

Sunday Star-Ledger

ION

TODAY'S FORECAST: Breezy and cooler with rain, heavy at times.

at 7 A.M. 57°

at 2 P.M. 58°

at 7 P.M. 54°

DETAILS, PAGE 31

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At UMDNJ, an attempt to cover up \$36M fraud

Monitor: No-show jobs for MDs led to referrals

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STAR-LEDGER STAFF

The state's medical university took in \$36 million in illegal Medicare and Medicaid payments as part of a kickback scheme designed to bolster its troubled cardiac surgery program, and top school officials conspired to cover it all up, according to the school's federal monitor.

The scheme involved 18 cardiologists at the University of Medicine and Dentistry of New Jersey who were given essentially no-show teaching jobs at salaries of \$150,000 or more. In return, they were expected to refer patients to the cardiac surgery program, the monitor alleges in a report sent to the U.S. attorney and expected to be released tomorrow. The doctors were paid almost \$6 million over four years.

The monitor, former federal Judge Herbert J. Stern, charged that the university systematically violated federal anti-kickback laws since 2002 in an effort to resuscitate its cardiac surgery program, which was being threatened with closure by the state.

He found that the illegal activity involving hundreds of patient referrals "persists to this day," despite a \$2.2 million settlement by the university in June of a whistle-blower's lawsuit. As recently as July, UMDNJ entered into a new contract for \$225,000 with another cardiologist, according to the monitor.

Stern's report also directly criticized UMDNJ Interim President Bruce C. Vladeck, who was hired this year to clean up the university. The report says [See UMDNJ, Page 17]

UMDNJ

CONTINUED FROM PAGE ONE

\$36 million fraud and a cover-up

Vladeck misled investigators during interviews with the monitor's office, and tried to downplay the kickback allegations.

The report's findings were outlined by three sources, who requested anonymity because they were not authorized to speak publicly about it. Stern declined comment.

The amount of fraudulent Medicare and Medicaid reimbursement was calculated based on nearly 3,000 cardiac procedures performed on patients who the monitor says were unlawfully referred to the hospital. The report marks the first time the cost of the alleged fraud has been quantified.

The financially strapped university would be liable to reimburse the government for any health care payments collected as a result of illegal referrals — along with fines and penalties that could cost UMDNJ as much as \$80 million.

Gov. Jon Corzine said Friday he was "troubled" by the allegations raised by the monitor, but had not yet read the report. He said he has already asked his chief counsel, Kenneth Zimmerman, to look into the matter.

The nation's largest health care university is already facing a state Senate investigation into the kickback allegations.

"I have no reason not to have confidence that Bruce is trying to deal with this stuff appropriately," the governor said. "If he knew there was a kickback scheme that was illegal, he would have stopped it."

Vladeck, who has not seen the monitor's report, said he was not trying to mislead anybody. He said he had never been briefed on the \$2.2 million settlement and did not know that outside auditors had already discovered the scheme in the cardiac surgery program.

"I missed it," Vladeck said. "I became aware in September that we might have issues... I'm comfortable saying that, given the information we had when we had it, we've been moving systematically to try to find out whether there's a problem."

changed lawsuit-settlement policies to ensure top administrators are briefed before the authorization of payouts larger than \$100,000. And the university, he said, is bringing in a consultant to analyze the entire administrative and financial structure at University Hospital to determine how bad the problem is and whether it exists elsewhere.

"I don't want to raise any false alarms, but there may conceivably be problems in other departments," Vladeck said. "It's clear that the whole system, in some ways, was seriously broken and, if the system was seriously broken, there were other things that went wrong that shouldn't have."

Revelations about the no-show faculty appointments were first reported last week in The Sunday Star-Ledger.

Citing court documents and interviews with current and former administrators, the newspaper found that despite faculty titles and contracts that spelled out a range of services, they were expected to perform, the doctors did not spend much time on campus. The paper's reporting showed their only responsibility was to refer their patients to University Hospital in Newark.

The hospital at the time the program began was facing the possibility of a state-ordered shutdown of its struggling cardiac surgery program because it was not performing a mandated minimum number of operations.

\$2.2M TO SETTLE SUIT

The controversy over the hiring of the cardiologists came to light after Rohit Arora, the university's former chief of the Division of Cardiology, filed suit charging that UMDNJ broke the law, and then forced him out when he objected to the plan.

UMDNJ denied the allegations, but paid Arora \$2.2 million in June to settle his wrongful termination suit, without admitting it did anything wrong.

Federal anti-kickback statutes make it a crime to pay for patients — a law meant to ensure that health care decisions are free from corruption and that doctors refer patients to the best places, regardless of their financial relationships.

A separate statute, known as the Stark Law, prohibits the referral of Medicaid and Medicare patients to entities in which a physician may have a financial interest

scheme reached into all levels of the university's teaching hospital and its central administration, and began in 2002. Stern accuses top administrators of being complicit "in first forming and expediting this illegal plan, and later in covering it up."

The report said the faculty positions given to the cardiologists were used to mask payments for referrals. They were not paid for medical services, and Stern called the appointments "nothing more than a poorly disguised cover-up of knowing and willful violations of federal law."

The report said the salaries were essentially referral fees paid to doctors in order to induce them to bring their patients to UMDNJ, and found that none of the doctors provided sufficient academic services to justify their salaries. In fact, many received salaries that exceeded those of the full-time faculty.

Vladeck said all salaries at the hospital will be reviewed by the consultant being hired. He said he does believe that some of the outside physicians in the cardiology program were, in fact, doing work beyond just referring patients, but no one will ever know because the university has "no paper trail."

"If you can't prove you're doing the right thing, it's not unreasonable to believe you were doing the wrong thing," Vladeck said.

According to the report, all of the new clinical assistant professors began referring patients to University Hospital once UMDNJ

began paying them. Many had never referred a patient to University Hospital.

PLACING BLAME

The report said the architects of the scheme included James Archibald, the university's senior vice president for administration and finance at the time; Sidney Mitchell, the former CEO of University Hospital; Jerrold Ellner, head of the Department of Medicine; and Vivian Sanks King, the former vice president for legal management who initially raised questions but then signed off on the plan. All four either declined to comment or did not return messages.

The monitor's report said the Stark Law violations involved 2,733 procedures on patients referred by the 18 cardiologists.

ty's current administration, Stern said UMDNJ failed to disclose the kickback allegations when it first learned of them. The monitor's report said the university's failure to inform federal authorities of the Arora settlement was a clear violation of the deferred prosecution agreement signed by UMDNJ in December when it was charged with a separate Medicaid fraud involving double-billing of at least \$4.9 million in procedures.

Under that agreement, UMDNJ was forced to hire a federal monitor to oversee its operations after U.S. Attorney Christopher Christie threatened to indict the university if it did not.

In late September, a report by one of the university's outside con-

sultants raised red flags about the faculty appointments, and the anti-kickback issues associated with the hirings. The monitor's report said the draft findings by the consultant, J.H. Cohn LLP, on Sept. 25, "set off a maelstrom of activity" by Vladeck and others to discredit its conclusions. It said the members of administration have attempted for the past month to prompt the consultant to change its analysis by using different data and benchmarks.

The monitor said rather than notifying his office of the kickback allegations, UMDNJ and its president "engaged in a process of trying to refute, rebut and bury the consultant's report and other allegations concerning Stark Law and anti-kickback law violations."

The report also noted that a request under by state's Open Public Records Act by The Star-Ledger, which first sought documents related to the faculty appointments in early October, should have served as additional warning that the university had problems.

In his own defense, Vladeck said: "We've been trying to rebuild systems so that we don't keep having problems... We are moving as aggressively as we can within the limitations of our capacities to be entirely in compliance with the law. We're trying to cooperate as completely as we can with the monitor."

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