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## CVS Caremark Puts Up \$4M To End FCA Suit

By Jeff Sistrunk

Law360, Los Angeles (December 02, 2013, 9:00 PM ET) -- A CVS Caremark Corp. unit will pay \$4.25 million to the federal government and five states to settle a False Claims Act whistleblower suit alleging it defrauded government insurance programs by not reimbursing expenses that should have been covered by private insurers, according to the U.S. Department of Justice.

Under the terms of the deal, which was tentatively announced last year, Caremark LLC will pay the federal government \$2.31 million, while five states — Arkansas, California, Delaware, Louisiana and Massachusetts — will share \$1.94 million, according to the DOJ.

"It is vitally important that cash-strapped Medicaid programs receive reimbursement for costs they incur that should have been paid for by other insurers," said Stuart F. Delery, assistant attorney general for the Justice Department's Civil Division, in a statement. "We will take action against those who seek to gain at the expense of Medicaid or other federal health care programs."

CVS Caremark emphasized in a statement that the settlement affects only its pharmacy benefit management business and does not involve CVS/pharmacy or the company's Medicare Part D businesses.

"Pursuant to the agreement with the United States and several participating states, the company has expressly denied engaging in any wrongful conduct and has settled the matter to avoid the expense and uncertainty of protracted litigation," the company said.

The settlement resolves a long-running suit filed in 1999 by qui tam relator Janaki Ramadoss, a former Caremark quality assurance representative in Texas. Ramadoss will receive nearly \$506,000 from the federal government's share of the settlement, along with additional amounts from the settling states, according to the DOJ.

The U.S. and the states **waded into the suit** in February 2012, alleging Caremark violated the False Claims Act by routinely rejecting, denying or underpaying on valid reimbursement requests for prescription claims paid by the federal health programs on behalf of beneficiaries of Caremark-administered plans who also have prescription drug coverage under federal and state health plans. Texas also intervened, but its claim was later severed from the main suit and settled.

Federal and state law makes government health programs the payor of last resort, according to the intervening complaint. If, after reimbursing a beneficiary's claim, a government health plan discovers that the beneficiary also has private insurance coverage, it seeks reimbursement from the party administering the private plan.

The government claimed that Caremark refused to fully reimburse federal health programs and state Medicaid programs by treating requests as paper claims — instructing their claims processors to reject all reimbursement requests if the client's health plan did not offer a paper claim option.

Caremark also refused to fully reimburse claims by treating them as stale, out-of-network or claims that required preauthorization, according to the complaint.

Ramadoss is represented by Thomas H. Watkins and Lorinda G. Holloway of Brown McCarroll LLP

and Marlene M. Martin of the Law Office of Marlene M. Martin.

Caremark is represented by Edward F. Valdespino of Strasburger Price LLP, Jennifer L. Weaver of Waller Lansden Dortch & Davis LLP and Charles J. Muller III of Chamberlain Hrdlicka White Williams & Martin PC.

The case is USA et al. v. Caremark Inc. et al., case number 5:12-cv-00929, in the U.S. District Court for the Western District of Texas.

--Editing by Philip Shea.

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