

2018 AG REQUEST LEGISLATION

Washington's False Claims Act

PROBLEM

The Office of Inspector General has concluded that Washington's Medicaid False Claims Act is not currently in compliance with the Deficit Reduction Act of 2005 because it does not contain an automatic penalty inflation adjustment. As a result, **Washington stands to lose 10 percent of its False Claims Act recoveries, which totaled \$1,097,394.75 in 2017.** The Office of Inspector General has given Washington until December, 31 2018 to comply.

BACKGROUND

The Deficit Reduction Act of 2005 provides state compliant False Claims Acts, as determined by the federal government, an additional ten percent of any Medicaid recovery under a state False Claims Act action. In order to obtain and maintain Section 1909 compliance (also referred to as "Deficit Reduction Act compliance"), state False Claims Act civil penalties must be consistent with the federal False Claims Act.

The Washington Legislature has authority to change the mechanism by which the False Claims Act penalty inflation adjustment occurs. The federal inflation adjustment is a standard mathematical calculation and does not cede any policy authority to the federal government. This bill is consistent longstanding state policy to ensure the maximum flow of dollars into Washington state's Medicaid system.

LEGISLATION (SB 6053 / HB 2326)

The Legislature has already granted the Attorney General authority to increase penalties by rule, but this is not sufficient to maintain compliance. **Enactment of these amendments to the Washington Medicaid False Claims Act will ensure maximum recoveries for the state in state False Claims Act actions.** Specifically, it will maintain compliance with the Deficit Reduction Act, and thereby obtain an additional 10 percent state share of state False Claims Act recoveries afforded by the Deficit Reduction Act for compliant states.



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