United States Settles Kickback Allegations with Specialty Pharmacy BioTek reMEDys, Inc., its Owner Chaitanya Gadde, and Dr. David Tabby

Saturday, September 30, 2023

PHILADELPHIA—United States Attorney Jacqueline C. Romero announced today that BioTek reMEDys, Inc. (“BioTek”), located in New Castle, Delaware, and its Chief Executive Officer, Chaitanya Gadde, have agreed to pay $20 million based on BioTek’s ability to pay to resolve allegations that they violated the False Claims Act and the Anti-Kickback Statute by paying kickbacks to patients in the form of routinely waived copayments and to physicians in exchange for providing patient referrals to BioTek.

The government alleged that, from at least August 2015 through May 2020, BioTek, a specialty pharmacy that offers drugs and infusion services, routinely waived the copayments of Medicare and TRICARE patients to induce those patients to purchase its drugs and services. Many of the specialty drugs offered by BioTek were expensive and required patients to pay large copays. Understanding that these copays could deter patients from purchasing its drugs and services, the government alleged that BioTek engaged in a scheme, orchestrated and implemented by Gadde and others, to routinely waive these copays—with regard for whether the patients were experiencing financial hardship—to ensure a steady revenue stream for BioTek.

Today’s settlement also resolves allegations that BioTek provided remuneration in the form of gifts, dinners, and free administrative and clinical support services, to physicians—in particular, Dr. David Tabby, who operated a neurology practice in Bala Cynwyd, Pennsylvania—to induce those physicians to refer patients to BioTek. The government also alleged that Dr. Tabby knowingly solicited and accepted this remuneration in exchange for referring numerous patients to BioTek. Dr. Tabby has paid $480,000 to settle these allegations, based on his ability to pay.

When a Medicare beneficiary obtains a prescription drug covered by Medicare, the beneficiary may be required to make a partial payment, which may take the form of a copayment, coinsurance, or a deductible (collectively “copays”). Congress included copay requirements in the Medicare program in part to serve as a check on health care costs. The Federal Anti-Kickback Statute prohibits the offering, paying, soliciting, or accepting, directly or indirectly, any remuneration—which includes money or any other thing of value—to refer or arrange for the referral of items or services payable by any federal health care program. This prohibition extends to companies that routinely waive the copays of Medicare patients without determination of financial need. The Anti-Kickback Statute also extends to the payment of remuneration to physicians in exchange for patient referrals.

“BioTek allegedly provided improper physician inducements and covered up kickbacks for patient referrals by waiving co-pays,” said United States Attorney Jacqueline C. Romero. “These improper and corrupt business practices will not be tolerated in this District. BioTek’s alleged scheme, orchestrated and implemented by Gadde, Dr. Tabby, and others, to routinely waive these copays—without regard for whether the patients were experiencing financial hardship—ensured a steady revenue stream for BioTek and undermined patient care to citizens of this District. This Office will continue to invest itself in the pursuit of health care providers who violate the law for personal gain.”

“Kickbacks impose hidden costs on the health care system and compromise medical decision-making,” said Maureen R. Dixon, Special Agent in Charge with the U.S. Department of Health and Human Services Office of the Inspector General. “Alongside our law enforcement partners, HHS-OIG is committed to safeguarding the integrity of federal health care programs by, in part, holding individuals who unlawfully bill the programs accountable for their actions.”

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The settlement agreement announced today demonstrates our ongoing commitment to work with our law enforcement partners to investigate healthcare fraud and protect TRICARE, the healthcare system for military members and their dependents,” stated Special Agent in Charge Patrick J. Hegarty of the Defense Criminal Investigative Service Northeast Field Office. “When healthcare companies pay physicians and submit false claims for improper referrals, they undermine the integrity of TRICARE and place an unnecessary financial burden on the program.”

The civil settlement includes the resolution of claims brought under the qui tam or whistleblower provisions of the False Claims Act by Shantae M. Wyatt and Latoya Sparrow, former BioTek employees. Under those provisions, a private party may file an action on behalf of the United States and receive a portion of any recovery. Wyatt and Sparrow will receive $4 million as their share of the settlement with BioTek and Gadde, and $91,200 as their share of the settlement with Dr. Tabby. The qui tam case is captioned United States of America ex rel. Wyatt et al. v. BioTek reMEDys, Inc., No. 19-6069 (E.D. Pa.). The relators are represented by David Bocian, Esq. and Asher Alavi, Esq. of Kessler Topaz Meltzer & Check, LLP.

The resolutions obtained in this matter were the result of a coordinated effort among the Justice Department’s Civil Division, Commercial Litigation Branch, Fraud Section, the United States Attorney’s Office for the Eastern District of Pennsylvania, the United States Attorney’s Office for the District of Delaware, the U.S. Department of Health and Human Services Office of the Inspector General, the Office of Inspector General for the Office of Personnel Management, and the Department of Defense Office of Inspector General, Defense Criminal Investigative Service.

The investigation and resolution of this matter illustrates the government’s emphasis on combating healthcare fraud. One of the most powerful tools in this effort is the False Claims Act. Tips and complaints from all sources about potential fraud, waste, abuse, and mismanagement can be reported to the Department of Health and Human Services, at 800-HHS-TIPS (800-447-8477).

The matter was handled in the U.S. Attorney’s Office for the Eastern District of Pennsylvania by United States Attorney Jacqueline C. Romero, Deputy Chief Charlene Keller Fullmer, Assistant United States Attorney Judith Amorosa, and Auditor George Niedzwicki.

The claims asserted by the United States are allegations only and there has been no determination of liability.

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