



# Department of Justice

Carlton S. Shier, IV  
United States Attorney  
Eastern District of Kentucky

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CONTACT: Gabrielle Dudgeon  
PHONE: (859) 685-4887  
E-MAIL: [gabrielle.dudgeon@usdoj.gov](mailto:gabrielle.dudgeon@usdoj.gov)

## Drug Testing Companies Agree To Collectively Pay \$1.7 Million to Resolve False Claims Act Allegations

**LEXINGTON, Ky.** — Two Kentucky-based businesses involved in performing urine drug tests for the family court system have agreed to collectively pay \$1,740,620 to resolve civil allegations that they improperly billed those tests to Medicare and Kentucky Medicaid.

Blue Waters Assessment and Testing Services, LLC (“BATS”) is a Lexington-based business that provides services relating to urine drug testing, including the collection of specimens from individuals who were ordered by the Fayette County family courts to receive such testing as part of their court cases. BATS sent the specimens to VerraLab JA, LLC, a clinical laboratory based in Louisville that does business under the name BioTap Medical (“BioTap”). BioTap performed the urine drug tests and billed them to Kentucky Medicaid and Medicare.

Billing these tests to Kentucky Medicaid and Medicare violated the False Claims Act, a federal law that prohibits the submission of false or fraudulent claims for payment to the federal government, because Medicaid and Medicare only pay for laboratory tests used for purposes of medical diagnosis or treatment. Medicare and Medicaid – as federally-funded health insurance programs – do *not* pay for tests performed for non-medical reasons, such as those that are performed only to satisfy a court order. In fact, Medicaid’s regulations explicitly prohibit reimbursement for laboratory tests, such as urine drug tests, that were ordered by a court.

The Government alleged that BioTap knew that the urine drug tests at issue were court-ordered, and not used for medical diagnosis or treatment, but billed those tests to Medicare and Medicaid anyway. As a result, BioTap received reimbursements from Medicare and Medicaid to which it was not entitled. Under the terms of the Settlement Agreements, BioTap agreed to pay \$1,490,620 to resolve allegations it submitted false claims. BATS and its owner, David Waters, agreed to pay \$250,000 for their alleged roles in causing the submission of false claims; the settlement with BATS and Waters was pursuant to the Department of Justice’s inability-to-pay policy.

“The federal Medicaid and Medicare programs are designed – and funded – to provide health care benefits to eligible individuals with a medical necessity,” said Carlton S. Shier, IV, United States Attorney for the Eastern District of Kentucky. “These lab tests were not medically necessary and were improperly billed to these programs. It is important to all of us that steps are

taken to return such misapplied funds to their appropriate purpose – providing medical care.”

“Submitting false claims to Medicare or Medicaid wastes taxpayer dollars and undermines the integrity of those programs,” said Tamala E. Miles, Special Agent in Charge at the Department of Health and Human Services, Office of Inspector General (HHS-OIG). “HHS-OIG remains committed to ensuring that those who attempt to take valuable resources away from their intended recipients are held accountable.”

The settlements resolve a lawsuit brought by two private citizens under the *qui tam* provisions of the False Claims Act. Under those provisions, a private party can file a civil action on behalf of the United States, thereby bringing allegations of fraud to the Government’s attention, and share in any financial recovery. As part of this resolution, the individuals who filed the *qui tam* complaint will receive approximately \$295,000 from the settlements.

This case was investigated by the U.S. Department of Health and Human Services, Office of Inspector General and the Affirmative Civil Enforcement section of the U.S. Attorney’s Office. Assistant United States Attorney Christine Corndorf represented the United States.

This case is captioned *United States ex rel. Nam Nguyen & Misty Nall v. Blue Waters Assessment & Testing Services, LLC; Crossroads Counseling Services, Inc.; David Waters; and VerraLab JA, LLC*, Case No. 5:21-CV-00297-DCR. The claims resolved by the settlements are allegations only, and there has been no determination of liability.

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