An Ambulance Provider's Long Road to Settlement

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by Vanessa J. Szalapski

On June 20, 2019, more than six years after the case was first set into motion by the Relator, the U.S. Attorney's Office for the District of Maryland announced in a press release that Hart to Heart Ambulance Services, Inc. ("Hart to Heart") settled a false claims act case—which alleged that it submitted false claims to Medicare for ambulance transports that were not medically necessary—for $1.25 million.

The road to settlement was a long one. The Relator, a former Hart to Heart employee, filed the original complaint under seal on March 29, 2013. *United States, et al. ex rel. Arvey v. Hart to Heart Transp. Servs., Inc. et al.*, No. 13-cv-01554-RDB (D. MD March 29, 2013) (ECF Nos. 1-3). After the complaint was filed, the United States secured multiple extensions of time to make an intervention decision. *Id.*, ECF Nos. 5-11. Two-and-a-half years later, the United States still had not made a decision, and the court denied further requests for an extension of time, presumably because it decided the case needed to move forward. *Id.*, ECF No. 14. Forced to make a decision, the United States declined to intervene on October 19, 2015, because it had not completed enough of its investigation to prosecute the case. *Id.* The United States continued to investigate after the case was unsealed and even engaged with Hart to Heart in settlement negotiations. *Id.*, ECF Nos. 49-50, 53, 58. The parties began moving through the pleadings stage, *id.*, ECF Nos. 14-51, but before the case could get off the ground, the parties negotiated and requested a stay, which the court granted on August 23, 2016, *id.*, ECF No. 52. The stay ultimately continued until November 30, 2018, the same day the United States intervened against Hart to Heart, EMS Billing Solutions, Inc. ("EMS") (Hart to Heart's billing arm), and the companies' owners and operators. *Id.*, ECF Nos. 64-66.

The complaint filed by the United States alleged that Hart to Heart fraudulently received millions of dollars of Medicare payments by submitting claims for ambulance transportation for patients who could sit, stand, walk, or otherwise did not need to be transported by ambulance. *Id.*, ECF. No. 66 at ¶¶ 1-2. The United States further alleged that from 2010-2018, the owners and operators of Hart to Heart trained, threatened, and coerced its employees as well as EMS's billing employees to transport patients by

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ambulance unnecessarily and to falsify records to make it appear as though it was medically necessary. *Id.* at ¶ 3. When that did not work, the United States alleged that Hart to Heart and EMS falsified the billings directly. *Id.*

Despite the slow start, the case settled seven months after the United States filed its Intervention Complaint, and the parties never got passed the pleadings stage. Hart to Heart did not admit any of the allegations, but did resolve all claims from January 2, 2010 to December 31, 2017 to the tune of $1.25 million. *See* DOJ Press Release. The Relator will receive approximately $251,000 from the settlement. *Id.*

Government investigations can take a long time and settlements even longer. Even when the government initially declines to intervene, it may later change course and intervene upon a showing of good cause under 31 USC § 3730(c)(3) because, as Yogi Bera famously said, “it ain’t over ‘till it’s over.”