



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

Friday, January 29, 2016

Rose Radiology Centers Agree To Pay More Than \$8 Million For False Billing Of Medical Procedures And Kickbacks

Tampa - Rose Radiology Centers Inc. has agreed to pay \$8.71 million to the government to resolve allegations that it violated the False Claims Act by billing federal health care programs for radiology procedures that were not medically necessary or furnished in violation of applicable Federal regulations, the United States Attorney's Office for the Middle District of Florida announced today. Rose Radiology is a provider of radiology services and has offices in multiple locations in the greater Tampa area.

"This settlement resolves myriad allegations involving standards of medical care, false billing practices, and breaches of trust," said U.S. Attorney A. Lee Bentley, III. "There is no room for such practices in our public health care programs. We will continue to do everything within our power to protect the public against such violations, when and where they are found."

The settlement resolves allegations originally brought in a lawsuit filed by two separate whistleblowers 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 whistleblowers will receive a combined \$1.7 million as their share of the recovery in this case.

Among the allegations resolved was that Rose Radiology knowingly submitted false claims to the federal health care programs by administering contrast dye during MRI scans on patients without proper physician supervision. Contrast dye is a chemical that is injected intravenously into the body in order to make certain tissues, abnormalities, or disease processes more clearly visible on an MRI. Federal regulations require that a physician directly supervise the administration of contrast dye when used for an MRI as a potential adverse side effect is anaphylactic shock. Even though Rose Radiology was aware of this safety requirement, there were Rose Radiology locations that rarely, if ever, had a physician present when contrast dye was being administered.

The settlement also resolves allegations that Rose Radiology improperly billed for radiology procedures referred by chiropractors. The regulations are clear that Medicare does not pay for diagnostic test orders made by chiropractors. To circumvent this prohibition, Rose Radiology would accept orders from chiropractors and bill for them as if the tests were actually ordered by a Rose Radiology employed physician.

In addition, the settlement resolves the claim that Rose Radiology would perform and bill for radiology procedures that were never actually ordered by the patients' treatment providers. Independent Diagnostic Testing Facilities ("IDTFs"), like Rose Radiology, are not permitted to add any procedures without a written order from the treating physicians. Also resolved was the claim that Rose Radiology submitted claims to Medicare for radiology services performed at locations that were not enrolled as authorized Medicare providers and billing Medicare for those services as if they had actually been performed at a different facility that was properly enrolled with Medicare.

Finally, the settlement resolves allegations that Rose Radiology engaged in the practice of giving kickbacks to referring physicians for the purpose of soliciting radiology referrals from these physicians. It is a violation of both the Anti-Kickback Act and the Stark Law to provide financial benefits to referring physicians. It was alleged that Rose Radiology provided key referral sources financial incentives in the forms of lunches, gift cards, and tickets to concerts or sporting events in exchange for receiving radiology business from these physicians.

"The Defense Criminal Investigative Service is committed to protecting the integrity of TRICARE, the U.S. military health care program, so that it may continue to provide quality medical care to America's Warfighters and their families, said John F. Khin, Special Agent in Charge, Defense Criminal Investigative Service - Southeast Field Office."

"It is unconscionable for a physician to allow someone without the proper medical training to administer a test that could cause serious harm" said Shimon Richmond, Special Agent in Charge for the HHS Office of the Inspector General. "Not only do the kinds of frauds that were alleged in this case rob Medicare of needed funds, they threatened the health of elderly and disabled Americans."

The investigation was handled by 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 and Trial Attorney Eva Gunasekera from the Civil Division's Commercial Litigation Branch, with assistance from HHS-OIG and DCIS.

The two lawsuits are captioned *United States ex. rel. Schimke v. Rose Radiology Centers, Inc.*, Case No. 8:12-cv-2576-T35-MAP and *United States ex. rel. Miller v. Rose Radiology, Inc.*, Case No. 8:13-CV-2757-T-35-EAJ. The claims resolved by the settlement are allegations only, and there has been no determination of liability.

USAO - Florida, Middle

Updated February 4, 2016