Department of Justice intervenes in HCR ManorCare whistleblower lawsuit

On April 21, the U.S. Department of Justice announced it has intervened on a series of whistleblower lawsuits accusing HCR ManorCare Inc., one of the nation's largest nursing home chains, of billing Medicare and Tricare for millions of dollars of medically unjustified treatments.

HCR ManorCare, based in Toledo, Ohio, operates 281 skilled-nursing care and rehabilitation facilities in 30 states, including California.

The Justice Department lawsuit follows an investigation of three False Claims Act complaints filed by former HCR ManorCare employees who allege that the company knowingly and routinely provided unnecessary and unreasonable rehabilitation therapy services to patients in order to increase payments from Medicare and Tricare. The government has consolidated the claims into a single lawsuit that will appear before the U.S. District Court for the Eastern District of Virginia.

According to the lawsuit, HCR ManorCare's corporate offices developed a scheme to provide excess care in order to qualify for the "Ultra High" rate Medicare pays to particularly needy patients. The company then pressured rehab therapists and facility administrators to reach unreasonable reimbursement metrics, which led to patients being subjected to needless and potentially harmful treatments.

The suit also claims that patients were kept in skilled-nursing facilities longer than was medically required in order to meet inflated financial goals. It further alleges that HCR threatened to terminate employees who did not administer and bill for unnecessary treatments.

Overall, federal officials said they have found more than 1,200 false claims filed by HCR ManorCare between Oct. 1, 2006, and May 31, 2012. During that period of time, the government said Medicare issued more than $6 billion in payments to ManorCare.

"We want to ensure that taxpayer dollars are used to pay for health care for Americans that need it, not to unjustly enrich health care companies," said Barbara L. McQuade, U.S. Attorney of the Eastern District of Michigan. "Medical providers will be held accountable when they exploit patients for profit by subjecting them to therapies they don't need and then billing Medicare for reimbursement."

In a statement, HCR ManorCare denied the allegations and said they would "vigorously defend ourselves in court."

"When we have identified billing issues through our controls and compliance activities, we have taken appropriate action, including at times terminating employees for misconduct and voluntarily repaying monies received for inaccurate billings," said the company. "However, we categorically reject any attempt by the government to have our company and its employees portrayed as engaging in a systematic, corporate-wide fraud scheme."

The company went on to state that the lawsuit stems from the government's belief that the rehabilitation industry as a whole is providing patients with an unwarranted level of care. They claim the accusations are based on the analyses of a "few alleged experts who have never cared for, spoken with or even seen the patients in question."

Under the False Claims Act, private parties may file complaints on behalf of the government, and the government can choose to participate or decline to join in the lawsuit. The whistleblowers who initially filed lawsuits in this case are identified as occupational therapist Christine Ribik, physical therapist Patrick Gerard Carson and physical therapist Marie Slough. All three parties were employed by Heartland Employment Services, which leases workers to HCR ManorCare facilities.

If found liable in the case, HCR ManorCare could be ordered to pay three times the government's losses as well as civil penalties.

For more information/questions regarding any legal matters, please email info@nelsonhardiman.com or call 310.203.2800.