

# The University of Miami to Pay \$22 Million to Settle Medicare False Claims Act Allegations

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The U.S. Department of Justice (the “DOJ”) recently settled whistleblower False Claims Act (“FCA”) allegations against The University of Miami (“UMiami”) for \$22 million, which resolves claims from three separate lawsuits related to billing practices at UMiami’s off-campus hospital-based facilities (“Off-Campus Hospital Facilities”) and fraudulent claims for laboratory services.

Allegations were first raised in 2013 through the filing of a whistleblower lawsuit. Two additional whistleblower lawsuits were filed in late 2013 and mid-2014. The DOJ intervened in all three and alleged:

1. UMiami knowingly engaged in improper billing relating to its Off-Campus Hospital Facilities. Off-Campus Hospital Facilities are required to give notice to Medicare beneficiaries explaining that they would face higher costs when receiving services at Off-Campus Hospital Facilities as opposed to physician offices. Here, UMiami allegedly converted multiple physician offices to Off-Campus Hospital Facilities, and then sought payment at higher rates without providing beneficiaries the required notice, even after being advised by a Medicare Administrative Contractor that its notice practices were deficient.
2. UMiami billed federal health care programs for medically unnecessary laboratory tests for patients who received kidney transplants at the Miami Transplant Institute (“MTI”), a transplant program jointly operated by UMiami and Jackson Memorial Hospital (“JMH”). Each time a patient sought treatment at MTI, UMiami’s electronic ordering system automatically prompted the ordering of a number of tests for the patient at UMiami’s laboratory and the DOJ alleged that several of these laboratory tests were medically unnecessary and “dictated by financial considerations rather than patient care.”
3. UMiami caused JMH to submit inflated claims for reimbursement for pre-transplant laboratory testing conducted at MTI and JMH then paid UMiami in excess of fair market value and Medicare allowable costs for those tests billed by JMH. While UMiami could have billed Medicare directly for the tests, the DOJ alleged that UMiami chose not to in an attempt to increase its income from JMH in exchange

for UMiami's surgeons continuing to perform surgeries at JMH. JMH separately settled with the DOJ for \$1.1 million.

In addition to the settlement, UMiami also agreed to enter into a five-year [corporate integrity agreement](#) with the U.S. Department of Health and Human Services.

The settlement emphasizes the importance of strictly complying with the notice requirements for Off-Campus billing of Medicare patients. The provider-based rules that set the requirement are conditions of payment, and the failure to comply with all technical requirements may result in the disallowance of the claim. Further, "standing" orders are risky and need to be established carefully based on patient care needs and not financial considerations. Finally, all financial relationships, including between long time institutional "partners," need to be reviewed for compliance with the Anti-Kickback Statute and the Stark Law.

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- **Edward S. Kornreich**