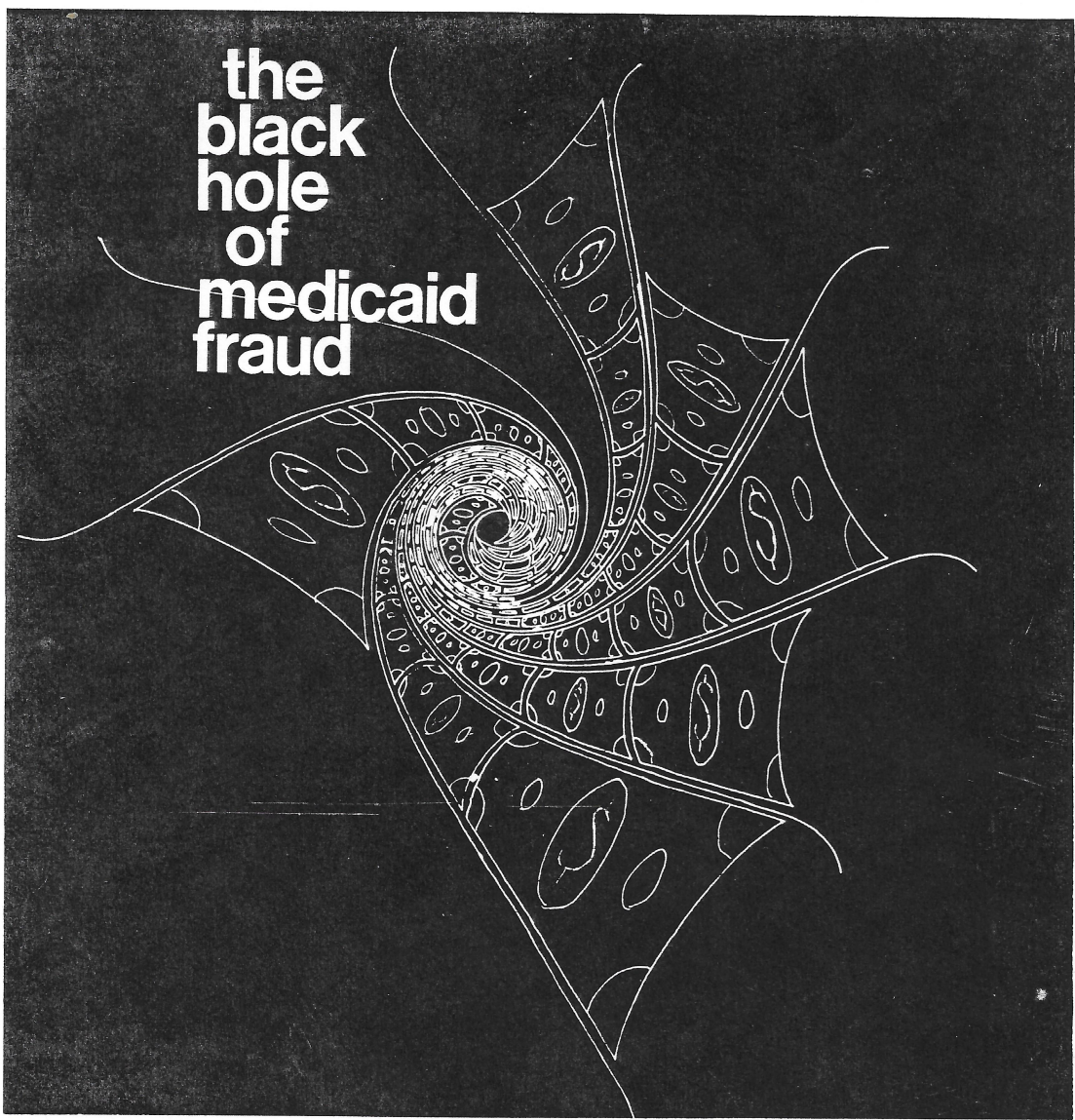


# the black hole of medicaid fraud



By Mark Lagerkvist  
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This is a story of Robin Hood in reverse.

The rich — through fraud and corporate intrigue — shamelessly steal millions of dollars from a program designed to help the poor and needy with medical expenses. The money is used to build a luxurious complex for business executives.

This is not a fairy tale. These are the findings of an extensive six-month investigation by WZZM-TV of Grand Rapids, Mich. The target was a Wisconsin nursing home conglomerate.

The victims are taxpayers. Several billion dollars have been lost through various forms of Medicaid fraud, according to investigators' estimates. Physicians, chiropractors, osteopaths and others submit bills for services never rendered. Pharmacists dispense generic drugs and charge the government brand-name prices.

This type of white collar crime is baffling to many law enforcement agencies. Although the detection and prosecution of fraud has improved, the cons are still outsmarting the cops with frightening regularity.

One area of neglect is the deceptive practices used by nursing homes to improperly inflate their Medicaid billings. Nursing home patients have become mere pawns in complex corporate schemes.

Part of the problem is the system itself. The purpose of Medicaid is simple: to help pay necessary and reasonable medical expenses for the poor. But around that premise, the government has constructed a maze of bureaucracy that would have made Rube Goldberg envious.

The complexities of Medicaid have scared many journalists away. However, with a bit of know-how, the puzzle can be solved.

Reams of regulations can be summed up in one phrase — "cost-plus." The system pays nursing homes for the actual, reasonable cost of treating Medicaid patients. The "plus" is that the homes are allowed a modest profit if they are operated efficiently.

Therefore, the easiest way for a nursing home to

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**Easiest way for a  
nursing home to get  
extra bucks is  
to inflate expenses.**

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make an extra (and illegal) profit is to lie about its costs and artificially inflate its expenses.

This fraud can be detected through persistent use of public records. As an example, I offer WZZM's investigation of a multimillion-dollar Medicaid fraud.

The investigation was a spin-off of a probe examining patient abuse and neglect at English Hills Nursing Home of Grand Rapids. WZZM had received a complaint from a former employee of the home.

While researching English Hills, I carefully read all public files on the nursing home kept by the state licensing agency, the Michigan Department of Public Health. Those records provided the first clues that led to the fraud investigation.

According to the licensing applications, English

Hills and five other Michigan nursing homes were operated by Michigan Skilled Centers Inc. of Appleton, Wis. Michigan Skilled leased the homes from a second Appleton-based firm called Como of Wisconsin Inc.

The two firms declared they were unrelated. If they were under similar ownership or control, it was not apparent at first.

But other documents in the public files pointed toward a curious relationship between Como and Michigan Skilled:

- ✓ Both firms had the same address in Appleton.
- ✓ Some correspondence by Arthur Fochs, president of Michigan Skilled, had been sent on Como stationery.

- ✓ One of Michigan Skilled's consultants was Anthony Perillo, an officer and principal stockholder of Como.

Based on these tidbits and a strong gut feeling, WZZM decided to scrutinize the financial activities of Como and Michigan Skilled.

The next leg on the paper trail was the "Statistical and Operating Cost Report," an annual financial statement that must be filed by all nursing homes that receive Medicaid reimbursements.

The report — and eight-page summary of expenses and revenues — is used to justify the governmental reimbursements for Medicaid patients at nursing homes. Under state and federal laws, it is a felony to knowingly make a false statement on cost reports.

The documents were located at the Michigan Department of Social Services. (The agency that administers Medicaid may vary from state to state.) I submitted a routine access request to the DSS, citing the state Freedom of Information Act.

The reports are public records, but one of the bureaucrats decided to deny WZZM's FOIA re-



quest. When pushed for a reason, the bureaucrat accused me of trying to interfere with an investigation by the Michigan attorney general.

"How did you find out about the investigation?" howled the bureaucrat. "That outfit has a lot of our money, and we want it back."

I was delighted with that response, since WZZM had no knowledge of the official investigation. The attorney general's office stonewalled questions about the investigation, but I developed a theory:

Michigan Skilled was a dummy corporation that was actually controlled by Como. Somehow, there was a financial advantage through the deception.

The next step was a careful study of the Michigan Medicaid guidelines for nursing home reimbursement. Every state participating in Medicaid has developed guidelines consistent with federal law and regulations.

Meanwhile, the bureaucrat was unable to find legal grounds for denying WZZM's FOIA request.

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### Arm twisting pays off

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So after a few weeks of arm twisting, the department produced the reports.

The reports contained a potential "smoking gun." The nursing homes were routinely asked if they had purchased goods or services from a related organization under common ownership or control. On each report, Michigan Skilled president Fochs responded "no."

On the same reports, Michigan Skilled disclosed that it had paid Como more than \$3.7 million in rent during a five-year span.

In addition, a confidential source informed me that Michigan Skilled was paying Como hundreds of thousands of dollars in management fees. Those fees had been hidden under a variety of line-item expense categories on the cost reports.

If Como and Michigan Skilled were, in fact, under common control, they could be charged with a felony for obtaining Medicaid reimbursements under false pretenses. But we still had to prove Como controlled Michigan Skilled.

Como was owned by Kenneth Mueller and Anthony Perillo, according to Michigan nursing home licensing records. Mueller, Como's president, owned two-thirds of the stock; Perillo, the secretary-treasurer, held the other one-third.

Michigan Skilled listed three shareholders: Arthur Fochs, Abdul Qastin and Sally Gustman. The three also served as the firm's officers.

According to Appleton city directories, Fochs and Qastin were employees of Como. Sources confirmed that Fochs was Como's operations director

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### Nailing down who works where

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and Qastin was the comptroller. Gustman was a former secretary to Como owner Mueller.

The clincher was found in a seldom-requested public record. In Michigan and many other states, a nursing home is required to keep a current list of shareholders who own 5 percent or more of the stock. By law, that list is available for public inspection.

The list for Michigan Skilled showed two new shareholders — the wives of Como owners Mueller and Perillo.

Michigan Skilled was under the control of Como's owners, a fact that Fochs concealed on cost reports. Under false pretenses, Como had improperly collected millions of dollars from Medicaid. By using a dummy corporation, Como charged taxpayers, for phony management fees and inflated rents.

Where was the money going? To find out, I flew to Appleton for a three-day stay.

Como was the developer of "Paper World," an

ambitious convention, entertainment and office complex on the outskirts of Appleton. An office building and a restaurant-theater were open for business; a hotel and a second office structure were near completion; and a convention center and shopping mall were on the drawing board.

"Paper World" was designed to be a luxurious playground for executives of Appleton's paper industry. Ironically, Como was building "Paper World" with funds obtained through firms like Michigan Skilled, which only existed on paper.

In Appleton, there was no separate office or telephone listing for Michigan Skilled. Its president, Arthur Fochs, worked in Como's office and drew his paychecks from Como.

Fochs hid in the office and refused to come out for an interview. Como owners Mueller and Perillo were nowhere to be found. But there was other research to be done at libraries, newspaper morgues and the county courthouse. The most helpful was the financial statement of Mueller, which was found in the court file of his ongoing divorce case.

In late July — after a three-month investigation — WZZM aired "A Place to Die," which exposed patient abuse and neglect, improper care, short staffing and inadequate recordkeeping at English Hills.

The following week, WZZM ran "A Place to Profit," which focused on Como, Michigan Skilled and an estimated \$3 million to \$5 million in alleged Medicaid fraud. The series were co-produced by my partner, Jim Riekse.

This is not the end of the story. WZZM's investigation continued for another three months.

Although I had obtained cost reports from the state, the bureaucrats refused to give me access to their audit work papers. The cost reports were fine for general information, but the audit work papers

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### Access denied to work papers

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contained specific information: Who was paid, how much, for what, on which date.

The bureaucrats denied the FOIA request; WZZM threatened a lawsuit. Once again, the bureaucrats were forced to comply with the law.

This was the first time Michigan officials had ever released their audit work papers to an "outsider." It set a precedent for public access to important financial records involving a governmental program funded by taxpayers. And all it took was an aggressive application of the FOI Act.

Using the work papers, I was able to pinpoint \$4.4 million in alleged fraud. The improper reimbursements included more than \$2 million in management fees and \$2.4 million in excessive rents.

To analyze how the overcharges were made, let's use the 1979 fiscal year as an example. In that year, Como charged Michigan Skilled \$33,000 for accounting services and \$12,000 for consulting. Travel expenses, office supplies and legal fees were extra.

Arthur Fochs, president of Michigan Skilled, received \$68,000 in salary from the nursing homes. But at the time, he was a full-time Como employee. Como also charged Michigan Skilled \$9,000 in rent for the office space Fochs used in Appleton.

To top it off, Como charged Michigan Skilled an additional management fee of \$458,000. According to contracts filed with the work papers, that fee was to pay for accounting and administrative services — the same services that already cost Medicaid more than \$122,000.

Through Michigan Skilled, Como was double-billing Medicaid for management services. In 1979 alone, the scam cost taxpayers an extra \$458,000.

By using Michigan Skilled as a dummy corporation, Como was also able to bill Medicaid for excessive rents. Generally, nursing homes can only charge Medicaid for the actual total cost of the

building (including mortgage cost and other factors) as calculated on a year by year basis. Instead, Como charged a highly inflated rent that was well above the cost of the facility. During the period of several years, the overcharge was staggering.

It was easy to see why the state didn't want the work papers to be released. For years, Como had tricked the officials out of millions of tax dollars. It was so blatant that it had to be embarrassing.

Como used the same scheme with its nursing homes in Wisconsin. In that state, the dummy corporation was called Watertown Health Care Center Inc. Watertown's officers were Fochs, Qastin and Gustman — exactly the same as Michigan Skilled.

Como officials were aware they were the focus of a criminal investigation. The firm began to divert its assets to Caribbean corporations with Swiss bank addresses. Some of the "Paper World" property was deeded to a group of German investors. But that agreement included a condition that the property would eventually revert to a partnership that would include Como owner Mueller.

Much of this new information was included in "The Great Medicaid Ripoff," a WZZM investigative series that aired in October 1981.

In November 1981, the attorneys general of Michigan and Wisconsin filed a total of 142 felony counts of Medicaid fraud against Como, Michigan Skilled, Mueller, Perillo, Fochs and Qastin.

The Michigan attorney general recently filed a civil suit against Como, asking for \$7.5 million in damages and fines. The state has also asked the court to freeze Como's nursing home assets.

During a preliminary examination in Wisconsin, the prosecution paraded several witnesses to the stand. The most interesting was Perillo's former mistress. She testified that Perillo drew diagrams for her to explain how Como used dummy corporations.

"He used to call me a dumb broad and he would draw me pictures," she testified.

The mistress said Perillo paid her by putting her on a nursing home payroll as a consultant.

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## States' attorneys general file 142 felony counts of Medicaid fraud.

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