



Oncology firm to pay \$26 million to settle FCA allegations

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21st Century Oncology Inc. has agreed to pay the federal government \$26 million to resolve False Claims Act allegations related to the submission of false attestations for electronic health records (EHR) and for alleged Stark Law violations involving kickbacks for referring physicians. 21st Century Oncology owns and operates subsidiaries and affiliates that provide integrated cancer care in 143 centers in 17 different states, and its business includes the employment of physicians in specialty fields to assist in its cancer treatment programs.

According to the [Department of Justice](#), the \$26 million settlement resolves 21st Century Oncology's self-disclosure that it "knowingly submitted, or caused the submission of, false attestation to CMS concerning employed physicians' use of EHR software." Under the Medicare EHR Incentive Program, health care providers who attest to meeting certain objectives and measures that demonstrate meaningful use of certified EHR technology can receive incentive payments and avoid negative payment adjustments. 21st Century Oncology's self-disclosure reported that the company had falsified EHR software utilization reports and data regarding the company's use of its software and had applied EHR vendor logos onto the utilization reports to make them appear legitimate. Based on this falsified data, 21st Century Oncology received Medicare EHR incentive payments and avoided negative payment adjustments.

The settlement also resolves allegations that 21st Century Oncology violated the Stark Law. (The Stark Law prohibits health care providers from submitting claims to the federal government for services that are performed pursuant to referrals with physicians with whom the health care provider has a financial relationship.) The Stark Law allegations were initially brought by Matthew

Moore, 21st Century Oncology's former Interim Vice President of Financial Planning, in a qui tam case filed in February 2016. Moore claimed that the company based certain physicians' salaries on the number of referrals they could provide to 21st Century Oncology facilities. In a nine-month review of thirty 21st Century Oncology physicians, Moore discovered that the company had spent \$8.7 million more on the physicians than the physicians had brought into the company. As Moore brought the suit on behalf of the government, he will share in the recovery and will receive \$2 million.

In addition to the settlement, the DOJ reported that 21st Century Oncology also entered into a five-year Corporate Integrity Agreement, which obligates the company to "undertake substantial internal compliance reforms, including hiring independent review organizations to conduct annual claims and arrangement review."

The settlement follows a string of difficulties for 21st Century Oncology, which filed for Chapter 11 bankruptcy protection in May. The company has also faced multiple lawsuits following a 2015 breach of 2.2 million patient records, shortly after which it paid out a combined \$54.5 million to settle unrelated federal investigations into billing fraud.

Authors

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