



FOR IMMEDIATE RELEASE
October 25, 2013

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Attorney General Fox Announces KMart Corporation to Pay \$2,550,000 In Multi-State Settlement

HELENA – Attorney General Tim Fox announced today that Montana has joined with other states, territories, and the federal government and reached agreement with Kmart Corporation (“Kmart”) to settle allegations that Kmart submitted false claims and false statements through its Kmart Pharmacy Centers to the federal government, state governments, and territories for payments relating to partial fills of prescriptions.

Kmart will pay the states, the territories, and the federal government a total of \$2.55 million in civil damages and penalties to compensate Medicaid, Medicare, and various federal healthcare programs for harm suffered as a result of its conduct.

“Medicaid fraud is bad for Montana’s program recipients, providers, and taxpayers,” Attorney General Tim Fox said. “This settlement will help ensure that government funds intended to help low-income Montanans who need help paying for their medications will be used as they should be. I want to thank Assistant Attorneys General Ken Varns and Chris McConnell at the Montana Department of Justice for their continued diligence in recovering scarce public resources and protecting the Medicaid program.”

Kmart is alleged to have violated the federal False Claims Act by billing government health care programs (Medicaid, Tricare, and the Federal Employee Health Benefits Program) for all drugs included in a prescription when, for many prescriptions, it dispensed only a portion of the prescribed drugs. Although billed in full to the government health care programs, the remaining portion of the prescriptions were never dispensed to beneficiaries and were later returned to stock.

This settlement is based on a qui tam case that was filed in the United States District Court for the Eastern District of Michigan by a private individual who filed the action under the federal false claims statute.

As part of the settlement, the State of Montana received \$ 4,472.95 in restitution and other recovery. The funds went to the Montana Department of Public Health and Human Services, which administers the Medicaid program in Montana.

The Fox administration has already been active on this issue through the introduction and passage of House Bill 345 (Smith – Billings), which amended the Montana False Claims Act to bring it into conformity with the federal law. The amendments to this law mean that Montana will keep a greater share of damage awards and settlements in these fraud cases in the future. The new law went into effect July 1, 2013.

A National Association of Medicaid Fraud Control Units team participated in the settlement negotiations with Kmart on behalf of the settling states.

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