



Department Of Justice Announces The Indictment Of 21 Individuals Affiliated With Forest Park Medical Center

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On December 1, 2016, the United States Attorney's Office for the Northern District of Texas announced the indictment of 21 executives, physicians, surgeons, and others affiliated with Forest Park Medical Center (FPMC) in Dallas. The 20-count indictment, which was returned on November 16, 2016, and unsealed on December 1, charges the defendants with various felony offenses in connection with an elaborate conspiracy to pay and receive approximately \$40 million in bribes and kickbacks in exchange for referrals of certain patients to FPMC. Notably, in addition to the conspiracy and AKS charges, the indictment also includes charges under the Travel Act, which prohibits the use of interstate commerce to distribute the proceeds of illegal activity, and charges of conspiring to violate the money laundering statutes.

FPMC was a physician-owned out-of-network surgical hospital which set rates for services that were substantially higher than those offered by in-network providers. According to the indictment, FPMC paid approximately \$40 million to surgeons, primary care physicians, chiropractors, lawyers, workers compensation pre-authorization specialists, and others in exchange for referrals of patients with high reimbursing, out-of-network private insurance benefits or benefits under certain federally-funded programs. The government also alleges that FPMC attempted to sell patients with lower reimbursing insurance coverage, i.e., Medicare and Medicaid beneficiaries, to other facilities in exchange for cash. According to the indictment, the bribes and kickbacks were paid based on the anticipated revenue the referred surgical cases would generate for FPMC's owners (approximately 10% of the expected collections for the procedures), rather than on a procedure basis. The individual defendants allegedly received bribes and kickbacks ranging from \$100,000 to \$7 million. In addition to sums of money, some of the defendants allegedly provided such inducements as tickets to sporting events, custom made cowboy boots, discounts on diamonds, high end dining, deals on real estate space, and investment in FPMC, with the number of shares offered contingent on the number of referrals to the hospital and the number of surgical procedures performed. Patients with in-network and out-of-network benefits were allegedly told that their out-of-pocket expenses would be no more than at an in-network facility to encourage them to choose FPMC. According to the indictment, FPMC billed and was reimbursed by the patients' insurance plans at out-of-network rates, but did not bill the patients for the higher co-payments required by their insurance plans for out-of-network services.

As a result of these inducements and practices, from 2009 to 2013, FPMC billed the patients' insurance plans and programs more than \$500 million, including more than \$10 million to the Department of Defense healthcare program TRICARE, more than \$25 million to the Department of Labor FECA healthcare program, and more than \$60 million to the federal employees' and retirees' FEHBP healthcare program. According to the government, FPMC collected more than \$200 million in unlawful claims.

In addition to the specific health care fraud offenses, the indictment further charges some of the defendants with offenses based on related activities that were integral to the the conspiracy. The conspirators allegedly created shell entities to funnel the bribes and kickbacks to the recipients in order to conceal and effectuate the scheme. According to the indictment, FPMC's referral coordinator owned a shell entity - Unique Healthcare - which was used to funnel bribes and kickback payments to surgeons in exchange for referring patients to FPMC. Another FPMC employee allegedly led the efforts to sell Medicare and Medicaid referrals from certain

coconspirators to a non-FPMC facility. A separately-owned shell entity - Adelaide Business Solutions - allegedly was used to funnel bribes and kickback payments to surgeons, primary care physicians, chiropractors, lawyers, worker's compensation preauthorization specialists, etc., in exchange for patient referrals, and to surgeons who used the hospital's facilities to perform certain medical procedures. Yet another company, a commercial real estate group, allegedly was used as a conduit for bribes and kickback payments, while an advertising agency owned by another defendant allegedly received bribes and kickback payments on behalf of physicians. Based on these alleged activities, the government added charges under the Travel Act and the money laundering statute.

The indictment also includes a forfeiture allegation that, if proven, would require the forfeiture of any money or property that was derived from the alleged offenses.

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