



2023 AG REQUEST LEGISLATION

PROTECTING WHISTLEBLOWER PROVISION OF THE MEDICAID FALSE CLAIMS ACT

What is the problem?

Without legislative action, the whistleblower provision of the Medicaid False Claims Act will expire on June 30, 2023.

Medicaid is a joint federal-state program that reimburses health care providers for services to Medicaid beneficiaries. In some instances, providers knowingly submit false claims, intentionally bill for services not provided, or engage in other fraudulent schemes to obtain payment to which they are not entitled. In 2012, the Legislature adopted the Washington Medicaid Fraud False Claims Act (FCA) in an effort to combat fraud, and kept a sunset review in place to ensure the Act worked. In 2016, the Legislature repealed the sunset, making the FCA permanent but leaving the sunset in place for the “qui tam” whistleblower sections of the Act.

The qui tam provision allows private citizens acting as whistleblowers to file a complaint alleging Medicaid fraud. Whistleblowers are uniquely positioned to identify fraud as private citizens, and are often employees of the wrongdoers. As a result of the whistleblower provision, the state learns about fraud that it would not otherwise know about, and recovers fraudulently stolen tax dollars that it could not otherwise recover.

What is the solution? SB 5163

The Joint Legislative Audit Review Committee (JLARC) recently published a study of the qui tam provision **recommending that the Legislature reauthorize the whistleblower provisions and make them permanent.**

The JLARC report concluded:

- “The state’s qui tam process works as intended to combat Medicaid fraud and maximize recoveries for the state.”
- “The Attorney General’s Office recovered 18 times more than it spent.” During the study period from 2016 to 2022, the Attorney General recovered \$71.8 million for the State’s Medicaid program and spent \$4 million in state funds. **The return on investment was \$17.76 for every dollar spent.**
- Frivolous claims are rare. Over the course of the study whistleblowers filed 19 state qui tam cases. The sunset provision was created in part to address concerns about a potential influx of frivolous suits against providers by whistleblowers. Since the Act was adopted, a court found one complaint to be frivolous. In that case the whistleblower was ordered to pay the defendants’ attorney fees.

This bill will repeal the sunset provision applied to qui tam sections of the Medicaid False Claims Act, thereby permanently authorizing private citizens to continue to help the AGO and the State protect taxpayer dollars and precious Medicaid resources.

“The Legislature should reauthorize the qui tam provisions in the 2012 Medicaid Fraud False Claims Act and make them permanent because the process meets legislative intent and maximizes financial recoveries.”

- 2022 JLARC Report

Key Stats

State funds recovered vs. spent for civil fraud cases



Prime Sponsor:

Sen. Rivers (R-18)

Office Contact:

Joyce Bruce, Legislative Affairs Director
 Joyce.Bruce@atg.wa.gov - (206) 573-4492

