

Sunset Review of Medicaid Fraud Qui Tam Provisions

2022 JLARC STUDY

The qui tam provisions in the Medicaid Fraud False Claims Act will sunset on June 30, 2023, unless the Legislature reauthorizes them. Under the Sunset Act, JLARC must review the provisions the year before the expiration date.

The state's qui tam process works as intended to combat Medicaid fraud and maximize recoveries for the state

Medicaid is a joint federal-state program that pays providers who deliver health care to eligible populations. **Medicaid fraud occurs when health care providers knowingly submit false claims for payment.** This can increase costs for the state and federal government and may result in patient harm.

What is qui tam?

Qui tam is a legal term used to describe a process for private parties to report Medicaid fraud on behalf of the state. Under the qui tam provisions of the 2012 Medicaid Fraud False Claims Act, private parties ("relators") can hire a lawyer and file a complaint in state or federal civil court. The Office of the Attorney General (AGO) also receives the complaint.

Financial recoveries are split between the state, the federal government, and the relator.

If the qui tam provisions sunset, Washington would lose:

A method for identifying Medicaid fraud and pursuing recoveries.

The AGO's ability to participate in and collect recoveries from state qui tam cases filed in federal court.

Eligibility for additional 10% in all civil recoveries.

Ability to participate in multistate cases.

The AGO fulfills its statutory responsibilities

AGO investigates all state qui tam cases and responds in **one of three ways**:

- Declines case - the relator can pursue case on their own or request dismissal.
- Settles with provider.
- Proceeds with litigation against provider.

Relators filed 19 state qui tam cases during the study period. One was ruled "clearly frivolous" by the court.

Of the 19 cases filed,

12 have been resolved

and 7 remain under seal as of August 2022.

Of the resolved cases, the AGO

declined 8,

settled 3, and litigated 1.

A court ruled one case declined by the AGO as "clearly frivolous." The case was filed in federal court and would have occurred with or without state qui tam provisions.

The AGO recovered 18 times more than it spent

During the study period, the AGO spent \$4.0 million in state funds and recovered \$71.8 million on all state civil fraud cases, including qui tam cases.

LEGISLATIVE AUDITOR'S RECOMMENDATION

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.

The complete report is on the JLARC web site: www.leg.wa.gov/jlarc

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