

DOJ to Fast-Track Benefits Fraud Enforcement

June 2, 2026

On May 27, 2026, the Department of Justice (DOJ) Civil Division announced an accelerated approach to the review of False Claims Act (FCA) *qui tam* actions concerning fraud involving federally funded, state-administered benefits programs. In making the announcement, Assistant Attorney General Brett Shumate explained that the reforms are designed to empower DOJ to “move quickly on meritorious *qui tam* cases, maximize finite enforcement resources, and focus on dismantling sophisticated fraud schemes that exploit taxpayer-funded programs.”¹

The memorandum outlining the new approach implements an Executive Order (EO) from March 2026, directing DOJ to establish a “task force to eliminate fraud” and ensure prompt review of potentially meritorious *qui tam* actions, including within the 60-day statutory period under 31 U.S.C. § 3730(b)(4) to the maximum extent practicable. The EO directed the creation of the task force aimed at curbing “fraud, waste and abuse” in federal housing, food, medical care, and other benefits programs. This most recent DOJ announcement further underscores the administration’s focus on combating fraud impacting the public fisc, which carries important implications for companies who participate in, administer, or provide services related to federally funded state benefits programs.

Prioritizing Enforcement of Public Benefits Fraud Through Accelerated Review of Qui Tam Actions: 60-to-120-Day Framework

The DOJ announcement emphasizes the importance of FCA enforcement

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¹ Press Release, “Civil Division Moves to Fast-Track Benefits Fraud Enforcement” (May 27, 2026), available at <https://www.justice.gov/opa/pr/civil-division-moves-fast-track-benefits-fraud-enforcement>.

Memorandum from Brett A. Shumate, Assistant Att’y Gen., Civil Div., U.S. Dep’t of Justice, to Attorneys, Commercial Litigation Branch, Fraud Section, Assistant U.S. Attorneys Handling False Claims Act Cases, and Offices of the U.S. Attorneys, on Accelerating Review and Enhancing Enforcement in Benefits Fraud Matters (May 27, 2026).

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as one of the “government’s most powerful weapons for fighting fraud” related to benefits programs.² In addition to the Task Force to Eliminate Fraud, the Trump administration also recently established a new division within DOJ—the National Fraud Enforcement Division—to increase the resources available to combat fraud, waste, and abuse in federal programs.³ As part of its role enforcing the FCA, DOJ is responsible for reviewing actions brought under the FCA’s *qui tam* provisions. These provisions authorize private whistleblowers—known as “relators”—to bring actions on the government’s behalf against individuals or companies that defraud federal programs and allow relators to share in any resulting recovery.⁴

Under the new approach, “the Department will prioritize and, to the maximum extent practicable, complete its review of new benefits fraud *qui tam* actions within the 60-day period provided by 31 U.S.C. § 3730(b)(4), but no later than 120 days.”⁵ By fast-tracking its review, DOJ leadership appears to be sending a clear signal that fraud impacting the public fisc remains at the top of the enforcement agenda.

DOJ must make one of three determinations at the conclusion of this streamlined review period: “[1] permit the relator to proceed with the action and to assume primary responsibility for litigating it, subject to the government’s ongoing supervision and ultimate control of the matter; [2] conclude the allegations warrant further government investigation; or [3] determine the *qui tam* should be dismissed under 31 U.S.C. § 3730(c)(2)(A) because the allegations lack adequate specificity or are legally deficient.”⁶

This accelerated review will allow the government to fast-track potentially meritorious *qui tam* cases and further focus its efforts and resources on investigating and prosecuting the largest, most complex, and harmful fraud schemes in the country to return money

to the public fisc. Last year, DOJ announced a record-breaking \$6.8 billion in FCA recoveries.⁷

Criteria for Permitting Relators to Proceed

Among the factors DOJ will consider in determining whether a relator should proceed to litigate a *qui tam*:

- The complaint alleges conduct that, if true, would constitute a violation of the False Claims Act;
- The complaint alleges facts that are supported or corroborated by available information, including data analytics, agency information, or the relator’s inside information;
- The case involves a scheme or course of misconduct that is not novel or complex;
- The amount of the potential damages is below \$10,000,000; and
- Aggravating factors are present, such as beneficiary harm, ongoing misuse of federal funds, or concealment or deceit by the defendant.⁸

If DOJ determines that the relator may proceed, the memorandum instructs Department attorneys to communicate DOJ’s expectation that the relator and their counsel are responsible for shouldering the obligations of the litigation.⁹ Importantly, the lawsuit remains subject to DOJ’s oversight and ultimate control of the matter, including its ongoing evaluation “of whether to object to dismissal on public disclosure grounds or to dismiss the action if the allegations are not substantiated and it is no longer in the government’s interest for the matter to be pursued.”¹⁰

Further Investigation: 120 Days

Where DOJ concludes that further investigation of a benefits fraud *qui tam* action is appropriate, the Fraud Section and the applicable U.S. Attorney’s Office will confer about assignment and handling of the matter, and the government’s investigation shall proceed on an expedited basis of 120 days (the Investigative

² *Id.*

³ *Id.*

⁴ For further details, a prior alert memorandum on FCA *qui tam* actions is available [here](#).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* For further details, a prior alert memorandum on FCA recoveries is available [here](#).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Period).¹¹ The memorandum outlines several directives for the investigation, including among others:

- *Investigative Plan*: Assigned attorneys will develop an investigative plan that includes a schedule for prompt issuance of Inspector General subpoenas and/or Civil Investigative Demands (CID) and early witness interviews, taking into account whether any steps will potentially disturb a covert investigation.
- *Targeted Requests for Information*: Requests should be appropriately tailored to the issues under investigation, and early witness interviews and oral examinations should be considered as possible alternatives to the production of certain categories of documents.
- *Subpoena and CID Enforcement*: Providing definitive time frames to respond to information requests and CIDs.
- *Refining Damages Estimates*: Where settlement is unlikely and it would unduly extend the investigation to develop a detailed assessment of damages, DOJ may make an intervention decision once there is evidence supporting liability and the general parameters of the government's loss, with further refinement of damages after intervention.
- *Supervisory Case Reviews*: Requiring DOJ attorneys to assess the case and make a determination at the expiration of the Investigative Period, with approval from DOJ Civil Division leadership required to extend past the 120-day period.¹²

Whole-of-Government Approach

DOJ will also leverage a whole-of-government approach to ensure that new benefits fraud matters receive accelerated review and evaluation for all available enforcement options.¹³ This multi-pronged strategy includes:

- Prompt referral of new matters to the Criminal Division and/or the National Fraud Enforcement

Division for evaluation of potential criminal violations;

- Sharing new matters with the affected agency to evaluate potential administrative action, including payment suspension; and
- Obtaining information from relevant agencies concerning the impacted program, relevant data analysis, and other information that may assist in corroborating whistleblower allegations.¹⁴

Key Takeaways

In line with prior messaging from DOJ leadership, the recent reforms related to FCA *qui tam* matters underscore the government's continued prioritization of criminal, civil, and administrative fraud enforcement while further incentivizing whistleblowers to come forward. DOJ also continues to extol the virtues of maintaining an effective compliance program and robust internal controls. Companies with operations touching on benefits programs should consider an assessment of their compliance programs to ensure they are ready to identify potential fraud and other risks. Among other key takeaways to keep in mind:

- *Faster Timelines May Increase Potential Exposure in FCA Matters*: One of the most immediate practical consequences of the accelerated review is that companies and individuals accused of benefits fraud in *qui tam* actions could face litigation on a significantly accelerated timeline. Where DOJ previously might take longer to decide whether to intervene, that period is now 60 to 120 days after a complaint is filed—or, if the government elects to investigate, within 240 days at most absent special approval.
- *Whistleblower Complaints and Relator-Led Litigation Will Increase in Volume*: Whistleblowers, or potential relators, will be further incentivized to come forward in light of the expedited review period, creating a significant likelihood that the number of overall whistleblower complaints in this area will

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

increase. Although DOJ noted it expects to continue assuming primary responsibility for investigating and pursuing the majority of incoming *qui tam* matters, the reforms likely will result in an increased number of relator-led benefits fraud cases, particularly where the new reforms enable relators to proceed quickly in cases that are not novel or complex. Companies should anticipate a potential rise in active *qui tam* litigation even in the absence of DOJ intervention.

- *Heightened Risk of Parallel Criminal and Administrative Actions*: DOJ’s emphasis on a whole-of-government approach—including prompt referral to the Criminal Division and the National Fraud Enforcement Division, and sharing matters with affected agencies for potential administrative action—suggests that a single *qui tam* complaint could trigger civil, criminal, or administrative investigations within a very short period of time. Defendants should ensure they are prepared to conduct internal investigations as appropriate in the event that a whistleblower report is received or a government-facing investigation is initiated. DOJ’s multi-front enforcement posture increases the potential exposure for companies operating in the benefits space and underscores the importance of coordinating legal strategy across potential enforcement channels and working with counsel that has multi-agency experience.
- *Compliance Programs and Internal Controls Are More Important Than Ever*: In an enforcement environment marked by accelerated timelines and increasing whistleblower incentives, all companies, but especially those administering or participating in federally funded benefits programs, should ensure that their compliance programs are robust and operating effectively. In particular, companies should ensure that they have well-functioning whistleblower channels that are available to all employees and that any whistleblower reports are quickly reviewed, escalated, and investigated. Companies should also ensure that their internal controls are operating effectively so that fraud, or any other misconduct, is prevented or quickly detected if any occurs.

- *Government Retains Significant Control and Dismissal Authority*: Even where DOJ permits a relator to proceed, the lawsuit remains subject to DOJ’s oversight and ultimate control, including the possibility that the government may move to dismiss the action if the allegations are not substantiated or it is no longer in the government’s interest for the matter to be pursued. This creates significant opportunities to engage with the government and advocate for dismissal even after a relator has been permitted to proceed, making experienced legal advocacy and a well-articulated defense critical from the outset.
- *Broader Context and Future Developments*: These reforms are fully in line with the administration’s priorities and focus on combating fraud, especially fraud that impacts the public fisc. The reforms follow other recent steps by the administration, including the creation of a new task force and a new DOJ division aimed at fraud enforcement. It is clear that fraud will remain a priority for this administration and companies should expect that fraud-related enforcement generally, and FCA enforcement specifically, will continue to be very active going forward. The DOJ Civil Division has indicated it will continue to assess how it can enhance processes and procedures to support prompt resolution of benefits fraud *qui tams*, suggesting that further policy developments may follow.

This article was prepared with contributions from Cleary associates, Jackie M. Brune and Shaniqua C. Shaw.

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