EHR Vendor Pays $31 Million to Settle Alleged False Claims Act and Anti-Kickback Statute Violations



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On July 14, 2023, the U.S. Department of Justice (DOJ) announced that NextGen Healthcare Inc. (NextGen), an electronic health record (EHR) technology vendor, entered into a settlement agreement with the DOJ to pay $31 million to resolve allegations that NextGen violated the False Claims Act (FCA) by misrepresenting the capabilities of its EHR software and the federal Anti-Kickback-Statute (AKS) by paying remuneration to customers to induce referrals of NextGen's EHR software.

Pursuant to the American Recovery and Reinvestment Act of 2009, the U.S. Department of Health and Human Services (HHS) makes incentive payments to certain health care providers that utilize certified EHR technology and meet certain criteria relating to their use of the technology. The DOJ alleged that NextGen violated the FCA, which prohibits anyone from knowingly submitting, or causing to be submitted, false claims to the U.S. government, by falsely obtaining certification for its software under the 2014 Edition certification criteria published by HHS's Office of the National Coordinator. According to the DOH, NextGen relied on an auxiliary product designed only to perform the certification test scripts, which concealed that NextGen's EHR lacked critical functionality. As a result, NextGen's EHR did not include certain required functions. The DOJ also alleged that NextGen violated the AKS, which prohibits anyone from offering or paying, directly or indirectly, any remuneration to induce referrals of items or services covered by Medicare, Medicaid, and other federally funded programs. According to DOJ, NextGen knowingly gave credits, in amounts up to $10,000, and tickets to sporting events and entertainment to current customers if their recommendation of NextGen's EHR software led to a new sale.

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