

The Benefits of Being the

First to File a Whistleblower Claim in Healthcare Fraud:

A Comprehensive Guide



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Table of Contents

3

Introduction

5

III. Why Being the First to File is Important for Whistleblowers

8

V. Steps to Take if You Suspect Healthcare Fraud in Your Workplace

12

VII. Conclusion & About DJO Whistleblower Law Group

4

II. The First to File Rule: Definition and Implications

7

IV. Why It's Important to Work With a Whistleblower Attorney

10

VI. Real-World Examples of Successful Whistleblower Claims in Healthcare Fraud Cases



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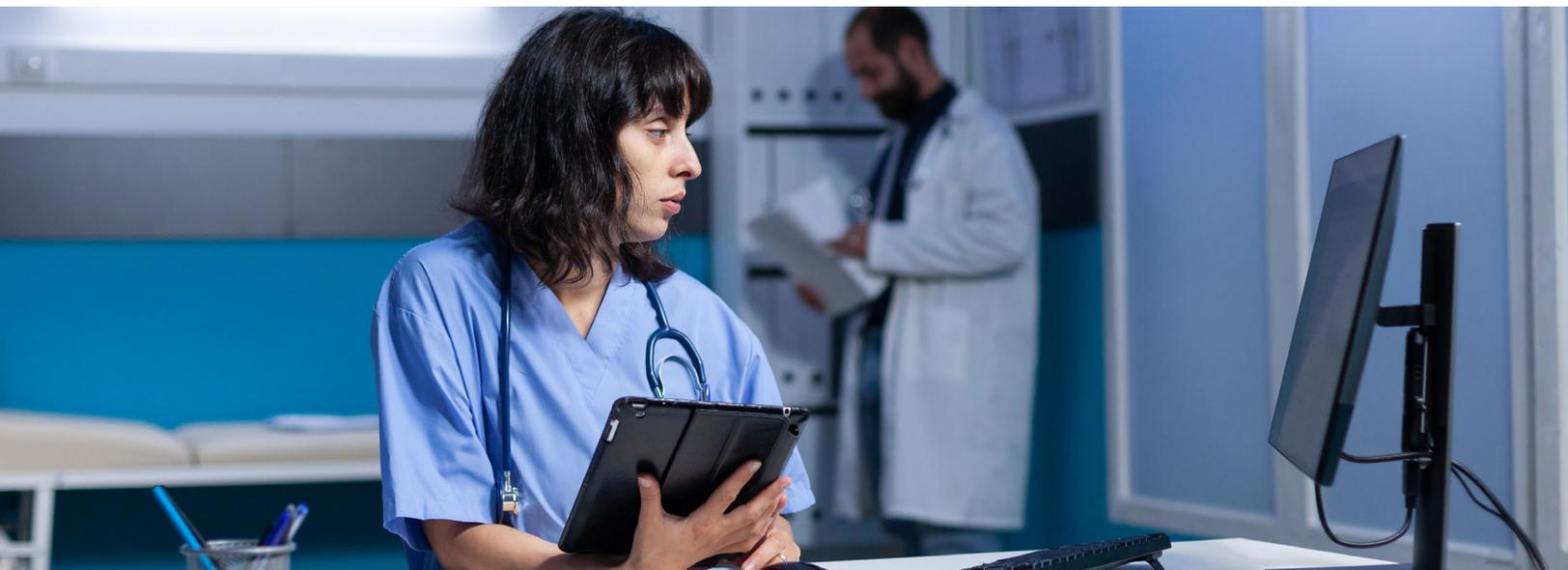
Introduction

The Department of Justice (DOJ) estimates that
healthcare fraud costs taxpayers roughly
\$100 billion a year.¹

But that number can significantly decrease with
the help of diligent whistleblowers like you.

Whistleblowing is an act of courage that can help shed light on fraudulent practices and protect the rights of patients and taxpayers. However, blowing the whistle on healthcare fraud is not always easy. It requires following a specific set of rules in a timely manner, including being the first to file a whistleblower claim.

This guide will explore what it means to be the “first to file” a whistleblower claim in healthcare fraud, the legal implications of the first to file rule, how to file a claim with a whistleblower attorney, and how your bravery can help you get a reward of up to 30% of the funds recovered.



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The First to File Rule: Definition and Implications

Legal Definition

If a legal plaintiff is the first to file their case in court, they are typically granted “first to file” rights for their case. This was first outlined in the 1993 case *Tingley Systems v. Bay State HMO Management Inc.*² The term “first to file” became a way to describe the policy of federal courts to avoid rulings that may entrench upon the authority of sister courts.³

Implications for Whistleblower Cases

When it comes to whistleblower cases, the first person to come forward with information about a potential healthcare fraud case has a significant advantage in potentially earning a larger reward. This reward can be upwards of 30% of the recovery collected by the Government.

Furthermore, the first to file rule is a federal regulation that applies to all states. Still, some jurisdictions may be more strict on the rule than others, so it's important to work with an experienced law firm to ensure that you understand the nuances of the first to file rule and how it applies to your case.

As the first to file rule is a critical component of any successful whistleblower claim, it is essential to understand its legal definition and significance in the context of healthcare fraud cases.

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Why Being the First to File is Important for Whistleblowers

First and foremost, the urgency of being the first to file means that you are in a superior position if any subsequent whistleblowers come forward with similar allegations at a later date. In most jurisdictions, if another whistleblower comes forward with different allegations against the same company, that whistleblower will be considered first to file for those specific allegations.

Usually, when this happens, the Government will ask the whistleblowers to work together towards a resolution. Still, the original first to file whistleblower remains in the lead position in the eyes of the Government.

Being the First to File Can Increase Your Chances of Earning A Whistleblower Reward

Additionally, being first to file can increase your chances of earning a whistleblower reward, as the FCA mandates that the first whistleblower to file a claim can potentially receive a larger share of the recovered damages than subsequent whistleblowers.⁴

Moreover, filing a claim early is critical in healthcare fraud cases, as such fraudulent practices can cost millions over time, and the damages can be severe and long-lasting. The longer it takes for a whistleblower to file a claim, the greater the potential for harmful effects on both patients and taxpayer-funded programs. By reporting fraud early on, whistleblowers can help ensure that patient care is not compromised and taxpayer dollars are appropriately used.

According to the DOJ, as of February 2023, whistleblowers have helped recover over \$72 billion in settlements and judgments under the FCA since 1986, highlighting the significant impact that whistleblowers can have on protecting patients and the healthcare industry.⁵

Whistleblowing can significantly impact the healthcare industry, and being the first to file a whistleblower claim can have even greater benefits. When healthcare fraud occurs, it can lead to several damaging effects, including inflated costs for patients and taxpayers, as well as negative impacts on patient care.

By being the first to file, whistleblowers can not only help to prevent these damages from occurring but also receive substantial rewards, upwards of 30% of the recovery for their efforts.



Being the first to file a whistleblower claim can have significant benefits for both the whistleblower and the healthcare industry as a whole.

Whistleblower Case Example

One example of a successful whistleblower case involved Tenet Healthcare Corporation, one of the largest healthcare providers in the United States. In 2016, Tenet agreed to pay \$514 million to settle allegations that it paid kickbacks to doctors in exchange for patient referrals.⁶

The case was initiated by a whistleblower who received \$84 million as their share of the settlement.⁷ This case highlights not only the potential for significant financial rewards but also the impact that whistleblowers can have on the healthcare industry.

In addition to the potential financial rewards, being the first to file a whistleblower claim can also provide legal advantages. When multiple whistleblowers come forward, the first to file is given priority and will receive the lion's share of the reward. Additionally, the first to file can help establish the basis for a case and potentially increase the chances of success.

Overall, being the first to file a whistleblower claim can have significant benefits for both the whistleblower and the healthcare industry as a whole.

Why It's Important to Work With a Whistleblower Attorney

Filing a whistleblower claim can be a complex and challenging process, especially for those who are unfamiliar with the legal system. Working with an experienced whistleblower attorney can help ensure the best possible outcome.

Whistleblower attorneys ensure that the process is as smooth and successful as possible while also increasing your chances of success and the amount of the reward you may receive.

An attorney can provide essential guidance and representation throughout the entire legal process, including helping you navigate the complexities of the FCA and ensuring that all legal filings and proceedings are handled correctly.

Here are some of the reasons why it's important to work with an experienced whistleblower attorney:



Legal Expertise

Whistleblower law firms solely focus on whistleblower cases. All of their concentration is placed on specializing in whistleblower cases because they involve complex legal issues and it is essential to have an attorney who is well-versed in whistleblower regulations.



Protection

The Federal False Claims (FCA) offers protection to whistleblowers against retaliation and wrongful termination. Whistleblower law firms understand the seriousness of this issue and will do everything to ensure your rights are protected.



Advocacy

Whistleblower attorneys act as advocates for their clients representing their interests throughout the legal process. They can negotiate on behalf of whistleblowers, communicate with government agencies, and work to ensure that the whistleblower receives the maximum possible reward.



Maximizing Rewards

It is important to understand that in order to maximize any reward, the whistleblower must be committed to providing specific evidence and information throughout the entire whistleblowing process. The quality of assistance that is provided by the whistleblower to the Government directly impacts the potential percentage that will be eventually received when the case settles.

Steps to Take if You Suspect Healthcare Fraud in Your Workplace

If you work in the healthcare field and suspect fraud is occurring, don't worry—you're not alone. You can partner with a whistleblower attorney to help shed light on the scheme. Your information will be kept confidential, and a professional will be there every step of the way to guide you.

If you do step forward, here are a few steps you can expect to take that can help expose fraud.

1 Get Expert Guidance



It's always best to work with a whistleblower attorney. Let your attorney know what you're experiencing by scheduling a free and confidential call. They'll help determine what kind of fraud may be occurring and any suspected violations.

2 Gather Information & Evidence



To help corroborate your story, it's best to gather any patient information, documents, emails, or recordings you may have that demonstrate the suspected fraud has occurred. The whistleblower safe harbor at 45 C.F.R. § 164.502 (j) protects disclosures of HIPAA-protected material both to a whistleblower attorney and to the government.⁸

3 File a Claim



A whistleblower must file a qui tam complaint in court and submit it to the government, along with a Disclosure Statement that details the alleged fraud. Your attorney will submit all paperwork necessary for filing your claim.



If you work in the healthcare field and suspect fraud is occurring, don't worry—***you're not alone.***



Partnering with a whistleblower attorney is the first step to ***shed light on healthcare fraud.***



4 Investigation



The government will examine your evidence, review your documents, and may also request additional documents relating to the alleged fraud. During this time, your experienced whistleblower attorney will be by your side to make sure you provide whatever information the government requests. Your attorney will also be there to remind you not to discuss your case with anyone while it's under seal.

5 Stay Vigilant & Safe



After the government investigates, it will decide whether it wants to bring formal legal action against the accused. If the government does decide to intervene and take over the prosecution, the case will then proceed through the process of litigation or settlement.

6 Earn a Significant Reward

Whistleblowers who bring original information to the government can be entitled to receive a share of the government's recovery. An individual (called a false claims plaintiff or relator) who is an original source of information can sue for violations of the [False Claims Act](#). If the government prosecutes, a relator can receive up to 30% of the total amount recovered.

Throughout the entire whistleblowing process, your attorney will advocate for your rights and provide counsel for navigating the arduous but rewarding process of shedding light on fraud.

Real-World Examples of Successful Whistleblower Claims in Healthcare Fraud Cases

To better understand the impact of whistleblowers in healthcare fraud cases, it's helpful to look at some real-world examples.

Here are a few notable cases where whistleblowers played a crucial role in uncovering healthcare fraud:

United States v. Pfizer Inc.⁹

In 2009, Pfizer agreed to pay \$2.3 billion to resolve criminal and civil liability from the illegal promotion. The whistleblowers involved in the case were awarded a total of over \$102 million from the federal share of the civil recovery. But the first to file walked away with the highest settlement of over \$51 million.¹⁰

United States v. Abbott Laboratories¹¹

In 2012, Abbott Laboratories Inc pleaded guilty to an off-labeling scheme. To resolve its criminal and civil liability, Abbott Labs agreed to pay \$1.5 billion to the government, of which \$84 million went to the whistleblowers who initially filed the lawsuit.

A whistleblower could receive up to **30%** of the total amount recovered.

United States ex rel. James M. Swoben v. Secure Horizons¹²

A Medicare Advantage Organization paid \$32.5 million to settle claims they submitted false Medicare Advantage claims. The whistleblower, a former employee who filed the initial lawsuit, received over \$10 million as a reward for coming forward.

United States ex rel. Baklid-Kunz v. Halifax Hospital Medical Center¹³

In 2011 where Halifax Hospital Medical Center agreed to pay the government \$85 million to settle allegations of illegal kickbacks to doctors. From this settlement, the whistleblower who reported the fraud received a reward of \$20.8 million for bringing the fraud to light.

These examples demonstrate the significant impact that whistleblowers can have in uncovering and prosecuting healthcare fraud. Without the whistleblowers' courage and willingness to come forward, it's possible that these fraudulent practices would have continued unchecked, potentially harming patients and costing taxpayers millions of dollars.

Plus, the whistleblowers received a percentage of the settlement amount as a reward for their efforts. This financial incentive, combined with the knowledge that they are doing the right thing, can make it easier for individuals to come forward and report fraudulent activities in the healthcare industry.

By providing critical information and evidence and by being the first to file, whistleblowers play a crucial role in protecting patients and ensuring that healthcare dollars are being used appropriately.



Conclusion

Take Action Today and Join the Fight Against Healthcare Fraud

Reporting healthcare fraud is a heroic action that can come with significant benefits, especially if you are the “first to file” with a whistleblower attorney.

By filing early, whistleblowers can establish precedence, increase their chances of earning a reward, and protect patients and taxpayer-funded programs from potential harm.

If you suspect fraud is occurring in your organization, take your first step with us!

About DJO Whistleblower Law Group

About Us

The DJO Whistleblower Law Group (DJO) is comprised of a highly experienced team of whistleblower experts, lawyers, and even former whistleblowers, who strive to deliver the highest monetary reward for your bravery.

If a whistleblower’s lawsuit is successful, the reward can be up to 30% of the funds recovered. The False Claims Act also offers whistleblowers protection against job retaliation or wrongful termination. If you have valuable information that can help expose fraud, we encourage you to speak to our experts.

Our team of whistleblower attorneys and investigators have extensive experience and will provide valuable guidance throughout the process.

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