

FBI Raids or Competitor Misinformation about Southern California Drug Rehabs?



Reports have been swirling about supposed FBI raids. It

remains unclear whether in fact the FBI is investigating or whether competitors are simply spreading misinformation. The reports allege that the FBI executed search warrants at multiple Southern California drug treatment centers last week and again today in Orange County and Los Angeles. The search warrants supposedly relate to investigations about addiction treatment center practices in urine drug testing (UDT) and business relationships with testing laboratories. We are attempting to ascertain whether a real investigation is under way. Law enforcement agencies are typically reluctant to discuss investigations still under way prior to indictment and arrest.

The issue of fraud and abuse in UDT has been getting attention nationally, most prominently in the False Claims Act [case settled this past fall](#) by laboratory services provider Millennium for \$256 million and the [pending lawsuit filed](#) by Cigna in Florida against Sky Toxicology and multiple affiliated labs. [In another case](#), in November 2015, a federal grand jury in Kentucky indicted the owners of Premier Tox for UDT fraud. Earlier this week, [Bloomberg BNA Health Care Fraud Report](#) published an overview of the underlying fraud and abuse issues by NH managing partner [Harry Nelson](#).

If true, the current alleged investigations reflect that the crackdown on UDT fraud and abuse has hit California. Search warrants are often an indication that a grand jury has been impaneled and may be a precursor to indictments and arrests. Although the Millennium case involved Medicare fraud, the California investigations appear to be focused on commercial insurance claims, which are not subject federal Anti-Kickback Statute and Stark self-referral prohibitions. Private insurance-billed claims are subject to state law prohibitions for financial inducements for steering business or for manufacturing claims for unnecessary service. In addition, there is not only a risk of liability under state law, but also for federal charges to be filed for federal mail and wire fraud for mailing or electronically billing improper claims for UDT.

In coming weeks and months, we will attempt to corroborate whether the alleged investigation is being conducted in cooperation with the California Department of Insurance or other state agencies. It is a safe assumption that federal investigators are relying on information provided by special investigation units (SIUs) of the larger California health plans, Health Net, Anthem, Blue Shield, United, Aetna, and Cigna. While health plans are limited to pursuing administrative demands for repayment and filing private civil lawsuits, their provision of information to federal and state law enforcement enables the launching of criminal investigations and filing of criminal charges.

For more information/questions regarding any legal matters, please email info@nelsonhardiman.com or call 310.203.2800.

Article co-authored by [Harry Nelson](#) and [Kathryn Russo](#).