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Department of Justice
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Nation's Largest Nursing Home Pharmacy Company to Pay \$124 Million to Settle Allegations Involving False Billings to Federal Health Care Programs

Omnicare Inc., the nation's largest provider of pharmaceuticals and pharmacy services to nursing homes, has agreed to pay \$124.24 million for allegedly offering improper financial incentives to skilled nursing facilities in return for their continued selection of Omnicare to supply drugs to elderly Medicare and Medicaid beneficiaries, the Justice Department announced today . Omnicare is headquartered in Cincinnati, Ohio.

"Health care providers who seek to profit from providing illegal financial benefits will be held accountable," said Assistant Attorney General for the Justice Department's Civil Division Stuart F. Delery. "Schemes such as this one undermine the health care system and take advantage of elderly nursing home residents."

"Omnicare provided improper discounts in return for the opportunity to provide medication to Medicare and Medicaid beneficiaries," said Steven M. Dettelbach, United States Attorney for the Northern District of Ohio. "Nursing homes should select their pharmacy provider based on the best quality, service and cost to the residents, not based on improper discounts to the nursing facility."

The settlement resolves allegations that Omnicare submitted false claims by entering into below-cost contracts to supply prescription medication and other pharmaceutical drugs to skilled nursing facilities and their resident patients to induce the facilities to select Omnicare as their pharmacy provider. The facilities were participating providers under agreements with Medicare and Medicaid. In addition to the facilities' own claims for reimbursement from Medicare for short-term rehabilitation treatment rendered to patients, Omnicare submitted additional claims for reimbursement to Medicare and Medicaid for drugs Omnicare supplied. Of the \$124.24 million to be paid by Omnicare, \$8.24 million will go to various states which jointly funded the Medicaid programs impacted by Omnicare's conduct.

The Anti-Kickback Statute prohibits offering, paying, soliciting or receiving remuneration to induce referrals of items or services covered by Medicare, Medicaid and other federally funded programs. The Anti-Kickback Statute is intended to ensure that the selection of health care providers and suppliers is not compromised by improper financial incentives and is instead based on the best interests of the patient.

The settlement resolves allegations brought in two lawsuits filed by whistleblowers under the *qui tam* provisions of the False Claims Act, which allow private parties to bring suit on behalf of the government and to share in any recovery. The first whistleblower, Donald Gale, a former Omnicare employee, will receive \$ 17.24 million.

The settlement with Omnicare was the result of a coordinated effort by the U.S. Attorney's Office for the Northern District of Ohio, the Commercial Litigation Branch of the Justice Department's Civil Division, the Department of Health and Human Services Office of Inspector General, and the National Association of Medicaid Fraud Control Units.

This settlement illustrates the government's emphasis on combating health care fraud and marks another achievement for the Health Care Fraud Prevention and Enforcement Action Team (HEAT) initiative, which was announced in May 2009 by Attorney General Eric Holder and Secretary of Health and Human Services Kathleen Sebelius. The partnership between the two departments has focused efforts to reduce and prevent Medicare and Medicaid financial fraud through enhanced cooperation. One of the most powerful tools in this effort is the False Claims Act. Since January 2009, the Justice Department has recovered a total of more than \$19.5 billion through False Claims Act cases, with more than \$13.9 billion of that amount recovered in cases involving fraud against federal health care programs.

The claims resolved by this settlement are allegations only, and there has been no determination of liability.