

## Health Group Of The Year: Akin Gump

By **Daniel Siegal**

*Law360, Los Angeles (January 24, 2014, 5:19 PM ET)* -- Akin Gump Strauss Hauer & Feld LLP chalked up another victory for health care providers in 2013, getting a government rule that slashed Medicare reimbursements overturned in a key case that earned the firm a place among Law360's Health Practice Groups of the Year.

Hundreds of millions of dollars are at stake in the dispute over Medicare's so-called disproportionate share payments, which compensate hospitals for treating poor patients. Akin Gump represented 27 hospitals, including Allina Health Services, in their case against the government in Washington federal court, arguing that HHS had dramatically altered the rule in 2004 without allowing for sufficient public comment.

U.S. District Judge Rosemary Collyer vacated the rule in its entirety in November 2012, saying HHS had used Medicare's intricate web to hide an inadequate rule-making process.

Stephanie Webster, an Akin Gump partner who litigated the matter, said the victory was notable not only because of the financial implications, but also because the ruling contained strong language taking the government to task for attempting to sneak the change by without hospital input.

"[It's important] first because it's worth a lot of dollars, but also because of the principles at stake in it," Webster said. "We got a really great decision out of the district court ... in which the district court used some very strong language against the government."

The government appealed the case to the D.C. Circuit, and oral arguments are scheduled for Feb. 7.

The Allina victory was just one highlight of the past year for a practice that extends beyond its preeminent reimbursements practice to nearly every facet of the health care industry, including civil fraud, compliance, lobbying and qui tam issues.

Jorge Lopez Jr., head of Akin Gump's national health industry practice, said it was this variety that distinguished the group, which has been named one of Law360's practice groups of the year for the third year running.

"One of the things that is neat about our practice group is we have a lot of breadth," he said. "Breadth in the issues we handle and breadth in the kinds of clients we represent."

The firm takes particular pride in its work on Medicare reimbursement disputes such as the Allina case.

In another proceeding, Webster led an Akin Gump team in a challenge to Medicare's method of calculating payment rates for hospitals in Orlando, Fla., and reached a favorable settlement this summer for Adventist Health System, HCA, Orlando Regional Health and other institutions with hospitals in the region.

The hospitals specifically disputed the wage index used to adjust standard Medicare rates for Orlando, and Webster said she was able to get the Centers for Medicare and Medicaid Services to concede it had made a mistake by putting the region's wage index too low. The settlement, which came after years of litigation and months of negotiations, calls for the hospitals' Medicare payments for all inpatient and outpatient services furnished by the hospitals in 2011 to be recalculated to fix the error.

"That work which is essentially representing hospitals in appeals and litigating very complex Medicare cases against the government, ... that, as a practice, is probably the best practice of its kind in the country," Lopez said.

Lopez also highlighted the group's work in government investigations in the health care area, including that of partner Robert Salcido, whom Lopez called the best False Claims Act lawyer in the industry.

Salcido led the Akin team that successfully defended Huron Consulting Group Inc. from a \$50 million whistleblower suit in March 2013. The qui tam suit accused the management consulting firm of purposefully overbilling Medicare and Medicaid while pushing now-defunct Manhattan hospital St. Vincent's toward bankruptcy, but U.S. District Judge Jed Rakoff said that Huron's billing practices weren't illegal.

Beyond litigation, the group also represents some of the nation's leading hospitals, including the Alliance of Dedicated Cancer Centers in policy and regulatory matters, in matters related to the implementation of the Affordable Care Act.

The health care practice group comprises a comparatively small part of Akin's 800-plus lawyers, with 18 lawyers in the health care industry regulatory practice, located in Washington D.C., and around 80 lawyers in other practice groups, such as life sciences, that provide services to health care clients, according to Lopez.

Although the practice might not be the largest in the firm, Lopez said it is a key element of Akin Gump's overall mission to be "the first firm everyone thinks of when they have a problem with the government."

"Health care being such a huge part of what the government does these days ... that's an important part of an overall firm strategy of trying to provide these kinds of services to the client," he said.

--Additional reporting by Sindhu Sundar and Erin Coe. Editing by Elizabeth Bowen.