From: W. P. Baird
Sent: July 25, 2006
To: Jill M. Peterson
Subject: File NO. S7-11-06

[Note: I have worked in the insurance industry for 25 years; first, as an underwriter for an A+ rated mutual insurer, and then as a marketing rep for an international stock company. I have also served as a Business Broker for 12 years. I am now employed as a healthcare employee benefits consultant, serving clients in the state of Florida.]

At the recent SEC Roundtable, panelists failed to address the subject of internal controls for healthcare benefits. For the 1,600 publicly traded firms utilizing self-funded (self-insured) healthcare programs, healthcare accounting can be a nightmare. While executives struggle to maintain SOX compliance and the SEC seeks to provide guidance, no one seems to be applying "internal internals" to corporate health plans.

Healthcare fraud amounts to $170 billion per year, based on GAO estimates that 10% of every healthcare bill is fraudulent. In fact, most hospital bills are incorrect, either as a result of human error or fraudulent overbilling. An Equifax study of 40,000 hospital bills found that 97% contained errors. Most of these errors were in the hospitals' favor.

One common problem in healthcare billing is "cost-shifting." This involves posting a portion of an uninsured or under-insured patient's charges on the bill of an insured patient. Obviously, this practice increases expenses for corporations and employees, while damaging shareholder value.

Another problem is inconsistent pricing. In one hospital, a C.A.T. scan costs $1,000 if it is performed on a patient with major medical insurance and $2,500 if it is performed for a member of a self-funded health plan. Even after the hospital applies its 20% discount, the corporation and its employee are billed 100% above the market rate.

To date, the top 15 federal "whistleblower" settlements (the smallest of which is $225 million) have been paid by healthcare providers. Although these settlements pertain to overcharges of the federal government, there is a good possibility that healthcare providers are overcharging publicly traded firms as well.

Sarbanes-Oxley was passed to protect investors. The fact is, nearly four years after the passage of SOX, nothing has been done regarding "corporate accountability" in the area of employee healthcare expenses. Ironically, this income statement line item represents the greatest risk to shareholders and employees.

Isn't it time to give executives specific guidelines and a realistic timetable, so that they can comply with Sarbanes-Oxley? As things stand today, one can file false and misleading SEC certifications regarding internal controls, without suffering any consequences. Chairman Cox needs to develop specific rules and create an amnesty

period. If executives refuse to comply, they should be investigated and prosecuted for willfully and knowingly misrepresenting internal controls in their SEC filings.

The good news: If corporations use adequate internal controls and eliminate most healthcare fraud, Sarbanes-Oxley compliance can significantly increase profits.

I would like to assist the SEC in providing executives with some guidance for reducing or eliminating healthcare fraud and enhancing SOX compliance. Below are my comments regarding major deficiencies in the current system.

1. Lack of Control of Healthcare Funds

Publicly traded corporations with self-funded health plans generally use the services of a Third Party Administrator (TPA). With little or no corporate oversight, the TPA pays claims on behalf of the corporation's employees and their covered dependents.

Imagine handing your checkbook and signatory authority to an administrator and instructing him to pay your employees' healthcare bills. Now imagine that this person has no contractual obligation to (a) verify that the hospital charges are priced correctly or (b) verify that the charges are for individuals covered by your health plan.

Now suppose you want to reconcile your payments at the end of the month. When you ask your administrator to give you a list of the hospital's prices, he says, "The prices are confidential." When you explain that you want someone to review the payments, your administrator says, "Your contract doesn't allow that."

This is the way the system works. **The outsourced accounting vendor, the TPA tells its publicly traded client the terms and conditions under which the corporation may review its own accounting records.**

Hundreds of CFO's have signed SEC certifications, attesting to the adequacy of their firms' internal controls, even though no one in their corporation knows what they have agreed to pay for healthcare. CFO's have also signed TPA contracts that prevent them from having independent audits of their healthcare payments.

Recommendation 1: Require all publicly traded corporations with self-funded health plans to have a segregated bank account, for the disbursement of employee benefit expenses. All disbursements from this account should be made from the corporation to the healthcare provider. I have seen cases in which the corporation writes one check per week to the TPA. The TPA deposits the check into an account, which also includes payments from other corporate clients. The TPA then pays the various providers. Of course, true accountability is next to impossible under this system. Internal auditors need a segregated account, in order to track payments from the corporation to the plan to the healthcare providers.

2. Undisclosed Pricing:

The most fundamental internal control question that must be answered is, "What have we agreed to pay for healthcare?" The pricing for healthcare is generally not included in TPA contracts. As a result, auditors cannot verify the accuracy of the firm's healthcare invoices.

Most TPA's avoid the subject of pricing, but assure corporate management that their health plan members will receive a discount (e.g., 20%) from healthcare providers. Unfortunately, the discount is meaningless if the base price is not disclosed. In some cases, inpatient medications and lab tests are "marked up" to 800%-1,700% above the retail price, before the "discounts" are applied.

Many hospitals agree to charge "Usual, Customary and Routine" (UCR) rates for their non-Medicare/Medicaid patients. Corporate, self-funded health plans should require some such form of uniform pricing to be included in the TPA contract.

Recommendation 2: The SEC needs to provide specific guidance as to what constitutes hospital pricing. Self-insured health plans should have an established price schedule or pricing standard (e.g., the "Usual, Customary, and Routine" rate). Once corporate management has clearly defined base pricing, it will be possible for auditors to determine whether or not billing is correct and whether or not applicable discounts have been applied.

The SEC should advise corporate executives not to sign any TPA agreements that (a) fail to specify pricing or (b) prevent the corporation from having an independent audit of the TPA's payments to healthcare providers.

3. Paying Healthcare Expenses for Ineligible Individuals:

Another critical problem is that some publicly traded corporations are paying healthcare expenses for people who have no relationship to their firms. In some cases, the problem is simply the result of paying the expenses for an individual whose name is the same as (or similar to) that of an employee.

Obviously, this practice has a negative impact on earnings. I have personally seen cases in which corporations have paid $40,000-$60,000 per invoice for people not associated with the firm.

Recommendation 3: Establish minimum internal control standards for corporations to use to verify that healthcare benefit expenses are being paid only for employees, spouses, dependents, and retirees. Executives need guidance in developing systems to ensure that their TPA's are paying valid invoices only.

4. Duality of Accounting Standards:

Currently, the SEC is permitting two accounting standards. The first applies to "traditional" corporate expenses, such as office supplies, rent, and utilities. The second, a *lower* standard, applies to the payment of employee benefit healthcare expenses.

In most corporations, if an order is placed for copier paper, there is a contracted rate, a Purchase Order number, and a system to verify that the paper is delivered, as ordered. There is an established system to confirm the number of boxes and the unit price. In fact, there may be 4 or 5 checks and balances to confirm delivery of a $24 case of copy paper, before the vendor is paid. If a supplier simply sent a corporation a $6,742.00 invoice for "office supplies," the Accounts Payable staff would request additional documentation prior to issuing payment.

Healthcare expenses are handled differently. In spite of the fact that the CEO, CFO, and Audit Committee have a fiduciary responsibility to employees, a hospital bill is paid from a summary bill. This billing format does not list the individual items provided. A line item may be described as "551 OR services: $17,652.02." The best internal auditor in the country could not verify the accuracy or validity of 551 unspecified units of OR services. In order to confirm the charge, the auditor would need to see the billing detail that was used to generate the summary bill. Unfortunately, billing detail is rarely reviewed by the people who pay healthcare bills or by internal audit personnel.

Given that most healthcare invoices contain errors, the SEC should require corporations to use the same accounting standards in employee benefit healthcare that they use for traditional corporate expenses. If corporations were to tighten their internal controls for healthcare, they might easily add $1 billion in earnings per share and billions in shareholder value.

At this point, the needs and interests of publicly traded firms and their employees are at odds with the interests of healthcare providers. The Bush Administration is pushing for "full transparency" in healthcare pricing for Medicare recipients and federal workers. Clearly, shareholders and employees of publicly traded firms should also have access to healthcare pricing.

Recommendation 4: Require self-funded, publicly traded firms to have a line item review of all $30,000+ healthcare invoices (including billing detail), prior to payment. Require such firms to have itemized invoices sent to all employees who are required to pay co-payments of $4,000 or more per hospitalization.

5. Audit Committees:

Few people are prosecuted for submitting fraudulent healthcare billing to publicly traded corporations. The Audit Committee may provide the only real protection for shareholders. Unfortunately, the SEC has yet to give Audit Committee members a framework and/or checklist to use in fulfilling their responsibilities.

I am aware of a corporation that did not even include healthcare in its Internal Audit Plan. The firm delegated all health benefit auditing to the Benefits Director, who paid bills, without review. The Benefits Director did not even confirm that healthcare payments were being made on behalf of eligible employees. The firm's consultant showed his appreciation by taking the Benefits Director out to lunch every month.

The above case involved no sampling or testing; in fact, no controls whatsoever to ensure the accuracy of the healthcare billing. Based on the monthly lunch meetings, however, corporate management was confident that the firm was "compliant." Eventually, an audit revealed that the firm was paying $100,000-$150,000 more than it owed, every month. In this case, the lack of action by the Benefits Manager and Internal Audit personnel actually facilitated the fraud.

Under the Employee Retirement Income Security Act (ERISA), Audit Committee members may qualify as "fiduciaries." If so, they may be held personally liable for any healthcare overpayments that employees have made, as a result of inadequate internal controls. If the SEC would provide clear, precise guidelines regarding internal control standards and responsibilities; the Commission would help protect shareholders, employees, and Audit committee members.

Recommendation 5: Establish minimum guidelines for the oversight role of Audit Committee members. I suggest preparing a checklist related to healthcare benefit internal controls for Audit Committee members.