. Yet this single-minded focus on profits might be bad news for patients, families, workers, Americans taxpayers, and the Medicare program.

Press and investigative reporting have identified that patients in HCA's emergency departments may have been admitted for inpatient stays regardless of medical necessity. One recent report estimates that these unnecessary admissions by HCA may have charged \$1.8 billion in excess amounts to the Medicare program from 2008-to-2019.[4] I am especially alarmed by these findings given HCA's history of health care fraud settlements with both federal and state authorities. This includes a settlement for \$1.7 billion in the early 2000s that resolved multiple criminal counts and civil fraud allegations[5] - at the time the largest health care fraud in U.S. history - as well as other health fraud settlements involving HCA in subsequent years.[6] Additionally, according to the American Academy of Emergency Medicine, HCA's joint venture with EmCare provides emergency physician staffing in "virtually all" of HCA's hospitals.[7] This practice may not be limited to Medicare patients and likely extends to a larger universe of commercially insured and Medicaid patients as well.[8]

There have also been allegations that HCA sets corporate admission targets and routinely threatens retaliation against staff if those targets are not met.[9] HCA's long-standing joint venture with EmCare, a subsidiary of the private-equity-owned Envision Healthcare

(Envision), may play an essential role in the setting and/or implementation of these admissions targets.[10] Envision entered into a federal settlement in 2017 over similar allegations of unnecessary emergency department admissions in connection with its contracted physician services provided to the former hospital chain Health Management Associates (HMA).[11] That settlement bound EmCare to a Corporate Integrity Agreement, which remains in effect. I am concerned that the joint venture between EmCare and HCA may be engaging in the same illegal conduct that EmCare and HMA were alleged to have previously engaged in.

Importantly, there is academic research currently under peer review that supports the analysis that Medicare patients are more likely to be admitted to the emergency department at for-profit hospitals than at non-profit hospitals. The research specifically identifies HCA Florida facilities as admitting more patients than would be expected given patient diagnosis and other factors.[12] Separate research recently published in JAMA Health Forum also found that investor ownership of hospitals is associated with higher levels of overutilization of health care services.[13] Additionally, HCA is owned by private equity, which often has profit motives that are at odds with a stable health industry and can result in taxpayer dollars being siphoned away from patient care and workforce.

Improper hospital admissions can have cascading effects on patients and workers. Unnecessary admissions expose patients to unnecessary treatments. This creates an added potential risk of complications and the possibility of new infections for patients. Improper admissions also put additional burdens on hospital workers who are often already overstretched - especially in HCA hospitals, given that HCA's average staffing levels trail the national averages by 30 percent.[14] There are numerous documented situations involving concerns about quality issues in HCA-owned hospitals associated with low staffing levels, including preventable patient deaths,[15] infection control breakdowns,[16] and at least one hospital being threatened with termination from the Medicare program.[17] The impact of these situations on patients and workers was compounded during the pandemic. Frontline workers have sought comprehensive changes throughout HCA to improve patient care and job quality to no avail.

In light of reports that there may be misconduct and potentially the improper shifting of taxpayer dollars, I ask that HHS launch an investigation into the allegations leveled against HCA regarding its emergency department admissions practice, including its joint venture with EmCare.

Thank you for your prompt attention to this critical matter. I stand ready to work with you and look forward to your response.

Sincerely

[1] HCA Fourth Quarter 2021 Financial Results, p. 8. Accessible at https://s23.q4cdn.com/949900249/files/doc_financials/2021/q4/PR_HCA-Healthcare-Reports-4Q-2021-Results.pdf

[2] Id. at 10.

[3] Id. at 2.

[4] Service Employees International Union, "HCA: Higher Healthcare Costs for America," January 2022, p. 9. Accessible at <https://hcavsa.org/stopfraud/>. (hereinafter SEIU)

[5] US Department of Justice Press Release, "Largest Health Care Fraud Case in U.S. History Settled: HCA Investigation Nets Record Total of \$1.7 Billion," June 26, 2003. Accessible at https://www.justice.gov/archive/opa/pr/2003/June/03_civ_386.htm

[6] SEIU, p. 4.

[7] American Academy of Emergency Medicine, "Synopsis of Joint Ventures between Hospital Networks and Emergency Department Contract Management Groups," p. 1. (hereinafter AAEM)

[8] SEIU, p. 41.

[9] Id. at 22-27.

[10] Id. at 20-22.

[11] Press Release. December 19, 2017. "EmCare, Inc. to Pay \$29.8 Million To Resolve False Claims Act Allegations." U.S. Department of Justice. Accessible at <https://www.justice.gov/usao-wdnc/pr/emcare-inc-pay-298-million-resolve-false-claims-act-allegations>. See also "Corporate Integrity Agreement between the Office of Inspector General of the Department of Health and Human Services and Envision Healthcare Corporation." Effective December 15, 2017. https://oig.hhs.gov/fraud/cia/agreements/Envision_Healthcare_Corporation_12152017.pdf.

[12] Howard and David, "Hospital Ownership and Managerial Influence over Treatment Decisions: The Case of Admissions from the Emergency Department." Accessible at

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3964725.

[13] Segal, et al., "Factors Associated With Overuse of Health Care Within US Health Systems," JAMA Health Forum. 2022;3(1):e214543. doi:10.1001/jamahealthforum.2021.4543. Accessible at <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2788097>

[14] SEIU, p. 34.

[15] Meg Wingerter. August 31, 2020. "Low Staffing at HealthOne Hospitals in Metro Denver Contributed to Patient Death, Preventable Harm." Denver Post. Accessible at <https://www.denverpost.com/2020/08/31/healthone-hca-hospitals-low-staffing-levels/>; CMS 2567 Statement of Deficiency, Northside Hospital, April 16, 2021. Event ID F9X411.

[16] CMS 2567 Statement of Deficiency, Medical City Plano, September 11, 2019. Event ID 9AUB11.

[17] Candice Nguyen, Michael Bott and Mark Villarreal. August 17, 2021 (Updated September 23, 2021).

"Good Samaritan Hospital Leadership Blasted in Medicare Agency Report." NBC Bay Area. Accessible at

<https://www.nbcbayarea.com/investigations/good-samaritan-hospital-leadership-blasted-in-medicare-agencyreport/2633470/>.

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