

# Blow The Whistle on Medicaid Fraud



## *The Law is on Your Side*

Fraud in the health care and pharmaceutical industries costs taxpayers millions of dollars a year through false claims sent to the Medicaid program.

When Medicaid is made to reimburse medical or prescription claims that are false or fraudulent, all taxpayers lose because their money has gone into the pockets of fraudsters.

Medicaid fraud can be exposed and stopped if employees are willing to step forward and report it to the authorities.

Becoming a whistleblower to help combat fraud takes courage. Workers who know about fraud might be understandably reluctant to report it out of fear of job retaliation, long-term financial consequences or difficulty in finding new employment elsewhere. Fortunately, the law is on the whistleblower's side.

***A whistleblower who reports fraud on a government contract and helps file the case may be entitled to collect from 10-30 percent of the monetary damages the company pays – which in some cases can be millions of dollars.***

Federal and state laws also protect whistleblowers from discrimination and employment retaliation for coming forward and reporting illegal activity.

### ***EXAMPLES OF MEDICAID FRAUD***

- Billing for nonexistent patients or patients of other providers
- Billing for services not provided
- Billing for unnecessary treatment or testing
- Billing for medical services that are actually provided by unlicensed or excluded personnel
- Off-label marketing of prescription medications
- Accepting kickbacks for referrals
- Billing for lengthy counseling sessions when only short sessions are provided
- Making a patient pay more than a Medicaid-approved co-payment for services

### **Who Can Be a Whistleblower?**

Employees in health care and pharmaceutical companies often are in the best position to know if fraud is taking place. Salespeople might be pressured to offer kickbacks to doctors to prescribe drugs for unapproved use. Coders might be told to input false information into bills. Accountants might know if a company has tried to improve its bottom line by claiming larger reimbursements than it's entitled to. Anyone in a company might become aware of Medicaid fraud, which occurs whenever taxpayers are billed for something the program does not cover.

## **The False Claims Act**

Under federal law, the False Claims Act allows private individuals to file a lawsuit on behalf of the federal government, alleging fraud on a government contract. That law has been on the books for 150 years. Indiana passed its own state-level version of the False Claims Act in 2005. Both the federal and state laws work in the same way, allowing whistleblowers collect a portion of the monetary settlement or damages paid by the company.

## **How the False Claims Act Works**

A whistleblower must file a private lawsuit, called a qui tam suit (pronounced “key tam”) against the company under the False Claims Act. In effect, the whistleblower files suit on behalf of taxpayers. The private lawsuit is a necessary step in order for the state and federal governments to investigate the fraud case and intervene.

While the government investigates the fraud, the case is sealed. If the government intervenes, the case is unsealed and can go to trial or proceed to settlement. The federal and state governments typically will negotiate with the company that

committed fraud to work out a monetary settlement that will rectify the illegal activity and reimburse the taxpayers. A whistleblower in turn would receive a percentage of that settlement money -- or, if the case goes to trial, a percentage of any damages the Court orders the company to pay.

As with any legal case, a resolution is not immediate. It is not uncommon for several years to pass between the whistleblower filing the sealed lawsuit and the ultimate conclusion of the case.

There is no guarantee of a large monetary reward. In some cases, companies have had to pay multimillion-dollar settlements and in turn, whistleblowers received millions of dollars. In other cases, companies paid settlements in the six figures and whistleblowers received thousands.

## **Who Should I Contact to Report Fraud?**

Those interested in becoming whistleblowers should contact a private attorney who specializes in bringing lawsuits under the False Claims Act. This should be done separately from reporting the fraud to other authorities. Please visit [www.AttorneyGeneral.IN.gov](http://www.AttorneyGeneral.IN.gov) and navigate to the ‘whistleblower law’ link under the ‘criminal justice’ tab to find a list of legal referral services that can steer you to private attorneys who can represent you in filing a private whistleblower lawsuit.

Regardless of whether or not your intent is to pursue becoming a whistleblower, Medicaid fraud can be reported to the Attorney General’s Medicaid Fraud Control Unit by calling 800.382.1039.