

Whistleblowers Awarded \$29M for Reporting Massive Healthcare Fraud

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The Justice Department [announced](#) in late October that it had entered into an agreement with Life Care Centers of America Inc. (Life Care) and its owner, Forrest L. Preston, under which Life Care will pay the DOJ \$145 million to resolve allegations that the skilled nursing facility (SNF) chain violated the [False Claims Act](#) (FCA). The Justice Department's lawsuit against Life Care came as a result of two former Life Care employees, Tammie Taylor and Glenda Martin, who blew the whistle on the ongoing fraud at Life Care through the "qui tam" provisions of the FCA.

The FCA and the Prominence of Healthcare Fraud

The FCA is over 150 years old, having being passed in the midst of the American Civil War in response to rampant fraud against the government. The FCA permits whistleblowers to bring lawsuits against companies and individuals who defraud the federal government. Suits brought by whistleblowers under this provision are known as "[qui tam](#)" actions. The FCA has been amended a number of times over the years, but the False Claims Amendments Act of 1986 revitalized it, providing successful whistleblowers with between 15 and 30 percent of any government recovery and creating additional penalties for fraudsters.

The effect of the 1986 amendments has been remarkable. When Congress was discussing the 1986 amendments, just one qui tam case was pending in federal courts. In the 17 years that followed, almost 10,000 new qui tam lawsuits were filed.

Fraud perpetrated in the healthcare industry, including by SNFs like Life Care, has been prominent among the types of fraud reported to the government under the FCA. Indeed, the DOJ has recovered more than \$2 billion in cases involving false claims against federal healthcare programs for five straight years. More striking still is that of the nearly 10,000 qui tam suits filed between October 1987 and September 2014, over half of these reports involved fraud against the U.S. Department of Health and Human Services, the agency responsible for administering federal healthcare programs like Medicare. And that pace is showing no signs of slowing down: According to the Justice Department press release, "[s]ince January 2009, the Justice Department has recovered a total of more than \$31.6 billion through False Claims Act cases, with more than \$19.2 billion of that amount recovered in cases involving fraud against federal healthcare programs."

The Life Care Whistleblower Claim

According to the DOJ, for over seven years spanning from 2006 to 2013, Life Care submitted a series of false claims by unnecessarily placing large swaths of its patients into its highest care category, regardless of whether the medical or therapeutic needs of the patient justified that level of care. The category was known as "Ultra High" care, and should be reserved for those patients "who require a minimum of 720 minutes of skilled therapy from two therapy disciplines (e.g., physical, occupational, speech), one of which has to be provided five days a week."

By unreasonably placing large numbers of its patients into Ultra High care regardless of their actual

needs, Life Care was able to bill the U.S. government for tens of millions of dollars in unnecessary services. Life Care also kept patients far longer than necessary, continuing to bill Medicare and TRICARE for rehabilitation therapy and other services long after the treating therapists felt that therapy should be discontinued.

The resolution of the Justice Department's action against Life Care marks another landmark in the DOJ's efforts to prevent fraud in the healthcare industry. As Benjamin C. Mizer, head of the Justice Department's Civil Division, explained, "This resolution is the largest settlement with a skilled nursing facility chain in the department's history. It is critically important that we protect the integrity of government healthcare programs by ensuring that services are provided based on clinical rather than financial considerations." Pursuant to the qui tam provisions of the FCA, the whistleblowers will receive an award of \$29 million for the information they provided that allowed the DOJ to punish Life Care for the fraud it perpetrated against the government.

Healthcare Whistleblowers Help Taxpayers

The Life Care settlement is another example of the good that can be done by medical whistleblowers in the healthcare industry. Controlling healthcare costs remains one of the central problems in America. The fraud perpetrated by Life Care resulted in tens of millions of dollars of taxpayer money being frivolously spent on unnecessary and unreasonable healthcare services. Those tens of millions of dollars translate to higher healthcare costs for everyone. And while an individual settlement of \$145 million may not make much of an impact in the grand scheme of American healthcare costs, the nearly \$20 billion recovered by the Justice Department over the past seven years in cases involving fraud against federal healthcare programs does make an impact. In that way, courageous whistleblowers like Tammie Taylor and Glenda Martin make life a little bit easier for all of us.