



Universal Health Services v. United States ex rel. Escobar, 136 S. Ct. 1989 (2016)

Topics Covered: False Claims Act

Outcome: Neutral

Issue

The issue in this case was under what circumstances an “implied certification” theory of legal falsity can be employed to justify an action under the False Claims Act (FCA).

AMA Interest

The AMA seeks restrictions on use of the FCA.

Case Summary

Universal Health Services (UHS) provided mental-health services in Lawrence, Massachusetts. It participated in the Massachusetts Medicaid program and thus submitted its bills for services rendered to Medicaid patients to a Massachusetts state agency. Because Medicaid is a joint program between the federal government and the states, the federal government contributed toward payment of these bills.

UHS was subject to numerous Massachusetts laws and regulations intended to ensure the quality of its services. It violated many of them.

Yarushka Rivera was a UHS patient, covered under Medicaid. A UHS nurse (not acting under the supervision of a psychiatrist – as required under law) prescribed a medication for Yarushka. Yarushka suffered a seizure and died.

Yarushka’s parents complained to several state agencies. Following an investigation, the Massachusetts Department of Public Health (DPH) determined that UHS had violated 14 regulations relating to staff supervision and licensure and that the parents’ complaints about incompetence were valid. DPH then entered into a plan of correction with UHS. Pursuant to that plan of correction, DPH imposed minor sanctions against UHS.

Yarushka’s parents then brought the instant *qui tam* action as FCA relators (*viz.*, private persons seeking to enforce the FCA on behalf of the United States in exchange for a bounty) against UHS in the United States District Court for the District of Massachusetts. The district court dismissed their complaint, finding that, because UHS had not explicitly made any misrepresentations, it had not made any false or fraudulent claims. The parents appealed, and the First Circuit reversed. It held that, although UHS had not explicitly certified its compliance with the applicable Massachusetts laws and regulations, it had implicitly done so when it submitted its bills to Medicaid.

UHS appealed to the Supreme Court. On June 16, 2016, the Supreme Court reversed the First Circuit. It held that FCA liability can be premised on implied certifications of compliance with applicable laws and regulations. However, the laws and regulations in question would have to be subject to the FCA materiality requirement, which the Court characterized as “demanding and rigorous.”

AMA Involvement

The AMA, along with several other organizations filed an *amicus* brief in the Supreme Court supporting UHS and urging a narrow interpretation of the FCA.

United States Supreme Court brief