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Ascension Michigan to Pay \$2.8 Million to Resolve False Claims Act Allegations

WASHINGTON – Ascension Michigan and related hospitals, Providence Park Hospital, St. John Hospital and Medical Center, St. John Macomb Oakland Hospital and Ascension Crittenton Hospital (collectively, Ascension Michigan), all located in Michigan, have agreed to pay \$2.8 million to resolve claims that they violated the False Claims Act by submitting or causing the submission of false claims for payment to federal health care programs related to alleged medically unnecessary procedures performed by a gynecologic oncologist (the “Doctor”).

“When hospitals receive payment from federal health care programs for medically unnecessary surgical procedures, they cannot simply retain those payments; they have an obligation to return them,” said Acting Assistant Attorney General Brian M. Boynton of the Justice Department’s Civil Division. “We will continue to ensure that taxpayer funds are used appropriately for the important programs that they support.”

The settlement announced today resolves allegations that, from Feb. 1, 2011, through June 30, 2017, Ascension Michigan knowingly submitted false claims for payment to federal health care programs and improperly retained payment for professional and facility fees related to medically unnecessary radical hysterectomies that the Doctor performed, chemotherapy services that the Doctor administered or ordered that were not medically necessary, and evaluation and management services by the Doctor that were not performed or not rendered as represented. The government alleged that Ascension Michigan had concerns about the quality of care provided by the Doctor due to patient complaints and his suspected higher than average rates of pulmonary embolisms and surgical infections. The government further alleged that, as a result of these concerns, Ascension Michigan engaged a third-party doctor to conduct a peer review of a sample of the Doctor’s patients, which found that, for the majority of the radical hysterectomies and chemotherapy performed by the Doctor, a less aggressive surgery or medical intervention would have been the standard of care.

“Health care providers cannot avoid their obligation to repay government funds owed to federal health care programs,” said Acting U.S. Attorney Saima Mohsin for the Eastern District of Michigan. “We will vigorously pursue those who knowingly fail to repay monies they have received based on services which were not medically necessary or not rendered as billed.”

On June 28, 2018, Ascension Michigan made a submission under the Provider Self-Disclosure Protocol of the U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG) related to professional and facility fees it billed to federal health care programs for services provided by the Doctor. Though Ascension Michigan initially improperly retained the monies that it collected related to its billings, Ascension Michigan cooperated in the government’s investigation and took active steps to address concerns related to the Doctor by: (i) engaging a third-party doctor

to conduct the peer review; (ii) placing the Doctor on a performance improvement plan; (iii) ending its contractual relationship with the Doctor; and (iv) submitting the self-disclosure.

“Our agency will continue to hold accountable medical providers who perform medically unnecessary procedures and then inappropriately bill federal health care programs,” said Special Agent in Charge Lamont Pugh III of HHS-OIG. “Working with our law enforcement partners, we will continue to investigate such misconduct to protect beneficiaries and the taxpayer-funded health care programs serving those beneficiaries.”

The civil settlement includes the resolution of claims brought by Pamela Satchwell, Dawn Kasdorf and Bethany Silva-Gomez under the *qui tam* or whistleblower provisions of the False Claims Act. Under these provisions, a private party can file an action on behalf of the United States and receive a portion of any recovery. The *qui tam* case is captioned *United States ex rel. Satchwell v. Ascension Health*, No. 17-CV-12315 (E.D. Mich.). Relators will receive a combined payment in the amount \$532,000.

The resolution obtained in this matter was the result of a coordinated effort between the Civil Division’s Commercial Litigation Branch, Fraud Section, and the U.S. Attorney’s Office for the Eastern District of Michigan, with assistance from HHS-OIG and the U.S. Defense Health Agency, Office of Program Integrity.

The investigation and resolution of this matter illustrates the government’s emphasis on combating health care 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 investigated by Trial Attorney Denise Barnes of the Civil Division’s Commercial Litigation Branch, Fraud Section, and Assistant U.S. Attorney Carolyn Bell-Harbin of the U.S. Attorney’s Office for the Eastern District of Michigan.

The claims resolved by the settlement are allegations only, and there has been no determination of liability.

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