Doin’ the Hustle

Forget OxyContin and Vicodin. These days, the hottest black-market meds in New York are Kaletra and Combivir. But who’s more desperate: strung-out HIVers selling their pills for a fix?or their doctors, torn between turning away patients and signing on to Medicaid fraud?

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Jerry is the quintessential streetwise New Yorker, Midnight Cowboy’s Ratso Rizzo reborn: He’s jittery but sure, charmingly disarming as only a true salesman can be.

Jerry (not his real name) lost his front teeth years ago, having stumbled off a subway platform while nodding out on heroin. But he still flashes a wide, boyish smile—especially when telling war stories about the hustle, that precarious dance that keeps you afloat when you’re strung out, or even just broke, in unforgiving New York City.

So when Jerry heard he could hawk his HIV meds on the street, he jumped. It was 1999, and he had tested positive a year earlier. “I had a drug problem. I was desperate,” he explains, now clean for just a few months after 30 years of using. “I always needed money. One of my friends approached me and told me about the ‘non-control guy’—a guy you could sell your HIV meds to, or any kind of medication to, and get cash.” And though he funded a fair degree of heroin use over the next few years doing so, his intake was small change compared to the larger underground economy it is feeding.

Since the late 1990s, the city has hosted an explosion of open-air pill markets, where dealers move the oxycodone-based painkillers popular among heroin and cocaine users. But “non-control guys,” or just “non-men,” use the same markets to buy up non-controlled pharmaceuticals from Medicaid and AIDS Drug Assistance Program patients for a fraction of their list price then resell them at fantastic profits. It’s unclear whether this black market exists nationwide. Providers serving injection-drug–using or low-income HIVers in four other major cities told POZ they’d never heard of it. But in New York, it’s routine.

Law enforcement officials still don’t fully understand the trade’s resale end. They do know that small local pharmacies, struggling against corporate chains, buy up a lot of the pills at sub-Medicaid prices, then bill Medicaid for them at full price. They also speculate that the meds are resold overseas—a practice far harder to halt.

Fraud is a four-letter word in New York’s health-care politics. The state’s ADAP is one of the

country's strongest, but the $42 billion Medicaid system is the nation's most expensive, and cash-strapped state lawmakers are demanding change. As Medicaid watchdogs become aware of the trade in HIV drugs, they are coming after the link in the chain they can control: the doctors who write the prescriptions and the pharmacies that fill them.

One HIV specialist, who spoke anonymously, says that Medicaid's fraud unit told her last summer that it had caught patients using fake prescriptions in her name. Now, under a law that allows the state to scrutinize any doctor whose patients are suspected of fraud, she must call Medicaid every time she writes a script for one of the 300 HIVers she sees a month. "Next, they're just going to make it more difficult for patients to get medicine," she says.

Both doctors and advocates for Medicaid users fear that such access restriction will escalate, making it impossibly difficult for clinics that treat large numbers of poor patients to operate. Gay Men's Health Crisis' Laura Caruso, part of a coalition of New York groups that lobby lawmakers on behalf of Medicaid users, asks: "Where do you draw the line?"

IT'S A RACKET

One recent afternoon on Manhattan's West Side, discreetly accompanied by a POZ reporter, Jerry leaves his pharmacy in the Hell's Kitchen neighborhood with a month's supply of drugs acquired with his Medicaid card. The area, lined with hospitals, pharmacies and methadone clinics, hosts a vibrant pill market. "You seen non-control?" Jerry yells brazenly, needling through the cluster of addicts who connect buyers and sellers and clamber for a cut.

Eventually, one connects him. The transaction takes just seconds. The non-man never stops walking, never looks directly at Jerry. He darts down a cross street before grunting, "What you got?" Jerry keeps his antiretrovirals (he stopped selling them when he got clean) but sells some Percocet, a controlled painkiller, and the Marinol, or "pot in a pill," he needs to get an appetite. The buyer checks that the bottles haven't been opened—he won't buy anything that's not straight from the pharmacy—and shoves $80 in Jerry's gut before disappearing.

Such deals aren't just occurring in Hell's Kitchen. "In the South Bronx, it's a big, big thing," says Hector Torres, who heads HIV peer counseling at Montefiore Medical Center. The buyers in his neighborhood are often small grocery stores, called bodegas, that double as pill markets. "When you see the police do raids, they pull these guys in the corner and open their bags. They used to take out bundles of drugs," Torres says. "Now you see bottles and bottles of meds."

In some areas, buyers actively recruit sellers, targeting likely candidates leaving pharmacies or methadone clinics. "They actually used to swarm you, and they'd argue with each other about who was there first," says Esmeraldo, a Queens HIVer, whose sunken cheeks and cane have made him an easy mark. "I'm visibly ill, you can see. They approach people like that."

Kaletra and Combivir are the big black-market draws; you can get as much as $250 for a month's supply—roughly half to a third what Medicaid pays. But with other drugs, a patient's profits tank. "A month's supply of Viracept—they'd only give you $20," scoffs Jerry. "And you'd take it."

The black market for AIDS drugs is as old as the drugs themselves. Kevin Ryan, of the state attorney general's Medicaid Fraud Unit, says resellers have many MOs. Sometimes, shady pharmacies will even fill a prescription, buy the meds back from the patient at a cut rate, then bill Medicaid the true price for the inventory. "AIDS medications are very expensive," Ryan explains, hence "highly desirable."

A Queens pharmacy convicted of fraud last November offers a typical scenario. It paid an undercover cop $800 over six months for Combivir prescriptions, then billed Medicaid $5,000 for them. All told, the pharmacy overbilled an estimated $750,000 worth of pills—largely antiretrovirals—over two years. In the Bronx, narcotics detectives raided four bodegas last summer. "I uncovered over $200,000 worth of prescriptions," including HIV meds, says NYPD Detective Lawrence Burke, part of an expanding investigation that is putting undercover cops behind pharmacy counters.

Of all the hustles that drive New York's off-the-books economy, Medicaid scams may be the most common. The Medicaid card offers one-stop shopping for public assistance—food stamps, cash aid and health care—and thus a portal to immediate cash. Only the largest scams percolate up to the tabloids and police. But for the most part, the system's monitors and their quarries play an incessant game of cat and mouse. Indeed, the pharmacies are simply adapting an old scam in which bodegas would pay, say, $70 for $100 worth of food stamps.

Ryan's unit asserts that fraud eats about 10 percent of Medicaid's yearly budget. But he acknowledges a point made by advocates for Medicaid users when criticizing restrictions on patient access to drugs: Most of that figure springs not from drug diversion but from nursing homes and hospitals that bill for services they don't provide.

City health officials say they've only just learned of the HIV-med market. The health department told POZ it is "deeply concerned," but added that the city sees it largely as the problem of the state attorney general and pharmacy board.

DOCTORS' DILEMMA

In the five years during which Jerry sold his meds, he says he dropped from a boxer's build to "120 pounds soaking wet." That's just what Lloyd Bailey, MD, whose Hell's Kitchen clinic treats about 1,500 Medicaid and ADAP clients, is tired of seeing.

"So many of my patients have concerns around homelessness and violence. HIV is so far down on their list of today's priorities that they can very easily rationalize why they don't need the medicines today," Bailey laments. "And a T-cell count of four—as long as I'm well today—doesn't enter very prominently into the thinking."

About a year ago, Bailey began noticing that patients' stable lab numbers had worsened without explanation. He asked around, and patients slowly clued him in to the trade. The knowledge puts him in a tough spot between treating his patients' HIV and protecting his clinic from being a party to fraud. Moreover, he sees primarily poor people of color, many of whom mistrust doctors. Bailey

fears he'll further alienate them by invoking his right not to prescribe in suspicious cases.

"I ask people, 'Are you selling your medicines?' And of course, they say no, and I have to check myself," he says. Patients may have real adherence troubles or problems absorbing the drugs into their bloodstream. "I have to figure out in which cases am I doing something to help and in which cases am I doing something to destroy the relationship."

Taking their cue from methadone clinics and other facilities that make patients take street-valued meds on the premises, HIV caregivers are finding ways to keep patients off the resale racket. Bailey limits walk-ins to two-week prescriptions, harder to resell because the pharmacy must crack open a bottle. Jay Dobkin, MD, medical director of New York–Presbyterian's HIV clinic, says his doctors used to hear about drug-using patients selling meds—but not since the linic began distributing its own meds.

The Hell's Kitchen market near Bailey's clinic is tame compared to the booming trade uptown in Washington Heights—where, several sellers told POZ, they fetch the best prices. It's where Mary (not her real name) sells hers. While Jerry is an addict with more immediate problems than falling T cells, Mary is fed up with what she calls a losing battle against HIV.

At 36, Mary has been in treatment for about ten years—and has sold meds off and on from the start. She says that since testing positive in 1995, she's had PCP nine times. Today, she has three T cells and a viral load of 98,000, but she feels healthy and says she's through with meds.

"They don't work," she says, scowling. "When they find a cure for us people who are suffering, then OK. But as long as they don't have anything, they're just using us as lab rats."

Sober for 13 years, Mary recently tried taking a regimen of Kaletra and Combivir. "[They] don't do nothing but make me throw up," she says. "So what's the use in taking them?" And why waste them when they can bring her $250 a month?

Bailey worries that as law enforcement kicks in, he'll have to jump through hoops to get meds to his many patients—that's what happened when Medicaid clamped down on nutritional supplements, which became popular in a similar black-market trade in the 1990s. "I'm just very, very concerned," he says, "that this is going to lead to restrictions."

LINGERING QUESTIONS

The New York state attorney general's office and the Bronx narcotics unit share many observers' suspicion that overseas resale, especially in the Dominican Republic, may be just as significant as domestic pharmacy abuse. With an HIV rate of 2.3 percent, the DR has one of the most intense epidemics in the Americas, but treatment programs there are just launching. "There are [lots] of poor people who are not getting medication," says Rafael Rircart, the Santo Domingo–based director of Aid for AIDS, which ships unused HIV meds to Latin America. So far, the evidence of a link between the New York and DR black markets is circumstantial; investigations are ongoing, so

neither the attorney general’s office nor the NYPD would elaborate.

Whatever’s driving New York’s trade, local care providers can’t abide their most vulnerable patients’ paying the price. “I really do see this as my patients being the victim,” says Bailey. “I see drug addiction as a disease. And once you’re addicted, your ability to make choices is greatly diminished.”

As long as street buyers exploit that weakness, they’ll trump doctors or cops. As Jerry says: “Everybody’s got a hustle. Everybody’s out there trying to make a dollar to survive.”

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