

## **Increased Enforcement Actions in 2025**

**Richard P. Kusserow | April 2025**

### **Key Points:**

- DOJ underscoring commitment to fraud enforcement
- New HHS Inspector General nominated
- 10 Tips to strengthen Compliance Programs

A new DHHS Inspector General, Thomas March Bell, has been nominated as of March 25th, and the DOJ is underscoring its commitment to fraud enforcement. Cabinet level agencies have been tasked with contributing to this effort and questions are now being asked what it means for enforcement in the healthcare sector. DOJ leaders at the Federal Bar Association's (FBA) annual Qui Tam event reaffirmed their continued commitment to aggressive enforcement of the False Claims Act (FCA), with the healthcare sector being a priority. Special attention will continue to be given to fraudulent billing practices, along with violations of the Anti-Kickback Statute (AKS) including fees, inducements, and benefits provided to improperly induce beneficiary business. Billing fraud is typically identified through data analytics of submitted claims, whereas virtually all AKS violations will stem from "whistleblowers." Of the \$2.9 billion recovered by DOJ last year, \$2.4 billion came from qui tam complaints, with an average of eighteen filed per week. Priority is being given to pandemic related fraud, which has resulted in up to one trillion dollars in fraud, waste, and abuse, and where the DOJ expects continued "high dollar" return. In light of this increased enforcement activity, the following are tips for Compliance Officers to strengthen their compliance programs and mitigate the risk of enforcement actions.

### **10 Tips to strengthen Compliance Programs**

- 1.** Conduct an independent evaluation of the Compliance Program by experts, as recommended by the DOJ and OIG. This evaluation should (a) document and provide evidence of progress made to date, (b) identify areas of weaknesses and opportunities for improvement, and (c) recommend actionable steps to enhance the program's effectiveness.

2. Implement a claims processing Quality Assurance Program (QAR) that includes Quality Control Reviews or QARs such as random daily testing and monitoring of diagnostic and procedural codes for errors and taking remedial actions (e.g., educational contacts with those making errors). An effective QAR is one that can evidence declining error rates over time.
3. Engage experts to audit probe samples (though not statistically valid for projecting to the universe) to identify potential aberrations in claims development and submission process; and then take steps to ensure accuracy.
4. Arrange for an independent audit of arrangements with referrals sources, focusing on identifying medical needs, making selections, determining fair market value, verifying commercial reasonableness, and monitoring compliance with the terms of the agreement.
5. Examine and test internal reporting systems to verify that they are easily accessible to employees, that calls are answered quickly, reports are professionally written, and actions are taken promptly to resolve issues.
6. Ensure compliance guidance (such as Code and policies) are (a) written clearly, user friendly and understandable, (b) topic specific, (c) follow a standardized form and format, and (d) reviewed annually to remain current.
7. Ensure your policies include a duty to report suspected wrongdoing, permit reporting anonymously, and warrant protection from retaliation for those who identify themselves.
8. Ensure that there is a system to swiftly identify, investigate, and address reports of misconduct.
9. Establish a process that promptly identifies, quantifies, and discloses overpayments.
10. Promptly Investigate allegations of wrongdoing and disclose suspected fraud or abuse through self-disclosure protocols at CMS, OIG, and DOJ, as it can greatly mitigate penalties and protect reputation.

For more information on this topic, contact Richard Kusserow ([rkusserow@strategicm.com](mailto:rkusserow@strategicm.com)). You can also keep up-to-date with Strategic Management Services by following us on LinkedIn



#### **About the Author**

Richard P. Kusserow established Strategic Management Services, LLC, after retiring from being the DHHS Inspector General, and has assisted over 2,000 health care organizations and entities in developing, implementing and assessing compliance programs.