

PRESS NOTICE

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July 17, 2006

FOR IMMEDIATE RELEASE

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MARION COUNTY MEDICAL CENTER AGREES TO SETTLE GOVERNMENT'S ALLEGATIONS FOR \$3,750,000.00

COLUMBIA, South Carolina ---- **United States Attorney REGINALD I. LLOYD, stated today that** Marion County Medical Center (Marion) has agreed to pay the United States \$3,750,000 to resolve allegations of fraud involving government health care benefit programs. Today's settlement resolves allegations that Marion submitted or caused to be submitted false claims for payment to the Medicare, Medicaid, and Tricare programs.

The United States initiated the investigation in response to a *qui tam* or whistleblower action brought by Dr. Kenneth Orbeck,^{1/} a family practitioner and a former employee of Marion. Such actions can be brought by whistleblowers on behalf of the United States. Under the *qui tam* statute, the whistleblower who files a lawsuit bringing allegations of fraud against the government to the government's attention may be entitled to a share of the proceeds recovered by the suit and attorney fees. These cases are initially filed under seal to allow the government to investigate the allegations. The government may intervene and prosecute the case or decline and allow the whistleblower to pursue the case.

The government intervened in the lawsuit and dismissed the lawsuit after settlement had been reached with Marion County Medical Center. Dr. Orbeck, the whistleblower, will receive \$610,083 as his share of the settlement.

It was alleged that, Marion hired two physicians and paid those physicians financial remuneration that far exceeded the fair market value of their services. It was also alleged that Marion then submitted or caused to be submitted false claims to Medicare, Medicaid and TRICARE (the military's health care program). The false claims were for inpatient and outpatient hospital services provided by Marion that were referred, ordered or arranged for by the physicians whose excessive salaries were paid by Marion.

The claims for services referred, ordered or arranged by those physicians were alleged to be false in three respects. First, Section 1877 of the Social Security Act, 42 U.S.C. § 1395nn (also known as Stark II), prohibits a health care provider from billing Medicare for items or services referred or ordered by physicians with whom it had a financial relationship. Second, health care providers forfeit their right to submit those claims to the Federal health care programs by paying remuneration in excess of fair market value if it was intended to induce referrals in violation of the Anti-Kickback Statute, 42 U.S.C. 1320a-7b(b). And third, health care providers are required to certify on Medicare cost reports that the services identified or summarized were not provided or procured through the payment directly or indirectly of a kickback or billed in violation of federal law.

The government's investigation also involved allegations that inpatient professional services were billed to Medicare improperly in that the procedure code used indicated a level of service that was not supported by the documentation.

As part of the settlement, Marion entered into a corporate integrity agreement with the Inspector General's Office of the Department of Health and Human Services. Under the provisions of that agreement, Marion agreed to monitor its future activities for compliance with Federal Regulations.

Mr. Lloyd stated, "We are pleased to have been able to resolve this matter. The government greatly appreciates and applauds the conscientious efforts of whistleblowers like Dr. Orbeck who bring issues of fraud and abuse to the attention of the government."

The settlement is the culmination of a joint investigation involving investigators, attorneys and auditors from the United States Attorney's Office in Columbia, the Department of Justice in Washington, D.C., the Office of the Inspector General, Department of Health and Human Services, the Federal Bureau of Investigation, and the Defense Criminal Investigative Service. This case was handled by Assistant U.S. Attorneys Jennifer Aldrich, Fran Trapp and

Department of Justice Trial Attorney Amy Easton. The case was investigated by Special Agent Chris Lott with the Office of Health and Human Services, Special Agent Larry Leonard with Defense Criminal Investigative Services, and Special Agent Maurice Kellihger with the Federal Bureau of Investigation.

1/ Dr. Orbeck was represented by Ernest Nauful.

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