

## Report on Medicare Compliance Volume 28, Number 8. March 04, 2019 Outside Auditor Is Whistleblower in FCA Settlement on Modifier 25

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In a whistleblower case set in motion by an independent auditor, Skyline Urology in southern California agreed to pay \$1.85 million to settle a False Claims Act lawsuit over modifier 25, the Department of Justice and the U.S. Attorney's Office for the District of Maryland said Feb. 25.

The whistleblower complaint alleged that Skyline Urology billed Medicare with modifier 25 "to falsely claim that evaluation and management services were unrelated to other procedures performed on the same date for the same patient, and thus, eligible for separate reimbursement," according to the settlement.

Medicare doesn't pay physicians or other providers for evaluation and management (E/M) services performed on the same patient on the same day as a procedure unless the E/M services are significant and separately identifiable. When the E/M services are significant and separately identifiable, providers append modifier 25 and receive additional reimbursement. Misunderstanding and/or misuse of the modifier has made it a top billing compliance risk area.

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