**Whistleblower lawsuit: Monroeville nurse to get $15 million for exposing Medicare false claims**

By **Kent Faulk | kfaulk@al.com**

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**BIRMINGHAM, Alabama** - A Monroeville nurse will get just over $15 million for blowing the whistle on fraud at a national home healthcare company where she once worked, her attorney says.

The money comes from $150 million that **Amedisys Inc.**, a Baton Rouge, La.-based home health company operating in 37 states, agreed to pay in a settlement announced today by Joyce Vance, the U.S. Attorney for the Northern District of Alabama, and Department of Justice officials.

The company admits no wrong-doing. But justice department officials claim the company made false claims for Medicare and other government healthcare insurance programs.

"Amedisys made false Medicare claims, depriving the American taxpayer of millions of dollars and unlawfully enriching Amedisys," Vance stated in a press release. "The vigorous enforcement work by assistant U.S. attorneys in my office, along with their colleagues in North Georgia, Eastern Pennsylvania, Eastern Kentucky and the Civil Division of the Justice Department, has secured the return of $150 million to the taxpayers and stands as a warning to future wrongdoers that we will aggressively pursue them."
April Brown, a nurse in Monroeville, in 2010 filed a federal lawsuit in Birmingham against Amedisys. The lawsuit claims the company violated the False Claims Act by submitting false home healthcare billings to Medicare for home health services, her attorney, Jim Barger, of Birmingham, said.

Brown was a home health nurse and was seeing patients in the Monroeville area, Barger said. Amedisys was asking her to bill for services she was not actually providing or that were not necessary, he said.

Nurses had to check off boxes on computerized forms during patient visits, Barger said. But the way the electronic forms were set up the patients were always coded for the highest level of service and the forms did not represent the patients’ true condition.

"They were making the patients look sicker than they really were," Barger said. Brown also had patients who were not really home-bound, he said.

Brown, who was fired after questioning the practice, was the first to file a qui tam - or whistleblower - lawsuit. Her suit and six others filed around the nation against Amedisys alleging improper billing by the company between 2008 and 2010 were consolidated in a federal court in Pennsylvania. The lawsuits were sealed from public view until today when the settlement was announced.

Under the federal False Claims Act a person can file a lawsuit against someone or a company on behalf of the U.S. Government for a wrongful act. If the U.S. Attorney’s Office agrees to intervene after an investigation, and there’s a settlement or judgment in the case, the person who filed it can get a small portion of that money.

According to today’s announcement from the Justice Department the whistleblowers who filed lawsuits - primarily former Amedisys employees - will collectively split over $26 million. Brown will get $15 million of that, Barger said.

The suits by the former employees alleged the billing violations were the alleged result of management pressure on nurses and therapists to provide care based on the financial benefits to Amedisys, rather than the needs of patients, according to the justice department announcement.
The settlement also resolves certain allegations that Amedisys maintained improper financial relationships with referring physicians, according to the justice department statement. The Anti-Kickback Statute and the Stark Statute restrict the financial relationships that home healthcare providers may have with doctors who refer patients to them. The United States alleged that Amedisys' financial relationship with a private oncology practice in Georgia - whereby Amedisys employees provided patient care coordination services to the oncology practice at below-market prices - violated statutory requirements.

Amedisys in November had hinted of a settlement regarding an investigation with the U.S. Justice Department in a quarterly report to investors. But the company gave no details regarding the claims.

"We have agreed to this tentative settlement without any admission of wrongdoing in order to resolve these matters and to avoid the uncertainty and expense of protracted litigation. In connection with the tentative settlement, we expect to enter into a corporate integrity agreement with the Office of the Inspector General - HHS," according to the statement in the quarterly report.

Corporate integrity agreements require the companies to implement compliance measures designed to avoid or promptly detect conduct similar to that which gave rise to a settlement. Such agreements and no admissions of wrong-doing are common in whistleblower settlements.

In a statement issued today Amdisys stated it maintains that "it operated according to stringent policies requiring that home health nursing and therapy services be delivered to qualifying patients having a medical need for such care, and only upon the direction of their physicians. Amedisys provides extensive training to its clinicians concerning these requirements and has made significant investments in its compliance program, which has been designed to comport with guidelines established by the Office of Inspector General, United States Department of Health and Human Services."

"We are pleased to put this matter behind us," stated Ronald A. LaBorde, President and Interim Chief Executive Officer. "We are intensely focused on achieving the best possible outcomes for our patients by providing the care they need, when they need it, in the comfort of their own homes. We strive diligently to ensure that our operations are fully compliant with Medicare program requirements."
The justice department said that the settlement illustrates the government’s emphasis on combating health care fraud—particularly with Medicare and Medicaid—and marks another achievement for the Health Care Fraud Prevention and Enforcement Action Team (HEAT) initiative, which was announced in May 2009 by Attorney General Eric Holder and Secretary of Health and Human Services Kathleen Sebelius. Since January 2009, the Justice Department has recovered a total of more than $19.2 billion through False Claims Act cases, with more than $13.6 billion of that amount recovered in cases involving fraud against federal health care programs.

Barger said he had great respect and appreciation for Vance and the prosecutors, including former Assistant U.S. Attorney Lloyd Peeples, who worked to bring the Amedisys case to a settlement.

The whistleblower money will be a great relief to April Brown, Barger said.

After being fired, Brown worked part-time shifts at a local hospital and cleaned condos on the beach to eke out a living, said her attorney, Jim Barger. At one point the single mother faced foreclosure on her home, he said.

"I can't speak highly enough of April Brown," said Barger, whose firm Frohsin & Barger LLC in Birmingham, specializes in whistleblower suits. "She did what she did with no consequences to herself ... She deserves it (the money). The country needs more people like her."

Alabama has had several whistleblower lawsuits filed or settled in recent years. Here's a few of them:

- The parent company for Hospice Compassus, which once operated in Alabama, agreed to pay $3.92 million to settle allegations that the company submitted false reimbursement claims to the federal government for patients treated at its hospice facilities, according to a March 13 announcement.

- SouthernCare Hospice Inc. agreed to pay a $24.7 million settlement in 2009. That company, which admitted no wrongdoing in its settlement, had been accused of fraudulently enrolling elderly people in hospice and charged Medicare for services when the patients were not dying.

- A whistle-blower lawsuit is pending in U.S. District Court in Mobile against Infirmary Health Inc. and Infirmary Medical Clinics, a corporate entity that the
nonprofit set up in the 1980s to acquire physician practices. A federal magistrate judge recently recommended that the case be dismissed. The complaint describes a complicated financial relationship between the doctors and Infirmary Health. It lists $521.6 million payments from government health insurance programs from 2004 through 2010 to affiliated doctors. The suit also alleges that doctors' pay was tied to referrals and that they received more than $18.6 million in bonuses during the time period.

*Updated at 3:25 p.m. April 23, 2014 to correct for typos*