

New Jersey Cardiologists Settled With Department of Justice in Anti-Kickback Case

The U.S. Department of Justice (DOJ) has been pursuing an enhanced enforcement scheme against alleged violators of federal law, including: Stark Law, the Federal False Claims Act, and the Anti-Kickback Statute, by more aggressively pursuing legal action against individual physicians as well as hospitals.¹ On September 30, 2009, the University of Medicine and Dentistry of New Jersey (UMDNJ) entered into a settlement agreeing to pay the DOJ \$8.3 million to resolve claims brought by the DOJ alleging that UMDNJ had engaged in an illegal kickback scheme.²

In December 2005, UMDNJ entered into a Deferred Prosecution Agreement (DPA) with the DOJ, which expired in December 2007.³ At the time of the agreement, the DOJ discovered that UMDNJ had double-billed the Medicaid reimbursement program for approximately \$4.9 million in fraudulent payments. This 2005 DOJ investigation of UMDNJ also revealed several other areas of abuse, particularly in the cardiology referral program, which led to the recent settlement.⁴

UMDNJ's University Hospital is classified as a state-licensed Level 1 Trauma Center. In order to maintain such a ranking, as well as its eligibility for state funds, the hospital must perform a specific number of cardiac procedures per year.⁵ In 1995, UMDNJ discovered that it was failing to fulfill this requirement, and as a result, allegedly employed several cardiologists under part-time contracts with the purpose of paying them for referrals.⁶ These contracts stated that the cardiologists would provide bona fide services for UMDNJ including: teaching, on-call coverage, and research. However, the DOJ alleged that the cardiologists involved did not actually perform these services for UMDNJ during their employment and were instead being compensated for their patient referrals, which is in direct violation of federal law.⁷

The \$8.3 million settlement represents twice the amount paid out by the Medicaid program as a result of the allegedly illegal referrals.⁸ In addition, UMDNJ entered into a five-year Corporate Integrity Agreement with the U.S. Department of Health and Human Services, subjecting UMDNJ to additional reporting obligations, educational requirements, and procedural safeguards in an effort to ensure its compliance with federal law.⁹

It should be noted that the DOJ also alleged claims against eleven individual cardiologists over the last two years. Nine of these cardiologists have settled civil claims with the DOJ, with settlements ranging from their full salary amount to 250% of the contracted salary amount that each physician received in their allegedly illegal arrangements with UMDNJ. The monetary value of these settlements ranged from \$30,000 to \$1.4 million, with the DOJ currently pursuing claims of \$2.7 million against one cardiologist.¹⁰

The UMDNJ settlement illustrates the federal government's renewed vigor in its pursuit of healthcare fraud. As President Obama and Congress push for healthcare reform initiatives, financial pressures are motivating federal regulatory agencies to exert more stringent enforcement action against hospitals, as well as the physicians with whom they have a financial relationship.¹¹

¹ "Making them pay" By Gregg Blesch, Modern Healthcare, October 12, 2009,

<http://www.modernhealthcare.com/article/20091012/REG/910099990> (Accessed December 10, 2009)

² "Settlement Agreement," U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdf/UMDNJ%20II%20Executed%20Settlement.pdf> (Accessed December 10, 2009);

"UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdf/umdnj0930%20rel.pdf> (Accessed December 10, 2009)

³ "Two Cardiologists Admit \$840,000 Embezzlement from UMDNJ" By Christopher J. Christie, Federal Bureau of Investigation, February 28, 2008, <http://newark.fbi.gov/dojpressrel/2008/nk022808.htm> (Accessed December 10, 2009)

⁴ "Two Cardiologists Admit \$840,000 Embezzlement from UMDNJ" By Christopher J. Christie, Federal Bureau of Investigation, February 28, 2008, <http://newark.fbi.gov/dojpressrel/2008/nk022808.htm> (Accessed December 10, 2009)

⁵ "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdf/umdnj0930%20rel.pdf> (Accessed December 10, 2009)

⁶ "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdf/umdnj0930%20rel.pdf> (Accessed December 10, 2009)

⁷ "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdf/umdnj0930%20rel.pdf>

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⁸ "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009, <http://www.justice.gov/usao/nj/press/press/files/pdffiles/umdnj0930%20rel.pdf> (Accessed December 10, 2009)

⁹ "Corporate Integrity Agreement Between the Office of the Inspector General of the Department of Health and Human Services and the University of Medicine and Dentistry of New Jersey," U.S. Department of Justice, September 25, 2009, <http://www.justice.gov/usao/nj/press/press/files/pdffiles/UMDNJ%20Corporate%20Integrity%20Agreement.pdf> (Accessed December 10, 2009)

¹⁰ "Four Cardiologists Settle with Government Over Improper Salaries Received from UMDNJ" By Christopher J. Christie, U.S. Department of Justice, May 7, 2008, <http://www.justice.gov/usao/nj/press/press/files/pdffiles/sett0505%20rel.pdf> (Accessed December 10, 2009); "Three More Cardiologists Settle With Government Over Kickback Allegations Related to UMDNJ Cardiology Program" By Ralph J. Marra, U.S. Department of Justice, September 17, 2009, <http://www.justice.gov/usao/nj/press/press/files/pdffiles/umdn0917%20rel.pdf> (Accessed December 10, 2009); "Another Cardiologist

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<http://www.justice.gov/usao/nj/press/press/files/pdffiles/umdnj0930%20rel.pdf> (Accessed December 10, 2009); "Government Sues Cedar Grove Cardiologist to Recover Fraudulent Receipt of Salary at UMDNJ" By Christopher J. Christie, U.S. Department of Justice, April 17, 2008,

<http://www.justice.gov/usao/nj/press/press/files/pdffiles/prak0417%20rel.pdf> (Accessed December 10, 2009); "Government Sues Another Cardiologist to Recover Fraudulent Receipt of Salary at UMDNJ" By Christopher J. Christie, U.S. Department of Justice, April 22, 2008, <http://newark.fbi.gov/dojpressrel/2008/nk042208.pdf> (Accessed December 10, 2009).

¹¹ "Making them pay" By Gregg Blesch, Modern Healthcare, October 12, 2009,

<http://www.modernhealthcare.com/article/20091012/REG/910099990> (Accessed December 10, 2009)



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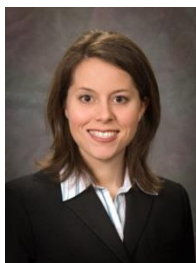
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