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UPMC Settles FCA Case for \$38M Over Neurosurgeon Compensation

By Nina Youngstrom

University of Pittsburgh Medical Center (UPMC) has agreed to pay \$38 million to settle false claims allegations in connection with compensation for certain neurosurgeons that violated the Stark Law, according to a May 9 announcement from the law firms representing the whistleblowers who set the case in motion.^[1] The settlement ended a long-running saga over the Stark implications of productivity-based compensation using work relative value units (work RVUs). The allegations that they violated the Stark Law had been thrown out twice by a federal district court but were resuscitated by the U.S. Court of Appeals for the Third Circuit in a Sept. 17, 2019, ruling, which then diluted its findings in a revised ruling, an attorney said.^[2]

The fear the initial circuit court ruling struck into the hearts of hospitals by drawing a straight line from work RVUs to a Stark violation through the volume or value of referrals standard dissipated after the ruling was changed and the Stark regulation was revised in 2020, said attorney Jonathan Diesenhaus, who represented UPMC.^[3] The FCA lawsuit against UPMC returned to the familiar territory of fair market value, he noted.

The settlement puts to rest allegations in the whistleblower lawsuit filed in 2012 by neurosurgeon J. William Bookwalter, neurophysiologist Robert Sclabassi, and surgical technologist Anna Mitina, the law firms—Stone Law Firm, LLC, Del Sole Cavanaugh Stroyd LLC, Simpson Law Firm, LLC, and Morgan Verkamp, LLC—said in a news release. The U.S. Department of Justice (DOJ) didn't announce the settlement.

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