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## Medicare doc pay data won't yield fraud cases, but it could help them win

By [Lisa Schencker](#) | January 7, 2015

It may have been unsurprising to learn that the government is suing Dr. Asad Qamar for [fraud](#)<sup>[1]</sup>, regardless of the merits of the case. The Florida cardiologist was outed in the national media last year as Medicare's second-highest-paid physician.

Data made public last year reveals how much [Medicare](#)<sup>[2]</sup> paid individual physicians. But billing the federal healthcare program for unusually high sums isn't by itself an indication of fraud, experts say, and the new trove of payment information isn't enough to inspire a lawsuit against a highly paid doctor.

The data could, however, bolster cases that whistle-blowers bring to lawyers based on other sources of information.

The government announced Monday it had joined two lawsuits against Qamar and his physician group, the Institute for Cardiovascular Excellence, alleging they performed unnecessary, invasive heart testing and paid patients kickbacks by waiving their copayments and deductibles for the services.

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Greg Kehoe, an attorney for Qamar with Greenberg Traurig, said in a statement Monday that "Qamar practices under the highest medical and ethical standards" and "will defend himself vigorously against these baseless allegations."

In 2012, Qamar collected more Medicare dollars—\$18 million—than any other cardiologist in the country, according to one of the lawsuits. That ranking was based on data made public last year that reveals Medicare Part B payments to individual physicians and physician practices by the CMS. The data was released after a federal judge ruled in May 2013 against a 1979 prohibition on the disclosure of such data.

Opponents of publicizing the data, including the American Medical Association<sup>[3]</sup>, argued that it could invade doctors' privacy and be misinterpreted by the public and the media. For example, sometimes the eyebrow-raising numbers reflect payments to entire practices even though the claims were submitted under a single doctor's Medicare number, such as in the case of Qamar. The cardiologist had six medical facilities, about 10 doctors and about 60 staff members billing through his number, said Lou Colasuonno, a spokesman for Qamar. In other cases much of the money is reimbursing physicians for drugs administered to patients.

Those who fought for the release, however, said that the data could help patients and insurance companies find high quality care.

Others said disclosing the data could help to identify fraud. Jonathan Blum, former principal deputy administrator at the CMS, wrote in a blog on the day of the data's release it could help "journalists and others to identify waste, fraud and abuse as well as unsafe practices."

But to file a claim under the False Claims Act, a whistle-blower must have independent knowledge of wrongdoing. The data alone is not enough to identify fraud and initiate a case, said Pam Brecht, a partner at Pietragallo Gordon Alfano Bosick & Raspanti in Philadelphia, who represents whistle-blowers.

And the dollar figures don't necessarily indicate fraud, Brecht and others say.

"This stuff catches attention, but there's nothing inherently fraudulent about doing a large number of procedures," said Jonathan Kroner, a Florida lawyer representing

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one of the whistle-blowers in the case against Qamar.

Brecht said no lawyer "who's worth their salt" would try to mine the Medicare data for cases without a whistle-blower.

But Mark Silberman, a partner at Duane Morris in Chicago who represents providers, said it could in fact drive fraud cases because it could encourage whistle-blowers to come forward or scrutinize certain doctors more closely if they know those doctors are earning a lot of Medicare money.

Physicians topping the list of most-reimbursed doctors have feared that the release of the data would make them targets for false claims allegations, Silberman said.

Even if the data itself can't support a False Claims Act complaint, it could entice lawyers to pursue certain cases because the amount of money at stake is laid bare. "The greater the potential recovery, the greater the potential interest a potential (whistle-blower) will have from private attorneys," Silberman said.

And whistle-blower attorneys say the data will bolster their cases in other ways. "Analysis of the data could also point to something that requires more research or analysis or it could support a client's allegations," Kroner said, calling the information "tremendously useful."

Brecht said she has used the publicly available Medicare data in two cases so far. She did note, however, that if the government gets involved in whistle-blower cases its lawyers can access data that's more complete and up-to-date than what the CMS posted last year. That CMS data reflects \$77 billion worth of Medicare Part B payments in 2012.

Kroner, the lawyer representing the whistle-blower who brought the allegations against Qamar, said he hasn't used the public data in the case. But that's mostly because the case was filed years before the data became available, and once it did become available, the investigation was in the government's hands. Kroner said it could, however, be useful in other cases.

Frederick Morgan Jr., a partner with Morgan Verkamp in Cincinnati who focuses on whistle-blower cases, said the Medicare payment information could be used to test allegations. For example, lawyers can look at the numbers to see whether they support the theory that a doctor leaned toward a particular drug after being wined and dined by its manufacturer.

*Follow Lisa Schencker on Twitter: [@lschencker](#)<sup>41</sup>*

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