

Relator Fees and Settlements by Dentists and Dental Clinics

In January of 2018, Benevis LLC and more than 130 of its affiliated Kool Smiles dental clinics agreed to settle with the United States and participating states for a total a total of **\$23.9 million** to resolve allegations that they knowingly submitted false claims for payment to state Medicaid programs for medically unnecessary dental services performed on children insured by Medicaid. The United States alleged that the Kool Smiles clinics located throughout 17 states knowingly submitted false claims to state Medicaid programs for medically unnecessary pulpotomies (baby root canals), tooth extractions, and stainless-steel crowns, in addition to seeking payment for pulpotomies that were never performed. *See* DOJ Press Release dated January 10, 2018.

In January of 2017, the three **Whistleblowers** (including two represented by Attorney Rusty Tucker) **received \$1,521,000** of the settlement proceeds when MB2 and other Defendants agreed to pay the United States and the State of Texas **\$8.45 million** for alleged violations of the federal False Claims Act (FCA) and the Texas Medicaid Fraud Prevention Act (TMFPA). Three lawsuits were resolved (**including two lawsuits where Attorney Rusty Tucker was the attorney for the Whistleblowers**) with this settlement alleging that MB2 knowingly submitted claims for children's dental services which were either not performed or were provided after false identification was used. The claims also involved illegal kickbacks to Medicaid beneficiaries and their families, marketers and marketing entities. *See* Texas Attorney General Press Release dated January 12, 2017. To view the Texas AG Press Release regarding the case, [click here](#).

In June of 2016, four dental clinics of the Texas Smile Magic chain agreed to settle Medicaid Fraud charges for a total of **\$4.5 million**. It was alleged that Smile Magic defrauded the Texas Medicaid program by performing unnecessary or excessive dental services on young children, billed Medicaid for dental services never-performed, targeted young Medicaid beneficiaries through improper financial incentives, and used paid recruiters to round up poor kids to be used to commit Medicaid fraud. **Attorney Rusty Tucker was the attorney for the Whistleblower**

who received a majority of the Whistleblower award. For Tucker's Press Release regarding the case, [click here](#).

In January of 2015, a community health center agreed to pay **\$3.35 million** to the State of Washington to settle claims that it overbilled Medicaid for thousands of dental appointments. The Washington Attorney General contended that between 2010 and 2014, the health center billed fluoride treatment, which can be performed by an assistant as part of a patient's regular six-month checkup, as a stand-alone appointment with a dentist or hygienist. In addition, the health center also allegedly billed for appointments that exceeded the number of exams allowed per patient under Medicaid. *See* Press Release, Office of the Attorney General, State of Washington, Sea Mar Health Centers to Pay \$3.35 Million in Attorney General's Office Investigation of Improper Billing (Jan. 16, 2015), <http://www.atg.wa.gov/news/news-releases/sea-mar-health-centers-pay-335-million-attorney-general-s-office-investigation>.

In March of 2012, All Smiles Dental Center, Inc. and its former majority owner, Richard Malouf, D.D.S. (collectively "All Smiles"), agreed to pay the U.S. and State of Texas **\$1.2 million** to resolve allegations that they violated the civil False Claims Act and Texas Medicaid Fraud Prevention Act, announced U.S. Attorney Sarah R. Saldaña of the Northern District of Texas. The U.S. and Texas contend All Smiles caused "unbundled" and other improper claims to be submitted to the Texas Medicaid program for orthodontic-related items and services between 2004 and 2007. *See* Press Release March 21, 2012, U.S. Attorney U.S. District Court for the Northern District of Texas.

In January of 2010, **FORBA** Holdings LLC, a dental management company that provides business management and administrative services to 69 clinics nationwide known as "Small Smiles Centers", agreed to pay the United States and participating states **\$24 million**, plus interest, to resolve FCA allegations that it caused bills to be submitted to state Medicaid programs for medically unnecessary dental services performed on children insured by Medicaid. In particular, the United States alleged that FORBA was liable for causing the submission of claims for reimbursement for a wide range of dental services that were either medically unnecessary or performed in a manner that failed to meet professionally-recognized standards of care. These

services included performing pulpotomies (baby root canals), placing crowns, administering anesthesia (including nitrous oxide), performing extractions, and providing fillings and/or sealants. *See* 2010 OIG Annual Report.

On January 16, 2015, a community health center agreed to pay \$3.35 million to the State of Washington to settle claims that it overbilled Medicaid for thousands of dental appointments. The Washington Attorney General contended that between 2010 and 2014, the health center billed fluoride treatment, which can be performed by an assistant as part of a patient's regular six-month checkup, as a stand-alone appointment with a dentist or hygienist. In addition, the health center also allegedly billed for appointments that exceeded the number of exams allowed per patient under Medicaid. *See* Press Release, Office of the Attorney General, State of Washington, Sea Mar Health Centers to Pay \$3.35 Million in Attorney General's Office Investigation of Improper Billing (Jan. 16, 2015), <http://www.atg.wa.gov/news/news-releases/sea-mar-health-centers-pay-335-million-attorney-general-s-office-investigation>.

Qui Tam Settlements by Dentists 2013

- On June 3, 2013, the Connecticut Attorney General announced a \$9.9 million settlement with a former dentist and six of his management and consulting companies. The suit stemmed from a Connecticut Department of Social Services investigation alleging violations of the Connecticut False Claims Act and the Connecticut Unfair Trade Practices Act. The suit alleged that the individual continued to manage a number of dental practices after being permanently excluded from participation in Medicare and state health care programs. The suit also alleged that the individual double-billed for certain dental services or billed for services that were not rendered. In addition to paying the state \$9.9 million, the agreement also bars the individual and the named companies from participating in any health care-related business in Connecticut. *See R.I. Firm Settles Medicaid Fraud Claims in Connecticut for \$9.9 Million*, Connecticut Watchdog (June 3, 2013), <http://ctwatchdog.com/health/r-i-firm-settles-medicaid-fraud-claims-in-connecticut-for-9-9-million>.