

Jury Orders Eli Lilly To Pay \$61 Million

Article By:

D. Jacques Smith

Randall A. Brater

Mohammed T. Farooqui

Laura Zell

Headlines that Matter for Companies and Executives in Regulated Industries.

Jury Orders Eli Lilly To Pay \$61 Million

A federal jury in Illinois found that, beginning around 2004, drug manufacturer Eli Lilly deliberately underpaid rebates to Medicare programs by excluding retroactive drug prices from metrics that were required to calculate drug rebates. In issuing its \$61 million verdict, the jury rejected claims by Eli Lilly that it did not act knowingly, but rather relied on the head of its government price reporting group, who was responsible for analyzing complex materials to determine whether the Company's payments to Medicaid were sufficient.

DOJ's Continuing Prosecution of Covid-19 Relief Fraud

A Massachusetts man pleaded guilty to one count of bank fraud for allegedly engaging in a scheme to obtain \$1.2 million in Paycheck Protection Program (PPP) funds by submitting false applications to financial institutions and the Small Business Administration. According to DOJ's press release, the man submitted six false applications that misstated the revenue of his companies, the persons employed, and the amounts paid to those employees. Read the DOJ's press release [here](#).

A Kentucky man was recently sentenced to 33 months' imprisonment after he pleaded guilty to wire fraud for submitting two fraudulent applications for PPP loans. He is alleged to have provided fake tax documents and payroll records that misrepresented the number of employees at his businesses and his payroll expenses. Read the DOJ's press release [here](#).

The Southern District of West Virginia had its first fraud conviction related to Covid-19 after a Charleston man pleaded guilty to wire fraud for defrauding the PPP of over \$41,666. The man allegedly applied for and obtained two PPP loans based on misrepresentations and then had the PPP loans forgiven even though he had not spent the loan proceeds on permissible business

expenses, as is required for forgiveness. Read the DOJ's press release [here](#).

An Illinois man was recently sentenced to 12 months' imprisonment for theft of government property. The man is alleged to have falsely represented in an application for a PPP loan that he owned a barber shop and had one employee with an annual payroll expense of \$96,000, even though he was not a licensed barber and did not own a barber shop. Read the DOJ's press release [here](#).

A New York man recently pled guilty to wire fraud for fraudulently applying for an Economic Injury Disaster Loan using another individual's name and personal information without the individual's permission. Read the DOJ's press release [here](#).

Pennsylvania Skilled Nursing Facility Agrees To Pay Over \$819,000 To Resolve Allegations of FCA Violations

Old Man's Home of Philadelphia, d/b/a Saunders House, agreed to pay \$819,650 to resolve allegations that it provided medically unnecessary rehabilitation therapy to its residents. The settlement resolves allegations and is not a determination of liability.

The allegations arose from a whistleblower complaint filed under the *qui tam* provisions of the False Claims Act (FCA). The whistleblower, a physical therapist assistant, alleged that Saunders House fraudulently billed federal healthcare programs by:

1. Overbilling for therapy services.
2. Billing for services that were not provided.
3. Billing for unreasonable, unnecessary, and even harmful therapy services.
4. Allowing the therapy provider to manipulate clinical services to maximize billing.

At the time of the alleged fraud, Medicare Part A is claimed to have paid Saunders House for the services it rendered based on a daily date that was determined, in part, on a Resource Utilization Group (RUG). Each beneficiary was assigned to a RUG intended to reflect the anticipated costs incurred with providing nursing and rehabilitation services to those with similar characteristics or resource needs. According to DOJ's press release, Saunders House allegedly caused the submission of false claims for Ultra High RUG therapy levels, which is the highest reimbursement level, even though that level of therapy was not reasonable or necessary for the patients.

Read the DOJ's press release [here](#).

Georgia Man Sentenced to 70 Months' Imprisonment and Ordered To Pay Over \$5 Million in Restitution for Medicaid Fraud

Glenn Pair of Georgia pleaded guilty to conspiracy to commit Medicaid fraud and conspiracy to commit money laundering to resolve federal charges filed against him in the Northern District of Georgia, Northern District of South Carolina, and Western District of North Carolina for his alleged participation in a scheme to defraud Medicaid programs in North Carolina, South Carolina and Georgia of more than \$5 million.

According to DOJ's press release, Pair and his co-conspirator owned and operated an after-school and youth mentoring program, Do-It-4-The Hood Corporation, in North Carolina. Through this program, the men paid individuals to recruit at-risk youths, particularly those who were Medicaid eligible. The enrolled youth were then required to submit urine specimens for drug testing performed by laboratories, who then provided a kickback to Pair and his co-conspirator. The men received \$1.8 million in kickbacks from the laboratories that participated in the conspiracy.

The two men also became owners of a Wrights Care Services LLC franchise, a qualified Medicaid rehabilitative behavioral health service provider. They filed fraudulent claims for mental health counseling or other services that were not provided, partially provided, or that did not qualify for Medicaid reimbursement, and submitted falsified patient billing records and fake medical notes to support the claims. Once the men became aware of a South Carolina Medicaid audit, they had a "note party" where they and other co-conspirators created false and fraudulent billing records to substantiate already-submitted false Medicaid claims, forged signatures, and falsified records that were then submitted to South Carolina Medicaid auditors.

In total, the conspiracy submitted thousands of false claims totaling over \$17 million to Medicaid in Georgia, South Carolina, and North Carolina, and received over \$5 million in fraudulent reimbursements.

Read the DOJ's press release [here](#).

New Jersey Men Plead Guilty to Health Care Fraud Conspiracy

Two New Jersey men pleaded guilty to one count of conspiracy to commit health care fraud for defrauding New Jersey state and local health benefits programs. According to DOJ's press release, the men recruited and compensated state and local government employees for receiving medically unnecessary prescriptions. As a result of the alleged conspiracy, the men caused the submission of fraudulent claims, and the pharmacy benefits administrator paid out millions for medically unnecessary compound prescriptions. The two men received \$327,897 and \$150,315, respectively, for their participation in the scheme.

Read the DOJ's press release [here](#).

© 2024 ArentFox Schiff LLP

National Law Review, Volumess XII, Number 217

Source URL: <https://www.natlawreview.com/article/jury-orders-eli-lilly-to-pay-61-million>