



NATIONAL ASSOCIATION OF MEDICAID FRAUD CONTROL UNITS

MERIT TO PAY \$18 MILLION TO RESOLVE FALSE CLAIMS AND KICKBACK ALLEGATIONS RELATED TO THE SALE OF ITS MEDICAL DEVICES

The National Association of Medicaid Fraud Control Units (NAMFCU) announced on January 21, 2021 that 34 states and the District of Columbia joined with the federal government to reach an agreement with Merit Medical Systems, Inc. (“Merit”) to settle allegations that Merit offered unlawful kickbacks to healthcare providers in order to induce them to purchase Merit medical devices. Merit is a Utah-based medical device manufacturer that markets and sells embolotherapeutic devices used to treat arteriovenous malformations, symptomatic uterine fibroids, and hypervascular tumors. Merit agreed to pay the states and the federal government \$18 million dollars, \$5,580,000.00 of which will go to the Medicaid programs, to resolve civil allegations that Merit’s unlawful promotion of its medical devices caused false claims to be submitted to government health care programs.

Specifically, the settlement resolves allegations that from September 1, 2010 to March 31, 2017, Merit offered and paid physicians, medical practices, and hospitals (collectively, “Healthcare Providers”) millions of dollars through its Local Advertising Program (“LAP”) in free advertising assistance, practice development, practice support, and purportedly unrestricted “educational” grants to induce the Healthcare Providers to purchase and use Merit products in medical procedures performed on Medicaid beneficiaries. Merit used the LAP to reward their high-volume customers with patient referrals and financial advertising support but removed those customers from the program if they did not convert to or increase their use of Merit’s devices in their Uterine Fibroid Embolization procedures. This settlement arises from a *qui tam* action filed in the United States District Court for the District of New Jersey in 2016 under the federal False Claims Act and various state false claims statutes.

A NAMFCU Team participated in the settlement negotiations with Merit on behalf of the states. The Team included representatives from the Offices of the Attorneys General for the states of California, Illinois, Indiana, New York, Oklahoma, and Virginia.