

LSU Health Sciences Center-New Orleans Federal False Claims Act/Deficit Reduction Act Notice

The False Claims Act, 31 USC § 3279 is a federal statute that covers fraud involving any federally funded contract or program, including the Medicaid and Medicare programs. This act is commonly known as the “Lincoln Law” because it was first enacted to counter fraudulent activities involving military procurement during the Civil War. The act establishes liability for any person who knowingly presents or causes to be presented a false or fraudulent claim to the U.S. government for payment.

A False Claims Act violation is any conduct that leads to the submission of fraudulent claims to the government such as knowingly making false statements, falsifying records, double-billing for items or services, submitting bills or services never performed or items never furnished, or otherwise causing a false claim to be submitted.

Health care providers and suppliers who violate the False Claims Act can be subject to civil monetary penalties (CMP) ranging from \$5,500 to \$11,000 for each false claim submitted, can be required to pay three times the amount of damages sustained by the U.S. government and if convicted of a False Claims Act violation, the OIG may seek to exclude the provider or supplier from participation in federal health care programs.

“Qui Tam “Whistleblower” provisions encourage individuals to come forward and report misconduct involving false claims. The False Claims Act includes a “qui tam” or whistleblower provision.”

It allows any person with actual knowledge of allegedly false claims to the government. Such persons are known as a “relators.” By way of example, the U.S. Department of Justice reports that the federal government obtained more than \$1.4 billion in settlements and judgments for fraud committed against the government in 2004-2005.

Qui Tam Procedure

The relator must file his or her lawsuit on behalf of the government in a federal district court. The lawsuit will be filed “under seal,” meaning that the lawsuit is kept confidential while the government reviews and investigates the allegations contained in the lawsuit and decides how to proceed. If the government determines that the lawsuit has merit and decides to intervene, the prosecution of the lawsuit will be directed by the U.S. Department of Justice. If the government decides not to intervene, the whistleblower can continue with the lawsuit on his or her own. If the lawsuit is successful, and provided certain legal requirements are met, the qui tam relator may receive an award ranging from 15 to 30 percent of the amount recovered. The whistleblower may also be entitled to reasonable expenses including attorney’s fees and costs for bringing the lawsuit. In addition to a financial award, the False Claims Act entitles whistleblowers to additional relief, including employment reinstatement, back pay, and any other compensation arising from retaliatory conduct against a whistleblower for filing an action under the False Claims Act or committing other lawful acts, such as investigating a false claim or providing testimony for, or assistance in, a False Claim Act action.

Louisiana State Law

Under Louisiana state law, the definition of a false or fraudulent claim is slightly broader, LSA R.S. 46.437.3(8) defines a "false or fraudulent claim" as a claim which the health care provider or his billing agent submits knowing the claim to be false, fictitious, untrue, or misleading in regard to any material information. “

Just as with the federal whistleblower statute, under Louisiana state law, “a private person (“Qui Tam plaintiff) may institute a civil action (“Qui Tam Action”) in the courts of this state on behalf of the medical assistance programs and himself to seek recovery

A person who is or was a public employee or public official or a person who is or was acting on behalf of the state shall not bring a qui tam action if the person has or had a duty or obligation to report, investigate, or pursue allegations of wrongdoing or misconduct by health care providers, or had access to the records of the state through the normal course and scope of his employment relative to activities of health care providers.

No employer of a qui tam plaintiff shall discharge, demote, suspend, threaten, harass, or discriminate against a qui tam plaintiff at any time arising out of the fact that the qui tam plaintiff brought an action pursuant to this Subpart unless the court finds that the qui tam plaintiff has instituted or proceeded with an action that is frivolous, vexatious, or harassing.

No employee shall be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner in the terms and conditions of his employment because of any lawful act engaged in by the employee or on behalf of the employee in furtherance of any action taken pursuant to this Part in regard to a health care provider or other person from whom recovery is or could be sought. Such an employee may seek any and all relief for his injury to which he is entitled under state or federal law.

No individual shall be threatened, harassed, or discriminated against in any manner by a health care provider or other person because of any lawful act engaged in by the individual or on behalf of the individual in furtherance of any action taken pursuant to this Part in regard to a health care provider or other person from whom recovery is or could be sought except that a health care provider may arrange for a recipient to receive goods, services, or supplies from another health care provider if the recipient agrees and the arrangement is approved by the secretary. Such an individual may seek any and all relief for his injury to which he is entitled under state or federal law.

Generally, if the secretary or the attorney general intervenes in the action brought by a qui tam plaintiff, the qui tam plaintiff shall receive at least ten percent, but not more than twenty percent, of recovery, exclusive of the civil monetary penalty provided in R.S. 46:439.6(C). In making a determination of award to the qui tam plaintiff the court shall consider the extent to which the qui tam plaintiff substantially contributed to investigations and proceedings related to the qui tam action.

State law provides that there may be a reward of up to two thousand dollars to an individual who submits information to the secretary which results in recovery pursuant to the provisions of this Part, provided such individual is not himself subject to recovery under this Part.

Louisiana State False Claims penalties include payment of actual damages, civil fine not to exceed 10,000 dollars per violation or a civil fine not to exceed three times the value of the illegal remuneration, whichever is GREATER, and payment of interest on the mandatory civil fine imposed.

LSUHSC-NO's DRA Notice:

<http://www.lsuhs.edu/no/administration/ocp/dranotice.aspx>

LSUHSC-NO's Whistleblower Policy:

<http://www.lsuhs.edu/no/administration/cm/cm-53/PatientInformationpolicy5.aspx>



To report a potential or suspected false claims act violation, contact the Office of Compliance Programs by phone at (504)568-2350; by fax at (504)568-7399; by confidential reporting hotline at (504) 568-2347; or by email at nocompliance@lsuhsc.edu;