

DOJ SEEKS TO NEARLY DOUBLE HEALTH CARE FRAUD LITIGATION BUDGET FOR 2016

Just three months ago, the Department of Justice **announced a record year** for False Claims Act recoveries totaling more than \$5 billion, including \$2.3 billion from health care defendants alone. Helping to contribute to these recoveries was another record: over 700 whistleblower cases filed in 2014.

On February 3, as part of the President's budget proposal announcements, the **DOJ has requested** "Investments for Litigation Enforcement" in the amount of \$5.5 million for FY 2016 - an increase of \$1 million for the hiring of 15 positions to help the Civil Division's enforcement strategy. The DOJ justifies the request as part of an effort to "expand on" the past success of its health care fraud initiative. Further, the DOJ notes the extra staff and funding is needed in order to handle "the increasing number of whistleblower cases" weighing down the DOJ's enforcement efforts. The increase of \$1 million would nearly double the DOJ's current health care fraud enforcement budget of \$1.2 million.

The position of the DOJ further solidifies what experts have previously speculated: whistleblower cases filed against health care providers are increasing, especially in light of the Affordable Care Act's expansion of the FCA's reach and the DOJ's **aggressive enforcement** of 'reverse' false claim actions.

Rather than a long shot, it is likely that this request will be greeted with bipartisan support as both sides of the aisle have shown longstanding enthusiasm for increasing the reach of the False Claims Act and providing the necessary funding to enforce it. The latest show of such support came after the DOJ's announcement of record 2014 recoveries when both **Senator Leahy** and **Senator Grassley** issued press releases touting the effectiveness of the FCA.

HEALTH CARE TAKEAWAY

Health care fraud cases filed by whistleblowers can remain under seal for years before a defendant is made aware of them. The DOJ's announcement of a record 700 such claims being filed last year, its aggressive pursuit under expanded provisions of the FCA in 2014 and its request to nearly double the budget for litigating health care fraud claims all point to another record year for the DOJ.

Should you have any questions regarding the False Claims Act or defense against whistleblower actions, please contact:

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