

# THE FRAUD IN THE HEALTH SYSTEMS – A FINANCIAL OR ETHIC PROBLEM?

**Corina Graziella DUMITRU**

The Academy of Economic Studies Bucharest, Romania

**Viorel BATCA**

The University Titu Maiorescu Bucharest, Romania

**Ștefan RĂILEANU**

The Academy of Economic Studies Bucharest, Romania

## ABSTRACT

*No matter if it is committed by the patients, medical staff, medicinal companies or a third party, the sanitary fraud seems to be simultaneously a financial problem – because every year hundred of thousands of Euros are lost from the national budgets – and a ethic problem, the sanitary sector being one of the most corrupted. As a main objective, we propose to answer the question above by means of a constructive research whose specific objectives are: the comparison between the legal dispositions concerning the sanitary fraud in the European systems, the analysis of the legal dispositions concerning the detection, the investigation, the sanction and the correction of the sanitary corruption, the making evident of some measures both concerning their investigation and their monitoring.*

## Introduction

Fraud and corruption **are made in all systems** – no matter if these ones are primarily public or private, well financed or bad financed, simple or sophisticated concerning the technical aspect. Though, **the sanitary sector seems to be extremely vulnerable to corruption**, because *of the large sums of money involved on one hand, and on the other hand, because of the existence of some specific processes with high risks of defrauding*. At the same time, *the large number of doers involved in the sanitary system and the fact that they can interact in multiple and complex ways* determines the persistence of the sanitary fraud as long as we have and we will have health insurance programs.

A study realized by the European Healthcare Fraud and Corruption Network (EHFCN) and by the Center of fighting against fraud (CCFS) of the University in Portsmouth shows errors in the medical domain, and the sum menaces to double itself. At the same time, according to the same analysis, **5, 59% of the global health expenses are lost annually because of different acts of corruption or committed errors. And the consequence is only one: the sick people will suffer: “Every euro lost because of fraud or corruption means that someone could not obtain the needed treatment”...**

## 1 Fraud: definitions, types, risk factors

**Definitions.** In the most extended sense, **fraud** is defined as *swindling, act of bad faith committed by someone usually to realize a material profit as a consequence of reaching another person's rights*. Fraud is simultaneously a crime and a violation of civil right. The specific juridical definition varies depending on the jurisdiction of each country.

The definition of **fraud** is to be found in the *Convention for the Protection of Financial Interests in 1995 which entered into force on the 17<sup>th</sup> of October 2002*. According to the present convention, the fraud that affects the financial interests of the European community consists in [6]:

*a) in what concerns the expenses, any deliberate action or omission connected to:*

*a1) the usage or the presentation of false, incorrect or incomplete declarations or documents, has as effect the unfair withhold of the funds from the general budget of the European Community, or the managerial budgets of, or in the name of the European Community;*

*a2) the lack of information disclosure within the violation of a specific obligation, having the same effect;*

*a3) the wrong usage of such funds for other purposes than those for which they were mainly granted.*

*b) in what concerns the income, any deliberate act or omission connected to:*

*b1) the usage or the presentation of false, incorrect or incomplete documents or declarations which has as effect the illegal diminishing of the resources of the general budget of European Community or of the managerial budgets by, or in the name of European Community;*

*b2) the lack of information disclosure within the violation of a specific obligation having the same effect;*

*b3) the wrong application of a legally obtained benefit, having the same effect.*

*The Government directive no. 79/2003 in Romania*, which establishes the procedure regarding the control and the redeeming of the communitarian funds, as well as of the afferent co-financing funds used in an inappropriate way, defines **fraud** as *any intended action or omission connected to the usage or management of the communitarian funds coming from the general budget of the European Communities or from the budgets managed by these ones in their name, as well as from the afferent co-financing budgets, incriminated by the Legal Code, Law no.78/2000 for the prevention, the discovery and the penalization of the corruption acts with its modifications and ulterior completions, or by other special laws.*

**Types of fraud.** The classification of the types of fraud is realized depending on *the specific circumstances* and *the environment in which the organizations develop their activity* [1].

*The Association of the Experts Authorized in Investigating Fraud* uses a specific taxonomy of naming the types of fraud with which an organization can confront, dividing the frauds in **three types**, as a starting point for an organization in identifying the domains vulnerable to fraud:

1. *The deliberate manipulation of the financial declarations (for example, the incorrect reporting of the incomes).*
2. *Any type of defalcation of tangible or intangible goods (for example, fraudulent reimbursement of expenses).*
3. *Corruption (for example, bribe, the manipulation of the procedures of offers demand, the non-declaration of the interests' conflicts, funds defalcation).*

**Fraud reasons. There are three elements** which are at the basis of the perpetration of fraud, that can be summarized as a “**triangle of fraud**” [1]:

**The opportunity:** even if a person has a reason, there has to be an opportunity. The deficient systems of internal control can generate an opportunity (*the presupposed probability that fraud cannot be detected represents an essential reason for the fraud doer*). **Examples of weak points of the internal system of control are the deficiencies regarding:** *the supervision and the revision; the division of the functions; the approval by the management staff; the control of the systems.* Fraud can appear also in the case in which there are no controls or when people with authority create the opportunity to ignore the existent controls.

**The rationalization:** a person can formulate a rationalization by the reasonable explanation of his deeds, for example “*it is right to act this way – I deserve this money*” or “*they owe me*”, “*I’m taking this money only as a loan – I will return it*”.

**The financial pressure, incentive and motivation:** The factor “*need or avidity*”. The simple avidity can represent many times a strong reason. Other pressures can appear from the personal financial problems or from the personal vices such as gambling, drugs addiction, etc.

**The deterrence of the fraud triangle** represents the key of preventing the fraud. Of the three elements, the opportunity is the most directly affected by the strong systems of internal control and, as a consequence, it is the easiest to manage.

**Within the sanitary system** the risk factors are multiple, each activity having the specific motivation for the perpetration of fraud deeds.

Thus, the **risk factors**, the most frequently identified, whose materialization affects visibly the sanitary system, are [3]:

**a)** Poor legislation (for example for the settlement of the informal payments, for the private medical practice and for voluntary health insurances or for the staff protection in control and audit missions);

**b)** Inappropriate remuneration (the lack of financial motivation of health staff);

**c)** The internal procedures do not respect the management/internal control standards stipulated in the order of the Public Finance Ministry no.946/2005 (the Code of Internal Control);

- d) A poor system of selection, evaluation and promotion of the staff;
  - e) The precarious financial resources of the system;
  - f) The insufficient monitoring of the activities of public acquisitions in different stages of development (the realization of the annual program of public acquisitions, the unfurling of the acquisition procedures, contracting, working, products and services delivery reception) , the corruption of the control activities by means of influence traffic, bribe or rewards;
    - e) The corruption of the control activities through corruption acts.
- Of these **specific problems** of this domain we mention [9]:
- a) Deficiencies in interpreting and applying the existent legislation in the domains with risk of corruption (example: public acquisitions);
  - b) The existence of an informal payment in the system;
  - c) The lack of ethics in promoting the products and the medical equipments by means of aggressive promotion of these ones by the productive companies or distributors;
  - d) A corrupted selection, employment and promotion process (the bribe for obtaining the passing marks in the educational process at the entrance exams in the system or for obtaining a place in the public system or in the specialties with a limited number; poor distribution of the medical staff for the creation of an activity monopole).

## 2 The fraud doers – defrauding mechanisms

Although the fraud and the corruption activities can interfere in any domain of supplying medical services, **the following services are regarded as having a higher risk of corruption** [7]: *the providing of medical services by the specialized medical staff; the management of human resources; the holding of medicine considered “drugs”; the distribution; their depositing and usage; the medicine acquisitions and medical equipment; the legislative systems of settlement; the price budgeting and establishment.*

As a consequence, the medical fraud doers can be classified in **five main categories**: *The Government and its institutions; the financiers* (social security institutions, public or private insurance systems); *the medical services providers* (hospitals, doctors, chemists); *patients* and *the pharmaceutical companies including the providers of medical equipments.*

*1. The Government and its institutions*, through *the legislative system of settlement*, are common to the Parliament, to health ministries and specialty committees. Its main role is to check whether the providers of health services have appropriate aptitudes and facilities in what concerns the medical staff and the existent endowment, whether the medicine is sure and efficient. Nevertheless, the simple existence of a law represents a potential for corruption. **Examples:** *the authorities can receive illegal payments to take an advantageous decision regarding the comprising of medicine on the list of those compensated; the government inspectors can be tented to abuse of their position to pretend that even*

when the health service providers are in accordance with the current legal stipulations, they can be tented to corrupt the authorities to ignore the lacunas regarding the authorities.

In our opinion, **one of the evil of the sanitary systems is represented by “the politization” and lack of transparency, especially in the case of hospitals.** Beyond the words that are pronounced, positive in the case of ruling and critical in the case of the opposition, there are truths which some want to keep secret. **Example:** *When the naming of the hospital managers is made basing on political criteria, it is obviously that they will have “political obligations”, that they are exposed to change, each and every time the power is changed. The other main problem is that they do not know how a hospital functions, or how a budget is to be spent...*

**2. The providers of medical services (hospital, doctors, chemists).** The medical services providers detain a large scale of opportunities through which they can engage themselves in fraudulent activities and corruption.

**The medical staff** can defraud the system through: *falsified prescriptions, double invoicing services, fictive services invoicing, supplementary services invoicing, inappropriate usage of the medical equipment and invoicing towards inexistent people. Example: 13 doctors, in complicity with the owner of a private clinic in Milan, have shocked the entire Italy by making abusive operations just to earn more money. Thus, a total of 86 patients were uselessly operated only to obtain larger sums of money paid by social insurances, the fraud being estimated at 2, 5 million euro in 2005-2006. Here, a woman of 88 years old was operated three times each intervention being taxed with 12.000 euro.*

**3. Staff at hospitals.** Staff at hospitals can defraud the system through: *staff member submitting falsified timesheets claiming for hours not worked to receive a higher wage packet; payroll staff creating fictitious staff members and diverting the wages or salaries into bank accounts they have access to; staff member providing fictitious qualification details to obtain a promotion or pay rise; manager falsifying performance statistics to receive a larger pay bonus; people successfully applying for jobs using falsified qualifications, references or work experience; managers diverting funds from their business area for their own personal use; senior management signing off altered or fictitious financial statements as correct.*

**4. Other healthcare providers** can defraud the system through: *dentists charging patients privately and also submit claims to the health insurer; opticians claiming that two pairs of glasses were issued to a patient when only one pair was actually issued; physiotherapists claiminign for services not performed or claiming more services than actually supplied.*

**5. Pharmaceutical companies** can fraud the system through: *false invoicing, promotions and providing expensive or useless medicine.* The irresponsibility, the cynicism and greed caused by the need of gain of those who have companies in the pharmaceutical industry are so big that, even in the cases of interdiction, the medicine keep being manufactured and sold in other places in the

world. This is because the interdiction remains available only in the country in which there are “*recognized victims*” and in which the responsible authorities have taken measures. As a consequence, medicine interdicted in England or Germany is sold in USA, Africa or other countries or vice-versa. **The pharmaceutical industry keeps on selling substances that cause lethal diseases although it is well known.** Thus, we ask ourselves: “**Is the pharmaceutical industry interested in curing people or to gain as much money as possible from the medicine sales?**”

*Example: One of the most popular medicines in Romania, Algocalmin, is one of the most poisonous cures on the market. Algocalmin is forbidden in most of the countries and strongly interdicted in the rest of the countries. Because of the lack of information, Romanians take advantage of the accessible price of the medicine, buying it at a large scale, even if in countries like Belgium, Finland, Sweden and Denmark it is included in the category of poisons.*

**6. The patients** can fraud the system through: *simulations of health problems, double prescriptions, prescriptions from more than one doctor and through subsidiary payments.* *Examples* include: *patient declaring they have a lower wage or salary in order to receive free or discounted healthcare; patients failing to declare a change in circumstance, such as employment, in order to continue receiving free or discounted healthcare; people creating multiple identities in order to receive numerous prescriptions of free or discounted prescription medication; patients using their free or discounted healthcare provision to obtain prescription medicine or healthcare for people who are not entitled to it; patients using their right to free or discounted healthcare to obtain prescription medication that they then sell on.*

**7. Financers** are the social security institutions, government offices, public and private insurance companies. Corruption in this area can take a number of aspects, *examples* include: *awarding a higher-than-justified Public Insurance Company contract to a service provider, receiving a specific price from the Public Insurance Company for providing a service; acceptance of reimbursement fraud by the payer, for financial gain.*

**8. The third people** can charge the system through: *fictive administrative expenses, the excessive charging of the health budget and through falsifications of the market studies.*

## Conclusions

**1.** The large number of doers in the system determines, on one hand, the increase of the difficulties in what concerns the production and the analysis of information regarding the identification of fraud and corruption when these ones produce, and on the other hand, it determines the increase of the number of opportunities for corruption: example, the funds can be defalcated from a Ministry, hospital board, local clinic, by people who work as managers, officers of public acquisitions, specialists in the healthcare, health units, court clerks and patients.

2. It is important to be aware of the fact that fraud and corruption can take multiple forms and that the doers who commit these crimes are always in search of new openings to engage them.

3. **We can appreciate without mistaking that fraud is a financial problem.** Fraud and corruption in the healthcare sector are often hard to detect. To give an accurate picture of the extent of the problem at European level is even harder as healthcare systems differ from country to country. Additionally, offices and units to counter healthcare fraud have only been established recently in some countries and do not even exist in others.

4. **Question for the future : *We can fight efficiently the healthcare fraud and the corruption, but do we really want this?***

### References

1. Albrecht, W. S., & Albrecht, C, *Fraud Examination and Prevention*, Ohio: Thomson Learning, 2004.
2. Armean, P, *Managementul calității serviciilor de sănătate*. București: CNI Coresi, 2004
3. Association of Certified Fraud Examiners, *Fraud Examiners Manual*. Austin, Texas-USA, 2005.
4. Auray, J.P., Beresniak, A., Claveranne, J.P., & Duru, G, *Dictionnaire commenté d'économie de la santé*. Paris: Masson, 1996.
5. Bâtcă, V., Stan, C., Dumitru, C., & Bâtcă, T, *The medical-economical evaluation of the health programs accessibility or hope in the performance of the management in the sanitary institutions?. Analele Universității din Oradea, vol III, 2008, 71-77.*
6. Busch, R, *Healthcare Fraud – auditing and detection guide*. New Jersey : John Wiley & Sons, Inc, 2008.
7. Griffith, R., & Shaw, P, *Fraud & abuse investigation handboock for the healthcare industry*. American Health Lawyears Association, 2000.
8. Opincaru, C., Gălețscu, E., & Imbri, E, *Managementul calității serviciilor în unitățile sanitare*. București: CNI Coresi, 2004.
9. Wells, J, *Principles of Fraud Examination*. New Jersey: John Wiley & Sons, Inc, 2005.