

Report on Medicare Compliance Volume 33, Number 5. February 05, 2024

FCA Lawsuit Alleges MultiCare Kept Billing for Surgeon's Procedures Despite DOJ Warning

By Nina Youngstrom

Almost four years before filing a False Claims Act (FCA) complaint alleging that medically unnecessary spine surgeries were performed at MultiCare Deaconess Hospital in Spokane by neurosurgeon Jason A. Dreyer, D.O., the U.S. Attorney's Office for the Eastern District of Washington gave MultiCare a heads-up it was investigating the neurosurgeon. Although the investigation was at an early stage, the U.S. attorney's office wrote MultiCare that Dreyer allegedly presented a potential danger to patient safety based partly on "his fraudulent billing supported by falsified diagnoses" and included data from Dreyer's former employer, Providence St. Mary's Medical Center in Walla Walla, Washington. There were specific allegations about procedures that weren't performed or had fake or exaggerated diagnoses of kyphosis, scoliosis, spondylolisthesis or were otherwise medically unnecessary, according to the FCA complaint in intervention filed against MultiCare Jan. 26.^[1]

Despite the warning, MultiCare allegedly didn't follow up with the U.S. attorney's office. Dreyer worked at MultiCare for another year—while he was also under investigation by the state Board of Osteopathic Medicine and Surgery, according to the FCA complaint, which alleges that MultiCare fraudulently billed Medicare, Medicaid, TRICARE, the Veterans Administration and the Federal Employees Health Benefits Health Program \$8.4 million for Dreyer's spine surgeries between July 2019 and March 2021.^[2]

The FCA complaint comes on the heels of two separate FCA settlements stemming from Dreyer's spine surgeries. In March 2022, Providence Health & Services paid \$22.69 million to settle false claims allegations over medically unnecessary neurosurgeries performed by Dreyer and another surgeon at Providence St. Mary's.^[3] A year later, Dreyer himself entered into an FCA settlement with the U.S. attorney's office, agreeing to pay \$1.174 million in connection with his procedures at both Providence and MultiCare.^[4] Dreyer also agreed to be excluded from Medicare and other federal health care programs for nine years.

MultiCare denied the false claims allegations and said it would "vigorously defend" itself in this matter.

The fact that the U.S. attorney's office alerted MultiCare to its concerns about Dreyer in 2020 was seen through different lenses. "It's a lesson for providers that if you get that phone call you need to take it very seriously and conduct your due diligence about physicians practicing in your hospital," said attorney Asher Funk, with Goodwin Procter LLP in Washington, D.C. Normally he'd expect MultiCare to have potentially settled before the U.S. Department of Justice (DOJ) filed its complaint in intervention because the alleged damages are relatively small and the physician at the heart of the allegations has already settled an FCA case related to his professional services at MultiCare and agreed to a long exclusion. But that hasn't happened here. "It signals to me" that MultiCare is fighting because it "believes it has some defenses and disagrees with the government about the medicine," Funk said. "They must believe the care the physician rendered was medically necessary and appropriate or at least that there's a reasonable disagreement."

This document is only available to subscribers. Please log in or purchase access.

Purchase Login