

## Medicare/ Medicaid: Court Lets False Claims Act Case Go Forward.

The US False Claims Act (FCA) makes it a Federal criminal offense to submit a false or fraudulent claim for payment by any US government agency.

The FCA is routinely used to file criminal charges against medical facilities for billing Medicare or Medicaid for services which have not actually been performed. The US Attorney General can also file a civil lawsuit to recoup monies paid under false or fraudulent premises.

### **Private Individuals Can Sue on Behalf of US Government to Recoup False or Fraudulent Payments**

The FCA also allows private individuals to sue on behalf of the US Government. These individuals typically are employees or former employees of healthcare facilities with intimate inside knowledge of the facilities' wrongful billing practices.

### **15% - 25% Goes to Private Parties**

If money is obtained by settlement or judgment the court must award the private individual or individuals who started the process 15% to 25% of the total recovery.

The FCA contains complicated language requiring the US Attorney General to be notified and given the opportunity for the government's legal staff to join in the lawsuit.

The newest wrinkle is nursing home employees blowing the whistle on grossly substandard care at their facilities. The theory is that a facility seeking reimbursement for quality care but providing substandard care is making a false or fraudulent claim against the system.

The US District Court for the Central District of Illinois accepted the premise of such a case filed by former nursing-home staff nurses, if they could come to court with detailed evidence to back their allegations of substandard care. **US v. Momen Meadows Nursing Center, Inc., 2007 WL 685693 (C.D. Ill., March 2, 2007).**