



NATIONAL ASSOCIATION OF MEDICAID FRAUD CONTROL UNITS

MEDICAL DEVICE MANUFACTURER TO PAY \$2 MILLION TO RESOLVE KICKBACK ALLEGATIONS

The National Association of Medicaid Fraud Control Units (NAMFCU) announced on June 9, 2021 that 7 states have joined the United States in settling allegations against Medicea USA, Inc. and Medicea International (collectively “Medicea”) (which Medtronic USA Inc. recently acquired) provided items of value in the form of meals, alcoholic beverages, entertainment, and travel expenses to U.S.-based physicians at events surrounding the Scoliosis Research Society’s September 2013 Congress in Lyon, France. The United States alleged that Medicea provided the benefits to induce the physicians to purchase or order (or to arrange for or recommend that affiliated hospitals purchase or order) Medicea’s spinal devices, and that this resulted in false payment claims to federal healthcare programs under the provisions of the Anti-Kickback Statute. The total value of the settlement is \$2 million.

The Anti-Kickback Statute prohibits medical device manufacturers from directly or indirectly offering or paying anything of value to induce the referral of items or services, such as device orders or purchases, covered by Medicare, Medicaid, TRICARE, or other federal healthcare programs. The State contends that this conduct violated the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b)(1)(B) (“AKS”) and the related State false claims act statutes, and resulted in claims submitted to, or purchases made by, the state Medicaid Program between October 1, 2013 and December 31, 2015.

The civil settlement includes the resolution of claims brought under the *qui tam* or whistleblower provisions of the False Claims Act statute. The suit was filed in the Eastern District of Pennsylvania and is captioned *United States of America, et al., ex rel. Dory Frain v. Medicea USA Corporation*, Civil Action No. 16-1986. The settled claims are allegations only; there has been no determination of liability.

A NAMFCU Team investigated the allegations in conjunction with the Department of Justice and United States Attorney’s Office in the Eastern District of Pennsylvania. The NAMFCU Team included representatives from the Offices of the Attorneys General for the states of Washington, Wisconsin, Florida, Texas, New York, and North Carolina.