



Health system to pay \$18 million to settle FCA lawsuit

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Banner Health has agreed to pay the federal government \$18 million to resolve False Claims Act (FCA) allegations that the health system admitted patients who could have been treated less expensively on an outpatient basis. Banner Health is an Arizona-based nonprofit health system that owns and operates 28 acute care hospitals in multiple states.

According to the [Department of Justice](#) (DOJ), the \$18 million settlement resolves allegations that 12 Banner Health hospitals in Arizona and Colorado intentionally overcharged Medicare patients. Banner Health allegedly billed Medicare for “short-stay, inpatient procedures” that should have been billed as outpatient services, which cost less. This practice allegedly spanned over nine years, from November 2007 to December 2016. The settlement also addressed allegations that Banner Health had improperly inflated the number of hours for which patients received observation care in its reports to Medicare.

The lawsuit against Banner Health was brought by Cecilia Guardiola, who was employed as Banner Health’s director of clinical documentation for a period of three months. During her short stay at Banner Health, Guardiola evaluated the health system’s clinical documentation and discovered that Banner billed a disproportionate number of inpatient claims for patients admitted and discharged on the same day, particularly for expensive cardiac procedures. Guardiola’s investigation found that several Banner Health hospitals had marked the procedures as urgent, rather than elective, to avoid potential denial of the claims.

Guardiola will share in the recovery from the settlement and will receive roughly \$3.3 million for bringing the whistleblower suit. The lawsuit marks Guardiola’s third multimillion dollar FCA recovery from a former employer, with a \$1.7 million recovery in 2016 from Renown Health and a roughly \$1 million recovery in 2012 from CHRISTUS Spohn Health System.

In addition to the settlement, the DOJ reported that Banner Health also entered into a five-year Corporate Integrity Agreement, which obligates the company to “retain an independent review organization to review the accuracy of the company’s claims for services furnished to federal health care program beneficiaries.”

Banner Health is also currently under an ongoing federal probe by the Office for Civil Rights regarding a 2016 cyberattack that exposed the records of nearly 3.7 million patients, employees and others. Banner Health has stated that it anticipates negative findings regarding the adequacy of its past cybersecurity assessments as a result of that investigation.

Authors

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