United States Attorney
Southern District of New York

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CONTACT: **U.S. ATTORNEY'S OFFICE**
HERBERT HADAD, MEGAN GAFFNEY
HEATHER TASKER, BRIDGET KELLY
PUBLIC INFORMATION OFFICE
(212) 637-2600

BETH ISRAEL MEDICAL CENTER AGREES TO PAY MORE THAN $70 MILLION TO SETTLE CHARGES THAT IT DEFRAUDED MEDICARE

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York, announced today that Beth Israel Medical Center ("BETH ISRAEL") has agreed to pay $72,997,481 to resolve civil charges that BETH ISRAEL defrauded the Government by making false statements in its cost reports in order to inflate the hospital's reimbursement from the Medicare Program.

The Complaint filed by the United States explains that under the Medicare Program, hospitals must submit annual cost reports, which are used in determining the amount of reimbursement to which the hospital is entitled. In its cost reports, a hospital must assign all of its costs to "cost centers" according to whether or not the cost is reimbursable under the Medicare program. If a service or activity is reimbursed by Medicare, costs associated with it must generally be assigned to a "reimbursable cost center," but if a service or activity is not reimbursed by Medicare, costs associated with it must be assigned to a "non-reimbursable cost center." If a hospital assigns a non-reimbursable cost to a reimbursable cost center on its cost report, Medicare overpays the hospital.

The Complaint further explains that Medicare does not reimburse for costs associated with the private practices of hospital physicians, and that if a hospital spends money for its physicians' private practices, those costs must be included in a non-reimbursable cost center on the cost report. According to the Complaint, from 1992 through 2001, in violation of the Medicare reimbursement rules, BETH ISRAEL's Medicare cost reports intentionally and improperly included in reimbursable cost centers, rather than in non-reimbursable cost centers as required, costs (for such items as salaries, supplies, equipment, and administrative overhead) that it spent to support medical services provided by hospital physicians in their private outpatient clinical practices. The Complaint alleges that through this scheme, BETH ISRAEL not only caused the Government to pay for these non-reimbursable direct costs for which it is not responsible, but also fraudulently inflated its Medicare reimbursement for indirect or overhead costs that were incurred in support of the activities that were improperly included in its reimbursable cost centers. Under the rules, overhead costs must be allocated between reimbursable and non-reimbursable cost centers.

In addition, the Complaint alleges that during the same period, BETH ISRAEL intentionally included the costs of its employees' housing and parking on its cost reports, rather than establishing a non-reimbursable cost center for such costs, as required under the Medicare rules, and further never applied the rent it had received for the housing and parking to reduce the costs. As a result, the share of overhead assigned to the hospital's reimbursable cost centers, and thus the amount of Medicare reimbursement the hospital received from the Government, was inflated.

Similarly, the Complaint alleges BETH ISRAEL intentionally under-reported the costs it incurred in conjunction with its non-reimbursable methadone maintenance treatment program, thereby reducing the share of overhead assigned to non-reimbursable cost centers, increasing the share of overhead assigned to reimbursable cost centers, and obtaining inflated reimbursement of its overhead costs.

The Government's Complaint further alleges that BETH ISRAEL intentionally failed to establish non-reimbursable cost centers for reporting its fund-raising or marketing costs, even though its fund-raising costs and a significant portion of its marketing costs were not reimbursable by Medicare and should have been reported in non-reimbursable cost centers. The Complaint alleges that this scheme also resulted in the allocation of a greater percentage of the hospital's overhead costs to reimbursable cost centers than permitted by the Medicare rules, and fraudulently inflated the hospital's reimbursements.

Finally, the Complaint details conduct that BETH ISRAEL voluntarily disclosed to the Government. BETH ISRAEL admitted that, for the years 1995 through 1999, it had obtained inflated reimbursements from Medicare by misrepresenting information in its cost reports related to the operation of its Kings Highway Division in Brooklyn, New York. Under the Medicare program, ancillary services (such as radiology or laboratory services) provided to hospital out-patients in clinics, emergency rooms and rehabilitation units are reimbursed based on a “cost to charge ratio” -- a ratio of the hospital’s total cost for such services over its total (Medicare and non-Medicare) charges for those services. BETH ISRAEL disclosed that it had excluded charges for ancillary services provided to Kings Highway Division out-patients, in order to artificially increase its ratio of costs to charges, which resulted in inflated reimbursements.

BETH ISRAEL agreed to pay the Government $72,997,481 to settle the charges detailed in the Government’s Complaint. In agreeing to the settlement, BETH ISRAEL did not admit any wrongdoing or liability. United States District Judge LEWIS A. KAPLAN approved the settlement today in Manhattan federal court.

Mr. GARCIA stated: “This settlement reflects the Government’s resolve to zealously protect our health care dollars, and to ensure that they are properly spent for costs that are recoverable under the law. No provider – big or small – can be allowed to manipulate cost reports for the purpose of fraudulently inflating its reimbursement under the Medicare program.”

Mr. GARCIA praised the investigative efforts and assistance provided in the case by the Department of Health and Human Services Office of Inspector General.

The allegations of wrongdoing were first brought to the attention of the Government by a whistleblower, who filed a complaint under the *qui tam* provisions of the federal False Claims Act. Those provisions permit the Government to intervene in cases originally commenced by private parties who have knowledge of fraud committed against the Government.

Assistant United States Attorneys SHEILA M. GOWAN and HEIDI A. WENDEL are in charge of the case.

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