

## Home Health: Fraud Nets \$7,000,000 And Twenty Year Sentence.

The owner of a home health agency was sentenced to almost twenty years in prison after the FBI took down her scheme to defraud Medicare. The US Court of Appeals for the Eleventh Circuit (Florida) upheld the sentence.

The first step was for a recruiter who was a Medicare beneficiary to recruit others who were also on Medicare to come into the fold. The recruiter and the new “patient” received an initial cash payment of over a thousand dollars.

Then each new “patient” was steered to a certain physician who certified the “patient” for home care or home therapy the healthy and non-homebound “patient” did not need. An agency employee would go out every thirty days and have the “patient” sign papers attesting that they had received home care or home therapy services they had not, which were billed to Medicare. Every time the “patient” signed, the “patient” received another cash payment.

The wife member of a husband and wife recruiter team finally turned them in. US v. Moreira, \_\_ Fed. Appx. \_\_, 2015 WL 1402179 (11th Cir., March 30, 2015).

## Skilled Nursing: CMS Is Considering New Regulations.

On April 20, 2015 the US Centers for Medicare and Medicaid Services (CMS) published a lengthy announcement in the Federal Register announcing proposed changes.

Subjects included are payment rates to be used under the prospective payment system, hospital readmission measures, higher quality standards and more efficient healthcare services for Medicare beneficiaries and a new quality reporting system, all in line with recent legislation including the Affordable Care Act.

At this time CMS has not drafted specific new regulations in most of the subject areas mentioned above but appears still to be in the policy-making phase of the agency’s regulatory process.

CMS will be accepting public comments on these issues until June 5, 2015. The announcement contains instructions how to submit comments to CMS electronically or by mail.

CMS’s announcement is on our website at <http://www.nursinglaw.com/CMS042015.pdf>  
FEDERAL REGISTER April 20, 2015  
Pages 22044 - 22086

## Premature Discharge From Emergency Psych Care: Parents Can Sue For Son’s Suicide.

The mother phoned the police because her son was depressed and had expressed a desire to harm himself with an electrical cord.

The police detained him and took him to the hospital for emergency psychiatric treatment. At the hospital he was evaluated by an advanced practice nurse practitioner.

The morning of the day after the patient’s admission the nurse practitioner phoned the parents and left a message that he was being released because it was felt he no longer posed a danger to himself or others.

After walking home alone from the hospital the patient obtained an electrical cord and hanged himself from a tree in his parents’ front yard. When they arrived home and found him they cut him down and tried to perform CPR.

***A bystander to an event can sue the negligent party for emotional distress when the bystander is closely related to the primary victim and the bystander’s distress is related to contemporary sensory perception of the event by being on the scene or arriving afterward before the primary victim’s condition has changed and the primary victim dies or sustains serious injury.***

SUPREME COURT OF CONNECTICUT  
April 28, 2015

The patient by this time had suffered irreversible brain damage. He passed away in the hospital after life support was discontinued.

The Supreme Court of Connecticut ruled the parents could sue for damages for the emotional distress they experienced as bystanders to the event that killed their son, even though the cause of death was malpractice at the hospital.

The legal damages will compensate the parents for the extreme shock they experienced while being part of the fatal event itself. The damages could be much more than those for the loss of a close family member whose demise did not occur in the survivors’ presence and was not witnessed by them. The Court ruled a jury will have to determine the actual amount to be awarded. Squeo v. Norwalk, \_\_ A.3d \_\_, 2015 WL 788224 (Conn., April 28, 2015).