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Health Law *Pulse*

September 2015

KMART Settles False Claims Act Allegations for $1.4 Million

The U.S. Department of Justice (DOJ) recently announced that KMART Corp. (Kmart) has paid $1.4 million to settle a *qui tam* lawsuit brought by a former Kmart pharmacist under the False Claims Act (FCA). The lawsuit alleged that Kmart's retail pharmacies provided illegal inducements to Medicare beneficiaries, in violation of the FCA and the Federal Anti-Kickback Statute, by allowing customers to use drug manufacturer coupons to reduce or eliminate prescription co-pays. The effect of this program, as alleged by the government, was to incentivize the purchase of brand name drugs over generic drugs, resulting in increased costs to federal healthcare programs without any medical benefit to the customer. The lawsuit also alleged that Kmart provided improper incentives to Medicare beneficiaries by offering discounts on gasoline purchases based on the number of prescriptions filled at Kmart pharmacies.

The DOJ press release reiterated the government's heightened focus on combating health care fraud as part of the joint Health Care Fraud Prevention and Enforcement Action (HEAT) initiative of the U.S. Attorney General and the Secretary of Health and Human Services. Since the announcement of HEAT in 2009, the DOJ has recovered more than $15.9 billion in cases involving fraud against federal health care programs.

If you have any questions, please contact a member of Robinson+Cole's Health Law Group:

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