

Decoding **PRIME**

How a major California hospital chain boosts its bottom line through aggressive billing practices.



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Decoding **PRIME**

FEBRUARY 19, 2011

Hospital chain, already under scrutiny, reports high malnutrition rates

*By Lance Williams, Christina Jewett and Stephen K. Doig
California Watch*

<http://californiawatch.org/malnutrition-rates>

Redding, near Mount Shasta, and Victorville, in the Mojave Desert, have little in common but an unusual statistic: In each city, a hospital has reported alarming rates of a Third World nutritional disorder among its Medicare patients.

Kwashiorkor – a Ghanaian word for “weaning sickness” – almost exclusively afflicts impoverished children in developing countries, especially during famines, experts say.

But in 2009, Shasta Regional Medical Center in Redding reported that 16.1 percent of its Medicare patients 65 and older suffered from kwashiorkor, according to a California Watch analysis of state health data. That’s 70 times the state average of 0.2 percent. At Desert Valley Hospital in Victorville, the kwashiorkor rate among Medicare patients also was high: 9.1 percent, or about 39 times the state average.

Both hospitals are owned by Prime Healthcare Services, a Southern California chain that specializes in turning around financially troubled hospitals. The chain is the target of state and federal investigations for allegedly overbilling the federal Medicare system by millions of dollars in connection with a reported outbreak of septicemia infections.

In interviews and e-mails, Prime officials said their billing practices are legal and proper, and they insist the kwashiorkor reports are accurate, a reflection of how seriously the company takes the

Where It Ran:

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- Fresno Bee
- Orange County Register
- Redding Record Searchlight
- Riverside Press-Enterprise
- Sacramento Bee
- San Diego Union-Tribune
- San Francisco Chronicle

problem of malnutrition among the elderly.

As with septicemia, a diagnosis of kwashiorkor on a Medicare patient's bill can **entitle a hospital to a bonus** from the government worth thousands of dollars, according to federal records.

Four experts in malnutrition and Medicare issues told California Watch they doubted there was an actual cluster of kwashiorkor cases at the hospitals. An investigation of individual patients' records could clarify what is going on, they said. Medicare officials wouldn't say whether they have reviewed the chain's malnutrition billing records.

The reported surge in kwashiorkor among senior citizens is a highlight of California Watch's **computer analysis of 2009 Medicare billing data**, the most recent available. The analysis found high rates of several forms of malnutrition at Prime hospitals – diagnoses that could open the door to larger Medicare payments. Among the findings:

- In 2009, Prime reported that 25 percent of its Medicare patients were malnourished, another medical complication that can entitle a hospital to a reimbursement bonus from the government. The state average for hospitalized seniors was 7.5 percent.
- Of the 10 California hospitals that reported the highest malnutrition rates among Medicare patients, eight – including the top four – are owned by Prime.
- The hospital with the highest malnutrition rate for seniors in California was Prime's Huntington Beach Hospital, which serves a city with a low poverty rate and average income of more than \$100,000 per family. The hospital said 39 percent of its Medicare patients were malnourished.
- Statewide, only 1.3 percent of Medicare patients were diagnosed with the types of severe malnutrition that pay the biggest treatment bonuses – nutritional wasting and severe protein calorie malnutrition, in addition to kwashiorkor. Prime's rate for these conditions was 10.1 percent.
- In all, the Prime chain treated 3.6 percent of Medicare patients in California, records show. But 12 percent of the state's malnutrition cases – and 36 percent of all kwashiorkor cases – were reported at Prime hospitals.

As California Watch **reported in October**, authorities are investigating Prime hospitals to determine whether a reported cluster of septicemia infections in 2008 reflect a health care problem or a fraudulent billing practice called “upcoding.”

It's an illegal practice by which hospitals overstate patients' diagnoses on billing records to obtain bonus payments that can amount to millions of dollars.

Like malnutrition and kwashiorkor, septicemia is among the medical complications that qualify for enhanced Medicare payments, according to federal records.

In e-mails, a company executive said Ontario-based Prime provides top-flight health care and deals honestly with Medicare.

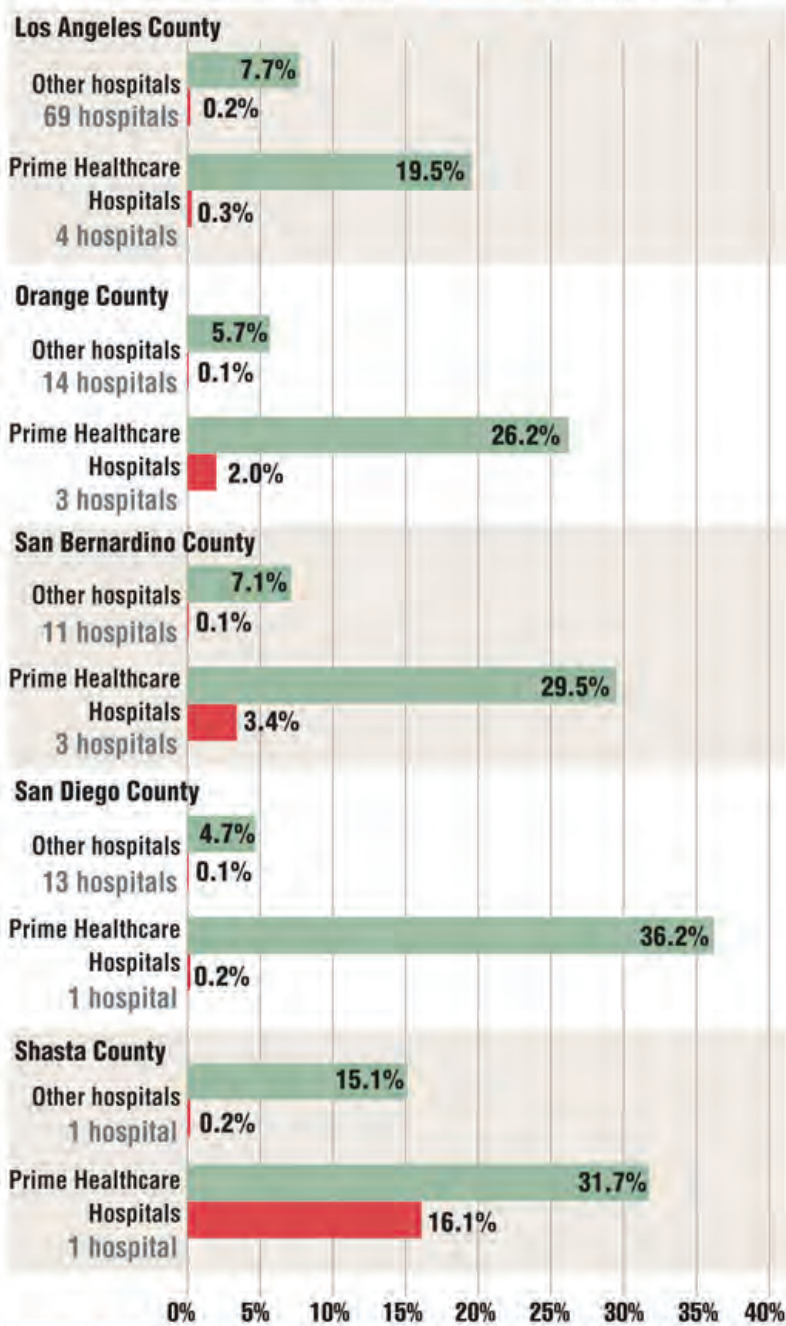
“Prime Healthcare hospitals cannot, have not and will not engage in ‘upcoding’ or Medicare fraud,” wrote Ajith Kumar, director of reimbursement management.

Citing internal data, he said Prime obtained enhanced payment from Medicare in only 3.6 percent of its malnutrition cases. At other times, the company put the rate at 3.1 percent. The billing data available to the public doesn't flag the cases that received enhanced Medicare payments.

Malnutrition reports

Prime Healthcare hospitals diagnosed more malnutrition cases among seniors compared with other nearby hospitals.

Percentage of malnutrition cases (green bar) Percentage of kwashiorkor cases (red bar)



Source: California Watch Analysis Of California Office Of Statewide Health Planning And Development data. **The Orange County Register**

Kumar didn't respond to questions about the chain's overall malnutrition rate. But he contended that Prime is a leader in early diagnosis and treatment of malnutrition and suggested that other hospitals aren't as diligent. The disparity in malnutrition rates "means there are patients going undiagnosed and untreated" at other hospitals, he said in an interview.

Kumar acknowledged that kwashiorkor typically is a **Third World disorder**. But he said Prime has followed accepted guidelines in identifying patients whose blood tests point to the disorder. An independent medical consulting firm called the Health Services Advisory Group agreed with Prime's methods, he said. The group has not returned calls from California Watch for comment.

In e-mails, Kumar also complained that Prime was the victim of a "campaign of misinformation and extortion" engineered by the Service Employees International Union, which represents many Prime workers and has clashed with the company over pay and benefits.

Kumar contended that the septicemia investigations were launched last year because the union had provided regulators and lawmakers with what he called a "**faulty and misleading analysis**" of Prime's Medicare billings.

The union was trying to leverage a new contract at its Centinela Hospital Medical Center in Los Angeles, Kumar asserted. Now, he charged, the union was trying to trump up another Medicare fraud probe, this time by complaining that the chain's malnutrition claims were out of line.

Kwashiorkor reports puzzle experts

The union has provided authorities with a private statistical study of Medicare records that showed high malnutrition and kwashiorkor rates at Prime hospitals, a union spokesman said. California Watch obtained health data from the Office of Statewide Health Planning and Development and relied on its own statistical analysis for this report.

Medicare, the system of government health care for seniors, pays treatment bonuses under certain circumstances because caring for patients with multiple health problems is more expensive. **A report by** the federal Centers for Medicare & Medicaid Services gives an example of how the system works.

In 2008, hospitals received about \$5,300 on average from Medicare for treating a stroke patient, the report says. But if the patient also was diagnosed with malnutrition or any of the hundreds of other ailments that Medicare classifies as a medical complication, the payout was about \$6,100 – 15 percent more.

A bigger bonus is paid if a stroke patient is also suffering from kwashiorkor or other ailments that Medicare classifies as major complications. In that event, a hospital received, on average, about \$8,000 – 50 percent more.

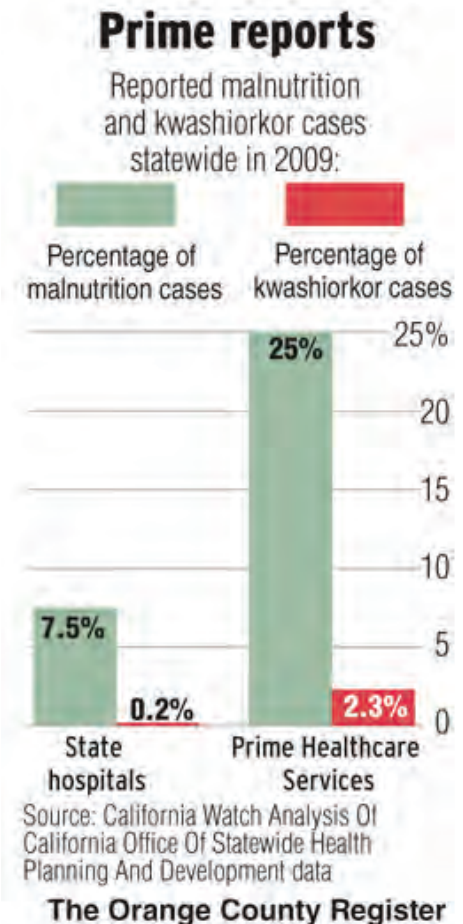
Last year, Prime reported treating more than 6,800 malnourished seniors, records show. More than 2,700 were diagnosed with severe forms of malnutrition, including kwashiorkor.

Kwashiorkor itself is a childhood protein deficiency often associated with “the premature abandonment of breast-feeding,” The Merck Manual medical dictionary says. It’s noted in regions of the developing world where staple foods are low in protein. News coverage of famine in Africa often features images of young kwashiorkor victims with the distended bellies that are a chief symptom of the disease. Other symptoms include swelling of the feet, loss of teeth and hair, and liver problems.

Directors of **elder-care ombudsman programs** in Shasta and San Bernardino counties said they were unaware of kwashiorkor in Redding and Victorville. Several experts said they were puzzled by the report of kwashiorkor among seniors.

“Traditional kwashiorkor is reserved for children in Third World countries that don’t get enough protein in their diet,” said Dr. Matthew Butteri, professor at UC Irvine’s medical school and an expert in geriatric medicine.

At the hospitals that are reporting high rates for the ailment, “there’s probably some individual who said, ‘Let’s start calling protein malnutrition among older adults kwashiorkor;’” he said. “I personally don’t think of kwashiorkor in adults.”



Dr. David Reuben, chief of the geriatrics division at the David Geffen School of Medicine at UCLA, said he doubted that physicians were diagnosing kwashiorkor among seniors. Rather, he said it was likely that hospital personnel who translate doctors' notes into billing codes were making the interpretation.

"What's going on in the coding room there may require a deeper look," Reuben said.

Other experts took issue with Prime's overall malnutrition rates.

Diane Caradeuc, an educator for the nonprofit California Health Advocates and a former Medicare official who oversaw fraud cases, called Prime's rates "suspect." She said the reported malnutrition at Huntington Beach Hospital was "egregious," given that the city's poverty rate is low. Medicare should take a closer look at California Watch's data, Caradeuc said.

Shannon Brownlee, acting director of the New America Foundation think tank's Health Policy Program in Washington, D.C., questioned whether the surge of malnutrition reports at Prime was the result of "a clinical decision or a business decision," as she put it.

"When you see such a big spike, you have to wonder what's really going on," she said.

Prime hospitals exceed state, regional averages

California Watch's analysis focused on Medicare patients age 65 and older at general hospitals that treated more than 500 patients in 2009. Convalescent hospitals were excluded, as were hospitals in the Kaiser Permanente managed-care chain because of differences in billing practices. In all, 254 California hospitals were included.

The analysis shows that Prime hospitals had higher rates for malnutrition among seniors than other hospitals nearby.

In Orange County, the malnutrition rate among seniors averaged 5.7 percent at the 14 hospitals not affiliated with the Prime chain.

But the rate at Prime's four hospitals – Huntington Beach Hospital, West Anaheim Medical Center, La Palma Intercommunity Hospital and Garden Grove Hospital Medical Center averaged 26.2 percent. While Huntington Beach Hospital was reporting its 39 percent rate, the malnutrition rate at the non-profit Hoag Memorial Hospital Presbyterian in Newport Beach, eight miles away, was 5.6 percent.

Los Angeles County's four Prime hospitals – Centinela, Encino Hospital Medical Center, San Dimas Community Hospital and Sherman Oaks Hospital – had a combined malnutrition rate of 19.5 percent, while the rate at the county's 69 general hospitals not owned by Prime was 7.7 percent.

In San Bernardino County, the malnutrition rates at 11 hospitals not operated by Prime averaged 7.1 percent; at three Prime hospitals it was 29.5 percent.

Differences also were evident when it came to kwashiorkor. Shasta Regional Medical Center in Redding reported 288 cases of kwashiorkor, a 16.1 percent rate. About one mile away at Mercy Medical Center Redding, Shasta County's other big hospital, there were only 12 cases, a rate of 0.2 percent.

Mercy Medical Center dietitian Rita Steffen was surprised there were any kwashiorkor cases at all.

“I’ve not really seen that diagnosis here,” Steffen said. “Kwashiorkor is more of a protein malnutrition that you find in other countries – you know the pictures you see of African children with big bellies.”

In October, California Watch reported that state and federal authorities were investigating Prime’s rate of septicemia infections among seniors, which in 2008 was triple the national average. People familiar with the issue say the investigations are still underway.

The federal **probe was requested** by Democratic U.S. Reps. Henry A. Waxman and Pete Stark. The lawmakers said a computer analysis of Medicare records by the hospital workers’ union indicated that Prime might have overbilled Medicare by \$18 million for septicemia claims in 2008.

Prime denied wrongdoing, saying its septicemia rates were high because of the chain’s emphasis on **early detection and treatment** of infections.

This story was edited by Robert Salladay and Mark Katches.

This installment was produced in collaboration with our California Watch Media Network partner The Orange County Register, which created the graphics for this story.

Decoding **PRIME**

DECEMBER 16, 2011

Prime hospital bills for malnutrition, but patient says she wasn't treated

By Lance Williams
California Watch

<http://californiawatch.org/kwashiorkor>

SHINGLETOWN – As far as Medicare knew, Darlene Courtois fell ill last year with kwashiorkor, a dangerous form of malnutrition usually seen among starving children during African famines.

At least that's what her hospital claimed in the bill it sent to Medicare, records show.

But Courtois, 64, says she wasn't treated for malnutrition during the five days she spent at Shasta Regional Medical Center after she was hurt in a fall. She's overweight, not emaciated, she said.

And she said she never heard the word for the malady – a virulent illness with symptoms including emaciated arms, a distended belly and distinctive swelling of the feet or legs – until asked about it by a reporter.

"It blew me out of the water when I heard they diagnosed me as that," Courtois, a retired teacher's aide, said in an interview at her home west of Mount Lassen. "I never heard a doctor or nurse or any other medical personnel tell me I have kwashiorkor."

The former patient's account is supported by Medicare and hospital records reviewed by California Watch, but disputed by Prime Healthcare Services, which owns 14 California hospitals, including the 246-bed facility in Redding.

In an analysis of more than 50 million Medicare patient records over the past year, California Watch has found thousands of cases for which Prime has aggressively billed for treating unusual conditions. Medicare pays providers significant bonuses for treating patients diagnosed with hundreds

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of major complications, including kwashiorkor.

Reports of kwashiorkor at Shasta Regional Medical Center exploded after Prime acquired the hospital in November 2008. That year, the hospital reported only eight cases of kwashiorkor. But in the two years that followed, 1,030 cases were billed to Medicare – more than 70 times the statewide rate for general hospitals.

In Courtois' case, the hospital's reimbursement from Medicare increased by more than \$6,700 – from \$4,708 to \$11,463 – by noting kwashiorkor on the bill, according to a California Watch analysis of billing information obtained under the federal Freedom of Information Act.

In a letter, a spokesman for Prime insisted that the patient was diagnosed properly and received excellent care for “her significant health issues including her malnutrition.”

Citing physician notes and other internal documents, spokesman Edward Barrera said the patient was found to be suffering from a condition called protein malnutrition. He said she was evaluated by a nutritionist and provided with “diet counseling and diet adjustment” as part of her care.

“The physicians and the senior dietician did all they could to identify and treat this patient's medical conditions,” he wrote, and it is “misleading and unfair” to suggest otherwise.

But nothing in the 63-page file Courtois was given when she requested her hospital records indi-



MONICA LAM/CALIFORNIA WATCH

Darlene Courtois, a Medicare patient, says she had never heard of kwashiorkor, a severe form of malnutrition. But federal records show her hospital billed Medicare for treating her for the condition.

cates that she was seen by a nutritionist or treated for malnutrition. The word “kwashiorkor” doesn’t appear in the records. The phrase “protein malnutrition” isn’t in there, either.

Courtois’ daughter, Julie Schmitz, supported her mother’s account, saying Courtois was never told she was malnourished or suffering from kwashiorkor.

“No way was my mom treated for malnutrition,” she said. Schmitz said she had closely monitored her mother’s care and, “it’s not possible that I just forgot.”

The Redding case comes as Prime’s billings have attracted official concern. Last year, Democratic U.S. Reps. Henry Waxman of Los Angeles and Fortney “Pete” Stark of Fremont **asked Medicare officials to investigate** suspected fraud at Prime in connection with a reported surge in cases of blood infections.

In October, Democratic U.S. Rep. Bob Filner of Chula Vista asked Medicare to probe the chain’s billings for “startlingly high rates” of severe malnutrition, including kwashiorkor. And two former employees of the hospital chain told California Watch that **the FBI had contacted them** this month about Prime’s billing practices.

In 2010 alone, Shasta Regional reported that 727 Medicare patients – 19.4 percent – were suffering from kwashiorkor. That year, more than 1 in 3 kwashiorkor cases in the entire state’s Medicare population were reported at Shasta Regional, the records show.

Prime officials have insisted that their Medicare billings are accurate and in full legal compliance. The kwashiorkor diagnoses show that Prime is serious about the problem of malnutrition among the elderly, officials have said.

In his letter, Prime’s spokesman suggested that imprecision in Medicare’s own guidelines for hospital coding – translating medical conditions into computerized billing codes – could force a kwashiorkor diagnosis. When a patient has a low level of the blood protein albumin, a diagnosis of “severe protein deficiency” is appropriate, he asserted.

Prime officials have contended that in cases of severe protein deficiency, Medicare requires hospitals to assign the diagnostic code for kwashiorkor, “even though the hospital did not document kwashiorkor as the diagnosis,” as they wrote in a memo earlier this year.



CENTERS FOR DISEASE CONTROL AND PREVENTION
This photograph shows children and a nurse attendant at a Nigerian orphanage in the late 1960s. Four of the children have gray-blond hair, a symptom of kwashiorkor.

Courtois did indeed have low levels of albumin, according to her hospital records. But that's also consistent with kidney disease, from which she has suffered for years. Her hospital records don't use the term "severe protein deficiency."

Courtois was not an isolated case. Records show that a Medicare patient admitted to Shasta Regional Medical Center in 2010 for a possible stroke was neither diagnosed with nor treated for kwashiorkor. But information obtained via the Freedom of Information Act shows that Prime billed Medicare for treating this patient for the disorder. In an interview, the patient claimed never to have heard the word before, but declined to be named out of privacy concerns.

And a former medical coder at Prime's Desert Valley Hospital in San Bernardino County told California Watch in a previous story that she was pressured to write up patients for kwashiorkor if they had low albumin levels and were diagnosed with ordinary malnutrition.

The diagnoses weren't correct, the former coder, Vicki Presley Smith, said in an interview. Kwashiorkor is "basically in Third World countries; that diagnosis is very rare in the United States," she said.

Medicare officials declined to comment on the Redding hospital. But in Maryland, Medicare is suing Kernan Hospital for alleged fraud in connection with making kwashiorkor diagnoses based on low albumin levels. The agency said, "A single laboratory value – for example, a low pre-albumin score, which is not unique to malnutrition – could be falsely and fraudulently translated into a diagnosis of the most severe kind of malnutrition ... justifying the diagnosis of this rare and severe condition, and code kwashiorkor."

Patient's record calls her 'well nourished'

Courtois worked for years as a teacher's aide in Contra Costa County. Today, she lives in a forested area west of Lassen Volcanic National Park, and her daughter and son-in-law live nearby. Courtois is diabetic. The illness has caused serious kidney problems, and she undergoes regular dialysis. She has heart issues as well.

In early 2010, Courtois fell from a chair while hanging decorations for a party and went to Shasta Regional Medical Center by ambulance. X-rays showed no broken ribs, and she was sent home.

But she had episodes of dizziness and weakness, and on Jan. 29, she went back to the hospital via ambulance.

According to her hospital records, an emergency room doctor described her as "well developed, well nourished," and he noted "no edema," which is the swelling of the feet and legs.

That's potentially significant. If a patient has kwashiorkor, physicians expect to see symmetrical edema, or swelling, on the lower limbs, and working upward as the disease progresses, three experts told California Watch.

The emergency room doctor concluded that Courtois was suffering from acute kidney failure. He noted seven other possible diagnoses. Among them he listed "malnutrition," despite his earlier description of her as "well nourished."

After Courtois was admitted to the hospital, another doctor examined her. He didn't note any

edema or malnutrition and agreed she suffered from acute kidney failure. In dictated notes, he said he would keep her on intravenous hydration and consult with a kidney specialist.

Five days later, Courtois went home. A doctor who examined her before she was discharged said she was feeling better after an attack of kidney failure. He listed some 14 medications to take upon discharge, most of them drugs to control heart problems.

Once a patient is stabilized, doctors normally provide nutritional supplements and antibiotics because kwashiorkor victims are prone to serious infections. Courtois said she did not receive nutritional supplements.

Courtois signed a waiver allowing California Watch to obtain her Medicare billing information from the Centers for Medicare & Medicaid Services.

In the bill it submitted to Medicare for Courtois, the hospital used a numeric diagnostic code to report that Courtois had been treated for acute kidney failure. As a complication, the hospital noted the numeric code for kwashiorkor.

Experts say that if a patient has kwashiorkor, intervention is critically important.

That's because it's a "high-mortality, high-fatality disease," said Marie-Sophie Whitney, senior nutritionist for the international humanitarian organization Action Against Hunger.

Treatment typically begins with the therapeutic milk product called F-75, which was invented specifically for severe malnutrition, said Jessica Tilahun, a nutrition adviser for the U.S. Agency for International Development. People with kwashiorkor are very ill, she said, and must be monitored carefully.

"Their body is in such a state of crisis ... they have to sip because if they eat too much too fast, it will alter the electrolytes in their body and can send them into heart failure," Tilahun said.

Reporters Christina Jewett and Stephen K. Doig contributed to this report. This story was edited by Robert Salladay and copy edited by Nikki Frick.

Decoding **PRIME**

OCTOBER 14, 2011

Prime Healthcare's treatment of rare ailments stands out

*By Christina Jewett and Stephen K. Doig
California Watch
<http://californiawatch.org/prime-coding>*

P rime Healthcare Services bills Medicare for a variety of unusual ailments – among them a brain disease and a condition causing eyes to bleed – that can generate lucrative payments to the chain.

A California Watch analysis of newly released data shows that the chain's Medicare billing for these disorders is far more aggressive than at other California hospitals. Prime also led the state in billing for a rare nerve disorder, documenting the majority of cases last year.

Nine former Prime doctors and back-office medical coders said in interviews **or court testimony** that the company's owner, Dr. Prem Reddy, urged staff to log common medical conditions as more serious ailments – opening the door to higher Medicare payments that flow to one of the state's largest hospital chains.

Often, the extra payment "wasn't earned and wasn't deserved," said Chuck Phelps, a top coding official who **resigned in 2007** over concerns about the chain's billing practices.

Prime officials have denied wrongdoing. They said they are "not going to dispute the numbers" and would not respond to allegations from former employees, whom the company labeled as disgruntled.

"Doctors diagnose, not administrators," said company spokesman Edward Barrera.

State and federal officials have begun paying attention to the 14-hospital chain amid a growing

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- 10 News KGTV
- Orange County Register
- Riverside Press-Enterprise
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MONICA LAM/CALIFORNIA WATCH

Anneke Doty, a medical coder for 10 years, quit her job at Alvarado Hospital over concerns about Prime Health-care Services' billing approaches.

national outcry about soaring medical costs and billing fraud investigations into the taxpayer-funded Medicare program.

California Watch **previously reported** that the chain had higher rates of **treating severe malnutrition** and the **blood disorder septicemia** among Medicare patients compared with other hospitals across the state. The new data indicates that the chain has been billing for three ailments that Reddy singled out in a December 2010 meeting at Alvarado Hospital Medical Center in San Diego.

"I had never heard of anything so blatantly wrong," said Anneke Doty, who teaches medical coding and has been in the field for 10 years. Doty attended the meeting at Alvarado. She is one of several former Prime coding staff who has quit over disagreements about the company's billing approaches.

California Watch examined elderly Medicare patient billing data submitted by the state's hospitals for 2010, focusing on the three medical conditions that Reddy highlighted during the San Diego meeting. The analysis found:

- Prime recorded **malignant hypertension** cases – a rapid onset of high blood pressure that can cause the eyes to bleed – at 11 times the statewide average. Hospitals can **earn about \$3,000** more when reporting the condition.
- Prime owns six of the seven hospitals in California that reported the highest **rates of encephalopathy**, a brain injury characterized by swelling, an inability to concentrate and drowsiness. A

hospital could earn \$7,000 more for treating the condition as a complication of pneumonia.

- Even though Prime treated 3.6 percent of the state’s Medicare patients, it reported handling **77 percent of the cases** of autonomic nerve disorder among that same patient population. Treating the disorder – a potentially deadly condition related to Parkinson’s disease, diabetes and alcoholism – can earn \$5,000 more for a hospital **if coded the right way**.

It’s unclear from the state data how much money Prime hospitals specifically may have earned billing for each ailment.

California Watch found similar patterns for each of these conditions in 2009 data, two years after an updated Medicare payment system took effect. Those rule changes put more emphasis on medical complications that can entitle hospitals to extra funding. But the changes also open the door to potential fraud, according to Anthony LoSasso, a former consultant to Medicare who teaches health policy at the University of Illinois at Chicago.

“Rogue operators are always going to abuse any system, especially when abuse of this sort is so potentially lucrative,” LoSasso said.

Prime’s business strategy has proven effective for the chain. The Ontario-based company has specialized in turning around struggling hospitals and **earned \$97 million** in profit in 2010, according to state records.

Prime’s business strategy criticized

When a hospital improperly assigns a reimbursement code to medical conditions to boost Medicare funding, it’s called “upcoding.” And it’s illegal. Federal prosecutors reached a \$46 million settlement over the practice with Tenet Healthcare Corp. in 2006.

Prime has maintained that it has never upcoded. In past interviews, company officials say they take an aggressive approach toward treating and diagnosing certain conditions.

Dr. Larry Emdur, chief medical officer at Alvarado, said the firm is embracing better documentation of patient illnesses and expects the Prime approach to spread.

“I know all doctors will be doing what we do in a couple of years,” Emdur said.

Barrera said Prime complies with all state and federal guidelines and relies on hospital chief executives and its vice president of clinical operations to oversee compliance.

“We are an award-winning health care company with hospitals that consistently rank highest in the nation for quality care,” Barrera said. Thomson Reuters, which ranks hospitals, has named several Prime facilities among **the 100 best** in the nation.

In a statement, the California Medical Association, which represents about 35,000 doctors, said hospitals should not pressure doctors about patient diagnoses.

“Such decisions should be left up to the physicians that have gone through extensive medical training, not to administrators or hospital personnel,” the statement said.

Criticism of Prime’s business strategy emerged publicly during a 2005 trial.

Reddy had sued two former nurse managers over labor issues. The nurses countersued that

Reddy fired them because they had questioned his business practices.

During the trial, **Reddy testified that** it is legitimate to change a billing code if the medical record indicates a doctor failed to describe a serious condition and, with prompting, documents the condition. Such direction is “one way to come out of the red and be able to keep things going,” Reddy testified.

“I try to understand what a doctor might have missed or might have misunderstood,” Reddy testified. “Therefore, I look at it critically and analyze.”

But former Prime billing administrators said Reddy’s methods crossed the line.

Sandy Barber, a former coding supervisor at Desert Valley Hospital in Victorville, **testified in the 2005 trial** that Reddy slammed his fists on the table during meetings in which she felt “ambushed.” She said Reddy wanted coders to urge doctors to document worsening of chronic conditions as organ failures, which paid more.

She and her staff resisted, explaining coding guidelines that conflicted with his instructions. Reddy replied, “Desert Valley is his hospital ... and he didn’t like bureaucracy ... and if I did not like his reasoning, I was welcome to go elsewhere,” Barber testified. Barber, who was not one of the staffers who sued Reddy, lost her job at Prime during a round of cutbacks.

Two other former Prime managers also testified during the trial about potentially illegal billing practices. The jury awarded the nurses \$880,000, but the case was declared a mistrial. The parties later reached a confidential settlement.

Practices ongoing for nearly a decade

It is not possible to pinpoint how much additional revenue Prime earned when documenting the unusual conditions, because each patient may have numerous diagnoses. But it is clear that conditions reported in outsized rates at Prime hospitals **can bring in an additional** \$3,000 to \$7,000, compared with similar but less serious conditions, an analysis of medical codes shows.

To tell this story, California Watch reviewed hundreds of pages of court records in five lawsuits and spoke with numerous former Prime employees, who say the coding practices have been going on for nearly a decade.

Patricia Howell, director of revenue management at Desert Valley Hospital from 2001 to 2005, said in an interview that Reddy wanted to know which doctors refused to document septicemia, a lucrative condition that Prime has reported at a much higher rate than other hospitals.

Howell said Reddy stated that doctors who wouldn’t diagnose the condition would face consequences. “He was blatant about it,” she said.

Howell, who worked in the medical field for 40 years, was a Tenet employee when the Department of Justice came in and locked up medical records during its fraud probe. She then went to work for Prime.

“Under Reddy, it was 10 times worse, 100 times worse,” said Howell, who said she was dismissed during a family medical leave. Howell, who is retired, said she contacted California Watch because

she has nothing to lose and said she “immeasurably” regrets advising Reddy on business strategies that he took too far.

At Prime’s Huntington Beach Hospital, Reddy gave a two-hour speech to doctors gathered at a nearby steakhouse shortly after acquiring the Orange County hospital in 2006. As physicians sipped red wine, Reddy told them that chain executives would be reviewing their notes on medical records, recalled Dr. Nancy Way, a Newport Beach surgeon.

If executives didn’t like the diagnoses they saw, according to Way, Reddy said doctors would be presented with medical coding sheets to sign. If executives and physicians didn’t agree, Way recalled Reddy saying, there would be “closed-door meetings.”

“If you don’t participate, you don’t get along with them, they try to find a way to get rid of you,” said Way, who said she stopped seeing patients at the hospital because she disagreed with the new policies.

Another physician who attended the meeting, Dr. William Klein, said in a deposition that Reddy “indicated that things would be coded differently and you would need basically the support of the medical staff and how they documented things.”

In April 2007, Prime’s former corporate medical coding director Phelps sent **a resignation letter** to colleagues, urging them to continue to do the “right thing” when administrators ask them to change coding.

“I have worked with you all long enough to know that you will not be swayed into adding or re-sequencing diagnoses simply because it increases reimbursement,” Phelps wrote in his five-paragraph letter, obtained by California Watch. “Your dedication to ethical coding is encouraging.”

Phelps said top administrators at Prime went over medical charts to recommend changes that would heighten profits.



MONICA LAM/CALIFORNIA WATCH
Danika Fedeli was a medical coder at Alvarado Hospital when Prime bought the facility in 2010.

He said some doctors refused to add diagnoses. But chain executives pressured doctors to log the conditions, according to Phelps. The billing changes “misconstrued what was going on with the patient,” Phelps said.

Erlinda Aquino, a former nurse at Prime’s Montclair Hospital Medical Center in San Bernardino County, **complained in late 2007** to the hospital chief executive that the medical center was committing “Medicare fraud by upcoding the diagnosis on some patients.”

Aquino was fired hours after she submitted the written complaint, according to legal documents. She filed a wrongful termination lawsuit that resulted in a confidential settlement.

Medical coders troubled by meeting

Four days before Christmas last year, Reddy visited his newest acquisition, Alvarado Hospital in San Diego, to meet with doctors, nurses and medical coders. Prime had purchased Alvarado just weeks earlier.

Doty and medical coder Danika Fedeli said Reddy’s tone was stern.

The chain owner described medical conditions that he encouraged doctors to document, according to the two coders. Reddy assured physicians that his advice was legal and could shore up hospital finances.

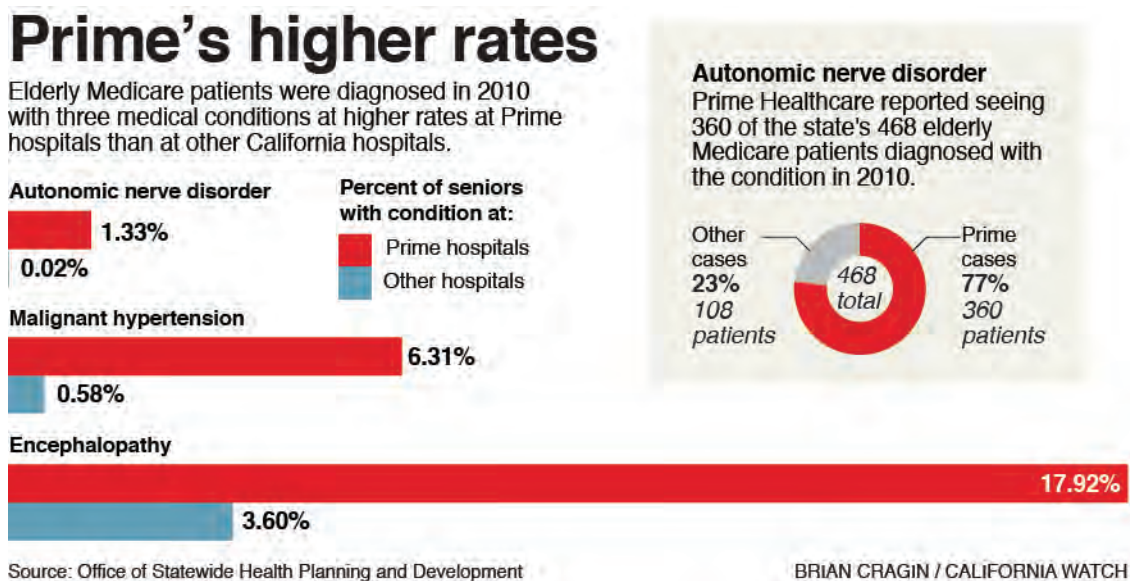
Doty said she resigned after working about three months for Prime, troubled by pressure from a Prime executive to justify her coding. Fedeli, who had been a coder for four years, lost her job when Prime cut her position.

Joseph Ingrande, Doty and Fedeli’s supervisor, said the meeting spurred him to leave. He **sent a resignation letter** just a few days afterward to hospital executives:

“To stay and be part of these practices would give the appearance I approve and validate these procedures,” he wrote. “I cannot with good (conscience) be part of these activities which could potentially put me in legal jeopardy with (Medicare).”

Doty and Fedeli both said they’ve been to hospital-run sessions where doctors are urged to describe ailments clearly and completely. But both were dismayed when they say Reddy encouraged doctors to describe entirely different medical conditions in the place of others.

Both coders said Reddy talked specifically about how to handle patients who had fainted. He told



the group that these patients could just as well be described as having a rare condition called autonomic nerve disorder, according to Doty and Fedeli.

While patients **with the nerve disorder** may faint, according to medical research, they also may have a wide range of other symptoms from trouble swallowing to difficulty going to the bathroom.

“He made the comment that autonomic nerve disorder is such a vague, general description ... that no one could ever question (it),” Doty recalled. “I was thinking, ‘This is crazy, how can I get out of here?’ ”

Medicare data shows that other California hospitals see one patient with the rare nerve disorder for every 100 elderly fainting patients. Yet at Prime hospitals, physicians document one nerve disorder patient for every pair of elderly fainting patients, records show.

Overall, Prime reported seeing the nerve disorder 90 times more often than the statewide average. Three Prime hospitals reported that nerve disorder patients outnumbered fainting patients in 2010.

Prime also reported a rising number of cases in recent years, documenting about twice as many nerve disorder cases in 2010 as in 2009, an increase from 174 cases to 358.

Doty and Fedeli said Reddy also directed doctors and coders to document “accelerated hypertension” if they encountered patients with blood pressure above a certain level. Industry-standard software converts the term to malignant hypertension, a rare and dire condition, Fedeli said.

Malignant hypertension is a sudden and intense surge in blood pressure that is considered a medical emergency, according to the **National Institutes of Health**. Patients who have it may have blurred vision or bleeding from part of the eye.

At hospitals not owned by Prime, about 2.6 percent of California hypertension patients have the condition. That rate aligns with National Institutes of Health research showing that about 1 percent of hypertension patients have malignant hypertension.

Prime hospitals reported that 19 percent of their hypertension patients had the malignant form in 2010. At one of its facilities, Desert Valley Hospital, the rate was 38 percent, Medicare data show.

Doty and Fedeli also recalled that during the December meeting at Alvarado, Reddy reviewed stacks of medical records for patients he had not treated.

Doty said Reddy informed a doctor that he should have documented encephalopathy in the case of a patient who had an altered level of consciousness.

Hospitals in California owned by other operators reported in 2010 that about 3.6 percent of Medicare patients had encephalopathy, a term for a permanent brain injury that can have many causes. Prime hospitals, in contrast, reported encephalopathy in 18 percent of patients – five times the statewide rate.

Last year, Prime’s Encino Hospital Medical Center reported that 36 percent of its Medicare patients had the condition – 10 times the rate seen at other hospitals.

“In my opinion, the biggest problem was Dr. Reddy was coaching these doctors,” Fedeli said.

Dr. Geoffrey Sheean, who specializes in neurology and sees patients at UC San Diego Medical Center, said he has only diagnosed the rare nerve disorder among inpatients twice in 13 years.

He said that an inaccurate diagnosis could mislead future doctors who treat that patient – and can lead to unnecessary tests, additional costs and a delay of appropriate care.

“It does have real patient care consequences, and that’s the more disturbing part to me,” Sheean said.

Prime faces investigations

Kaiser Permanente, which has 6.8 million California members, has **accused Prime of fraudulent billing** practices, including “illegal upcoding,” in a 2010 lawsuit pending in Los Angeles County Superior Court.

“The frequency and severity at which these hospitals submit upcoded (bills) once Prime acquires them can only be explained by a directed pattern and practice to deliberately overcharge by false billing,” Kaiser alleges in court documents.

Prime has **denied the allegations** in the Kaiser lawsuit.

Lawmakers have called for investigations into possible upcoding by Prime. The Service Employees International Union **first made the allegations** last year after analyzing the chain’s billing practices.

Dr. Ron Chapman, director of the state Department of Public Health, whose staff reviewed 120 septicemia cases at Prime hospitals, wrote that “the documentation in the medical records reviewed often failed to substantiate the diagnoses being utilized,” according to a letter to Sen. Ed Hernandez, D-West Covina, chairman of the Senate Health Committee.

Chapman’s office ultimately **cleared Prime of shortcomings** related to the completeness and accuracy of the company’s medical record keeping. The department, however, forwarded its findings to state auditors and the federal Department of Health and Human Services’ Office of Inspector General for further investigation of Prime’s billing practices.

The public health department also reviewed cases of malnutrition at Prime hospitals, including kwashiorkor, the condition most often associated with protein-deprived children in developing nations. That review found that some patients diagnosed with severe malnutrition were not given nutritional evaluations or treatments.

This story was edited by Denise Zapata, Mark Katches and Robert Salladay. It was copy edited by Nikki Frick. San Diego Union-Tribune staff writer Janet Lavelle contributed to this report.

Decoding **PRIME**

NOVEMBER 27, 2011

Heart failure cases surge among Prime hospital's Medicare patients

*By Lance Williams, Christina Jewett and Stephen K. Doig
California Watch*

<http://californiawatch.org/prime-heart-failure>

For three years, a small hospital east of Los Angeles has billed Medicare for the costs of confronting what appears to be a cardiac crisis of unprecedented dimension.

From 2008 through 2010, Chino Valley Medical Center in San Bernardino County claimed that 35.2 percent of its Medicare patients were suffering from acute heart failure – a dangerous, often-deadly breakdown in the heart's ability to pump blood.

That's six times the state average, according to a California Watch analysis of Medicare billing data.

This reported surge of heart failure among older patients entitled the hospital's parent company, Prime Healthcare Services, to bonus treatment payments from the federal government worth thousands of dollars per case, Medicare records show.

The hospital appears to have taken advantage of Medicare rule changes that authorized bonus payments for treating patients with major complications.

In 2006, before Medicare began making bonus payments, the hospital didn't report any acute heart failure cases, records show. From 2008 through 2010, after the new reimbursement system was phased in, the hospital said it treated 1,971 Medicare patients for acute heart failure, according to the billing data.

Without access to internal records, it's impossible to determine how Prime billed for its cases of

Where It Ran:

This story also appeared in the following news outlets:

- Sacramento Bee
- San Francisco Chronicle

acute heart failure. But in 88 percent of the cases, it was listed as a secondary diagnosis that typically would trigger bonus payments.

Prime attorney Anthony Glassman said in a letter that the heart failure diagnoses at Chino Valley were accurate and were made by treating physicians, not the hospital itself. He said California's Watch's analysis was "faulty, unfair and biased."

Chino Valley has a high rate of acute heart failure because its patients are especially prone to the ailment, Glassman wrote: Compared with other hospitals, more patients come from nursing homes, and an "exceptionally high" number of heart patients are admitted via the emergency department.

But when California Watch excluded patients from nursing homes and focused solely on patients admitted from the emergency room, the acute heart failure rate at Chino Valley dropped only 1.5 percentage points, to 33.7 – still the highest in California and five times the state rate.

Two heart specialists said it would be unlikely for a hospital to have a heart failure rate anywhere near what has been claimed at Chino Valley.

"You don't see (hospitals) where 35 percent of the Medicare population has heart failure," said Dr. Gregg Fonarow, medicine professor at UCLA and director of the Ahmanson-UCLA Cardiomyopathy Center. "Even 10 percent would be unusual."

Fonarow said his review of national data shows about 5 or 6 percent of Medicare patients have acute heart failure as a primary diagnosis.

When cardiologist Dr. Steven Shayani, president of the New York Heart Research Foundation, was apprised of the heart failure rate at the hospital, he asked why Medicare officials weren't investigating.

"Acute heart failure is very prevalent, as you know," he said. "However, there is no way of explaining" Chino Valley's high rate, he said. "It doesn't make any sense."

Both experts said they suspected the high rate at Chino Valley reflects exaggerated diagnoses – either by doctors or by the hospital's coders, the personnel who prepare computerized Medicare bills to obtain reimbursement from the government.

State data analyzed

California Watch's analysis focused on Medicare billing data provided by the hospitals themselves and compiled by the state Office of Statewide Health Planning and Development. The analysis looked at every general hospital in the state that treated at least 300 Medicare patients age 65 and older per year – 273 hospitals in all. Convalescent hospitals were excluded, as were the hospitals in the Kaiser Permanente managed care chain because of billing differences.

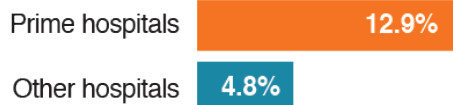
The surge of heart failure cases at Chino Valley and other Prime hospitals is of note because the Ontario-based chain already is the target of a federal investigation for suspected Medicare fraud involving "upcoding" – billings deliberately exaggerated to obtain big payouts from the government.

That probe, by the U.S. Department of Health and Human Services, was requested by two lawmakers in response to the chain's high rate of blood infections known as septicemia, federal records

Prime Healthcare reports high rates of acute heart failure

Prime Healthcare Services hospitals reported acute heart failure in their Medicare patients at more than double the rate of other California hospitals.

Acute heart failure rate



Top 10 California hospitals' acute heart failure among Medicare patients, 2008-10

No.	Hospital	Cases with AHF	Total cases	Percent of cases	
1	Chino Valley Medical Center	1,971	5,596	35.2%	Prime hospitals
2	Paradise Valley Hospital (National City)	880	5,585	15.8%	Other hospitals
3	Huntington Beach Hospital	516	3,443	15%	
4	Sutter Coast Hospital (Crescent City)	397	2,789	14.2%	
5	Centinela Hospital Medical Center (Inglewood)	2,491	18,589	13.4%	
6	Desert Valley Hospital (Victorville)	785	5,867	13.4%	
7	San Leandro Hospital	817	6,252	13.1%	
8	La Palma Intercommunity Hospital	499	3,846	13%	
9	Montclair Hospital Medical Center	308	2,446	12.6%	
10	West Anaheim Medical Center	1,029	8,357	12.3%	

Source: Office of Statewide Health Planning and Development

BRIAN CRAGIN / CALIFORNIA WATCH

show. The company has denied wrongdoing.

As California Watch has reported, state records show Prime also has claimed high rates of other conditions entitling the chain to treatment bonuses from Medicare. Among them: **an unusual brain injury called encephalopathy** and **kwashiorkor, a form of malnutrition** found among Third World children.

In **court testimony** and **interviews**, several former Prime doctors and coders have contended that Prime's founder and board chairman, Dr. Prem Reddy, urged aggressive coding of routine medical conditions to obtain enhanced Medicare payments.

As part of a bitter interhospital billing dispute playing out in Los Angeles County Superior Court, the Kaiser Foundation Health Plan **has accused Prime** of "routinely" upcoding heart failure "to deliberately overcharge by false billing." Earlier this month **Prime sued Kaiser and the Service Employees International Union**, accusing them of conspiring to drive Prime from the Southern California health care market in violation of anti-trust laws.

Major complications bring bonus payments

Acute heart failure is the sudden malfunction of one of the heart's ventricles, chambers of the heart that pump blood to the lungs and supply oxygenated blood to the rest of the body. As America ages, acute and chronic heart failure is an increasing problem. About 5 million Americans are afflicted and 500,000 cases are recorded each year, according to **The Merck Manual** medical reference guide. About 30 percent of people who are hospitalized with the condition die within a year.

People suffering from acute heart failure often complain of shortness of breath after only mild exertion or even upon waking from a sound sleep. Drugs and surgery may be used for treatment.

Medicare classifies acute heart failure as a particularly severe condition, one that is costly to treat. As a result, it is among hundreds of serious medical conditions classified as a "major complication" – and eligible for a bonus treatment payment.

For example, federal records show that Medicare pays about \$5,522 for treating a patient with the infection known as Legionnaires' disease. But Medicare pays about \$11,377 – \$5,855 more – if the same patient is also diagnosed with acute heart failure.

For a patient with a back ailment associated with a lesion of the sciatic nerve, Medicare says the payout is an extra \$2,375 – about \$7,137 with heart failure, \$4,762 without.

The payout bonus for acute heart failure can be much greater if surgery is involved. **A Medicare reimbursement primer** prepared by Boston Scientific Corp. cites the case of a cardiac patient who needs a defibrillator. The payout from Medicare could rise by \$22,000 – from \$30,000 to \$52,000 – if the patient also is diagnosed with acute heart failure.

Medicare pays hospitals according to computerized bills prepared by coders, personnel who consult physician notes in medical charts to document diagnoses and treatment.

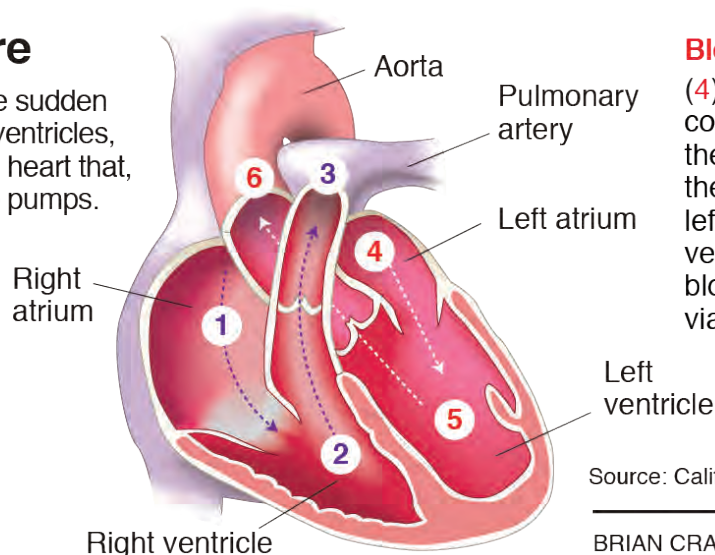
Some former Prime coders have contended that Reddy, the company founder, personally coached them on strategies to ensure maximum payout from Medicare.

Acute heart failure

Acute heart failure involves the sudden malfunction of one of the two ventricles, the two lower chambers of the heart that, which serve as the heart's two pumps.

Blood in

(1) Deoxygenated blood comes into the heart at the right atrium. (2) From there, it moves into the right ventricle. (3) This ventricle pumps the blood into the lungs via the pulmonary artery for oxygenation.



Blood out

(4) Oxygenated blood comes into the heart at the left atrium. (5) From there, it moves into the left ventricle. (6) This ventricle pumps the blood out to the body via the aorta.

Source: California Watch research

BRIAN CRAGIN / CALIFORNIA WATCH

Sandy Barber, a coding supervisor who worked at Prime's Desert Valley Hospital in Victorville in San Bernardino County, **testified in a 2005 employment lawsuit** that Reddy convened meetings where he "ordered" coders to engage in illegal upcoding to boost reimbursements from Medicare.

In his letter, Prime lawyer Glassman called Barber's claims "unproven" and said she hadn't worked for Prime in 10 years. He said Prime rarely gets paid more money for treating Medicare patients with acute heart failure because they often are diagnosed with other complications as well. Medicare pays for only one complication per case, no matter how many complications are noted on the bill. Thus, in many cases, the company would be entitled to a Medicare bonus payment even if acute heart failure were deleted from the bill, Glassman indicated.

Hospital earns honors for heart care

Chino Valley Medical Center itself shows no outward signs that it is confronting a health care crisis, people familiar with the institution say.

It's a 126-bed facility in Chino, on the western edge of Southern California's Inland Empire region, that Prime obtained in 2004 after the prior owners, a physicians group, went bankrupt.

Since then, Prime says it has spent \$10 million upgrading the hospital. Among the improvements, according to its website: a state-of-the-art cardiovascular lab, where angioplasties and stent placements are performed to treat coronary artery disease.

The hospital's chief medical officer, Dr. James Lally, has been honored by the American Heart Association for screening thousands of local high school athletes for heart problems.

The hospital itself has won the HealthGrades excellence award for emergency medicine two years running, in 2010 and 2011, and a five-star rating for treatment of heart failure. That rating was based on the survival rate of heart patients: Mortality rates, both at the time of hospitalization and six months later, were much better than expected, the rating service said.

The California Watch analysis found that Chino Valley reported no cases of acute heart failure in 2006. In 2007, as Medicare phased in its system of bonus payouts for treating medical complications, the hospital reported 109 cases – a rate of 5.8 percent of Medicare admissions. Around California, 63 other hospitals that had reported no acute heart failure in 2006 also began recording cases of the ailment.

Then, in 2008, the acute heart failure rate at Chino Valley exploded – 729 cases, or 39.8 percent of Medicare admissions. It remained consistently high through 2010, the last year for which data were available. From 2008 to 2010, 1,971 of 5,596 Medicare patients were diagnosed with acute heart failure.

In all but 235 cases, acute heart failure was noted as a secondary diagnosis – and thus eligible for a bonus payout. Those numbers underscore concerns about the accuracy of the diagnosis, said Fonarow, the UCLA expert.

"The rates where acute heart failure is a secondary diagnosis are much higher than generally expected," he wrote in an e-mail. "This suggests the potential for misclassification at the physician chart

documentation or hospital coding level.”

Because hospital rating services rely on Medicare data, the high rate of acute heart failure diagnoses may have helped Chino Valley win its five-star award from HealthGrades for excellence in care of heart failure.

A padded acute heart failure rate can boost a hospital’s ratings, said Shayani, the New York expert.

“If you put heart failure as the diagnosis and the patient survives, that’s how you would statistically lower your mortality rate,” he said. “And so your ratings are better.”

Rating service awards can be very important to hospitals, he noted, and some “play with their numbers” to improve scores.

This story was edited by Mark Katches and Robert Salladay. It was copy edited by Nikki Frick.

Decoding **PRIME**

JULY 23, 2011

Chain profits by admitting ER patients

By Christina Jewett and Stephen K. Doig
California Watch

<http://californiawatch.org/emergency-room>

A Southern California hospital chain has transferred an unusually high number of patients from its emergency rooms to its hospital beds, gaining hundreds of millions of dollars by targeting people with Medicare, a California Watch investigation has found.

Patients and their families have described feeling trapped by doctors and administrators working at Prime Healthcare Services facilities. They entered the emergency room and were stuck in a “Twilight Zone,” as one family member described it, unable to see their own doctor at another facility or faced with treatment that seemed unnecessary.

These patients came to Prime hospitals with legitimate medical problems. But they ended up targets of a business strategy meant to maximize the number of insured patients treated in hospitals owned by the company, according to an analysis of state data, interviews and a review of 2,700 pages of court and public testimony.

Eight California hospitals had higher Medicare patient admission rates than Prime hospitals in 2009, records show. But as a chain, **Prime stands out**. The other large chain in California, Tenet Healthcare Corp., admitted about 39 percent of its ER patients at its hospitals, compared with 63 percent at Prime hospitals.

For some patients, an unexpected trip to a Prime emergency room has meant frustration and headaches.

Sandra Taylor-Davey of Garden Grove said she argued in vain with the staff at West Anaheim Medical Center to transfer her grandmother, Dorothy Taylor, to another hospital to see her own doctor – a physician who knew her case and had access to her medical records.

Where It Ran:

This story also appeared in the following news outlets:

- Orange County Register
- Redding Record Searchlight
- San Francisco Chronicle



LEONARD ORTIZ/THE ORANGE COUNTY REGISTER

Sandy Taylor-Davey holds a 1994 photo of her with her grandparents, Gerald and Dorothy Taylor.

Taylor, then 70, had been brought into the emergency room in June 2009 when she was suffering from a fever. Family members believed she was well enough to move, but their requests were dismissed, Taylor-Davey said.

“It was the most bizarre experience I think I’ve ever been through,” said Taylor-Davey, who used the “Twilight Zone” analogy to describe her experience at Prime. “They did not want to let her out of there.”

Focusing on elderly Medicare patients has been lucrative for the chain, which was founded in 2001 and operates 14 hospitals in California. From 2005 through 2009, Prime’s above-average Medicare admission rates have resulted in an additional \$220 million in revenues, the [analysis of state records](#) show.

California Watch has detailed in previous stories Prime’s [high rates](#) of certain medical conditions among Medicare patients – conditions that entitle the chain to increased payments. Time after time, the Ontario-based chain has purchased struggling hospitals and helped turn them around by overhauling admission practices, leading to [accusations from rivals](#) that it has acted unfairly.

Executives from Prime declined to comment in detail for this story. The chain’s explanation for its admission policies have been taken from court testimony and public hearings.

Kaiser denounces Prime's tactics

Taylor-Davey's account echoes those documented by Kaiser Permanente, the medical insurance and hospital chain with 6.8 million California members.

Oakland-based Kaiser **has accused Prime** of unnecessarily keeping its customers in a medical limbo instead of moving them to a Kaiser-operated facility. When patients stay an extra day or two in a Prime hospital, the chain can seek thousands more in reimbursement from Kaiser or Medicare.

Former Prime employees **have described** an orchestrated campaign of admitting Medicare and Kaiser patients – moving them from the emergency room to a hospital bed – in the interest of changing the fortune of a money-losing hospital.

The chain's founder and board chairman, Dr. Prem Reddy, once described the emergency room **as a "gold mine"** of Medicare and Kaiser patients, according to the former medical director of Desert Valley Hospital in Victorville.

In a court case from 2005, **Reddy testified** that one way he had shored up hospital finances was by bringing in more Medicare patients.

Kaiser contends that Prime's admission practices are driven by Reddy, and the company **has asked** a superior court judge to stop him "or anyone acting at his direction" from determining the practice of medicine at any chain hospital.

Prime **has denied** Kaiser's allegations in court.

State data shows that after the hospital chain took over 11 hospitals beginning in 2005, the percentage of Medicare patients who were admitted from the emergency room to Prime hospital beds **increased from** about 45 to 63 percent.

That 40 percent increase contrasts with other California hospitals that saw an average 8 percent decline from 2005 to 2009 in Medicare patients moved from the emergency rooms to hospital beds, data shows.

Prime Healthcare's vice president and general counsel, Michael Sarrao, said the analysis of admission rates is "deeply flawed" but would not respond to specific questions about the chain's practices.

"(The analysis) utterly fails to consider the medical basis for admissions, and uses unexplained statistics to attempt to question the judgment of doctors as to what is best for patients," Sarrao wrote in an e-mail.

Contributing to high health costs

Prime Healthcare's high Medicare admission rates worry health care experts who point to spiraling health costs that threaten to cripple the entitlement program, which serves about 47 million elderly and disabled Americans. By 2019, Medicare spending is expected to rise to \$878 billion, up from about \$524 billion last year, the Kaiser Family Foundation **reported**.

Patients admitted to hospitals also can be exposed to dangers inherent in any stay, such as medical errors and tough-to-treat infections.

Shannon Brownlee, acting director of the New America Foundation's Health Policy Program, who reviewed the California Watch analysis, said the findings raise the question of whether the increase in admissions is in the best interest of patients.

"The real tragedy here is that most patients assume that their physician is doing what's best for them," said Brownlee, who also wrote a book about the overuse of medical resources. "They assume that the financial needs of the hospital come second and their needs come first. But that may not be the case in this situation."

Like Kaiser, the Heritage Provider Network, a Southern California managed care firm with about 500,000 members, has **challenged Prime** in court, saying the hospital chain unnecessarily boosts its patient admissions in the interest of profit.

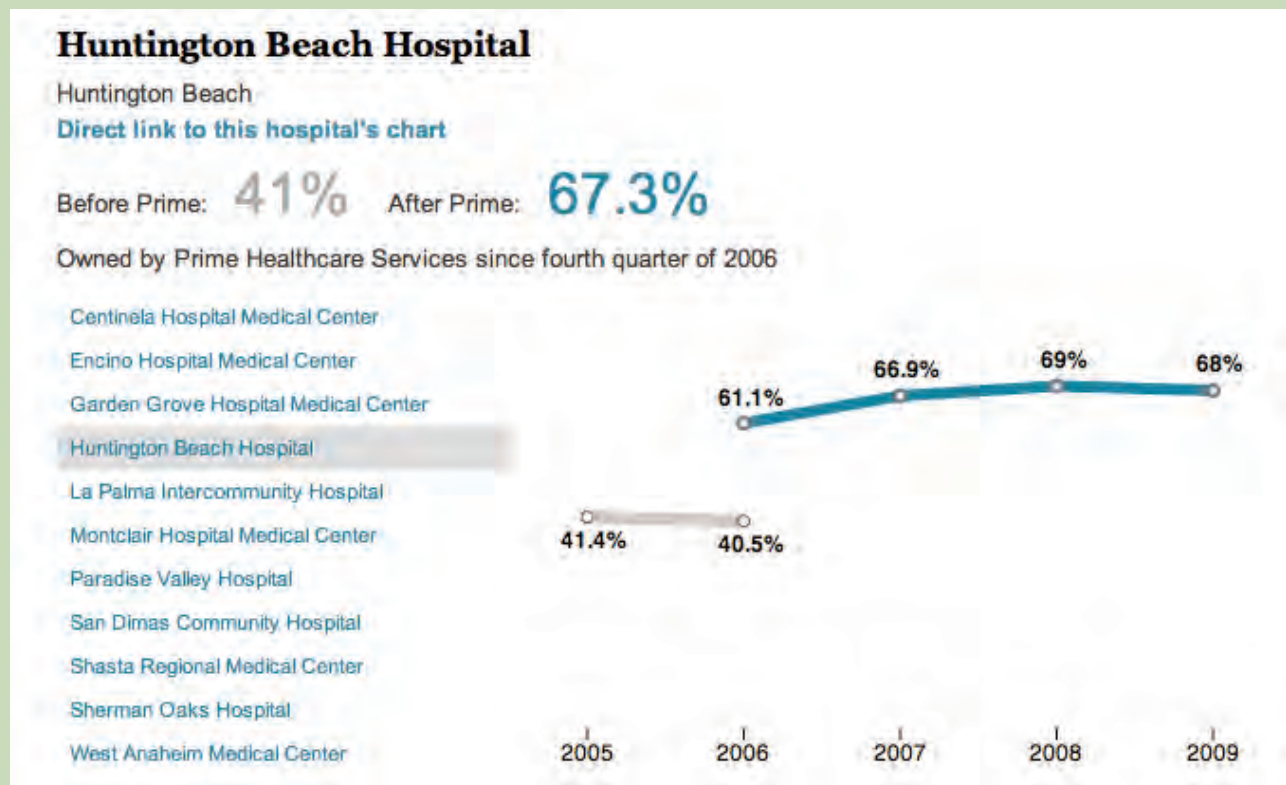
Prime **initially sued Kaiser** and Heritage, claiming they wrongfully denied payment for treating their customers.

But in counter-lawsuits, Kaiser and Heritage contend that Prime failed to give managed care providers an opportunity to care for their patients after an emergency situation had been stabilized.

INTERACTIVE

Visualizing emergency room admission rates
<http://californiawatch.org/er-interactive>

Prime Healthcare Services acquired 11 California hospitals from 2005 to 2009. After Prime acquired each facility, the percentage of seniors with Medicare who were sent from the emergency room to the main hospital increased. Meanwhile, the statewide Medicare admission rate fell from 44 percent to 41 percent from 2005 through 2009.



Hospitals are required by law to communicate with managed care companies once a patient appears ready for transfer.

Kaiser has accused Prime of using improper medical criteria to “capture” its patients, treating them without authorization and performing unneeded tests to create hefty bills.

Heritage has argued that Prime admits far more of its patients for brief and “unnecessary” hospital stays than other hospitals. Heritage claims Prime is engaging in racketeering when it “mislabels” Heritage members as too sick to be transferred back to the managed care network.

Prime has **denied the allegations** in both lawsuits, which are pending.

Extra Medicare revenue

Even as Prime has battled over payment with managed care firms, it has benefitted from Medicare policies that require rapid reimbursement of hospitals.

In total for 2009, Prime reaped an additional \$107 million in revenue by admitting about 8,800 more Medicare patients than would be expected based on the state-average patient admission rates, records show.

While Prime hospitals have treated rising numbers of Medicare patients, California Watch found that Prime hospitals have claimed to treat higher-than-average rates of sepsis, a bloodstream infection, **and kwashiorkor**, a strain of malnutrition widely associated with children in developing nations.

The findings have spurred investigations by state and federal authorities into whether the chain is “upcoding,” or exaggerating patient conditions to earn extra money. The U.S. Department of Health and Human Services Office of Inspector General, which reports to the U.S. Department of Justice, is investigating Prime’s billing practices.

State Sen. Ed Hernandez, D-West Covina, chairman of the Senate Health Committee, said he finds it unconscionable that Prime may be upcoding even as its hospitals are admitting patients who “may not need to be admitted.”

“People want to know why health care costs are escalating so rapidly, here’s one good example,” Hernandez said in a statement. “We all end up paying for this behavior.”

In legal filings and public statements, Prime executives have described the financial pressures on hospitals that have gone bankrupt or closed. Prime argues that insurers and managed care companies refuse to negotiate contracts that cover the true cost of hospital care.

Meanwhile, Prime has said insurers enjoy soaring profits and reward executives with tens of millions in bonus payments.

Prime has canceled contracts with insurers and **filed lawsuits decrying** industry-standard practices meant to keep insured patients within their own network of hospitals and clinics. Prime says its doctors at the bedside are better suited to make care decisions than insurers who are financially motivated to reunite patients with their usual network of care.

Attorneys for Prime **argue in court filings** that the chain’s business model “keeps critically need-

ed community hospitals open, results in greater access to care for all members of the community and improves the quality of care at all of the hospitals acquired by Prime.”

The company also contends it serves more critically ill patients than other hospitals.

“Prime principally devotes its resources to enhancing its emergency room capacity and quality and then matches its enhanced emergency room capacity with actual enhanced ER care for all patients,” the Prime [legal filing](#) says.

Trial highlights Prime policies



ANA VENEGAS/THE ORANGE COUNTY REGISTER
Dr. Prem Reddy, a cardiologist and founder of Prime Healthcare Services, was said to have called emergency rooms “a gold mine.”

Top Prime officials have testified publicly about the chain’s success in improving efficiency and reducing wait times in emergency rooms. Reddy has said during public hearings that the hospitals rarely go on “saturation,” a term for periods when the emergency room is so busy that it turns away ambulances.

That very policy and many others, though, rankled doctors and nurses who testified in 2005 against Reddy during a 39-day trial in a Victorville courtroom.

The case provides a glimpse into the hands-on role Prime’s founder

played in turning around the first hospital in the chain.

One after another, doctors and nurses from Desert Valley Hospital took the witness stand and described how, in 2002, Reddy donned blue scrubs and a white lab coat, taking command of the emergency room. He was there to reverse the course of the money-losing hospital he bought in 2001.

The 2005 trial came after Reddy sued two former nurse managers, accusing them of violating the terms of their employment. The nurses sued back, arguing that Reddy fired them for challenging his efforts to bring well-insured patients into the hospital and push the uninsured out.

Tina Buchanan, the hospital’s former chief nursing officer, [testified that Reddy](#) began to require emergency room staff to put a yellow sheet of paper on each patient record that listed their health insurance status.

She said he would go through the “goldenrods,” as the papers were called, and point out the Medicare or Kaiser patients and say, “Make sure you get this one admitted.”

“If it was ... an uninsured patient, he would tell them, ‘Get them out of my hospital,’ ” Buchanan testified.

Reddy testified that the number of uninsured patients treated at the hospital increased when it became more efficient. He also said “some of them we tried to transfer” to the county hospital because it got special funding for uninsured patients.

Buchanan also spoke about her concern when Reddy began to prevent staff from briefly closing the emergency room when it was extremely busy and the staff was overwhelmed.

The reason, she said, was that Reddy did not want to miss an opportunity to admit a well-insured patient into the hospital.

“Dr. Reddy told us that things were going to be different around here from now on,” **Buchanan testified.** “Our focus would now be financial, as opposed to quality, and we were going to make money at any cost.”

Buchanan also testified that Reddy looked for Medicare patient records and wrote orders on them for patient tests so “he would get paid for that service.”

Reddy testified that his hospital sought to increase Medicare patient admissions by advertising in the newspaper, sending brochures to senior homes and sending doctors to do rounds in nursing homes.

‘This is a gold mine’

Dr. Panch Jeyakumar, former Desert Valley medical director, **testified on the nurses’** behalf. He recalled Reddy’s excitement during a night in late 2002 when the emergency room was full of paying customers.

“(Reddy) saw me, and he just yelled across the room, ‘Panch, this is a gold mine,’ and he waved the (patient medical records),” Jeyakumar testified, saying Reddy was referring to the number of Kaiser and Medicare patients in the emergency room.

Reddy testified that he **didn’t recall whether** he made the “gold mine” comment, “but I accept the responsibility.”

The jury awarded Buchanan and Lisa Crouch, another emergency room nurse manager, more than \$880,000. The verdict was overturned after a judge found juror misconduct.

According to state data analyzed by California Watch, patients with private insurance were nearly two and a half times more likely to be admitted to Desert Valley Hospital compared with other California hospitals in 2009. And Medicare patients were nearly 50 percent more likely to be admitted from the emergency room to the hospital floor, state data shows.

After the 2005 trial, controversy about Prime’s admission practices persisted.

During a 2006 Orange County Board of Supervisors hearing, Dr. Abdul Khan, a doctor at Huntington Beach Hospital, said that after Prime took over that year, doctors were told to admit insured patients who arrive in the emergency room with maladies as minor as a headache.

Court records show that another Orange County physician, who was not publicly named, said Reddy **instructed staff at** Huntington Beach Hospital in 2007 to admit patients for further care after two hours and keep them for 25 hours or more to maximize reimbursement.

Khan testified that one reason for the practice was to get increased reimbursement for an MRI, which can be \$1,400 for a patient staying in the hospital, compared with \$400 for an outpatient.

“Anybody with health insurance who walks through their ER is admitted,” Khan testified, “even for a minor problem.”

State data shows that admission rates indeed went up in Orange County hospitals after Prime bought them.

In late 2006, Prime took over hospitals in Anaheim, Huntington Beach and La Palma. The chain took over a Garden Grove hospital in mid-2008. By 2009, those hospitals, on average, admitted 64 percent of Medicare patients to hospital beds – compared with the 44 percent admission rate at those same hospitals in 2005.

More than a dozen other Orange County hospitals also admitted about 45 percent of Medicare patients in 2009.

This story was edited by Robert Salladay and Mark Katches. It was copy edited by Nikki Frick.

This installment was produced in collaboration with our California Watch Media Network partner The Orange County Register, which provided photographs for this story.

VIDEO

Tapping into Medicare's gold mine?
<http://californiawatch.org/coding-video>



Rural Northern California is not where one would expect an outbreak of severe malnutrition associated with African famines. But that's exactly what Prime Healthcare Services has been billing taxpayers for – treating elderly Medicare patients for a little-known disorder called kwashiorkor. And it's not just one condition. In a yearlong investigation, California Watch has analyzed millions of patient records and found that Prime has reported diagnosing unusual medical conditions at higher rates than other California hospitals. And in interviews and testimony, former Prime staff, doctors and patients say the chain's billings don't match medical reality.

Decoding **PRIME**

DECEMBER 19, 2011

Video transcript: Tapping into Medicare's gold mine?

*By Lance Williams and Monica Lam
California Watch*

<http://californiawatch.org/coding-video>

America spends over \$500 billion every year so that elderly Medicare patients can get the care they need. But as health care costs rise, many are taking a closer look at what exactly we're paying for. Our media partners at the Center for Investigative Reporting have been conducting a yearlong California Watch investigation into a prominent hospital chain that is reporting unusually high rates of serious diseases. Does the chain attract the toughest cases, or are the hospitals exaggerating conditions to pump up revenues from taxpayers? Reporter Lance Williams has the story.

Reporter Lance Williams: California-based Prime Healthcare Services buys financially troubled hospitals and turns them around. So when Prime purchased Alvarado Hospital in San Diego last year, Anneke Doty knew there'd be changes – especially after a meeting with the new owner, Dr. Prem Reddy.

Anneke Doty: It was very much “there's a new sheriff in town.”

Reporter: Doty's job as a medical coder was to prepare summaries of patient illnesses for Medicare reimbursement. She says Reddy told doctors how to diagnose patients he had never seen.

Doty: There were several diagnoses that he was suggesting – highly recommending. They were told that they should look for those opportunities whenever possible.

Reporter: It turns out many diseases share similar symptoms. But more severe diseases are reimbursed by Medicare at higher rates.

Doty: He encouraged the physicians to stop documenting syncope, which is fainting or a dizzy

Where It Ran:

This story also appeared on “PBS NewsHour.”

spell, and instead use the term “autonomic nerve dysfunction,” which reimburses at a higher rate.

Reporter: Medicare pays about \$7,000 to treat a patient who has fainted, even if there are other medical complications. But a patient with a nerve disorder and a major complication can net the hospital \$12,500.

Doty: He made the comment that autonomic nerve dysfunction is such a vague description that no one could ever question the use of that code in the medical record.

Reporter: Doty says what ran through her mind was:

Doty: This is crazy, how can I get out of here?

Reporter: Doty’s co-worker Danika Fedeli was at the same meeting.

Danika Fedeli: With Dr. Reddy, it really just felt like he was coaching the doctors to say what he wanted them to say, and you’re not allowed to do that.

Reporter: Prime insists their billings are accurate and legal, but they refused an on-camera interview.

In a yearlong investigation of millions of patient records, California Watch uncovered a pattern of suspicious diagnoses. State Medicare data for 2010 shows that out of 468 cases of autonomic nerve disorder, 360 were reported by Prime hospitals – 90 times more often than the average California hospital.

Dr. Geoffrey Sheean: Very surprising. And it rather does suggest that they’re applying a very liberal definition or very liberal criteria to what they consider an autonomic nervous system disorder.

Reporter: Dr. Geoffrey Sheean is a leading nerve disorder specialist at the University of California in San Diego.

Sheean: I’ve only seen two cases in the last 13 years, where it would be appropriate to label a problem of a patient as an autonomic nervous system disorder. Extremely rare.

Reporter: And it wasn’t just a single disease. California Watch found that Prime hospitals reported unusually high rates of a long list of extremely serious medical conditions, from malignant hypertension to severe malnutrition.

We found one of the strangest examples in rural Shasta County, where Prime has reported a seeming outbreak of a rare disease called kwashiorkor, typically seen in children during famines. Our investigation led us to this Shasta County resident:

Darlene Courtois: I’ve never heard the word “kwashiorkor” before. I never heard a doctor, nurse or any other medical personnel tell me that I had kwashiorkor.

Reporter: When Darlene Courtois went to the emergency room at Shasta Regional Medical Center in early 2010, she was seeking treatment for complications from diabetes.

Courtois: My kidneys weren’t functioning well, and I was retaining fluid and it was causing fluid to build up around my heart, making it hard to breathe.

Reporter: With Courtois’ permission, we obtained her hospital records and, through the Freedom of Information Act, her Medicare bill, where we found this number: 260, the code for kwashiorkor.

Courtois: I have no idea how that could have happened. I mean, it’s obvious just looking at me

that I don't qualify for that.

Reporter: But Vicki Presley Smith says personnel were under intense pressure to document certain ailments. She worked as a coder at Prime's Desert Valley Hospital and says just one word on a patient's medical record can make an enormous difference.

Vicki Presley Smith: The word "protein malnutrition." So that is the word that they wanted the doctor to basically put in their progress notes.

Reporter: Moderate malnutrition is assigned the code 263. But use the term "protein malnutrition," and the industry-standard billing software points to the code 260, or kwashiorkor. And do doctors realize that this is happening? Probably not, says Smith.

Smith: Kwashiorkor is never brought to their attention. The word "protein malnutrition" is brought to their attention, so they just write down that terminology.

Reporter: State records show that reports of kwashiorkor at the Shasta County hospital began soaring after Prime bought the hospital in 2008.

Pietro Ingrande: We're talking about millions of dollars.

Reporter: Pietro Ingrande owns a medical coding company. He canceled his contract with Prime over professional differences.

Ingrande: There are 14 hospitals in Prime Healthcare. If this level of inappropriate documentation is going on, that could be as much as \$100 million, if it were true.

Reporter: Still, it's hard to determine how Courtois got caught in this trend. She says she's overweight, and one ER doctor called her "well nourished."

Courtois: I couldn't believe it. It doesn't seem possible they could use some kind of a code for a disease I don't have – and obviously don't have.

Jamie Bennett: It's a huge problem. There is a substantial amount of waste in the Medicare program; a lot of it comes from fraud.

Reporter: Former federal prosecutor Jamie Bennett investigated a case against a Baltimore hospital accused of falsely diagnosing kwashiorkor. She says a change in Medicare reimbursement rules is being exploited by some hospitals.

Bennett: What we quickly found is that they responded to it by significantly increasing the use of diagnoses that, by coincidence, would really increase the reimbursement to the hospitals, and not in a way that was legitimate.

Reporter: With recent cases of alleged Medicare fraud in Tennessee, Maryland and Texas, Bennett estimates nearly 20 percent of Medicare costs are due to fraud.

Bennett: We're talking about billions and billions of dollars of fraud that isn't uncovered.

Reporter: Back in California, two insurers, **Kaiser Permanente** and **Heritage**, have filed lawsuits accusing Prime of exaggerating patient conditions and "fraudulent billing practices." Prime has denied the allegations.

In a detailed written statement, Prime's spokesman wrote, "Codes are not the actual definitions of the diseases, and they are not error proof." He wrote that Prime follows Medicare's guidelines, although they're imprecise. A Medicare spokeswoman declined to comment.

But Anneke Doty felt it was time to quit the company earlier this year.

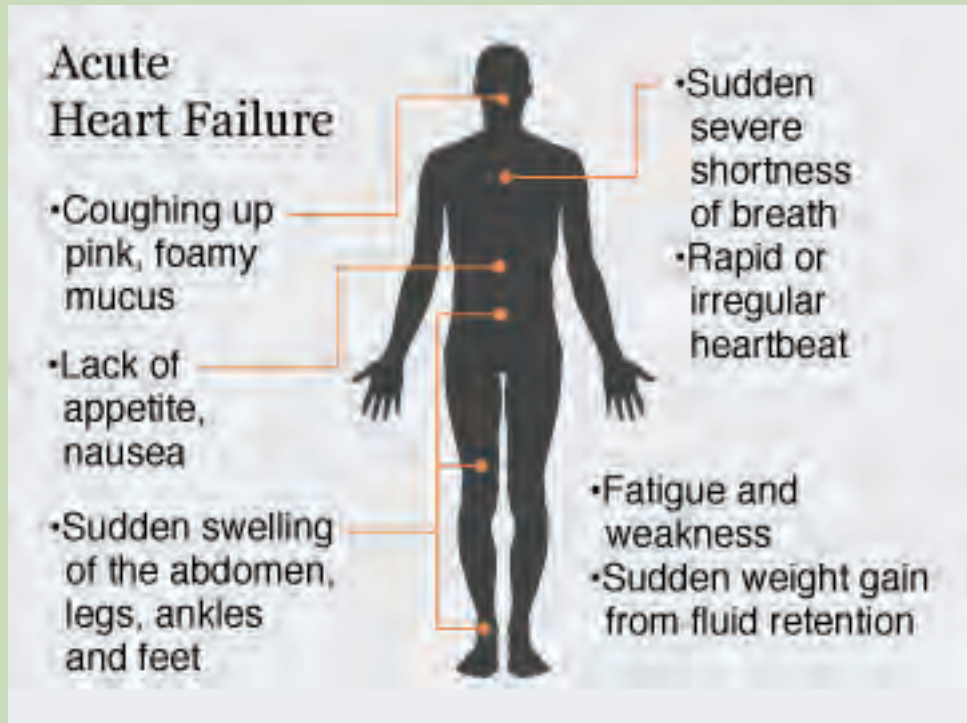
Doty: I was thinking about whether or not some governmental agency would be walking through the door and handcuffing us all and subpoenaing records and carrying them out in boxes.

Reporter: Three California Congressmen have **asked Medicare to investigate** suspected fraud in Prime's billings. And the FBI has **recently begun interviewing** former Prime employees.

Anchor: A few weeks ago, Prime Healthcare Services added a 15th hospital to its network with the purchase of ownership interests in Harlingen Medical Center in Texas. With efforts under way to acquire hospitals in New Jersey and Hawaii, the company continues to grow. For more on this story, go to the Center for Investigative Reporting's website, **cironline.org**.

INTERACTIVE

Prime Reports outsized rates of unusual conditions
<http://californiawatch.org/coding-interactive>



Prime Healthcare Services, a chain of 13 hospitals in Southern California, one in Shasta County and another in Texas, reports higher rates of several serious medical conditions than other California hospitals. At the same time, former doctors and employees of Prime say that chain owner Dr. Prem Reddy has urged doctors and medical coders to log those conditions, which pay a premium when treating elderly Medicare patients.

Decoding **PRIME**

AUGUST 16, 2011

Hospital owner's charity may have avoided taxes

*By Lance Williams
California Watch*

<http://californiawatch.org/prime-taxes>

A foundation controlled by Dr. Prem Reddy, the driving force behind Southern California's fast-growing Prime Healthcare Services hospital chain, may have avoided hundreds of thousands of dollars in federal taxes through a questionable charitable gift, tax experts said.

Public records show that in 2009, a \$1 million charitable donation made by Reddy's family foundation wound up in the coffers of the Prime Healthcare Services Foundation, another nonprofit controlled by Reddy that owns two of the chain's 14 hospitals and is trying to buy a third.

Federal law requires private foundations to donate a minimum percentage of their assets to approved charities or face hefty taxes, and the family foundation didn't appear to have met that requirement, according to three tax experts who reviewed the filings for California Watch. The tax bill is potentially \$217,000.

The foundation's tax returns for 2009, the most recent ones made public, don't reflect payment of these taxes.

One expert said the unusual transactions might have been subject to an additional IRS tax that applies to bequests from one private foundation to another. That tax liability would be an additional \$210,000.

"Things have not all been done as things should be," said Aaron Dorfman, executive director for the National Committee for Responsive Philanthropy in Washington, D.C.

Where It Ran:

This story also appeared in the Riverside Press-Enterprise.



ANA VENEGAS/THE ORANGE COUNTY REGISTER

Dr. Prem Reddy, a cardiologist, is the founder and chairman of Prime Healthcare Services. He is also president of the Dr. Prem Reddy Family Foundation and Prime Healthcare Services Foundation.

Michael Sarrao, general counsel for Prime Healthcare and secretary and treasurer of the Prime Healthcare Services Foundation, wrote in an e-mail that the transactions at issue were “in full compliance with all applicable laws.”

He declined to respond to specific questions, accusing California Watch of seeking “to misrepresent facts to create (a) story when none exists.”

Reddy, Prime’s founder and chairman, is a “dedicated philanthropist,” his website says. He grew up in an Indian village without electricity, according to published accounts, and became a multi-millionaire health care entrepreneur after coming to the United States in the 1970s to complete his medical training.

Prime Healthcare includes 13 hospitals in Southern California and one in Shasta County. Of those, the Prime Healthcare Services Foundation owns the two nonprofit hospitals, Encino Hospital Medical Center and Montclair Hospital Medical Center.

Prime is known for buying money-losing hospitals and turning them around through aggressive cost cutting and billing practices. The state attorney general is **conducting a hearing** tomorrow in

Victorville on whether the foundation should be allowed to buy the bankrupt Victor Valley Community Hospital in San Bernardino County.

The financial transactions questioned by experts involve the Dr. Prem Reddy Family Foundation. Reddy established the tax-exempt private foundation in 1986 “to provide and support healthcare education” in Southern California, records show. Reddy is president, and his two daughters are the other officers.

Reddy has made big donations to the foundation. In 2008, according to tax returns, he donated \$15 million. A real estate partnership in which he is involved donated land in San Bernardino County valued at \$7.3 million.

In 2008, the foundation reported that it funded \$131,000 in college scholarships and donated \$78,000 to a variety of causes, including the Rotary Club, American Heart Association and a now-defunct museum devoted to 1950s cowboy actor Roy Rogers.

On Dec. 29, 2008, the family foundation made its biggest bequest of the year – a \$1.05 million grant to the American Telugu Association, an Illinois-based charity established to benefit members of south India’s Telugu ethnic group. Reddy, who was born in south India, was on the association’s board of directors.

At the time that Reddy’s foundation gave the money, the Telugu association had financial problems. Its gala U.S. convention, held in New Jersey the previous fall, had run hundreds of thousands of dollars over budget, records show. After Reddy’s foundation donated the \$1.05 million, the Telugu association’s board personally thanked Reddy for his “contribution to cover the deficit,” meeting minutes show.

Within a few months, the organization’s financial problems led to conflict. According to an account in the newspaper India Abroad, 13 of the association’s 27 directors quit to form a new organization. Reddy joined the breakaway group, and when he left, he asked for a refund of his donation.

On April 18, 2009, the American Telugu Association subtracted a “handling fee” of \$10,500 and “returned the funds ... to an entity related to the donor,” according to its financial statement.

But the money was not returned to the Reddy Family Foundation.

Instead, it went to the Prime Healthcare Services Foundation, which operates nonprofit hospitals in the Prime chain. Reddy, the founder, is its president. The other officer is Sarrao, the company attorney.

On its 2009 tax return, the health care foundation reported a contribution of \$1.0395 million from the American Telugu Association. A spokesman for the Telugu association said the payment was a refund, not a contribution as reported on the health care foundation statements. The check was written to the Prime Healthcare Services Foundation because that’s what Reddy requested, he said.

Refund treated as charitable contribution

Treating a refund to the family foundation as a contribution to the health care foundation creates tax issues, according to the tax experts consulted by California Watch.

By law, foundations each year are required to donate funds equal to 5 percent of their total holdings to appropriate donors. If they don't, foundations must pay a 30 percent tax on the amount they should have given away.

In 2008, according to its tax return, the Reddy Family Foundation was required to donate \$1.004 million to meet the 5 percent threshold. The foundation reported that it donated \$1.26 million, including the bequest to the Telugu association.

Backing out the refunded \$1.05 million, the family foundation fell short of its required donations by almost \$724,000. At a tax rate of 30 percent, the foundation would have had to pay the IRS \$217,000, but no payment is reflected in its tax returns, according to documents.

Seth Feldman, a consultant on nonprofit issues, said the bequest to the Telugu association shouldn't count. "The problem is, when he had his falling out with the organization, it wasn't a gift, because they refunded it," he said.

The fact that the refunded money wound up with another private foundation doesn't resolve the tax issues. Instead, it raises an additional tax concern, said Tyree Collier, a lawyer at the Dallas firm Thompson & Knight, where he represents nonprofit organizations.

Collier said that in most circumstances, the IRS regards a grant from one private foundation to another private foundation as a taxable expenditure. Such donations are subject to a 20 percent tax.

In an interview, Collier said the IRS likely would apply that rationale to the chain of transactions.

"The money was returned to the family foundation, and the family foundation made a grant to the health care foundation," he said. "I think the IRS would be likely to analyze it that way."

By that analysis, the family foundation would owe an additional \$210,000 in taxes, but the tax returns don't show payment of that tax, either.