

# Tenet, Community Health fight gets nasty

April 11 2011, By TOM MURPHY , AP Business Writer

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(AP) -- Tenet Healthcare has charged rival hospital operator Community Health Systems with systematically bilking Medicare, and the burgeoning legal fight sent shares of the entire sector sliding Monday.

The charges come months after Community launched a \$3 billion hostile [takeover bid](#) for Tenet. The Dallas company said it uncovered overbilling by Community Health while researching the offer, which Tenet has already rejected.

Tenet Healthcare Corp. claims that Community Health Systems Inc. has squeezed more money out of Medicare by admitting thousands of patients that should only be kept for observation, which is less expensive.

While Tenet said Community Health is alone in using such practices, the industry was rattled Monday. Investors grew antsy over the possibility that the charges from Tenet have invited the prying eyes of federal regulators.

"The whole industry is trading down today because people are worried about an open ended investigation," said Oppenheimer analyst Michael Wiederhorn.

Tenet said in a complaint filed Monday that it estimates improper Medicare billings of between \$280 million and \$377 million over three years, beginning in 2006, for as many as 82,000 patients.

"(Community) artificially increases inpatient admissions for the purpose

of receiving substantially higher and unwarranted payments from Medicare and other sources," Tenet said.

Community adamantly rejected those claims, saying that Tenet wants to distract shareholders from its pending offer.

"Its actions today prove that Tenet has adopted a 'scorched earth' defense without regard for the best interests of shareholders," Community said.

Community, based in Franklin, Tenn., went public last December with its bid to buy Tenet for \$6 per share in cash and stock. Tenet has rebuffed the offer as inadequate, and in January, Community said it would nominate 10 directors to Tenet's board.

Tenet, in its litigation, said the number patients held for observation at Community is less than half the national average for U.S. hospitals, and it found "no legitimate explanation for the difference."

Tenet said Community developed its own, 40-page "Blue Book" for determining inpatient admissions, and its criteria "are demonstrably more lenient, general, and subjective than the evidence-based criteria used throughout the industry."

It said Community receives, on average, in excess of \$3,300 more per admitted patient, compared to a person who is observed and not admitted.

That would have direct implications on Community's cash-and-stock bid, Tenet said, because the company's shares have been artificially inflated for years.

Community Health said that it conducts business with "utmost integrity and adheres to the highest business practice standards."

Wiederhorn cautioned against drawing too much from the lawsuit. The analyst, who covers Community Health but not Tenet, said admitting patients at a faster rate and not using observations as frequently as other hospitals is not improper.

He also noted that the litigation doesn't mention whether Community's patient outcomes are better.

Tenet verified its claims with two independent consultants, and CRT Capital analyst Sheryl Skolnick said that Community's bid for Tenet should get a closer look if there is any merit to the claims.

She also said the hospital operator could face investigations from Medicaid and private insurers, in addition to [Medicare](#).

"If we ran a managed care company, we'd be looking at every (Community) inpatient admission to ensure that we appropriately categorized it as inpatient or outpatient," she said.

Shares of Community sank 34 percent, or \$13.98, to \$26.32 Monday, and trading was halted at least four times under extraordinarily heavy volume.

Tenet shares fell more than 13 percent, or \$1.01, to \$6.54, the largest drop of any company in the Standard & Poor's 500 index.

Community owns, leases or operates 130 hospitals in 29 states, while Tenet runs 49 hospitals in 11 states.

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