

**PRESS RELEASE**

# **Electrostim Medical Services, Inc. and Mario Garcia, Jr. to Pay \$20 Million to Resolve Allegations of Billing for Excessive and Unnecessary Supplies**

Friday, September 27, 2024

**For Immediate Release**

U.S. Attorney's Office, Eastern District of Pennsylvania

PHILADELPHIA – United States Attorney Jacqueline C. Romero announced today that Florida-based durable medical equipment supplier Electrostim Medical Services, Inc. (EMSI) and its Founder and Chairman Mario Garcia, Jr. have together agreed to pay, based on their limited ability to do so, \$20 million to resolve allegations that they violated the False Claims Act by billing federal healthcare programs for excessive and medically unnecessary supplies associated with Transcutaneous Electrical Nerve Stimulation (TENS) and related devices.

TENS units provide short-term pain relief for many patients by delivering a low-voltage electrical current to the skin around an affected body part. Among the supplies necessary for TENS use are electrodes, which transmit the current, and rechargeable batteries, which power the device. In limited circumstances, healthcare providers may prescribe a wearable garment containing electrodes, such as a specialized glove or sock, to be used instead of traditional electrodes for appropriate patients. For extended use, electrodes and rechargeable batteries require occasional replacement.

When a physician prescribes a TENS or related device for home use, a durable medical equipment supplier, such as EMSI, receives a referral; provides the patient with a device kit, containing the device and all supplies necessary for approximately one month of use; and submits a single claim for reimbursement under a billing code for the kit. Garments are separately reimbursable under a different code. Federal healthcare programs vary in how they reimburse for replacement supplies. Some programs, such as Medicare, permit monthly billing for all medically necessary supplies at a fixed rate under a “bundled” supply code. Other programs—including TRICARE, the federal

healthcare program for military members, retirees, and their families—permit itemized billing for all medically necessary supplies using “unbundled” supply codes.

The government alleges that, from at least 2018 through 2019, EMSI and Garcia profited by marketing its TENS and related electrical stimulation devices to beneficiaries of federal healthcare programs that reimbursed for unbundled supply codes—primarily TRICARE. EMSI typically billed TRICARE for replacement supplies on a monthly basis, including improperly billing for supplies during the first month despite knowing that patients received kits that contained all initial supplies. EMSI’s improper billing practices also included submitting claims for a monthly resupply of traditional electrodes for the same beneficiaries to whom it billed for a garment, despite knowing that patients with a garment did not need traditional electrodes.

According to the government, EMSI and Garcia knowingly executed this scheme without regard to medical necessity, resulting in false claims to federal programs. The result was that many TRICARE beneficiaries were forced to pay co-pays for excessive amounts of supplies they did not need or want.

“Durable medical equipment suppliers play a vital role in providing safe and effective medical devices to patients in need, and especially to our brave service members and their families,” said U.S. Attorney Romero. “EMSI and Garcia served their own financial interests over and above the medical needs of patients. This conduct will not be tolerated by my office. We will work tirelessly to hold businesses like this to account.”

Acting Special Agent in Charge Brian J. Solecki, with the Defense Criminal Investigative Service (DCIS) Northeast Field Office, echoed the U.S. Attorney’s remarks. “Protecting the integrity of TRICARE is a top priority of DCIS, the law enforcement arm of the Department of Defense Office of Inspector General,” he stated. “Medically unnecessary services and fraudulent expenses place a tremendous burden on the TRICARE program. We will continue to work with the U.S. Attorney’s Office and our law enforcement partners to ensure that individuals who engage in fraudulent activity, at the expense of the U.S. military, are held accountable for their actions.”

“The U.S. Department of Labor, Office of Inspector General remains committed to working with the U.S. Attorney’s Office and our law enforcement partners to investigate allegations involving medical provider billing schemes that target programs administered by the U.S. Department of Labor,” said Syreeta Scott, Special Agent in Charge, Mid-Atlantic Region, U.S. Department of Labor, Office of Inspector General.

This resolution concludes a years-long investigation by agents from DCIS, DOL-OIG, the Office of Personnel Management, Office of Inspector General (OPM-OIG), United States

Postal Service, Office of Inspector General (USPS-OIG), and Department of Veterans Affairs, Office of Inspector General (VA-OIG).

Assistant United States Attorneys Charlene Keller Fullmer, Bryan C. Hughes, and former Assistant United States Attorney John T. Crutchlow handled the civil investigation and settlement, assisted by Auditor George Niedzwicki.

*The claims asserted by the United States are allegations only. There has been no determination of liability.*

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