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March 1, 2022

Hon. Eric L. Adams
Mayor
City Hall
New York, NY 10007

Hon. Adrienne E. Adams
Speaker of the City Council
City Hall
New York, NY 10007

Re: New York City False Claims Act

Dear Mayor Adams and Speaker Adams:

Local Law No. 53 of 2005, the "New York City False Claims Act" (the "Act") was signed into law on May 19, 2005 and went into effect on August 17, 2005. On June 20, 2012, Local Law No. 34 was enacted, which extended the Act past the June 1, 2012 sunset date and brought the City's law into closer conformance with the New York False Claims Act, New York State Finance Law §§187 *et seq.* The purpose of the Act was to establish for New York City a statute modeled on the federal "False Claims Act" and to provide an additional tool to assist in the recovery of monetary damages from parties who have filed fraudulent claims for payment of City funds.

In addition to the requirements and procedures described below, Section 7-808 of the Act requires that the Law Department annually report to the Mayor and the Speaker certain specified information regarding experience under the Act in the previous calendar year. This letter provides such information for calendar year 2021.

Under the Act, individuals who claim to have knowledge of false or fraudulent claims are empowered to submit proposed civil complaints to the City's Department of Investigation ("DOI"). DOI, after reviewing the submissions to ascertain whether an on-going investigation exists or whether one is warranted, forwards them to the Law Department. The Corporation Counsel has assigned responsibility for false claims matters to the Affirmative Litigation Division. The Division undertakes a careful review of the submission and determines whether to commence a civil enforcement action, or designate the person who submitted the information to commence such action, or decline to commence such an action. If such an action is successful based on a person's proposed complaint, such person, known as a "relator," may be eligible to receive a percentage of proceeds ultimately recovered in the action or settlement of the action. Rules regarding a protocol for processing proposed civil complaints submitted pursuant to the Act appear in Title 46 of the Rules of the City of New York.

The Act calls upon two agencies that are experienced in the areas addressed by the Act and are well positioned to collaborate to utilize this tool for recovering money damages. A major mission of DOI is to investigate and refer for prosecution cases of fraud, corruption and unethical conduct by City employees, contractors and others who receive City funds. DOI is also charged with studying agency procedures to identify corruption hazards and recommending improvements in order to reduce the City's vulnerability to fraud, waste and corruption. The Affirmative Litigation Division of this office represents the City as plaintiff in a wide range of litigated issues in federal and state court and before administrative agencies. Some of the Division's lawsuits seek to recover money for the City in areas including commercial disputes; civil racketeering and fraud claims; nuisance and restitution claims; property damage claims; intellectual property claims; and challenges to state and federal government decisions affecting funding for City programs.

The text of the Act and the aforementioned Rules are posted on the Law Department website in order to make them more accessible to the public. <https://www1.nyc.gov/site/law/public-resources/new-york-city-false-claims-act.page>

Calendar Year 2021

As discussed above, the Act provides that members of the public can submit proposed civil complaints to DOI that are forwarded to the Law Department for purposes of determining whether they should be filed by the City as civil complaints. Set forth below is the information pertaining to such matters for calendar year 2021.

There were no proposed matters forwarded by DOI to the Law Department in 2021.

Three cases forwarded by DOI to the Law Department in earlier years were closed in 2021. Two alleged overcharges to the City in connection with contract work, one of which settled; and one was a Medicaid overpayment claim.¹

¹ In the absence of express state approval, the City receives no monetary benefit from successfully litigating Medicaid claims, as all Medicaid recoveries go to the State of New York

Five matters forwarded by DOI to the Law Department in years prior to 2021 remained open in 2021. In one of these cases, the Corporation Counsel is litigating a civil enforcement action under state and/or local law. Of the five open cases, one raises tax claims, one raises Medicaid claims and three raise overcharge/underpayment claims.


In 2021, this office also received notification of four additional matters from sources other than DOI that were considered. Of these four matters, one alleged tax claims and three alleged Medicaid overpayments. One of the complaints received from sources other than DOI also alleged claims under the Act. The four cases received from sources other than DOI in 2021 remained open at the end of 2021.

Seventeen cases brought to our attention from sources other than DOI in earlier years were closed in 2021. Seven were tax claims under the state statute and not actionable under the City Act; one of these resulted in a settlement. Two of the seventeen cases were Medicaid claims, and eight cases alleged overcharges. Two of the overcharge claims resulted in settlements.

Twenty-four cases brought to our attention from sources other than DOI in earlier years remained open in 2021. Of these twenty-four cases, fourteen are tax claims and ten are claims for overcharges/underpayments.

Sincerely yours,

Hon. Sylvia O. Hinds-Radix
Corporation Counsel of the City of New York

By: 
Gail Rubin
Chief, Affirmative Litigation

cc: Hon. Jocelyn Strauber

pursuant to Part C of Chapter 58 of the Laws of 2005 (the “Medicaid cap statute”) and the subsequent reenactments of that law. Proposed Medicaid claims submitted to our office have already been filed as federal False Claims Act cases, and/or are under consideration by the Office of the New York Attorney General.