



THE UNITED STATES ATTORNEY'S OFFICE

MIDDLE DISTRICT *of* FLORIDA

Department of Justice

U.S. Attorney's Office

Middle District of Florida

FOR IMMEDIATE RELEASE

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21st Century Oncology To Pay \$19.75 Million To Settle Alleged False Claims For Unnecessary Laboratory Tests

Fort Myers, FL – 21st Century Oncology LLC, has agreed to pay \$19.75 million to the government to resolve allegations that it violated the False Claims Act by billing federal health care programs for laboratory tests that were not medically necessary, the Justice Department announced today. 21st Century is a nationwide provider of integrated cancer care services that is headquartered in Fort Myers, Florida.

“Today’s settlement demonstrates our unwavering commitment to protect the Medicare trust fund against unscrupulous providers,” said Principal Deputy Assistant Attorney General Benjamin C. Mizer, head of the Justice Department’s Civil Division. “Providers who waste taxpayer dollars by billing for unnecessary services will face serious consequences.”

The settlement announced today resolves allegations that 21st Century submitted claims to Medicare and Tricare for *fluorescence in situ hybridization*, or “FISH,” tests that were not medically necessary. FISH tests are laboratory tests performed on urine that can detect genetic abnormalities associated with bladder cancer. The government alleged that 21st Century submitted claims for unnecessary FISH tests that were ordered by four of its urologists, Dr. Meir Daller, Dr. Steven Paletsky, Dr. David Spellberg and Dr. Robert Scappa, all of whom practiced in the Fort Myers area. The government also alleged that 21st Century encouraged these physicians to order unnecessary FISH tests by offering bonuses that were based in part on the number of tests referred to 21st Century’s laboratory. Today’s settlement resolves the civil liability of 21st Century only.

“Charging the government for clearly unnecessary medical services squanders taxpayer dollars,” said U.S. Attorney A. Lee Bentley, III of the Middle District of Florida. “Our office will continue to pursue health care providers who defraud the United States, thereby threatening the viability of government health care programs, such as Medicare.”

“These tests were ordered to increase profits, not improve the healthcare of patients,” said Special Agent in Charge Shimon Richmond of the Department of Health and Human Services Office of Inspector General (HHS-OIG). “This kind of unvarnished fraud is an attack on Medicare by unscrupulous providers and the OIG and its federal partners will take whatever steps are necessary to stop them.”

“This settlement demonstrates the commitment of the Defense Criminal Investigative Service (DCIS) and its law enforcement partners to protect the integrity of the U.S. military health care program (TRICARE) against fraudulent claims for medical services, said Special Agent in Charge John F. Khin of DCIS’s Southeast Field Office.”

The settlement resolves allegations originally brought in a lawsuit filed by a whistleblower under the *qui tam* provisions of the False Claims Act, which allow private parties to bring suit on behalf of the government and to share in any recovery. The whistleblower, a former 21st Century Oncology LLC medical assistant, will receive \$3.2 million as her share of the recovery in this case.

The investigation was handled by Trial Attorney Arthur Di Dio from the Civil Division’s Commercial Litigation Branch and Assistant U.S. Attorney Kyle S. Cohen from the Fort Myers Division of the U.S. Attorney’s Office for the Middle District of Florida with assistance from HHS-OIG, DCIS and the FBI.

This settlement illustrates the government’s emphasis on combating health care fraud and marks another achievement for the Health Care Fraud Prevention and Enforcement Action Team (HEAT) initiative, which was announced in May 2009 by the Attorney General and the Secretary of Health and Human Services. The partnership between the two departments has focused efforts to reduce and prevent Medicare and Medicaid financial fraud through enhanced cooperation. One of the most powerful tools in this effort is the False Claims Act. Since January 2009, the Justice Department has recovered a total of more than \$26.7 billion through False Claims Act cases, with more than \$16.8 billion of that amount recovered in cases involving fraud against federal health care programs.

The lawsuit is captioned *United States, State of Florida, ex rel. Mariela Barnes v. Dr. David Spellberg, 21st Century Oncology and Naples Urology Associates*, Civil Action No. 2:13-cv-228-FtM-38DNF (M.D. Fla.). The claims resolved by the settlement are allegations only, and there has been no determination of liability.

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Civil Div. II: HHS (Medicare, Social Security)

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