

Whistleblower: Nurse Refused To Participate In Illegal Activities, Jury Awards Damages.

A registered nurse was hired by an agency to provide skilled nursing home-care services to homebound Medicare patients.

Soon after starting with the agency she was told to admit a certain patient as a new Medicare patient for home physical therapy, despite the fact the patient was not actually homebound.

Then the nurse was told to have the patient sign forms for Medicare reimbursement stating she had seen him in his home on five separate occasions, even though she had only seen him four times.

The nurse was also ordered to falsify the dates she had seen another patient, whom she did actually see, and to make alterations to the care plan that would prolong his eligibility.

When the nurse told her manager she would not go along with what they were doing she was abruptly converted from a salaried employee with full benefits to a *per diem* nurse with no benefits.

The nurse stayed on working *per diem* for several months, then quit altogether. One month later she was hired as a registered nurse by another home health agency in the same city.

The jury in the Circuit Court, Palm Beach County, Florida awarded the nurse \$60,000 in damages and an additional \$110,000 for her attorneys' fees and litigation costs.

Nurse Refused to Participate

In Falsification of Medicare Documents

The jury's verdict was based on state law which protects employees from employer retaliation for refusing to participate in an employer's illegal activities, policies or practices.

It is an illegal activity, policy or practice, the jury determined, for an employer to insist that an employee falsify Medicare documentation to obtain reimbursement to which the employer is not entitled.

The jury also determined that the nurse was a victim of retaliation even though she quit her job voluntarily and was not actually fired.

It is the same as firing, by law, when the employer so drastically changes the terms and conditions of employment that the employee has no realistic option but to quit. The situation is called "constructive discharge" in legal parlance. **Admore v. Nurse Connection, Inc., 2009 WL 5874397 (Cir. Ct. Palm Beach Co., Florida, July 29, 2009).**