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HOME HEALTHCARE AGENCY AND OWNER ORDERED TO PAY $4.7 MILLION IN DAMAGES AND PENALTIES FOR FILING FALSE CLAIMS IN MEDICARE PROGRAM

Court Concludes that Healthcare Agency's Owner Created False Documents to Receive Illegal Payments from Medicare, and Lied Before and During Investigation

Lafayette, Louisiana . . .United States Attorney Donald W. Washington announced today that **JANICE DAVIS**, the owner of **AGING CARE HOME HEALTH** in Monroe, Louisiana, has been ordered to pay $4,692,511.64 in damages and penalties for defrauding the Medicare Program over a five-year period.

On December 18, 2007, United States District Judge Robert G. James ruled that DAVIS and her company submitted 615 fraudulent claims for payment to Medicare between 1999 and 2003, and repeatedly lied about it to federal investigators and in court documents. The fraudulent claims are related to illegal payments DAVIS made to at least five physicians who referred patients to her company. DAVIS violated a federal law known as the Stark self-referral statute which prohibits healthcare providers from paying physicians who refer their Medicare patients to other healthcare providers except in certain specified circumstances. The Stark law is designed to protect and foster the integrity of medical decision-making by prohibiting referrals by doctors to providers in exchange for money.

In addition to making the illegal payments, the Court also found that DAVIS and her company 1) lied to federal agents investigating the case, 2) created false documents in order to hide the true nature of her illegal payments in an attempt to tie them to legitimate services, 3) lied during the prosecution of the case by denying knowledge or possession of incriminating company-generated documents which were later found by federal agents in DAVIS' company records, and 4) lied to investigators and others by claiming that the phony records had been fabricated not by DAVIS or her company but by a former employee, Becky Roberts.

DAVIS' illegal payments were to physician members of her company's "Advisory Board." DAVIS claimed that the payments to the doctors were for legitimate services provided to her company by Advisory Board doctors, but the federal court found instead that they were illegal and resulted in payments by Medicare to DAVIS which would not have otherwise been made. The Court found that Advisory Board doctors did not perform any compensable services for DAVIS' company but were instead being paid by DAVIS simply for taking care of their own patients, which is illegal under the Stark law.

Under federal law, a knowing false claim to Medicare by a health care provider who has violated the Stark law also violates the federal False Claims Act -- the federal government's principal tool in recouping dollars obtained through fraud and misrepresentation. The case began when a False Claims Act suit was filed on behalf of the United States by former AGING CARE HOME HEALTH employee, Becky Roberts, who claimed to have witnessed the fraud. Roberts was joined in that effort by Lori Purcell, who also claimed knowledge of fraud committed by DAVIS and her company. Roberts and Purcell brought suit under the False Claims Act's *qui tam* or whistleblower provisions that authorize private parties to file lawsuits on behalf of the United States. In some cases, whistleblowers are entitled to receive a significant share of the monies recovered in litigation. In this case, the United States received the Roberts/Purcell whistleblower lawsuit, investigated the allegations, intervened in the suit and proceeded to litigate the case against DAVIS and AGING CARE HOME HEALTH for the Stark and False Claims Act violations.

U.S. Attorney Donald Washington stated: "The United States Department of Justice and the U.S. Attorney's Office is committed to rooting out, investigating and aggressively prosecuting healthcare fraud wherever it occurs. This decision should send a clear message to all health care providers in the Western District of Louisiana, particularly home health providers, that violations of the Stark self-referral statute and the Federal False Claims Act, whether through sham 'advisory boards' or any other scheme, are a high priority that will continue to receive this office's full attention and resources. In addition, any and all conduct even remotely resembling obstruction of justice or lying to federal agents will be thoroughly investigated and prosecuted where appropriate."

This case was jointly investigated and prosecuted by Special Agent Jeff Richards of the U.S. Department of Health and Human Services' Office of the Inspector General, Assistant U.S. Attorney Alec Alexander and Investigator Chris Knighton of the U.S. Attorney's Office, and Sara McLean and Brian Young, attorneys with the U.S. Department of Justice's Civil Fraud Section in Washington, D.C.

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