



## Kickbacks Paid to Medical Providers

One of the most common types of fraud involves kickbacks used to induce referrals or generate business. Whistleblowers with knowledge of kickbacks resulting in reimbursement claims to government healthcare programs can pursue *qui tam* claims under the federal False Claims Act and State False Claims Acts, and receive a substantial portion of any recovery.

The federal Anti-Kickback Statute (AKS) is a federal law that makes it a crime to engage in transactions that are intended to induce referrals for products or services that will be reimbursed by a government healthcare program. This includes Medicare, Medicaid, TRICARE, or healthcare services provided by the Veterans Health Administration.

Under the AKS, it is illegal to pay or receive any “remuneration” to induce or reward referrals. Remuneration is broadly defined to include anything of value and is not limited to cash payments. For example, remuneration can include free or discounted services, free or discounted office space, awarding contracts, tickets to an expensive sporting event or concert, and sham consulting or speaker fees.

Kickbacks can take many forms. Some of the most common kickback schemes in whistleblower cases are:

- A medical device company gives a kickback to a provider for using a product manufactured by the company.
- A hospital provides a kickback to a primary care physician in return for referring patients to the hospital.
- A pharmaceutical company pays a kickback to a provider for prescribing a product produced by the company.

A person or company who violates the AKS is subject to serious criminal penalties, including the possibility of serving jail time. In addition to criminal penalties, reimbursement claims to a government healthcare program (such as Medicare or Medicaid) that result from illegal kickbacks are automatically considered false claims under the federal False Claims Act and State False Claims Acts. This allows whistleblowers with knowledge of illegal kickbacks to pursue *qui tam* claims and share in any recovery.

The prohibition against kickbacks serves several important purposes designed to protect the integrity of government healthcare programs. One of the primary purposes is to ensure that doctors and other providers make decisions based on a patient’s best interest, rather than because of receiving a kickback. Another important purpose is to reduce the risk that providers will provide unnecessary services or prescribe unnecessary products. Given these purposes, a whistleblower can pursue claims based on illegal kickbacks, even if there is nothing else wrong with the service or product arising from the kickback.



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To schedule a free and confidential consultation call 888.384.2588 or [click here](#).