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DOJ Raises the Stakes: New Whistleblower Program Fast-Tracks Rewards for Fraud Tips

Key Updates

- The Department of Justice (DOJ) announced a new Fraud Whistleblower Incentive Program (WHIP) on Oct. 20, a three-year pilot program offering discretionary awards from $10,000 to $30,000 to eligible individuals whose tips lead to criminal fraud charges, without requiring a conviction or final resolution of the case.
- The announcement follows DOJ's Oct. 15 rollout of a coordinated self-disclosure policy with the Department of Health and Human Services Office of Inspector General (HHS-OIG), streamlining the process for companies to voluntarily disclose potential criminal health care fraud.

Why It Matters

- DOJ's latest initiatives signal an increased focus on detecting and prosecuting fraud involving federal funds, while creating new accelerated incentives for individuals to report suspected misconduct and for companies to voluntarily disclose potential violations. The initiatives are particularly significant for health care providers, government contractors and businesses receiving federal funding.

Next Steps

- Companies should evaluate their internal reporting and investigation procedures to ensure they can promptly identify potential fraud and make informed decisions about voluntary self-disclosure.

WHIP, administered by DOJ's National Fraud Enforcement Division, is the first federal whistleblower rewards program to offer payments at the charging stage rather than requiring whistleblowers to await the final resolution of an enforcement action. Under the program, individuals who provide qualifying information leading to criminal charges may receive discretionary awards ranging from $10,000 to $30,000 shortly after charges are filed. DOJ has stated that the department retains sole discretion over award decisions and they are not guaranteed.

Related People

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Unlike existing whistleblower programs that generally require individuals to wait until a criminal or civil matter concludes, potentially years after an initial report, WHIP provides an opportunity for earlier compensation. Whistleblowers may also remain eligible for additional awards under other federal programs, including DOJ's Corporate Whistleblower Awards Pilot Program, if their information ultimately leads to substantial financial penalties or forfeiture.

The program covers federal health care offenses and fraud involving government programs and benefits administered by several federal agencies, including HHS, the Small Business Administration and the Departments of Agriculture, Labor, Housing and Urban Development, Education and Veterans Affairs. DOJ has identified hospice, home health care, day care and special services fraud as particular priorities.

Eligibility is limited to individuals who voluntarily submit truthful, complete, original information in writing and cooperate with DOJ. Among others, individuals who meaningfully participated in the reported crime are generally excluded. The rules also restrict the use of information acquired by certain officers, directors, compliance and audit personnel, investigators, attorneys and accountants, subject to specified exceptions, including certain urgent circumstances and, for some categories, a 120-day internal-reporting exception.

Coordinated Corporate Self-Disclosure Policy

The announcement comes just five days after DOJ and HHS-OIG announced a coordinated policy designed to encourage voluntary self-disclosure of potential criminal health care fraud. Under the policy, companies that voluntarily disclose qualifying criminal conduct to DOJ's Fraud Division Health Care Fraud Section may receive the benefits of both DOJ's Corporate Enforcement Policy and HHS-OIG's Self-Disclosure Protocol without having to submit separate disclosures to each agency.

The policy also clarifies that companies disclosing potentially criminal conduct solely to HHS-OIG generally will not qualify for a declination under DOJ's Corporate Enforcement Policy on the basis of that disclosure. Companies seeking the benefits of both programs should therefore disclose potentially criminal health care fraud to DOJ's Fraud Division.

Implications for Businesses

Together, the initiatives reflect DOJ's efforts to increase fraud detection through whistleblower incentives while encouraging companies to identify, remediate and voluntarily disclose potential misconduct. By allowing whistleblowers to receive rewards earlier in the enforcement process, WHIP may increase the likelihood that suspected fraud is reported directly to DOJ before a company has an opportunity to investigate and self-disclose. The rules' treatment of compliance personnel, original information and certain internal-reporting exceptions makes the design and operation of effective internal reporting systems especially important.

For companies operating in federally funded sectors, these developments underscore DOJ's continued emphasis on fraud enforcement and the importance of effective internal compliance efforts, reporting mechanisms, timely investigations and careful consideration of voluntary self-disclosure opportunities.

Polsinelli's government investigations attorneys have extensive experience with corporate investigations and government whistleblower programs and are prepared to assist with compliance, internal investigations or any potential enforcement action. For more information, contact Ellen Persons or Alex Beato.