

Department of Justice

U.S. Attorney's Office

District of Maryland

FOR IMMEDIATE RELEASE

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Owner of Blair Pharmacy Pleads Guilty to Providing Illegal Payments to Independent Marketers to Induce Them to Refer Business to His Pharmacy

Baltimore, Maryland – Matthew Edward Blair, age 48, of Timonium, Maryland, pleaded guilty today to payment of illegal remunerations to encourage independent marketers to refer federal health care related business to Blair's pharmacy.

The guilty plea was announced by United States Attorney for the District of Maryland Erik L. Barron; Special Agent in Charge Thomas J. Sobocinski of the Federal Bureau of Investigation, Baltimore Field Office; Special Agent in Charge Christopher Dillard of the Department of Defense Office of Inspector General, Defense Criminal Investigative Service - Mid-Atlantic Field Office; and Special Agent in Charge Darrell J. Waldon of the Internal Revenue Service - Criminal Investigation, Washington, D.C. Field Office.

According to his guilty plea, beginning in November 2014 and continuing through May 2015, Blair, the owner and operator of a compounding pharmacy called the Blair Pharmacy, paid illegal remunerations to independent marketers to induce them to refer business to Blair Pharmacy.

Members of the United States military and their families receive health care benefits through TRICARE, a federal health care benefits program. Like many other health care benefit programs, TRICARE utilizes a pharmacy benefit manager ("PBM"), specifically, Express Scripts ("ESI") to administer all pharmacy-related benefits for the TRICARE program. ESI receives, processes and adjudicates all electronically submitted pharmacy benefit claims submitted on behalf of TRICARE beneficiaries in New Jersey.

Blair submitted applications to several PBMs, including ESI, requesting that Blair Pharmacy be accepted into the PBMs' networks of participating pharmacies. ESI approved Blair's application and Blair was permitted to bill TRICARE and receive payment for TRICARE beneficiary prescriptions. Blair set up a process by which beneficiary prescriptions were electronically submitted directly to his pharmacy. Blair also set up a process by which prescription and benefit plan data was uploaded electronically through the internet. The uploaded electronic data was processed by the PBMs instantaneously, providing Blair with immediate information about whether a claim he submitted had been approved for payment by the benefit plan or not. Blair linked successful claim reimbursements to a bank account in the name of Blair Pharmacy so Blair Pharmacy could receive all monies paid by health care benefit companies into his bank account.

Blair actively pursued several independent sales marketers to work for him at his pharmacy. In order to increase prescription referrals to his pharmacy, maximize reimbursement amounts and thereby increase profits, Blair sought these independent marketers to solicit and refer prescriptions to his pharmacy. Blair entered into independent contractor arrangements with several sales marketers, and arranged to pay the independent marketers a percentage of any reimbursement money he received from health care benefit programs, including TRICARE.

For example, in November 2014, Blair agreed to pay an independent marketer working for Blair as follows "commission will be 50% of gross reimbursement to [Blair Pharmacy] paid bi-weekly." The agreement required the independent marketer to use Blair Pharmacy exclusively, and to refer all business within his established territory to Blair Pharmacy. Blair induced these referrals to his pharmacy by offering the marketer a 50% percentage payment of any money that Blair received from health care benefit programs, which was the sole compensation to the marketer under the agreement. The independent marketer was not paid unless Blair was successful in obtaining reimbursement from a health care benefit program for a prescription that the marketer referred to Blair. Only then was the marketer paid a percentage of the successful reimbursement. Blair knew it was a violation of the Anti-Kickback Statute to pay an independent contractor a volume and value-based commission for referrals of federal health care program business to his pharmacy.

Blair provided the independent marketer with pre-printed prescription forms which listed the specific ingredients for Blair's formulations. Blair knew the amount of money that he would receive from TRICARE for each gram of each ingredient that he listed in his formulas. Blair modified the ingredients and amounts of ingredients of his formulations based on the ingredient's reimbursement value.

Blair Pharmacy received reimbursement from TRICARE for the individual ingredients in his formulas as follows: \$4,348.25 for a one month supply of the ingredients in his vitamin formulation; \$8,741.26 for a one month supply of the ingredients in his pain cream; \$14,365.39 for a one month supply of the ingredients in his migraine cream; and \$17,336.30 for a one month supply of the ingredients in his scar cream. After receiving

payment from TRICARE for the prescriptions the independent marketer directed to Blair Pharmacy, Blair paid 50% of the reimbursement amount to the marketer.

The independent marketer solicited cream prescriptions from numerous doctors, including military surgeons at Walter Reed, with whom he had direct contact. Blair knew that the marketer was in a position to influence which pharmacy the prescriptions were sent to, and that the marketer would send the prescriptions directly back to Blair's pharmacy. By paying the marketer 50% of every successfully reimbursed TRICARE claim, Blair incentivized the marketer to refer as many cream prescriptions as possible to Blair's pharmacy.

As detailed in the plea agreement, the marketer actively pursued and solicited cream prescriptions for Blair from a military doctor, who had no idea about the amount of money that the creams reimbursed for. The marketer took advantage of the military doctor's grueling work schedule, oftentimes waiting, with a stack of Blair's pre-printed prescription forms in hand, for the doctor outside of the operating room after a long day of back-to-back surgeries. The marketer directed, sent, and referred all of the pain and scar cream prescriptions directly to Blair's pharmacy. Neither the doctor, nor the TRICARE beneficiaries for whom the creams were authorized, had an opportunity to choose which pharmacy they wanted to fill the prescription because the prescriptions were submitted directly to Blair.

Many of the TRICARE beneficiaries were not aware a prescription had been written for them until they received a box from Blair Pharmacy on their doorstep. Some of the TRICARE beneficiaries had no idea of the cost to TRICARE of these creams and vitamins that they received in the mail, or they learned about the high cost of the creams and vitamins only after they reviewed their TRICARE Explanation of Benefits letter a month or two later. Some of the TRICARE beneficiaries lodged official complaints and made fraud referrals to TRICARE and ESI. When the military doctor learned of the cost of the creams he had prescribed, he was outraged and immediately stopped authorizing any additional cream prescriptions. The doctor provided notice of the problem to his management and advised TRICARE patients who made complaints about the creams, to send the creams back to the pharmacy.

From November 2014 to May 2015, TRICARE reimbursed Blair a total of \$6,352,941.66 based upon claims Blair submitted to TRICARE that were tainted by remuneration payments Blair paid to independent sales contractors. Blair admits that TRICARE would not have approved or reimbursed any claim for compounded ingredients made by Blair Pharmacy, had TRICARE known that Blair had agreed to pay a 1099 independent contractor based on the volume and value-based commission of prescription referrals to Blair Pharmacy.

As part of his plea agreement, Blair will pay restitution of \$3,176,470.83 for the financial loss caused to TRICARE and has agreed to be excluded from the TRICARE health benefit program as an Authorized Provider for a term of 25 years.

Blair faces a maximum sentence of five years in federal prison for illegal remuneration. U.S. District Judge Ellen L. Hollander has scheduled sentencing for February 10, 2022.

United States Attorney Erik L. Barron commended the FBI, the Department of Defense Office of Inspector General, and the IRS-CI for their work in the investigation. Mr. Barron thanked Assistant U.S. Attorneys Christine Duey and Paul Riley, who are prosecuting the case.

For more information on the Maryland U.S. Attorney's Office, its priorities, and resources available to help the community, please visit www.justice.gov/usao-md and <https://www.justice.gov/usao-md/community-outreach>.

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Health Care Fraud

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USAO - Maryland

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