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Insights

AN INCENTIVE TO ACT: DOJ'S NEW HEALTHCARE FCA SELF-DISCLOSURE PILOT

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On October 22, 2026, the Department of Justice (DOJ) Civil Division and the Department of Health and Human Services (HHS) launched a six-month Healthcare False Claims Act Self-Disclosure Pilot Program ("FCA SDPP"). The offer: disclose previously unknown potential FCA violations, remediate, and receive a coordinated civil resolution within a defined repayment multiplier range. The warning is equally direct: DOJ intends to focus enforcement resources on companies unwilling to be affirmatively accountable for fraud.

For healthcare companies, the FCA SDPP is more than a settlement multiplier discount—it signals an enforcement approach that pairs clearer incentives for cooperation with continued reliance on whistleblowers to identify misconduct. The speed and quality of a company's internal response will be central to its ability to benefit from the pilot.

A clearer path to resolution, with limits

The FCA SDPP is available to providers, suppliers, manufacturers, payors, and related entities whose items or services are paid for, directly or indirectly, by HHS federal healthcare programs. The conduct must be previously unknown to the federal government. Companies whose conduct is already known to the government may still obtain cooperation credit under existing DOJ policy, but not a pilot resolution.

Qualifying companies will repay 1.25 to 1.6 times the Base Self-Disclosure Repayment. Placement within that range depends on factors including timeliness, the misconduct's duration and scope, senior leadership's involvement, the company's financial benefit, and prompt remediation of inherited misconduct. A published, defined range improves predictability, but the ultimate payment will turn on how DOJ calculates the base amount.

The benefits of the FCA SDPP extend beyond a reduced multiplier. Participants receive a coordinated civil release covering the disclosed potential FCA violations and specified HHS administrative authorities, with no factual admissions. HHS's Office of Inspector General (HHS-OIG) will not require a Corporate Integrity Agreement, and the Centers for Medicare & Medicaid Services (CMS) will not impose civil monetary penalties or seek revocation as part of the pilot resolution.

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Separate disclosures of the same conduct through HHS-OIG's or CMS's civil disclosure channels are unnecessary.

These benefits have limits: the pilot provides civil relief, not criminal immunity. Companies seeking to self-disclose potential criminal healthcare conduct must do so through DOJ's National Fraud Enforcement Division under the applicable coordination policy. Companies should assess potential criminal exposure before choosing a disclosure path and separately assess state-law exposure and other liabilities outside the release.

A new repayment calculus for kickback exposure

One feature could materially change the disclosure calculus for potential Anti-Kickback Statute violations. For the pilot's limited purposes, the government will forgo damages based on the full amount of claims paid and calculate the base repayment by considering remuneration, revenue derived from the conduct, and the absence of aggravating factors such as patient harm.

The deadline is not the only clock

Complete submissions are due by April 22, 2027. Late or partial submissions will not be reviewed. Companies must identify the conduct and binding requirements at issue, produce supporting documents, describe corrective measures already taken, provide financial information sufficient to calculate the base repayment, and obtain an authorized representative's certification that the submission is truthful and complete to the best of that person's knowledge. The FCA SDPP does not offer any guidance as to when the government will review and resolve a matter after a timely disclosure is made.

But the deadline is not the only timing pressure: the disclosed conduct must also be previously unknown to the federal government. If a whistleblower alerts the government first, the company may lose access to the pilot's benefits. Meanwhile, DOJ is giving whistleblowers a new incentive to act quickly. On October 20, 2026, DOJ announced the creation of the Fraud Whistleblower Incentive Program (WHIP), which offers discretionary awards of $10,000 to $30,000 for reports of qualifying information leading to criminal charges, including for federal healthcare offenses and related crimes. Whistleblowers need not await the outcome of a prosecution to receive an award—a feature DOJ designed to encourage prompt reporting.

Timeliness also affects the repayment multiplier. Companies considering disclosure should therefore begin investigating, quantifying potential exposure, and documenting remediation now.

Where companies should focus now

The broader enforcement signal is clear: DOJ is offering more predictable terms for self-disclosure while maintaining pressure on companies to identify and address misconduct. DOJ is making the benefits of self-disclosure more predictable, while signaling continued whistleblower-backed

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enforcement against companies unwilling to be accountable for potential fraud on the government. The practical advantage belongs to companies that can identify, investigate, and address issues before the government does.

Healthcare companies should prioritize four steps: (1) assess open compliance concerns involving billing, coding, medical necessity, and financial relationships; (2) preserve relevant records and track remedial actions; (3) ensure internal reports reach legal and compliance teams promptly to evaluate disclosure options; and (4) assess potential criminal exposure before choosing a disclosure path.

As always, the BCLP team will be closely monitoring developments in this space and is available to advise clients evaluating FCA exposure and self-disclosure options.

Related capabilities

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