

April 11, 2014

SDNY Dismisses False Claims Act Complaint, Finding Relators Misconstrued Medicaid Program Legal Framework

A False Claims Act case against the New York City Department of Education (NYCDOE) was dismissed on March 25, the district court holding that Medicaid providers (such as school districts that provide health services) cannot be found to have violated the False Claims Act when they followed state guidance in submitting their Medicaid claims, even if that guidance is inconsistent with federal Medicaid law. As the court found, “States must follow federal Medicaid law, while school districts must follow state Medicaid law.”

It was alleged in the complaint that the NYCDOE and several other school districts had submitted false claims to the Medicaid program for case management services furnished to school children. The case, *United States ex rel. Doe v. The Taconic Hills Central School District, et al.*, 11 Civ. 2699 (S.D.N.Y.), was brought by whistleblowers, or “relators,” under the False Claims Act’s *qui tam* provisions. Those provisions allow an individual to commence a court action on behalf of the United States, alleging the submission of false claims to the government by a defendant. A relator’s complaint is filed under seal in federal district court, and the US Department of Justice (DOJ), following an investigation of the relator’s allegations, may intervene in the case and take over the prosecution of it. The DOJ may also decline to intervene, in which case the relator may prosecute the case on his or her own. In either case, the relator is entitled to receive a percentage of any amount recovered by the government if the claims are successful. In *Taconic Hills*, the DOJ declined to intervene, and the relators pursued the action on their own.

The NYCDOE and the school districts moved to dismiss the complaint on various grounds, including that it did not state a claim upon which relief could be granted. The NYCDOE and the school districts showed that they had acted in compliance with state guidance in submitting their claims to Medicaid. The relators argued that such guidance, to the extent it allowed submission of the case management services at issue, was inconsistent with federal law and regulations and policy of the federal Medicaid agency.

The court asked the DOJ, even though it had declined to intervene, to comment on the question of whether a defendant can maintain a cause of action for fraudulent billing under the False Claims Act when the defendant may have acted in compliance with state guidance. The agency responded that the answer may depend on whether the defendant had knowledge that the state guidance was inconsistent with federal law.

The NYCDOE, represented by Katten Muchin Rosenman LLP, responded that the DOJ was incorrect, and that federal law, rules and regulations govern the state Medicaid agency’s right to seek federal Medicaid matching funds for the state’s Medicaid

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expenditures to providers, whereas state regulations govern participation by providers. The NYCDOE noted that if a conflict arose between requirements of state law imposed on providers and requirements of federal law imposed on states (which the NYCDOE did not believe was the situation here), a possible outcome might be a denial of federal Medicaid funding to the state. But the consequences of such a conflict, the NYCDOE noted, should not be visited upon the providers, which had complied fully with state law and so could not be deemed to have submitted a “false claim.”

The court agreed with the NYCDOE and dismissed the complaint. The court found that: (1) the relators misconstrued the applicable legal framework; (2) under that framework states must follow federal Medicaid law, while school districts must follow state Medicaid law; (3) the federal Medicaid agency had approved New York’s Medicaid program, thereby allowing the state to establish its own standards and procedures for claim submission; (4) the NYCDOE then billed in accordance with those state standards and procedures; and (5) if there was any conflict between federal and state Medicaid regulations it was the fault of New York state, not school districts, which had acted in accordance with the state’s requirements. The court concluded that “it is not appropriate to hold the [NYCDOE] liable for submitting a ‘false claim’ when it complied with all applicable regulations and therefore did absolutely nothing wrong.” On April 10, the relators filed a notice of appeal in the US Court of Appeals for the Second Circuit.

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