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On Behalf of Employees, M.D.s Tell DOJ of Ultrasound Problem; Hospital Settles FCA Case

By Nina Youngstrom

It was a circuitous route to a false claims settlement: a handful of employees at Lancaster General Hospital in Pennsylvania told two private-practice physicians that ultrasounds performed on high-risk pregnant women allegedly weren't interpreted for 10, 30 or 90 days—and were billed to Medicaid and Medicare anyway. So the physicians, who have hospital privileges, were surrogates for the employees in reporting their concerns to senior leaders at University of Pennsylvania Health System, which operates as Penn Medicine and includes Lancaster General Hospital. From there the allegations sound like a typical whistleblower case—except it wasn't one. When the physicians felt dismissed, they tipped off the U.S. Attorney for the Eastern District of Pennsylvania without filing a qui tam complaint, and an investigation followed. A little more than a year later, there's a resolution.

University of Pennsylvania Health System has agreed to pay \$275,000 to settle False Claims Act (FCA) allegations that Lancaster General Hospital's Division of Maternal Fetal Medicine (LGH-MFM) billed during an eight-month period for obstetrical ultrasounds that weren't evaluated in a timely manner, the U.S. attorney's office said June 26. The settlement also requires Penn Medicine to perform annual audits of 20 outpatient obstetrical ultrasounds and submit the findings to the government for three years. Penn Medicine did not admit liability in the settlement.

"This story is about more than a \$275,000 settlement. We reported this stuff in writing [to Penn Medicine] in all clarity and expected follow up and didn't have that happen," says Christian Macedonia, M.D., one of the two physician tipsters. "Then we reached out to the U.S. attorney." He and his partner, Robert W. Larkin, M.D., who are maternal fetal medicine physicians with a private practice, Lancaster Maternal Fetal Medicine, a mile from the hospital, spent a lot of time and money trying to right a wrong, Macedonia tells RMC.

"It is not good enough [for people] to say 'I don't harm patients or commit fraud.' You have to speak up, or you are complicit in it," he says.

According to the settlement, because of "insufficient physician staff to properly handle its patient volume," LGH-MFM billed for obstetric ultrasounds from May 1, 2017, to Dec. 31, 2017, even though its maternal fetal medicine physicians didn't complete timely reports on the ultrasounds they ordered "in numerous instances." In many cases, LGH-MFM physicians didn't finish their reports of ultrasounds until more than 10 days after the ultrasound. Some weren't done for more than 30 days, at least 10% weren't completed for 90 days and some ultrasounds weren't interpreted until after women delivered their babies. U.S. Attorney William McSwain said in a press release that the "alleged conduct not only demonstrated an abuse of the Medicaid program, but had troubling implications for patient care."

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