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Democracy Dies in Darkness

Nursing home companies accused of misusing federal money received hundreds of millions of dollars in pandemic relief

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For-profit nursing home providers that have faced accusations of Medicare fraud and kickbacks, labor violations or widespread failures in patient care received hundreds of millions of dollars in “no strings attached” coronavirus relief aid meant to cover shortfalls and expenses during the pandemic, a Washington Post analysis of federal spending found.

More than a dozen companies that received federal funding have settled civil lawsuits in recent years with the Justice Department, which alleged improper Medicare billing, forged documents, substandard care and other abuses.

The companies repaid the government a total of more than $260 million and nearly all are under active corporate integrity agreements with the inspector general of the U.S. Department of Health and Human Services — the same department that distributed the coronavirus relief payments. The five-year agreements require independent audits, employee training and other enhanced reporting protocols.

One nursing home provider is still embroiled in active litigation with the government, which has accused the company in federal court in Tennessee of putting elderly residents into unnecessary therapy services and delaying the release of patients to reap higher Medicare payments. SavaSeniorCare, whose homes received more than $65 million in pandemic relief aid, has denied wrongdoing.

All told, nursing home companies sued for Medicare fraud in recent years received more than $300 million in relief payments.

Millions more went to nursing homes with widely publicized breakdowns during the pandemic. Among them: a facility in Pennsylvania cited by the state for giving more than 200 residents the experimental anti-malarial drug touted by President Trump and a home in New Jersey under investigation by the state attorney general for lapses in infection control and patient care during a lethal coronavirus outbreak earlier this spring. After an anonymous tip, police found the bodies of 17 residents in a makeshift morgue; another had been stored in a shed.

The money was distributed through the $175 billion Provider Relief Fund, which since April has directed federal stimulus payments to hospitals, nursing homes and other health-care providers. In May, HHS announced a targeted nursing home distribution of $4.9 billion.

The payments, for covid 19-related expenses or lost revenue, came with few spending restrictions. Agreements between the providers and HHS include language prohibiting nursing homes from using the federal money for abortions, gun-control lobbying and the purchase of chimpanzees, but do not require homes to spend on such things as personal protective equipment or hazard pay for nurses and aides caring for covid-19 patients.

“The president wants us to accelerate getting those dollars out,” Seema Verma, administrator for the Centers for Medicare and Medicaid Services (CMS), announced in April during a news briefing with the White House coronavirus task force. “There are no strings attached, so the health-care providers that are receiving these dollars can essentially spend that in any way they see fit.”

Watchdog groups and some independent experts say the government should have assessed the financial needs of the nursing home industry, scrutinized the track records of providers and attached some spending restrictions before distributing the payments. They say they are most concerned about for-profit companies, some owned by private equity and other investment firms, that in the past have slashed costs and cut staff to boost profit.

Two publicly traded nursing home companies that regularly pay dividends to shareholders announced they continued to do so in the first two quarters of this year, The Post found.

Rep. James E. Clyburn (D-S.C.), who chairs the House select subcommittee on the coronavirus crisis, launched a congressional investigation in June focused in part on grant spending by five nursing home chains.

“Our committee intends to conduct rigorous oversight to ensure that nursing home companies that received funds in order to deal with the crisis spend those funds as Congress intended,” he said in a statement to The Post. "Nursing home companies that received funds after committing fraud warrant particularly close scrutiny.”

HHS said that providers will be required to undergo audits and submit spending documents, and those unable to show that money went to expenses or lost revenue attributed to the coronavirus could be forced to return some or all of the funds.

“HHS will have significant anti-fraud monitoring of the funds distributed, and the Office of Inspector General will provide oversight as required in the CARES Act to ensure that federal dollars are used appropriately,” according to HHS.

The American Health Care Association (AHCA) and National Center for Assisted Living, which represents 14,000 long-term-care providers, said the federal money was badly needed. The group has reported that both nonprofit and for-profit nursing homes had been “on the verge of collapse" during a deepening health crisis, faced with the increasing costs of supplies and personnel expenses and the loss of existing and potential residents.

The industry group said it expects reporting and tracking protocols.

“For several months, all health care providers have been waiting for guidance on reporting and HHS’ approach to auditing and are anticipating significant oversight in the coming months," Mike Cheek, AHCA senior vice president of reimbursement policy, said in a statement to The Post. "We support reasonable efforts to ensure this federal aid has been properly directed to providers to cover costs associated with addressing COVID-19 and potential losses."

Whether that oversight prompts the government to flag irregular spending — or demand the return of stimulus money — is not yet known.

As the money became available, LeadingAge, an industry group that represents nonprofit providers, put out a primer for providers with detailed instructions about how to access and use the payments.

“HHS or Congress could clawback some portion of the relief funds from non-COVID areas,” the document says. “But in an election year, there is low probability of this occurring.”

Those familiar with the industry say they fear some companies will simply absorb the money without investing in patient care or compensation for front-line workers.

“This has been one of my concerns from the moment the government passed the Cares Act — the money is not ending up where it needs to be,” said Michael Wasserman, medical director of a Los Angeles nursing home and president of the California Association of Long Term Care Medicine. “The help has to go specifically to the front line.”

To better understand where stimulus money was distributed, The Post used public records and provider websites to untangle the ownership structure of individual homes and then determine the total funding for homes within the same parent company. The calculations may be low. In some cases, The Post was unable to link the names of individual nursing homes with ownership records maintained by HHS or CMS.

The analysis captured more than 2,000 homes within some of the largest chains in the United States. The Post also looked at several publicly traded nursing home companies as well as smaller companies and individual facilities scrutinized for improper business practices or patient care before or during the pandemic. The Post could not independently verify how the relief payments, only recently distributed, were spent.

More than $35 million went to homes operated by the for-profit Brius, with dozens of nursing homes in California, federal data shows.

In 2016, officials at four Brius homes acknowledged in federal court that employees used corporate credit cards to buy massages, tickets to sporting events and excursions on the 222-foot mega yacht Inspiration Hornblower for hospital planners who provided patient referrals. The officials, who struck deferred prosecution agreements with the government, said at the time that Brius management was unaware of the scheme to maximize Medicare revenue.

The four homes repaid $6.9 million through a settlement.

Last year, the state threatened to fine one Brius home $156,000 after inspectors noted that a resident who had trouble swallowing choked on a honey bun and died, and another resident needed two surgeries after she fell out of her wheelchair while unattended. The home’s administration withheld records and instructed staff not to cooperate, according to the state inspection report.

In 2014, then-California Attorney General Kamala D. Harris called the company’s owner, Shlomo Rechnitz, a “serial violator of rules within the skilled nursing industry” in an emergency court motion to stop Brius from buying homes through a bankruptcy sale.

Speaking for Rechnitz, company attorney Mark Johnson said Rechnitz does not have any role in the day-to-day operations of Brius homes. Johnson said the Justice Department settlement stemmed from allegations from 2006 to 2012 and “clearly has nothing to do with the CARES Act or the current pandemic.” The company, he said, cooperated with investigators and terminated the individuals involved.

Johnson denied allegations that facility employees failed to cooperate last year with state inspectors and said the company appealed the state’s findings. He added that Brius has faced rising expenses from increased wages, the cost of company appealed the state's findings. He added that Brius has faced rising expenses from increased wages, the cost of supplies and other needs during the coronavirus crisis.

"While we certainly cannot project the end of this pandemic, at present it seems unlikely that the relief funding will be sufficient to meet the increased expenses related to this pandemic," Johnson said in an email.

In New York, two homes that are part of the for-profit SentosaCare received more than $2 million in pandemic relief payments, federal records show. In October, a federal judge ruled that the owners of the company were liable for violations of human-trafficking laws after Filipino nurses brought to the United States to work in the two homes said they were overworked, improperly paid and threatened with $25,000 fines if they quit before their contracts ended.

Elliot Hahn, a lawyer for SentosaCare, said nurses were not threatened and were paid an hourly rate of $29 or more. The company has appealed the ruling.

"This is not a case where employees were mistreated or 'trafficked' in any sense of the word," Hahn said in an email.

Nursing homes that have drawn significant scrutiny during the pandemic also received relief payments, The Post found.

The Life Care Center of Kirkland in Washington state, the site of the country's first known coronavirus outbreak, received nearly $320,000 in pandemic relief. After the outbreak, CMS inspectors found the home did not properly care for sick residents or alert authorities to the spread of illness. The state banned the home, linked to more than 40 deaths, from accepting new residents until changes were made.

The Life Care Center of Nashoba Valley outside of Boston drew $300,000 in federal funds. After 17 people died of covid-19, including a nurse at the home, Sens. Elizabeth Warren (D-Mass) and Edward J. Markey (D-Mass.) and Rep. Lori Trahan (D-Mass.) appealed to CMS to provide more oversight of Life Care and other for-profit chains. The Massachusetts Attorney General is investigating the home.

Tim Killian, public information liaison for the Tennessee-based chain, said the company continues to work with government regulators to "provide the best care and to safeguard both residents and staff."

"We have lost both residents and staff members to this horrible contagion," he said in an email. "Our staff members engaged in heroic efforts to provide the best care possible at great risk to their own health and well-being."

Life Care, with more than 200 nursing homes, is being monitored by federal authorities for financial compliance with Medicare rules. In 2016, Life Care, without admitting liability and arguing the government did not prove its case, agreed to the oversight and to a $145 million settlement to resolve allegations by the government that the chain and its billionaire owner had engaged in "a systematic scheme" to maximize Medicare billing.

Homes within the Life Care network received more than $48 million in pandemic relief payments, federal data shows.

"I asked Seema Verma to increase oversight of these for-profit chains, not hand out hundreds of millions of dollars with no strings attached," Warren said in a statement to The Post. "CMS needs to make sure this money goes to responding to the virus and protecting vulnerable residents and staff, not padding profits and bottom lines."

Billions Distributed With Few Restrictions

The nursing home industry has pressed for financial relief since the start of the pandemic, when hundreds and then thousands of elderly residents fell ill during coronavirus outbreaks that swept homes from New York to California. More than 45,000 residents have died since March, along with several hundred nurses and other caregivers.

For months, the industry has asked Congress and the Trump administration to provide testing supplies, protective gear and money to cover expenses as well as lost revenue from beds left empty by patients who died of covid-19 or potential residents who decided to live elsewhere. Congress complied, allowing nursing homes to use stimulus money to cover shortfalls in revenue or expenses attributed to covid-19.

Nursing homes received about $2.7 million in initial, general distribution payments for hospitals and health-care providers. In May, HHS Secretary Alex Azar announced a targeted $4.9 billion distribution to nursing homes.

“This funding secured by President Trump will help nursing homes keep the seniors they care for safe during the COVID-19 pandemic,” Azar said at the time.

HHS opted for a simple distribution formula: Nursing homes would receive a $50,000 lump-sum payment, along with an additional allocation of $2,500 per bed. The average distribution was $315,000, with some larger facilities receiving $3 million or more, according to HHS.

The money, HHS said in guidance to the industry, did "not need to be specific to providing care for possible or actual coronavirus patients.” Providers could use the grants for a range of expenses, including health insurance, rent or mortgage payments, and equipment lease payments. Providers would have to comply with unspecified future audits and reporting requirements.

“They should have specified that the money couldn’t just be used for administrative costs and profits,” said Charlene Harrington, a nursing home researcher and professor at the University of California at San Francisco. “There was no reason that CMS couldn’t have put more restrictions on the money."

Some say the government also should have assessed the finances of nursing homes and their parent companies before distributing the payments.

In 2018, nursing homes in the United States received $28.5 billion from Medicare, which covers short-term stays and pays a far higher rate for services than Medicaid.

As the coronavirus crisis spiraled, CMS waived a rule that required patients to spend three consecutive days in a hospital before becoming eligible for skilled nursing care funded by Medicare. The idea was to free up hospital beds for covid-19 patients — and protect the elderly from exposure. But the change also allowed nursing homes to convert existing, long-term-care patients on Medicaid to higher-paying Medicare as long as the homes determined the residents needed skilled care under CMS guidelines.

David Grabowski, a professor of health-care policy at Harvard Medical School, called the change a “huge revenue bump.”

“That’s where all of the high margins are associated with nursing home care,” Grabowski said. “You can quadruple your revenue overnight for those residents."

CMS also extended the time that patients were eligible for Medicare-funded skilled nursing, doubling the pre-pandemic 100-day limit if patients affected by covid-19 needed more care. At the same time, states including Massachusetts and Connecticut have directed aid to nursing home providers.

Then came the stimulus money.

Homes within the publicly traded Genesis HealthCare, which reported $33 million in net income in the first quarter of this year, received about $180 million in pandemic payments. States provided an additional $27 million.

"It goes back to this issue of whether or not there were shortfalls," Grabowksi said. "You would want them to be able to make payroll, to buy all the supplies. … But I think there are a lot of concerns, especially with private equity and others, are you making the payments to a private-equity group or are you paying your staff? Greater accountability here on the financial side would be a good thing."

The American Health Care Association said the money came at a critical time: Medicaid for years has covered only 70 or 80 percent of the cost of care in nursing homes, leaving some companies even before the pandemic with razor-thin margins. Struck by higher costs and lower occupancy rates during the crisis, the industry faced the loss of billions of dollars in revenue, the group has reported.

Money Flows to Troubled Chains

On the front lines of nursing homes, the needs are clear. Last month nearly 3,000 reported shortages of nurses, aides or both, according to CMS data. More than 1,700 reported that they lacked a week's supply of N95 masks; 1,500 said they lacked surgical gowns.

But lawmakers and watchdog groups worry that with few safeguards, nursing home companies will seek to grow profit rather than direct money to patients and caregivers. Some providers have affiliated entities, such as medical supply companies, that could charge related nursing homes above-market rates for goods and services to justify expenses.

"There are owners in the industry who have related parties," said Wasserman, the California doctor and industry representative. "Now the facility is paying five to 10 times the amount for PPE. That is not how Cares Act money should be spent."

Watchdog groups say they are particularly concerned about companies that have faced allegations of Medicare abuse.

Nursing homes within Ohio-based Saber Healthcare, with facilities in seven states, received more than $45 million in pandemic funding only weeks after the company and related entities settled a 2016 government lawsuit, agreeing to five years of compliance monitoring and repaying $10 million to the government, court records show.

Government lawyers alleged in federal court in Virginia that nine of Saber's homes submitted false claims to Medicare in recent years for rehabilitation therapy services for residents that were not reasonable, necessary or skilled.

"Our office is committed to investigating and stopping health-care fraud," U.S. Attorney G. Zachary Terwilliger, of the Eastern District of Virginia, said in April. "Billing Medicare for higher-than-necessary levels of care exploits our senior citizens and undermines trust in the health-care system."

Saber did not admit liability when settling the case.

“Saber disputes the allegations and has the utmost confidence that its facilities have acted in compliance with applicable laws and regulations in providing the best possible care to each and every patient,” the company said in a statement to The Post. “During this critical time for healthcare providers, our resources are better spent in serving our patients’ needs and supporting our employees rather than continuing to litigate these issues.”

In federal court in Tennessee, the Justice Department is currently pursuing a case against SavaSeniorCare, arguing that the nursing home company, among the largest in the U.S., pressured its homes to meet “unrealistic” financial goals by submitting false claims to Medicare for rehabilitation therapy.

Homes within the Sava network received more than $65 million in pandemic relief, federal spending data shows.

Patte Packey, whose 83-year-old father died of covid-19 at a Sava nursing home in Bethesda, Md., said she worries the money will not be spent on patient care.

“Who’s responsible for the oversight?” she said.

A spokesperson for Sava declined to comment on the government’s case, saying the litigation is ongoing. In court records, the company disputed the allegations, arguing the government failed to prove its case.

“The government hinges its entire case on five patient examples that demonstrate, at most, the government’s subjective clinical disagreement— and even then, a disagreement that wholly ignores the high standard to which [skilled nursing facilities] are held in the delivery of therapy services,” the company said.

Nursing homes flagged by government inspectors for lapses in care during the pandemic also drew millions of dollars, including Andover Subacute and Rehabilitation Center in New Jersey, where 17 bodies were found in a makeshift morgue.

The facility, which along with a sister property received about $3 million, failed to follow infection-control standards or properly screen visitors, according to a state inspection in April. Inspectors also found staff members who did not use proper protective equipment, wash their hands or separate sick patients from healthy ones.

The home, under investigation by the New Jersey attorney general, said every effort was made to keep residents safe.

“Despite all our efforts, the virus made its way into our facility, as it did in the majority of long-term care facilities across New Jersey,” owner Chaim “Mutty" Scheinbaum said in a statement. “We took every possible step to handle this crisis internally while simultaneously making dozens of outreaches to local, state, and federal agencies for help. ... The facility has made a strong recovery since the height of the pandemic.”

Industry Appeals for More

In recent weeks, state and federal lawmakers have ramped up calls to track the money. Rep. Clyburn is investigating Sava, Genesis and Life Care, among other nursing home chains, to determine how the stimulus money was spent.

In Pennsylvania, state Sen. Katie Muth (D) is pushing a measure that would require providers to track and report their spending.

“All these things that we hoped the feds would do, they haven’t,” Muth said.

The nursing home industry, meanwhile, is lobbying for more money. Last month, the Trump administration announced an additional $5 billion in funding for nursing homes and state veterans homes.

The American Health Care Association is asking for $100 billion, much of it directed at nursing homes. In early June, the group announced a $15 million fundraising effort to launch a public awareness campaign.

“Our profession faces its greatest challenge in history,” Mark Parkinson, the former governor of Kansas and AHCA’s president, wrote in a letter to the industry. “This isn’t like the usual fight we have in D.C. over a two percent increase or cut, or over some crazy regulation. Instead, this is a battle for the lives of our residents, our staff, and the very survival of our sector.”

Jacobs and Mulcahy are graduate students in journalism at Northwestern University’s Medill Investigative Lab. Post researcher Alice Crites and staff writer Douglas MacMillan contributed to this report, along with Michael Korsh, Ellie Eimer, Chloe Hilles, Cadence Quaranta, Catherine Buchaniec, Daniel Rosenzweig-Ziff and Alexa Mikhail with the Medill Investigative Lab.