

State's hospitals to get fed audits

Medicare project searches for overbilling

BY JAY GREENE
CRAIN'S DETROIT BUSINESS

Michigan is one of 11 states targeted in a three-year demonstration project by Medicare to identify hospitals that overbill for short-stay admissions.

Millions of dollars in charges are at stake for hospitals in Southeast Michigan in the pre-payment review by private companies known as recovery audit contrac-

tors, which are hired by Medicare. Seven of the states — Michigan, Florida, California, Texas, Illinois, Louisiana and New York — were selected for the program based on their high level of fraudulent claims, said the Centers for Medicare and Medicaid Services. The four other states — Pennsylvania, Ohio, North Carolina and Missouri — were selected because of high volumes of short inpatient hospital stays of about 30 hours or less.

Even if hospitals are found to have not overbilled for inappropriate short-stay admissions, the targeted hospitals could have to wait up to three extra months to get reimbursed for services rendered, said Abby Pendleton, a partner with The Health Law Partners PC in Southfield.

"This is a really hot issue because there is a fundamental disagreement between how reviewers are reviewing and the standards

providers are given to follow" when billing, Pendleton said. "Providers are not given black-and-white guidance."

As a way to reduce rising Medicare costs from fraud or waste, President Barack Obama ordered Medicare in 2010 to come up with a plan to reduce improper payments by \$50 billion. In 2011, Medicare saved nearly \$18 billion by reducing payment errors.

From 2006 to 2012, Medicare costs dropped from a 7 percent annual inflation rate to 2.5 percent,

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Emerald aims to shine again

Lucky's owner plans to repair, reopen theater

BY CHAD HALCOM
CRAIN'S DETROIT BUSINESS

Nightclub owner Wally Mona of Lucky's Liquor Shoppe LLC is getting ready for a dose of reality this week, when contractors submit their estimates to repair the newly acquired Emerald Theatre in downtown Mt. Clemens.

Mona — who operates Lucky's Pub & Grille in Detroit, Haze Night Club in Southfield and three Ultimate Sports Bar & Grill locations — purchased the shuttered Emerald for just \$621,000, plus closing costs and fees, last week from Troy-based Talmer Bancorp Inc.

Since then, he has had several contractors tour the historic theater. Mona plans to have estimates today on all necessary repairs and renovations and expects that cost could reach \$2 million, including \$1 million or more to restore plaster detail work and overhaul the floor in the 90-year-old building at 31 N. Walnut St.

If all goes well, Mona said, the company could begin booking acts to appear shortly after the beginning of next year. It's a large venue — the 17,500-square-foot Emerald offers three levels of seating to about 1,500 patrons — and the repairs will be extensive to get it up and operating.

"The previous owners operated this place 10 to 12 years, and I'm not sure they ever put a penny back into it. So basically we're trying to take it in steps," Mona said.

"At first, we don't want to get a bunch of rain inside and get any further damage than we've got. But the good news is it's an indoor job and it's the right time of year. A couple of companies I'm talking with now are going into their slow period, and they have



KENNY CORBIN

Wally Mona (left), new owner of the Emerald Theatre, worked with broker Joseph Sowerby of Anton Sowerby & Associates to close the deal on the historic building in Mt. Clemens, which Mona plans to renovate and reopen.

people on standby."

Mona and Anthony Caputo, managing shareholder for Warren-based Caputo Brosnan PC and court-appointed receiver for the theater, confirmed Mona's company closed on a purchase Nov. 5 for the bid price.

Mona said the final acquisition price with fees and closing costs was more like \$700,000, and he has partnered with Marc Beginin,

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Rock about to roll out retail plan

Quicken properties to be likely hot spot

BY SHERRI WELCH
CRAIN'S DETROIT BUSINESS

Detroit's best-kept retail secret soon may not be a secret at all.

Dan Gilbert's Rock Ventures LLC is nearing completion of its retail plan for Detroit and is expected to begin releasing elements of it — if not the entire plan — in the next couple of weeks.

Local developers and architects are involved in the plan, which will create space in the buildings to be used by a blend of national retailers and local boutique shops and be designed to draw shoppers from across metro Detroit.

The plan is likely to involve the properties that Quicken Loans Inc. founder Gilbert owns or controls near Grand Circus Park and Campus Martius, including frontage on the east side of Woodward Avenue and the former Hudson's lot north of Compuware Corp. headquarters.

Renderings of the retail concept — shown by Gilbert at multiple public appearances — include storefronts for national retailers such as Apple and other uses such as a walkup grocery store. The plan will incorporate some of the alley space behind the buildings along Woodward Avenue, Gilbert said at Crain's Idea conference in March.

He described the retail strategy as part of a "big bang" development plan he has for Detroit. The plan calls for bringing retail and residents to the buildings he has purchased and others downtown at the same time.

Gilbert said he hoped to create the larger plan before signing leases with retailers.

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"We're looking forward to seeing it again in all its glory."

Wally Mona,
Emerald Theatre owner

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Hospitals: Audits look for Medicare overbilling

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according to a report from Standard & Poor's.

Experts say the Patient Protection and Affordable Care Act, which became law in 2010, has helped restrain Medicare payments to providers. In addition, the Medicare audits by recovery audit contractors, along with anti-fraud efforts, have contained costs and saved Medicare billions of dollars.

In late August, Medicare began the pre-payment review program in Michigan and the other states with a goal to recover \$2 billion in improper provider payments.

The pre-payment review program is different from Medicare's post-payment audits by recovery audit contractors, which began in 2009. Under pre-payment, Medicare scrutinizes hospital bills before they are paid but after they are presented to patients.

The post-payment audits so far have cost hospitals more than \$2.5 billion.

Over the next three years under the pre-payment review program, Pendleton said, Medicare asks Michigan hospitals to submit medical records and other supporting documents on eight diagnosis codes, along with the claims.

The eight diagnostic-related group billing codes include DRG-377, gastro-intestinal hemorrhage with major complication or co-morbidity, DRG 069, transient ischemia (minor stroke), and DRG 637, diabetes with major complication or co-morbidity.

Pendleton said Medicare is likely to add other codes to its review over the next year.

Here is how the pre-payment program review works:

■ A physician determines that a patient should stay in the hospital for additional tests or to treat a short-term condition.

■ Hospitals bill claims electronically, as they always do. If the recovery audit contractor flags a bill, a hospital has 30 days to provide additional documents, including medical records, to prove the appropriateness of the stay.

■ The contractors have 45 days to approve or reject the claim.

"It will significantly slow up the process," Pendleton said. "I would be surprised if RAC meets the 45-day time frame."

Pendleton said one of the problems in the process comes from contractors' second-guessing physician judgment.

When a patient appears in the emergency department with a complex condition, physicians sometimes are hard-pressed to make a quick diagnosis, and they sometimes opt to admit the patient temporarily to run tests.

"Did the patient collapse because of a stroke, a cardiac problem?" Pendleton said. "Afterward, some of those cases turn

out not to have assertive problems, and the patient is cleared to go home after 24 hours."

At that point, she said, the Medicare contractor denies many of these claims as inappropriate admissions.

"The reviewers come in and second-guess the physician's judgment without seeing patients," Pendleton said. "They are looking at complications after the fact. Physicians have to assess patients the best they can."

The reviewers, she said, "are acting as Monday morning quarterbacks."

Because of the strictness of the reviews, Pendleton said, hospitals have become much more conservative in billing, losing hundreds of thousands of dollars on perfectly valid admissions.

"Hospitals are trying to carefully craft administrative policies, educate physicians and admissions staff," she said. "They may be still taking admissions, but just not billing for it."

Under the post-payment program, hospitals have challenged hundreds of thousands of dollars in rejected claims they have submitted. Many that have appealed have been successful. While providers have appealed only about 13 percent of the overpayment decisions by recovery audit contractors, the providers have won 65 percent of the time.

"Hospitals are having great success in appealing decisions to administrative law judges," Pendleton said. "They are winning, but it takes up to a year to get paid."

To fix the recovery audit contractor program for hospitals, including pre-payment and post-payment audits, HR 6575 was introduced in August by U.S. Rep. Sam Graves, R-Mo.

The bill, supported by the Michigan Health and Hospital Association, would limit the number of medical record requests, require medical necessity audits to focus on areas of widespread payment errors, allow denied inpatient claims to be billed as outpatient claims when appropriate, and require physician review for Medicare denial.

"Michigan hospitals have experienced ongoing frustration with the growing administrative burden of RAC audits," the association said in a statement. "Hospitals are experiencing a significant number of inappropriate payment denials amounting to hundreds of thousands of dollars in unwarranted recoupment payments for medically necessary care, and RAC operational problems are persistent and widespread."

In a recent American Hospital Association RACTrac survey, 55 percent of more than 2,600 hospitals spent more than \$10,000 managing the recovery audit contractor process during the second quarter of 2012. 33 percent spent more than \$25,000, and 9 percent spent more than \$100,000.

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Hunger: Restaurants coming to town

■ From Page 1

income and consists of every race," Hanby said. "I was fired up when we looked at the demographics and found they are here in Michigan."

Hanby said he has worked on the deal for 18 months.

"We saw the density of the demographics in metro Detroit, and we knew immediately that it was a fit," he said. "The narrative out there about Detroit is not representative of what we have seen."

Franchisee Sean Cahill is opening the Tilted Kilt at 44175 W. 12 Mile Road in Novi. The 8,000-square-foot Celtic-themed restaurant cost \$2.5 million to build and will hire 220 employees, he said.

Cahill, an Ohio native, said he was a bit surprised by the favorable population density of Southeast Michigan.

"It's impressed me even more than I thought it would," Cahill said. "Metro Detroit has gotten bad press, but there is a lot more going on than is talked about."

Cahill said he is looking to open several Tilted Kilt restaurants in Southeast Michigan.

"Usually when you go into a new market, you look at a few different ways to grow the brand," Cahill said. "I foresee two or three locations right out of the gate. There will be more."

The Tilted Kilt is known for its waitresses' short kilts and tank tops. The company currently has 73 restaurants and will have 85 open by year's end.

It isn't the only chain eyeing Southeast Michigan's demographics.

Since 2010, Southeast Michigan added several large restaurant chains — including Texas De Brazil in the Campus Martius area of downtown Detroit, Toby Keith's I Love This Bar at Great Lakes Crossing Outlets in Auburn Hills and Granite City in Troy.

Steven Wagenheim, president and CEO of Minneapolis-based Granite City Food & Brewery Ltd., said some areas of metro Detroit have perfect demographics to support high-volume chain restaurants.

"We want to be in dense areas that can drive lunch and really have the Monday-through-Friday lunch business come from the office community and the surrounding businesses," Wagenheim said. "There are corridors of activity in Southeast Michigan that are as good as any out there in other major cities."

Wagenheim, a metro Detroit native, said Granite City in Troy has the highest volume of the 27 restaurants in the system.

"I give speeches to shareholder groups, and when you say you are going into Michigan, they cringe because of the horror stories they've heard about Detroit," Wagenheim said. "But Troy is doing terrific."

Wagenheim said the company is looking to open another Granite City on Haggerty Road between Six and Eight Mile roads.

"When you are looking at a site for a high-volume restaurant, you look at the four day parts: lunch, happy hour, dinner and late night," he said. "There are a couple of areas in Southeast Michigan that have every one of those components."

But Wagenheim said metro Detroit's independent restaurants are formidable competitors to na-

CHAIN OF CHAINS

A sampling of recent restaurant chain activity in Southeast Michigan:

- **Tilted Kilt:** 1 open, 3 planned
- **Buffalo Wild Wings:** 14 open, 1 planned
- **Smashburger:** 2 open, future plans unknown
- **Bagger Dave's:** 5 open, 4 planned
- **Granite City:** 1 open, 1 planned
- **Toby Keith's I Love This Bar & Grill:** 1 open, no plans for another
- **Sonic Drive-In:** 9 open, future plans unknown
- **Jersey Mike's Subs:** 1 open, 1 planned
- **Five Guys Burgers & Fries:** 17 open, 1 planned

tional chains.

"Some of the great markets in metro Detroit are tied up by local independents," Wagenheim said. "Detroit was one of the last major markets for chains to come in. For the big boys looking to open high-volume restaurants, there are only a couple opportunities."

According to its development brochure, Granite City restaurants average annual sales of \$3.7 million.

Michael Ansley, CEO of Southfield-based Diversified Restaurant Holdings Inc., said Michigan's rebounding economy is attractive to national restaurant chains.

"From about 2001 through today, the economy here hasn't been

the greatest," Ansley said. "But people are starting to take another look."

Diversified Restaurant Holdings will open a three-story, 425-seat Buffalo Wild Wings in downtown Detroit by the end of December. Ansley said the company also is shopping for a location for a Bagger Dave's Legendary Burgers and Fries.

"When you look at average incomes in metro Detroit, they are considerably higher than the perception," he said. "It's an overlooked market, but it's a great market for us."

Ansley said sales at his Southeast Michigan Buffalo Wild Wings were up 7.5 percent in the third quarter.

Diversified Restaurant Holdings operates 30 Buffalo Wild Wings, 15 of which are in Southeast Michigan. Diversified also owns 11 Bagger Dave's restaurants, five of which are in Southeast Michigan.

Jim Bieri, president of Detroit-based Stokas-Bieri Real Estate, said one reason for the recent surge in restaurant activity is that Michigan's business climate finally is getting healthy.

"I think the economy has clearly improved, and we have more of a business-friendly environment," Bieri said. "The business climate in Michigan is better than it was five years ago and is now stable."

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