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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA ex rel.  
CHRISTINA MYRUSKI and GLYNIS  
COWART,

Plaintiffs,

v.

ADVANCED HEALTH PARTNERS, INC.,  
f/k/a MEDICOM MANAGEMENT  
SERVICES, INC., *et al.*,

Defendants.

**COMPLAINT-IN-INTERVENTION OF  
THE UNITED STATES OF AMERICA**

14 Civ. 7048 (NSR)

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

ADVANCED HEALTH PARTNERS, INC.,  
MEDEXCEL USA, INC., MEDEXCEL  
EMERGENCY PHYSICIAN SERVICES OF  
YONKERS, P.L.L.C., and TRI-STATE  
EMERGENCY PHYSICIANS, PLLC,

Defendants.

14 Civ. 7048 (NSR)

The United States of America, by its attorney, Damian Williams, United States Attorney for the Southern District of New York, alleges for its complaint-in-intervention as

follows:

**PRELIMINARY STATEMENT**

1. This is a civil fraud action brought by the United States of America (the “United States” or the “Government”) against Advanced Health Partners, Inc. (“Advanced Health Partners”) f/k/a Medicom Management Services, Inc.; Medexcel USA, Inc. (“Medexcel”); Medexcel Emergency Physician Services of Yonkers, P.L.L.C. (“MEPSY”); and Tri-State Emergency Physicians, PLLC (“Tri-State,” and together with other defendants, “Defendants”), under the False Claims Act (the “FCA”), 31 U.S.C. §§ 3729-3733, to recover treble damages sustained by, and civil penalties owed to, the Government resulting from the submission of false and fraudulent claims for reimbursements to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 *et seq.* (“Medicare”),

2. MEPSY, Tri-State, Advanced Health Partners and Medexcel all share some common ownership and have the same principal place of business. MEPSY and Tri-State provide medical staff to hospital emergency rooms in New York State. Advanced Health Partners provides billing and coding services to MEPSY and Tri-State (the “Practice Groups”), along with other hospital emergency department practice groups. Medexcel provides additional management services for professional limited liability companies, including the Practice Groups. Additionally, Medexcel, at times, advised Advanced Health Partners as to which National Provider Identification numbers (“NPI”) to use when submitting claims for payment on behalf of the Practice Groups.

3. As set forth more fully below, between 2007 and 2017 (the “Relevant Period”), Defendants engaged in a fraudulent scheme resulting in the submission to Medicare of false and fraudulent claims for reimbursements. More specifically, Defendants submitted or caused the

submission of claims to Medicare using the name and NPI of physicians who did not perform or supervise the medical services claimed. In fact, when submitting such claims, Advanced Health Partners frequently used the NPIs of physicians who were no longer employed by the Practice Groups.

4. Medicare rules generally require services to be billed using the NPI of the provider who provided the services. Medicare would not have paid these claims had it known that the physicians represented to have performed the services, did not render or supervise the services and, in fact, were not even employed by the Practice Groups.

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over the claims brought under the False Claims Act pursuant to 31 U.S.C. § 3730(a) and 28 U.S.C. §§ 1331 and 1345.

6. Venue lies in this District pursuant to 31 U.S.C. § 3732(a) and 28 U.S.C. §§ 1391(b) and 1391(c) because Defendants transact business in this district.

#### **THE PARTIES**

7. Plaintiff is the United States of America suing on its own behalf and on behalf of the United States Department of Health and Human Services (“HHS”), and its component agency, the Centers for Medicare and Medicaid Services (“CMS”), which administers the Medicare Program.

8. Defendant Advanced Health Partners, formerly known as Medicom Management Services, Inc., is a New York corporation. It provides various business services to medical practice groups, including electronic health record services, practice management services, and billing and coding services. Its principal place of business is located at 484 Temple Hill Road, New Windsor, New York 12553.

9. Defendant Medexcel is a New York corporation and is an affiliate of Advanced Health Partners with some common ownership. Medexcel provides various business services to healthcare companies, including management services for medical practice groups. Its principal place of business is also located at 484 Temple Hill Road, New Windsor, New York 12553.

10. Defendant Tri-State is a New York professional service limited liability company. During the relevant period, Tri-State operated the emergency departments at three hospitals in Rockland and Orange counties. Tri-State also has a principal place of business at 484 Temple Hill Road, New Windsor, New York 12553.

11. Defendant MEPSY is a New York professional service limited liability company. During the relevant period, MEPSY operated the emergency department at a hospital in Westchester County. MEPSY also has a principal place of business at 484 Temple Hill Road, New Windsor, New York 12553.

## **RELEVANT BACKGROUND**

### **A. The Medicare Program**

12. In 1965, Congress enacted Title XVIII of the Social Security Act, known as the Medicare program, to pay for the costs of certain healthcare services. Entitlement to Medicare is based on age, disability or affliction with end-stage renal disease. *See* 42 U.S.C. §§ 426, 426A.

13. Medicare has several parts, including Part B, which is primarily for physician and other ancillary services. Claims for Medicare Part B services are submitted on CMS form 1500.

14. The CMS 1500 form requires the physician who signs the form to represent that: “[i]n submitting this claim for payment from federal funds, I certify that: ... the services on this form were ... personally furnished by me.” Under the line, “Signature of Physician (or Supplier),” the individual is also directed to represent: “I certify that the services listed above ...

were personally furnished by me.” In the Medicare Program Integrity Manual, CMS lists, as an example of Medicare fraud, misrepresenting the identity of the individual who furnished the services. *See* Medicare Program Integrity Manual, Ex 27, Section 4.2.1, Rev. 675, effective 12-12-16.

## **B. National Provider Identification Numbers**

15. The NPI is a unique 10-digit identification number for healthcare providers that is used by all health plans, including Medicare, in the submission of claims for reimbursement. All healthcare providers are eligible to receive an NPI. All Health Insurance Portability and Accountability Act (“HIPAA”) covered healthcare providers, whether they are individuals (such as physicians, nurses, dentists, chiropractors, physical therapists, or pharmacists) or organizations (such as hospitals and clinics, group practices, etc.) must obtain an NPI in order to identify themselves in HIPAA standard transactions, such as Medicare claim submissions.

## **C. False Claims Act**

16. The FCA establishes liability to the United States for any person who “knowingly presents, or causes to be presented, to an officer or employee of the United States Government . . . a false or fraudulent claim for payment or approval,” 31 U.S.C. § 3729(a)(1), or “knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim,” *id.* § 3729(a)(1)(B).

17. Under the FCA, the term “knowingly” is defined to include actual knowledge, reckless disregard, and deliberate indifference. *Id.* § 3729(b)(1). No proof of specific intent to defraud the Government is required. *Id.*

18. The FCA imposes liability of treble damages plus a civil penalty for each false claim. *Id.* § 3729(a)(1).

## FACTUAL ALLEGATIONS

19. During the Relevant Period, Defendants submitted or caused the submission of claims to Medicare using the NPIs of physicians who did not perform the services claimed. In particular, Advanced Health Partners submitted claims to Medicare, on behalf of the Practice Groups, using the NPIs of physicians who had previously been employed at the Practice Groups but were no longer employed there at the time of the billed-for services. Throughout the relevant period, Medexcel provided back-office support and guidance to Advanced Health Partners concerning its billing practices, including, in some instances, by directing which physician's NPI to use to bill for specific services.

20. In some instances, Advanced Health Partners submitted claims on behalf of the Practice Groups under the NPIs of physicians who had not worked at the Practice Groups for years. For example, during the Relevant Period, Tri-State operated Hospital Z's emergency department. Through this arrangement, Dr. A, a Tri-State employee, served as the Medical Director of Hospital Z's emergency department from August 1, 2009 until September 6, 2011, at which point Dr. A ceased to be employed by Tri-State and stopped working at Hospital Z. Nevertheless, in 2012 and 2013 alone, Advanced Health Partners submitted to Medicare more than 1800 claims for payment to Medicare in which it falsely represented that Dr. A performed services at Hospital Z.

21. Similarly, Dr. B, a Tri-State employee, served as a physician in Hospital Y's emergency department from November 14, 2010 through January 26, 2013, at which point Dr. B ceased to be employee by Tri-State and stopped working at Hospital Y. However, between July 2013 and 2014, Advanced Health Partners submitted more than 750 claims to Medicare for payment in which it falsely represented that Dr. B performed services at Hospital Y.

22. Further, Dr. C was employed by Tri-State only for a few months, from August 3 to December 1, 2009, and during this time Dr. C served as a physician at Hospital X's emergency room. However, in 2010 and 2011, Advanced Health Partners submitted more than 900 claims for payment to Medicare in which it falsely represented that Dr. C performed services at Hospital X.

23. The same conduct occurred with employees of MEPSY. During the Relevant Period, MEPSY operated the emergency room of Hospital W. In addition to being the Medical Director at Hospital Z through his employment with Tri-State, Dr. A also served as a physician in Hospital W's emergency department from June 30, 2006 through September 15, 2010, at which point Dr. A ceased working for MESPY and Hospital W. Nonetheless, in 2011 and 2012, Advanced Health Partners submitted more than 930 claims for payment to Medicare in which it falsely represented that Dr. A performed services at Hospital W.

24. All told, between 2007 and 2017, Defendants submitted, or caused the submission of, thousands of claims to Medicare using the NPIs of over a dozen different physicians who did not perform or supervise the services in question and, in fact, no longer worked at the Practice Groups or the hospital emergency departments at which the services were rendered. Had Medicare known that the physicians whose NPIs were used to bill Medicare did not render or supervise the services in question, Medicare would not have paid these claims.

25. For example, Advanced Health Partners (on behalf of Tri-State) submitted a claim to Medicare for services rendered to Patient J on May 5, 2013, at Hospital Z. Advanced Health Partners billed these services through the NPI of Dr. A; however, Dr. A did not provide or supervise the services in question and, in fact, had not been employed at Tri-State or worked in Hospital Z's emergency department since September of 2011. Had Medicare known that Dr. A

was not the actual rendering physician, it would not have paid this claim.

26. Similarly, Advanced Health Partners (on behalf of Tri-State) submitted a claim to Medicare for services rendered to Patient K on January 6, 2014, at Hospital Y. Advanced Health Partners billed these services through the NPI of Dr. B; however, Dr. B did not provide or supervise the services in question and, in fact, had not been employed at Tri-State or worked in Hospital Y's emergency department since January of 2013. Had Medicare known that Dr. B was not the actual rendering physician, it would not have paid this claim.

27. Likewise, Advanced Health Partners (on behalf of MEPSY) submitted a claim to Medicare for services rendered to Patient L on January 31, 2012, at Hospital W. Advanced Health Partners billed these services through the NPI of Dr. A; however, Dr. A did not provide or supervise the services in question and, in fact, had not been employed at MESP Y or worked in Hospital W's emergency department since September of 2010. Had Medicare known that Dr. A was not the actual rendering physician, it would not have paid this claim.

28. And similarly, Advanced Health Partners (on behalf of MEPSY) submitted a claim to Medicare for services rendered to Patient M on March 13, 2014, at Hospital W. Advanced Health Partners billed these services through the NPI of Dr. C; however, Dr. C did not provide or supervise the services in question and, in fact, had not been employed at MESP Y or worked in Hospital W's emergency department since August of 2013. Had Medicare known that Dr. C was not the actual rendering physician, it would not have paid this claim.

**CLAIM FOR RELIEF**

**FIRST CLAIM**

**Violation of the False Claims Act: Presenting False Claims for Payment  
(31 U.S.C. § 3729(a)(1)(A))**

29. The United States incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

30. The Government seeks relief against Defendants under Section 3729(a)(1)(A) of the False Claims Act.

31. As a result of billing for medical services using the NPIs of physicians who did not perform or supervise the services, Defendants knowingly presented or caused false claims to be presented for reimbursement by Medicare, in violation of 31 U.S.C. § 3729(a)(1)(A).

32. By reason of these false or fraudulent claims that Defendants presented or caused to be presented to Medicare, the United States has paid substantial Medicare reimbursements to Defendants, and is entitled to recover treble damages plus a civil monetary penalty for each false claim.

**SECOND CLAIM**

**Violation of the False Claims Act: Use of False Statements  
(31 U.S.C. § 3729(a)(1)(B))**

33. The United States incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

34. The Government seeks relief against Defendants under Section 3729(a)(1)(B) of the False Claims Act.

35. As a result of billing for medical services using the NPIs of physicians who did not perform or supervise the services, Defendants knowingly caused false records or statements

to be made that were material to getting false or fraudulent claims paid by Medicare, in violation of 31 U.S.C. § 3729(a)(1)(B).

36. By reason of these false or fraudulent records or statements that Defendants caused to be made, the United States has paid substantial Medicare reimbursements to Defendants, and is entitled to recover treble damages.

### **PRAYER FOR RELIEF**

WHEREFORE, the United States demands judgment against the Defendants as follows:

- A. A sum equal to treble the United States' damages and civil penalties to the maximum amount allowed by law;
- B. Award of costs pursuant to 31 U.S.C. § 3792(a)(3); and
- C. Such further relief as is proper.

Dated: New York, New York  
July 24, 2023

Respectfully submitted,

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Southern District of New York  
Attorney for the United States

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