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JEFFREY NEWMAN LAW ANNOUNCES $125 MILLION SETTLEMENT BY REHABCARE GROUP EAST INC. AND KINDRED HEALTHCARE INC. TO SETTLE CASE ALLEGING FRAUDULENT MEDICARE BILLING AT 498 SKILLED NURSING FACILITIES NATIONWIDE

BOSTON, MA – January 12, 2016

Jeffrey Newman Law today announced that RehabCare Group Inc. (RehabCare) and its parent company, Kindred Healthcare Inc. (together, RehabCare/Kindred), have agreed to pay $125 million to settle a False Claims Act qui tam lawsuit alleging Medicare billing fraud in providing therapy services at skilled nursing facilities (SNFs) across the country.

Jeffrey Newman Law represents relators Janet Halpin and Shawn Fahey, who sued RehabCare/Kindred in U.S. District Court in Boston under the whistleblower provisions of the federal False Claims Act. Halpin is a former Rehab Manager for RehabCare/Kindred at a skilled nursing facility in Haverhill, Massachusetts. Relator Shawn Fahey is a licensed Occupational Therapist who worked for RehabCare in another Haverhill skilled nursing facility. Both had first-hand knowledge of the company's wrongdoing.

The whistleblower provisions of the federal law permit private citizens known as "relators" to bring lawsuits on behalf of the Government and to receive a portion of the proceeds of any settlement or judgment. "This particular settlement is an excellent example of what the False Claims Act is designed to encourage," said Jeffrey Newman, who filed the suit on behalf of the relators in December 2011. "When a person has sufficient information about a major fraud against the government, this law provides strong incentive to come forward."

RehabCare/Kindred is like many other companies in the United States that provide Occupational, Physical and Speech therapy rehabilitative services to patients in skilled nursing facilities. Much of that therapy is covered by Medicare or other federal health care programs.

According to the qui tam action filed by Attorney Newman on behalf of the relators, RehabCare/Kindred caused its SNF customers to bill for unreasonable and unnecessary rehabilitation therapy. Many of the patients were billed to Medicare at the highest resource utilization group (RUG) rate, ultra high, during the patients' Medicare Part A stays at the facilities. The Complaint alleged that the company submitted fraudulent bills to Medicare in that the services billed for were excessive and unrelated to individual patient needs.

The United States Government intervened in the case in February 2015. The Government's intervention complaint alleges that RehabCare's schemes included the following:

- Presumptively placing patients in the highest therapy category, rather than relying on individualized evaluations to determine the level of care most suitable for each patient's clinical needs;
- "Ramping," i.e., during the period prior to October 1, 2011, boosting the amount of reported therapy during so-called "assessment reference periods," thereby causing and enabling nursing facilities to bill for the care of their Medicare patients at the highest therapy reimbursement level, while providing materially less therapy to those same patients outside the assessment reference periods when the nursing facilities were not required to report to Medicare the amount of provided therapy;
- Scheduling and reporting the provision of therapy to patients even after the patients' treating therapists had recommended that they be discharged from therapy;
- Arbitrarily shifting the number of minutes of planned therapy between different therapy disciplines to ensure targeted therapy reimbursement levels were achieved, regardless of the clinical need for the therapy;
- Providing significantly higher amounts of therapy at the end of a therapy measurement period not due to medical necessity but to reach the minimum time threshold for the highest therapy reimbursement level and thus to cause and enable nursing facilities to bill for the care of their Medicare patients accordingly, even though the patients were receiving materially less therapy on preceding days;
- Inflating initial reimbursement levels by reporting time spent on initial evaluations as therapy time in violation of the Medicare prohibition on counting initial evaluation time as therapy time;
- Reporting that skilled therapy had been provided to patients when in fact the patients were asleep or otherwise unable to undergo or benefit from skilled therapy, e.g., when a patient had been transitioned to palliative end-of-life care; and
- Reporting estimated or rounded minutes instead of reporting the actual minutes of therapy provided.

"Janet Halpin and Shawn Fahey helped the federal government recover millions of dollars in fraudulent payments to RehabCare," said Jeffrey Newman. "The services provided to patients across the country were not based on their medical needs but rather on increasing company profits. Ms. Halpin and Ms. Fahey have done a service to the taxpayers by recognizing and reporting the fraudulent scheme to the Government."

The federal investigation was led by Assistant United States Attorneys Gregg Shapiro, Patrick Callahan, and Kriss Basil. "AUSA Gregg Shapiro and AUSAs Patrick Callahan and Kriss Basil worked relentlessly for several years in cooperation with our firm, and their extraordinary diligence and persistence resulted in the exposure of the activities that were alleged, to the benefit of patients now in skilled nursing facilities throughout the nation," said Newman. The Department of Justice Trial Attorneys on the case were Christelle Klovers and Rohith Srinivas.

The agreed to whistleblower award to the relators is $23,888,000 plus interest.

Jeffrey Newman Law is a public interest firm handling complex litigation, representing whistleblowers in various kinds of cases including Medicare fraud, military contract fraud, pharmaceutical company fraud, financial fraud and tax evasion cases where a broad range of public interests is at stake.

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