

DOJ & HHS Announce Establishment of False Claims Act Working Group Targeting the Health Care Sector in the Latest of its FCA Enforcement Initiatives

Tips and Need to Know

- Department of Justice (DOJ) 5.19.25 memorandum expanded application of the False Claims Act (FCA) allowing DOJ attorneys to investigate and pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws (the “Civil Rights Fraud Initiative”).
- Federal contractors and entities who receive federal funding should review policies, procedures and program related to DEI and anti-discrimination for compliance with federal civil rights laws.
- The DOJ and HHS have established a joint False Claims Act Working Group, formalizing interagency efforts to combat fraud, abuse and waste in the health care sector, which will convene monthly starting in July.

Background

On May 19, 2025, the Department of Justice (DOJ) issued a [memorandum](#) announcing the establishment of the Civil Rights Fraud Initiative, which directs DOJ attorneys to utilize the False Claims Act (FCA) to “investigate and, as appropriate, pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws.” The FCA, 31 U.S.C. 3729 et seq., prohibits federal contractors such as Medicaid and Medicare Providers, and recipients of federal funding from knowingly submitting false claims, including through making false certifications, to the government in exchange for reimbursement. Under the FCA, submitting such a false claim or certification can amount to defrauding the government for which liability can be imposed. FCA lawsuits may be initiated by either (1) the DOJ *or* (2) private citizens pursuant to *qui tam* whistleblower actions.

On July 2, 2025, the DOJ, together with the Department of Health and Human Services (HHS) pushed forward its False Civil Rights Fraud Initiative by [announcing](#) the formation of the False Claims Act Working Group and specified priority enforcement areas of the Working Group. These announcements reflect the current administration’s focus on FCA enforcement to combat health care fraud, as well as additional priority enforcement matters outlined in a [prior memo](#) from DOJ’s Civil Division in June.

Importantly, the FCA, 31 U.S.C. 3729 *et seq.*, prohibits federal contractors such as Medicaid and Medicare Providers, and recipients of federal funding from knowingly submitting false claims, including through making false certifications, to the government in exchange for reimbursement. Under the FCA, submitting such a false claim or certification can amount to

defrauding the government for which liability can be imposed. FCA lawsuits may be initiated by either (1) the DOJ *or* (2) private citizens pursuant to *qui tam* whistleblower actions. The DOJ's Civil Rights Fraud Initiative and the False Claims Act Working Group will expand the application of the FCA, to false claims made in violation of the Civil Rights Act of 1964. Under this initiative, the FCA would be implicated if a federal contractor or recipient of federal funding certifies compliance with civil rights law while knowingly engaging in "racist preferences, mandates, policies, programs, and activities," including DEI programs.

DOJ-HHS FCA Working Group Enforcement

Leadership from HHS's Office of General Counsel, the Centers for Medicare and Medicaid Services for Program Integrity, the Office of Counsel to the HHS Office of Inspector General (HHS-OIG), DOJ's Civil Division and representatives from U.S. Attorney's Offices nationwide, will meet monthly starting in July, to coordinate investigations, share data, and develop cohesive enforcement strategies.

The Working Group will aim to expedite ongoing investigations in the priority enforcement areas and identify new leads "by leveraging HHS resources through enhanced data mining and assessment of HHS and HHS-OIG report findings." The Working Group's focus on such data and HHS-OIG reports suggests that the DOJ may initiate more investigations and enforcement actions on its own by relying on the data, rather than having to primarily rely on whistleblowers. However, consistent with prior DOJ initiatives, the announcement does still encourage whistleblowers to identify and report FCA violations involving these priority enforcement areas.

Priority Enforcement Areas of the Working Group

The press release highlights six priority enforcement areas of the Working Group including:

1. Medicare Advantage plans fraud, including, but not limited to issues of upcoding, kickbacks, inappropriate payments and enrollments, and improper billing
2. Drug, device, or biologics pricing, including arrangements for discounts, rebates, service fees, and formulary placement and price reporting
3. Barriers to patient access to care, including violations of network adequacy requirements
4. Kickbacks related to drugs, medical devices, durable medical equipment, and other products paid for by federal healthcare programs
5. Materially defective medical devices that impact patient safety

6. Manipulation of Electronic Health Records systems to drive inappropriate utilization of Medicare covered products and services

The announcement also suggests that the Working Group will discuss considerations regarding the implementation of Medicare payment suspensions pursuant to 42 C.F.R. § 405.370 *et seq.*; Under this regulation, HHS maintains the authority to suspend payments to providers or suppliers when there a credible allegation of fraud has been made. Notably, this kind of enforcement may increase the volume of Medicare payment suspensions, even before any formal cases are filed posing a significant risk to providers and suppliers that directly bill the government.

Implications and Final Thoughts

The new FCA Working Group signals the current administration's continued aggressive approach to FCA enforcement, particularly within the health care sector and signals a new era of coordinated enforcement. Health care entities should continue to monitor the Working Group's enforcement activities and DOJ's policy updates.

One thing to look out for is the possibility of DOJ moving for dismissal of *qui tam* complaints more often. While DOJ has such authority, pursuant to 31 U.S.C. § 3730(c)(2)(A), it rarely exercises it, making such dismissals relatively rare. However, per the announcement, the Working Group will renew discussions regarding considerations for such dismissals, suggesting that DOJ may be looking to utilize this tool more often, to move for dismissal of *qui tam* complaints that do not necessarily align with its enforcement priorities.

In order to minimize exposure, companies within the health care and life sciences industries, particularly ones who receive federal funding or are federal contractors, should also ensure compliance with regulations involving both areas of traditional FCA enforcement, such as improper billing, kickbacks and Medicare/Medicaid fraud, as well as newly emerging enforcement areas, such as civil rights violations, which have recently been implicated under the FCA in recent DOJ initiatives.