

Failing to Provide Direct Supervision May be Considered a Violation of the False Claims Act

Healthcare Law Update

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On May 17, 2022, the U.S. Department of Justice (DOJ) [announced](#) that the University of Maryland Shore Regional Health (Shore Health) in Easton, Maryland has agreed to pay the United States nearly \$300,000 to resolve allegations that it violated the federal False Claims Act. The DOJ advised that the integrity of Medicare and other federal health care programs should be shielded from such fraudulent claims because these programs are funded by taxpayer dollars.

According to the settlement agreement, from January 16, 2014 through July 5, 2018, Shore Health billed Medicare for radiation therapy and diagnostic services. During this time period, Medicare covered radiation therapy and diagnostic services furnished in an outpatient setting when rendered under the “direct supervision” of a physician, meaning that the supervising physician must be immediately available to furnish assistance and direction throughout the performance of the procedure. The physician does not need to be present in the room when the procedure is performed. According to the settlement agreement, during the above time period, Shore Health billed Medicare for radiation therapy and diagnostic services that were not under the direct supervision of a physician because the sole supervising physician was, on many occasions, performing uninterruptable procedures at another location.

The original lawsuit in this matter was brought by a whistleblower who was a former employee of Shore Health.

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