Update on Government Contract Litigation: The False Claims Act and Beyond

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In recent years, federal courts have seen a considerable increase in litigation related to government contracts. Even though qui tam actions under the False Claims Act (FCA) have garnered the most attention, the Court of Federal Claims has rendered important decisions in cases arising under the Tucker Act and the Contract Disputes Act of 1978. This article outlines the basics of each act; examines proposed "corrections" to the False Claims Act; and discusses significant recent decisions, penalties, and settlements.

The False Claims Act

The False Claims Act, 31 U.S.C. §§ 3729–3733, is designed to encourage private individuals to file actions arising from fraudulent conduct committed by federal contractors. The FCA was passed in 1863 to address rampant misconduct in sales of military "equipment" (mules, rifles, rations, and so forth) to the Union Army. It was not until the passage of amendments to the act in 1986, however, that the FCA became a viable tool in modern-day federal courts. Among other changes, the 1986 amendments restored the preponderance of the evidence standard, imposed treble damages and civil fines per false claim, increased rewards for qui tam plaintiffs, and provided for the payment of a successful plaintiff's expenses and attorneys' fees.

For the past two decades, the health care industry has been the prime target for FCA lawsuits. In recent years, however, there has been a considerable increase in other areas, including defense contracting, energy contracting, and disaster relief.

The FCA prohibits, in pertinent part, any person who—

- knowingly presents, or causes to be presented, to an officer or employee of the U.S. government or a member of the armed forces of the United States a false or fraudulent claim for payment or approval;
- knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the government;
- conspires to defraud the government by getting a false or fraudulent claim paid or approved by the government;
- falsely certifies the type or amount of property to be used by the government;
- certifies receipt of property on a document without completely knowing that the information is true;
- knowingly buys government property from an unauthorized officer of the government; or knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.

See 31 U.S.C. §§ 3729(a)(1)–(7).

Generally, the FCA imposes liability on any person who submits a claim to the government that he or she knows—or should know—is false. Common examples of FCA violations include a physician who submits a bill to Medicare for services that were not performed or a government contractor who submits false records indicating compliance with

certain contractual or regulatory requirements. For purposes of the FCA, the terms "knowing" and "knowingly" mean that, with respect to information, a person (1) has actual knowledge of the information, (2) acts in deliberate ignorance of the truth or falsity of the information, or (3) acts in reckless disregard of the truth or falsity of the information. 31 U.S.C. § 3729(b). Proof of specific intent to defraud is not required under the FCA. An FCA violator is liable to the U.S. government for a civil penalty of not less than $5,000 and not more than $10,000, plus three times the amount of damages that the government sustains because of the act of that person. 31 U.S.C. §§ 3729(a)(7).

Private parties may bring an action on behalf of the United States under the FCA. 31 U.S.C. § 3730(b). These parties are known as qui tam relators. A qui tam complaint must be filed in a U.S. district court under seal. 31 U.S.C. § 3730(b)(2). After an initial investigation by the Department of Justice, the government decides whether it will intervene in the case. 31 U.S.C. § 3730(b)(3) and (4). The government also has the option of dismissing or resolving the lawsuit. Regardless of intervention, the relator shares in a percentage of the proceeds from a successful FCA action or settlement. 31 U.S.C. § 3730(d)(1)–(4). The actual percentage awarded to the plaintiff, however, depends on the government's intervention. *Id*. The FCA also provides protection to qui tam relators who suffer some form of adverse employment action as a result of their furtherance of an action under the FCA. 31 U.S.C. § 3730(h).

The False Claims Correction Act

The False Claims Correction Act (S. 2041) is currently pending before the U.S. Senate. The proposed legislation, filed by Sen. Chuck Grassley (R-Iowa) and Sen. Dick Durbin (D-Ill.) and co-sponsored by Sen. Patrick Leahy (D-Vt.), Sen. Arlen Specter (R-Pa.), Sen. Trent Lott (R-Miss.) and Sen. Sheldon Whitehouse (D-R.I.), is an attempt to correct certain cases that have interpreted (or misinterpreted) the 1986 amendments to the FCA. *See also* H.R. 4854.

The four principal areas of "correction" are:

- clarifying that actionable false claims include not only those presented to an officer or employee of the government or a member of the armed forces but also claims presented to federal grantees such as government contractors;
- in response to *Rockwell International Corp. v. United States*, see *infra*, only the Department of Justice—not the defendant, as is currently allowed—can move to dismiss a qui tam suit when the underlying factual information has been publicly disclosed;
- allowing an FCA claim based on claims presented to the government for funds being held by it as a fiduciary (such as funds being held on behalf of the United Nations) by adding definitions for the terms "government money or property" and "administrative beneficiary" as a way of clarifying that such terms include money or property of an administrative beneficiary on whose behalf the government "collects, possesses, transmits, administers, manages, or acts as custodian of money or property"; and
- clarifying that relators with detailed knowledge of a fraudulent scheme can satisfy heightened pleading requirements without referencing specific examples of fraudulent invoices presented to the government.

In addition to the foregoing, the False Claims Correction Act includes other important technical changes to the existing statute. For example, the statute would require violators to pay the costs incurred by the United States in pursuing subsequent civil actions brought to collect penalties and damages imposed pursuant to the FCA. The False Claims Correction Act also prohibits the waiver or release of an FCA claim unless such a claim was part of a court-approved settlement of an FCA claim, and it extends additional relief from retaliatory actions to government contractors and agents as well as employees. Other notable changes include an extension of the statute of limitations period to 10 years, thereby allowing the government's claims to relate back to the relator's filing date when filing its own complaint, and enabling the attorney general to delegate the authority to issue civil investigative demands and share any information obtained as a result of the demand with the relator.

A hearing on the False Claims Correction Act took place before the Senate Judiciary Committee in February 2008, and the bill was placed on the Senate legislative calendar on July 29, 2008. Despite initial bipartisan support, most legal commentators predict the ultimate outcome will come only after a battle between the trial bar and business interests. *See* Marcia Coyle, "Clash Between Trial Bar and Business Expected Over False Claims Act," *National Law Journal*, Aug. 11, 2008. The Congressional Budget Office initially opined that the proposed legislation would not significantly increase revenues and collectibles. However, on Nov. 21, 2008, the Congressional Budget Office revised its position and concluded that the legislation could increase revenues and collectibles.

State False Claims Acts

Twenty-six states and the District of Columbia as well as Chicago and New York City have enacted some form of False Claims Act.[1] The Social Security Act provides a financial incentive for states to enact legislation that establishes liability for the submission of false or fraudulent claims to the state's Medicaid program. If it is determined that a state act meets certain requirements, the state is entitled to an increase of 10 percentage points in the state's medical assistance percentage with respect to any amounts recovered under an action brought under such a law. With the exception of New Mexico, whose recently enacted false claims legislation resembles the False Claims Correction Act, most of the corresponding state statutes are substantially similar to their federal counterpart in both purpose and substance.

Other Important Statutes

The Tucker Act

The Tucker Act permits the Court of Federal Claims to render judgment upon, among other things, any express or

implied contract with the United States. The act is purely jurisdictional and does not confer an independent right for money damages against the United States. *See* 28 U.S.C. § 1491(a). To have standing under the act, the plaintiff must have been an "actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract." *See Am. Fed'n of Gov't Employees v. United States*, 258 F.3d 1294 (Fed. Cir. 2001). Thus, a plaintiff does not have standing under the Tucker Act if the plaintiff did not submit a proposal, withdrew from the procurement, or finished lower than second after the proposal was evaluated.

The Tucker Act also provides the Court of Federal Claims with broad jurisdiction over bid protests. 28 U.S.C. § 1491(b)(1)–(4). The court considers the procurement decision under a standard of "arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law." 28 U.S.C. § 1491(b)(1)–(4). If the court finds the decision lacked a rational basis or was illegal, the Tucker Act allows the court to award equitable relief and limited monetary damages for bid preparation and proposal costs.

The Contract Disputes Act of 1978

The Contract Disputes Act (CDA) applies to contracts between the United States and a contractor for products, services, construction, alteration, the repair or manufacture of real property, or the disposal of personal property. 41 U.S.C. § 602(a). The Court of Federal Claims has jurisdiction over claims brought under the CDA regardless of value. However, the CDA provides other jurisdictional requirements, including the formal submission of a claim and a final decision by a contracting officer. 41 U.S.C. § 605(a). If the contractor is dissatisfied with the final decision, he or she may file suit directly with the Court of Federal Claims or appeal the decision to the appropriate agency's board of contract appeals. 41 U.S.C. §§ 605, 609. Any lawsuit must be filed within a year of receiving the contracting officer's final decision. 41 U.S.C. § 609(a)(3).

Significant Recent Decisions

U.S Supreme Court Decisions

Allison Engine Co. v. United States ex rel. Sanders, No. 07-CV-214, 2008 WL 2329722 (U.S. June 9, 2008). This case arose from claims that subcontractors to the U.S. Navy sought to defraud the United States under construction contracts for warships. The relators—former Allison employees—alleged that the defendant subcontractors wrongfully submitted false claims directly to nonparty contractors instead of to the government.

The Sixth Circuit determined that in order to impose liability under 31 U.S.C. §§ 3729(a)(2) and (a)(3), the false claim did not have to be presented to the government so long as government money would be used to pay the claim. The Supreme Court vacated the decision, finding that the defendant must intend for the government—not grantees, such as contractors—to actually pay the claim. Thus, the scope of § 3792(a)(2) was limited in three ways: (1) the plaintiff must prove the defendant acted with specific intent to defraud the government; (2) the defendant is only liable if he or she seeks payment, or seeks to cause payment, by the government itself (in contrast to payment of government funds); and (3) the false statement must be a condition of payment. In like manner, for conspiracy liability to be found under 3729(a)(3), the conspirators must intend "to defraud the Government" by seeking payment by the government, not just the payment of government funds. Thus, as a result of *Allison*, it is not enough that government funds paid the false claim; there must be a direct link between the actual payment and the government itself.

Rockwell International Corp. v. United States ex rel. Stone, 127 S. Ct. 1397 (2007). The ruling in this case, which was announced in March 2007, imposed limits on who can bring a qui tam action under the False Claims Act. The relator was a former Rockwell engineer who, while employed, had prepared a report that was critical of a particular pipe design and predicted that the defective design would produce an unstable pondcrete mixture that would result in leaks. The government intervened and filed an amended complaint, which omitted the relator's allegation about pipe design but alleged that, subsequent to the relator's employment with Rockwell, the company had used an incorrect pondcrete mixture ratio in order to speed up production.

The Tenth Circuit held that the relator had satisfied the "original source" requirement under 3730(e)(4)(A) because, even though he did not have knowledge of the actual fraud with respect to the incorrect pondcrete mixture, he knew important background information regarding the overall process and product at issue, and he had disclosed what he knew. The U.S. Supreme Court reversed the Tenth Circuit's decision, finding the FCA required a relator to have a much greater degree of knowledge than just background information. Specifically, the Court ruled that the relator must have direct and independent knowledge of information on which the allegations in the original complaint, *as amended,* are based.

Decisions by Courts of Appeals and the Court of Federal Claims

U.S. ex rel. Sanders v. North American Bus Industries Inc. et al., 2008 WL 4793577 (4th Cir. Nov. 5, 2008). In this case, the relator filed an action against his former employer, North American Bus Industries, alleging that it had defrauded the United States by underpaying duties on bus frames that it imported from Hungary and by falsely certifying that the buses were eligible for federal "Buy America" subsidies. The government repeatedly declined to intervene in the case. In affirming the district court's dismissal, the Fourth Circuit held, among other things, that the tolling provision found in 31 U.S.C. § 3731(b) extends the FCA's statute of limitations beyond six years only in cases in which the United States is a party.

Stalley v. Orlando Regional Healthcare System, Inc., 524 F.3d 1229 (11th Cir. 2008). In this case, the Eleventh Circuit considered whether a plaintiff who alleges no injury to

himself has standing to bring a qui tam action for damages under the Medicare Secondary Payer Act. In addition to finding that the plaintiff had no standing, the court determined that the Medicare Secondary Payer Act—in contrast to the False Claims Act—is not a qui tam statute and does not authorize a private party to sue for injury to the government.

U.S. ex rel. Maxwell v. Kerr-McGee Oil & Gas Corp., 540 F.3d 1180 (10th Cir. 2008). The plaintiff alleged that the defendant, an oil and gas producer, had defrauded the government by underpaying royalties for federal offshore oil leases. After the jury returned a $7.5 million verdict for the relator, the district court determined that it did not have subject matter jurisdiction, because information underlying the suit had been previously disclosed to the public as a result of an e-mail exchange between a state employee and an agent of Minerals Management Service. The Tenth Circuit Court of Appeals reversed the district court's decision, finding that the exchange of information between a federal employee and a state government auditor who was under a duty of confidentiality was not a public disclosure and therefore did not deprive the district court of subject matter jurisdiction. The Tenth Circuit also determined that a government employee can serve as a relator.

Timons v. Sampson, et al., 518 F.3d 870 (11th Cir. 2008). In this case, the plaintiff brought a pro se qui tam action under the False Claims Act relating to an alleged fraudulent grant application submitted to the Department of Veterans Affairs. Joining the other circuits that had addressed the issue, the 11th Circuit Court concluded that pro se relators may not prosecute qui tam actions under the FCA.

Makro Capital of America Inc. v. UBS AG, 543 F.3d 1254 (11th Cir. 2008). In this case, the plaintiff filed a complaint against UBS and the United States alleging, among other things, fraud and misrepresentation against UBS and unjust enrichment against the United States. The complaint was dismissed without prejudice, and the plaintiff was granted leave to attempt to file a viable qui tam claim. The plaintiff filed an amended complaint alleging the same underlying facts, but asserting an FCA claim solely against UBS. Prior to the plaintiff's amended FCA complaint being filed, another relator filed a qui tam action against UBS, based on the same underlying facts. When both complaints were unsealed, UBS moved to dismiss Makro Capital's complaint for lack of subject matter jurisdiction pursuant to the FCA's first-filed rule. The 11th Circuit affirmed the dismissal, finding that the amended qui tam complaint (which, by its nature, was brought on behalf of the United States) did not relate to the original complaint, in which UBS and the United States had both been named as defendants.

U.S. v. Bourseau, 531 F.3d 1159 (9th Cir. 2008). Following a bench trial, the district court determined that the defendant had violated the False Claims Act by improperly including on its Medicare cost reports excessive bankruptcy expenses and fees, nonallowable interest, and expenses related to space that was not used for patient services and to management services that were never provided. The Ninth Circuit affirmed the district court's ruling, finding the defendants jointly and severally liable for reverse false claims and assessing treble damages and civil penalties totaling more than $15 million.

*U.S. ex rel. Wilson v. Graham County Soil & Water Conservation Dis*t., 528 F.3d 292 (4th Cir. 2008). A former county employee filed suit alleging that the defendants were part of a conspiracy to defraud the United States out of federal disaster relief funds. The district court determined that it lacked jurisdiction over the matter pursuant to the FCA's public disclosure bar, because the claims were based on audit reports prepared by the state and the county. The Fourth Circuit reversed the district court's decision, finding that the public disclosure bar applied only to information provided in *federal* administrative reports and audits.

U.S. ex rel. Fried v. West Independent School Dist., 527 F.3d 439 (5th Cir. 2008). The relators filed suit based on allegations that the school district had fraudulently reported that certain employees were entitled to Social Security benefits. According to the complaint, the school district had circumvented the Social Security rules by allowing certain retiring teachers to work as janitors or in some other capacity on their last day before retirement, thereby making it possible for them not to retire as teachers and thus able to receive Social Security benefits. In return, the teachers were to pay a fee to the school district. The district court dismissed the complaint pursuant to the public disclosure bar of the False Claims Act, because the underlying facts had been publicly disclosed and the relators were not original sources. The Fifth Circuit affirmed the decision, finding that the record demonstrated that the underlying allegations had been publicly disclosed via various means, including through responses made pursuant to the Texas Public Information Act.

Mendiondo v. Centinela Hosp. Med. Ctr., 521 F.3d 1097 (9th Cir. 2008). In addition to allegations that the medical center had improperly inflated requests for Medicare reimbursements, a former employee brought claims under the False Claims Act alleging that she had been wrongfully terminated because she had investigated the matter and had refused to participate in the alleged fraud. The plaintiff agreed to dismiss the substantive FCA claims but continued to assert her claims of retaliation and wrongful termination. The defendants moved to dismiss these claims under Federal Rules of Civil Procedure 8(a), 9(b), and/or 12(b)(6). The district court granted the defendants' motion to dismiss the claims, but the Ninth Circuit reversed the district court's decision, finding that the notice pleading standing under Rule 8(a)—not the heightened pleading standard of Rule 9(b)—applied to retaliation claims under the FCA.

U.S. ex rel. K&R Ltd. Partnership v. Mass. Housing Financing Agency, 530 F.3d 980 (D.C. Cir. 2008). In this case, the relator brought an FCA action based on the Massachu-

setts Housing Financing Agency's (MassHousing) alleged miscalculation of the subsidy payments it was receiving from the U.S. Department of Housing and Urban Development (HUD). The district court granted summary judgment in favor of MassHousing finding that it did not have the requisite intent to "knowingly" submit false claims to HUD. The court concluded that MassHousing's interpretation of the applicable agreement's payment provision was reasonable. The court also emphasized that MassHousing had voluntarily disclosed the questionable transactions to HUD, and HUD continued to make payments after the qui tam complaint was filed. The D.C. Court of Appeals affirmed the district court's decision in favor of MassHousing.

U.S. ex rel. Wilson v. Kellogg Brown & Root Inc., 525 F.3d 370 (4th Cir. 2008). Relators filed an FCA case against former employers, alleging that the defendants had failed to perform work under defense contracts requiring them to transport supplies throughout Kuwait and Iraq and to perform necessary repair and maintenance work. The Fourth Circuit affirmed the dismissal of the lawsuit, finding that the repair and maintenance provisions in the contract were not material to the government's decision to pay the claims under the contract.

United States v. Rogan, 517 F.3d 449 (7th Cir. 2008). In this case, the government filed an FCA action against a hospital administrator, alleging that he had conspired with others to defraud the Medicare and Medicaid systems by concealing referrals that violated the Stark and Anti-Kickback Acts. The district court entered a judgment of $64 million in favor of the government. In affirming the decision, the Seventh Circuit ruled that the defendant's statements were materially false under the FCA, because they were capable of influencing a government official. The Seventh Circuit also determined that the judgment was not at a level of being grossly excessive, because the amount was less than four times the actual damages and was within the range the Supreme Court had found acceptable in *State Farm Mutual Automotive Insurance Co. v. Campbell*, 538 U.S. 408 (2003).

McElmurray, et al. v. Consolidated Government of Augusta–Richmond County, 501 F.3d 1244 (11th Cir. 2007). In this case, the plaintiffs, two dairy farmers and a microbiologist, filed a qui tam action alleging that the defendants had violated the False Claims Act by knowingly misrepresenting their compliance with environmental laws in order to obtain government loans. The Eleventh Circuit affirmed the dismissal of the claims on the basis that they were founded on publicly disclosed information (reports prepared by Georgia's Environmental Protection Division) for which the plaintiffs were not an original source.

Daewoo Engineering & Construction Ltd. v. United States, 73 Fed. Cl. 547 (Fed. Cl. 2006). In *Daewoo*, the contractor, after suffering numerous weather delays and problems related to engineering, submitted a certified claim alleging that the government's method for determining adverse weather days was improper and that the construction specifications were defective. According to Daewoo, performance of the contract was impossible and a three-year extension and $64 million in additional costs were needed. The court concluded that the certified claim, which included $50 million in damages for expenses that the contractor had not yet incurred at the time of certification, represented an attempt to defraud the United States. The court then entered judgment of $50.6 million in favor of the United States, resulting from the contractor's violation of the fraud provision of the Contract Disputes Act.

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Recent Settlements and Penalties

In November 2008, the U.S. Department of Justice announced that in 2008 it had recovered $1.4 billion in settlements of claims brought under the False Claims Act. More than 75 percent of the amount recovered was associated with suits initiated by relators under the FCA. The overall recovery total, however, is a significant drop from the $2 billion recovered in 2007 and the $3.1 billion the government collected in 2006. Although some attorneys blame the recovery decrease on the large number of cases waiting for a government intervention decision, others point to the *Allison Engine* decision and its limitation on bringing an FCA action against subcontractors as the primary factor in the reduction in amounts recovered. Despite the overall decrease in recoveries, there were several notable recoveries in 2008, including a number of cases outside the traditional health care arena:

- In September 2008, Cephalon paid $258 million to settle claims that the company marketed drugs for uses not approved by the FDA. By promoting "off-label" uses, Cephalon caused providers to charge federal health insurance programs such as Medicare and Medicare for unapproved use of the drugs not covered by the programs.
- In September 2008, Staten Island University Hospital

agreed to pay $127 million to settle two FCA actions and a pre-suit investigation arising from allegations that the hospital had fraudulently billed Medicare and Medicare for detoxification care, noncompensable investigative procedures, and inflated administrative costs related to physician training.

- In August 2008, Pratt & Whitney settled a Justice Department investigation into alleged violations of the False Claims Act, claiming that the company had knowingly sold defective jet engine turbine blade replacements that did not meet a critical design specification. Under the settlement, Pratt & Whitney will pay $45.5 million and will also provide $4.8 worth of inspection services for potentially defective blades.
- In July 2008, Amerigroup agreed to pay $225 million (including $56.25 million to the relator, a former Amerigroup employee) to resolve FCA claims that the company had defrauded the government by systematically avoiding enrolling pregnant women and unhealthy patients in its Medicaid managed care health plan for low-income citizens in Illinois. The U.S. government paid Amerigroup to operate the program, which was intended to cover all low-income enrollees.
- In June 2008, Walgreens paid $35 million (including $5 million to the relator, a substitute pharmacist) to settle an FCA lawsuit arising from purported billing fraud. The complaint alleged that Walgreens had substituted more expensive versions for generic drugs when billing Medicaid.
- In May 2008, Pasha Group, a company that transports military members' household goods, paid $13 million to settle an FCA lawsuit alleging that the company had conspired with other international firms to rig bids on contracts to move service members' goods between the United States and Europe.
- In May 2008, National Air Cargo announced that it would pay the government $28 million (including $3.3 million to the relator, a former employee of the company) to settle criminal charges and an FCA lawsuit arising from false claims for payment under Defense Department freight transport contracts. The complaint alleged that National Air Cargo had billed the government under contracts the company had, even though the freight had been transported by ground instead of air, as required under the contract.
- In February 2008, Merck paid $361 million to resolve various allegations arising from qui tam lawsuits that, among other things, the company had failed to pay rebates to government health care programs such as Medicaid and also paid kickbacks to medical providers to induce them to prescribe the company's pharmaceuticals. The settlement amount included $70 million paid to two relators pursuant to the False Claims Act.
- In February 2008, Bechtel and Parsons Brinckerhoff, two consultants involved in the design and construction of Boston's "Big Dig" underground highway project, paid $407 million to settle allegations that they had violated the False Claims Act as well as the parallel state law by charging for faulty work on the project.

Conclusion

Throughout the past 20 years, the False Claims Act has been a viable tool used for punishing individuals and entities who defraud the government. Nonetheless, recent trends—including a litany of judicial decisions—threaten to reduce the viability of the FCA in preventing fraud during a period of time when government spending is at record levels. The passage of the False Claims Correction Act would resolve many of the barriers and confusion caused by these recent decisions. However, all the signs point to a significant battle in passing the legislation as currently drafted. Thus, FCA practitioners will have to continue to closely monitor the varying range of decisions coming from all levels of the federal court system in order to recognize and analyze the continuum of conflicting issues arising in litigation related to government contracts. **TFL**

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Endnote

[1]See Ark. Code Ann. §§ 20-77-901 To -911 (West 2003) (Medicaid); Cal. Gov't Code §§ 12650-12656 (West 1997); Del. Code Ann. Tit. VI, §§ 1201-1209 (2007); D.C. Code §§ 2-308.13-.21 (1999); Fla. Stat. Ann. §§ 68.081-.09 (West 2007); Ga. Code Ann. §§ 49-4-168-168.6 (2007) (Medicaid); Haw. Rev. Stat. §§ 661-21 To -29 (2001); 740 Ill. Comp. Stat. Ann. §§ 175/1 To -/8 (West 1992); Ind. Code §§ 5-11-5.5-5.5-18 (2007); La. Rev. Stat. Ann. §§ 46:437.1-.14, : 438.1-.8, :439.1-.4, :440.1-.3 (1997) (Medicaid); Mass. Gen. Laws Ann. Ch. 12 §§ 5a-O (West 2000); Mich. Comp. Laws Ann. §§ 400.601-.613 (West 1997) (Medicaid); Mich. Comp. Laws Ann. 752.1001-.1011 (West 1985) (Healthcare); Mont. Code Ann. § 17-8-401-412 (2005); Nev. Rev. Stat. Ann. §§ 357.010-.250 (West 1999); N.H. Rev. Stat. Ann. § 167:61-B (2004); N.J. Stat. Ann. §§ 2a:32c-1-32c-17 (2008); N.M. Code §§ 44-9-1, Et Seq; N.Y. State Fin. Law §§ 187-194 (2007); N.C. Gen. Stat. Ann. §§ 108a-70.10 To -70.17 (West 1997); Okla. Stat. Tit. 63, § 5053-5053.7 (2007); R.I. Gen. Laws §§ 9-1.1-1-9-1.1-8 (2007); Tenn. Code Ann. §§ 71-5-181 To -185 (West 1993) (Medicaid Claims Only); Tex. Hum. Res. Code Ann. §§ 36.001-.117 (Vernon 2005); Utah Code Ann. §§ 26-20-1 To -20-15 (West 2007) (Medicaid Only); Va. Code Ann. §§ 8.01-216.1 To -216.19 (2003).