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Dental Management Company Benevis and Its Affiliated Kool Smiles Dental Clinics to Pay \$23.9 Million to Settle False Claims Act Allegations Relating to Medically Unnecessary Pediatric Dental Services

The Justice Department announced today that it has settled False Claims Act allegations against dental management company Benevis LLC (formerly known as NCDR LLC) and more than 130 of its affiliated Kool Smiles dental clinics for which Benevis provides business management and administrative services. Under the agreement, Benevis and the Kool Smiles clinics will pay the United States and participating states a total of \$23.9 million, plus interest, to resolve allegations that they knowingly submitted false claims for payment to state Medicaid programs for medically unnecessary dental services performed on children insured by Medicaid.

“Billing Medicaid programs for dental procedures that are not necessary contributes to the soaring costs of healthcare,” said Acting Assistant Attorney General Chad A. Readler of the Justice Department’s Civil Division. “When healthcare providers put vulnerable patients at risk by performing medically unnecessary procedures to achieve financial goals, we will take action.”

The United States alleged that between January 2009 and December 2011, Benevis and Kool Smiles clinics located throughout 17 states knowingly submitted false claims to state Medicaid programs for medically unnecessary pulpotomies (baby root canals), tooth extractions, and stainless steel crowns, in addition to seeking payment for pulpotomies that were never performed. The United States alleges that Kool Smiles clinics routinely pressured and incentivized dentists to meet production goals through a system that disciplined “unproductive” dentists and awarded “productive” dentists with substantial cash bonuses based on the revenue generated by the procedures they performed. According to the government’s allegations, Kool Smiles clinics ignored complaints from their own dentists regarding overutilization. In addition, the United States further alleged that Kool Smiles clinics located in Texas knowingly submitted false claims to the Texas Medicaid Program for First Dental Home (FDH), a program intended to provide a comprehensive package of dental services aimed at improving the oral health of children under three years of age. These clinics are alleged to have submitted false claims for FDH services that were not fully provided.

Of the \$23.9 million to be paid by Benevis and its affiliated Kool Smiles clinics, the federal government will receive a total of \$14,244,073.49, plus interest, and a total of \$9,655,926.51, plus interest, will be returned to individual states, which jointly funded improper claims submitted to state Medicaid programs.

“The allegations in these cases are particularly egregious because they involved medically unnecessary dental services performed on children,” said U.S. Attorney John H. Durham for the District of Connecticut. “Exploiting needy children for financial gain is inexcusable. The U.S. Attorney’s Office in Connecticut is committed to aggressively pursuing health care providers that submit fraudulent claims to government health care programs.”

The government’s investigation was initiated by five lawsuits filed under the whistleblower provision of the False Claims Act, which permits private citizens to file suit on behalf of the United States for false claims and share in a portion of the government’s recovery. These cases are currently pending in the District of Connecticut and the Western District of Texas. As part of today’s resolution,

three of the whistleblowers—former Kool Smiles employees Adam Abendano, Poonam Rai, and Robin Fitzgerald—will receive payments totaling more than \$2.4 million from the federal share of the settlement.

“When providers accept federal funds for reimbursement, they have a duty and responsibility to provide the best care possible to the patient, especially when their patients are economically disadvantaged children,” said U.S. Attorney Ryan K. Patrick for the Southern District of Texas. “The United States Attorney’s Office for the Southern District of Texas will aggressively prosecute healthcare providers who fail to provide care as required when it adversely affects the taxpayers.”

“The conduct of Kool Smiles reached across state lines to impact many patients, many of them vulnerable children,” said U.S. Attorney Dana J. Boente for the Eastern District of Virginia. “I want to thank our law enforcement partners for their tireless effort and dedication in bringing about this nationwide resolution.”

“Today’s settlement sends a very clear signal: Fraud in the federal healthcare system will not be tolerated,” said U.S. Attorney John F. Bash for the Western District of Texas. “Especially when that fraud involves performing unnecessary procedures on kids—here, unnecessary baby root canals and tooth extractions, among other procedures—we will not hesitate to use every tool at our disposal to punish those who break the law.”

“It is intolerable when health care companies seek to boost profits by defrauding Medicaid and exploiting children,” said Special Agent in Charge Phillip M. Coyne, HHS-OIG. “Systematically performing and billing for medically unnecessary dental procedures undermines the well-being of these young patients, corrupts the impartiality of medical decision-making, and diverts money from taxpayer-funded health care programs designed to pay for legitimate medical needs.”

The settlement with Benevis and its affiliated Kool Smiles clinics was the result of a collaborative effort among federal and state agencies. The Commercial Litigation Branch of the Justice Department’s Civil Division and the U.S. Attorney’s Offices for the District of Connecticut, Southern District of Texas, Eastern District of Virginia, and Western District of Texas handled the cases, with substantial assistance from the National Association of Medicaid Fraud Control Units (NAMFCU). The Civil Division and NAMFCU coordinated the nationwide investigation, which was conducted by the Office of Inspector General for the Department of Health and Human Services, the Department of Defense Criminal Investigative Service, and NAMFCU.

The cases are captioned United States, et al., ex rel. Abendano v. NCDR, LLC, et al., 3:10-cv-1100 (JBA) (D. Conn.); United States, et al., ex rel. Greenwald v. Kool Smiles Dentistry PC, et al., 3:10-cv-1100 (JBA) (D. Conn.); United States, et al., ex rel. Rai, et al. v. Kool Smiles Dentistry PC, et al., 3:17-cv-834 (JBA) (D. Conn.); United States, et al., ex rel. Bowne v. KS-VAP, PC, et al., 3:16-cv-369 (JBA) (D. Conn.); and United States, et al., ex rel. Alves, et al. v. NCDR, LLC, et al., SA-13-CV-0760H (W.D. Tex.). The claims resolved by this settlement are allegations only, and there has been no determination of liability.

Topic(s):

Health Care Fraud

Component(s):

[Civil Division](#)

[USAO - Connecticut](#)

[USAO - Texas, Southern](#)

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