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*Double Jeopardy and the Civil Monetary Penalties Dilemma:
Is Hudson the Cure for Health Care Fraud and Abuse?*

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Abstract by Carrie Mitchell

The article seeks to address the future implications of *Hudson v. U.S.* on HHS and the Office of the Inspector General after the Court's clear rejection in the standard of *Halper*. The author begins by summarizing the history of HHS's administrative powers and the civil and administrative remedies available in prosecuting health care providers and through the recently expanded Health Insurance Portability and Accountability Act (HIPPA). The author then discusses the double jeopardy standard's historical basis and the *Halper* and *Hudson* decisions. The effect of *Hudson* reinforced the power of HHS to bring civil proceedings and sanction abusers of the health care system. There is a minimal effect on ability of the OIG to recoup civil remedies and what the future implications might be for *Hudson*. *Hudson's* has an effect on healthcare fraud, abuse and a national health care system.

The *Hudson* court significantly narrowed the Double Jeopardy protections available for health care providers. It is not clear whether monetary penalties imposed, before or after criminal prosecution will stop the rampant abuse of the federally-funded Medicare and Medicaid programs and bring down increases in health care costs. *Hudson* leads to a future where health care providers are impeded by excessive monetary fines, criminal prosecutions, and exclusion from federally funded programs, without protection from the Double Jeopardy Clause.