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Medical Supplier Pays Feds \$1.9M To End FCA Suit

By **Dani Kass**

Law360 (May 29, 2018, 5:30 PM EDT) -- Medical equipment supplier Precision Medical Products Inc. has agreed to pay \$1.9 million to settle a series of allegations that it defrauded Medicare and Tricare in violation of the False Claims Act, according to California federal prosecutors.

A trio of whistleblowers had accused PMP and two of its executives of providing kickbacks in exchange for referrals, billing the government for equipment not provided or needed, forging medical documents and other misconduct. The settlement, announced Friday, doesn't come with a finding of liability, and PMP maintains that it didn't engage in illegal activity.

"During the course of the investigation, Precision fully complied with all requests for information," co-defendant Marc Reynolds, PMP's former CEO and current president of billing, said in a statement Tuesday. "There has been no evidence to support the allegations of fraud that were made against our organization."

The whistleblowers first sued PMP, Reynolds and CEO Jeremy Perkins in 2015, under seal. The relators were the proprietor of a medical billing company PMP used, a manager in that billing company and a PMP sales representative. The government intervened on May 18 to take part in the settlement, and the case was unsealed a few days later.

The suit alleges that between Jan. 1, 2011, and Dec. 1, 2017, PMP paid its sales representatives commissions based on the amount of reimbursements they could get out of Medicare, California's MediCal, or Tricare — acts the suit argues constitute an illegal kickback.

The company would then forge medical documents to get orders approved and get the related government reimbursements, according to the complaint. The suit details several of the alleged methods used to do this, including one called "magic time," in which an employee would trace a physician's signature onto another piece of paper, and "ninja drive," wherein the company would use a presigned form to certify what it needed.

The whistleblowers also said PMP would get free samples of products, including bone growth stimulators, then provide them to patients and illegally bill Medicare for them.

In other instances, the company would allegedly waive co-insurance to make sure patients would be able to get equipment that they otherwise couldn't afford, and for which PMP could then bill the government, the suit said.

Among the remaining allegations, the whistleblowers claimed PMP would bill the government for equipment that patients didn't medically need or that they never actually received, in violation of Medicare rules, and that they retaliated against the sales representative whistleblower by demoting and eventually firing him.

The whistleblowers will receive a combined \$323,000 from the deal, prosecutors said.

"This settlement is yet another example of our commitment to hold accountable providers who place profits over patients," said Steven J. Ryan of the U.S. Department of Health and Human Services Office of Inspector General. "Paying claims stemming from improper referrals drains resources from the Medicare program that should be used to pay for medically reasonable and necessary health care

for Medicare beneficiaries."

In response to the settlement, PMP stressed it was never found to have violated the law, and that it settled "to avoid the significant legal costs and disruption to business operations." The company also noted that it wasn't required to sign a corporate integrity agreement, as is often required in FCA deals.

Counsel for the relators didn't immediately respond to a request for comment Tuesday.

The relators are represented by Leslie S. Guillon of the Arnold Law Firm.

The U.S. is represented by Assistant U.S. Attorney John R. Edwards.

PMP is represented by Brian M. Taylor of Boutin Jones Inc..

The case is Van der Boom et al. v. Precision Medical Products Inc. et al., case number 2:15-cv-00428, in the U.S. District Court for the Eastern District of California.

--Editing by Catherine Sum.

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