

**Testimony of Richard W. West
before the
House Committee on Oversight and Government Reform
Subcommittee on Government Organization, Efficiency and Financial Management
and the
Subcommittee on Healthcare, District of Columbia, Census and the National Archives**

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Thank you Chairman Platts, Chairman Gowdy, Ranking Member Towns, Ranking Member Davis and distinguished members of the Subcommittees, for inviting me to discuss Medicaid fraud.

I received home health care and other services through the Community Resources for People with Disabilities Medicaid waiver program (CRPD). As a ventilator and wheelchair and oxygen dependent person, I qualified for this government-funded program that provides Medicaid benefits and up to 16 hours per day of in-home nursing care. There is a limit on the services under this program each month, and benefits may be suspended or reduced if the monthly cap is exceeded.

Beginning in March of 2003, I received home health care through Maxim Healthcare Services under this program. Maxim billed these home health care services to Medicaid, which paid for them with both state and federal funds.

In September of 2004, I received a letter from the New Jersey Department of Human Services Division of Disability Services, Home and Community Services, telling me that I had exceeded my monthly cap and that my Medicaid services were being temporarily reduced or suspended as a result. This prevented me from obtaining needed dental care.

I had been keeping track of the number of hours of nursing care I had been receiving and I knew that I had not exceeded my cap. After examining my own records and the records Medicaid shared with me, it looked like Maxim had billed Medicaid for approximately 735 hours of nursing care at \$28.00

per hour that I never received during the period April 2003 to July 2004.

Based on conversations that I had had with my nurses, I did not believe that these were bookkeeping errors or accidental mistakes. I thought Maxim was deliberately billing for nursing care that it did not provide so that it could make more money.

I complained to the State of New Jersey, I complained to Medicaid, and I complained to a social worker who was assigned to me, telling them that Medicaid had been billed for nursing care that I had not received. None of them did anything about it.

Since none of the government agencies I had contacted about this did anything, I hired a private attorney, Robin Page West, (no relation), of Baltimore, Maryland, who filed on my behalf a whistleblower lawsuit under the False Claims Act that triggered an investigation of Maxim.

Somebody decided to make a profit on my disability and rip off the government. That was wrong, and the right thing for me to do was expose it. But because the case was under seal while the government investigated, I couldn't talk about it. Sometimes I had trouble getting nurses and I suspected word had gotten out that I was a troublemaker. Over the course of the government's investigation, viruses made me severely ill. Each day when I sat alone in my house and no nurse came, I got sicker and sicker. I was afraid of dying and leaving my son with a big legal mess. I feared that if I were no longer alive, the case might be dismissed. Meanwhile, the government investigation carried on, and investigators kept discovering more and more billing improprieties.

Finally, after seven years, the government reached a settlement with Maxim and the case went public, with Maxim paying a civil settlement of approximately \$130 million and a criminal fine of approximately \$30 million. This was the largest home healthcare fraud settlement in history. Yet Maxim is still permitted to do business with the government, and none of its executives went to jail. Details of the settlement are at www.homehealthcarefraudsettlement.com.

Maxim was over billing and under delivering basic services to America's oldest, sickest and

poorest. The goal was not to provide better services and products at lower prices, but rather to see if they could take advantage of weak Medicare and Medicaid oversight--to see if Uncle Sam could be ripped off and no one would notice. To see if patients who complained would not be taken seriously or would give up after a few calls to Medicaid. And guess what? They were right. Maxim's game went on for years, and America's taxpayers were systematically ripped off. But not only were taxpayers ripped off. When corporations rip off Medicare and Medicaid, there are other victims besides taxpayers. Maxim took services from people like me.

It's hard to get the the government's attention without filing a False Claims Act case. I doubt I was the first person to call Medicaid about the billing fraud going on at Maxim. For all I know 20 or 30 other people called the Medicaid tip line before me, and they were simply ignored. My distinction is not that I called a tip line. My distinction is that I was the first person to assemble the physical, visible evidence of Maxim's fraud, and I was the first person to hire a good lawyer and file a False Claims Act case about that fraud. The government cannot simply ignore a False Claims Act as if it was just an email or a voice message left on the Medicaid tip line. The way you get the government's attention if you suspect fraud is *not* to call them on the telephone; it's to get a good False Claims Act lawyer and file a case. Then the government has to investigate. They simply cannot press the "delete" key and make it disappear.

Despite the big monetary settlement, Maxim executives did not go to jail, and the company was not excluded from doing future business with Medicare and Medicaid. The settlement received a lot of news coverage that had many folks asking why that was. How is it that a company that takes millions of government dollars it's not entitled to can continue on in business, while a shoplifter of a few hundred dollars worth of merchandise will be sent to jail? It is commendable that the government did take on Maxim, but until corporate executives receive harsher penalties, I do not think we will see the fraud stop. Having their corporation pay some settlement money is just a cost of doing business for the

fraudsters. The settlement money doesn't even come out of their own pockets. Changing that, and sending some executives to jail, might actually make the fraud stop.

How many other companies got away with this same fraud for the last seven years? How many other people saw this and did nothing? How many were afraid of losing their healthcare, for being a trouble maker? That is what happened to me, at this time I'm being told my Medicaid will end because of this settlement.

My whistleblower recovery is being paid over over eight years with half of it coming at the end of that period. In the intervening years, it will not be enough to pay for my in home care. I will go broke or die. This is the price of doing the right thing. Do I know of other companies doing fraud? Yes, four. Can I tell anyone? No, I can't afford to lose any more services! I thought if you do the right thing that things would work out in the end; maybe not.

I am a Vietnam veteran, and never took or asked for any services I didn't need. I have lived a productive life, and raised my son Adam R, West. This program allowed me live in my own home, to see him graduate high school and college, and now he is living on his own. If someone is willing to steal from a sick old vet I would like to think my government would help!

If I had an HMO who would help? Should I call their CEO ? It took seven years but I had the full weight of the United States of America, my government behind me. Many folks are not as fortunate.

I came to this hearing hoping to help Congress help the other people who need help through no fault of their own.

Thank you again for inviting me to testify. I look forward to answering your questions.