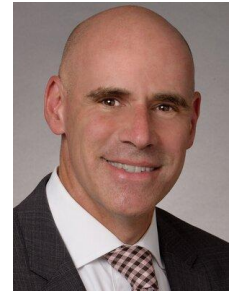


State False Claims Acts Can Help Curb Opioid Fund Fraud

By **Kenneth Levine** (September 22, 2025)

Significant fraud risks have been created by the over \$50 billion in nationwide opioid settlements currently flowing to states, counties and towns, as demonstrated by a June audit finding and a July legislative maneuver — both in New Jersey, and similarly reported around the country.[1]

State versions of the federal False Claims Act, the statute designed to incentivize whistleblowers to come forward with information to combat fraud involving government funds, may be the most effective vehicle for rooting out such misconduct. But to do so, states will have to step into a role their federal counterparts usually play.



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Where government money goes, fraud often follows. An example is fraud in connection with the billions of dollars in emergency financial assistance Congress allocated in 2020 for Americans suffering the economic effects of the COVID-19 pandemic through the Coronavirus Aid, Relief and Economic Security, or CARES, Act and the Paycheck Protection Program.

According to an Aug. 11 U.S. Department of Justice press release announcing that the founder of Blueacorn, a lender service provider, pled guilty to PPP-related fraud, the agency has criminally prosecuted over 200 defendants and seized over \$78 million in fraudulently obtained PPP funds.[2]

Now, billions of dollars is flowing to states and localities from settlements of coordinated opioid lawsuits against pharmaceutical manufacturers, distributors and pharmacy chains.

For example, in 2021, nationwide settlements totaling \$26 billion were reached resolving opioid litigation brought by states and localities against Johnson & Johnson, as well as the pharmaceutical distributors McKesson, Cardinal Health and AmerisourceBergen.

In 2022, to settle claims for opioid injury, Walgreens Boots Alliance Inc. agreed to pay up to \$5.52 billion over 15 years, and CVS Health agreed to pay up to \$4.90 billion over 10 years.[3]

And in June, 55 U.S. states and territories accepted a \$7.4 billion deal with Purdue Pharma, settling opioid injury claims against the company and its founders, the Sackler family.

Under the agreements, the states must use the settlement funds for programs that address opioid addiction and treatment, and related harms, following a nonexhaustive list of approved uses.

These guardrails were put into place in response to the administration of large tobacco litigation settlement funds decades ago, of which more than \$27 billion was distributed to states without restriction. This led to widespread criticism that the money was mainly used for general state budget support rather than for tobacco-related health issues.[4]

Early signs suggest that misuse of opioid settlement funds is emerging already.

First, funds are flowing into an industry already rife with fraud. A 2024 report from the New Jersey State Commission of Investigation, titled "The Dirty Business Behind Getting Clean," details the systematic fraudulent practices of treatment centers, sober living homes and peer recovery coaches, both in New Jersey and nationwide.

Over the years and across the country, similar findings abound, including:

- Multiple actions in connection with the DOJ's sober homes initiative to combat fraud in the industry;[5]
- A 2024 investigative report by the New York Times, "Fraud and Fakery at the Country's Largest Chain of Methadone Clinics";[6]
- The Federal Trade Commission's June settlement resolving allegations that Evoke Wellness LLC, Evoke Health Care Management LLC and its officers committed fraud in providing substance use disorder treatment services;[7] and
- Findings in Shoshana Walter's 2025 book, "Rehab: An American Scandal," describing how the substance abuse treatment system is not only broken but also exploits patients while purporting to help them.[8]

Second, many states, counties and towns that oversee the disbursement use settlement funds to fill budget gaps or pursue other unrelated agendas, rather than using the funds in ways approved by the opioid settlement parameters.

Two recent news items illustrate this well.

In June, the New Jersey Gov. Phil Murphy and the Legislature directed \$45 million from the national opioid settlement funds to four hospitals in the state,[9] in an allocation that, according to the New Jersey Attorney General Matthew Platkin,[10] appeared to violate the terms of the settlement agreements.

Legislation to reverse the funding decision is now pending in the state Legislature.[11]

On July 8, the New Jersey Office of the State Comptroller issued an audit report that provides yet another example of the way states and localities might misspend opioid settlement funds.[12]

The audit report finds that the Township of Irvington, New Jersey, allegedly "wasted and misspent over \$632,000" to put on so-called opioid awareness day concerts, paid \$368,500 to an Irvington employee without overseeing how the funds were used; and paid \$200,000 for billboards and promotional materials mainly featuring Irvington's mayor.[13]

Similar stories are appearing across the country. Earlier this year, Arizona Attorney General Kris Mayes publicly opposed the allocation \$115 million in opioid settlement funds

to the Arizona Department of Corrections as being out of compliance with the settlement terms.[14] In July, it was reported that at least nine counties in West Virginia appeared to improperly use their opioid settlement funds to fund their local jails.[15]

Even with the complicity of state or local governments, recipients of misallocated funds face potential liability, since entities receiving settlement funds are obligated to spend the money consistent with the terms of the settlement.

Given the large amount of money and the incentive to use it improperly, the scope of the fraud has the potential to be large and broad. State auditors, like the New Jersey Office of the State Comptroller, have an important role in ensuring that funds are spent properly — but their bandwidth is limited.

Enter the FCA, which incentivizes private citizens, or relators, who know of fraud against the government to file claims on the government's behalf, thereby identifying the fraud. The government then has an opportunity to investigate the claims, and intervene and take over the litigation.

Relators receive 15% to 30% of any government recovery, which can be millions of dollars. In 2024, the federal government recovered \$2.9 billion in federal FCA settlements and judgments, with whistleblowers receiving more than \$400 million as a reward.[16]

Since 1986, when the federal law was substantially modernized, the federal government has recovered more than \$78 billion.[17] Over the past few decades, the whistleblower statute has proven highly effective at rooting out many types of fraud on the use of public funds, particularly where the federal government spends the most, such as in Medicare and Medicaid, and defense spending.

In addition to the criminal actions noted above, in 2024, the DOJ recovered more than \$250 million resolving more than 250 FCA cases connected to pandemic relief spending fraud.[18] In 2023, it recovered another \$48.3 million resolving 270 additional FCA cases.[19]

The recoveries continue to roll in.[20] In February, DOJ Deputy Director Colin Huntley said that the agency was still pursuing more than 700 fraud cases involving pandemic-era programs.[21]

States with similar laws have also recovered hundreds of millions of dollars over the years.[22]

The DOJ's use of the FCA to enlist whistleblowers to identify fraud in connection with the PPP fraud could provide states with a model for rooting out similar fraud in connection with the opioid settlement funds.

Particularly relevant are the large number of PPP fraud recoveries that were relatively small — less than \$1.5 million — and were uncovered by noninsiders who examined public data to identify the fraud.[23]

State FCAs could play a similar role here, by encouraging people with inside knowledge, as well as cyber-sleuths who analyze public data, to identify fraud and misuse of opioid settlement funds. With many states publishing online data about how the states and localities are spending the money,[24] there are multiple resources to help both insiders and outside whistleblowers track down fraudulent use of funds.

The most significant difference between FCA cases involving PPP fraud and those involving opioid settlement funds, is that the first are being handled on the federal level by attorneys at the DOJ, and the second must be handled on the state level by state attorneys general. This could lead to inconsistent opioid fund oversight and enforcement across the country.

First, not all states have an FCA at their disposal. Of the nation's 50 states and commonwealths, only 29, plus the District of Columbia and Puerto Rico, have enacted their own FCAs.[25] Several large states, such as Ohio, Kentucky and Pennsylvania, are currently missing out,[26] although FCA legislation is currently pending in Pennsylvania.[27]

Second, in some states — Louisiana, Michigan, New Hampshire, Texas and Washington — the FCA is limited in scope to fraud in connection with Medicaid funds and may not cover misuse of the opioid funds.[28] These states will not have the advantage of incentivizing whistleblowers to come forward with cases of fraud. They will have to rely on other anti-fraud statutes and take greater steps to police the use of the funds on their own.

Third, enforcement teams in many states with FCAs in their books are not sufficiently staffed or sophisticated enough to handle numerous complex FCA cases. But just as the DOJ has allocated resources across the country to address the pandemic fraud, including relatively small cases, states can do the same.

In states that have appropriate FCAs, attorneys general can consider proactive measures to combat opioid settlement fraud, including establishing specialized units or task forces within their offices focused specifically on opioid settlement oversight, similar to the way the DOJ has addressed pandemic fraud.

In addition, just as states coordinated their efforts to go after manufacturers and distributors of opioids, leading to this massive flood of money, these same states can now create coordinated interstate enforcement to share intelligence and best practices for combating fraud in connection with opioid settlement fund spending.

Conclusion

The opioid settlement funds represent an important and hard-won victory for states, and an opportunity to address an ongoing tragedy. But without robust enforcement mechanisms, there is a risk that these resources will be diverted away from their intended purpose. State FCAs can play an important role by encouraging whistleblowers to come forward and identify fraud in connection with fund spending. State attorneys general will need to step up to support these cases, similar to the way in which the DOJ has been handling federal FCA cases involving CARES Act and PPP fraud.

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[1] <https://apnews.com/article/opioid-crisis-settlement-lived-experience->

d7333af213cfaa90dc5ea7bad728fb13; <https://kffhealthnews.org/news/article/opioid-drugmakers-settlement-funds-50-billion-dollars-khn-investigation-payback/>; <https://nashp.org/state-tracker/state-opioid-settlement-spending-decisions/>.

[2] <https://www.justice.gov/opa/pr/founder-lender-service-pleads-guilty-role-ppp-fraud-scheme>.

[3] <https://nationalopioidsettlement.com/executive-summary/>.

[4] <https://www.gao.gov/assets/gao-01-851.pdf>; <https://pmc.ncbi.nlm.nih.gov/articles/PMC3535289/>.

[5] <https://www.justice.gov/archives/opa/pr/national-health-care-fraud-enforcement-action-results-charges-involving-over-14-billion>; <https://www.justice.gov/usao-cdca/pr/justice-department-announces-series-cases-combat-addiction-treatment-kickback-schemes>; <https://www.justice.gov/archives/opa/pr/medical-director-convicted-110-million-addiction-treatment-fraud-scheme>; <https://www.justice.gov/archives/opa/pr/addiction-treatment-facility-owner-convicted-58-million-health-care-fraud-scheme>; <https://www.justice.gov/archives/opa/pr/addiction-treatment-facility-operators-sentenced-112-million-addiction-treatment-fraud-scheme>; <https://www.justice.gov/archives/opa/pr/california-addiction-treatment-facility-operator-convicted-paying-nearly-29m-illegal>.

[6] Federal Trade Commission v. Evoke Wellness LLC, SD of Florida, Index No.25-cv-60073; <https://www.ftc.gov/business-guidance/blog/2025/06/enforcing-opioid-addiction-recovery-fraud-prevention-act-ftcs-settlement-evoke-wellness-what-it>.

[7] <https://www.simonandschuster.com/books/Rehab/Shoshana-Walter/9781982149826c>; <https://www.nytimes.com/2025/08/08/books/review/rehab-shoshana-walter.html>.

[8] <https://www.nj.gov/opioidfunds/advisory-council/>.

[9] <https://www.njoag.gov/statement-by-attorney-general-matthew-j-platkin-on-proposal-to-divert-opioid-settlement-funds/>.

[10] <https://www.njspotlightnews.org/2025/08/will-controversial-nj-opioid-settlement-funding-diversion-be-undone/>.

[11] <https://www.nj.gov/comptroller/reports/2025/approved/20250708.shtml>.

[12] Irvington disputes the report and has filed a defamation action against the OSC in response. Township of Irvington et al. v. New Jersey Office of the State Comptroller, MER-L-000947-25. See also <https://www.nj.com/essex/2025/07/nj-town-received-money-to-fight-opioid-crisis-it-paid-for-concerts-cotton-candy-report-says.html> ("Months before its release, Irvington, in a court filing, had attempted to stop the publication of the report after the comptroller sent a draft for review and comment, suing for defamation and then seeking a court order to block its release. The Appellate Court later lifted the order, and in an order released on Tuesday, the N.J. Supreme Court rejected Irvington's appeal. The township said its defamation lawsuit is continuing."); <https://www.insidernj.com/press-release/irvington-response-to-state-comptrollers-report-on-opioid-settlement-funds/>.

[13] <https://azmirror.com/briefs/judge-allows-az-opioid-settlement-money-to-go-to-state->

prisons/.

[14] <https://westvirginiawatch.com/2025/07/08/investigation-wv-counties-spend-opioid-crisis-money-on-jail-instead-of-recovery/>.

[15] <https://www.justice.gov/opa/pr/false-claims-act-settlements-and-judgments-exceed-29b-fiscal-year-2024#:~:text=PANDEMIC%20FRAUD&text=During%20fiscal%20year%202024%2C%20the,allegations%20of%20pandemic%2Drelated%20fraud.>

[16] <https://www.justice.gov/opa/pr/false-claims-act-settlements-and-judgments-exceed-29b-fiscal-year-2024#:~:text=PANDEMIC%20FRAUD&text=During%20fiscal%20year%202024%2C%20the,allegations%20of%20pandemic%2Drelated%20fraud.>

[17] <https://www.justice.gov/archives/opa/pr/false-claims-act-settlements-and-judgments-exceed-29b-fiscal-year-2024.>

[18] <https://www.justice.gov/archives/opa/pr/false-claims-act-settlements-and-judgments-exceed-268-billion-fiscal-year-2023.>

[19] <https://www.justice.gov/usao-ma/pr/labor-union-agrees-pay-2-million-resolve-allegations-ppp-loan-fraud>; <https://www.justice.gov/usao-ma/pr/med-el-corporation-agrees-pay-21-million-resolve-allegations-ppp-loan-fraud>; <https://www.justice.gov/usao-me/pr/cape-elizabeth-man-enters-civil-settlement-alleged-misuse-pandemic-relief-funds.>

[20] <https://www.morganlewis.com/pubs/2025/02/doj-officials-commit-to-aggressive-fca-enforcement-signal-its-value-and-direction.>

[21] <https://www.falseclaimsact.com/the-new-jersey-false-claims-act-a-decade-of-data-reveal-147m-recovered-by-the-garden-state/>.

[22] <https://www.taf.org/data-driven-whistleblowers/#:~:text=And%20the%20federal%20government%20has,disbursed%20to%20potentially%20fraudulent%20actors;https://www.fcacounsel.com/blog/false-claims-settlements-from-a-new-batch-of-data-miners/;https://www.mintz.com/insights-center/viewpoints/2146/2022-11-02-serial-relator-brings-multiple-lawsuits-alleging-false.>

[23] <https://nashp.org/state-tracker/state-opioid-settlement-spending-decisions/> ; <https://opioidpolicy.org/osm-accountability.>

[24] <https://oig.hhs.gov/fraud/state-false-claims-act-reviews/>.

[25] <https://oig.hhs.gov/fraud/state-false-claims-act-reviews/>.

[26] <https://penncapital-star.com/commentary/a-false-claims-act-can-help-fill-pennsylvania-s-budget-gap/>.

[27] <https://www.taf.org/resources/state-false-claims-acts/>.

[28] <https://pandemicoversight.gov/>.