

False Claims: A Cash Grab Disguised as Reform

To: Members of the Pennsylvania Senate

Pennsylvania already has strong, effective tools to combat fraud. Creating a state False Claims Act (FCA) would not improve enforcement or protect taxpayers—it would instead expose businesses and health care providers to massive new liability while primarily benefiting private trial lawyers and professional bounty hunters.

Supporters claim a state FCA would strengthen Medicaid fraud enforcement and generate new revenue. In reality, it is duplicative and unnecessary. The Commonwealth already recovers its full lawful share of misspent Medicaid dollars under the existing federal False Claims Act. And public enforcement is working: Pennsylvania's Medicaid error rate is among the lowest in the nation, and the Attorney General's Medicaid Fraud Control Section consistently ranks among the top states for fraud charges and convictions.

A state FCA would fundamentally change this successful model by outsourcing enforcement to private attorneys. Under a qui tam system, bounty hunters and their lawyers could collect up to 30 percent of Pennsylvania's share of any recovery, in addition to their share of the federal portion. This “double recovery” means less money for the Commonwealth and stronger incentives for opportunistic litigation. Any perceived financial gain—such as a 10 percent federal incentive—is often outweighed by the substantial sums diverted to private litigants.

The structure of a state FCA also encourages a frivolous “sue and settle” system. Small businesses, rural hospitals, small physician practices, and clinics are often forced to settle, regardless of the merits of the claim, so they are not financially ruined. FCA cases often arise from complex billing disputes or inadvertent errors, not intentional fraud. Treble damages, steep per-claim penalties, and lengthy statutes of limitations, make it impossible for small entities to survive this litigation onslaught. That is not justice. It's coercion!

House Bill 1697 goes beyond the federal FCA by expanding liability, extending the statute of limitations to ten years, and lacking key exemptions such as for taxes. This expansion would strain the Attorney General's office and state courts while discouraging investment, job growth, and participation in state programs.

Everyone agrees fraud should be pursued aggressively. But the solution is stronger, accountable public enforcement—not turning enforcement over to private bounty hunters who profit from litigation. **A state False Claims Act is anti-business, anti-health care, and ultimately harmful to Pennsylvania taxpayers.**

For these reasons, we urge you to reject a Pennsylvania state False Claims Act and instead continue investing in the anti-fraud programs already in place—programs that are effective, accountable, and working.

Sincerely,

