

Hearing: “Criminal Prosecution as a Deterrent to Health Care Fraud”

Questions from Senator Ron Wyden

For Professor Sparrow, PhD, John F. Kennedy School of Government, Harvard University:

There must be some way to outsmart these criminals and stop spreading this virus of fraud and waste. According to your testimony in this hearing, the probability of being detected or reported weighs more heavily in the criminal mind than the severity of the punishment. If this is true, wouldn't real-time analysis of health care claims and other healthcare data better assist prosecutors in catching criminals and preventing fraud? If so, which practices in the private sector can be adapted to Medicare and Medicaid?

ANSWER: [Malcolm K. Sparrow]

I believe very strongly in the importance of real-time claims monitoring. In fact, as a mathematician, what drew me first to the field of fraud control was the apparent opportunities to develop and exploit a much broader range of analytic and detection methods than have been traditionally deployed for fraud detection. I have written extensively about this subject, and include a full chapter in my book “License to Steal” about the opportunities for improved detection systems.

In terms of private sector practices, importable to the public sector: the news here is not so encouraging. My survey of fraud control systems straddled the private, not-for-profit, and public sectors, including “payors” from all three. I was surprised to discover that the approaches to control, and the sophistication of detection systems, were very similar, and that the private sector insurers—despite the obvious underlying profit imperative—seemed to do no better at this than public programs such as Medicare and Medicaid. Much of my work on this subject has therefore sought to explain the organizational and managerial incentives that might account for the general lack of interest in improving detection, and thus increasing deterrence.

There is some good news on this front. The market for fraud-detection systems in health care, given the heightened congressional and public interest in this area, is becoming more lively and more sophisticated over time. But the private sector payors do not seem any more hungry to improve their performance on this front than public programs. Private sector technology and analysis companies are certainly now expanding the range of offerings in fraud detection, but for them it remains a difficult market as many senior executives in insurance companies express the attitude “the last thing I need right now is to discover more fraud.” Many of them struggle to cope with the volume of fraud schemes already visible, having insufficient resources available to deal with them, and finding it difficult to make the case for a significant bolstering of funding for integrity controls.

I hope this is helpful.