Understanding Healthcare Fraud

Ohio Latino Health Summit
Columbus, OH
August 3, 2012

Kenneth F. Affeldt
Andrew M. Malek
Assistant U.S. Attorneys
United States Attorney's Office
303 Marconi Blvd., Suite 200
Columbus, Ohio 43215
614-469-5715

Disclaimer

The statements in this paper and the remarks of Kenneth F. Affeldt and Andrew M. Malek do not constitute official policy or interpretations by HHS, CMS, OIG, ODJFS, ODH or the offices of the United States Attorney or the Ohio Attorney General; statements and remarks are purely informational in nature.

Healthcare Fraud

"There is no kind of dishonesty into which otherwise good people are more easily and frequently fall than that of defrauding the government."

Healthcare Fraud

- Medicare fraud affects every American:
  - Fraud takes critical resources out of our health care system, and contributes to the rising cost of health care for all Americans.
  - Eliminating fraud will cut costs for families, businesses and the federal government and increase the quality of services for those who need care.
- The U.S. Department of Health and Human Services (HHS) and U.S. Department of Justice (DOJ) are working together to help eliminate fraud and investigate fraudulent Medicare and Medicaid operators who are cheating the system.

Providers/Suppliers Investigated

1. Hospitals
2. Physicians and physician practices
3. Home Health Agencies
4. Durable Medical Equipment (DME) Suppliers
5. Skilled Nursing Facilities (SNFs)
6. Long Term Acute Care Hospitals (LTACHs)
7. Pharmaceutical Companies
8. Pharmacies
9. Clinical Labs
10. Pain Clinics

Types of Health Care Cases

- False billing
  - Services not rendered
  - Defective products
- Improper billing
  - Unnecessary goods
  - Unapproved drugs
- Kickbacks
- Off-label promotion
- Drug pricing

Discovering Fraud

1. Complaints
   a. Residents
   b. Provider Employees
   c. Anonymous (e.g., hotline complaints)
   d. Qui Tam Filings under the False Claims Act
2. Self Disclosures
3. Data Mining: amount of billings/type of coding inconsistent with similar providers (too many billings or servicing too many patients in a day)
   a. Program Safeguard Contractor – Cahaba
   b. USAO/MFCU/Insurance Auditors

Laws Enforced By Federal Government

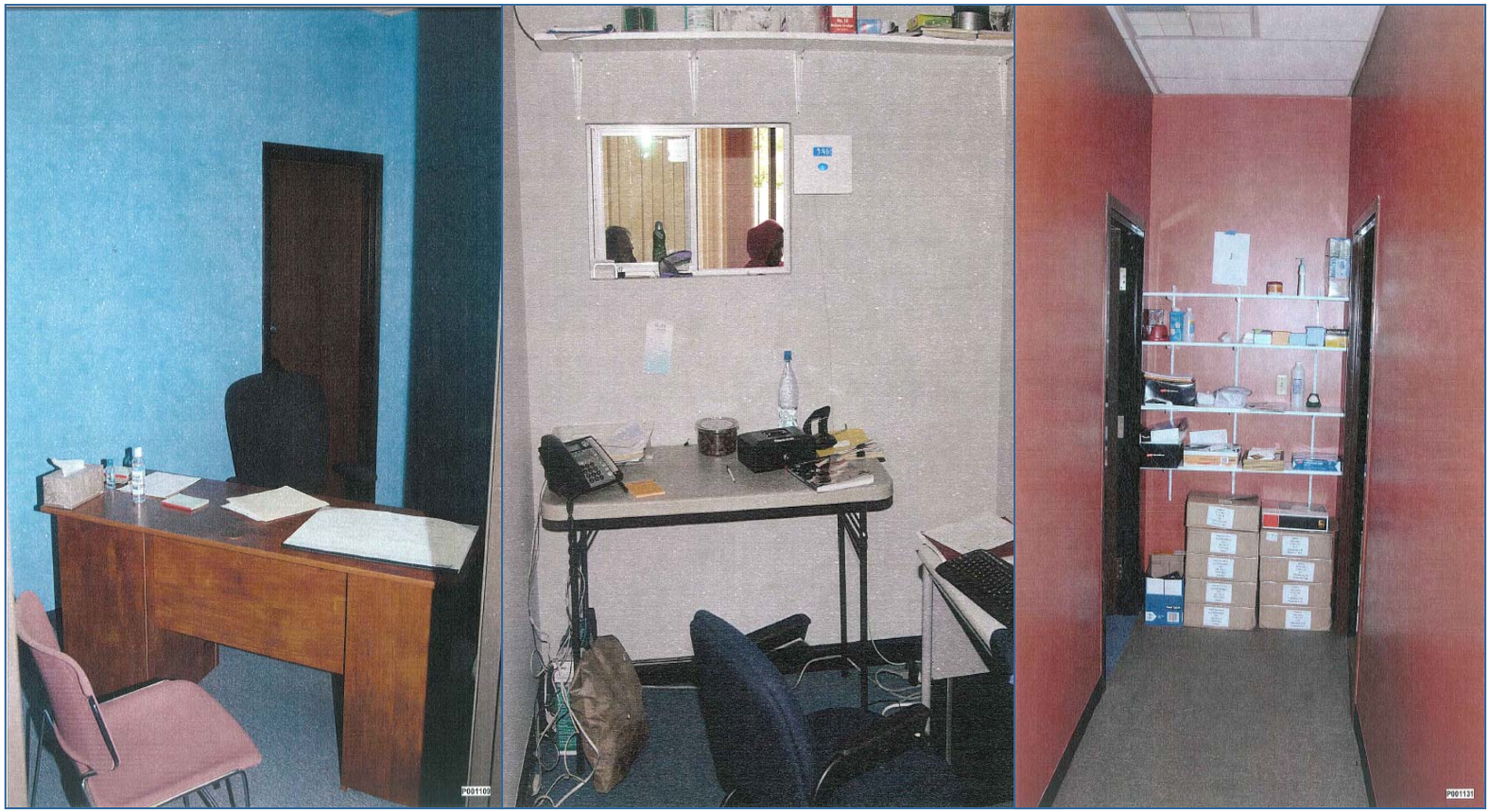
- Criminal:
  - 18 USC 1035 – Health Care False Statements
  - 18 USC 1347 – Health Care Fraud (Scheme)
  - 18 USC 1349 – Conspiracy to Commit Health Care Fraud
  - 18 USC 371 – Conspiracy to Commit Offense or to Defraud the U.S.
  - 18 USC 1001 – Fraud or False Statements
  - 18 USC 1028A – Aggravated Identity Theft
  - 42 USC 1320a-7(b) – Anti-Kickback Statute

Trinity Medical Center

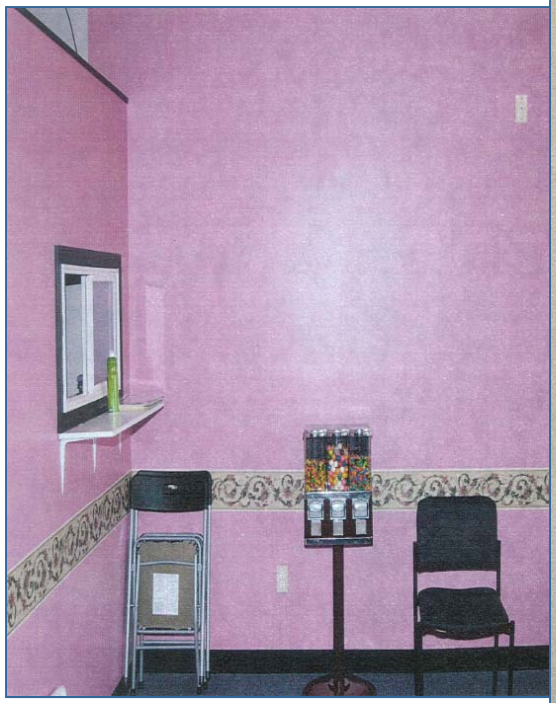
Owner: Dannette Hawthorne

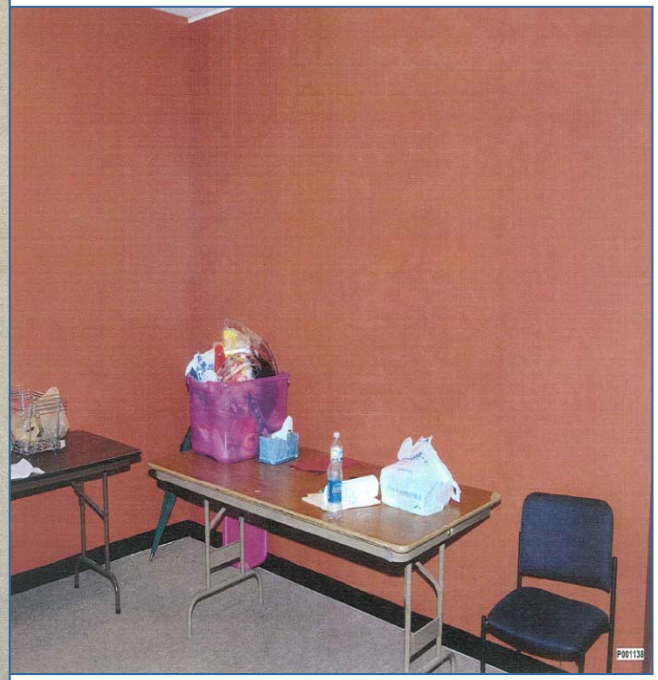
- Government Allegations: Trinity Medical Center was a “pill mill” illegally giving large quantities of pain medications to patients

Trinity Medical Center

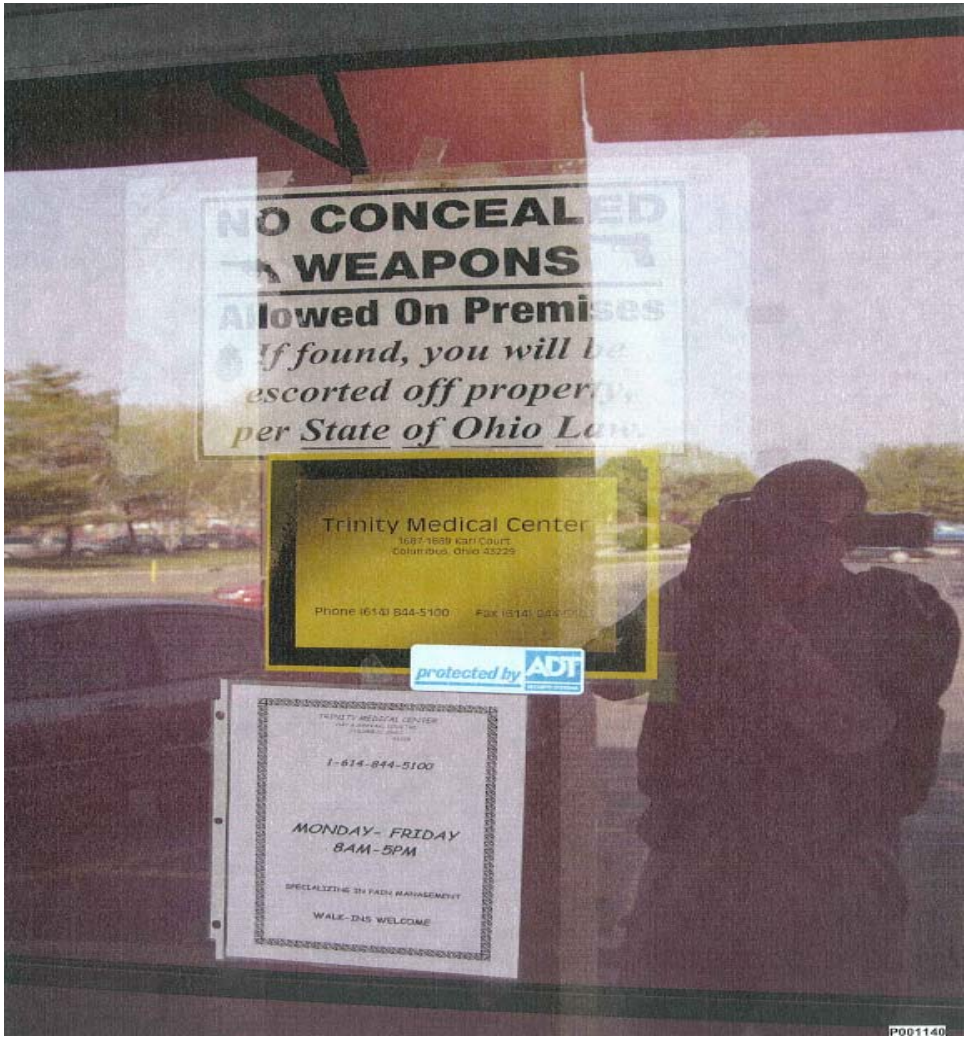


Trinity Medical Center





Trinity Medical Center



Trinity Medical Center

The Columbus Dispatch

News | Sports | Opinion | Life & Entertainment | Services | Contacts | Subscription

» Hot Links: Dealing with the storm • Photos: Doo Dah Parade • Photos: Fourth of July parades • Farmers' m

Home » News » Crime and Safety

Woman sentenced to 12 years for 'pill mills'

Dannette M. Hawthorne, 49, must repay more than $29,000 to agencies she cheated.

By Kathy Lynn Gray
The Columbus Dispatch • Tuesday February 7, 2012 4:49 AM

Comments: 1 | Recommend 8 | Tweet 3 | ShareThis

A Far West Side woman who was on Medicaid, lived in federally subsidized housing and drove a Mercedes-Benz will spend 12 years in prison for operating two North Side "pill mills."

U.S. District Judge Gregory L. Frost ye
Hawthorne, 49, formerly of Paladim Pl
government agencies she cheated.

"I want to send a clear message: Do not
clinics," Frost said in explaining his ser
continues to grow and one we can't see

Hawthorne set up two clinics, Trinity M
Medical Solutions, both on Karl Court,
West Virginia residents flocked to them
painkillers such as oxycodone.

She pleaded guilty in April to four feder
conspiracy to distribute controlled subs
health-care fraud, aggravated identity t
claims.

Hawthorne could have faced as many a

Investigators said Hawthorne forged si
illegally billed Medicaid for prescriptio
11,000 doses of oxycodone.

RELATED ITEMS

» Woman gets 10 years over 'pill mill'
» Owner admits running 'pill mills'
» Indictment: 3 ran 'pill mills' in Columbus

CRIME STOPPERS

» Tips sought in unsolved 2005 East Side killing
MONDAY, JULY 2, 2012 04:09 AM

» Info sought from

Woman gets 10 years over 'pill mill'

By Tristan Navera
THE COLUMBUS DISPATCH

Charlene Breedlove-Jones smiled and laughed with officials during most of an hourlong hearing in U.S. District Court yesterday.

The smile disappeared when she was sentenced to 10 years and 10 months in prison by Judge Gregory L. Frost for her role in running a North Side "pill mill."

"I believe you're sincerely sorry and have woken up to the ramifications of what you did," Frost said. "You need to get out of the life of crime, Miss Breedlove-Jones, because frankly, you're not good at it at all.

"You would be so much better leading a life of non-criminal activity. You're very articulate, and you can speak what you feel. ... I certainly have no pleasure in this sentence, given your personality."

> **"You need to get out of the life of crime, Miss Breedlove-Jones, because frankly, you're not good at it at all."**
> **JUDGE GREGORY L. FROST**
> U.S. District Court

He also ordered her to pay $4,011 in restitution.

Breedlove-Jones, 53, of Gilbert Street on the South Side, pleaded guilty in March to conspiracy to distribute oxycodone, health-care fraud, obtaining a controlled substance by fraud, identification fraud and attempting to distribute unlawful drugs.

She and two other women were involved in the operation of a so-called pain-management clinic, which sold oxycodone prescriptions to people from Ohio, Kentucky and West Virginia. It was shut down in September 2010 when Breedlove-Jones sold a prescription to an undercover agent.

Assistant U.S. Attorney Kenneth F. Affeldt said Breedlove-Jones has a criminal record that stretches back to the 1970s and includes charges of theft, forgery and conspiracy to commit bank fraud.

"It seems like almost every year she's being arrested or convicted for something, unless she's already incarcerated," Affeldt said. "She's a career criminal. Fraud and forgery are the only things she knows how to do."

But defense attorney Christopher Cooper said Breedlove-Jones is an intelligent woman whose difficult life led to a downward spiral of crime. He said she is sorry for what she has done.

Frost reduced the parole officer's suggestion of a 14-year sentence because he said he felt Breedlove-Jones showed genuine remorse and could be rehabilitated.

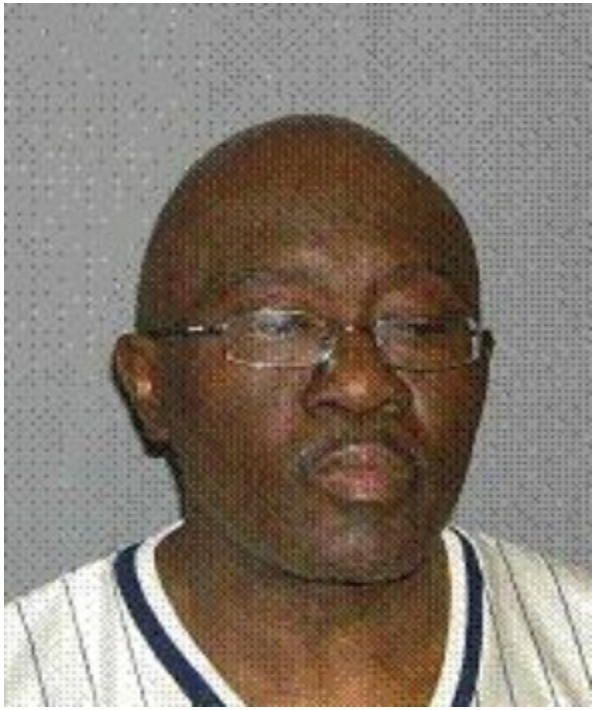
But he also said he saw the conviction as particularly important, given what he called an "epidemic" of prescription-drug abuse in southern Ohio.

The other two women also agreed to plea deals. Deneshia Wakefield, 37, was sentenced this month to five years on probation and paying $2,196 in restitution.

Sentencing for Dannette M. Hawthorne, 48, has been set for Nov. 28.

Tristan Navera is a fellow in the E.W. Scripps School of Journalism Statehouse News Bureau.
tnavera@dispatch.com

Charles Njoku



- Government Allegations: Surgeon Charles Njoku had his office manager pose as a physician when he was out of the office.

Charles Njoku

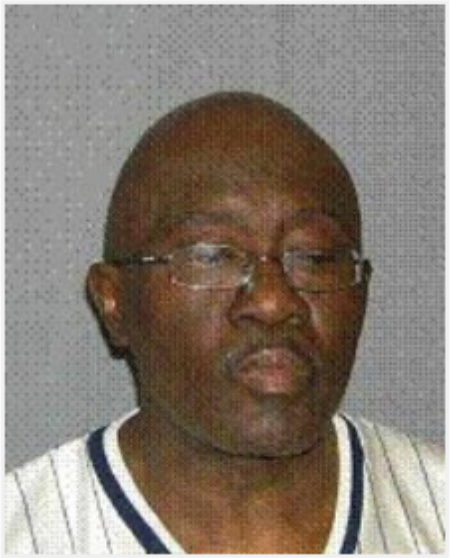
Charles Njoku

Doctor Sentenced For Health Care Fraud In Columbus

Recommend | Sign Up to see what your friends recommend. | +1 Recommend this on Google

By: DONNA WILLIS | NBC4
Published: December 29, 2010

» 0 Comments | Post a Comment



United States Marshals Service

COLUMBUS, Ohio -- Dr. Charles C. Njoku, 60, of Powell was sentenced in United States District Court to one year and one day in prison for billing government health care insurance programs for services that were not provided as billed.

He also was ordered to repay the government $131,793.91 in restitution to Medicaid and Medicare, the state and federal health care programs affected by his actions.

Njoku pleaded guilty on Sept. 28, 2010, to one count of health care fraud and one count of illegal distribution of a controlled substance.

Njoku had offices in Columbus and Akron and billed public health care programs under his own name and People's Family Medical Center.

According to a statement of facts read during his plea hearing, between August 1, 2008, and March 1, 2009, Njoku billed Medicaid and Medicare for office visits that were not delivered as billed, including office visits billed to the program while Njoku was out of the country. Njoku gave his office manager, Veronica Scott-Guiler, pre-signed prescription pads and allowed her to write and issue prescriptions to patients for narcotics and other medications while he was out of the country. Njoku also allowed Scott-Guiler to see patients at his office, claiming he had seen the patients when he submitted bills to the programs.

Scott-Guiler, 41, of Orient, pleaded guilty to one count of health care fraud and was sentenced to three years probation including serving the first 12 months on home confinement. She also was ordered to share the burden of restitution.

Related

Agents Arrest, Charge Columbus Doctor, Office Manager

Laws Enforced By Federal Government

- Civil/Administrative:
  - 13 USC 3729 – False Claims Act
  - 42 USC 1395nn – Stark II

History of False Claims Act

- Originally enacted during Civil War
- 1986 Amendments
  - expand liability
  - encourage private enforcement
  - increase penalties & damages

- Fraud Enforcement & Recovery Act of 2009
  - strengthen investigation tools
  - clarify scope of liability

Role of Relator in FCA

- Allow private party to bring suit on behalf of the United States
- Receive 15-20% of proceeds
- Government decides whether to "intervene" in *qui tam* action

Christ Hospital

Relator: Harry Fry
Cincinnati cardiologist

- Relator's Allegation: Christ Hospital rewarded doctors who generated the most money for the hospital by assigning them time in their Heart Station (area where noninvasive cardiac tests are performed (e.g., EKGs, echos, stress tests, etc.))

Christ Hospital

Feds go after Christ, 3 others, charging kickback scheme

By Peggy O'Farrell • pofarrell@enquier.com • July 29, 2008

The government today filed a $140 million civil fraud complaint against three of Greater Cincinnati's biggest players in the health-care field

The suit seeks damages from Christ Hospital, the Health Alliance of Greater Cincinnati, Ohio Heart and Vascular Center and the now defunct Medical Diagnostic Associates for an alleged kickback scheme in which Ohio Heart and Christ Hospital traded referrals for patients whose services were billed to Medicare and other federal programs.

An attorney for Ohio Heart called the lawsuit a "gotcha" move by the government, and pointed out that no one was falsely billed or improperly treated.

"It's the first time ever that this law has been applied to a situation such as this, when the government concedes and certainly has no evidence that it was cheated out of a solitary nickel or that one unnecessary service was provided. That's the key," said Ken Seibel.

The suit claims that from 1997 to 2004, the entities "improperly rewarded" doctors for referring patients or generating revenue for Christ Hospital and the alliance.
Christ Hospital officials had no immediate comment this afternoon.

Tony Condia, an alliance spokesman, said executives for the health-care network had no knowledge of the arrangement between Christ Hospital and Ohio Heart. "We believe we have no liability in this case," he said.

Since the government can ask the court to triple the damages it's claiming, the tab could top $420 million.

The federal complaint filed today stems from a whistleblower lawsuit initially filed in 2003 by cardiologist Harry Fry and then sealed. The government joined Fry's suit April 1, when it unveiled the complaint.

Fry and federal authorities claim the hospital and cardiology group ran an illegal kickback scheme.

From 1999 to 2004, the complaint claims, the hospital awarded time in its state-of-the-art diagnostic center to cardiologists based on how much business they sent to the hospital for surgical procedures, including coronary artery passes.

In turn, doctors allotted time in the Heart Station were sent patients who needed heart function tests and other procedures when they

Christ Hospital

THE CINCINNATI ENQUIRER

CINCINNATI.COM FRIDAY, MARCH 19, 2010 LN 75 CENTS

NCAA: UK ADVANCES

The Associated Press/John Bazemore

Kentucky forward Patrick Patterson dunks the ball in the Wildcats' 100-71 victory over East Tennessee State Thursday.

TODAY'S GAMES OF INTEREST:

- Xavier vs. Minnesota, 12:25 p.m.
- Ohio St. vs. UC Santa Barbara, 9:35 p.m.
- Louisville vs. California, 9:45 p.m.

CINCINNATI.COM: Updates, blogs and scores.

IN SPORTS: More highlights. **C1, 8-9**

AMOUNT REVEALED IN MEMO DETAILING JEWISH, FORT HAMILTON WITHDRAWAL

Hospitals will pay $110M

Christ, Health Alliance settled whistleblower suit

By Cliff Peale
cpeale@enquirer.com

Christ Hospital and the Health Alliance of Greater Cincinnati will pay about $110 million to settle a federal whistleblower lawsuit.

The number could change slightly by the time a final agreement is signed in early April.

While the Justice Department and the hospitals announced the settlement in early February, the amount has not been publicly revealed.

But it's included in a memorandum of understanding setting terms of the withdrawal of Jewish and Fort Hamilton hospitals from the alliance. Trustees at the University of Cincinnati, which will now be the only owner of the alliance, received the document Tuesday.

Retired cardiologist Harry Fry sued the hospitals in 2003, charging that Christ Hospital rewarded doctors who generated the most money by assigning them time in the lucrative Heart Station. The Justice Department joined the suit in 2008.

All parties refused to comment on the settlement amount as they negotiate a final deal. That will include millions paid to Fry as the whistleblower. Attorneys have declined to make Fry available for interviews.

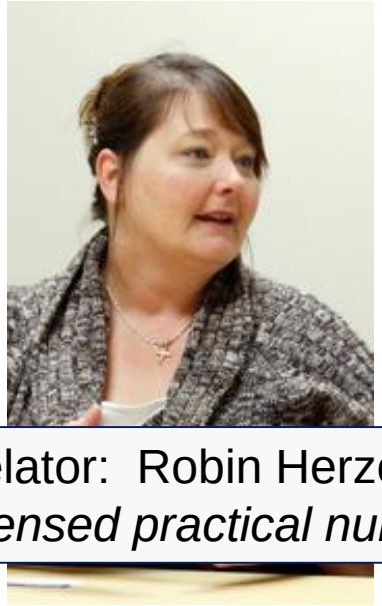
The settlement amount was only one revelation in the document.

Others included:

- The Jewish Foundation of Cincinnati will get all of the property and equipment at Jewish Hospital when it withdraws, plus $4.62 million in cash and a $60 million note with 5 percent annual interest from UC. Jewish is selling the hospital to Mercy Health Partners for $180 million.
- UC will seek bond financing to cover that $60 million note, then pay the Jewish Foundation $10 million to $25 million in cash when it gets the money.
- UC and the Jewish Foundation already have one offer to sell their 50 percent interest in the Lindner Center of Hope in Mason, and will accept the "best achievable offer in the near term." The Lindner family owns the other half. Jewish will receive 45.11

See **HOSPITALS,** Page **A7**

CareSource



Relator: Robin Herzog
Licensed practical nurse

- Relators' Allegation: CareSource violated Medicaid agreements by failing to conduct health assessments of large numbers of special-needs children and submitted false data to make it appear as though they had in order to receive reimbursements

CareSource

CareSource to pay $26M in Medicaid settlement

Nonprofit didn't admit guilt in suit that alleged it mishandled cases of special-needs kids.

By Ben Sutherly
Staff Writer

DAYTON — CareSource, one of Dayton's largest employers, denied wrongdoing, but agreed to pay $26 million to settle a federal whistle-blower lawsuit in an agreement announced Tuesday.

It's the third largest restitution case handled by the state attorney general's Medicaid fraud control unit in the past three years.

Pamela Morris

MORE DETAILS

Ohio to get $10.24 million in CareSource settlement

By Ben Sutherly
Staff Writer

DAYTON — The two licensed practice nurses who brought a federal whistle-blower lawsuit against CareSource were single mothers who quit their jobs in July 2005 with no new jobs lined up.

Robin Herzog, now 41, of Dayton, and Laura Rupert, 42, of Tampa, Fla., said they quit out of concern they would not be able to become registered nurses if they had a hand in Medicaid fraud. They filed their whistle-blower lawsuit in November 2006.

"I just feel like a ton of bricks got lifted off my shoulders today," Herzog said of the settlement. She and Rupert, who are both pursuing their RN degrees, will split their $3.1 million share of the $26 million settlement. Their share is 20 percent of the $15.76 million CareSource will pay the federal government. Ohio gets the remaining $10.24 million.

Their decision to leave CareSource also came out of concern that underprivileged children didn't have access to the care they needed, they said.

CareSource President/CEO Pamela Morris said in a prepared statement that the nonprofit was "deeply disappointed ... by so many unsubstantiated allegations that have been made ... regarding this settlement."

Morris said CareSource fully complied with the U.S. Department of Justice, and that its internal review and independent audits found "no evidence to support their allegations."

Morris said CareSource settled the case to avoid a "prolonged distraction" for the nonprofit, which is one of Dayton's largest employers.

In addition to paying $26 million, CareSource will have to abide by a "corporate integrity agreement" with the U.S. Department of Health and Human Services for five years. It admitted no wrongdoing in the settlement agreement.

Herzog doesn't see it that way. "They got caught with their hand in the cookie jar and now they want to say they didn't do it," she said.

Inside the case

Rupert and Herzog worked as telephonic case management queue nurses at CareSource from March 2004 until July 2005. They alleged they were told to create false data that were then reported to the Ohio Department of Job and Family Services, which administers the state's Medicaid program.

Provider agreements between CareSource and ODJFS stipulated that CareSource:

- screen Medicaid enrollees in order to identify potential children with special health care needs;
- conduct detailed baseline assessments of those found to have special needs;
- provide case management services for those beneficiaries with special-needs children.

CareSource receives payment on a "capitation basis," or a fixed rate per enrolled patient. CareSource therefore realizes lower profits when utilization is higher, according to the complaint.

The complaint alleges CareSource fudged data used to determine whether it is entitled to retain a 1 percent reserve fund, forfeit the reserve fund, or receive a bonus.

ODJFS spokesman Ben Johnson said Tuesday that the data in question "are not a factor" when the state determines per-cap payments to Medicaid contractors. The state stopped requiring managed-care companies to report such data in 2003, he said.

While the lawsuit against CareSource is a concern to the agency, it is satisfied with the settlement, he said.

Frederick "Rick" Morgan Jr., an attorney for the whistle-blowers, said CareSource possibly benefited by not doing baseline assessments. The reason: it did not need to employ as many workers, thus saving money.

At the time the whistle-blower lawsuit was filed in November 2006, CareSource was under contract to provide managed care services to about 310,000 children, according to the complaint. It wasn't clear how many children may not have received baseline assessments, but the whistle-blowers estimated assessments were properly completed for only 10 percent of children identified as having special needs.

CareSource had $2.45 billion in revenues in 2010, and has 879 employees in the Dayton region.

Other Notable Cases

- Pharmaceutical fraud
  - GlaxoSmithKline recently fined $3 billion
  - Abbott
- HEAT task force
  - In fiscal year 2011, HEAT strike force operations in nine locations charged a total of more than 320 defendants for allegedly billing more than $1 billion in false claims

Recoveries

- Recovered $3 billion in FY 2010
  - $2.5 billion in health care fraud (record)
  - 83% related to health care fraud
  - 343 / 382 (89%) were *qui tam* lawsuits
- Recovered $27 billion since 1986 Amendments
  - $5.4 billion since January 2009 (record)
- Southern District of Ohio – Recovered approximately $200 million since 2009

Questions