

Department of Justice Files False Claims Act Case Against Multiple Lab and Hospital Execs

Justice Department alleges violations of Anti-Kickback Statute, Stark Law & improper billing practices

BEVERLY HILLS, CALIFORNIA, UNITED STATES, June 30, 2022 /EINPresswire.com/ -- The Department of Justice (DOJ) has been cracking down on healthcare fraud schemes in recent



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years. Particularly in light of the novel coronavirus pandemic, the DOJ is pursuing healthcare law violations with renewed vigor. In a recent press release, the DOJ announced a complaint filed against several healthcare entities alleging False Claims Act violations based on patient referrals made in violation of the Anti-Kickback Statute and the Stark Law, in addition to other improperly-billed claims. The case is United States of America v. True Health Diagnostics, LLC, et al., case number 4:16-cv-00547-ALM, filed in the United States District Court for the Eastern District of Texas (Grayson County).

The federal Anti-Kickback Statute (AKS) and the Physician Self-Referral Law (Stark Law) prohibit medical care providers from paying or receiving kickbacks (cash or anything of value) in exchange for referring patients for services to then be paid for by government healthcare programs like Medicare, Medicaid, or Medi-Cal. The two statutes overlap, but they cover slightly different behaviors and require different levels of intent. Claims that are generated pursuant to improper kickback schemes and then billed to Medicare or Medicaid are deemed to be false under the False Claims Act. Depending upon the defendant’s state of mind, the charges can be civil or criminal.

The purpose of the laws is to prevent doctors from making medical decisions based on financial incentives as opposed to the actual needs of the patient. Kickbacks can lead to improper referrals, administration of unnecessary medical services, increased costs for Medicare and other payers, unfair competition, and poor medical decision-making overall.

According to [California healthcare law attorney Art Kalantar](#), “the AKS and the Stark law are among the most important fraud and abuse laws that apply to physicians and healthcare providers.” Kalantar explains, “the AKS authorizes the government to bring criminal charges for knowingly and willfully paying “remuneration” to any person in order to induce or reward that

person to refer patients for services or products covered by Medicare or Medicaid.” The Stark Law, on the other hand, “prohibits physicians from referring patients to receive “designated health services” from other healthcare providers, with which the referring physician or an immediate family member has a financial relationship,” says Kalantar. Clinical laboratory services are included in “designated health services,” Kalantar adds.

Kalantar points out that there are both civil and criminal penalties for violating the Anti-Kickback Statute and the Stark Law. “Civil penalties range from \$10,000 to \$50,000 per violation, and the criminal penalties carry a prison sentence ranging from a few months to over 10 years in federal prison,” Kalantar says.

The DOJ’s enforcement action targets two laboratory CEOs, a hospital CEO, and several other parties based in New York, Texas, Florida, and Pennsylvania. According to the complaint, several lab executives and employees at True Health Diagnostics LLC (THD) and Boston Heart Diagnostics Corporation (BHD) conspired with several small Texas hospitals to pay doctors to induce referrals for lab testing to be performed by THD or BHD. The hospitals then turned around and paid a portion of their lab profits to recruiters, who passed along part of the ill-gotten gains to the referring doctors.

As part of the alleged scheme, the recruiters set up fake “management service organizations” to facilitate payments to referring doctors disguised as investment returns. Lab tests that were improperly ordered as part of the scheme were billed to a number of federal healthcare programs. The DOJ alleges that these tests were not only ordered pursuant to kickbacks in violation of the Anti-Kickback Statute and the Stark Law; many were also medically unnecessary and unreasonable. The lab tests were also falsely billed as hospital outpatient services to boost reimbursement proceeds. The defendants allegedly engaged in several other schemes to promote kickbacks as well, including waiving copays and deductibles to encourage patient participation in the schemes.

Are healthcare referrals ever appropriate under federal law? Attorney Kalantar points out that the DHS Office of Inspector General has identified “Safe Harbor Regulations” that protect certain payment and business practices that could otherwise implicate the Anti-Kickback Statute for criminal and civil prosecution. “In order to be protected by the safe harbor regulations,” he says, “a referral arrangement must clearly fall in the safe harbor and satisfy all of its requirements.” Kalantar continues, “The areas covered by safe harbor regulations include personal services, various rental agreements, investment in ambulatory surgical centers, payment to employees, and others.”

This case originally came about as a whistleblower claim. The False Claims Act gives private parties the right to file an action on behalf of the United States when they uncover unlawful behavior. If the case proceeds and the government prevails, the whistleblowers can receive a portion of the proceeds. The DOJ hails the instant case as proof of the value of the False Claims Act and whistleblower actions.

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