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Medicare Advantage Provider and Physician to Pay \$5 Million to Settle False Claims Act Allegations

Beaver Medical Group L.P. (Beaver) and one of its physicians, Dr. Sherif Khalil, have agreed to pay a total of \$5,039,180 to resolve allegations that they reported invalid diagnoses to Medicare Advantage plans and thereby caused those plans to receive inflated payments from Medicare, the Justice Department announced. Beaver is headquartered in Redlands, California.

“The United States relies on healthcare providers to submit accurate diagnosis data to Medicare Advantage plans to ensure those plans receive the appropriate compensation from Medicare,” said Assistant Attorney General Jody Hunt of the Department of Justice’s Civil Division. “We will pursue those who undermine the integrity of the Medicare program and the data it relies upon.”

Under the Medicare Advantage program, also known as the Medicare Part C program, Medicare beneficiaries may opt to obtain health care coverage through private insurance plans that are owned and operated by private insurers known as Medicare Advantage Organizations (MAOs). Medicare pays MAOs a fixed, monthly amount to provide health care coverage to Medicare beneficiaries who enroll in their plans. Medicare adjusts these monthly payments to reflect the health status of each beneficiary. In general, Medicare pays MAOs more for sicker beneficiaries and less for healthier ones.

MAOs often contract with physician groups and other healthcare providers to provide care to Medicare beneficiaries enrolled in their plans. These healthcare providers report diagnoses and other information to the MAOs, which the MAOs then submit to Medicare in order to obtain higher risk-adjusted payments.

In this case, several MAOs in California contracted with Beaver to provide health care to Medicare beneficiaries enrolled in their plans. The MAOs often compensated Beaver with a share of the payments that the MAOs received from Medicare for the beneficiaries under Beaver’s care. Thus, Beaver had a financial incentive to submit additional diagnosis codes to the MAOs in order to increase the payments that the MAOs received from Medicare. The settlement resolves allegations that Beaver and Dr. Khalil knowingly submitted diagnoses that were not supported by the beneficiaries’ medical records in order to inflate the payments that the MAO received from Medicare.

“As enrollment in Medicare Advantage continues to grow, investigation into accuracy of diagnosis data becomes ever more important,” said Timothy B. Francesca, Acting Special Agent in Charge for the Office of Inspector General of the U.S. Department of Health and Human Services. “Those who inflate bills sent to government health programs can expect to pay a heavy price.”

The settlement resolves allegations originally brought in a lawsuit filed under the *qui tam*, or whistleblower, provisions of the False Claims Act by Dr. David Nutter, a former employee of Beaver. The act permits private parties to sue on behalf of the government for false claims for government funds and to receive a share of any recovery. Dr. Nutter will receive approximately \$850,000.

The government's intervention in this matter illustrates its emphasis on combating health care 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).

This matter was handled by the Civil Division's Commercial Litigation Branch and the Department of Health and Human Services, Office of Inspector General.

The case is docketed as *United States ex rel. David Nutter, M.D., and David Nutter, M.D., individually, v. Sherif F. Khalil, M.D., Beaver Medical group, L.P., The Beaver Medical Clinic, Inc., Epic Management, L.P., and Epic Management, Inc.*, No. CVC17-02035-PSG-KKX (C.D. Cal.).

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

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False Claims Act

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