

Company that makes sleep apnea masks to pay \$34M in lawsuit

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A company that makes breathing masks for people with sleep apnea has agreed to pay \$34.8 million to settle claims it paid kickbacks to suppliers that sold its products.

Philips Respironics Inc. of Murrysville provided free customer support through its medSage call center to suppliers whose customers used Respironics masks. Suppliers that sold masks made by competitors had to pay for the call center services, which made the suppliers more likely to use Respironics masks, according to the U.S. Department of Justice, which announced the settlement Wednesday.

Kickbacks "in any form to induce patient referrals threatens public confidence in the health care system," said Benjamin Mizer, who handled the litigation for the Justice Department.

The masks can be covered by Medicaid or Medicare programs, and it's against the law to induce medical suppliers to use a particular company's product for any government-covered medical service, the Justice Department said.

Dr. Gibran Ameer, a South Carolina pharmacist who has worked for various medical supply companies, filed a whistleblower lawsuit in federal court two years ago and will receive nearly \$5.4 million under the settlement. The federal government will receive more than \$28.7 million. Philips Respironics will also pay about \$660,000 to cover claims by state Medicaid programs.

The Justice Department, 29 states and the District of Columbia joined the lawsuit.

Alicia Cafardi, a spokeswoman for Philips Respironics, said the company had a "good-faith belief" that it wasn't doing anything wrong when it "bundled" the call center service in the price of its sleep apnea masks.

The government called that fictitious, saying suppliers paid nothing extra for their masks but were charged 99 cents a month for each patient without a mask who used the call center service. The call center contacted patients with sleep apnea who used any breathing machine to remind them to regularly replace masks, tubes and filters that are part of their devices.

That means a supplier saved \$11.88 per year for each patient that used a Philips Respironics mask. A supplier that had 10,000 patient customers would save \$118,800 annually if they sold Philips Respironics masks instead of a competitor's, the government said in the lawsuit.

Ameer was an executive for one such medical supplier when Philips Respironics tried to sell that arrangement to his company, according to his attorney, Andrew Melling.

"Dr. Ameer recognized that what was being offered was kickbacks," Melling said.

Cafardi said Philips Respironics has since "made a business decision" to restructure the call center pricing.

Medical supply companies who use the medSage call center service now pay a flat monthly price for each patient, regardless of whether the patient uses a Respironics mask, Cafardi said.

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