

Bankrupt Lab Sues Physicians and Hospitals Nationwide

Insights

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The bankruptcy trustee for Health Diagnostic Laboratory, Inc. (HDL) is bringing actions in federal bankruptcy court in Richmond, Virginia, against over a thousand medical practices, clinics and hospitals (the Providers) all over the country, in an effort to recover alleged kickbacks paid to the Providers by HDL, in the form of processing and handling fees for specimens collected by the Providers and sent to HDL for testing.

HDL was investigated for these alleged kickbacks and entered into a \$47,000,000 settlement in April, 2015 with the U.S. Department of Justice for alleged False Claims Act violations, based on claims submitted to federal health care programs for lab tests performed by HDL as a result of referrals from providers who allegedly received kickbacks in exchange for their referrals. The negative publicity surrounding this investigation, and the resulting settlement, caused HDL's business to plummet. This collapse in business, together with the substantial settlement payment made by HDL, led to HDL filing for bankruptcy.

Now, the bankruptcy trustee has filed these actions against Providers around the country in an effort to claw back the processing and handling fees paid to the Providers by HDL. The bankruptcy trustee is asserting in court filings that the fees paid to Providers were kickbacks, and is proffering various legal theories under federal law, including bankruptcy law, and under various state law theories, to demand return of these amount from Providers. We are assisting a number of Providers to evaluate and respond to these lawsuits. Many Providers have not yet been served notice of the claims against them, but will be receiving notice in the weeks to come.

Meanwhile, in separate actions, the Office of Inspector General of the Department of Health and Human Services (the OIG) is pursuing certain of the same Providers for alleged violations of the federal anti-kickback statute. The OIG has already settled some of these cases, and is actively pursuing settlements in others. The OIG's position is that the bankruptcy actions are separate, and settling with the bankruptcy trustee does not limit a Provider's potential liability to the OIG. We are also assisting Providers with these issues.

For more information, please contact: In Los Angeles, [Charles Oppenheim](#) at (310) 551-8110; in Boston, [David Schumacher](#) at (617) 532-2704.

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