

Hospital Org Inks \$135M Deal To End Ex-CFO's Fraud Claims

By **Bonnie Eslinger**

Law360 (January 3, 2025, 9:26 PM EST) -- Community Health Network has agreed to pay \$135 million to end federal healthcare fraud claims brought by its former chief financial officer, a deal reached two years after the Indiana healthcare system agreed to pay \$345 million to settle False Claims Act allegations from the government in the qui tam action, the ex-CFO's counsel announced Thursday.

The Indiana federal court case dates back to 2014, when former Community Health CFO and Chief Operating Officer Thomas Fischer filed the FCA case outlining what he called an "aggressive strategy" the organization took to grow its physician network and garner their referrals. To recruit those doctors, Community Health paid in excess of the market rate through large base salaries and sizable bonuses, among other means, according to the complaint.

The government **intervened in the case**, and the **\$345 million settlement** addressed some, but not all, of Fischer's claims, including his individual retaliation and other employment claims stemming from his termination.

The U.S. Department of Justice also reached a \$20.3 million deal back in 2015 with Community Health resolving civil allegations that the health nonprofit submitted false claims to Medicare and Medicaid programs. Taken together, Community Health has now paid more than half a billion dollars in three False Claims Act settlements in the past decade, Fischer's attorneys underscored in their Thursday announcement.

In 2020, the Indiana federal judge overseeing the case granted Fischer permission to file an amended complaint that asserted FCA claims separate from those pursued by the government, according to court documents.

The latest settlement resolves those allegations, including that Community Health overpaid physicians employed by the organization and also by an independent oncology group that contracted exclusively with the health nonprofit. The excessive payments violated federal and state laws, including the federal Stark Law, which prohibits payments to physicians to influence where they treat or refer patients, Fischer's attorneys said in their announcement.

The deal also resolves claims Community Health paid above fair-market value rent to a physician-owned real estate partnership to induce those doctors to refer patients to a Community Health-owned ambulatory surgical center in violation of the federal Anti-

kickback Statute.

A lawyer for Fischer, Veronica Nannis of Joseph Greenwald and Laake, said the settlement is a testament to the nature of the FCA, which allows private persons to file suit on behalf of the government.

"It shows the genius of the FCA — allowing the government to focus on some of the claims while the relator takes the laboring oar on the other claims," Nannis said in a provided statement. "This is often the best way to ensure maximum recovery for the taxpayer."

Fischer said the long-running litigation aimed to hold Community Health executives and its board of directors accountable for their action and hopes the outcome encourages other whistleblowers to come forward.

"I hope these settlements will help empower and inspire others working in healthcare organizations across the country to speak up and speak out if and when they see potential fraud — both internally within their organizations and, if internal whistleblowing doesn't work, to report to the government," Fischer said in a provided statement.

Community Health Network also released a statement about the settlement resolving Fischer's remaining claims.

"We have now settled all remaining claims with no finding of wrongdoing," the health nonprofit said. "It is important to note that these issues are unrelated to the quality or appropriateness of the exceptional healthcare Community provides its patients."

Fischer is represented by Veronica Nannis, Jay P. Holland, Steve M. Pavsner and Virginia Grimm of Joseph Greenwald & Laake PA, Kathleen A. DeLaney and Annavieve C. Conklin of Delaney & Delaney LLC, Michael S. Smith, Timothy P. McCormack, Elizabeth F. Quinby and Michael D. Hanify of Preti Flaherty Beliveau & Pachios Chtd. LLP, and Bruce D. Greenberg and Anthony D. Zatkos of Lite Depalma Greenberg & Afanador LLC.

Community Health and the other defendants are represented by George B. Breen, Richard W. Westling, Erica Sibley Bahnsen, Elizabeth A. Harris, Daniel C. Fundakowski, Eleanor T. Chung, Dennis A. Sapien-Pangindian of Epstein Becker Green, Marc T. Quigley and Blake P. Holler, Thomas J. Costakis and Libby Yin Goodknight of Krieg DeVault LLP, and Robert K. McBride of Taft Stettinius & Hollister LLP.

The government is represented by Arthur DiDio of the U.S. Department of Justice, Zachary A. Myers and Shelese E. Woods of the U.S. Attorney's Office for the Southern District of Indiana, and Todd E. Rokita, Matthew Whitmire and Lawrence Carcare of Indiana Attorney General's Office.

The case is USA v Community Health Network Inc., case number 1:14-cv-01215, in the U.S. District Court for the Southern District of Indiana.

--Additional reporting by Theresa Schliep. Editing by Lakshna Mehta.

