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Health-Care Gold Mines: Middlemen Strike it Rich

Double Bypass: Health-Care Consultants Reap Fees From Those They Evaluate
As Insurance, Drug Costs Rise, Employers Seeking Advice Often Discover Conflicts
A Superintendent's Surprise

By Barbara Martinez, The Wall Street Journal, 1959 words
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Document Text

[Third in a Series]

When Kevin Grady took over as an employee-benefits consultant for the Columbus Public Schools District in 2001, he signed a contract promising to act "in the best interest" of the schools. The Ohio district agreed to pay him $35,000 a year to help it choose a health insurer. Officials thought that was all Mr. Grady was getting out of the deal.

It wasn't. After the district switched its health insurance to UnitedHealth Group Inc. on what it says was Mr. Grady's recommendation, he started getting payments and other compensation from the big Minnetonka, Minn., insurer. "Thank you and United for the steaks," Mr. Grady wrote in a Dec. 20, 2001, email to a UnitedHealth employee. "We'll have those on Christmas eve."

All told, UnitedHealth paid Mr. Grady $517,138 for helping it get the district's business. The district says it learned about the payments two years ago after a new human-resources chief came on the job. It canceled Mr. Grady's contract. Last month, the Ohio Department of Insurance suspended Mr. Grady's license for three years, accusing him of "deception." He was ordered to pay $137,000 in restitution to the Columbus district and a $25,000 civil penalty. Earlier this year, UnitedHealth agreed to pay a $125,000 penalty to settle the matter without admitting wrongdoing.

The episode spotlights a widespread and largely invisible practice that critics say boosts the cost of health care. Many consultants and brokers who are hired to help employers get the best deal on health insurance or prescription-drug coverage have significant financial ties with the health vendors they are supposed to be scrutinizing. The ties may take the form of bonuses for bringing in business, commissions or consulting fees. Often they are disclosed only partly or not at all.

Mr. Grady's son, Joe, who is president of the family consulting business, says his father is appealing the suspension and did nothing wrong because the payments he received are standard in the industry. "All [insurance] companies offer bonuses," says Joe Grady. "It's a way to sell the product and saves them from hiring 20,000 agents." He denies that his father pushed the district to choose UnitedHealth and contends the district knew all along about the payments. The insurer declined to discuss the specifics of the Columbus case.

Consultants and other middlemen are prospering even as employers struggle with spiraling health-care costs. Some employers are dropping health coverage or raising workers' payments. That has contributed to an increase in the number of Americans without health insurance to 46.6 million last year from 45.3 million in 2004, according to the Census Bureau.

Tamar Frankel, a professor at Boston University Law School, says employers who hire middlemen need to ask: "Are you recommending me someone who is now paying you?" If the answer is yes, she says, it is best to hire someone else.

Consultants play down the importance of their financial ties to vendors and say they are part of the solution to rising health-care costs. "Health-care finance and delivery are . . . not the core mission of most employers," says Robert O'Brien, the head of health and benefits consulting at Mercer, a unit of Marsh & McLennan Cos. "We help employers manage the expense and complexity of their health and benefits programs in a way that maximizes their value for employees."

A handful of consulting giants such as Mercer, Hewitt Associates, Lincolnshire, Ill., and Towers Perrin, Stamford, Conn., dominate the benefits-consulting business, but smaller ones also thrive working with local employers. Mercer says it expects its health-benefits consulting business to bring in revenue of $526 million this year.

Payments to a consultant are at issue in an Ohio case involving the South-Western City School District, which encompasses suburbs southwest of Columbus in the central part of the state. In 1996 the district hired Joseph James & Associates of Dublin, Ohio, to help it choose a health insurer.

The district had fired its previous consultant after learning he had financial ties to health insurers. Superintendent Kirk Hamilton says the district made clear that it expected Joseph James not to take money from district health-care vendors. "We wanted to make sure the people representing us were solely working in our best interest," he says.

Each time the health-insurance contract came up for bidding in subsequent years, Joseph James managed the process. Each time, UnitedHealth won the business. Over 10 years, the district paid the consulting firm about $380,000 for its services.

Earlier this year, Dr. Hamilton discovered that Joseph James also was getting paid by UnitedHealth. The district quickly sued both the consultant and the insurer in Franklin County Common Pleas Court. Documents filed in the suit showed that Joseph James was receiving 1% of premium dollars paid by the district. The consultant received more than $645,000 from UnitedHealth from 1999 to 2004 for bringing in the district's business, according to the documents. Joseph James, in court filings, says it became eligible for the bonus as part of a "recognition program" by UnitedHealth rewarding its "overall contributions."

In its lawsuit, the school district contends the deal gave Joseph James a financial incentive to continue choosing UnitedHealth and to ensure that the district's premiums kept rising. The premiums increased to more than $21 million this year from $5.2 million in 1996, according to Dr. Hamilton. He says it is possible "we could have negotiated lower premiums" if not for the behind-the-scenes deal.

In court documents, Joseph James argues that bonuses from insurers are an accepted and legal practice in the insurance business and it didn't need to disclose them to the school district. The consulting firm's lawyer, Kort Gatterdam, says: "There's no evidence of steering. They provided an excellent service to South-Western schools and saved them millions of dollars." He says Joseph James helped the district move in the late 1990s to a managed-care plan that saved $6 million and after that the consultant worked hard to squeeze the best rates out of UnitedHealth.

UnitedHealth declined to comment on the South-Western case. A spokesman said that in general, bonuses and other rewards for consultants who bring in a large amount of business "are not built into premiums or fees that customers pay" and don't raise the cost of health care.

The practices of brokers and middlemen in other forms of insurance were the target of a widely publicized investigation two years ago by New York state Attorney General Eliot Spitzer. He was particularly concerned about payments brokers received from insurers for bringing in a certain volume of business from corporations buying property, casualty or life insurance. Mr. Spitzer said the corporations were entitled to an unbiased opinion from their brokers rather than one potentially influenced by so-called contingent commissions.

Mr. Spitzer reached several high-profile settlements with insurance brokers and consultants. Marsh & McLennan, New York, agreed to pay $850 million and stop accepting contingent commissions. Only a handful of brokers agreed to settlements, and the probe didn't delve into health-benefits consulting. Major health insurers including UnitedHealth, Aetna Inc., Hartford, Conn., and WellPoint Inc. of Indianapolis say they continue to offer contingent commissions.

Aetna gives brokers a "retention bonus" for staying loyal. If a broker keeps 90% of his Aetna clients with the insurer for another year, he gets a bonus equal to 0.75% of the clients' total premiums. If 100% stay, the bonus rises to 1.25% of total premiums. Though employers typically put their health-insurance contracts up for bid every few years, such bonuses are one factor encouraging brokers to keep their clients on the same plan.

A spokeswoman for Aetna said the insurer requires consultants and brokers to disclose such fees to customers. She said Aetna also makes its broker fees public via its Web site and in annual disclosures to clients. Many other insurers don't detail their contingent commissions on public Web sites.

Consultants also may have financial ties with pharmacy-benefit managers, or PBMs, which administer prescription-drug benefits for employers. Mercer, the big benefits consultant, has done consulting work for a leading PBM, Medco Health Solutions Inc., even as it was advising employers choosing among PBMs including Medco, of Franklin Lakes, N.J. In a proposal for a 1998 job handled by Mercer Management Consulting, Mercer said it could help Medco "refine its pricing to increase its profitability." Mercer also said it would help Medco "improve relationship with key benefit consultants to better position [Medco] for winning target accounts."

In 2000, the top Mercer pharmacy-benefits consultant, Nicholas K. Vasilopoulos, gave a written declaration in a lawsuit by Medco clients who accused the PBM of overcharging them for drugs. In it he defended Medco as "forthright" in its business dealings. Mr. Vasilopoulos said he advised employers seeking advice on PBMs -- and advised Medco in assessing its competitiveness against other PBMs.

In an email, Mr. Vasilopoulos said "there were no conflicts of interest" when he was a Mercer consultant. He said Mercer had no reason to favor any particular PBM because it provided advice to all the major ones over the years. This advisory role gave Mercer a "more thorough understanding" of each PBM's offerings, which benefited Mercer's employer clients, he said.

Lisa Zeitel, a senior consultant at Mercer's pharmacy-benefits consulting practice, said much of the work for Medco was done by the management-consulting side of Mercer, which is "totally separate" from her unit. She said her own unit occasionally undertakes small assignments for PBMs, but this "in no way interferes with the work that we do for individual clients."

Joseph Sawicki Jr., the comptroller of Suffolk County on Long Island, N.Y., discovered the ties between consultants and PBMs after the county sought a routine audit of its PBM, Express Scripts Inc., in 2003. The county hired Mercer for the job. Mr. Sawicki says officials didn't realize at first that Mercer also serves as Express Scripts's employee-benefits consultant and had other consulting arrangements with the PBM. Mercer says it did disclose the ties.

Mr. Sawicki wasn't happy with the audit's results, which initially found that Express Scripts had overbilled the county by more than $1.1 million but later suggested that the overbilling amounted to only $14,000. Mercer charged the county $93,000. Mr. Sawicki withheld half the payment and asked Mercer to return the half it already had received, saying he doesn't pay for "shoddy" work. A spokeswoman for Mercer, Stephanie Poe, says Mercer made clear its initial estimate was likely to be reduced and it did a good job on the audit although it wasn't allowed to complete its work. The dispute over the $93,000 is unresolved.

The county didn't pursue any refunds from Express Scripts in connection with the billing Mercer had audited. It then hired another auditor to review Express Scripts's billing in subsequent years. That review led to a settlement in which Express Scripts paid the county $865,000. A spokesman for Express Scripts said the company has saved "millions of dollars" for Suffolk County. He declined to comment on the settlement.

Back in Columbus, school-district human-resources chief Craig Bickley wants consultants who aren't getting money from the same people they are supposed to be evaluating. He was annoyed to discover that under the previous consultant, Kevin Grady, the district switched to UnitedHealth from Anthem (now part of WellPoint) even though UnitedHealth's administrative fees were $776,000 a year higher. Mr. Grady's son, Joe, says UnitedHealth offered more coverage for the money.

Mr. Bickley says his first question to consultants nowadays is: "Who are you working in the best interest of, yourself or the client?" The district insisted that the consultant replacing Mr. Grady forgo commissions and bonuses it might otherwise receive from health insurers for bringing in the district's business. Mercer won the contract and agreed to do so.

Raymund Flandez contributed to this article.