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Kmart Completes \$638K Settlement for Medicaid Overbilling in U.S. Virgin Islands

Retail giant disburses over \$638,000 to settle allegations of Medicaid overbilling dating back to the mid-2000s

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The V.I. Department of Justice on Monday announced the final distribution of funds from a significant settlement involving Kmart Corporation over allegations of Medicaid overbilling.

According to Acting Attorney General Ian S.A. Clement, Kmart has disbursed \$638,553.16 as part of a settlement originally reached in 2017.

The settlement resolves claims that Kmart's pharmacies in the Virgin Islands charged the Medicaid program higher prices than its standard charges for certain generic drugs. The allegations against the retail giant stem from its pricing strategies that began in the mid-2000s,

where it offered discounted rates to cash-paying customers but failed to extend these lower prices to federal health care programs.

The discrepancy in pricing was identified when Kmart pharmacies charged Medicaid more than the “usual and customary charge” which they offered to cash-paying customers. For example, while cash customers paid \$4 for a prescription, Medicaid was billed \$5, leading to allegations of false claims being submitted to the government.

The origin of the legal challenge traces back to 2008 when James Garbe, a former Kmart pharmacist, filed a lawsuit against the company in the United States District Court for the Central District of California. The case was later transferred to the Southern District of Illinois. The lawsuit contended that by not offering the lowest prices available to federal healthcare programs, Kmart was in violation of the terms that require pharmacies to charge no more than their lowest “usual and customary” rates for medications.

The comprehensive settlement agreement, which involved the cooperation of several state Medicaid Fraud Control Units, covers improper billing practices that occurred from September 1, 2004, to December 31, 2014. It was part of a broader \$59 million settlement that addressed both federal and state healthcare claims against Kmart.

The Virgin Islands Medicaid Fraud Control Unit, funded entirely by a grant from the United States Department of Health and Human Services – Office of the Inspector General, played a crucial role in bringing this issue to resolution and ensuring compliance with Medicaid billing standards.