U.S. Department of Justice

United States Attorney

Eastern District of Pennsylvania

615 Chestnut Street
Suite 1250
Philadelphia, Pennsylvania 19106-4476
(215) 861-8200

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U.S. ANNOUNCES $155 MILLION SETTLEMENT OF MEDCO FALSE CLAIMS CASE

PHILADELPHIA – United States Attorney Pat Meehan and Assistant Attorney General Peter D. Keisler today announced a $155 million settlement of fraud claims against Medco Health Solutions of Franklin Lakes, New Jersey. Medco is the second largest pharmacy benefit management company in the United States and has responsibility for managing the prescription drug benefits of over 60 million Americans, including millions of Medicare beneficiaries.

On December 9, 2003, the U.S. Attorney's Office in the Eastern District of Pennsylvania filed an amended False Claims Act and Anti-Kickback Act complaint against Medco. That complaint charged Medco with destroying and canceling valid patient prescriptions; soliciting kickbacks from pharmaceutical manufacturers to favor their drugs, and paying kickbacks to health plans to obtain business. This complaint followed two whistle-blower actions filed in 1999 and 2000 and a four-year investigation by this office, the Offices of Inspector General of the Department of Health and Human Services, the Office of Personnel Management, and the Defense Criminal Investigative Service. The case has been pending in Federal District Court and had been scheduled for trial on June 6.

Through extensive mediation efforts with Senior Judge J. William Ditter, Jr. the parties were able to reach a resolution of the pending False Claims case against Medco. In addition, the parties reached agreement on a second False Claims Act case filed in 2003 by a former Medco employee, who alleged kickbacks by pharmaceutical manufacturers to Medco. The government and Medco also announced the resolution of a False Claims investigation that began in 2004 and which arose out of Medco's alleged submission of claims to the Medicare program on behalf of its clients. That investigation had not yet resulted in a filing.

As a result of the settlement today, Medco will pay the United States a total of $155 million. From this amount, the relators in the principal action will receive a total of $23 million as their relators' shares. Mr. Schuman will receive a total relators' share of $860,000. In addition, Medco has settled claims for attorney fees for all of the relators. The settlement primarily involves conduct between 1998 and 2004.

In addition to paying the $155 million settlement amount, Medco was required to enter into an extensive corporate compliance agreement with the Office of Inspector General, the Department of Health and Human Services, and the Inspector General of the Office of Personnel Management, as a condition of continued participation in government health programs.

"This settlement and others like it represent a sweeping change in the way pharmacy benefit managers do business," said Meehan, whose office reached a $137 million settlement last year with Medco's largest competitor Caremark, which also entered into a corporate integrity agreement and a Consent Decree. Both results were achieved following six-year investigations.

"Pharmacy benefit managers are ultimately accountable to their patients and these agreements increase that level of accountability. As we said at the time the complaint was filed in 2003, pressure by an employer to reduce costs and increase profits must never be allowed to coerce pharmacists into ignoring their duties to patients," said Meehan.

In return for the $155 million payment, Medco also obtained a release of further claims against former Vice-President Diane Collins, who managed the Medco mail order pharmacy in Tampa, Florida. Collins had been charged in the complaint with destroying and instructing others to destroy valid patient prescriptions in order to cover up Medco's failure to provide patient prescriptions on a timely basis.

"Millions of federal employees and Medicare beneficiaries rely on pharmacy benefit managers such as Medco for their prescription drugs," said Keisler. "Hidden financial agreements between PBMs and drug manufacturers and health plans, along with the bottom line pressures of management, can influence which drugs patients receive, the price we all pay for drugs, and whether pharmacists serve patients with their undivided professional judgment.

This financial settlement and Corporate Integrity Agreement follows an earlier negotiated Consent Decree and settlement with Medco by this office and more than 20 state Attorneys General in 2004. In that Consent Decree, in order to resolve this office's request for an injunction under the health fraud statutes, Medco was required to make major changes in its business practices relating to soliciting drug-switching of patients, and to allow its pharmacist employees to honor their professional obligations as licensed pharmacists to patients.

"We are very proud of the work of our law enforcement team in these cases and the significant impact they will have not only because of the dollars recovered but also because of the obligation we all have to assure the integrity and success of our nation's commitment to seniors through the Medicare prescription drug program."

Meehan also acknowledged the significant contributions made by the outside law firms representing the whistleblowers in the case, who helped the law enforcement team in reviewing over 9 million pages of documents, interviewing hundreds of witnesses, and preparing briefs and arguments.. "A case of this magnitude requires a huge investment of talent and time, and we greatly appreciate their work with us in bringing this case to a successful result."

This investigation was conducted by the United States Attorney's Office, Eastern District of Pennsylvania, together with the Office of Inspector General of the Office of Personnel Management, the Office of Inspector General of the Department of Health and Human Services, and the Defense Criminal Investigative Service.

UNITED STATES ATTORNEY'S OFFICE **Contact: Rich Manieri**
EASTERN DISTRICT, PENNSYLVANIA **Public Affairs**

Suite 1250, 615 Chestnut Street
Philadelphia, PA 19106

215-861-8525
Jim Sheehan
Associate U.S. Attorney
215-861-8301
Jim.Sheehan@USDOJ.gov

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