Brownstein Hyatt Farber Schreck

Implied Certification Liability under the FCA Could Expose Companies to Unforeseen Liability
Apr 25, 2016

Client Alert

Brownstein Client Alert, April 25, 2016

The Supreme Court on April 19, 2016, heard oral arguments in *Universal Health Services v. United States ex rel. Escobar*, a case which will impact all government contractors—especially defense companies—as well as any health care company that accepts government funds such as Medicare or Medicaid. At issue in *United Health Services* is whether a False Claims Act claim can be alleged based on an "implied certification" theory of liability. Whereas the quintessential False Claims Act allegation involves goods or services delivered to the government that are not what the contractor represented them to be, under the implied certification theory, companies claiming payment from the government can be held liable for submitting a false claim if the good or service provided does not comply with any condition of payment imposed by statute, regulation, or contract—even if the government received what it paid for and the contractor made no representation regarding ancillary regulations. Because the False Claims Act provides treble damages and statutory penalties of over $5,000 per claim, the Supreme Court's decision in *United Health Services* has the potential to open the door to billions of dollars in litigation and liability.

Click on above pdf to read entire article.

Meet The Team

Joshua A. Weiss	Associate	T 303-223-1268	jweiss@bhfs.com

Related Practices

- Litigation