

DOJ Seeks to Accelerate Review of Benefits-Fraud False Claims Act Cases

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The Department of Justice (DOJ) recently announced a significant procedural shift for False Claims Act (FCA) investigations involving alleged fraud against federally funded, state-administered benefits programs.

On May 27, 2026, Assistant Attorney General Brett Shumate [issued a memorandum](#) directing DOJ attorneys to expedite review of qui tam complaints alleging benefits fraud and make earlier decisions regarding intervention, dismissal, further investigation or referral. The memorandum follows [President Donald Trump's March 2026 executive order](#) establishing the Task Force to Eliminate Fraud and reflects the administration's broader focus on combating waste, fraud and abuse in federal benefits programs.

Although the memorandum does not alter the substantive standards governing FCA liability, it signals DOJ leadership's concern that benefits-fraud investigations often remain under seal for extended periods while the government evaluates whether to intervene. To address that concern, the memorandum imposes internal review deadlines and additional supervisory oversight for requests to extend investigations. For organizations participating in federally funded benefits programs, the policy may result in earlier government engagement, faster intervention decisions and a shorter period of uncertainty regarding the government's position.

DOJ appears focused on reducing the seal period

Perhaps the most notable aspect of the memorandum is DOJ's effort to address the lengthy seal periods that are commonplace in FCA litigation.

Under the FCA, qui tam complaints are filed under seal and remain nonpublic while the government investigates the allegations and determines whether to intervene. Although the statute contemplates an initial 60-day seal period, courts routinely grant extensions, and many investigations remain under seal for years while DOJ and affected agencies evaluate the claims.

The memorandum reflects DOJ leadership's concern with that practice. Rather than allowing benefits-fraud investigations to proceed through repeated extensions, DOJ attorneys are directed to conduct an initial review promptly and determine whether a recommendation regarding intervention can be made within the 60-day statutory period, but no later than 120 days. DOJ attorneys are instructed to assess whether a complaint warrants intervention, whether additional investigation is justified and whether the government should consider dismissal. If further time is needed to complete the investigation, approval for an additional 120 days must be sought from the deputy assistant attorney general of the Commercial Litigation Branch. Any subsequent extension requires approval from the assistant attorney general of the Civil Division.

While the memorandum does not eliminate DOJ's ability to seek extensions where warranted, it creates institutional pressure to make earlier decisions regarding intervention, or the need for further investigation or other enforcement action. If implemented as intended, the policy could significantly alter the timeline of benefits-fraud FCA investigations. Defendants may face government scrutiny earlier in the life of a case, relators may receive intervention decisions more quickly, and DOJ may concentrate resources on matters it views as presenting the greatest enforcement significance.

Earlier review may lead to earlier intervention or dismissal

The memorandum is notable not only because it encourages faster investigations, but also because it contemplates earlier decision-making regarding the merits of a case. In that respect, the policy may benefit both relators and defendants by reducing uncertainty regarding the government's position.

From a defense perspective, early evaluation can reduce the period of uncertainty that FCA defendants often face. Defendants often spend years operating under the shadow of sealed investigations without knowing whether DOJ views the allegations as significant or potentially meritorious. Earlier evaluation may lead to prompt resolution of weaker cases

and reduce the burden of uncertainty on defendants whose cases DOJ ultimately chooses not to pursue.

At the same time, the policy may place increased pressure on investigative targets. To the extent DOJ attorneys are expected to reach intervention and investigative decisions more quickly, companies receiving civil investigative demands (CIDs), subpoenas or informal information requests may find that the government seeks information on a more accelerated timeline than has traditionally been the case. However, the compressed review period also may incentivize DOJ to focus on the information it considers most critical to its intervention decision, potentially resulting in more targeted investigative requests. Either way, the policy is likely to make early internal investigations, prompt assessment of potential exposure, and strategic engagement with the government even more important for investigative targets and their counsel.

Whether DOJ can meet the memorandum's timelines consistently remains an open question. Many benefits-fraud investigations involve complex data analysis, coordination with state agencies and review of extensive records. Nonetheless, the memorandum reflects a clear directive from DOJ leadership that these matters should move more quickly than they have historically.

DOJ emphasizes its ultimate control over qui tam litigation

Beyond its focus on speed, the memorandum also underscores DOJ's continued oversight of and authority over FCA litigation – reaffirming that DOJ, rather than private qui tam relators, ultimately decides whether and how a case should proceed. The memorandum directs DOJ attorneys to evaluate not only whether to intervene in benefits-fraud matters, but also whether continued investigation is warranted and whether dismissal may be appropriate. As DOJ explains, that assessment includes determining whether 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.”

That emphasis is notable in light of recent developments in FCA jurisprudence. DOJ has increasingly highlighted its authority to supervise, intervene in and dismiss qui tam actions, particularly following the US Supreme Court's decision in *United States ex rel. Polansky v. Executive Health Resources, Inc.*, which reaffirmed the government's broad authority to seek dismissal of FCA actions after intervention over a relator's objection.

The memorandum also comes at a time when defendants are challenging the constitutionality of the FCA's qui tam provisions, arguing that private relators exercise executive enforcement authority in a manner inconsistent with Article II. Although the memorandum does not reference those challenges directly, its emphasis on government supervision, intervention authority and dismissal power is consistent with DOJ's long-standing position that FCA actions ultimately remain subject to executive branch control.

Notably, however, the memorandum also acknowledges that the new policy may result in more cases being litigated principally by relators. DOJ states that the policy will “increase the number of benefits fraud matters primarily litigated by relators,” while preserving the government's “oversight and ultimate control of the matter.” Thus, by accelerating intervention decisions, DOJ appears to contemplate greater reliance on relator-led litigation while simultaneously emphasizing that such cases remain subject to government supervision and control.

As a practical matter, the memorandum signals that DOJ intends not only to make intervention decisions more quickly, but also play a more active role in determining which benefits-fraud cases should proceed, which should be dismissed and which should be litigated primarily by relators under government oversight.

Key takeaways

- The memorandum reflects the administration's broader effort to combat fraud affecting federally funded benefits programs and suggests that DOJ intends to devote additional attention and resources to these matters.
- DOJ is directing attorneys to evaluate benefits-fraud allegations on a significantly compressed timeline, potentially reducing the lengthy seal periods that have historically characterized many FCA investigations. Organizations participating in federally funded benefits programs should be prepared for earlier government engagement and faster decisions regarding intervention, along with the need for further investigation, settlement or dismissal.
- Because DOJ may be making intervention and investigative decisions more quickly, organizations may have less time to evaluate allegations, conduct internal investigations and develop factual defenses once potential issues arise. The first several months of an investigation may become increasingly important, as companies may have a more limited window to present facts, defenses and legal arguments that could influence DOJ's assessment of the case and whether intervention is warranted. At the same time, the compressed review period may result in more targeted CIDs, as DOJ focuses its investigative efforts on information it considers most critical to its

intervention decision.

- The policy may result in more relator-driven FCA litigation. Faced with compressed review timelines, DOJ may be more likely to decline intervention in matters where it lacks sufficient information to intervene but does not believe dismissal is warranted, leaving relators to decide whether (and how) to pursue the case without government participation.
- Earlier declinations may create opportunities for defendants, as some relators may be unwilling or unable to pursue complex FCA litigation without government participation. At the same time, if declinations increasingly reflect expedited review rather than case merit, DOJ's intervention decision may carry less practical significance than it has historically.
- Organizations that receive, administer or certify compliance in connection with federally funded benefits programs should consider whether their compliance, document-retention and information-governance systems are sufficient to identify potential issues quickly and efficiently locate relevant billing, claims and compliance records if an investigation arises.

U.S. ex rel. Polansky v. Exec. Health Res., Inc., 599 US 419 (2023).

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