

7.8 COMPLIANCE - FALSE CLAIMS PREVENTION				
Manual: Operations Addenda	Origination Date: 1/1/2007	Revision Date(s): 7/2007; 6/2009, 6/2018, 2/23/2021	Effective Date: 1/1/2007	Policy #: A-7.8

Policy

All Company employees, agents, consultants, contractors, vendors and anyone else who does business with the Company, shall comply with all applicable federal and state laws and regulations intended to prevent and detect fraud, waste, and abuse in publicly funded health care programs specifically including but not limited to Medicare and Medicaid.

Purpose

To describe the components of the Company’s Compliance Program designed to detect and prevent fraud and abuse and to address the various federal and state laws designed to combat the filing of false claims for reimbursement and fraud in general.

General Information

As indicated in the Company Code of Conduct, the accuracy and integrity of our claims for reimbursement and the underlying documentation that supports them is critical to our reputation as an honest company and to our success as a health care provider. Accordingly, The Company maintains a compliance plan that is designed to detect fraud, waste, and abuse as well as inadvertent billing errors and other compliance issues. All of the Company’s employees and contractors have been notified of the Company’s Commitment to compliance and its expectation that they demonstrate a similar commitment. All employees and contractors are provided with a copy of our Code of Conduct which outlines the principles of this commitment and all employees receive regular training in the principles of compliance. The components of our plan that are designed to detect fraud, waste, and abuse include:

- Our Code of Conduct contains standards that require the Company’s employees and contractors to comply with applicable laws and standards of care, including those applicable to documentation and the submission of claims to governmental programs. Any questions regarding the Code of Conduct should be directed to a supervisor, to the Company’s Chief Compliance Officer or to any member of the Company’s Compliance Committee.

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General Information

We are committed to ensuring that all information we submit to the government is accurate. Each employee and contractor must know or believe the information contained in a claim or statement he or she submits on behalf of the Company is correct. Personnel cannot, either deliberately or carelessly, ignore questionable information in a claim submitted on behalf of the Company submits. Whether information is true and accurate includes making reasonably sure that essential facts are accurate, and that no essential fact is omitted.

Under the Company’s compliance policies, all employees and contractors have a responsibility to comply with the law and to report their good faith belief of any violation thereof. Any employee or contractor who has a good faith belief, based on objective information that a false claim will or has been made must report it to his or her supervisor, the Compliance Officer, or to the hotline. Failure to report a good faith belief that a false claim will or has been made may result in disciplinary action up to and include termination.

We have established a hotline that allows employees and contractors to report possible incidents of fraud and abuse, violations of the Code of Conduct, or possible violations of the law. We encourage use of the hotline, all calls are confidential and caller may remain anonymous if they desire. **The hotline number is 1-800-362-1059.** Employees and contractors may also report any of the above to a supervisor or a member of the management team, the Company Compliance Committee or the Compliance Officer.

The Company maintains a non-retaliation policy. Employees and contractors may not be retaliated against because they made a good faith report through the hotline or to a supervisor, manager, the Compliance Committee or the Compliance Officer. Employees who lawfully report false claims are protected from retaliation by our policy and federal and state laws.

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General Information

The Company will promptly investigate all hotline reports and any compliance concerns brought to our attention through other means. We will work with all parties involved to correct any non-compliance. If our investigation reveals a billing issue, the Company will address the issue and notify the government/payer, of the issue and the manner in which it was addressed, including repayment within 60 days where indicated. We will also take other corrective actions as necessary.

The Company is committed to ensuring that claims that are filed are accurate. The Company will routinely monitor and audit its operations to assure compliance with the requirements of government programs.

The Company will provide training and education to its employees about its compliance program and applicable laws, regulations and requirements of government health care programs. The Company provides this education at hire, annually, and as needed throughout the year.

If an employee violates the Company's Code of Conduct, that employee will be subject to disciplinary action, up to and including, in appropriate cases, termination.

THE FEDERAL FALSE CLAIMS ACT

In an effort to eliminate fraud with respect to government funds, the government has several laws at its disposal. One such law is the Federal False Claims Act. Among other things, the Act makes it illegal for any person to *knowingly* present or cause to be presented to an officer or employee of the Federal government a false or fraudulent claim for payment or approval or make, use, or cause to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the government. The Act defines *knowingly* to mean that a person (a) has actual knowledge of the information; (b) acts in deliberate ignorance of the truth or falsity of the information; or (c) recklessly disregards the truth or falsity of the information.

The Act applies to false or fraudulent claims submitted to the Medicare program and, because it is partially federally funded, the Medicaid program. This would include, for example, false statements on the Company's cost reports, MDSs and billing statements. It would also apply to false or fraudulent documentation in connection with requests for payment under a waiver program, and it would apply to falsification of the chart of a Medicare or Medicaid beneficiary in order to obtain or justify payment from a government program. Amendments in 2009 extend the False Claims Act's reach to the knowing retention of overpayments by government agencies.

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An action for violation of the Act may be brought by the government or a private citizen on behalf of the government. Penalties for violation of the Act include damages of up to three times the amount of the false claims submitted. In addition a violation may result in monetary penalties, resulting in a minimum of \$11,665 and a maximum of \$23,331 for each false claim.¹ These Penalties are adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461). Criminal penalties may also be imposed upon individuals who submit false claims.

The Federal False Claims Act contains a provision that protects employees who act in furtherance of an action under the False Claims Act. It allows any employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms or conditions of employment as a result of lawful acts done by the employee in furtherance of an action under the False Claims Act, including actions with respect to an investigation, initiation of, testimony for, or assistance with any False Claims Act action, to be made whole. If the claim is successful, relief includes reinstatement with the same seniority as the employee would have had had their status with the employer not been changed, two times the amount of back pay, interest on the back pay, and counsel fees and costs.

THE FEDERAL PROGRAM FRAUD CIVIL REMEDIES ACT

In addition to the False Claims Act, the government may utilize the Program Fraud Civil Remedies Act, a law that allows the Department of Health and Human Services and other Federal agencies to impose an administrative penalty upon individuals and entities who submit a false claim or series of claims with a value of less than \$150,000.

That law makes it unlawful for a person to submit such claims that the person knows or has reason to know (a) are false, fictitious, or fraudulent, (b) include or are supported by any written statement that is materially false, fictitious, or fraudulent, (c) include or are supported by any written statement that omits a material fact, is false fictitious, or fraudulent as a result of such omission, and is a statement that the person submitting the statement has a duty to include, or (d) is for payment for the provision of property or services that the person has not provided as claimed. Similarly, the submission of false, fictitious, or fraudulent statements to a government agency will violate the Act if the statement is accompanied by an express certification of its truthfulness. Penalties for violation of the Act are up to \$11,665² per false claim or statement.

STATE FALSE CLAIMS AND FALSE STATEMENTS LAWS

In addition to the federal laws discussed above, individual states also have at their disposal various state laws to help eliminate fraud with respect to government funds. Overviews of

¹ Penalty amounts are effective as of 6/2020 and may be updated for inflation thereafter.

² Penalty is effective as of 8/2020 and may be updated thereafter pursuant to 28 U.S.C. 2461.

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the comparable state laws from the states in which The Company does business are attached. The Company expects each of its employees, vendors and anyone who does business with the Company in those states to abide by their own specific state laws in addition to the federal laws.

Definition(s)

Fraud – “fraud” can be defined as a lie or deception *intended* to obtain something of value. Fraud is generally considered to require actual knowledge that the information is inaccurate but under the False Claims Act it can also include acts committed in deliberate ignorance of the truth or falsity of the information or in reckless disregard of the truth or falsity of the information

Abuse – “abuse” in the context of false claims applies to situations in which the elements of fraud as described above cannot be proven but the claim is nonetheless inaccurate due to negligence or other unreasonable failure to exercise due diligence in the preparation and submission of the claim.

False Claims – “false claims” as addressed in this policy and the laws referenced herein increasingly include *any* claim filed with inaccurate information regardless of the technical definitions of “fraud” and “abuse.” In addition, false claims also increasingly include claims for services which, regardless of the accuracy of the information presented, are significantly substandard in quality.

Whistleblower - “whistleblower” is the term employed in these policies and laws for individuals who *in good faith* report actual or suspected violations of these policies and laws either within the provider organization or outside of it. They are afforded certain protections under the policies and laws addressed herein.

Required Form(s)

For employees and consultants – The Code of Conduct Attestation and Employee Handbook Attestation

For Vendors and Contractors - Vendor Compliance Policy Notification and Acknowledgement Form

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Process

See *General Information* above.

1. For employees and consultants – read the Code of Conduct and pertinent state Employee Handbook, sign and date the required Attestations and submit per applicable procedure.
2. For Vendors and Contractors – Access Company Code of Conduct and False Claims Prevention Policy through web site listed on the Vendor Compliance Notification and Acknowledgement Form.
 - 2.1. Disseminate False Claims Prevention Policy and Code of Conduct to all employees doing business with the Company.
 - 2.2. Sign and submit Vendor Compliance Notification and Acknowledgement Form.
3. For all parties - notify supervisor and/or any member of the Company Compliance Committee (*see*, Code of Conduct, Section “XI. The Compliance Team”) with any good faith questions, comments or concerns regarding actual or suspected violations of the policies and laws discussed herein.