

Doctors MRI deals a 'sham,' state says

Operators contend that leases are legal

[Final Edition]

Chicago Tribune - Chicago, Ill.

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Date: May 10, 2007

Section: Business

Document Types: News

Text Word Count: 857

Document Text

Chicago-area doctors were told they could earn more than \$130,000 a year just for referring patients to some MRI centers, according to new documents filed in probe by the Illinois attorney general's office into radiology business practices.

A civil complaint filed by the attorney general's office was amended recently to include additional details about how some MRI centers allegedly marketed and trained sales people to entice physicians into what the state characterizes as phony lease deals. The state alleges the kickback scheme resulted in health insurers being billed for millions of dollars in fraudulent claims, although the operators of the MRI centers says the lease deals are perfectly legal.

Though MRIs were performed at radiology centers, the lease deals made it appear as though the doctors were in charge of the equipment and billed the services as their own, according to the suit. The attorney general's office alleges that the centers concocted "sham 'lease' agreements" to benefit doctors, who, in return, boosted referrals to the centers, sometimes for unnecessary tests.

The scheme, which dates back to at least 1999, involves "thousands of claims submitted to insurers in Illinois," the suit says, but the attorney general's office has not put a specific price tag on the fraud. Initial details of the alleged kickback scheme were first disclosed in a civil lawsuit unsealed in January.

More than 20 Chicago-area radiology centers are listed as defendants in the case, and the number could grow to include more centers and some individual physicians, according to sources close to the probe.

Most of the centers listed in the complaint operated under the ownership of Virginia-based MIDI LLC or Virginia-based companies with the MIDI name and operated locally under the Open Advanced or Open MRI brands, according to court documents.

"Despite having performed no services for the patient, the referring physician, or MIDI on behalf of the referring physician, bills the patient or the patient's insurer for diagnostic imaging procedures done at MIDI facilities," the amended lawsuit dated April 27 alleges.

Pitches to doctors provided in one MIDI training presentation detailed "scenarios" in which referring physicians could make \$177 or \$277 per MRI scan. Doctors were told the referrals could result in annual revenue of \$84,900 to \$132,900, assuming the doctor had a referral rate of 40 scans per month.

Under the larger payment scenario, court documents state, the training presentation laid out that the average reimbursement paid by insurance companies was \$800 per MRI. After MIDI fees of \$475 and a so-called overage cost of 10 percent was subtracted, potential revenue for the referring physician was \$277 per scan.

MIDI's agreements with doctors were shielded from patients and health insurance companies, and they also contained confidentiality clauses "stating that the terms of the agreement shall not be disclosed, and the claim forms submitted to insurers do not disclose that the physician billing for the imaging services did not personally perform or supervise those services," according to the suit.

But MIDI LLC, through its Chicago legal counsel at Reed Smith Sachnoff & Weaver, said the lease agreements are not only lawful but widespread.

"At least two federal courts have ruled that similar financial relationships as those being challenged by the State of Illinois are legal under federal law," said attorney Steven A. Miller. "MIDI is going to vigorously defend the action."

Miller had no further comment.

While attorneys for MRI operator defendants stand by the legality of the partnerships, one leading Illinois radiologist believes physicians should not participate in them, citing ethical obligations to patients, their insurers and employers who foot the bills for the MRI costs.

"It's treating patients as a commodity, and patients aren't being told," said Dr. Leonard Berlin, chairman of the radiology department at Rush North Shore Medical Center in Skokie and president of the Illinois Radiological Society.

"Is it unprofessional? Absolutely. Is it unethical? Absolutely," Berlin added. "It will be a matter for the courts to decide whether they are legal, but any practicing radiologist or primary-care physician can look at this and see that it is unethical and unprofessional."

Neither Atty. Gen. Lisa Madigan's office nor assistants handling the case would comment on allegations in the amended complaint. The 49-page complaint, however, says MIDI employees continue to "solicit and entice" physicians into joining such "kickback arrangements."

The complaint originally was filed in February 2006 by John Donaldson, the owner of a radiology service in Illinois, who had no comment, according to his lawyer, Anne Haule of Chicago law firm Ungaretti & Harris.

The lawsuit alleges the defendants violated the Consumer Fraud and Deceptive Business Practices Act, Illinois' anti-kickback law and the Insurance Fraud Prevention Act.

It seeks an unspecified restitution, damages and penalties.

Radiological societies say they have concerns about loopholes in current laws and have pushed lawmakers to close them but little has been done. Doctors also say physicians are lured into arrangements by lawyers who entice them into such lease arrangements as a way to make more money.

"The loopholes have to be closed," Berlin said. "It is good that the attorney general has been involved."

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Credit: By Bruce Japsen, Tribune staff reporter

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Abstract (Document Summary)

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