

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,
ex rel. DR. CLARISSA ZAFIROV,

Plaintiffs,

v.

Case No.: 8:19-cv-1236-T-23SPF

FLORIDA MEDICAL ASSOCIATES, LLC, *et al.*,

Defendants.

**UNITED STATES' MOTION FOR LEAVE
TO FILE A STATEMENT OF INTEREST**

The United States, real party in interest in this action, hereby moves for leave to submit a Statement of Interest pursuant to 28 U.S.C. § 517 to respond to certain arguments raised in the Provider Defendants' Motion to Dismiss Relator's Amended Complaint ("Motion to Dismiss") (Doc. 96). The United States requests permission to file its statement of interest on or before June 15, 2022.

The United States remains a real party in interest in this matter, even where it has not intervened in the action. *United States ex rel. Karvelas v. Melrose-Wakefield Hosp.*, 360 F.3d 220, 231 (1st Cir. 2004). The False Claims Act, 31 U.S.C. § 3729 *et seq.*, is the United States' primary tool used to redress fraud on the government. As such, the statute should be read broadly to reach all fraudulent attempts to cause the government to pay out sums of money. *United States v. Neifert-White*, 390 U.S. 228,

233 (1968). Thus, the United States has a keen interest in the development of the law in this area and in the correct application of the law in this and similar cases.

Specifically, the United States moves for leave to submit a Statement of Interest to clarify its position with respect to the following issues raised in the Motions to Dismiss: **(1) whether diagnosis codes are material to payments under the False Claims Act (see Doc. 96, p. 15 (“[R]aw diagnoses codes are meaningless for risk adjustment purposes.”); (2) whether diagnosis codes directly impact the amount of capitated payments received by a managed care provider (see *Id.* at p. 17 (“[A]n incorrect diagnosis code itself does not lead to increased payment.”)).** The United States has specific interest in the issues raised in Defendants’ motion because they affect the development of law applicable to complex False Claims Act cases where the alleged conduct caused the submission of false claims in the form of false or unsupported diagnosis codes in the Medicare Advantage Program.

For the foregoing reasons, the United States requests that its motion for leave to file a statement of interest on or before June 15, 2022 be granted.

Local Rule 3.01(g) Certificate

Pursuant to Local Rule 3.01(g), the undersigned certifies that he has consulted with counsel for the relator, who does not oppose this motion; counsel for the Provider Defendants, who oppose the relief sought in this motion; and counsel for the Medicare Advantage Defendants, who take no position on the requested relief.

Respectfully submitted,

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Dated: May 27, 2022

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CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will provide electronic service to all counsel of record.

/s/ Sean P. Keefe
SEAN P. KEEFE
Assistant United States Attorney