

The Department Of Justice Continues To Bring The "HEAT" In Pursuing Health Care Fraud

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Kathleen L. Matsoukas

Partner
White Collar,
Compliance and
Investigations
Co-Chair,
Litigation
Department
Vice-Chair

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The False Claims Act (31 U.S.C. §§ 3729 – 3733) (the FCA) penalizes individuals and companies (often government contractors) who defraud the government by either submitting a false request for payment or avoiding payment of an obligation to the government. In May 2009, the Department of Justice (DOJ) and Department of Health and Human Services jointly announced the formation of the Health Care Fraud Prevention and Enforcement Action Team, or the "HEAT" initiative, to specifically target fraud in the health care industry, and using the FCA as a primary tool. According to the DOJ's own estimates, the HEAT initiative has been successful. Indeed, the DOJ claims that in only five years, it has recovered more than \$13.4 billion based on its pursuit of FCA and other claims against alleged perpetrators in the health care industry.

It is no shock based on those numbers that the DOJ remains as determined as ever to bring the "HEAT" against the health care industry. For example, [on Feb. 25, 2014, the DOJ announced a \\$15.5 million settlement under the FCA](#) against a chain of diagnostic testing facilities in New Jersey and New York. The DOJ alleged that the facilities falsely billed federal and state health care programs for tests that were not performed or not medically necessary and by paying kickbacks to physicians. Three whistleblowers received over \$2.5 million in connection with the settlement. [On Feb. 10, 2014, the DOJ announced the settlement of FCA allegations against an addiction clinic, clinical lab, and two doctors in Kentucky](#) for \$15.75 million, approximately \$12 million of which represent funds to be refunded to the federal government. The settlement arose out of allegations that the targets defrauded Medicare and Kentucky Medicaid by seeking reimbursement for unnecessary tests or tests that were more expensive than those performed. These and other settlements demonstrate the DOJ's ongoing commitment to aggressively pursue allegations of fraud in the healthcare industry.