

**The United States District Court Has Unsealed A Whistleblower Lawsuit  
Filed By North Carolina Emergency Room Physicians Against Health  
Management Associates And Emergency Medical Services Corporation**

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**CHARLOTTE - January 3, 2014** – The United States District Court for the Western District of North Carolina, in response to a Department of Justice motion, has unsealed a whistleblower lawsuit filed against Health Management Associates, Inc., (“HMA”) and Emergency Medical Services Corporation (“EMCARE”) alleging that they cheated the Medicare and Medicaid Programs in its hospitals across the United States by:

- ADMITTING EMERGENCY ROOM PATIENTS TO HMA HOSPITALS WHEN IT WAS NOT MEDICALLY NECESSARY;
- PAYING KICKBACKS TO EMERGENCY ROOM PHYSICIANS TO INCENTIVIZE THEM TO ORDER EXPENSIVE EMERGENCY ROOM SERVICES AND TO ADMIT PATIENTS INTO HMA HOSPITALS WHEN IT WAS NOT MEDICALLY NECESSARY OR APPROPRIATE; AND
- SUBJECTING PATIENTS TO EXPENSIVE EMERGENCY ROOM SERVICES, INCLUDING DIAGNOSTIC TESTS THAT WERE MEDICALLY UNNECESSARY AND INAPPROPRIATE.

The “qui tam” whistleblower lawsuit, filed in federal district court in Charlotte, North Carolina under the federal False Claims Act and a number of State False Claims Acts, seeks to recover for taxpayers millions of dollars that HMA, EMCARE and their subsidiaries cheated the United States government and state Medicaid programs.

The claims asserted against all of the defendants are allegations only; there has been no determination of liability.

HMA is a multi-billion dollar for-profit hospital corporation which, as of 2010, operated through its subsidiaries 55 hospitals in 15 states, totaling approximately 8,400 beds. HMA is publicly traded on the NYSE under the symbol “HMA.”

EMCARE is a for-profit corporation with more than 500 contracts at hospitals throughout the United States to provide physician practice management services in hospital emergency departments, as well as hospitalist and radiology staffing, billing, and other administrative services. Since 2008, under a nationwide agreement with HMA, EMCARE has staffed the emergency departments at more than 28 HMA facilities across the country. Some of these

contracts also included EMCARE hospitalist services. EMCARE is listed on the NYSE as “EMSC.” EMCARE reported net revenue of \$1.73 billion for the first 9 months of 2013.

The “qui tam” whistleblower lawsuit was filed in Charlotte, North Carolina in 2010 by Thomas L. Mason, M.D., Steven G. Folstad, M.D. and Mid-Atlantic Emergency Medical Associates, PA (“MEMA”). Mid-Atlantic Emergency Medical Associates, PA (“MEMA”) is a large physician-owned practice providing high quality emergency and acute medical care throughout greater Charlotte and the Piedmont area of North Carolina. From July 1, 1996 until November 3, 2010, MEMA was the exclusive provider of ER physician services at HMA’s Lake Norman Regional Medical Center. From October 2000 until September 1, 2010, MEMA also was the exclusive provider of ER physician services at HMA’s Davis Regional Medical Center.

The matter is being investigated by the United States Department of Justice, the United States Attorney’s Office for the Western District of North Carolina, the United States Department of Health & Human Services - Office of the Inspector General (HHS-OIG), and the Federal Bureau of Investigation (FBI). Under federal and state qui tam statutes, should the government decline to intervene in any part of their action, the Relators, through private counsel, may pursue those allegations on behalf of taxpayers.

#### **Dr. Mason**

Dr. Thomas Mason is board-certified in emergency medicine and is a current and former member of many local and national professional scientific societies. He is a Fellow of the American College of Emergency Physicians (“ACEP”), he serves as a Councillor for ACEP, and as an Oral Board Examiner for the American Board of Emergency Medicine. From 1997 to November 2010, Dr. Mason served as the Medical Director of the Emergency Department at HMA’s Lake Norman Regional Medical Center, located in Mooresville, North Carolina. During his tenure at Lake Norman, Dr. Mason served on the hospital Medical Executive Committee (“MEC”) for 13 years and was elected Chief of Staff from 2006-2008. Dr. Mason was elected President of the North Carolina College of Emergency Physicians (“NCCEP”) in 2000 and has served on the NCCEP Board of Directors since 1994. In 2006, during his time as HMA’s ED Director at Lake Norman, Dr. Mason was named Emergency Physician of the year by the NCCEP.

#### **Dr. Folstad**

Dr. Steven Folstad is board-certified in emergency medicine, and is also a Fellow of the American College of Emergency Physicians. Dr. Folstad is a current and former member of many local and national professional scientific societies. Dr. Folstad has served on the faculty of the Department of Emergency Medicine, Wake Forest University Bowman Gray School of Medicine, in Winston-Salem, North Carolina and as the Residency Program Director. He is presently a Fellow of the American College of Emergency Physicians (“ACEP”), and a member of the North Carolina College of Emergency Physicians (“NCCEP”). Dr. Folstad also serves as the Medical Director, Iredell County EMS. From 2000 until 2008, Dr. Folstad served as Medical

Director of the Emergency Department at HMA's Davis Regional Medical Center, located in Statesville, North Carolina. Since 2008, Dr. Folstad has served as President and Chief Executive Officer ("CEO") of MEMA.

As alleged in the qui tam lawsuit, HMA and EMCARE defrauded the Medicare and Medicaid Programs for years. Whistleblowers Mason, Folstad, and MEMA stood up for patients in the face of HMA's and EmCare's profit-centered corporate control over the Emergency Department and exposed this significant fraud. HMA corporate leaders responded with escalating retributions against the Whistleblowers, eventually terminating without cause the Relators' contracts to staff two ERs.

### **HMA's Relentless Pressure to Increase Revenue by Admitting Patients to Hospitals When it Was Not Medically Necessary or Appropriate**

Since at least 2003, HMA mandated adherence to company-wide policies and procedures to illegally increase in-patient admissions and to avoid outpatient observations for patients entering the ER at HMA's hospitals nationwide. For example, HMA required all emergency departments to admit over 50% Medicare Patients, without regard to the medical necessity of that admission. Additionally, beginning in 2005, in order to encourage an admission, HMA mandated that emergency room physicians place telephone calls to the primary physicians of at least 75% of the Medicare patients entering HMA emergency departments. HMA relentlessly monitored hospital performance against these corporate admissions benchmarks, and harassed emergency room physicians, nurses, and other staff who failed to meet these corporate dictates.

### **HMA Offers Kickbacks to Emergency Room Physicians to Induce them to Follow HMA's Fraudulent Admissions and Testing Schemes**

HMA routinely provided cash incentives to emergency physicians and emergency medicine practices who pushed their fraudulent benchmarks for unnecessary tests and unnecessary admissions. HMA also induced emergency medicine practices to cooperate with their fraud by renewing or awarding lucrative emergency room professional services contracts. Emergency room physicians who refused to participate in HMA's scheme to increase revenues through corporate ER metrics faced retaliation from HMA corporate executives, division leaders, and hospital administrators.

### **HMA's Corporate Push to Increase Revenue by Subjecting Patients to Expensive, Unnecessary Emergency Room Services**

Since at least 2003, HMA imposed corporate benchmarks on emergency rooms and used proprietary computerized programs to increase hospital revenues by illegally subjecting patients to expensive ER services that were not medically necessary or appropriate, as part of HMA's schemes to fraudulently maximize both outpatient ED revenues and inpatient revenues from unnecessary admissions. For example, the complaint alleges HMA aggressively utilized a computer system,

referred to as the “Pro-Med Complaint Test Mapping” (or CTM), that would automatically order a laundry-list of expensive emergency room services, including diagnostic tests, based on the patient’s chief presenting complaint. HMA imposed a corporate benchmark requiring that emergency room triage nurses order, and emergency physicians not cancel, a minimum number of the tests automatically generated by the CTM. Like the emergency room admissions metrics, HMA constantly monitored each hospital’s performance against the corporate testing benchmarks, and harassed those emergency room physicians who failed to meet corporate mandates for testing.

### **Whistleblowers Mason, Folstad, and MEMA Are Terminated by HMA After Objecting to HMA’s Fraudulent Admissions and Testing Schemes**

Doctors Mason, Folstad, along with other MEMA physicians, repeatedly complained to HMA corporate officers and executives about HMA’s fraudulent schemes. They warned HMA that it improperly subjected patients to unnecessary and at times expensive tests and hospital stays, and was defrauding the government. These complaints were made at every level of HMA’s leadership structure, beginning with the hospital CEOs and reaching to HMA’s then-CEO Gary Newsome, along with other high-ranking HMA executives and directors.

HMA attempted to entice the Plaintiffs at both North Carolina hospitals with illegal cash inducements to meet corporate mandates to order unnecessary tests and to recommend that patients be admitted to the hospital unnecessarily. When the Whistleblowers refused, HMA intensified its harassment of MEMA physicians.

Rather than make difficult and costly changes that could have brought HMA into compliance with Medicare and Medicaid rules and regulations, HMA tried to silence the Whistleblowers (Drs. Mason and Folstad and other MEMA physicians). Rather than deal with their legitimate concerns, HMA summarily terminated MEMA’s contracts with the two facilities, Lake Norman and Davis Regional. The plaintiffs are also pursuing private claims against HMA and EmCare.

### **EMCARE Conspired with HMA in Carrying Out The Fraudulent Admissions and Testing Schemes**

EMCARE conspired with HMA to perpetuate the fraudulent scheme to submit claims for unnecessary tests and admissions. EMCARE physicians furthered HMA’s illegal conduct in the ER by: helping HMA to create the fraudulent CTM testing procedures; ordering numerous unnecessary emergency room tests; admitting numerous emergency room patients without medical necessity; and accepting kickbacks from HMA to recommend or refer patients to HMA facilities. EmCare pursued contracts at HMA hospitals by agreeing to further HMA’s fraud related to unnecessary emergency room care and hospital admissions. After illegally terminating MEMA, HMA awarded exclusive contracts for the Lake Norman emergency room and hospitalists services to EMCARE -- as a financial inducement to refer patients to HMA for lucrative hospital services.

The United States has partially intervened in the Relators’ allegations, namely, that HMA submitted false claims for ER patients who were admitted, but who should have been in

observation or treated and discharged. The United States has also elected to intervene in the Relators' allegations that HMA submitted false claims related to violations of the Anti-Kickback statute resulting from incentives paid by HMA to Emergency Department physicians or physicians groups for improving metrics and benchmarks related to inpatient admissions.

The United States and the states of North Carolina, Georgia, Florida, Oklahoma, and Tennessee, have requested a 90-day extension to determine whether they will intervene in the allegations against EMCARE. Under federal and state qui tam statutes, when the government declines to intervene in part of the action, the Relators, through private counsel, may pursue those allegations on behalf of federal and state taxpayers.

“This is a massive, nationwide fraud on the American taxpayers, that subjected patients to unnecessary tests and hospital admissions,” said lead counsel in the case, Marc S. Raspanti, of the Philadelphia law firm of Pietragallo Gordon Alfano Bosick & Raspanti, LLP. “Dr. Mason, Dr. Folstad, and MEMA have exhibited tremendous personal and professional courage in repeatedly standing up to HMA’s improper pressures.”

“The fraudulent conduct, and callous disregard for the medical needs of vulnerable patients, particularly the elderly and children, that HMA and EMCARE exhibited is eye opening,” said Pamela C. Brecht, an attorney with Pietragallo Gordon Alfano Bosick & Raspanti, LLP, who has worked tirelessly for years, investigating and pursuing the fraud allegations in this case.

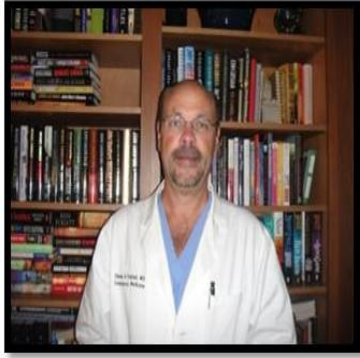
Pietragallo Gordon Alfano Bosick & Raspanti, LLP, is one of the largest and most successful whistleblower law firms in the United States. Lawyers in the nationwide whistleblower practice group of Pietragallo Gordon Alfano Bosick & Raspanti have served for more than 25 years as lead counsel in whistleblower cases that have recovered more than \$1.8 billion for federal and state taxpayers. Pietragallo Gordon Alfano Bosick & Raspanti, LLP, are pursuing this case with co-counsel, James F. Wyatt, III and Robert Blake of the Charlotte, North Carolina law firm of Wyatt & Blake, LLP, on behalf of the American taxpayers.

The lawsuit is captioned *United States et. al. ex rel. Mason, Folstad and MEMA v. Health Management Associates, Inc., et. al.*, No. 3:10CV472 (W.D. NC-Charlotte). The matter is assigned to the Honorable Graham C. Mullen.

A copy of the unsealed complaint can be found at [www.FalseClaimsAct.com](http://www.FalseClaimsAct.com).



Thomas L. Mason, MD



Steven G. Folstad, MD

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