2018 Chicago Regional Compliance Event

Linda A. Wawzenski
Assistant United States Attorney
Northern District of Illinois

Topics for Discussion

• DOJ Strike Force and U.S. Attorney’s Office Initiatives

• Recent DOJ policies and their impact on health care fraud prosecutions

• Case law developments including post-Escobar decisions
Fraud Priorities

• Healthcare fraud is the single largest focus
• DOJ Strike Force
• Home Health example

Tax Reform Act of 2017

Section 13306 requires designating what part of a settlement constitutes “restitution.”

Eliminates certain types of deductible expenses related to FCA settlements.
The Granston Memo

Factors to use in evaluating motions to dismiss in *qui tam* suits:

- Meritless cases
- Parasitic suit
- Interfering with agency policies
- Controlling the litigation

The Granston Memo

- Safeguarding classified information
- Preserving government resources during litigation
- Addressing procedural errors
The Brand Memo

Limitation on the use of agency guidance in FCA cases

Proposed Changes to E&M Coding

Under the proposal, providers would no longer use the five levels of E&M codes for office visits. There would be one code and one payment amount.
Escobar

Implied certification and materiality

Questions?