

Fresenius Medical Care North America

Section 6032 of the Deficit Reduction Act of 2005 requires that any entities that receive or make annual Medicaid payments of at least \$5,000,000 must establish for all employees and contractors or agents written policies providing detailed information about the Federal False Claims Act (“FCA”), state laws relating to civil or criminal penalties for false claims and statements, and whistleblower protections under those laws. 42 U.S.C. §1396a(a)(68). As of 2007, a number of states have enacted false claims act legislation that mirrors or closely resembles the federal FCA and includes provisions addressing whistleblower protections, as well as penalties and sanctions. In those states that have not yet enacted specific false claims act legislation, other criminal and civil laws, including health care fraud laws and other anti-fraud laws related to state Medicaid programs, may be used to prosecute health care fraud involving the improper submission of false claims and/or false statements used to obtain state health care program funds.

State	State Law Summaries
Alabama	<p>Under Alabama law, any person who, with intent to defraud or deceive, makes, or causes to be made or assists in the preparation of any false statement, representation, or omission of a material fact in any claim or application for any payment, regardless of amount, from the Medicaid Agency, knowing the same to be false or with intent to defraud or deceive, makes, or causes to be made, or assists in the preparation of any false statement, representation, or omission of a material fact in any claim or application for medical benefits from the Medicaid Agency, knowing the same to be false, shall be guilty of a felony and upon conviction thereof shall be fined not more than \$10,000 or imprisoned for not less than one nor more than five years, or both. Additional sanctions include suspension or termination from the Medicaid program and restitution for any improper payments. Actions pursuant to Alabama’s false claims laws must be brought within two years.</p> <p>Unlike the Federal FCA, Alabama law does not contain <i>qui tam</i> or relator provisions. There are also no provisions for a private citizen to share a percentage of any monetary recoveries.</p> <p>Similar to the Federal FCA, various Alabama laws prohibit state employers from retaliating, discriminating or harassing <u>state</u> employees who report a violation of state law in sworn testimony or in an affidavit. Alabama law contains no similar protections for non-governmental employees.</p> <p>Legal Citations: Ala. Code § 22-1-11; Ala. Admin. Code Rule 560-X-4-.01 to 560-X-4-.06; Ala. Code § 36-26A-1; Ala. Code § 6-2-38(j).</p>

Fresenius Medical Care North America

State	State Law Summaries
Alaska	<p>Although Alaska does not have a specific state FCA, it has adopted a generally applicable medical assistance fraud statute that makes it unlawful for a person to submit false and fraudulent claims to the Alaska Medicaid program. The authorized sanctions for violating the statute include, but are not limited to, recoupment of the overpayments, mandatory claims review before payment, and termination of participation in the Alaska Medicaid program. Actions brought pursuant to Alaska’s medical assistance fraud statute must be brought within six years of the discovery of the facts constituting the fraud.</p> <p>The Alaskan Medicaid fraud laws do not contain <i>qui tam</i> or whistleblower provisions. However, Alaskan statutes include whistleblower protection provisions for public employees. The statutes do not address whistleblower protection provisions related to employees generally.</p> <p>Legal Citations: Alaska Stat. §§ 47.05.210 & .290; Alaska Admin. Code tit. 7 §§ 43.950 & .955; Alaska Stat. § 39.90.100; Alaska Stat. § 09.10.120.</p>
Arizona	<p>Under Arizona law, a person may not present or cause to be presented to the state or its contractor the following: (1) a claim for a medical or other item or service that the person knows or has reason to know was not provided as claimed; and (2) a claim for a medical or other item or service that the person knows or has reason to know is false or fraudulent.</p> <p>A violation of these Arizona laws may result in a civil penalty up to \$2,000 per false claim and two times the amount claimed for each item or service, plus the state’s costs to pursue reimbursement, as well as suspension or termination from the Medicaid program. The provision does not contain a statute of limitations for actions brought by the State of Arizona.</p> <p>Currently, unlike the Federal False Claims Act, Arizona law only permits the state government and not private citizens or employees to file civil lawsuits to recover monetary damages. There are no provisions for a private citizen to share a percentage of any monetary recoveries. However, similar to Federal law, various Arizona laws, including Arizona’s public and private sector whistleblower laws, prohibit public and private employers from retaliating against any employee who discloses, in good faith, a violation of state law to their supervisor or a state agency.</p> <p>Legal Citations: Ariz. Rev. Stat. Ann. §§ 36-2918 and 36-2957; Ariz. Rev. Stat. Ann. § 13-2311; Ariz. Rev. Stat. Ann. §§ 38-531 to 38-532; Ariz. Rev. Stat. Ann. §§ 23-1501 to 23-1502; Ariz. Rev. Stat. Ann. § 12-510.</p>

Fresenius Medical Care North America

State	State Law Summaries
Arkansas	<p>The Arkansas civil False Claims Act is part of the State’s Medicaid Act. Arkansas also has a criminal law that sanctions fraud under the state Medicaid Act.</p> <p>The criminal Medicaid fraud law makes it illegal, among other things, to: (1) purposely make (or cause to be made) false statements or conceal relevant knowledge with regard to any benefit or payment under the Arkansas Medicaid Program; (2) purposely solicit or receive a kickback, bribe or rebate in exchange for certain referrals or recommendations; purposely charging inflated rates (above those established by Medicaid) as a condition of admission or continued stay. Penalties include full restitution, a mandatory fine of treble damages, and a fine of up to \$3,000 per false claim. These penalties are in addition to those imposed under the Arkansas’ civil FCA. Violations are a Class A misdemeanor if aggregate amount is less than \$200; a Class C felony if between \$200 and \$2,500, and a Class B felony if over \$2,500. In the court’s discretion, monetary awards not to exceed \$100,000 may be made to any person who provides information to the Attorney General which leads to the detection and successful prosecution of persons guilty of violating the Medicaid fraud laws.</p> <p>In addition to the above, Arkansas also has Medicaid specific false claims provisions. These provisions are known as the Arkansas Medicaid Fraud False Claims Act. Many of the actions and events that trigger penalties under the Arkansas FCA are similar to those under the federal civil FCA; however, the Arkansas FCA has a broader list of prohibited activities, including charging a patient a rate in excess of the rates established by the state.</p> <p>The statute of limitation for filing a suit under the Arkansas Medicaid FCA is five (5) years from the date on which the violation has occurred. There is no private right of action (<i>qui tam</i>) under the Arkansas FCA; however, individuals who provide relevant and applicable information maybe eligible to receive up to 10% or \$100,000 for the information. The Arkansas FCA does not have an explicit whistleblower protection provision.</p> <p>Legal Citations: Ark. Stat. §§ 20-77-901 <i>et. seq.</i> (civil FCA); Ark. Code Ann. §§ 5-2-202(1); 5-4-201; 5-5-101; 5-55-101; 5-55-102(2) and (3); 5-55-103; 5-55-106; 5-55-109; 5-55-110; 5-55-111 (criminal law); Ark. Code Ann. § 20-9-101; Ark. Stat. § 5-55-113 (civil law), Ark. Crim. Code § 5-1-101.</p>
California	<p>California has a state FCA that is very similar to the federal civil FCA (<i>see</i> Federal FCA summary) insofar as it is actionable to knowingly submit a false claim for payment; make or use a false record or statement to get a claim paid; conspire to make a false claim or get one paid; or make or use a false record to avoid repayments to the government. . However, under the California FCA, a person or entity may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim to the state, subsequently discovers that the claim is false, and fails to disclose the false claim to</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>the state within a reasonable time after discovery of the false claim. The California FCA also differs from the federal FCA in that it does not apply to any claim of less than \$500 in value or claims involving workers' compensation, records or statements made under the Revenue and Taxation Code, or claims against public entities and employees and the maximum per claim penalty is \$10,000. Additionally, the California FCA does not have an established floor for penalties.</p> <p>Like the federal FCA, the whistleblower protection provisions contained in the California FCA prevent employers from retaliating against employees who report to the government their employer's false claims. Of note, an employee is not protected under the whistleblower protection provisions if his or her participation in the conduct directly or indirectly resulted in a false claim being submitted to the state or a political subdivision unless:</p> <ul style="list-style-type: none"> • The employee voluntarily disclosed information to a government law enforcement agency or acted in furtherance of a false claims action, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed; and • The employee has been harassed, threatened with termination or demotion, or otherwise coerced by the employer or its management into engaging in the fraudulent activity in the first place. • <p>California's FCA has a <i>qui tam</i> provision which allows for individuals to bring claims on behalf of the state and receive between 15 and 33 percent of any amount recovered in a successful action.</p> <p>Legal Citations: CA. GOVT. CODE §§ 12650 to 12656.</p>
Colorado	<p>Colorado has adopted a Medicaid anti-fraud statute that is intended to prevent the submission of false and fraudulent claims to the Colorado Medicaid program. The statute makes it unlawful for any person to intentionally or with reckless disregard, make or cause to be made a false representation of material fact in connection with a claim, present or cause to be presented to the state department a false claim for payment or approval, or present or cause to be presented false cost document required by the medical assistance program that the person knows contains a false material statement.</p> <p>Violations of the Colorado anti-fraud statute are civil offenses and are punishable by significant monetary penalties of up to the greater of \$5,000 per claim or two times the amount of the incorrect medical assistance payments. Upon finding that a person has, with reckless disregard, violated the Medicaid Fraud Statute, the court shall order that person to pay to the state full restitution and a civil penalty not to exceed \$1,000 per claim, but in no event more than \$50,000, or two times the amount of the incorrect medical assistance payments.</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>In the State of Colorado, all actions for fraud, misrepresentation, concealment, or deceit must be brought within three years after the cause of action accrues.</p> <p>The above Medicaid anti-fraud statute does not contain <i>qui tam</i> or relator provisions. Colorado statutes include whistleblower provisions for public employees, but no specific whistleblower provisions related to employees generally.</p> <p>Legal Citations: Colo. Rev. Stat. §§ 25.5-4-304 and 305 and 306; Colo. Rev. Stat. § 13-80-101; Colo. Rev. Stat. § 24-50.3-103.</p>
Connecticut	<p>Connecticut laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. Connecticut law provides that a person commits vendor fraud when, with intent to defraud and acting on such person's own behalf or on behalf of an entity, such person provides goods or services to a Medicaid beneficiary and (1) presents for payment any false claim for goods or services performed; (2) accepts payment for goods or services performed, which exceeds either the amounts due for goods or services performed, or the amounts authorized by law for the cost of such goods or services; (3) solicits to perform services for or sell goods to any such beneficiary, knowing that such beneficiary is not in need of such goods or services; (4) sells goods to or performs services for any such beneficiary without prior authorization by the Department of Social Services, when prior authorization is required by said department for the buying of such goods or the performance of any service; or (5) accepts from any person or source other than the state an additional compensation in excess of the amount authorized by law. A violation of these Connecticut laws will result in repayment of the fraudulent amounts and, upon conviction, permanent exclusion from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to twenty years and a fine up to \$15,000. Under Connecticut law, the statute of limitations for fraud claims is three (3) years.</p> <p>Connecticut law does not contain <i>qui tam</i> or relator provisions; however, a private citizen may share up to 15% percent of any amounts recovered by the state as a result of such person's report of vendor fraud.</p> <p>Like federal law, various Connecticut laws, including Connecticut's public and private sector whistleblower laws, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws such as the Connecticut vendor fraud laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>Legal Citations: Conn. Gen. Stat. §§ 53a-290 to 296; Conn. Gen. Stat. § 53-440 <i>et. seq.</i>; Conn. Gen. Stat. § 53a-118 <i>et. seq.</i>; Conn. Gen. Stat. § 53a-155; Conn. Gen. Stat. § 53a-157b; Conn. Gen. Stat. § 17b-25a; Conn. Gen. Stat. § 17b-99; Conn. Gen. Stat. § 17b-127; Conn. Gen. Stat. § 17b-238; Conn. Gen. Stat. § 17b-102; Conn. Gen. Stat. § 4-61dd; Conn. Gen. Stat. § 31-51m; Conn. Gen. Stat. § 53a-35a; Conn. Gen. Stat. § 53a-41; Conn. Gen. Stat. § 52-577; Conn. Gen. Stat. § 31-51q; Regs. Conn. State Agencies Sec. 17-83k-1 <i>et seq.</i>; Regs Conn. Sate Agencies Sec. 17b-102-01 <i>et seq.</i>; Regs. Conn. State Agencies 4-61dd-1 <i>et seq.</i></p>
Delaware	<p>Delaware’s FCA is nearly identical to the federal civil FCA (<i>see</i> federal FCA summary). Like the federal FCA, the Delaware FCA prohibits the knowing submission of false or fraudulent claims to the state government. Actions and conduct that trigger penalties under the Delaware FCA are the same as those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government.</p> <p>The Delaware FCA provides for civil penalties of between \$5,500 to \$11,000 per false claim plus up to treble the damages incurred by the state. A civil lawsuit under the Delaware FCA must be brought within the later of (1) six years from when the violation occurred or (2) three years after the violation was discovered by the relevant agency, but no more than ten years after the violation was committed.</p> <p>The Delaware FCA provides for a <i>qui tam</i> private right of action where a person may file suit on behalf of the government and can receive a share of any recovery and also has specific whistleblower protection provisions that prohibit employers from retaliating against employees who report their employer’s potentially false claims. These provisions are very similar to those whistleblower protections contained in the federal FCA.</p> <p>Legal Citations: DEL. CODE ANN. tit. 6, §§ 1201-1209.</p>
District of Columbia	<p>The District of Columbia (“D.C.”) has a FCA that is very similar to the federal FCA, called the D.C. Procurement Reform Amendment Act. (<i>See</i> federal FCA summary.) Actions and conduct that trigger penalties under the D.C. FCA are the same as those that trigger penalties under the federal FCA, specifically, knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government.</p> <p>However, the D.C. FCA is broader in that it applies to “false” versus “false and fraudulent” claims and statements. The per</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>claim penalty is between \$5,000 and \$10,000 plus treble (3x) damages. Penalties may be waived by the court if the false claims are voluntarily disclosed. The D.C. FCA does not apply to claims involving workers' compensation, unemployment compensation or claims relating to certain of D.C.'s tax laws.</p> <p>A civil lawsuit under the D.C. FCA must be brought within the later of (1) six years from when the violation occurred or (2) three years after the violation was discovered by the relevant agency, but no more than ten years after the violation was committed.</p> <p>The D.C. FCA provides for a <i>qui tam</i> private right of action where a person may file suit on behalf of the government and can receive a share of any recovery (plus reasonable costs and attorneys fees). The D.C. FCA also has whistleblower protection provisions substantially similar to the federal FCA provisions, which prohibit employers from retaliating against employees who report their employer's potentially false claims or who assist with a FCA action.</p> <p>Legal Citations: D.C. CODE §§ 2-308.13 to 2-308.21.</p>
Florida	<p>The Florida False Claims Act is intended to deter persons from knowingly causing or assisting in causing state government to pay claims that are false or fraudulent, and to provide remedies for obtaining treble damages and civil penalties for state government when money is obtained from state government by reason of a false or fraudulent claim.</p> <p>Florida's FCA is very similar to the federal civil FCA (<i>see</i> federal FCA summary). Actions and conduct that trigger penalties under the Florida FCA are the same as those that trigger penalties under the federal FCA -- knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. Effective July 1, 2007, Florida further amended its FCA to more closely align with the federal FCA. For example, Florida revised its statute of limitations so that it mirrors the federal FCA's statute of limitations (effectively can pursue claims submitted 6 years from the filing of the complaint). Florida has also increased the potential civil penalties that may be imposed to the same amounts proscribed by the federal FCA (\$5,500 to \$11,000 per claim).</p> <p>The Florida FCA has a whistleblower or <i>qui tam</i> provision identical to the federal False Claims Act as well as a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer's potentially false claims or who assist with a FCA action.</p> <p>Legal Citations: FLA. STAT. §§ 68.081 - 68.09.</p>

Fresenius Medical Care North America

State	State Law Summaries
Georgia	<p>Georgia’s False Claims Act is part of the State’s Medicaid laws.</p> <p>Georgia’s FCA, called the “State False Medicaid Claims Act,” is similar to the federal civil FCA (<i>see</i> federal FCA summary) including the fact amongst the other basis for action it is actionable to knowingly submit a false claim for payment; make or use a false record or statement to get a claim paid; and conspiring to make a false claim or get one paid. The Georgia FCA applies only to claims submitted to the State Medicaid Program. The actions and events that trigger penalties under the Georgia FCA are very similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government.</p> <p>An FCA claim must be brought within six years from when the violation occurred. Penalties include treble damages (actual loss to state multiplied by three times) and penalties of \$5,500 to \$11,000 for each false claim submitted. The Georgia FCA also has a whistleblower or <i>qui tam</i> provision nearly identical to the federal False Claims Act (whistleblowers may recover up to 30% of the state’s recovery), as well as a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer’s potentially false claims or who assist to bring a FCA action.</p> <p>Legal Citations: Article 7B of Chapter 4 of Title 49 of the Official Code of Georgia</p>
Hawaii	<p>Hawaii’s FCA is nearly identical to the federal FCA (<i>see</i> summary of federal FCA). Actions and conduct that trigger penalties under the Hawaii FCA are substantially similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. However, under the Hawaii FCA, a person or entity may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim to the state, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim. Additionally, the Hawaii FCA does not apply to any false claim of less than \$500.</p> <p>Civil penalties under the law include treble damages and between \$5,000 and \$10,000 per false claim. A civil suit must be brought within six years after the violation is discovered or should have been discovered, but no more than 10 years after the violation was committed.</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>Hawaii’s FCA also has a whistleblower or <i>qui tam</i> provision nearly identical to the federal False Claims Act and Hawaii protects employee whistleblowers from retaliation through its “Whistleblower Protection Act.” This Act prohibits employers from retaliating against employees who report their employer’s potential or suspected violation of law.</p> <p>Legal Citations: HAW. REV. STAT. §§ 661-21 TO 661-29; HAW. REV. STAT. §§ 378-61 TO 378-69; HAW. REV. STAT. §§ 46-171 TO 46-179.</p>
Idaho	<p>Similar to the Federal FCA, the Idaho Public Assistance Law and associated regulations impose liability on any person who, with intent to defraud or deceive, makes, or causes to be made or assists in the preparation of any false statement, representation, or omission of a material fact in any claim or application for any payment, regardless of amount, from the Medicaid Agency, knowing the same to be false. These Idaho laws prohibit, among other things: (1) knowingly obtaining, or attempting to obtain, or aiding or abetting any person in obtaining, by means of a willfully false statement or representation, material omission, or fraudulent devices, public assistance, relief or federal-aid assistance not entitled, or in an amount greater than that justly entitled; and (2) knowingly, with intent to defraud, by means of a willfully false statement or representation or by deliberate concealment of any material fact, or any other fraudulent scheme or device, presenting for allowance or payment any false or fraudulent claim for furnishing services or supplies.</p> <p>A violation of these Idaho laws may result in a civil penalty of \$1,000 for each false claim, plus three times the amount by which any figure is falsely overstated, restitution to the state of falsely claimed amounts and suspension or termination from the Medicaid program. In addition, any person who violates these laws commits a felony punishable by imprisonment for one to twenty years and a fine not to exceed \$10,000. In Idaho, the statute of limitations for an action for relief on the ground of fraud or mistake is three years. The cause of action in such case does not accrue until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.</p> <p>These Idaho laws do not contain <i>qui tam</i> or relator provisions. However, similar to the Federal FCA, the Idaho Protection of Public Employees Act prohibits retaliating, discriminating or harassing state employees who report a violation of state law or who cooperate in any investigation of waste of public funds, property or manpower, or a violation of a law or regulation. Idaho law does not contain similar protections for non-governmental employees.</p> <p>Legal Citations: Idaho Code Ann. § 56-227; Idaho Code Ann. § 56-227A; Idaho Code Ann. § 56-227B; Idaho Code Ann. §§ 18-2401 to 18-2421; Idaho Code Ann. §§ 6-2101 to 6-2109; Idaho Code Ann. § 5-218.</p>

Fresenius Medical Care North America

State	State Law Summaries
Illinois	<p>The Illinois FCA, known as the Illinois “Whistleblower Reward and Protection Act,” is very similar to the federal civil FCA (<i>see</i> federal FCA summary). Actions and conduct that trigger penalties under the Illinois FCA are substantially similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. However, in addition to applying to statements and claims presented or provided to the State, the Illinois FCA also applies to claims presented to the Illinois National Guard (not likely applicable to a health care provider or supplier). The Illinois FCA does not apply to claims, records, or statements made under the Illinois Income Tax Act.</p> <p>Penalties under the Illinois FCA are between \$5,000 to \$10,000 per false claim plus treble (3x) the amount of damages incurred by the state. A civil lawsuit under the Illinois FCA must be brought within the later of (1) six years from when the violation occurred or (2) three years after the violation was discovered by the relevant agency, but no more than ten years after the violation was committed.</p> <p>The Illinois FCA has a whistleblower or <i>qui tam</i> provision nearly identical to the federal False Claims Act and also contains whistleblower protection provisions that prohibit employers from retaliating against employees who report their employer’s potential false claims. Additionally, Illinois maintains a Whistleblower Reward and Protection Fund as a special fund in the State Treasury. All proceeds of an action or settlement of a claim brought under the Illinois FCA shall be deposited in the fund. After one-sixth of the monies are paid to the Attorney General and one-sixth of the monies are paid to the Department of State Police for State law enforcement purposes (note, the Medicaid Fraud Control Unit in Illinois is part of the Department of State Police), the remaining two-thirds are used for payment of awards to <i>qui tam</i> plaintiffs (whistleblowers), attorneys’ fees and expenses, and as otherwise specified in the Illinois FCA.</p> <p>Legal Citations: 740 ILL. COMP. STAT. §§ 175/1 to 175/8.</p>
Indiana	<p>Indiana has a FCA that is similar to the federal civil FCA (<i>see</i> federal FCA summary). Actions and conduct that trigger penalties under the Indiana FCA are substantially similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. The Indiana FCA applies to false claims involving the state or any agency of state government, but does not apply to a political subdivision. However, another significant difference between the federal FCA and Indiana FCA is that the state law does not define “knowing” and “knowingly” to include deliberate ignorance and reckless disregard; thus it may be the case that only specific intent to submit false claims is actionable.</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>The minimum civil penalty is \$5,000 per claim with up to treble damages. A civil lawsuit under the Indiana FCA may be brought within 6 years after the date the violation was discovered, but no more than 10 years after the violation was committed.</p> <p>The Indiana FCA has a whistleblower or <i>qui tam</i> provision nearly identical to the federal False Claims Act and it also has whistleblower protection provisions similar to the federal FCA provisions, which prohibit employers from retaliating against employees who report their employer's potentially false claims and offers substantial penalties against those employers that do.</p> <p>Legal Citations: IND. CODE §§ 5-11-5.5-1 to 5-11-5.5-18.</p>
Iowa	<p>Iowa does not have a specific state FCA, but does have other laws that prohibit false statements and claims associated with health care items or services. Under Iowa law, a person who knowingly makes or causes to be made false statements or misrepresentations of material facts or knowingly fails to disclose material facts in an application for payment of services or merchandise rendered or purportedly rendered by a provider participating in the medical assistance program under this chapter commits a fraudulent practice.</p> <p>Such fraudulent practice is a class C felony and sanctions include up to ten years imprisonment and a fine of at least \$1,000, but no more than \$10,000. There is no explicit statute of limitations for fraudulent practice in the medical assistance program.</p> <p>These Idaho laws do not contain <i>qui tam</i> or relator provisions. However, similar to the Federal FCA, Iowa law includes several whistleblower provisions that protect individuals and employees who report various violations and the Iowa common law action of wrongful discharge protects employees from retaliation when it would violate public policy and no remedy exists in state law.</p> <p>Legal Citations: Iowa Code § 249A.8; Iowa Code § 714.8; Iowa Code § 719.9; Iowa Code § 902.9; Iowa Code § 88.9; Iowa Code § 91A.10; Iowa Code § 135B.12; Iowa Code 216.11; Iowa Code § 272C.8; Iowa Code § 915.23; <i>Fitzgerald v. Salsbury Chemical, Inc.</i>, No. 52/98-1492 (Iowa 2000).</p>
Kansas	<p>Kansas' Medicaid Fraud Control Act makes it unlawful for a person to submit false and fraudulent claims to the Kansas Medicaid program. Violation of the Act is a criminal offense punishable by substantial fines and imprisonment.</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>Additionally, violators of the Act may be liable for payment of full restitution to the State plus interest and all reasonable expenses. Violators may also be barred from Medicaid participation. The Act does not contain an explicit statute of limitations. However, general actions for fraud have a two year statute of limitations.</p> <p>The Kansas Medicaid fraud laws do not contain <i>qui tam</i> or relator provisions. However, by statute, Kansas <u>public</u> employees are protected in their right to report violations of state or federal law to any person or agency and the Supreme Court of Kansas has held that the termination of an employee of a private medical facility in retaliation for reporting infractions of the Medicaid laws is an actionable tort.</p> <p>Legal Citations: Kan. Stat. Ann. §§ 21-3844, <i>et seq</i> ; K.A.R. 30-5-60(a) ; Kan. Stat. Ann. § 21-4503a ; Kan. Stat. Ann. § 75-2973(b)(1) ; <i>Palmer v. Brown</i>, 752 P.2d 685 (Kan. 1988)</p>
Kentucky	<p>Kentucky has adopted a generally applicable Medicaid anti-fraud statute that makes it unlawful for a person to submit false and fraudulent claims to the Kentucky Medicaid program. The statute also makes it unlawful for any person to present false information regarding an institution or facility so that it may be licensed or recertified as a Medicaid provider.</p> <p>A violation of these Kentucky laws may result in civil monetary penalties of \$500 for each false claim, plus three times the amount unlawfully received plus interest, payment of the government's expenses to pursue reimbursement, and exclusion from the Medicaid program and/or loss of an individual's professional license for up to five years. In addition, a corporation who violates these laws commits a crime punishable by a fine not to exceed \$20,000 or double the amount of the corporation's gain from the offense, whichever is greater. An individual who violates these laws commits a crime punishable by imprisonment for up to ten years and a fine not to exceed \$10,000 or double the amount of the individual's gain from the offense, whichever is greater. Kentucky's Control of Fraud and Abuse laws contain no explicit statute of limitations.</p> <p>Currently, the Kentucky fraud control provisions do not contain <i>qui tam</i> or relator provisions. Additionally, there are no provisions for a private citizen to share a percentage of any monetary recoveries. However, like federal law, Kentucky's Control of Fraud and Abuse law prohibits employers from retaliating, discriminating or harassing any person because of their good faith participation in a false claims disclosure. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.</p> <p>Legal Citations: Ky. Rev. Stat. §§ 205.8451 <i>et seq.</i>; Ky. Rev. Stat. § 534.030; Ky. Rev. Stat. § 534.050; Ky. Rev. Stat. §§ 61.101 to 61.103.</p>

Fresenius Medical Care North America

State	State Law Summaries
Louisiana	<p>Louisiana’s FCA is also known as the “Louisiana Medical Assistance Programs Integrity Law” and only applies to claims made to the Louisiana Medical Assistance Program. This law contains many of the same provisions as the federal FCA (<i>see</i> federal FCA summary). Actions and the actions and conduct that trigger penalties under the Louisiana FCA are very similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. However, in addition to the provisions contained in the federal FCA, under the Louisiana FCA, a person may also be liable if he or she knowingly submits a claim for goods, services, or supplies that are medically unnecessary or of a substandard quality or quantity. Additionally, the Louisiana FCA does not apply unless the alleged damages are greater than \$1,000.</p> <p>Under the Louisiana FCA, the state may seek civil penalties of \$10,000 per claim plus up to treble the amount of damages incurred by the state. A civil lawsuit under the Louisiana FCA must be brought no more than 10 years after the violation was committed.</p> <p>The Louisiana FCA has a whistleblower or <i>qui tam</i> provision nearly identical to the federal False Claims Act and it also has whistleblower protection provisions that are substantially similar to the federal provisions and which prohibit employers from retaliating against employees who report their employer’s potentially false claims. The amounts recoverable by whistleblowers are similar to those permitted under the federal FCA (10 to 20% of the State’s recovery plus reasonable costs and attorney fees. The 10 to 20% amount excludes civil monetary penalties and actual damage amounts collected by the state.).</p> <p>Legal Citations: LA. REV. STAT. ANN. §§ 46:438.3 to 438.8; La. Rev. Stat. Ann. §§ 46:439.1 to 439.4; LA. REV. STAT. ANN. §§ 46:437.1 to 440.3.</p>
Maine	<p>Like the federal False Claims Act, the Maine false claims laws impose liability on persons or companies for the following activities: (1) making or causing to be made or presenting or causing to be presented for payment or approval any claim upon or against Medicaid or upon any funds administered by Medicaid, knowing such claim to be false, fictitious or fraudulent; (2) for the purpose of obtaining or aiding another to obtain the payment or approval of such a claim, making any false written statement or submitting any false document not believed to be true; and (3) entering into any agreement, combination or conspiracy to defraud Medicaid by obtaining the payment or approval of any false, fictitious or fraudulent claim.</p> <p>A violation of these laws may result in restitution of improper payments plus interest and a civil penalty of three times the</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>amount of excess benefits or payment, but not less than \$2,000 for each false claim or \$2,000 per each false document submitted to support a false claim, whichever is greatest, plus attorney fees and expenses to pursue reimbursement, as well as suspension or termination from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to six months and a fine of up to \$10,000 for corporations or \$1,000 for individuals. Such regulations do not contain an explicit statute of limitations.</p> <p>These laws do not contain <i>qui tam</i> or whistleblower provisions. Likewise, there are no provisions allowing a private citizen to share a percentage of any monetary recoveries. However, similar to Federal law, the Maine Whistleblowers' Protection Act prohibits public and private employers from retaliating against any employee who discloses, in good faith, a violation of any federal, state, or local law, rule, regulation or ordinance, any deviation in the standard of care, or suspected patient abuse or neglect. Maine's laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position. This whistleblower protection requires an employee to notify his/her employer of the suspected violation, condition or practice before disclosing it to a government agency or to law enforcement. This notice requirement does not apply to reports of suspected patient or resident abuse, neglect or exploitation that employees are required to report under other applicable laws.</p> <p>Legal Citations: 26 M.R.S.A. § 15; 26 M.R.S.A. § 833.</p>
Maryland	<p>Maryland does not have a state FCA, but does have other laws that prohibit false and claims statements associated with health care items or services. Maryland Medicaid fraud statute prohibits a person from: (1) knowingly and willfully defrauding or attempting to defraud a State health plan in connection with the delivery of or payment for a health care service; (2) knowingly and willfully obtaining or attempting to obtain, by means of a false representation, money, property, or anything of value in connection with the delivery of or payment for a health care service that wholly or partly is reimbursed by or is a required benefit of a State health plan; (3) knowingly and willfully defrauding or attempting to defraud a State health plan of the right to honest services; and (4) with the intent to defraud, making a false representation relating to a health care service or a State health plan.</p> <p>Violation of this statute is a felony punishable by imprisonment up to five years and/or a fine not exceeding \$100,000. A person who violates this law may also liable to the State for a civil penalty of up to three times the amount of the overpayment.</p> <p>The Maryland Medicaid fraud statute does not provide for a private right of action, nor does it contain <i>qui tam</i> provisions. However, like the whistleblower protections in the Federal FCA, Maryland law prohibits public and private employers</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>from taking retaliating action against employees who disclose or threaten to disclose violations. Employees who suffer retaliation as a result of reporting suspected fraud, waste, or abuse may file an action to for reinstatement of employment as well as lost compensation and reasonable fees and expenses.</p> <p>Legal Citations: Md. Code Ann., Health-Gen. §§ 2-501 to 2-505; Md. Code Ann., State Pers. & Pens. §§ 5-301 to 5-313; Md. Code Ann., Crim. Law §§ 8-508 to 8-517.</p>
Massachusetts	<p>Massachusetts has a state False Claims Act (“FCA”) that is very similar to the federal civil FCA (<i>see</i> federal FCA summary). Actions and conduct that trigger penalties under the Massachusetts FCA are substantially similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. However, under the Massachusetts FCA, a person or entity may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim to the state, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim. Additionally, the Massachusetts FCA does not apply to claims, records or statements made or presented to establish, limit, reduce, or evade liability for the payment of tax to the Commonwealth, or any other governmental entity.</p> <p>Civil penalties of between \$5,000 and \$10,000 per claim may be imposed with up to treble damages. A civil lawsuit under the Massachusetts FCA must be brought within the later of: (1) six years after the violation was committed, or (2) three years after the date the violation was discovered (but no more than ten years after the violation was committed).</p> <p>The Massachusetts FCA has a whistleblower or <i>qui tam</i> provision nearly identical to the federal False Claims Act and it also has whistleblower protection provisions that are substantially similar to the federal FCA provisions, which prohibit employers from preventing or retaliating against employees who report their employer’s potentially false claims. Additionally, under Massachusetts’s law, employers are prohibited from requiring as a condition of employment that any employee agree to accept or sign any agreement that limits or denies the employee’s right to bring an action or provide information to a government or law enforcement agency.</p> <p>Legal Citations: MASS. GEN. LAWS ch. 12, §§ 5(A)-(O).</p>
Michigan	<p>The Michigan FCA, also referred to as the “Medicaid False Claim Act,” applies only to claims and statements made to the Michigan Medicaid Program. This law contains many of the same provisions as the federal FCA and the actions and conduct that trigger the Michigan FCA are similar to those that trigger the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>or get one paid; or making or using a false record to avoid repayments to the government. Because the Michigan law focuses on claims made to the Medicaid program, there are additional provisions addressing the veracity of claims and statements regarding rights to Medicaid benefits. Additionally, it is a violation to knowingly make or induce false statements with respect to the conditions of operation in order to obtain certification as a hospital, skilled nursing facility, intermediate care facility, or home health agency.</p> <p>Violators of the Michigan FCA are potentially subject to both criminal and civil penalties. Violations constitute a felony punishable by four years or less in prison, or a fine of \$50,000 or less, or both. Civil penalties under the Michigan FCA may include restitution plus up to treble damages. Unlike the federal FCA, the Michigan FCA does not include an explicit prohibition against those who knowingly make, use or cause to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the government.</p> <p>The Michigan FCA also has a <i>qui tam</i> whistleblower provision permitting a person to bring a suit on behalf of the government that is very similar to the federal FCA <i>qui tam</i> provisions and also contains whistleblower protection provisions that prohibit an entity from adopting or enforcing a rule, regulation or policy preventing or retaliating against employees who report their employer's potentially false claims. This prohibition does not apply to an employment action against an employee whom the court finds brought a frivolous claim, or participated, planned or initiated the conduct upon which the action is brought.</p> <p>Legal Citations: MICH. LAW. ANN. §§ 400.601 to 400.613.</p>
Minnesota	<p>Minnesota does not have a specific state FCA, however, a number of Minnesota laws prohibit false statements and claims associated with Medicaid items or services. Specifically, under Minnesota law, any person who, with the intent to defraud, presents a claim for reimbursement, a cost report or a rate application, relating to the payment of medical assistance funds pursuant to the state medical assistance program, to the state agency, which is false in whole or in part, is guilty of an attempt to commit theft of public funds and may be sentenced accordingly. Sanctions include termination of Medicaid payments, suspension or termination of Medicaid participation, monetary sanctions, and licensing sanctions for individual practitioners.</p> <p>Although the Minnesota Medicaid fraud laws do not contain <i>qui tam</i> or relator provisions, Minnesota law does provide protections for employees making reports of illegal conduct, including making it illegal for an employer to discharge or penalize an employee for reporting in good faith a violation of federal or state law or rule to any governmental body or law enforcement official. Employees injured as a result of making such a report may bring a civil action to recover damages,</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>together with costs and disbursements, including reasonable attorney's fees, and may receive such injunctive and other equitable relief as determined by the court.</p> <p>Legal Citations: Minn. Stat. § 609.466; Minn. Stat. § 256B.064; Minn. Stat. § 147.091; Minn. Stat. § 62J.71; Minn. Stat. § 181.932.</p>
Mississippi	<p>Mississippi's Medicaid Fraud Control Act prohibits a person from making, presenting or causing to be made or presented a claim for Medicaid benefits, knowing the claim to be false, fictitious or fraudulent.</p> <p>Violations of the Medicaid Fraud Control Act are punishable by imprisonment for not more than five years, or by a fine of not more than \$50,000.00 or both. A health care provider or vendor committing any act or omission in violation of the Medicaid Fraud Control Act shall be directly liable to the state and shall forfeit and pay to the state a civil penalty equal to the full amount received, plus an additional civil penalty equal to triple the full amount received. The Division of Medicaid also has the power to deny or revoke enrollment in the Medicaid program to a provider, if the provider is convicted under federal or state laws for criminal offenses related to fraud or sanctioned for a violation of federal or state laws or rules relative to the Medicaid program any other state's Medicaid program, Medicare or any other public health care or health insurance program.</p> <p>Mississippi law also prohibits false claims through its Insurance Integrity Enforcement Bureau provisions. Under such provisions, a person or entity shall not, with the intent to appropriate to himself or to another any benefit, knowingly execute, collude or conspire to execute or attempt to execute a scheme or artifice to accomplish the following: (1) defraud any insurance plan in connection with the delivery of, or payment for, insurance benefits, items, services or claims; or (2) obtain by means of false or fraudulent pretense, representation, statement or promise money, or anything of value, in connection with the delivery of or payment for insurance claims under any plan or program or state law, items or services which are in whole or in part paid for, reimbursed, subsidized by, or are a required benefit of an insurance plan or an insurance company or any other provider. Additionally, the Act prohibits false claims or statements made in connection with the provision of insurance programs. Penalties for violations of any provision of this Act include felony conviction with imprisonment for not more than three years, or a fine of not more than \$5,000.00 or double the value of the fraud, whichever is greater, or both. If the defendant found to have violated any provision is an Organization, then the penalty shall be a fine of not more than \$150,000.00 for each violation.</p> <p>Currently, Mississippi's health care fraud and insurance fraud laws do not contain <i>qui tam</i> or relator provisions and there are no provisions for a private citizen to share a percentage of any monetary recoveries. In addition, there are no whistle-</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>blower protections specifically relating to health care fraud, although Mississippi law does protect <u>government</u> employees who, in good faith, allege or are believed to have alleged improper governmental action to a state investigative body. No such whistleblower protections exist for non-governmental employees.</p> <p>Legal Citations: Miss. Code Ann. §§ 43-13-209 <i>et. seq.</i>; Miss. Code Ann. §§ 7-5-301 <i>et. seq.</i></p>
Missouri	<p>The Missouri FCA is referred to as the “Health Care Payment Fraud and Abuse” statute and applies to claims and statements made to any health care payer. This law contains similar provisions to the federal FCA (<i>see</i> federal FCA summary) and the actions and conduct that trigger the Missouri FCA are similar to those that trigger the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. However, the Missouri legislature has enacted additional amendments to the Missouri FCA that differ from the federal civil FCA. For example, Missouri now defines “knowing and knowingly” to be construed to include the definition of “intentionally”, which means that a person, with respect to information, intended to act in violation of the law.</p> <p>Criminal penalties begin as Class B felonies and move to Class C felonies for repeat offenders. If a person or entity is convicted, the matter will be referred to the Office of Inspector of the Department of Health and Human Services. The individual /entity will also be subject to penalties provided for under the federal FCA. Civil penalties call for \$5,000 to \$10,000 per claim as well as up to three times the amount of the damage caused to the state.</p> <p>Under the Missouri FCA, whistleblowers are only entitled to 10% of the amount recovered by the State.</p> <p>In the summer of 2007, the Missouri legislature enacted whistleblower protection provisions that prohibit an entity from adopting or enforcing a rule, regulation or policy preventing or retaliating against employees who report their employer’s potentially false claims. This prohibition does not apply to an employment action against an employee whom the court finds brought a frivolous claim or participated in the prohibited conduct.</p> <p>Legal Citations: MO. REV. STAT. §§ 191.900 <i>et seq.</i></p>
Montana	<p>Montana has a state False Claims Act (“FCA”) that is very similar to the federal civil FCA (<i>see</i> federal FCA summary). Actions and conduct that trigger penalties under the Montana FCA are substantially similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. However, under the Montana FCA, a person or entity may also be liable if he or she is a</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>beneficiary of an inadvertent submission of a false claim to the state, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim. Additionally, the Montana FCA does not apply to any claim to the state of less than \$500.</p> <p>Maximum civil penalties for Montana FCA violations are \$10,000 per false claim, plus between two to three times the amount of damages sustained by the state. A civil action must be brought within three years after the date the violation was discovered, but no more than ten years following the violation.</p> <p>The Montana FCA has a <i>qui tam</i> whistleblower provision permitting a person to bring a suit on behalf of the government that is very similar to the federal FCA <i>qui tam</i> provisions and also has whistleblower protection provisions that prohibit a governmental entity from adopting or enforcing a rule, regulation or policy preventing or retaliating against employees who report their employer's potentially false claims. These whistleblower protection provisions under the state FCA apply only to governmental entities and do not apply to private employers.</p> <p>Legal Citations: Mont. Code Ann. §§ 17-8-401 <i>et. seq.</i></p>
Nebraska	<p>Under Nebraska's False Medicaid Claims Act, a person presents a false Medicaid claim if such person: (1) knowingly presents to an employee of the state, a false or fraudulent claim for payment or approval; (2) knowingly makes or uses a false record or statement to obtain payment or approval by the state of a false or fraudulent claim; (3) conspires to defraud the state by obtaining payment or approval by the state of a false or fraudulent claim; (4) has possession of property or money used by the state and, intending to defraud the state or willfully conceal the property, delivers, or causes to be delivered, less property than the amount for which such person receives a certificate or receipt; (5) buys, or receives as a pledge of an obligation or debt, public property from any officer or employee of the state knowing that such officer or employee may not lawfully sell or pledge such property; or (6) knowingly makes or uses a false record or statement with the intent to avoid, or decrease an obligation to pay money or property to the state. A person presenting a false Medicaid claim is subject to civil liability of not more than \$10,000 and to damages in the amount of three times the amount of the false claim. If the state is the prevailing party, the defendant is liable for the state's costs and attorney's fees in addition to the above stated penalties and damages. Liability under this section is joint and several for any act committed by two or more persons.</p> <p>There is a six year limitations period after the date the claim is discovered or should have been discovered, and a ten year statute of repose for civil actions brought under the False Medicaid Claims Act. The state has the burden to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>The Nebraska Medicaid FCA does not contain <i>qui tam</i> or relator provisions. Additionally, there are no provisions for a private citizen to share a percentage of any monetary recoveries. Nebraska law does prohibit employers from discriminating against employees for opposing any practice or refusing to carry out any action unlawful under federal law or the laws of this state. This provision has been interpreted to apply to whistle-blowing of the employer's unlawful acts.</p> <p>Legal Citations: Neb. Rev. Stat §§ 68-934 <i>et seq.</i>; Neb. Rev. Stat § 71-445; Neb. Rev. Stat § 48-1114; <i>Wolfe v. Becton Dickinson and Co.</i>, 662 N.W.2d 599 (2003).</p>
Nevada	<p>Nevada has a state FCA that is very similar to the federal civil FCA (<i>see</i> federal FCA summary) and applies to any claims and statements made to state or local governments. The actions and conduct that trigger penalties under the federal FCA are the same as those that trigger civil penalties under the Nevada FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. Additionally, under the Nevada FCA, a person may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim to the state, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim.</p> <p>Civil penalties of between \$2,000 to \$10,000 per claim plus three times the amount of damages apply. A civil suit under the Nevada FCA must be brought within the latter of three years after the violation is discovered by the state Attorney General or within five years after the violation occurs.</p> <p>The Nevada FCA has a <i>qui tam</i> whistleblower provision permitting a person to bring a suit on behalf of the government that is very similar to the federal FCA <i>qui tam</i> provisions and also has a whistleblower protection provision that is similar to the federal FCA provisions, which prohibits employers from retaliating against employees who report their employers' potentially false claims.</p> <p>Legal Citations: NEV. REV. STAT. §§ 357.010 <i>et seq.</i></p>
New Hampshire	<p>New Hampshire's FCA is very similar to the federal civil FCA (<i>see</i> federal FCA summary). The actions and conduct that trigger penalties under the New Hampshire FCA are substantially similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. The New Hampshire FCA applies to claims submitted to the New Hampshire Department of Health &</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>Human Services, the State Department that administers the New Hampshire Medicaid Program. In addition to the “knowing” false claims prohibitions, under the New Hampshire FCA, a person or entity may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim to the state, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim. The New Hampshire FCA does not apply to any one or more claims submitted to the state of less than \$5,000.</p> <p>The New Hampshire FCA defines “fraud” a little differently than the federal FCA. Under the New Hampshire FCA, fraud is defined as the <u>intentional</u> deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under the New Hampshire criminal code.</p> <p>Penalties for violations of the New Hampshire FCA include between \$5,000 to \$10,000 per false claim, plus three times the amount of damages sustained by the state or county. A civil suit under the New Hampshire FCA must be brought within the latter of six years after the violation occurred or within three years after the violation was discovered (but not more than ten years after the violation was committed).</p> <p>The New Hampshire FCA has a <i>qui tam</i> whistleblower provision similar to the federal FCA and permits a person who reports the alleged fraud to receive between 15 and 25 percent of the total amount recovered if the state Attorney General successfully prosecutes the case.</p> <p>The New Hampshire FCA includes whistleblower protection provisions. In addition, the State has a general Whistleblowers’ Protection Act that protects employees who report, in good faith, a suspected violation of law.</p> <p>In addition to its FCA, New Hampshire has several additional state fraud statutes that are similar to the federal FCA insofar as they address false claims. Under New Hampshire’s criminal fraud laws, it is prohibited conduct to knowingly make, present, or cause to be made or presented, with intent to defraud:</p> <ul style="list-style-type: none"> • any false or fraudulent claim for any good, service, or accommodation for which payment may be made in whole or in part under the state public assistance program; • any false or fraudulent statement, report or filing which is or may be used in computing or determining a rate of payment for goods, services or accommodations; any claim for payment for any good, service, or accommodation which is not medically necessary;

Fresenius Medical Care North America

State	State Law Summaries
	<ul style="list-style-type: none"> • any false or fraudulent book, record, document, data, or instrument which is required to be kept; • any false or fraudulent record, document, data, instrument to any law enforcement officer or any employee or agent of the Department of Health and Human Services in connection with any audit or investigation involving any claim or rate for payment; or • any claim for payment which may only be furnished by a person who is appropriately licensed and which was rendered by a person not so-licensed or licensed due to a misrepresentation. <p>It is also prohibited to destroy or conceal any book, record, document, data, or instrument required to be kept.</p> <p>Legal Citations: N.H. Rev. Stat. Ann. §§ 167:58 to 167-61-e; N.H. Rev. Stat. Ann. § 275-E:2 (civil FCA); N.H. Rev. Stat. Ann. § 167:61-a (criminal).</p>
New Jersey	<p>Although New Jersey does not have a specific state False Claims Act, it does have a number of other laws that prohibit false statements and claims associated with health care items or services. Specifically, New Jersey law prohibits any provider, or any person, firm, partnership, corporation or entity, from knowingly and willfully making or causing to be made any false statement or representation of a material fact in any cost study, claim form, or any document necessary to apply for or receive any benefit or payment from Medicaid; or at any time knowingly and willfully making or causing to be made any false statement, written or oral, of a material fact for use in determining rights to such benefit or payment under Medicaid.</p> <p>Violation of the above provisions may result in a misdemeanor with criminal penalties of up to \$10,000 for the first and each subsequent offense or to imprisonment for not more than three years or both. Additionally, the violator may be subject to civil penalties in the form of payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the payment was made for the period from the date upon which payment was made to the date upon which repayment is made to the State, payment of an amount not to exceed three-fold the amount of such excess benefits or payments, and payment in the sum of \$2,000 for each excessive claim for assistance, benefits or payments.</p> <p>The above Medicaid fraud provisions do not contain a statute of limitations. Additionally, the provisions do not contain <i>qui tam</i>, relator or whistleblower provisions. However, New Jersey law contains a broad employee whistleblower protection act, which prohibits employers from certain types of retaliation.</p> <p>Legal Citations: N.J.S.A. § 30:4D-17(a)-(d); N.J.S.A. 30:4D-7.h.; N.J.S.A. 30:4D-17(e)-(i).; N.J.S.A. 30:4D-17.1.a.;</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>N.J.S.A. 34:19-2; N.J.S. 2C:21-4.2 and 4.3; N.J.S. 2C:51-5; N.J.S. 34:19-1 <i>et seq.</i></p> <p>Federal False Claims Act, 31 U.S.C. § 3729 – 3733</p> <p>Federal Program Fraud Civil Remedies Act, 31 U.S.C. § 3801 – 3812</p> <p>New Jersey Medical Assistance and Health Services Act – Criminal Penalties, N.J.S. 30:4D-17(a) – (d)</p> <p>New Jersey Medical Assistance and Health Services Act – Civil Remedies, N.J.S. 30:4D-7.h.; N.J.S. 30:4D-17(e) – (i); N.J.S. 30:4D-17.1.a.</p> <p>Health Care Claims Fraud Act, N.J.S. 2C:21-4.2 and 4.3; N.J.S. 2C:51-5</p> <p>Conscientious Employee Protection Act, N.J.S. 34:19-1 <i>et seq.</i></p> <p>New Jersey False Claims Act, P.L. 2007, Chapter 265, enacted January 13, 2008, and effective 60 days after enactment, adding N.J.S. 2A:32C-1 to 2A:32C-17, and amending N.J.S. 30:4D-17(e)</p>
New Mexico	<p>New Mexico has a state False Claims Act (“FCA”) that is very similar to the federal civil FCA (see federal FCA summary). The New Mexico FCA applies to claims made in conjunction with the New Mexico Medicaid Program. The actions and conduct that trigger penalties under the New Mexico FCA are similar to those under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. However, there are some noted differences between the federal FCA and New Mexico FCA. Specifically, in accordance with the New Mexico FCA, liability exists for any person who engages in the following:</p> <ul style="list-style-type: none"> • Presents, or causes to be presented, to the state a claim for payment under the Medicaid program knowing that the person receiving a Medicaid benefit or payment is not authorized or is not eligible for a benefit under the Medicaid program; • Knowingly applies for and receives a benefit or payment on behalf of another person, except pursuant to a lawful assignment of benefits, under the Medicaid program and uses that benefit or payment for his own personal use;

Fresenius Medical Care North America

State	State Law Summaries
	<ul style="list-style-type: none"> • Knowingly makes a false statement or misrepresentation of material fact concerning the conditions or operation of a health care facility in order that the facility may qualify for certification or recertification required by the Medicaid program; or • Knowingly makes a claim under the Medicaid program for a service or product that was not provided. <p>A violation of the state FCA may result in penalties of up to three times the amount of damages the state sustains because of the violation. Under the New Mexico FCA, civil actions must be brought within four years after the alleged violation.</p> <p>Like the federal FCA, the New Mexico FCA provides for a qui tam private right of action where a person may file suit on behalf of the government and can receive a share of any recovery (up to 25%). The New Mexico FCA also has a whistleblower protection provision that prohibits employers from retaliating against employees who investigate, initiate, testify, or otherwise assist in a civil false claims act action.</p> <p>Legal Citations: N.M. Stat. Ann. §§ 27-14-1 to 27-14-15.</p>
New York	<p>New York has a state FCA that is very similar to the federal civil FCA (see federal FCA summary). The actions and conduct that trigger the penalties under the New York FCA are similar to those under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. The New York FCA definition of “knowingly” differs slightly from the federal FCA as the New York FCA specifically omits “acts occurring by mistake or as a result of mere negligence”. Additionally, the New York FCA allows for slightly higher civil monetary penalties than the federal FCA. Including \$6,000 to \$12,000 for each false claim as well as up to three times the damages suffered by the state.</p> <p>A civil lawsuit under the new York FCA must be brought within the later of: (1) six years after the violation was committed, or (2) three years after the date the violation were known or reasonably should have been be known by the State.</p> <p>Like the federal FCA, the New York FCA has a qui tam whistleblower provision that allows a person to file suit on behalf of the government and can receive a share of any monetary recovery (15 to 25%). The New York FCA also has a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer’s potentially false claims or who participate in bringing or assisting with a FCA action.</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>Legal Citations: N.Y. State Fin. Law §§ 187 to 194; Social Services Law §145; Social Services Law §366; Penal Law Article 155; Penal Law Article 175 to 177; New York Labor Law §§ 740 and 741.</p>
North Carolina	<p>North Carolina has a state FCA that is very similar to the federal civil FCA (<i>see</i> federal FCA summary). The North Carolina FCA is known as the “Medical Assistance Provider FCA” and applies to claims made in connection with the North Carolina Medicaid Program. Actions and conduct that trigger penalties under the North Carolina FCA are substantially similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. The North Carolina FCA contains an explicit statement that notes that the North Carolina law was intended to be interpreted and construed consistent with the federal FCA and any subsequent amendment to the federal FCA.</p> <p>Penalties for violating the North Carolina FCA include fines of \$5,000 to \$10,000 per claim, plus three times the damage caused to the North Carolina Medical Assistance Program. If a payment has already been made to the federal government under the FCA for these same claims, then the party will not be charged again for these claims. A civil lawsuit under the North Carolina FCA must be brought within the later of: (1) six years after the violation was committed, or (2) three years after the date the violation was discovered (but no more than ten years after the violation was committed).</p> <p>Although there are no qui tam provisions, the North Carolina FCA has a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer’s potentially false claims or who participate in bringing or assisting with a FCA action.</p> <p>Legal Citations: N.C. Gen. Stat. §§ 108A-70.10 to 70.16</p>
North Dakota	<p>It is a violation of North Dakota law if one presents or causes to be presented for payment any false or fraudulent claim for care or services; submits or causes to be submitted false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled; submits or causes to be submitted false information for the purpose of meeting prior authorization requirements; over utilizes the Medicaid program by inducing, furnishing, or otherwise causing a recipient to receive care and services not required by the recipient; or is convicted of a criminal offense arising out of the making of false or fraudulent statements or omission of fact for the purpose of securing any governmental benefit to which the provider is not entitled, or out of conspiring, soliciting, or attempting such an action.</p> <p>Additionally, under North Dakota law, a person is guilty of an offense if, with intent to deceive or harm the government or another person, or with knowledge that he is facilitating such a deception or harm by another person, he knowingly issues a</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>writing without authority to issue it or knowingly utters or possesses a deceptive writing.</p> <p>In addition to repaying the claims, possible sanctions for violating the above provisions include</p> <ol style="list-style-type: none"> (1) Termination from participation in the Medicaid program. (2) Suspension from participation in the Medicaid program. (3) Suspension or withholding of payments to a provider. (4) Transfer to a closed-end provider agreement not to exceed twelve months. (5) Mandatory attendance at provider information sessions. (6) Prior authorization of services. (7) One hundred percent review of the provider's claims prior to payment. (8) Referral to the state licensing board or other appropriate body for investigation. (9) Referral to peer review. <p>The above North Dakota laws do not contain a statute of limitations, <i>qui tam</i> provisions, relator provisions or whistleblower protections.</p> <p>Legal Citations: N.D. Stat. Ann. §§ 75-02-05-05; 75-02-05-08; 12.1-24-03.</p>
Ohio	<p>Ohio does not have a specific state FCA, but does have other laws that prohibit false statements and claims associated with health care items or services. Ohio's Medicaid fraud statutes prohibit a person from knowingly making or causing to be made a false or misleading statement or representation for use in obtaining reimbursement from the Ohio Medicaid Program. Ohio insurance statutes also prohibit presenting or causing presentation, or assisting, aiding, or conspiring with another to present or cause presentation, to an insurer any written or oral statement that is part of or in support of an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement or any part of it is false or deceptive, with a purpose to defraud or knowing that the person is facilitating a fraud.</p> <p>A violation of these Ohio laws may result in penalties of \$5,000 to \$10,000 for each falsification, three times the amount unlawfully received plus interest, payment of the government's expenses to pursue reimbursement, and exclusion from the</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>Medicaid program for up to five years. In addition, a person who violates these laws commits a crime punishable by imprisonment for up to five years and a fine not to exceed \$10,000.</p> <p>The above Ohio laws do not contain <i>qui tam</i> or relator provisions. Additionally, there are no provisions for a private citizen to share a percentage of any monetary recoveries.</p> <p>Ohio law, like federal law, prohibits employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws such as the Ohio Medicaid fraud laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position. Ohio's whistleblower law requires an employee to notify his/her employer, both orally and in writing, of any suspected illegal activity, policy or practice before disclosing it to the appropriate government agency. If the employer does not make a good faith effort to correct the asserted violation within 24 hours of receiving notice, the employee may file a written report of the violation with the county prosecuting attorney, law enforcement, any governmental entity that has regulatory authority over the employer or the inspector general.</p> <p>Legal Citations: Ohio Rev. Code § 2913.40; Ohio Rev. Code § 2913.47; Ohio Rev. Code §§ 4113.51 <i>et. seq.</i>; Ohio Rev. Code § 5111.03; Ohio Rev. Code § 2921.13; Ohio Rev. Code § 4113.52.</p>
Oklahoma	<p>Oklahoma's FCA, which becomes effective November 1, 2007, is very similar to the federal civil FCA (<i>see</i> federal FCA summary). The Oklahoma FCA is known as the "Oklahoma Medicaid False Claims Act". Actions and conduct that trigger penalties under the Oklahoma FCA are substantially similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government.</p> <p>Penalties for violating the Oklahoma FCA include fines of \$5,000 to \$10,000 per claim, plus three times the damage caused to the State. A civil lawsuit under the Oklahoma FCA must be brought within the later of: (1) six years after the violation was committed, or (2) three years after the date the violation was discovered (but no more than ten years after the violation was committed).</p> <p>Like the federal FCA, the Oklahoma FCA has a <i>qui tam</i> whistleblower provision that allows a person to file suit on behalf of the government and can receive a share of any monetary recovery (15 to 25%). The Oklahoma FCA also has a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer's</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>potentially false claims or who participate in bringing or assisting with a FCA action.</p> <p>Legal Citations: To be codified at 63 OKLA. STAT. §§ 5053 <i>et seq.</i></p>
Oregon	<p>Oregon does not have a state FCA, but does have other laws that prohibit false statements associated with health care items or services. Under Oregon law, a person commits the crime of making a false claim for health care payment when the person: (1) knowingly makes or causes to be made a claim for health care payment that contains any false statement or false representation of a material fact in order to receive a health care payment; or (2) knowingly conceals from or fails to disclose to a health care payor the occurrence of any event or the existence of any information with the intent to obtain a health care payment to which the person is not entitled, or to obtain or retain a health care payment in an amount greater than that to which the person is or was entitled. Making a false claim for health care payment is a Class C felony punishable by up to five years in prison and a fine of up to \$125,000. There is a five year statute of limitations from time of the claim.</p> <p>Currently, these Oregon laws do not contain <i>qui tam</i> or relator provisions. Additionally, there are no provisions for a private citizen to share a percentage of any monetary recoveries.</p> <p>Like federal law, Oregon law includes whistle-blower protections. Various Oregon laws prohibit public employers and private health care employers from retaliating, discriminating or harassing employees because of their good faith disclosure of information about a violation of a law or rule or a violation that poses a risk to public or patient health, safety or welfare, or their refusal to assist employers in activity that the employee reasonably believes is in violation of a law or rule such as Oregon’s False Claims for Health Care Payments law. Oregon law also prohibits employers (public or private) from discriminating against any employee who in good faith reports criminal activity or who cooperates with law enforcement in an investigation or at trial. These Oregon employee protection laws provide for both administrative and civil remedies which may include monetary awards for actual damages and punitive damages. The Oregon Hospital Anti-Retaliation Law requires any nursing staff to notify his/her employer in writing of any suspected illegal activity, policy or practice before disclosing it to the appropriate government agency. This notice requirement does not apply to disclosures that the employee reasonably believes to be a crime or where the employee reasonably fears physical harm as a result of the disclosure or where an emergency exists.</p> <p>Legal Citations: Or. Rev. Stat. §§ 165.690 to 165.698; Or. Rev. Stat. §§ 659A.200 to 659A.224; Or. Rev. Stat. § 441.057;</p>

Fresenius Medical Care North America

State	State Law Summaries
	Or. Rev. Stat. § 659A.230.
Pennsylvania	<p>Pennsylvania does not have a specific state FCA but does prohibit false Medicaid claims. Under Pennsylvania law, it is unlawful for any person to knowingly or intentionally present for allowance or payment any false or fraudulent claim or cost report for furnishing services or merchandise under medical assistance, or to knowingly present for allowance or payment any claim or cost report for medically unnecessary services or merchandise under medical assistance, or to knowingly submit false information, for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise under medical assistance, or to knowingly submit false information for the purpose of obtaining authorization for furnishing services or merchandise under medical assistance.</p> <p>A violation of these Pennsylvania laws may result in restitution of the excess benefits and payments, plus interest, and civil penalties, up to three times the amount of the excess benefits and payments, as well as suspension from the Medicaid program for five years. In addition, any person who violates these laws commits a felony punishable by imprisonment for up to seven years and a maximum fine of \$15,000 for each violation.</p> <p>Currently, unlike the Federal False Claims Act, Pennsylvania law only permits the state government and not private citizens or employees to file civil lawsuits to recover monetary damages. There are no <i>qui tam</i> or relator provisions and there are no provisions allowing a private citizen to share a percentage of any monetary recoveries.</p> <p>Similar to Federal law, Pennsylvania’s Whistleblower Law prohibits <u>state</u> employers from discharging, threatening or otherwise discriminating or retaliating against <u>state</u> employees who report wrongdoing or waste. Pennsylvania law does not contain whistleblower protections for non-governmental employees.</p> <p>Legal Citations: 62 P.S. §§ 1407 and 1408; 43 P.S. §§ 1421 to 1428.</p>
Rhode Island	<p>Rhode Island does not have a state FCA, but under Rhode Island’s Medicaid program, it is unlawful intentionally to: (1) present for preauthorization or payment any materially false or fraudulent claim or cost report for services or merchandise; (2) present for preauthorization or payment any claim or cost report for medically unnecessary services or merchandise; (3) submit materially false or fraudulent information to obtain greater compensation than that to which the provider is legally entitled; (4) submit materially false information for the purpose of obtaining authorization for furnishing services or merchandise; and (5) submit any claim or cost report or other document which fails to make full disclosure of material information.</p> <p>A violation of these Rhode Island laws may result in restitution of the improper payment plus interest, a civil penalty of up</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>to \$1,000 for each violation, damages equal to three times the amount of the excess charges, payment of the legal fees and costs of any civil suit, and suspension or permanent exclusion from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to ten years and a fine up to \$10,000, or both.</p> <p>Rhode Island's Medicaid Assistance fraud law allows civil lawsuits to recover monetary damages to be filed by persons, including the Rhode Island Medicaid program, who have been injured by any violation of these laws. Such persons may recover up to three times the amount of the injury from the person or healthcare provider inflicting the injury.</p> <p>Like Federal law, Rhode Island's Whistleblower's Protection Act prohibits employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws such as the Rhode Island Medical Assistance Fraud Law. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.</p> <p>Legal Citations: R.I. Gen. Laws, §§ 40-8.2-1 to 40-8.2-23; R.I. Gen. Laws §§ 28-50-1 to 28-50-9.</p>
South Carolina	<p>South Carolina has not yet enacted a state FCA. However, South Carolina's State Medicaid false claims statute provides criminal, civil, and administrative penalties and sanctions for healthcare providers who knowingly and willfully make or cause to be made a false claim in an application or request for a benefit, payment, or reimbursement from a state or federal agency which administers or assists in the administration of the state's medical assistance or Medicaid program. It is also unlawful for a provider to knowingly and willfully conceal or fail to disclose any material fact, event, or transaction which affects payment or reimbursement under the state's Medicaid plan. Each fact, event, or transaction concealed or not disclosed constitutes a separate offense. A violation of the South Carolina's false claims laws may result in restitution for any improper payment and a civil penalty for false claims of up to \$2,000 for each excessive payment, three times the amount of the excess payments, plus interest, and termination from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to three years and/or a fine up to \$1,000 for each offense.</p> <p>In addition, under South Carolina law, a person who knowingly causes to be presented a false claim for payment to an insurer or health maintenance organization in South Carolina, or who knowingly assists, solicits, or conspires with another to present a false claim for payment is guilty of a felony if the amount is greater than \$1000. Upon conviction, a person may be imprisoned not more than ten years or fined not more than \$5000.</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>Currently, unlike the Federal FCA, South Carolina law only permits the state government and not private citizens or employees to file civil lawsuits to recover monetary damages. There are no <i>qui tam</i> or relator provisions and there are no provisions allowing a private citizen to share a percentage of any monetary recoveries.</p> <p>Similar to Federal law, South Carolina does have a whistleblower statute, but this law relates only to <u>state</u> employers and prohibits state employers from retaliating against any state employee who discloses a violation of any federal, state, or local law, rule, regulation or ordinance. South Carolina law does not contain similar protections for non-governmental employees.</p> <p>Legal Citations: S.C. Code Ann. § 43-7-60; S.C. Code Ann. §§ 8-27-10 to 8- 27-50.</p>
South Dakota	<p>A person (including an individual or corporation) commits an offence if he: (1) makes or causes to be made a claim, knowing the claim to be false, in whole or in part, by commission or omission; or (2) makes or causes to be made a statement or representation for use in obtaining or seeking to obtain authorization to provide a good or a service, knowing the statement or representation to be false, in whole or in part, by commission or omission; or (3) makes or causes to be made a statement or representation for use by another in obtaining a good or a service under the program, knowing the statement or representation to be false, in whole or in part, by commission or omission; or (4) makes or causes to be made a statement or representation for use in qualifying as a provider of a good or a service under the program, knowing the statement or representation to be false, in whole or in part, by commission or omission.</p> <p>Likewise, each application to participate as a provider in the Medicaid program, each report stating income or expense upon which rates of payment are or may be based, and each invoice for payment for a good or a service provided to the recipient shall contain a statement that all matters stated therein are true and accurate, signed by the individual responsible for the provider, under the penalty of perjury. A person commits perjury if he signs or submits, or causes to be signed or submitted, such a statement, and he knows, or should have known, that the application, report, or invoice containing information is false, in whole or in part, by commission or omission.</p> <p>Violations of the above provisions represent Class 5 felonies, which could subject the violating individual or entity to five (5) years imprisonment and a \$10,000 fine. Additionally, any person violating such provisions may be suspended or excluded from participation as a provider or an employee of a provider. The statute of limitations for bringing claims under these laws is six years.</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>The above laws do not contain <i>qui tam</i> or relator provisions. Similarly, the laws do not contain whistleblower protections.</p> <p>Legal Citations: S.D. Codified Laws §§ 22-45-2 to 11 (statute of limitations); 22-6-1.</p>
Tennessee	<p>Tennessee has a state FCA that is very similar to the federal civil FCA (<i>see</i> federal FCA summary). Actions and conduct that trigger penalties under the Tennessee FCA are the same as those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. However, under the Tennessee FCA, a person may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim. Additionally, the Tennessee FCA does not apply to any claim of less than \$500 in value, claims involving workers' compensation or relating to tax laws administered by the Tennessee Department of Revenue, or claims covered by the Medicaid False Claims Act.</p> <p>Civil monetary penalties are between \$2,500 and \$10,000 for each false claim, plus up to three times the damages sustained by the state. A civil lawsuit under the Tennessee FCA must be brought within the later of: (1) six years after the violation was committed, or (2) three years after the date the violation was discovered (but no more than ten years after the violation was committed). Whistleblowers bringing claims are entitled to 25 to 33% of the state's recovery. The Tennessee FCA contains whistleblower protection provisions that prohibit employers from retaliating against employees who report their employer's potentially false claims or who participate in bringing or assisting with a FCA action.</p> <p>Tennessee also has a Tennessee Medicaid False Claims Act, which also similarly mirrors the federal FCA. However, this statute only applies to false claims made to the Tennessee Medicaid Program, TennCare. Additionally, civil monetary penalties range between \$5,000 and \$25,000 for each occurrence, plus up to treble damages. A civil lawsuit under the Tennessee Medicaid FCA must be brought within the later of: (1) six years after the violation was committed, or (2) three years after the date the violation was discovered (but no more than ten years after the violation was committed).</p> <p>Whistleblowers bringing claims are entitled to 15 to 25% of the state's recovery. The Tennessee Medicaid FCA contains whistleblower protection provisions that prohibit employers from retaliating against employees who report their employer's potentially false claims or who participate in bringing or assisting with a FCA action.</p> <p>Legal Citations: TENN. CODE ANN. §§ 4-18-101, <i>et. seq.</i>; TENN. CODE ANN. §§ 71-5-181, <i>et. seq.</i></p>
Texas	<p>Texas has a Medicaid FCA that is very similar to the federal civil FCA (<i>see</i> federal FCA summary). Actions and conduct</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>that trigger penalties under the Texas FCA are substantially similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. However, under the Texas Medicaid FCA, a person or entity may also be liable if he or she presents a claim for payment under the Medicaid program for a product or service that was furnished or rendered by an unlicensed provider or that has not been approved by a healthcare practitioner.</p> <p>The Texas Act differs from the federal FCA in that the civil penalty is greater under the Texas law for unlawful acts that result in injury to an elderly person, a disabled person, or someone younger than eighteen. The Texas Medicaid Fraud Prevention Law provides for civil penalties of between \$5,000 to \$15,000 for each violation that results in an injury to a disabled person, an elderly person, or a person younger than 18 years old; or between \$5,000 to \$10,000 for each violation that did not result in such injury, plus damages of two times the amount of damage to the state. A civil lawsuit must be brought within the later of (1) six years from when the violation occurred or (2) three years after the violation was discovered by the relevant agency, but no more than ten years after the violation was committed.</p> <p>The Act contains <i>qui tam</i> whistleblower provisions permitting a person to bring a suit on behalf of the government that is very similar to the federal FCA <i>qui tam</i> provisions and also has a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer’s potentially false claims or who participate in bringing or assisting with a FCA action. Under the Texas Medicaid FCA, a whistleblower may be entitled to up to 15% of the state’s recovery.</p> <p>Legal Citations: TEX. HUM. RES. CODE ANN. § 32.039; TEX. HUM. RES. CODE ANN. §§ 36.001 TO 36.132</p>
Utah	<p>Utah’s FCA is similar to the federal civil FCA (<i>see</i> federal FCA summary). The actions and conduct that trigger penalties under the Utah FCA are substantially similar to those that trigger penalties under the federal FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. However, under the Utah FCA, the definition of “knowing” or “knowingly” is slightly different than the federal FCA for purposes of a criminal FCA action and requires specific knowledge. However, for civil actions under the Utah FCA, the definition of “knowing” mirrors the federal FCA definition to include specific knowledge as well as reckless disregard.</p> <p>The criminal penalties vary based on the amount of the monetary damage suffered by the state. Such penalties range from 2nd and 3rd degree felonies to Class A and B misdemeanors. The civil monetary penalties under the Utah FCA are slightly</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>less than under the federal FCA (up to treble the amount of damage to the state and between \$5,000 to \$10,000 for each prohibited claim or act). A lawsuit under the Utah FCA must be brought within the later of: (1) six years after the violation was committed, or (2) three years after the date the violation was discovered (but no more than ten years after the violation was committed).</p> <p>The Utah FCA does not currently provide for a private right of action. Additionally, the Utah FCA, unlike the federal FCA, does not have a whistleblower protection provision.</p> <p>Legal Citations: UTAH CODE ANN. §§ 26-20-1 <i>et seq.</i></p>
Vermont	<p>Vermont does not have a specific state FCA, but has laws that prohibit false statements and claims associated with health care items or services. Under Vermont law, it is unlawful for a person to: (1) knowingly file, attempt to file, or aid and abet in the filing of a claim for services to a recipient of benefits under a state or federally-funded assistance program for services which were not rendered; (2) knowingly file a false claim or a claim for unauthorized items or services under such a program, or knowingly bill the recipient of benefits under such a program or his family for an amount in excess of that provided for by law or regulation; (3) knowingly fail to credit the state or its agent for payments received from social security, insurance, or other sources; or (4) in any way knowingly receive, attempt to receive, or aid and abet in the receipt of unauthorized payment as provided herein.</p> <p>A violation of the above Vermont false claims provisions may result in suspension from the Medicaid program, restitution for any improper payment plus interest, and a civil penalty of up to \$500 for each false claim or \$500 per each false document submitted to support a false claim, or three times the amount of the wrongful payment, whichever is greatest. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to ten years and/or a fine up to \$1,000 or an amount equal to twice the amount of assistance wrongfully obtained.</p> <p>Currently, unlike the Federal FCA, Vermont law only permits the state government and not private citizens or employees to file civil lawsuits to recover monetary damages. There are no <i>qui tam</i> or relator provisions and there are no provisions allowing a private citizen to share a percentage of any monetary recoveries.</p> <p>Similar to Federal law, the Vermont whistleblower laws prohibit public and private hospital and nursing home employers from retaliating against any employee who discloses a violation of any federal, state, or local law, rule, regulation or ordinance. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position. In order for the employee to have the protection</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>afforded by the Vermont whistleblower laws, the employee must first report the suspected violation of law or improper quality of patient care to the employer, supervisor or other person designated by the employer to address such violations before disclosing it to another person or entity, such as a state agency. This notice requirement does not apply to disclosures or testimony made in response to a government inquiry, investigation, or hearing. It does, however, apply to an employee's objection to or refusal to participate in any activity, policy, or practice, that the employee reasonably believes violates a law or constitutes improper quality of patient care.</p> <p>Legal Citations: Vt. Stat. Ann. Tit. 33, §§ 141 to 144; Vt. Stat. Ann. Tit. 21 §§ 507 to 509.</p>
Virginia	<p>Virginia's FCA, also known as the "Fraud Against Taxpayers Act," is very similar to the federal civil FCA (<i>see</i> federal FCA summary). Like the federal FCA, the Virginia FCA prohibits the knowing submission of false or fraudulent claims to the state government. Actions and events that trigger penalties under the federal FCA are the same as those that trigger penalties under the Virginia FCA, specifically knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government.</p> <p>The Commonwealth may impose penalties of between \$5,500 to \$10,000 per false claim, plus treble damages. A civil lawsuit under the Virginia FCA must be brought within the later of (1) six years from when the violation occurred or (2) three years after the violation was discovered by the relevant agency, but no more than ten years after the violation was committed.</p> <p>The Virginia FCA, like the federal FCA, provides for a <i>qui tam</i> private right of action where a person may file suit on behalf of the government and can receive a share of any recovery. The Virginia FCA also has a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer's potentially false claims or who assist with a FCA action.</p> <p>Legal Citations: VA. CODE ANN. §§ 8.01-216.1 <i>et seq.</i></p>
Washington	<p>Washington does not have a specific state FCA, but does have other laws that prohibit false statements and claims associated with health care items or services. Washington law includes provisions that create liability for false claims submitted to a broad range of health care payors, including Medicaid. Any person who knowingly makes a false claim or false representation related to a health care payment or conceals the occurrence of any event affecting the right to a health care payment may be guilty of a felony and subject to various sanctions, including disgorgement of funds plus interest, civil penalties in the amount of three times the excess payment, and/or a fine of \$25,000.</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>These Washington statutes do not include <i>qui tam</i>, relator or whistleblower protection provisions. However, other more general state laws afford whistleblower protections to employees under certain circumstances. Washington common law recognizes actions against employers for wrongful discharge in violation of public policy. Additionally, the Washington State Department of Health laws contains whistleblower protections for those that reporting fraud in connection with quality of care. Finally, there are a number of Washington laws that protect state and local employees from retaliation related to whistle-blowing.</p> <p>Legal Citations: RCW 74.09.230; RCW 74.09.210; RCW 48.80.030; RCW 43.70.075; RCW 49.60; RCW 42.40; RCW 42.41.</p>
West Virginia	<p>West Virginia does not have a specific state FCA, but does have other laws that prohibit false statements and claims associated with health care items or services. For example, West Virginia law prohibits any person, firm or corporation from willfully defrauding the department of welfare for payments to which he or it is not entitled. Additionally, false statements or representations, concealment of a material fact and fraudulent schemes are prohibited. Any person found to be liable for such acts is required to pay the department of welfare three times the amount of such benefits or payments to which he or it was not entitled and attorney’s fees and costs.</p> <p>West Virginia law also provides a criminal penalty for any person who knowingly and willfully and with intent to defraud submits a materially false statement in support of a claim for insurance benefits or payment or anyone who conspires to do so. If the benefit sought is \$1,000 or more, the violation is considered a felony, and the penalty can be one to ten years in jail and/or a \$10,000 fine. If the benefit is less than \$1,000, the violation is considered a misdemeanor, and the penalty can be one year in jail and/or a \$2,500 fine.</p> <p>Washington statutes do not include <i>qui tam</i> or relator provisions. West Virginia law does provide certain whistle-blower protections. No employer may discharge, threaten, or discriminate against an employee when the employee, in good faith, reports or is about to report to an appropriate authority an instance of wrongdoing or waste. “Employee” is defined as any person who performs a full or part-time service for wages under a contract of hire for a “public body.” A “public body” is defined as an instrumentality of the state of West Virginia, county, municipality, or any state or political subdivision or any body which is funded 35% or more by or through a state authority. Thus, this whistle-blower law may apply to health care providers with Medicare and/or Medicaid funding of 35% or more. A person who alleges that they are entitled to the protections of this whistle-blower law may bring a civil action for injunctive relief or damages within 180 days after the alleged violation. An employer who does not afford its employees of the protections of the whistle-blower law is subject to</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>a maximum fine of \$500.</p> <p>Legal Citations: W. Va. Code Ann. § 9-7-4; W. Va. Code Ann. § 9-7-5; W. Va. Code Ann. § 9-7-6; W. Va. Code Ann. § 33-41-11; W. Va. Code Ann. § 6C-1-1 to § 6C-1-8.</p>
Wisconsin	<p>Wisconsin has a state FCA that prohibits Medicaid fraud, which includes: (1) the knowing and willful misrepresentation of a material fact in an application for a benefit or payment; (2) a false statement or representation of a material fact that affects the determination of rights to a benefit or payment; (3) concealing or failing to disclose information, affecting the right to a benefit, with the intent to fraudulently secure the benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized; or (4) conversion of a benefit or payment.</p> <p>A violation of this law may result in, among other sanctions, fines in the amount of not more than \$25,000 for a person who is furnishing services for which medical assistance payment is or may be made; and not more than \$10,000 or imprisonment for not more than one year for any other person. A conviction could also result in the collection of damages, by the state, in an amount three times the amount of the actual damages sustained by the state.</p> <p>Currently, unlike the Federal FCA, Wisconsin law only permits the state government and not private citizens or employees to file civil lawsuits to recover monetary damages. There are no <i>qui tam</i> or relator provisions and there are no provisions allowing a private citizen to share a percentage of any monetary recoveries.</p> <p>Similar to Federal law, Wisconsin law provides various whistle-blower protections for private and public employees. For example, an employer of a health care worker is prohibited from threatening or taking disciplinary action against a health care worker who reports in good faith that a health care provider has violated state or federal laws or regulations. To be protected under this statute, the health care worker/employee must report the information to a state agency, an accrediting or standard-setting body, an officer or director of the health care provider, or another employee who is in a position to take corrective action. The reporting health care worker/employee is also protected when initiating or testifying in an action or providing information to the legislature. Any health care facility or health care provider who takes disciplinary action against or threatens to take disciplinary action against the health care worker/employee who files a report in good faith shall be subject to civil penalties.</p> <p>Legal Citations: Wisc. Stat. § 49.49; Wisc. Stat. § 230.83; Wisc. Stat. § 230.90; Wisc. Stat. § 146.997; Wisc. Stat. § 46.90; Wisc. Stat. § 50.07.</p>
Wyoming	<p>Under the Wyoming Medical Assistance and Services Act, it is illegal for a person to knowingly make a false statement or</p>

Fresenius Medical Care North America

State	State Law Summaries
	<p>misrepresentation or knowingly fail to disclose a material fact in providing Medicaid services. A violation of this Wyoming law may result in recovery of the overpayments, completion of an educational program regarding the proper submission of claims and appropriate utilization of services, referral to the Medicaid Fraud Control Unit for further investigation and action, and/or suspension or termination from the Medicaid program. In addition, any person who violates these laws commits a felony punishable by imprisonment for up to ten years and/or a fine of up to \$10,000.00.</p> <p>Currently, unlike the Federal FCA, Wyoming law only permits the state government and not private citizens or employees to file civil lawsuits to recover monetary damages. There are no <i>qui tam</i> or relator provisions and there are no provisions allowing a private citizen to share a percentage of any monetary recoveries.</p> <p>Like Federal law, Wyoming law provides certain whistle-blower protections. However, these protections, through the State Government Fraud Reduction Act, apply only to state employees. That is, Wisconsin law prohibits <u>state</u> employers from discharging, disciplining or retaliating against a state employee who in good faith reports fraud, waste or gross mismanagement in a state agency, a violation of state or federal law, or a condition or practice that threatens the health or safety of that employee or any other individual. Wyoming law does not contain whistleblower protections for non-governmental employees.</p> <p>Legal Citations: Wyo. Stat. Ann. § 42-4-111; Wyo. Stat Ann. § 9-11-101.</p>