

Report on Medicare Compliance Volume 29, Number 8. March 02, 2020 AseraCare Settles FCA Case for \$1M Six Months After Court Ruling

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Almost six months after the U.S. Court of Appeals for the 11th Circuit ruled^[1] in the false claims case against AseraCare Inc. that it takes more to prove false claims in a Medicare medical necessity case than a physician disputing patients' eligibility for services after the fact, AseraCare announced Feb. 27 that it has reached a settlement with the Department of Justice. AseraCare, which operates about 60 hospices in 19 states, said it agreed to pay \$1 million.

"AseraCare is grateful to have reached this settlement with the Department of Justice and is proud that perseverance produced a benefit to the hospice industry that provides more clarity under the False Claims Act as a result of the opinion issued by the Eleventh Circuit Court of Appeals on September 9, 2019," it said in a statement.

The False Claims Act^[2] (FCA) lawsuit alleged that AseraCare submitted documentation that supported Medicare claims for hospice patients who were not terminally ill. In making its case, DOJ focused on a sample of 223 patients whose medical records and clinical histories were reviewed by its primary expert witness, Dr. Solomon Liao. He identified 123 who allegedly were ineligible for the hospice benefit when AseraCare was paid for their care, according to the appeals court decision.

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