



# Department of Justice

R. Booth Goodwin II, United States Attorney

Southern District of West Virginia

FOR IMMEDIATE RELEASE  
June 9, 2010  
<http://www.usdoj.gov/usao/wvs/>

CONTACT: Tracy Dorsey Chapman  
800-659-8726\*(304)345-2200  
Tracy.Chapman@usdoj.gov

## **WEST VIRGINIA PHARMACY ORDERED TO PAY \$80,000 FINE FOR DEFRAUDING MEDICAID**

### *US Attorney Joins National Efforts to Combat Health Care Fraud*

CHARLESTON, W.Va. – Pharmicare, Inc. d/b/a Pineville Pharmacy (hereinafter "Pharmacare") was sentenced today by U.S. District Judge Irene C. Berger to pay an \$80,000 fine and serve two years probation for engaging in two schemes to defraud Medicaid out of \$80,461.74. Pharmicare previously paid \$250,000 to settle a civil claim by the United States arising out of the same conduct. Pharmicare, through its President and Owner, Rhonda Rose, previously pled guilty on December 16, 2009. At that time, Rose admitted to the following facts:

Pharmacare is a so-called "compounding" pharmacy. Compounding is the mixing of drugs by a pharmacist to fit the unique needs of a patient. This may be done for medically necessary reasons, such as to change the form of the medication from a solid pill to a liquid, to avoid a non-essential ingredient that the patient is allergic to, or to obtain the exact dose needed. It may also be done for voluntary reasons, such as adding favorite flavors to a medication. Pharmicare engaged in the following two fraudulent schemes:

#### Rounding Up

Medicaid requires pharmacies, and compounding pharmacies in this particular case, to include the exact units of quantities of substances dispensed, including any decimal units, in claims for reimbursement. During the period between March of 2003, and continuing until February of 2006, Pharmicare submitted or caused the submission of false claims to Medicaid in which they "rounded up" decimal units of oxycodone and hydrocodone that were purportedly used in compounding drugs dispensed to Medicaid recipients. That is, by way of example, if 1.5 units of medication was used in the compounding process, Pharmicare would submit a claim to Medicaid representing that 2 units of the medication were used in the compounding process. Medicaid relied on these false representations and paid Pharmicare more than \$27,876.98 in excess of the amount to which it was entitled.

#### Reversals

Beginning in April of 2005, and continuing through December of 2005, Pharmicare used Spectrum oxycodone hcl powder purchased in bulk quantities of 100 gram units (NDC 49452003404), to compound various prescriptions for which claims were submitted to Medicaid for reimbursement. Pharmicare sought Medicaid reimbursement for these prescriptions falsely claiming that they had used Mallinckrodt oxycodone hcl powder purchased in 5 gram units (NDC 00406886553), a substance with a higher rate of Medicaid reimbursement than the Spectrum oxycodone hcl powder. Medicaid relied on these false claims, and reimbursed Pharmicare for the Mallinckrodt oxycodone hcl powder, though the prescriptions were actually compounded with the Spectrum oxycodone hcl powder. Thereafter, Pharmicare administratively "reversed" the Medicaid claims for the Mallinckrodt oxycodone hcl powder 5 gram units, and re-billed

those same prescriptions falsely claiming that Pharmicare had used oxycodone hcl powder purchased in 1 gram units from yet another manufacturer, PCCA (NDC 51927100800). The PCCA oxycodone hcl powder had a significantly higher rate of reimbursement than the Spectrum or Mallinckrodt oxycodone hcl powder. Medicaid relied on these false claims and paid Pharmicare more than \$52,584.76 in excess of the amount to which it was entitled.

Judge Berger required that Pharmicare pay its \$80,000 fine within 10 days, which fine was toward the middle of the U.S. Sentencing Guideline range of \$51,000-\$120,000. In response to the sentence, U.S. Attorney Booth Goodwin stated, "the Department of Justice is committed to safeguarding our healthcare dollars. This office will do all within its power to bring to justice and hold accountable those who would bilk our Medicare and Medicaid system of precious dollars."

In May 2009, the Department of Justice established the Health Care Fraud Prevention and Enforcement Action Team (HEAT), an unprecedented partnership between the Department of Justice and the Department of Health and Human Services to combat health care fraud. "While this case involved public dollars, it is important to note that criminals don't discriminate. They will steal from Medicare, Medicaid, or private industry. Nearly every American, however they are covered, is victimized by health care fraud every day," stated U.S. Attorney Goodwin. Since January 2009, the Department of Justice Civil Division and U.S. Attorneys' Offices have recovered more than \$2.2 billion in cases involving fraud against federal health care programs. That brings health care fraud recoveries since 1986 to over \$16 billion.

###