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Gina Clemons
Office of Research and Demonstration
HCFA 7500 Security Blvd C3-18-26
Baltimore, MD 21244-1850

Re: LA County+Department of Health Services restructuring

Dear Ms. Clemons,

Under the federal false claims act, employees who work for companies with federal contracts may bring qui tam law suits on behalf of the federal government. Qui tam suits prosecute fraudulent billing of the federal government by private businesses or public agencies. I am prepared with documentation to file a qui tam law suit against my employer, the LA County+USC Medical Center, on behalf of the federal government. An experienced qui tam attorney is pursuing the case with me. The contention of my proposed suit is that the LA County+USC Medical Center overbills the federal government by over \$200 million per year for unnecessary hospitalization of MediCal patients.

I will briefly summarize my documentation. Enclosed is a copy of an op-ed piece that I published in the LA Times on Nov. 24, 1997 concerning the wastefulness of the replacement hospital project planned for the LA County-USC Medical Center. In this article I said, "Recently, I reviewed the records of 52 consecutive patients sent to my inpatient service this year and found that 15 did not need the number of days hospitalization they had or did not need hospitalization at all." Since the LA County+USC Medical Center's MediCal reimbursement is entirely dependent on the number of acute-care hospital days, this is a public accusation of fraudulent billing. No one in the LA County Department of Health Services or the LA County government has publicly or privately refuted my charge. The reason is that this serious charge is true.

Last month I again carefully audited the admissions to my internal medicine inpatient service. I found that out of 104 admissions, 40 patient had unnecessary days in the hospital. These unnecessary days totaled 28% of the total acute-care patient days on my service. My service had one of the lowest average censuses of the 12 internal medicine admitting team, about 15% less than average. Generalizing my audit to the entire hospital, this means that over 40% of the 860 average number of inpatients are in the hospital because of institutionalized policies and procedures designed to increase the census. Inefficient and wasteful treatment of MediCal and

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uninsured patients at LA County+USC Medical Center makes economic sense because MediCal pays the hospital 175% of the daily cost of caring for inpatients. We have a strong incentive to admit patients who could have instead received outpatient care, to delay care or diagnostic studies of inpatients, to have long waits for operating room availability, and to delay discharges of patients. We are doing all these things. From my most recent audit of my internal medicine inpatient service, the reasons that patients unnecessarily stay in hospital include lack of palliative care services (28%), delay in medical subspecialty consultation (17%), delay in placement in a chronic care facility (12%), delay in performing surgery (11%) and delay in initiating chemotherapy (10%).

In the past two and one half years, I have sent letters to the quality assurance committee concerning over 80 patients that I have encountered most of whom had substandard treatment of pain. In the vast majority of these cases, poor treatment of pain resulted in unnecessary days in the hospital. These letters have been ignored by the quality assurance committee and the administration of the LA County-Department of Health Services.

Inefficiencies in these and other areas are widely known by employees throughout the hospital, so that evidence for my suit does not depend only on the audit of patients on my service and my unanswered letters to the quality assurance committee.

Why would I want to charge my beloved hospital with fraud concerning its MediCal contract? Is it to earn tens of millions of dollars that the relator is entitled to under the qui tam act for a conviction of this magnitude? No! If the qui tam suit proceeds to conviction of the LA County+USC Medical Center of fraudulently billing the MediCal program, I will donate all of my share of the settlement to the care of indigent patients in Los Angeles County. I am taking the option of planning to file a qui tam suit because of the unfortunate direction that the health department is taking. Our LA County - DHS' current institutionalized inefficiency is driven by a highly dysfunctional federal and state MediCal reimbursement system.

Beginning in July 1, 1998, the LA County+USC Medical Center is to begin a downsizing that is projected to total about 20% of discretionary funding (i.e., \$88m out of \$450m). Since the hospital employs about 8300 people, this will mean a workforce reduction of over 1600 health care workers. At the same time across the street from the hospital, the Health Department plans to spend about \$150m per year for six years (i.e. \$900m total) to construct a state of the art 600-bed replacement hospital. Also at the same time 2.7 million uninsured LA County resident will have access to health care only for emergencies or on a cash pay basis. This well meaning but misguided plan will be tragic for patient care, health care workers, and the taxpayer.

I am working on this qui tam suit in order to prod the LA County - Department of Health Services and the federal Department of Health and Human Services to change the MediCal funding scheme of LA County - DHS hospitals and clinics to capitated reimbursement. Getting rid of our current institutionalized inefficiency by changing from fee-for-service funding to managed care is the only way that our dedicated health department employees can compete for patients with the private managed care companies that are currently pirating away our MediCal

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patients. This will also allow us to give sliding-scale prepaid public insurance through the DHS for the 2.7 million currently uninsured LA residents. This can serve as a model for the county by providing access to prepaid health care for 100% of the residents of Los Angeles County. We can do this with the money that we would have wasted on a new hospital and by dramatically improving LA County DHS efficiency by reimbursing the health department employees according to the number of MediCal and uninsured people that we attract to our managed health care service.

With a managed care system, no new replacement hospital for the LA County+USC Medical Center would need to be built because the inpatient census of all the County hospitals would be 1/3 to 1/2 less than now. With the current glut of licensed acute-care hospital beds in the Los Angeles market, the LA County DHS could lease or buy licensed beds in another east LA hospital very soon. Currently, the LA newspapers run articles about the proposed acquisition of the Queen of Angels Hospital with 407 beds for \$86 million. In this market, it makes no sense to spend six years and \$900 million to complete the LA County+USC Medical Center replacement project. The plant operation cost alone of the current facility is about \$250 million per year. Most of these funds should be spent on patient care rather than operating costs of an antiquated facility and an unnecessary replacement hospital.

I would rather not file this qui tam suit if these issues are rectified. Please let me know what you and the Department of Health and Human Services administrator think about my concerns.

Thank you.

Sincerely,



David Cundiff, MD
Department of Internal Medicine
LA County+USC Medical Center

cc: Rep. Xavier Becerra (D-CA-30th)
Rep. Howard Berman (D-CA-26th)
Rep. Julian Dixon (D-CA-32nd)
Rep. Jane Harman (D-CA-36th)
Rep. Matthew Martinez (D-CA-31st)
Rep. Juanita Millender-McDonald (D-CA-37th)
Rep. Lucille Roybal-Allard (D-CA-33rd)
Rep. Brad Sherman (D-CA-24th)
Rep. Esteban Edward Torres (D-CA-34th)
Rep. Maxine Waters (D-CA-35th)
Rep. Henry Waxman (D-CA-29th)