

Cape Cod Hospital to pay \$24.4 million following DOJ investigation into Medicare billing practices

By **Katie Johnston** Globe Staff, Updated May 16, 2024, 5:51 p.m.



Former Cape Cod Hospital cardiologist Richard Zelman will get nearly \$4.4 million for his role as a whistleblower. DEBEE TLUMACKI FOR THE BOSTON GLOBE

Cape Cod Hospital has agreed to pay the federal government nearly \$24.4 million to resolve allegations that it knowingly submitted Medicare claims that failed to comply with billing requirements.

A Department of Justice investigation found that cardiac surgeons at the hospital did not sufficiently document patient evaluations for transcatheter aortic valve replacements, known as TAVR, required for Medicare reimbursement. Richard Zelman, a former cardiologist at the hospital who first called attention to the lapses in a [2022 lawsuit](#) against the hospital, will receive nearly \$4.4 million of the civil settlement for his whistleblower role.

The hospital “knowingly submitted hundreds of claims to Medicare for TAVR procedures that did not comply” with requirements, according to the [settlement agreement](#), resulting in the hospital submitting “millions of dollars of false claims to Medicare.” In some cases, there weren’t enough physicians examining the patient’s suitability for the TAVR procedure, and in others, doctors didn’t document or share their findings.

The investigation, which covered the time period between the beginning of the TAVR program in 2015 until the end of 2022, involved the hospital’s interventional cardiologists and cardiac surgeons employed by Brigham and Women’s Hospital contracted by Cape Cod Hospital.

“Medicare permitted coverage for this newly developed cardiac procedure only under certain conditions, to ensure patient safety. Cape Cod Hospital ignored those rules and received millions of dollars from Medicare to which it was not entitled. This conduct persisted for years despite internal warnings,” acting United States Attorney Joshua S. Levy for the District of Massachusetts said in a statement.. “This investigation and settlement ensure that patient safety is prioritized over a hospital’s bottom line.”

ADVERTISING



[The settlement is the largest of its kind](#) involving a Massachusetts hospital, according to Gregg Shapiro, the attorney representing Zelman.

“Dr. Zelman is gratified that the government conducted a thorough investigation and that the case has been successfully resolved,” Shapiro said.

In a statement, Cape Cod Hospital board chairman Bruce Johnston praised the hospital’s care and the leadership of chief executive Michael Lauf.

“Though it is unfortunate to be in this situation, the Board of Trustees remains confident in and supportive of the organization’s leadership,” he said. “Under Lauf’s leadership, Cape Cod Hospital has grown both in reputation and in size and now eagerly anticipates the opening of a new patient care pavilion, which will house a state-of-the-art cancer center, consolidate the Hospital’s many cardiology programs, and add 32 more medical/surgical beds to address increasing demand.”

Cape Cod Hospital is part of [Cape Cod Healthcare](#), which also operates Falmouth Hospital, six urgent care centers, homecare and hospice services, and other health programs.

Zelman, the former medical director for the hospital’s Heart and Vascular Institute who started the TAVR program in 2015, first exposed the improper practices in a [lawsuit](#) against the hospital and its CEO in late 2022. In that suit, which was [dropped](#) less than two months later, Zelman claimed he was fired for blowing the whistle on practices that he said prioritized non-Medicare or Medicaid patients for valve replacement procedures because their insurance provider reimbursed the hospital at higher rates. This practice, the lawsuit claimed, prioritized “revenue generation over patient safety.”

Cape Cod Hospital has denied these charges and noted that the settlement is unrelated to that lawsuit. The settlement does not mean that patients who received TAVR procedures were harmed, the hospital said, or that the hospital billed Medicare for procedures that were unnecessary.

Many of the doctors involved in the improper documentation are no longer employed or contracted there, according to the hospital. Documentation practices have been augmented and its clinicians are believed to be in compliance with Medicare requirements, the hospital said.

The hospital has also entered into a five-year agreement with the Office of the Inspector General for Health and Human Services to strengthen the hospital's corporate compliance program and has taken measures to shore up the documentation of evaluations for potential TAVR candidates.

Katie Johnston can be reached at katie.johnston@globe.com. Follow her [@ktkjohnston](https://twitter.com/ktkjohnston).

[Show 42 comments](#)

©2024 Boston Globe Media Partners, LLC