



Weekly Auditing and Compliance Tip

National Alliance of Medical Auditing Specialists | 877-418-5564 | namas.co | namas@namas.co

March 3, 2017

Penalties Under the False Claims Act Have Risen for the Second Time Within the Last 12 Months

The False Claims Act is the primary civil enforcement tool utilized by the U.S. Department of Justice (DOJ) to address false claims submitted to government programs and contracts by individuals and entities. The statute was first passed during the Civil War in 1863 in an effort to address the wrongful conduct of war profiteers.

Among its various provisions, the False Claims Act includes specific measures intended to encourage the disclosure of fraud by private persons through the filing of a whistleblower suit. Under these provisions, a private person (often referred to as a "relator") can bring a False Claims Act lawsuit on behalf of, and in the name of, the United States. If a recovery is made, the relator may be eligible to a share of these monies.

Most of the False Claims Act cases brought against health care providers are filed by whistleblowers. As set out in [a December 2016 DOJ Press Release](#), during Fiscal Year 2016, the federal government obtained more than \$4.7 billion in False Claims Act settlements and judgements. Of this total, \$2.5 billion came from individuals and entities in the health care industry.

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A person found to have violated the False Claims Act may be liable for both civil penalties and treble damages. Under the 1986 amendments to the False Claims Act, the civil penalties for violations of the False Claims Act ranged from \$5,000 to \$10,000. Since that time, the following adjustments have been made:

- For false claims or statements made after October 23, 1996 but before August 1, 2016, the minimum penalty which may be assessed under 31 U.S.C. 3729 is \$5,500 and the maximum penalty is \$11,000, per false claim statement.
- For false claims or statements made on or after August 1, 2016, but before February 3, 2017, the maximum penalty which may be assessed under 31 U.S.C. 3729 is \$10,781 and the maximum penalty is \$21,563 per false claim or statement.

Although the amount of civil penalties assessed in False Claims Act cases almost doubled in August 2016, additional increases were recently announced. On February 3, 2017, [the DOJ issued a Final Rule](#) further adjusting the amount of civil monetary penalties that may be assessed under the False Claims Act to account for inflation. For false claims or statements made after February 3, 2017, the minimum penalty which may be assessed under 31 U.S. C. 3729 is \$10,957 and the maximum penalty is \$21, 916 per false claim or statement.

In today's health care billing environment, where the number of electronic claims submitted to Medicare can be significant, the potential penalties an organization could face for the submission of false claims can add up quickly. In light of the increases in penalty amounts implemented in August 2016 and in February 2017, we should expect to see future challenges under the Eighth Amendment of the Constitution. As you will recall, the Eighth Amendment prohibits the imposition of "excessive fines", or fines that are grossly disproportional to the gravity of an offense.

This Week's Audit Tip Written By:

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- Interventional Services (Interventional radiology, cardiology and vascular)
- Cardiovascular
- Radiation Oncology

If you are interested and have experience in one or more of the above areas, please submit your resume via email to namas@namas.co



NAMAS is proud to offer the following webinars in March

Medical Necessity Reviews: When is a Physician's Clinical Perspective a Required Component of Your Audit?

Speaker: James Dunnick, MD, FACC
March 7, 2017
2pm EST

This webinar is FREE For NAMAS Platinum and Gold members, and Silver and Basic members who have selected our auditing webinar series. This webinar is available for purchase for \$49.99

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How to Perform a Risk Management Assessment

Speaker: Michelle West, CPC, CPMA
March 14, 2017
2pm EST

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Mitigating Risk for Your Organization

Speaker: Frank Cohen
March 21, 2017
2pm EST

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Hands On: Auditing Orthopaedic Services

Speaker, Pam Vanderbilt, CPC, CPC-I, CPMA
March 28, 2017
2pm EST

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NAMAS Calendar of Events



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We're Happy to Announce our 9th Annual Auditing & Compliance Venue

Our 9th Annual Auditing & Compliance Conference will be held this December at the **Loews Sapphire Falls Resort at Universal Orlando**

Conference Agenda Coming Soon!

Take advantage of early bird pricing, available ONLY through March 31, 2017!

NAMAS Member Pricing

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Pre-Conference & Conference: \$1195

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2016 Salary Survey

using the link below!



Each year, NAMAS collects data from auditors about their employment as auditors.

Please take a few moments to complete our survey. Entering your email address at the end of the survey will enter you into a drawing for a chance to win one of several prizes:

\$100 Visa Gift Card
\$25 Starbucks Gift Card
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GRAND PRIZE

is a scholarship to attend our 9th Annual NAMAS Auditing & Compliance Conference!

Click the image above to complete the survey. This survey will close on March 15, 2017 and winners will be selected and contacted by a NAMAS representative.



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