



Portfolio Media. Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

# Mass. Hospital Pays \$24.3M To Settle Heart-Surgery FCA Case

By **Brian Dowling**

Law360 (May 17, 2024, 1:26 PM EDT) -- Cape Cod Hospital will pay \$24.3 million to settle claims it flouted Medicare billing rules for hundreds of heart-valve replacement surgeries in what's understood to be the largest recovery under the False Claims Act from a Massachusetts hospital.

The government, acting on whistleblower information from the hospital's interventional cardiologist Dr. Richard B. Zelman, announced Thursday it had substantiated the physician's concerns about coverage determination practices for transcatheter aortic-valve replacements.

The federal probe concluded that half of the about 800 claims from November 2015 to December 2022 violated Medicare rules requiring that one or two cardiologists independently examine the patient to determine if the valve replacement is needed and document their decision for the Hyannis, Massachusetts, hospital.

The hospital will pay the \$24.3 million to the government in two installments — with \$4.3 million of that, or 17.5%, earmarked as an award for Zelman, who had filed the case on the government's behalf.

Zelman's counsel, Gregg Shapiro of Newman & Shapiro, said his client is gratified the government thoroughly investigated the claims he brought to light and successfully resolved the case. He understands the recovery to be the largest ever under the False Claims Act from a Massachusetts hospital.

"Medicare permitted coverage for this newly developed cardiac procedure only under certain conditions to ensure patient safety," said Acting U.S. Attorney Joshua S. Levy in a statement. "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."

Cape Cod Hospital has also agreed to enter into a five-year corporate integrity agreement with the U.S. Department of Health and Human Services, which will review its Medicare claims.

The government's civil enforcers said the hospital got credit under U.S. Department of Justice guidelines by voluntarily producing materials, identifying documents that were relevant to the investigation and implementing remedial measures.

In Zelman's complaint filed in July 2022, the doctor said that of many valve-replacement surgeries completed by Cape Cod Hospital, with the help of surgeons from the Brigham and Women's Hospital in Boston, only rarely had they complied with Medicare rules.

The lawsuit said Cape Cod Hospital billed Medicare for facility fees as if its surgeons had complied with the rules, properly examined the patients in advance of the procedure and jointly participated in portions of the procedure.

In a statement, the chairman of the hospital's board, Bruce Johnston, said the organization stands by its leadership under its chief executive Michael Lauf and looks forward to "a bright and strong future."

"Though it is unfortunate to be in this situation, the board of trustees remains confident in and supportive of the organization's leadership," Johnston said. "During Michael Lauf's tenure, Cape Cod

Hospital has been recognized numerous times for its excellent care and has significantly enhanced its operational and financial position."

The government is represented by Andrew A. Caffrey III of the U.S. Attorney's Office for the District of Massachusetts.

Zelman is represented by Gregg D. Shapiro of Newman & Shapiro.

Cape Cod Hospital is represented by Christine G. Savage and Adam Bookbinder of Choate Hall & Stewart LLP.

The case is United States et al. v. Cape Cod Hospital, case number 1:22-cv-11204, in the U.S. District Court for the District of Massachusetts.

--Editing by Philip Shea.

---

All Content © 2003-2024, Portfolio Media, Inc.