Cuccinelli announces $37 million Virginia Medicaid fraud settlement with McKesson Corp. for inflating prices of 400+ drugs

RICHMOND (October 18, 2013) - Attorney General Ken Cuccinelli announced today that Virginia will receive $37 million as part of a settlement his office negotiated with McKesson Corporation, one of the largest pharmaceutical wholesalers in the country, over allegations the company violated the Virginia Fraud Against Taxpayers Act by conspiring to inflate prices for more than 400 brand-named prescription drugs.

The attorney general alleged that McKesson conspired to inflate published Average Wholesale Price (AWP) information, causing Virginia’s Medicaid program to overpay for those drugs. The Virginia Department of Medical Assistance Services (DMAS) uses the published AWP data to set Medicaid reimbursement rates for pharmaceuticals.

Virginia’s $37 million settlement represents the largest recovery by any state Medicaid Fraud Control Unit (MFCU) against McKesson in this AWP case. In a previous settlement, which Virginia refused to join, 29 states, including California and New York, shared a total recovery of $151 million.

"This $37 million recovery shows that we will not tolerate Medicaid fraud in Virginia," said Cuccinelli. "It robs the taxpayers and it robs money needed for medical services for the poor. Our office refused to participate in a national settlement led by the Department of Justice because we needed to send a message that Virginia will fight to protect its Medicaid program from fraud and because the original settlement didn't cover the total loss to our Medicaid program.

"Our Medicaid Fraud Control Unit, working with the Virginia Department of Medical Assistance Services, was willing to go to trial in McKesson’s hometown of San Francisco to get the maximum possible recovery we could in this case. Due to these efforts, we estimate that this $37 million recovery represents approximately ten times what other states that had a comparable impact to their Medicaid programs received from the previous, multistate settlement."

The settlement will return in excess of $30 million to the commonwealth’s General Fund Health Care account within the next two weeks. $16.8 million is for compensatory damages for the state’s Medicaid program, while $13.5 million is for penalties. This agreement resolves the case as to the Virginia state portion of Medicaid and imposes significant penalties upon McKesson Corporation for the alleged conduct.
"Combating Medicaid fraud has been a focus of my administration for the past three and a half years," Cuccinelli said. "When I took office, I made expanding our Medicaid fraud unit a priority precisely to achieve this type of result."

With this recovery, the office has returned more money to the General Fund during Cuccinelli's tenure than has been allocated by the General Assembly to fund the office. From 2010-2013, the General Fund budget for the office was approximately $78 million. The Medicaid fraud unit alone has returned $67.7 million to the General Fund during that same time. Additionally, the Consumer Protection Section, which handles fraud not related to Medicaid, has returned $73 million to the General Fund. And through annual budget savings, Cuccinelli has returned $3.2 million from his budget to the General Fund over the last four years.

Virginia MFCU's recoveries in last three and a half years now total $1.6 billion - more than all other recoveries combined since MFCU began 30 years ago. This amount includes money recovered not only for Virginia, but for the federal Medicaid program and other states.

The case was brought by Virginia's MFCU in the U.S. District Court for the Northern District of California, McKesson Corporation's home district. Assistant attorneys general William Clay Garrett, Patrick A. McDade, Adele M. Neiburg, Joseph S. Hall, Lisa H. Shin, Jessica M. Smith, Kimberly M. Bolton, and Pierce C. Acuff represented the commonwealth. The attorney general would also like to recognize many of his MFCU investigators and paralegals who worked on various aspects of the case. The entire team reviewed more than three million pages of documents in the discovery phase of the litigation.

The commonwealth also retained the services of Hagens Berman Sobol Shapiro LLP to assist as local counsel in the matter. The Virginia Department of Medical Assistance Services assisted in the development of the case, especially helping with evidence discovery.

More about Attorney General Cuccinelli

Photos of the attorney general

A copy of this news release may be found on the attorney general's web site here.

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