

\$160 Million Medicare Fraud Settlement for Diabetic Testing Supplier

Richard P. Kusserow | September 9, 2021

Whistleblower to receive \$28.5 million of recovery.

The Department of Justice (DOJ) **announced** that Arriva Medical LLC (Arriva), which was once the nation's largest Medicare mail-order diabetic testing supplier, and its parent company entered into a \$160 million settlement to resolve allegations that they violated the False Claims Act (FCA).

The settlement relates, in part, to allegations that Arriva paid kickbacks to Medicare beneficiaries by providing "free" or "no-cost" glucometers and routinely waiving, or not collecting, copayments for various diabetic testing supplies. Arriva allegedly advertised glucometers as "free" and offered Medicare beneficiaries a "no-cost guarantee" if Medicare denied payment. (Medicare did typically deny payment because the beneficiaries were not yet entitled to new glucometers.) In order to induce existing customers to reorder testing supplies, Arriva also allegedly offered and provided "free" additional glucometers.

In addition, Arriva allegedly failed to (a) make reasonable efforts to collect Medicare copayments; (b) send invoices to beneficiaries; and (c) take other basic steps to collect copayments, such as sending collection letters or making phone calls. Specifically, the company is alleged to have systematically waived "small" dollar copayments without informing beneficiaries of their copayment obligations and automatically waived other unpaid copayments after sending no more than three invoices. Arriva also allegedly waived copayments when customers complained that it had advertised that supplies would be provided at no cost.

The settlement further resolves allegations that Arriva submitted claims to Medicare without regard to patients' eligibility and on behalf of deceased beneficiaries. It additionally resolves claims brought under the FCA's *qui tam* provisions by a former Arriva call center employee, who will receive more than \$28.5 million as a share of the recovery.

The settlement is one of the largest reached in the United States for allegations of kickbacks involving durable medical equipment. Notably, Arriva's founders previously paid \$1 million to resolve allegations that they participated in the kickback scheme.

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