

**Health Care Fraud
Medicare Fraud NEWS
Immediate Release
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**\$9 Million-Plus Payment by Summit, New Jersey Hospital
and Corporate Parent Partially Settles Medicare Fraud Case;
Seven Years' False Billing for In-Patient Admissions Instead of
Observation Services and Out-Patient Treatments Alleged**

**Additional Qui Tam Whistleblowers' Allegations
Still Pending Resolution, According to Manhattan-Based Qui Tam
Whistleblower Attorney Timothy J. McInnis, Esq.**

(SUMMIT, NJ) – Overlook Hospital and parent AHS Hospital Corporation which operates three north Jersey hospitals, have agreed to pay more than \$9 million to the U.S. Government to partially settle Qui Tam Whistleblower allegations of Medicare fraud and false billing over a seven-year-period, according to attorney Timothy J. McInnis, of McInnis Law in New York City, (WhistleblowerLegal.com) who represents the two whistleblowers who brought the case on behalf of the United States in 2008.

As alleged in the Complaint which is being partially settled, AHS Hospital Corporation, Atlantic Health Systems, Inc., and Overlook Hospital (“AHS”) frequently billed Medicare Part A for services provided to elderly persons under more expensive in-patient billing codes. Instead, the care provided to these elderly patients should have been billed under less expensive “observation” or “out-patient” procedure codes, the Complaint states.

The Complaint, which alleges violations of the Federal False Claims Act (“FCA”), was originally filed by McInnis four years ago, under seal as provided by law to allow federal authorities to investigate the charges and make an intervention decision before disclosing it to defendants. “Qui Tam” is a term derived from English Common Law meaning “he who sues on behalf of the king as well as himself.”

The two whistleblowers who brought the case are a physician and registered nurse. According to McInnis, they are former AHS employees and are identified as “Relator John Doe,” and “Relator Jane Doe” in the Complaint. Under federal and state FCAs, Qui Tam Whistleblowers are referred to legally as “relators.”

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The Government has been investigating the Complaint's allegations and joined in those naming AHS, according to the settlement agreement.

Additional allegations against individuals and entities named in the 50-page Complaint have not yet been resolved by the Government or this settlement, the settlement agreement states.

The relators' share of the recovery from the settlement is also to be determined, according to the settlement agreement.

Under the FCA, Qui Tam actions allow private citizens with knowledge of fraud to help the Government recover ill-gotten gains and additional civil penalties. The FCA allows the Government to collect up to three times the amount it was defrauded, in addition to civil penalties from \$5,500 to \$11,000 per false claim.

In successful Qui Tam Whistleblower cases in which the Government intervenes, whistleblowers are typically entitled to receive awards representing 15-to-25 percent of Qui Tam recoveries. However, in cases where allegations are not resolved and taken to trial the relator's share increases to 25-to-30 percent, McInnis explained.

Under the terms of the settlement agreement, AHS did not admit liability, and neither the Government nor the Relators stated that their respective claims were not well founded. The settlement was reached to, "avoid the delay, uncertainty, inconvenience and expense of protected litigation," according to the agreement.

In addition to paying the settlement amount of more than \$9 million to the United States, as part of the settlement agreement AHS is also agreeing to be bound by a corporate integrity agreement with the U.S. Department of Health and Human Services.

McInnis is a former federal prosecutor with offices in New York City who concentrates his practice on federal and state FCAs and its Qui Tam whistleblower provisions.

This case was investigated jointly by the U.S. Attorney's Office for the District of New Jersey, Paul J. Fishman, U.S. Attorney, and Assistant U.S. Attorney David E. Dauenheimer, of the U.S. Attorney's Civil Division; and the Commercial Litigation Branch of the U.S. Department of Justice's Civil Division in Washington, D.C., Trial Attorney Jennifer Koh.

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The AHS case is assigned to United States District Court Judge William J. Martini, in Newark, who approved the partial settlement and unsealed the Complaint.

UNITED STATES OF AMERICA ex rel. JOHN DOE AND JANE DOE Plaintiffs, v. AHS HOSPITAL CORP., ATLANTIC HEALTH SYSTEMS, INC., OVERLOOK HOSPITAL, et al. U.S. District Court, Newark, NJ: Civil Action No. 08-2042 (WJM)

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