



SUNSET REVIEW

Medicaid Fraud Qui Tam Provisions

Legislative Auditor's Conclusion:

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

The image shows the Washington State Capitol building, a large neoclassical structure with a prominent dome and columns, set against a bright sky. The building is partially obscured by a semi-transparent white overlay on the right side of the slide.

Second sunset review

First review was in 2015 as part of entire Medicaid Fraud False Claims Act.

Stakeholders were concerned that not enough time had passed to fully evaluate whether people would file **frivolous lawsuits** against providers.

Sunset date extended to **June 2023** for qui tam provisions.

The background of the slide is a photograph of the Washington State Capitol building, featuring a large central dome and classical architectural elements like columns and a pediment. The building is surrounded by greenery and a paved walkway. The image is semi-transparent, allowing the text to be clearly visible.

Presentation Overview

What is Medicaid?

Qui tam process

Qui tam cases in Washington

Recoveries and expenditures

Sunset questions answered



Medicaid



Medicaid is a government insurance program that pays providers who deliver health care to eligible populations.



Costs for the program are shared by the state and federal government.

Medicaid Fraud

A health care provider knowingly submits a false claim for reimbursement.



Billing for services not performed.



Billing multiple times for one service.



Falsifying a diagnosis.



Ordering excessive or inappropriate tests.



Prescribing medicines, performing services, or ordering durable medical equipment that are not medically necessary.

The background of the slide is a photograph of the Washington State Capitol building in Olympia. The building is a large, classical-style structure with a prominent central dome and a portico with columns. It is surrounded by green trees and a well-manicured lawn. In the foreground, there is a circular stone structure, possibly a fountain or a monument, with a central column. The sky is blue with scattered white clouds.

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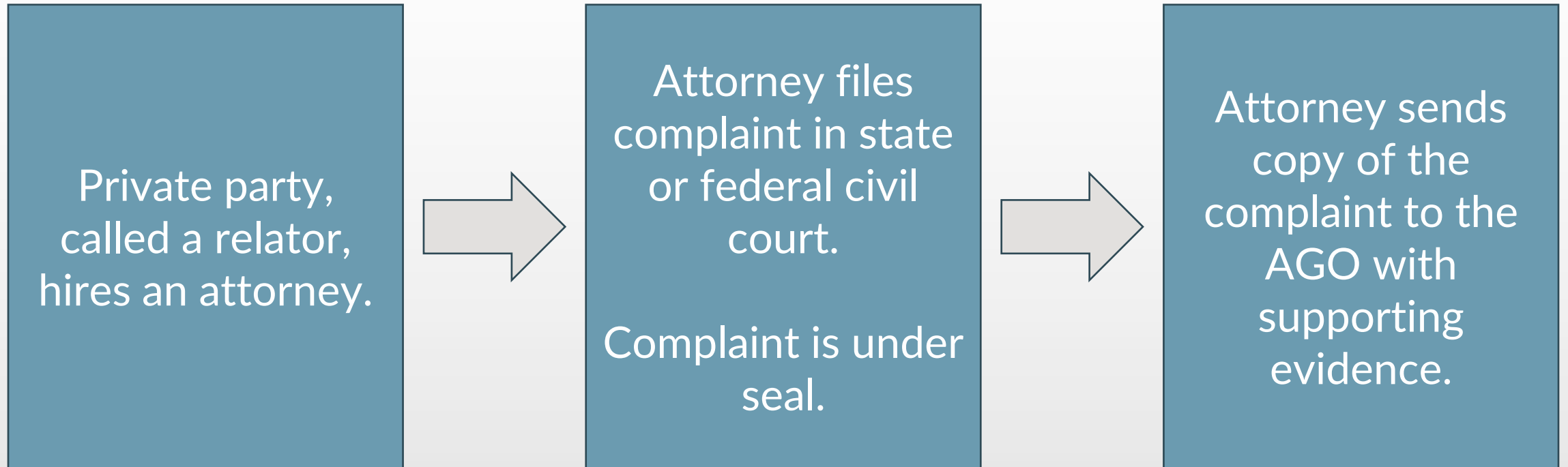
Sunset questions answered

What are qui tam provisions?

Qui Tam Provisions

Allow **private parties** to **file complaints** against a Medicaid provider suspected of fraud **in civil court** on **behalf of the state** and/or federal government.

Filing a qui tam complaint



AGO investigation

AGO considers multiple factors during investigations



Nature of allegations



Strength of evidence



Potential recovery amount



Patient harm

Post- AGO investigation

AGO takes one of three actions

1. **Decline to take legal action.**
The relator can pursue the case on their own or request dismissal.
2. **Settle with the provider.**
3. **Proceed with litigation** against the provider (also called "intervention").

Financial recoveries are shared

| If the AGO or the court finds there is sufficient evidence of fraud, the provider pays a financial recovery.

| The recovery is split between the state, federal government, and relator.

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19 qui tam complaints filed in Washington

12 Resolved

7 Under seal

3 | settled by AGO for total of \$21 million

1 | litigated by AGO for total of \$1.7 million

8 | declined by AGO

→ Of the 8 declined cases, relators continued 2 of them on their own. One was ultimately ruled frivolous.

Frivolous cases

Opponents of the qui tam provisions expressed concerns that there would be numerous **frivolous lawsuits** filed against providers.

Clearly frivolous lawsuits are lawsuits that are “wholly without merit” or filed with an improper purpose such as to harass a defendant.

Out of the **12 resolved** cases in Washington, **one** was ruled to be clearly frivolous.

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The AGO recovers more than it spends

\$71.8m

Amount of state funds
recovered for all civil fraud
cases

\$4.0m

Amount of state funds
spent for all civil fraud cases

\$17.76

Amount recovered for
every dollar spent

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Has the AGO implemented the qui tam provisions in a manner consistent with the law and legislative intent?

Yes.

Has the AGO implemented the qui tam provisions in an efficient and economical manner, with adequate cost controls in place?

Yes.

Are the AGO's qui tam activities duplicated by another entity or the private sector?

No.

Sunset questions answered

What are the possible effects of eliminating or changing the Medicaid Fraud False Claims Act's qui tam provisions?

The state would lose:

- ✓ **A method for identifying Medicaid fraud and pursuing recoveries.** The AGO recovered \$22.9 million as a result of state qui tam provisions during our study.
- ✓ **Eligibility for additional 10% in all civil recoveries.** This amounted to \$9.0 million during our study.
- ✓ **The ability to participate in multistate cases.**

JLARC assignments include racial equity analyses



The AGO and courts do not collect demographic data about relators or providers.



Even with demographic data, 19 cases is not a large enough sample to draw conclusions from.



The Medicaid system is intended to support disadvantaged populations and **fraud negatively affects this system.**

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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.

Next Steps

Proposed final report

November 2022

View the full report:
www.leg.wa.gov/jlarc



Video Summary



One Page Overview



PDF Version



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