

Is Ohio Moving Towards It's Own False Claims Act?

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In a recent case, a Dayton-based managed health care organization, CareSource, agreed to pay \$26 million to settle claims alleging CareSource defrauded the federal government. Two former employees brought whistleblower actions in 2006 accusing CareSource of failing to provide required services under the Medicaid program and submitting false claims requesting reimbursement from the federal government for unrendered services. The whistleblowers filed suit under the federal False Claims Act which allows private individuals to file suit on behalf of the federal government against people or organizations whom they know to be defrauding the government. The federal False Claims Act carries stiff penalties including reimbursement, triple damages, civil penalties of \$5,500 to \$11,000 per false claim, and possible exclusion from all federal health care programs. Under the law, the whistleblower may be awarded a portion of the funds recovered. From the \$26 million CareSource settlement, the whistleblowers will receive \$3.1 million, the state of Ohio will receive \$10 million, and the federal government will receive the remainder. But Ohio wants more money from these types of suits and may get more if lawmakers act.

Ohio Attorney General Mike DeWine wants Ohio to have its own False Claims Act. In statements made on February 4th to the Columbus Dispatch, Attorney General DeWine said "If we had that in place, our percentage of the [CareSource] settlement would have gone up 10 percent." According to the non-profit group, Taxpayers Against Fraud, 27 states, the District of Columbia, New York City, and Chicago have their own versions of False Claims Act with whistleblower provisions. These state laws generally allow whistleblowers to file claims against state contractors allowing the states to collect the fraudulent funds and penalties. An Ohio False Claims Act would not only bring increased funds from lawsuit settlements and penalties to the cash-strapped state, but the law also would encourage more whistleblowers to come forward and bring claims against state contractors, including health care organizations that receive state funding.

No bills proposing an Ohio False Claims Act have been reported yet in the new Ohio General Assembly session that kicked off in January. But with the large state budget shortfall and an eager General Assembly, legislation proposing an Ohio False Claims Act is likely to be popular on the heels of the CareSource settlement as a means to recover fraudulent funds taken from the Ohio treasury. Such a law would mean health care organizations would need to be extra vigilant in abiding by all federal and state laws to avoid possible penalties both the Federal False Claims Act and the Ohio False Claims Act.