



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, APRIL 4, 2011
WWW.JUSTICE.GOV

CIV
(202) 514-2007
TDD (202) 514-1888

NORTH CAROLINA HOSPITAL TO PAY U.S. \$1.9 MILLION TO RESOLVE ALLEGATIONS RELATED TO KYPHOPLASTY AND OTHER PROCEDURES

WASHINGTON – Rex Healthcare, a 655-bed hospital in Raleigh, N.C., has agreed to pay the United States \$1.9 million, plus interest, to settle allegations that it submitted false claims to Medicare, the Justice Department announced today. The government alleges that the hospital routinely submitted claims to Medicare for a variety of minimally-invasive procedures during the period 2004 through 2007, which the hospital classified as inpatient admissions in order to increase its reimbursement from Medicare, despite the absence of medical necessity justifying the more expensive inpatient admissions.

The allegations arise from a lawsuit that was brought under the *qui tam*, or whistleblower, provisions of the False Claims Act, which permit private citizens with knowledge of fraud against the government to bring an action on behalf of the United States and to share in any recovery. The lawsuit was filed in 2008 in federal district court in Buffalo, N.Y., by former Kyphon employees Craig Patrick and Charles Bates. They will receive a total of approximately \$80,000 as their share of the settlement proceeds for those claims related to kyphoplasty claims. The settlement also involves claims related to a variety of other minimally-invasive procedures that the hospital classified as inpatient admissions in order to increase its reimbursement when less costly outpatient visits would have been appropriate.

“We pursue cases like this because when hospitals submit false claims in order to increase their Medicare reimbursement, as we allege here, it artificially drives up the cost of health care, leaving taxpayers to foot the inflated bill,” said Tony West, Assistant Attorney General for the Justice Department’s Civil Division.

“This settlement shows the continuing commitment by the U.S. Attorney’s Office for the Western District of New York to investigate and recover any improper billings for kyphoplasty procedures and to partner with our colleagues in other U.S. Attorney Offices when necessary to remedy similar billing abuses related to non-kyphoplasty procedures,” said William J. Hochul Jr., U.S. Attorney for the Western District of New York.

"This resolution demonstrates the department's ability to coordinate efficiently among districts and with our partners at the U.S. Department of Health and Human Services to achieve a comprehensive and fair result," said George E.B. Holding, U.S. Attorney for the Eastern District of North Carolina. "We are committed to ensuring that Medicare funds are expended appropriately in all cases."

"Submitting inflated claims - as Rex Healthcare is alleged to have done - drains critically-needed dollars from government health care programs," said Daniel R. Levinson, Inspector General for the U.S. Department of Health and Human Services. "OIG is committed to working closely with our law enforcement partners to pursue and hold accountable entities that defraud Medicare and ultimately U.S. taxpayers."

Assistant Attorney General West noted that the settlements with these hospitals were the result of a coordinated effort among the Justice Department's Civil Division, the U.S. Attorney's Office for the Western District of New York, the U.S. Attorney's Office for the Eastern District of North Carolina and the Department of Health and Human Services' Office of Inspector General.

This resolution is part of the government's emphasis on combating health care fraud and another step for the Health Care Fraud Prevention and Enforcement Action Team (HEAT) initiative, which was announced by Attorney General Eric Holder and Kathleen Sebelius, Secretary of the Department of Health and Human Services in May 2009. 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 that effort is the False Claims Act, which the Justice Department has used to recover approximately \$5.3 billion since January 2009 in cases involving fraud against federal health care programs. The Justice Department's total recoveries in False Claims Act cases since January 2009 have topped \$6.8 billion.

###