

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES, EX REL. DR. SUSAN NEDZA,)	
)	
Plaintiff-Relator,)	No. 15-cv-6937
)	
v.)	JUDGE JORGE L. ALONSO
)	
AMERICAN IMAGING MANAGEMENT, INC.)	JOINT STATUS REPORT
)	
Defendant.)	

JOINT STATUS REPORT

Plaintiff Relator Dr. Susan Nedza and Defendant American Imaging Management, Inc. (AIM), jointly submit this status report.

I. Nature of the Case

A. Federal jurisdiction is provided by 28 U.S.C. § 1331 for these claims brought under the Federal False Claims Act, 31 U.S.C. § 3732. Jurisdiction is also proper under 28 U.S.C. § 1345 because the United States is a non-intervening plaintiff.

B. Relator’s Statement of the Case: This a civil action by the United States, through Plaintiff-Relator Dr. Susan Nedza, to recover treble damages and civil penalties arising from the alleged practice of filing false certifications and claims for and receipts of payments under Medicare Advantage Program in violation of the False Claims Act, 31 U.S.C. §§ 3729-3733.

Relator alleges that Defendant contracted to make pre-authorization decisions for Medicare Advantage insurance plans, who, in turn, had contracted with the federal government to provide coverage to certain Medicare beneficiaries under the Medicare Advantage program. Relator alleges that as a condition of the Medicare Advantage program, Defendant and its client insurance plans certified they would provide the same coverage to Medicare beneficiaries as they would receive if beneficiaries were direct Medicare participants under the traditional fee for service

program. The Third Amended Complaint alleges that, instead, the Defendant caused insurers to submit false and fraudulent statements to the government to induce it to enter Medicare Advantage contracts with the insurers, while knowing that the Defendant would fraudulently and systematically refuse and fail to cover medical procedures that should have been approved under Medicare rules. No counterclaims or third-party claims have been filed.

Defendant's Statement of the Case: Defendant denies all allegations. As explained more fully in its Motion to Dismiss filed at Dkt. Nos. 224-225, Relator cannot demonstrate the allegations she has pled constitute any violation of the False Claims Act, much less its individual elements, under any theory set forth in the Third Amended Complaint. Moreover, even if Relator could prove her allegations were true (which she cannot), the theories offered by Relator did not cause any loss to the government and are therefore not material.

C. Relator seeks triple damages, civil penalties, interest, and attorneys' fees and litigation costs. Defendant denies Relator is entitled to recover any damages, or that the government suffered any loss.

D. The Parties agree to a jury trial.

E. Relator has served Defendant.

II. Discovery and Pending Motions

A. No motions are pending.

B. The Parties have conferred in accordance with Rule 26(f).

- i. Discovery in this case will be extensive, including significant electronic discovery covering such items as training materials, patient information and medical records, claims data, CMS billing information and contracts, and marketing information. The parties anticipate seeking discovery from

several third parties, including CMS or other government agencies, which process typically is lengthy.

- ii. The parties plan to request protective orders to protect patient privacy or business information.
- iii. The parties' proposed date for initial Rule 26(a)(1) disclosures is June 12, 2020.
- iv. The parties' proposed date for completion of fact discovery is June 14, 2021.
- v. The parties currently expect expert discovery to follow fact discovery.

III. Settlement and Referrals

- A. The Parties have not yet had settlement discussions.
- B. At this time, the Parties do not request a settlement conference.
- C. Counsel have informed their clients about the possibility of proceeding before a magistrate. The Parties do not unanimously consent.

Dated: June 4, 2020

Respectfully Submitted:

Counsel for Defendant American Imaging Management, Inc.

Counsel for Relator

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