

## Qui Tam False Claims Settlement Gains Whistleblower \$11M and Drains IPC Healthcare of \$60M



The False Claims Act allows private individuals to file suit on behalf of the

government when such fraudulent wrongdoing is witnessed, even when the qui tam relators are not personally harmed by the alleged behavior. The Act further allows the whistleblowers to share in any settlement the government may receive.

A doctor employed by IPC Healthcare, alleging that the company urged its practitioners to use billing codes that reflected more costly services than were rendered when submitting claims to government programs, has finally seen the conclusion to a case that was initiated nearly eight years ago. And the relator's patience and initiative will be rewarded.

As the whistleblower, Dr. Bijan Oughatiyan—who worked with IPC from 2003 through 2008—will receive around \$11 million of the \$60 million settlement.

In the year following his five-year period of employment with IPC, Oughatiyan filed the qui tam lawsuit (United States ex rel. Oughatiyan v. IPC The Hospitalist, Inc., et al., Case No. 09-C-5418 [N.D. Ill.]) in the U.S. District Court for the Northern District of Illinois. The complaint alleged that IPC participated in creating and submitting fraudulent claims to government healthcare systems (like Medicare, Medicaid, the Defense Health Agency, and the Federal Employees Health Benefits Program).

The relator claimed that the company not only knew of the fraud, but that it overtly instructed its doctors to engage in “up-coding” as a means of receiving higher reimbursement rates than are due for the care provided in reality.

### Padding the system with incentive for fraud?

Oughatiyan alleged that IPC did more than persuade physicians to upcode when they submitted claims through the company's electronic system—he stated that IPC incentivized the fraudulent practice, granting doctors “bonuses” commensurate with the amounts that were billed, even when those amounts surpassed the hospitalists' base salary.

The relator also stated that the healthcare company would single out doctors whose billing rates were lagging behind others and would advise them to electronically check the methods peers were using to bill the government programs and to follow suit where possible.

IPC Healthcare began treating patients more than twenty years ago, under the name IPC the Hospitalist Company. In 2015, TeamHealth Holdings (a hospital staffing company) acquired IPC. Currently, IPC is one of the country's most robust employers of acute care physicians (referred to as “hospitalists”) and has doctors in close to 2,000 medical facilities in more than two dozen states. In 2014 alone, IPC's reported revenue was more than \$690 million.

In addition to the monetary portion of the settlement (\$60 million plus interest), TeamHealth has entered a Corporate Integrity Agreement (CIA) with the U.S. Department of Health and Human Services Office of Inspector General (HHS-OIG). The five-year

agreement is intended to make the company accountable for vigilance around billing and ferreting out fraudulent practices in a timely manner.

## More than “flawed patient care; it is illegal”

Obviously, the government would take an allegation like this one seriously, not only because if it proves to be true the behavior can bilk the programs out of millions paid into the system by taxpayers, but also because it diverts healthcare monies set aside for senior citizens or low-income individuals.

“Medical providers who fraudulently seek payments to which they are not entitled will be held accountable,” said U.S. Attorney Zachary T. Fardon for the Northern District of Illinois. “False documentation of treatment is not just flawed patient care; it is illegal.”

Chad A. Readler is Acting Assistant Attorney General of the Justice Department’s Civil Division. [He said](#), “This settlement reflects our ongoing commitment to ensure that health care providers appropriately bill government programs vital to patient health care.”

The Department of Justice includes this last-word reminder in its press release about the case: “The claims resolved by the settlements are allegations only and there has been no determination of liability.”

For more information/questions regarding any legal matters, please email [info@nelsonhardiman.com](mailto:info@nelsonhardiman.com) or call 310.203.2800.