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Eighth Circuit Holds that a Reasonable Interpretation of an Ambiguous Law Does Not Give Rise to FCA Liability

On August 8, 2016, the Eighth Circuit, in *Olson v. Fairview Health Services of Minnesota*, affirmed the dismissal of a False Claims Act (“FCA”) suit alleging that the University of Minnesota Medical Center (“UMMC”) fraudulently induced the Minnesota Department of Human Services (“MDHS”) to overreimburse it for services provided to Medicaid patients. Relator Paul Olson alleged that UMMC improperly claimed a “children’s hospital” exemption to avoid a decrease in Medicaid reimbursements under a recent statutory amendment. In rejecting Olson’s claim, the court held that UMMC made a reasonable determination that the hospital’s children’s unit was a “children’s hospital” under Minnesota law and a reasonable interpretation of ambiguous statutory language does not give rise to an FCA claim.

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Background

In 2011, Minnesota amended the statute governing its Medicaid payment rates to reduce reimbursements for inpatient hospital services by ten percent, exempting children’s hospitals from the reduction. The term “children’s hospital” was not defined by Minnesota law and, following passage of the amendment, UMMC met with MDHS officials to press its case that UMMC’s children’s unit should be granted the exemption. When consulted on the issue, Olson, a longtime MDHS employee, claimed that the exemption was supposed to cover only three “well-recognized children’s hospitals,” not UMMC’s children’s unit. Despite Olson’s objections, senior officials at MDHS granted UMMC the exemption and applied a retroactive refund of approximately \$500,000. Two years later, following an audit prompted by Olson that included a formal legal opinion, MDHS reversed course and concluded in October 2013 that UMMC did not in fact qualify for the exemption, and the agency would seek a return of related overpayments.

In the meantime, Olson had filed his FCA suit under seal in September 2013, alleging that UMMC violated the FCA by “falsely claiming” that its children’s unit was a “children’s hospital” in order to exempt itself from the amendment’s reach. The district court ruled that the state’s definition of “children’s hospital” was unclear and, accordingly, it was reasonable for UMMC to lobby for an exemption from the reimbursement cut. Moreover, its reimbursement claims were not false claims.

Eighth Circuit’s Holding

By a 2-1 ruling, the Eighth Circuit affirmed the lower court’s dismissal. The court held that the term “children’s hospital” was ambiguous and that UMMC’s children’s unit could reasonably be interpreted as a “children’s hospital.” It was therefore reasonable for UMMC to inquire about the proper classification of its children’s unit. Moreover, there was no evidence that the hospital knowingly defrauded the state or federal government. The panel concluded that “[a] reasonable interpretation of ambiguous statutory language does not give rise to a FCA claim.”

Although Olson cited his role in drafting the relevant amendment, arguing it was intended to be based on a “historical and contextual understanding of true children’s hospitals in Minnesota,” the majority found that his arguments – that the court should look to the legislative history to interpret the disputed definition – only further supported the conclusion that the term was ambiguous.

The panel also rejected Olson's claims that UMMC knowingly used false records material to a false claim when the hospital claimed its children's unit was a children's hospital, and his claim that the hospital knowingly concealed an obligation to pay back money to the state. The court held there was no fraud inherent in UMMC's behavior before MDHS' ultimate determination that the hospital's children's unit did not qualify as a children's hospital because that behavior was based on a reasonable interpretation of the statute, and UMMC did not have any knowledge that it would be "obligated" to pay back the \$500,000 payment it had received from the state.

Implications of the Court's Ruling

This case reaffirms Eighth Circuit precedent that a reasonable interpretation of an ambiguous statute will not give rise to FCA liability.

If you have any questions or would like to discuss the foregoing or any related matter, please contact the Ropes & Gray attorney with whom you regularly work, or an attorney in our [False Claims Act](#) practice.