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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Health Care Fraud Made Up Bulk Of Feds' \$3B Recovery In '19

By **Daniel Wilson**

Law360 (January 9, 2020, 7:25 PM EST) -- Fraud in the health care and drug industries made up the bulk of the \$3 billion recovered by the federal government in enforcement actions last year — an approximately 5% increase following a 10-year low in 2018, the U.S. Department of Justice announced Wednesday.

The DOJ raked in \$3.05 billion in judgments and settlements under the False Claims Act in fiscal 2019, with \$2.6 billion stemming from health care and life sciences companies such as drug and medical device makers, hospitals and pharmacies, the department said.

"The significant number of settlements and judgments obtained over the past year demonstrate the high priority this administration places on deterring fraud against the government and ensuring that citizens' tax dollars are well spent," Assistant U.S. Attorney General Jody Hunt said in a statement.

The 2019 recovery is up from the \$2.9 billion **clawed back** in fiscal 2018, the DOJ's smallest return under the anti-fraud law in a decade. Total recoveries under the FCA have now topped \$62 billion since 1986, when Congress significantly overhauled the law to encourage more whistleblowers to come forward, the DOJ said.

It was the 10th consecutive year that health care-related settlements and judgments have topped \$2 billion, with millions of dollars more — the DOJ did not provide a specific figure — also recovered for state Medicaid programs, the department said.

Fraud claims involving the U.S. Department of Defense accounted for \$252.1 million of the recovered funds, more than double the \$107.5 million in defense-related recoveries in fiscal 2018, according to DOJ statistics. And there were \$196.8 million in non-health care, non-defense settlements and judgments, the department said.

Qui tam whistleblowers continued to be the driving force behind FCA cases in fiscal 2019, as they have been since the mid-1990s. They helped the government recoup \$2.1 billion and were collectively awarded \$265 million for their role, the department said.

"Whistleblowers continue to play a critical role identifying new and evolving fraud schemes that might otherwise remain undetected," Hunt said.

There were 633 new qui tam suits — an average of more than 12 per week — filed during fiscal 2019, with the DOJ filing 146 FCA suits itself, according to the department's statistics.

The single biggest FCA recovery was a \$500 million settlement with Reckitt Benckiser Group PLC, part of a broader **\$1.4 billion criminal and civil deal** over the drugmaker's sales and marketing tactics for its opioid addiction treatment Suboxone.

The department also cited several recoveries in 2019 that involved claims not commonly asserted in FCA cases, including **\$162 million in total settlements** with five South Korean companies over allegations that they colluded with each other on bids for contracts to supply fuel to the U.S. military, and a **\$112.5 million settlement** with Duke University over claims it used falsified research to win

federal grants.

It also highlighted **its \$21 million settlement** with Patient Care America and the pharmacy's private equity owner Riordan Lewis & Haden Inc. over claims that the pharmacy created a scheme to bill Tricare, the government's health insurance for active-duty and retired military personnel and their dependents, for expensive and unnecessary medicines and vitamins.

Attorneys **told Law360 that it is rare** for FCA cases to involve private equity owners, and that the case likely marked the first time the DOJ had intervened in an FCA dispute targeting a private equity company.

--Editing by Alanna Weissman.

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