

## Judith A. Waltz

### Partner

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Judith (Judy) A. Waltz is a health care partner with Foley & Lardner LLP. Her practice focuses on government investigations, false claims acts, corporate integrity agreements (CIAs), reimbursement strategies, bankruptcy, Medicare and Medicaid compliance counseling, and Medicare/Medicaid overpayments and enrollment disputes. Judith works with clients in various areas of the health care industry. She is the co-chair of the firm's Health Care Practice Group and Health Care Industry Team, and former co-chair of the Life Sciences Industry Team. Judith is also a member of the Government Enforcement Defense & Investigations and Bankruptcy & Business Reorganizations Practices.

### **Fraud and Abuse, FCA and Health Care Fraud Investigations**

Judith regularly advises clients who are the focus of government investigations and other enforcement actions and has negotiated false claims act settlements with the U.S. Department of Justice as well as corporate integrity agreements (CIAs) with the Office of Inspector General. She then has worked closely with those clients to implement their CIAs, including ongoing advice in connection with IRO audits and reviews. At the state level, she has been involved with various Medi-Cal audits, payment suspensions, and investigations, including a matter involving allegations of inflated drug pricing by a major pharmaceutical company.

### **Medicare and Medicaid**

Judith also provides ongoing compliance counseling and Medicare and Medicaid payment advice to clients, which include hospices, large physician practices, county health systems, hospitals, durable medical equipment suppliers, clinical laboratories, dialysis companies, skilled nursing facilities, ambulance companies, pharmacies, managed care providers, and a variety of other health care entities. In 2013, she served as special Medicare counsel in the bankruptcy of San Diego Hospice, a large not-for-profit entity. Judith has advised clients (including physician practices, hospices, and hospitals) undergoing UPIC, ZPIC, RAC audits, other Medicare or Medicaid audits, overpayments, and pre-pay reviews. She is experienced in Medicare and Medi-Cal provider enrollment appeals and Medicare billing number revocations and other enforcement

actions.

Prior to joining the firm in 1998, Judith served as assistant regional counsel for the U.S. Department of Health and Human Services in San Francisco, primarily handling Medicare issues including survey and certification and various types of reimbursement disputes. In that position, she appeared frequently before the Ninth Circuit and other federal courts in matters primarily involving payment disputes (including PRRB appeals), bankruptcy issues, and Medicare Secondary Payer (MSP) disputes. She held collateral appointments as a special assistant United States attorney for the Eastern and Northern districts of California.

### **Health Care Litigation**

As assistant regional counsel for the Department of Health and Human Services for 12 years, Judith represented the secretary in the Ninth Circuit and other federal courts in matters primarily relating to disputes regarding Medicare payments to providers and suppliers. These cases included several court appeals of Provider Reimbursement Review Board decisions involving Medicare cost reports. In the bankruptcy and district courts, she represented the Department of Health and Human Services in a precedential case, *In re TLC Hospitals, Inc.*, later decided by the 9th Circuit in 224 F.3d 1008 (9th Cir. 2000), upholding Medicare's ability to recoup pre-petition overpayments from post-petition overpayments. She also represented the government in various bankruptcy court actions involving the assumption of the Medicare provider agreement as an executory contract, a debtor's challenge to a hospital decertification action taken post-petition, and post-petition payment suspension actions. As an additional part of her government representation, she served as primary counsel in various proceedings involving the Medicare Secondary Payer (MSP) provisions. Judith has represented providers and suppliers who are under investigation relating to their participation in the Medicare and Medi-Cal programs, including negotiating settlements and corporate integrity agreements relating to issues including hospice admissions, clinical laboratory claims, partial hospitalization services, inpatient short stays, costs claimed on cost reports, oxygen (DME) billing, and assorted allegations of upcoding. She also served as lead counsel in an administrative appeal of the imposition of a Medi-Cal civil money penalty. She has appeared in several administrative appeals before the federal HHS Departmental Appeals Board, including decertification actions taken under the Clinical Laboratory Improvement Act (CLIA), civil monetary penalties and adverse enrollment actions, and in overpayment appeals heard by the Office of Medicare Hearings and Appeals. In addition, she has represented providers and suppliers in the OIG's Self-Disclosure Protocol, and in CMS's Self-Disclosure Referral Protocol.

### **Telemedicine Experience**

Judith has advised on compliance and reimbursement issues relating to business structures for providing telemedicine, requirements of the Medicare Conditions of Participation for hospitals that are participating in telemedicine services, applicable Medicare and Medicaid enrollment issues for telemedicine providers, and operational issues such as supervision of non-physician practitioners across sites. She has also worked extensively with the Clinical Laboratory Improvement Act (CLIA), payer, and compliance requirements regarding laboratory verbal and electronic orders and results.

## Awards and Recognition

- Judith has been consistently ranked as one of the top health care attorneys in California by *Chambers USA* (2009 – 2023) where she is described as “the gold standard for issues with CMS” (2015) and “a leader in fraud and abuse” and “a masterful negotiator” (2014).
- In 2019, *Chambers USA* commented, “Judith Waltz is ‘tremendously experienced’ in a broad range of healthcare matters, including Medicaid and Medicare issues, and government investigations. Clients note that ‘she conveys advice in a way that is friendly, calming and reassuring.’”
- In 2021, *Chambers USA* commented, “She is a first-class lawyer. She is responsive, customer-focused, professional, and has expert knowledge in regulatory areas. She has extensive experience in various healthcare industries. Judith Waltz is a tremendous lawyer.”
- Judith was previously recognized by *The Legal 500* for her work in life sciences in 2017, and for her work in the area of health care – service providers in 2015. She was also recognized as a 2023 and 2024 Thomson Reuters Stand-out Lawyer – independently rated lawyers.

## Affiliations

- Served as chair and vice chair of the Regulation, Accreditation, and Payment Practice Group of the American Health Lawyers Association (AHLA).
- Past chair of the Women’s Network Steering Committee at Foley.
- Member of the Health Law Committee of the Business Law Section of the State Bar of California, the American Bar Association’s Health Law Section, the California Society for Healthcare Attorneys, and the Health Care Compliance Association.
- Board Member of Visitors for Indiana University’s Maurer School of Law.

## Presentations and Publications

Judith is a frequent speaker and writer on health care and life science compliance issues, including overpayments, payment suspensions, corporate integrity agreements, off-label marketing, drug and device pricing, and potential issues of personal liability for owners of entities who are the focus of government scrutiny.

- “Could pharma’s legal attack on the IRA succeed in killing price negotiations?,” *PharmaVoice*, (March 6, 2024) (quoted)
- [“‘Let’s Talk Compliance’: OIG’s General Compliance Program Guidance: How to Refresh Compliance Programs,”](#) *Health Care Law Today* (February 1, 2024)
- [“Health Care Private Equity: Senate Budget Committee Investigates Hospital Ownership,”](#) *Health Care Law Today* (December 12, 2023)
- “Reimbursement 101: Overview of Billing and Coding Issues by Healthcare Setting,” *American Bar Association* (October 2, 2023)
- [“Acute Hospital Care at Home”: Omnibus Bill Extends Flexibility Period to December 31, 2024,”](#) *Health Care Law Today* (January 4, 2023)

- “Sanford Settles Telehealth Case Over One Physician; It Disclosed Reportable Event,” *Report on Medicare Compliance Volume 31, Number 29* (August 15, 2022) (quoted)
- “Hospital Pays \$3.8M to Settle FCA Case Over Free Call Coverage for Solo Cardiologist,” *Report on Medicare Compliance* (February 14, 2022) (quoted)
- “Court: Patients Must Be Able to Appeal Status Change from Inpatient to Observation,” *Report on Medicare Compliance* (January 31, 2022) (quoted)
- “Biden Administration Explores Ways to Cover Covid-19 Tests for Medicare Enrollees,” *Wall Street Journal* (January 26, 2022) (quoted)
- “Outlook 2022: New Year Brings Big Billing Changes, More Audits, Key Supreme Court Cases,” *Report on Medicare Compliance* (January 10, 2022) (quoted)
- “Outlook 2022: COVID-19 Fraud May Factor in Cases ‘Based on Different Allegations,’” *Report on Medicare Compliance* (January 10, 2022) (quoted)
- “COVID-19 At-Home Tests: Do CLIA Requirements Apply and what do Health Care Providers Need to Know?” *Health Care Law Today* (January 4, 2022)
- “OIG Revises Self-Disclosure Protocol, Increases Settlement Minimums,” *Report on Medicare Compliance* (November 15, 2021) (quoted)
- [“OIG’s Revised Self-Disclosure Protocol: Top Takeaways,”](#) *Health Care Law Today* (November 8, 2021)
- [“PE Firm Pays Record Settlement for Allegedly Deficient Health Services: Identifying Traps for the Unwary,”](#) *Health Care Law Today* (October 28, 2021)
- [“What About the Patients?,”](#) *Thomson Reuters Westlaw* (July 28, 2021)
- [“District Court Allows Derivative Advice of Counsel in Support of Good Faith Defense,”](#) *Health Care Law Today* (June 11, 2021)
- [“In Sec. 1557 Reversal, HHS Will Enforce 2016 Regulation’s Definition of Sex Discrimination,”](#) *Report on Medicare Compliance* (May 17, 2021) (quoted)
- “Hospital Settles CMP Case About Unlicensed Nurses, Self-Disclosed Out of ‘Caution,’” *Report on Medicare Compliance* (April 26, 2021) (quoted)
- “The risks of ‘swapping’ for durable medical equipment,” *McKight’s Long-Term Care News* (April 14, 2021)
- “ASC Settles CMP Case About Provider Relief Fund Money; OIG: Attestation Was Wrong,” *Report on Medicare Compliance Volume 30, Number 5* (February 8, 2021) (quoted)
- “What About The Patients?,” *California Bankruptcy Journal: Special Health Care Issue* (January 2021)
- “Ten QUICK-HIT Regulatory Essentials When Launching a COVID-19 Testing Program,” *How to Develop a COVID-19 Employee Testing Program: Essential Guidance on Legal, Risk Management, Regulatory, and Compliance Issues for Clinical Laboratories and Employers* (October 2020) (co-author)
- [“\[Updated\] CMS Announces New, More Provider-Friendly Rules for Advanced and Accelerated Loan Repayment,”](#) *Home Health Care News* (October 8, 2020) (quoted)
- [“Trump Signs Funding Bill Restructuring Medicare Loan Repayment Terms,”](#) *Home Health Care News* (October 4, 2020) (quoted)

- “Lawmakers Provide Accelerated, Advance Medicare Payment Relief,” *Revcycle Intelligence* (October 1, 2020) (quoted)
- “‘Real Accommodations for Providers’: House Bill Takes Aim at Advance and Accelerated Loan Repayment,” *Home Health Care News* (September 23, 2020) (quoted)
- “Federal funding bill relaxes Medicare loan repayment terms, delays DSH cuts,” *Modern Healthcare* (September 21, 2020) (quoted)
- “Extrapolation Takes a Hit in OIG Report; ‘Inconsistency is Disturbing,’” *Report on Medicare Compliance* (August 31, 2020) (quoted)
- “Episode 12: Personalized Medicine, the Health Care of the Future,” *Health Care Law Today* (August 27, 2020) (co-presenter; podcast)
- “COVID-19: Ten Things to Know about Laboratory Testing,” *Health Care Law Today* (July 28, 2020) (author)
- “DAB Affirms OIG’s \$1.32M Penalty on Provider for Breaching CIA,” *Report on Medicare Compliance* (June 22, 2020) (quoted)
- “Court Says Inpatients Changed to Observation Have Right to Appeal, Orders New Process,” *Medicare Compliance* (March 30, 2020) (quoted)
- “COVID-19 Waivers: Some SNFs Refuse Hospital Patients Anyway, MA Coverage is Better,” *Report on Medicare Compliance* (March 23, 2020) (quoted)
- “With Waivers the Catalyst for Telehealth Use in COVID-19 Response, Some Hospitals Act Fast,” *Compliance Cosmos* (March 23, 2020) (quoted)
- “Third Circuit Creates Budding Circuit Split in *United States v. Care Alternatives*, Ruling That “Objective Falsity” Is Not Required Under FCA,” *Health Care Law Today* (March 10, 2020) (co-author)
- “Skilled Nursing Facilities: 2020 Target Area for DOJ under False Claims Act,” *Health Care Law Today* (March 9, 2020) (co-author)
- “2020 Business of Personalized Medicine Summit: Break Through to Solutions in the Birthplace of Biotechnology,” *Personalized Medicine Bulletin & Health Care Law Today* (February 18, 2020) (co-author)
- “Open Payments refresh brings in new categories, adds new provider types,” *Part B News* (February 17, 2020) (quoted)
- “Open Payments refresh brings in new categories, adds new provider types,” *Report on Medicare Compliance* (January 13, 2020) (quoted)
- “Physicians Settle *Locum Tenens* FCA Case; Some Providers May Cut Corners in this Area,” *Report on Medicare Compliance* (January 9, 2020) (quoted)
- “Hospitals’ Risk May Rise as Anti-Fraud Proposal Narrows Loophole,” *Bloomberg Law* (October 24, 2019) (quoted)
- “CMS Proposes Revisions to Stark Law,” *Health Care Law Today* (October 16, 2019) (author)
- “3 areas of the Stark overhaul likely to give providers compliance headaches,” *Fierce Healthcare* (October 14, 2019) (quoted)
- “Final Discharge Planning Rule Drops ‘Onerous’ Provisions; Some Outpatients Won’t Need It,” *Report on Medicare Compliance* (September 30, 2019) (quoted)



- *Health Care MarketTrends* | September 2019, Issue 2 (September 16, 2019) (co-author)
- “[What CMS Rule On Affiliations Means For Health Providers](#),” *Health Care Law Today* (September 11, 2019) (author)
- “CMS Rule: Providers Could Lose Medicare Privileges Because of Tainted ‘Affiliations,’” *Report on Medicare Compliance* (September 6, 2019) (quoted)
- “Former IG Dan Levinson: Government Is ‘Highly Concerned’ About Fraud and Abuse Charges,” *Compliance Cosmos* (June 24, 2019) (quoted)
- “National Health Care – The Debate Continues (On and On...),” *Health Care Law Today* (June 12, 2019) (author)
- “In Ruling That Will Shake Up How CMS Issues Guidance, Supreme Court Rejects DSH Formula,” *Compliance Cosmos* (June 10, 2019) (quoted)
- “Health-Care Fraud Probes Garnered \$2.3 Billion in 2018,” *Bloomberg Law Health Law & Business News* (May 31, 2019) (quoted)
- “Supreme Court Maximizes Statute of Limitations for Relators Suing Under the False Claims Act,” *Health Care Law Today* (May 31, 2019) (co-author)
- “Co-Location of Hospital Space: CMS Issues Draft Guidance for Public Comment,” *Health Care Law Today* (May 13, 2019) (co-author)
- “Ambulance Suppliers: CMS Is Not Planning to Issue Fraud Waivers for ET3,” *Health Care Law Today* (May 2, 2019) (co-author)
- “Chair’s Column: Deciphering Medicare’s Mysteries,” *Health Care Law Today* (February 12, 2019) (author)
- “HHS Proposes New Rules To Eliminate Drug Rebates and Encourage Direct Discounts for Federal Beneficiaries,” *Health Care Law Today* (February 1, 2019) (co-author)
- *Health Care MarketTrends* | January 2019, Issue 1 (January 31, 2019) (co-author)
- “2019 Health Care Industry Outlook,” *Health Care Law Today* (January 29, 2019) (co-author)
- “Medicare Enrollment Ban Hastens Home Health Closures,” *Bloomberg Law* (January 17, 2019) (quoted)
- “Clinical Laboratory and Pathology Update: What Was New In 2022 (and Where Things Might Be in 2023),” American Health Law Association’s Institute on Medicare and Medicaid Payment Issues 2023 Conference (March 23, 2023)
- “Federal Fraud Enforcement Activities,” California Society for Healthcare Attorneys 022 Annual Meeting and Spring Seminar (April 2, 2022)
- “Administrative Enforcement (CMS and OIG),” HCCA’s 26<sup>th</sup> Annual Compliance Institute (March 28, 2022)
- “CMS/OIG Administrative Enforcement: Case Study/CARES Provider Relief Reporting and Audit Defense,” AHLA’s Institute on Medicare and Medicaid Payment Issues (March 24, 2022)
- “CMS’ Final Guidance on Hospital Co-Location Arrangements,” American Health Law Association Webinar (February 9, 2022)
- “Everything You Always Wanted to Know About Sales Practices – the Dos, the Maybes, and the Don’ts-But Have Been Afraid to Ask,” ACC Health Law Network Webinar (July 1, 2021)

- “False Claims Act Liability in Post-Acute Care,” HCCA Orange County Regional Healthcare Compliance Conference (June 11, 2021)
- “Analyze Newly Developed Federal Pricing Transparency Laws in Public Payor Programs,” Rx Pricing and Reimbursement Summit (May 24-25, 2021)
- “Federally Qualified Health Centers (FQHCs) – Overview and Emerging Issues,” AHLA Education Call (April 9, 2021)
- “CMS/OIG Administrative Enforcement Risks and DAB Appeals,” AHLA Institute on Medicare & Medicaid Payment Issues Virtual Conference (March 24-26, 2021)
- “COVID-19 Testing: Reimbursement & Enforcement Trends,” speaker, AHLA Education Call (January 22, 2021)
- “Year Two of COVID? Legal Issues on the 2021 Horizon for Healthcare Organization Response to the Pandemic,” speaker, HCCA San Francisco Regional Conference (December 4, 2020)
- “Drug Pricing and Rebate Essentials and Introduction to Medicaid,” speaker, ACI’s Proficiency Series on Rx Drug Pricing and Rebate Fundamentals (November 17-19, 2020)
- “Social Determinants of Health: Use of Medicare and Medicaid Funds,” speaker, County Counsel’s Association of California’s Health and Welfare Fall 2020 Study Section Meeting (October 29, 2020)
- “Key Issues in CMS/OIG Administrative Enforcement Actions,” speaker, AHLA’s Virtual Fraud and Compliance Forum (September 30 – October 2, 2020)
- “COVID-19 – Preparing for Post-Pandemic Transformation in Health Care and Life Sciences,” speaker, Foley Webinar (May 21, 2020)
- “Responding to COVID-19 – Rapid Development and Launch Strategies for Diagnostics, Vaccines, and Therapeutics in a Global Pandemic,” speaker, Foley Webinar (March 26, 2020)
- 7th Annual Business of Personalized Medicine Summit, speaker (February 27, 2020)
- “Health Care Legal Practice at Big Law Firms (Stanford Law School),” lunch panel speaker, California Lawyers Association’s Health Law Committee (February 5, 2020)
- “Shifting Safe Harbors: Analyzing Medicare Parts B and D Pricing Reforms Under the CMS Proposed Final Rule,” speaker, ACI’s 19th Annual Forum on Rx Drug Pricing (October 16-17, 2019)
- “Enhancing Compliance Program Effectiveness,” speaker, ACC Health Law Network Webinar (October 7, 2019)
- “Non-Acute: Enforcement and Compliance,” speaker, HCCA Orange County Regional Healthcare Compliance Conference (June 14, 2019)
- “Enforcement Risks for Common Compliance Failure,” speaker, AHLA Institute on Medicare and Medicaid Payment Issues (March 20-22, 2019)
- “The Next Phase in the Genomics Revolution: What You Need to Know,” speaker, Foley’s “Trending Topics in Healthcare” seminar series (February 5, 2019)

## Sectors

- [Health Care & Life Sciences](#)
- [Pharmaceuticals](#)
- [Racial Justice & Equity](#)

- Telemedicine & Digital Health

## Practice Areas

- Bankruptcy & Business Reorganizations
- Corporate
- False Claims Act
- Government Enforcement Defense & Investigations
- Health Care
- Health Care Regulatory

## Education

- Indiana University Bloomington (B.A., J.D. and M.P.A.)
  - Associate Instructor in the School of Business
  - Teaching Assistant in the School of Public and Environmental Affairs (SPEA)
  - Vice President of the Indiana University Student Association

## Admissions

California

Ninth Circuit and all Federal District Courts for California