Proposed Final Report:

Medicaid Fraud False Claims Act Sunset Review

Legislative Auditor's Conclusion:

The Legislature should reauthorize the Medicaid Fraud False Claims Act because it allows the state to pursue additional fraud cases, and recoveries have increased

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Joint Legislative Audit & Review Committee

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Washington Medicaid is a $9.6 billion program (FY 2014)

- Program pays health care providers for services to 1.75 million eligible Washingtonians

- Federal government and state share costs
  - Washington FY 2014 share: $4.0 billion

- Medicaid fraud involves a health care provider knowingly submitting claims for payment to which the provider is not entitled

Three avenues to investigate potential Medicaid fraud

1. Federal investigations: criminal and civil
2. State criminal investigations
3. State civil investigations
    - Authorized by Medicaid Fraud False Claims Act enacted in 2012
    - Expires in 2016 unless reauthorized by Legislature

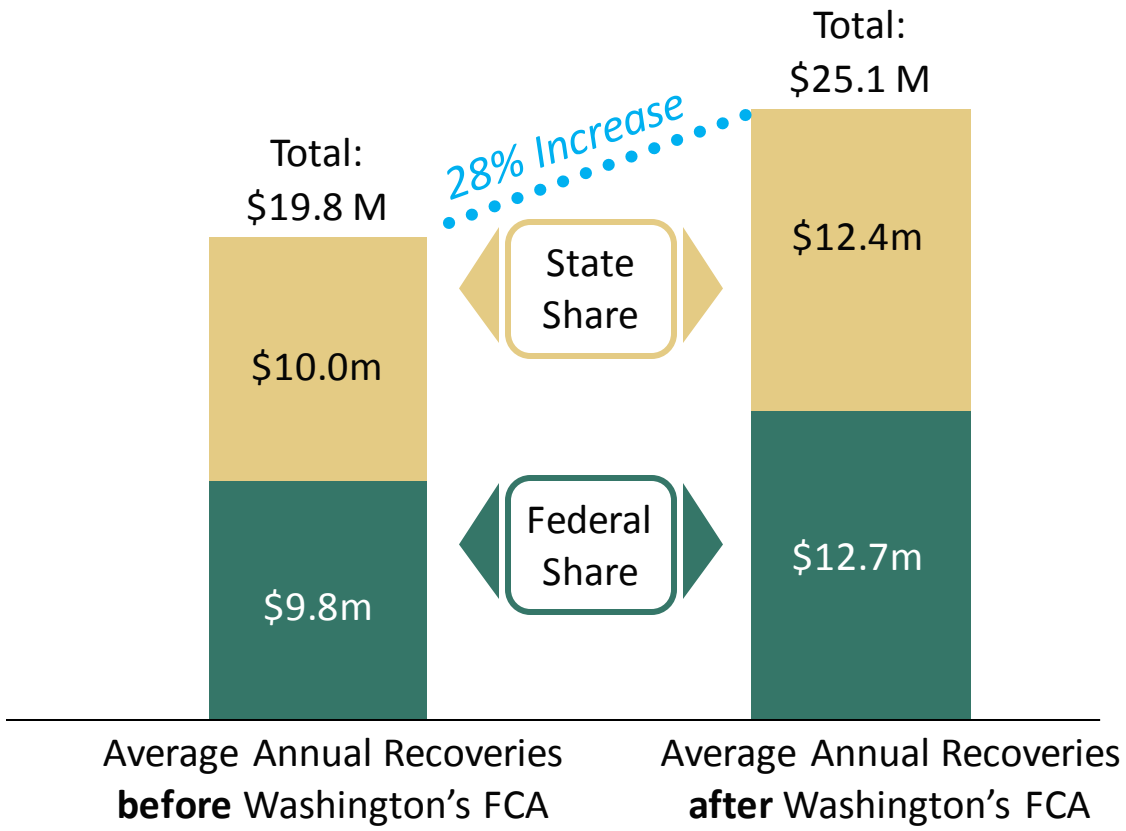
Investigation, prosecution, and potential triple damages create disincentive for submitting false claims

Washington's False Claims Act allows Attorney General to investigate civil fraud

- AGO has investigated 29 state-only civil cases of Medicaid fraud since 2012
  - Without the False Claims Act, AGO could only pursue criminal cases against fraud

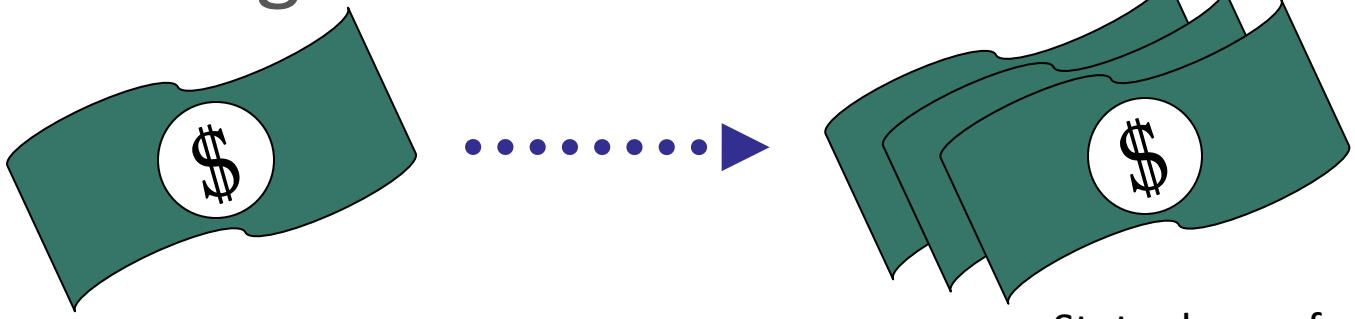
- AGO receives early notification and may participate actively in federal civil cases involving Washington providers
  - Provides opportunity to identify state interests and maximize recoveries from federal cases

Average annual fraud recoveries have increased



State-only civil cases are cost effective

Each dollar
spent on investigation



State share of dollars spent on investigations:
$0.96 million

State share of recoveries:
$2.85 million

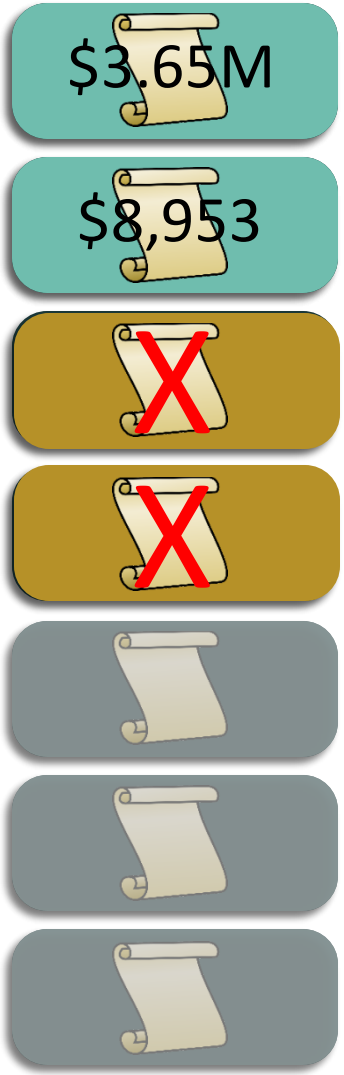
Returned $2.96
to the state

Source: JLARC staff analysis of 29 State-only civil cases, June 7, 2012 – May 31,2015

Private individuals may file civil actions under Washington's False Claims Act

- Known as *qui tam* cases
- Private individuals are called "relators"
  - May receive a share of any recovery resulting from case
- AGO has option to intervene and pursue case
  - If AGO declines to intervene, relator may continue to pursue case
- Provision mirrors federal fraud control act

Seven *qui tam* cases filed since 2012
None found by courts to be frivolous



Relator $292,800

AGO settled

AGO declined intervention

AGO decision pending

If Washington eliminates *qui tam*

- *Qui tam* is a central requirement for obtaining federal approval of a state Medicaid fraud control act
- In absence of state *qui tam* provision, Washington would lose:
  - Additional 10 percent of recoveries, and
  - Early notice of federal *qui tam* actions involving state Medicaid providers when the case is filed
- Providers will continue to be subject to federal *qui tam* actions

Recommendation & Agency Response

The Legislature should:

Reauthorize the Medicaid Fraud False Claims Act, Chapter 74.66 RCW

AGO concurs

Note: The Office of Financial Management (OFM) responded that it did not have comments on this report

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