

# **Oklahoma City Hospital, Management Company, And Physician Group To Pay \$72.3 Million To Settle Federal And State False Claims Act Allegations Arising From Improper Payments To Referring Physicians**

Oklahoma Center for Orthopaedic and Multi-Specialty Surgery (OCOM), a specialty hospital in Oklahoma City, Oklahoma, its part-owner and management company, USP OKC, Inc. and USP OKC Manager, Inc. (collectively USP), Southwest Orthopaedic Specialists, PLLC (SOS), an Oklahoma City-based physician group, and two SOS physicians, will pay \$72.3 million to resolve allegations under the False Claims Act and the Oklahoma Medicaid False Claims Act of improper relationships between OCOM and SOS, resulting in the submission of false claims to the Medicare, Medicaid and TRICARE programs, the Justice Department announced today.

The Anti-Kickback Statute prohibits offering, paying, soliciting, or receiving remuneration to induce referrals of items or services covered by Medicare, Medicaid, and other federally funded programs. The Physician Self-Referral Law, commonly known as the Stark Law, prohibits a hospital from billing Medicare for certain services referred by physicians with whom the hospital has an improper financial arrangement, including the payment of compensation that exceeds the fair market value of the services actually provided by the physician and the provision of free or below-market rent and office staff. Both the Anti-Kickback Statute and the Stark Law are intended to ensure that physicians' medical judgments are not compromised by improper financial incentives and instead are based on the best interests of their patients.

"Offering illegal financial incentives to physicians in return for patient referrals undermines the integrity of our health care system," said Acting Assistant Attorney General Ethan P. Davis of the Department of Justice Civil Division.

"Patients deserve the independent and objective judgment of their health care professionals."

"It is critical that we protect the integrity of federal health care benefit programs," said U.S. Attorney Timothy J. Downing for the Western District of Oklahoma. "Patients deserve care based on good medicine and informed choice,

not the corrupting influence of money and other benefits. No matter how complex and intertwined modern healthcare economics become, we are committed to ensuring that untainted care is always provided."

"The Defense Criminal Investigative Service is committed to ensuring that TRICARE, the U.S. military healthcare program, continues to provide safe and superior medical care to America's Warfighters," said Michael C. Mentavlos, Special Agent in Charge, Defense Criminal Investigative Service - Southwest Field Office. "Kickback schemes such as those resolved today, undermine our healthcare system, compromise medical decisions, and waste precious taxpayer dollars needed to provide critical care for our Warfighters, their family members, and military retirees."

"Kickback schemes like this drain valuable resources from the federal and state healthcare systems, which go to our most vulnerable," said Oklahoma Attorney General Mike Hunter. "This settlement is substantial and will hopefully send a clear, concise message to those who want to defraud the system – that we will not tolerate these illegal acts in our state. I am pleased we were able to work with our federal partners to achieve this successful outcome."

The settlement resolves allegations that between 2006 and 2018, OCOM and USP provided improper remuneration to SOS and certain of its physicians in exchange for patient

referrals to OCOM in the form of (i) free or below-fair market value office space, employees, and supplies, (ii) compensation in excess of fair market value for the services provided by SOS and certain of its physicians, (iii) equity buyback provisions and payments for certain SOS physicians that exceeded fair market value, and (iv) preferential investment opportunities in connection with the provision of anesthesia services at OCOM. The alleged conduct resulted in the submission of claims for services provided to these illegally referred patients, in violation of the False Claims Act and the Oklahoma Medicaid False Claims Act. The settlement also resolves issues arising out of USP's preferential offering of investment opportunities to physicians at four surgery facilities in Texas. As a result of this settlement, USP will pay \$60.86 million to the United States, \$5 million to the State of Oklahoma, and \$206,000 to the State of Texas. SOS and two of its physicians, Anthony L. Cruse, D.O. and R.J. Langerman, Jr., D.O., will pay \$5.7 million to the United States, and \$495,619 to the State of Oklahoma.

Contemporaneous with the civil settlement, OCOM and SOS each entered into five-year Corporate Integrity Agreements (CIAs) with the U.S. Department of Health and Human Services – Office of Inspector General (HHS-OIG). The CIAs require, among other things, that OCOM and SOS each maintain a compliance program and hire an Independent

Review Organization to review arrangements entered into by or on behalf of their respective entities. They also increase individual accountability by requiring compliance-related certifications from their key executives.

"Patients rightly expect providers to deliver the best treatment without thought of financial gain," said Miranda L Bennett, Special Agent in Charge for the Office of Inspector General of the U.S. Department of Health and Human Services (HHS). "Working with our Federal and State law enforcement partners we will continue protecting government health program beneficiaries and taxpayers."

The allegations resolved by the settlement were brought in a lawsuit filed under the *qui tam*, or whistleblower, provisions of the False Claims Act, which permit private parties to sue on behalf of the United States for false claims and to receive a share of any recovery. The whistleblower also alleged claims under the Oklahoma Medicaid False Claims Act. The *qui tam* case is captioned *United States ex rel. Allison v. Southwest orthopaedic Specialists, PLLC, et al.*, No. CIV-16-569 (W.D. Okla.). The whistleblower share to be awarded in the case has not yet been determined.

These matters were investigated by the U.S. Attorney's Office for the Western District of Oklahoma, the Civil Division's Commercial Litigation Branch, and the State of

Oklahoma Attorney General's Office. Investigative assistance was provided by the Office of Inspector General of the Department of Health and Human Services, the Centers for Medicare and Medicaid Services, and the Department of Defense's Defense Criminal Investigative Service.

The United States' investigation and resolution of this matter illustrates its emphasis on combating healthcare fraud. One of the most powerful tools in this effort is the False Claims Act. Tips and complaints from all sources about potential fraud, waste, abuse, and mismanagement, can be reported to the Department of Health and Human Services at 800-HHS-TIPS (800-447-8477).

The claims resolved by the settlement are allegations only, and there has been no determination of liability.

*An earlier version of this press release incorrectly stated that the settlement was \$77.2 million. The correct amount is \$72.3 million.*