

Part B Insider (Multispecialty) Coding Alert

Fraud & Abuse: Keep Lab Referrals and Claims on Point, Recent Enforcement Suggests

Extreme judgments may be a precursor of things to come.

Time and again, fraudsters try to sidestep the feds' wrath. And that's why unlawful lab referrals and unnecessary testing remain a thorn in Medicare's side. Last month's junket of off-the-chart cases suggests enforcement agencies are just getting started.

3 for 3: A trio of physicians with practices spanning three separate states settled with the Department of Justice (DOJ) over referral and false claims violations related to their relationship with Universal Oral Fluid Laboratories (UOFL) out of Greensburg, Pennsylvania. The doctors - Robert Fetchero, DO, of Jeannette, Pennsylvania; Sridhar Pinnamaneni, MD, of Windermere, Florida; and Thelma Green-Mack, MD, of Zionsville, Indiana - were found guilty of submitting fraudulent claims between 2011 and 2014 that culminated in a virtual hat trick of violations under Stark, the Anti-Kickback Statute (AKS), and the False Claims Act (FCA).

Despite engaging in a financial relationship with the lab, the clinicians continually referred patients for drug testing to UOFL over the time period. "The financial arrangement between the settling physicians and UOFL violated the physician self-referral law, commonly known as the 'Stark Law' and the Anti-Kickback Statute, giving rise to liability under the False Claims Act," said the DOJ release on the matter. The doctors' federal agreements equaled \$700,000 and were settled accordingly: Fetchero will pay \$200,000, while Pinnamaneni agreed to \$370,000, and Green-Mack to \$130,000.

"The integrity of the relationship between patients and their doctors is sacrosanct. A physician's medical judgment should never be compromised by improper financial incentives," cautioned U.S. Attorney **Scott W. Brady**. "We will continue to hold healthcare providers accountable when they enter into financial arrangements that violate the law."

Review the case at

www.justice.gov/usao-wdpa/pr/three-physicians-agree-pay-total-700000-settle-alleged-false-claims-act-violations.

Bribes Lead to Jail

Colts Neck, New Jersey physician, Ralph Messo, received a 24-month prison sentence "for accepting bribes in exchange for test referrals as part of a long-running and elaborate scheme operated by Biodiagnostic Laboratory Services LLC (BLS), of Parsippany, New Jersey," a DOJ release noted. Messo also stands to pay back \$4,000 to the feds and will be "supervised" for two years upon release from jail.

Cause: The doctor sent blood specimens to BLS for an undisclosed period of time, pocketing an estimated \$3,000 a month for the referrals, according to the brief. BLS gained over \$828,000 from Messo's business.

The clinician wasn't alone in his indictment, however, as the DOJ mentions Messo was just one of many physicians - 38 to be exact - that have taken bribes from BLS for referrals. The feds have recovered about \$13 million thus far out of the \$100 million BLS gained from the business and the millions paid out to physicians in bribe money.

Check out the enforcement details at

www.justice.gov/usao-nj/pr/doctor-sentenced-two-years-prison-taking-bribes-test-referral-scheme-new-jersey-clinical.

Qui Tam Case Garners \$114 Million Judgment

Three individuals were found to have paid physicians kickbacks disguised as processing and handling fees for referrals to

two blood testing laboratories they worked for and with: Health Diagnostics Laboratory Inc. (HDL), of Richmond, Virginia; and Singulex Inc., of Alameda, California, said a DOJ release on the case.

Details: HDL CEO LaTonya Mallory along with Floyd Calhoun Dent III and Robert Bradford Johnson, who did marketing and sales for the labs, caused "the submission of 35,074 false claims, worth \$16,601,591, submitted to Medicare and TRICARE by HDL," the DOJ stated. "The jury also found defendants Dent and Johnson jointly and severally liable for an additional 3,813 false claims, worth \$467,935, submitted by Singulex."

The DOJ brief continued, "As provided by the FCA, the Court trebled those damage amounts, offset settlement payments received from HDL and Singulex for the same claims, and awarded \$63.8 million in penalties requested by the United States, for a total judgment of \$114,148,661.86."

Reminder: Because this was a qui tam lawsuit falling under the provisions of the FCA, the four whistleblowers, which included one MD in the ranks, will partake in a share of any funds recovered. The feds applauded the efforts of those that came forward and rebuked offenders who indulge in kickback schemes and the submission of false claims to defraud the government, the DOJ release noted.

"Laboratories that pay kickbacks to physicians in exchange for referrals of business exploit patients and taxpayer-funded health care programs," warned **Derrick. L Jackson**, OIG Special Agent in Charge. "Our agency is dedicated to investigating such corrosive kickback schemes, as they undermine the public's trust in medical professionals, and the integrity of government healthcare programs."

Find out the particulars of the judgment at

www.justice.gov/usao-dc/pr/us-obtains-114-million-judgment-against-three-individuals-paying-kickbacks-laboratory.