

FALSE CLAIMS PREVENTION - STATE LAW SUPPLEMENTS

Connecticut

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees who work in Connecticut. As stated in our Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, Connecticut False Claims Act, other Connecticut laws, specifically the Vendor and General Assistance Program fraud laws, imposes liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Connecticut laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Connecticut's Medicaid program for services or goods not provided;
- Billing Connecticut's Medicaid program for undocumented services;
- Making inaccurate, false or improper entries in medical records, cost reports and any other records used to support reimbursement;
- Billing Connecticut's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from Connecticut's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks and rebates;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

Civil and Criminal Penalties for False Claims or Statements

A violation of the Connecticut False Claims Act may result in civil penalties of: (1) \$5,500 to \$11,000 per claim, (2) treble damages to the state; and (3) costs of investigating and prosecuting the violation. The court may lower the treble damages to two times the amount if the violator fully cooperated with the investigation by the state. Violations of the other Connecticut laws may also result in repayment of the fraudulent amounts and, upon conviction, permanent exclusion from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to 20 years and a fine up to \$15,000.

Civil Lawsuits

Like the federal False Claims Act, Connecticut law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs. However, if the defendant prevails and the court finds that the claim of the *qui tam* plaintiff was clearly frivolous, clearly vexatious or brought for the purposes of harassment, then the court may award the defendant reasonable attorney fees and costs against.

No Retaliation

Like federal law and The Companies' policy, various Connecticut laws, including the Connecticut False Claims Act and Connecticut's public and private sector whistleblower laws, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including two times the amount of any back pay, reinstatement to a former position, litigation costs and reasonable attorney's fees.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

Entities that furnish Medicaid health services under the Connecticut Medical Assistance Program for which payments exceed \$5 million annually must establish and disseminate written policies including, but not limited to, detailed information about the Federal false claims act and about whistleblower protections. Written policies and handbooks also must reference specific sections of the Connecticut General Statutes pertaining to vendor fraud, health insurance fraud, larceny, false statements intended to mislead public servants, and whistleblowing. An attestation that the entity is in compliance with Sec. 6032 of the Deficit Reduction Act and with specific sections of the Regulations of Connecticut State Agencies must be submitted by August 31 of each year. *See* Conn. Agencies Regs. Secs. 17b-262-770 through 17b-262-773.

The form that a Connecticut Medicaid provider uses to attest to compliance, along with a description of the requirements, is available at:

https://www.ctdssmap.com/CTPortal/Information/Get%20Download%20File/tabid/44/Default.aspx?Filename=Deficit_Reduction_Act_Affadavit.pdf&URI=Forms/Deficit_Reduction_Act_Affadavit.pdf.

Copies of Connecticut Laws

The Connecticut laws summarized above include:

1. Connecticut False Claim Act, Conn. Gen. Stat. § 4-274 through § 4-289.
2. Vendor fraud laws and penalties:
 - Conn. Gen. Stat. §§ 53a-290 et seq. (Vendor Fraud)
 - Conn. Gen. Stat. §§ 53-440 et seq. (Health Insurance Fraud)
 - Conn. Gen. Stat. §§ 53a-118 et seq. (Larceny)
 - Conn. Gen. Stat. § 53a-155 (Tampering With or Fabricating Physical Evidence)
 - Conn. Gen. Stat. § 53a-157b (False Statement Intending to Mislead Public Servant)
 - Conn. Gen. Stat. § 17b-25a (Toll free vendor fraud telephone hotline)
 - Conn. Gen. Stat. § 17b-99 (Vendor Fraud)
 - Conn. Agencies Regs. §§ 17-83k-1 et seq. (Administrative Sanctions)
3. General assistance program fraud and penalties:
 - Conn. Gen. Stat. §§ 17b-127, 17b-238.
4. Reporting fraud incentives:
 - Conn. Gen. Stat. § 17b-102 (Financial Incentive for Reporting Vendor Fraud)
 - Conn. Agencies Regs. §§ 17b-102-01 et seq. (Financial Incentive for Reporting Vendor Fraud and Requirements for Payment for Reporting Vendor Fraud)
5. Whistleblower laws:
 - Conn. Gen. Stat. § 4-61dd (Whistleblowing)
 - Conn. Gen. Stat. § 31-51m (Protection of Employee Who Discloses Employer's Illegal Activities or Unethical Practices)
 - Conn. Gen. Stat. § 31-51q (Liability of Employer for Discipline or Discharge of Employee on Account of Employee's Exercise of Certain Constitutional Rights)
 - Conn. Agencies Regs. §§ 4-61dd-1 et seq. (Rules of Practice for Contested Case Proceedings under the Whistleblower Protection Act)

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

Massachusetts

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees who work in Massachusetts. As stated in our Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Massachusetts False Claims Act (“MFCA”), and other Massachusetts laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Massachusetts laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Massachusetts's Medicaid program for services not rendered;
- Submitting a false claim for payment;
- Conspiring to make a false claim or get one paid;
- Making or using a false record to avoid payments owed to the state;
- Entering into a contract with the state knowing that the information contained therein is false;
- Failure to disclose the fact that a benefit was obtained from a false claim that was mistakenly submitted.

Civil and Criminal Penalties for False Claims or Statements

A violation of the MFCA may result in civil penalties of: (1) a fine of \$5,500 to \$11,000 per claim, (2) up to three times the amount of damages sustained by the Commonwealth, including consequential damages, and (3) costs of the investigation. In addition, a person who violates the other laws prohibiting the presentation of false claims to the Massachusetts Division of Medical Assistance commits a crime punishable by imprisonment for up to five years and a fine of not more than \$10,000. Violators may also face exclusion from the Massachusetts Medicaid program.

Civil Lawsuits

Like the federal False Claims Act, Massachusetts law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs. However, if the relator's recovery may be reduced if the Commonwealth can show that a material portion of the information provided by the relator was already available in some public forum. If the

court determines that the relator planned, initiated or knowingly participated in the violations, the relator's share of the recovery may be reduced or completely eliminated.

Like federal law and The Companies' policy, various Massachusetts laws, including the MFCA, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws such as the MFCA. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.

No Retaliation

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

MassHealth providers must provide a signed written certification of employee education about false claims and whistleblower protections, on or before June 30th of each year. MassHealth providers also must make available to the agency, upon request, a copy of all written policies and/or handbooks implemented in accordance with Sec. 6032 of the Deficit Reduction Act and initiate corrective actions necessary to comply with such federal requirements. MassHealth may recover as overpayments any payments made to a provider that the agency determines failed to comply with these requirements and impose sanctions as set forth in MassHealth regulations. *See* 130 Code Mass. Reg. § 450.205(F). The form that a MassHealth provider uses to attest to employee education is available here: <http://www.mass.gov/eohhs/docs/masshealth/provider-services/forms/mfc-1.pdf>. The MassHealth agency issued a provider bulletin in December 2006 about compliance with these requirements, but has not issued one subsequently: <http://www.mass.gov/eohhs/docs/masshealth/bull-2006/all-162.pdf>.

Copies of Massachusetts Laws

The Massachusetts laws summarized above include:

1. Massachusetts False Claims Act, Mass. Gen. Laws Ann. ch. 12, § 5.
2. Mass. Gen Laws Ann. ch. 118E, §§ 39, 40, and 42.

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

New Jersey

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees who work in New Jersey. As stated in our Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the New Jersey False Claims Act, the Health Care Claims Fraud Act and other New Jersey healthcare fraud laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These New Jersey laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing New Jersey's Medicaid program for services or goods not provided;
- Billing New Jersey's Medicaid program for undocumented services;
- Making inaccurate, false or improper entries in medical records, cost reports and any other records used to support reimbursement;
- Billing New Jersey's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from New Jersey's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks or rebates;
- Charging in excess of the allowable Medicaid rate, including accepting a gift, money, donation or other compensation as a condition of admission or continued stay in the facility;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

Civil and Criminal Penalties for False Claims or Statements

A violation of the New Jersey False Claims Act may result in a civil penalty of not less than and not more than the civil penalty allowed under the federal False Claims Act for each claim, plus treble the amount of damages. The court may lower the treble damages to two times the amount if the violator fully cooperated with the investigation by the state. A violation of other laws may result in a civil penalty up to \$2,000 for each false claim and three times the amount of the wrongful payment, plus interest, and suspension or termination

from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to 10 years and a fine in an amount up to \$150,000 or an amount double the amount of money gained from the crime, whichever is greater, for each act of health care claims fraud. Violators may also face exclusion from the New Jersey Medicaid program.

Civil Lawsuits

Like the federal False Claims Act, New Jersey law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs.

No Retaliation

Similar to Federal law and The Companies' policy, the New Jersey False Claims Act and the New Jersey Conscientious Employee Protection Act prohibits employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating such laws. The New Jersey Conscientious Employee Protection Act public and private employers from retaliating, discriminating or harassing employees who disclose, threaten to disclose, or object or refuse to participate in, an activity, policy or practice of the employer that the employee reasonably believes is a violation of any law, rule or regulation, or that is fraudulent or criminal, or that constitutes improper quality of patient care. This protection extends to disclosures or testimony made in response to a government inquiry, investigation, or hearing. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff which may include compensation for lost wages or reinstatement to a former position, plus a civil fine and punitive damages against the employer.

This New Jersey Act, unlike the other laws, requires an employee to notify his/her employer in writing of any suspected illegal activity, policy or practice before disclosing it to the appropriate government agency. The purpose of this particular requirement is to give the employer a reasonable opportunity to correct the activity, policy or practice. This notice requirement does not apply to disclosures that the employee reasonably fears may result in immediate, physical harm.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

All entities that receive or make annual Medicaid/NJ FamilyCare payments of at least \$5 million must establish written policies for the entity (including management and contractors) that provide

detailed information on the Federal False Claims Act, any State laws pertaining to civil or criminal penalties for false claims, and whistleblower protections under such laws. (If an entity furnishes items or services at more than one location, these requirements apply if aggregated annual payments are at least \$5 million, even if claims are submitted under multiple provider numbers.) Written policies must include the entities' detailed procedures for detecting and preventing fraud, waste, and abuse, and handbooks must include in a discussion of the specific laws employees' rights to be protected as whistleblowers. Policies can be on paper or in electronic form, so long as they are readily available, and a handbook need not be created if one does not already exist. The policies must require the entity's contractors to comply and request that the entity's contractors disseminate the policies to their own employees. *See* N.J. Admin. Code tit. 10, § 49-3.2. New Jersey annually notifies affected providers of the need to certify compliance and provides a form each year for providers to use.

Copies of New Jersey Laws

The New Jersey laws summarized above include:

1. New Jersey False Claims Act, N. J. Stat. Ann. §§ 2A:32C-1 et seq.
2. Conscientious Employee Protection Act, N.J. Stat. Ann. §§ 34: 19-1 et seq.
3. N.J. Stat. Ann. §§ 30: 4D-17 et seq.
4. N.J. Stat. Ann. §§ 2C:21-4.2 and 2C:21-4.3.
5. N.J. Stat. Ann. §§ 17:33 et seq. Insurance Fraud Prevention Act

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

In addition, reports of Medicaid Fraud may be made by calling the NJ Medicaid Fraud Division directly at 1-888-937-2835 (toll-free) or the NJ Insurance Fraud Prosecutor Hotline at 877-55-FRAUD (877-553-7283).

Pennsylvania

Compliance Program: Code of Conduct and False Claims Prevention Compliance Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees who work in Pennsylvania. As stated in our Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Pennsylvania fraud and abuse laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Pennsylvania laws prohibit, among other things:

- Billing Pennsylvania's Medicaid program for services or goods not provided;
- Billing Pennsylvania's Medicaid program for undocumented services;
- Making inaccurate, false or improper entries in medical records, cost reports and any other records used to support reimbursement;
- Billing Pennsylvania's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from Pennsylvania's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks and rebates;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

Civil and Criminal Penalties for False Claims or Statements

A violation of these Pennsylvania laws may result in restitution of the overpayments and civil penalties, up to three times the amount of the overpayments, as well as suspension from the Medicaid program for five years. In addition, any person who violates these laws commits a felony punishable by imprisonment for up to seven years and a maximum fine of \$15,000 for each violation. Violators may also face exclusion from the Pennsylvania Medicaid program.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Pennsylvania law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.

No Retaliation

Similar to Federal law and The Companies' policy, Pennsylvania's Whistleblower Law prohibits state employers from retaliating, discriminating or harassing state employees who report a misuse of state funds and resources or a violation of federal or state laws, rules or regulations. Pennsylvania law does not contain whistleblower protections for non-governmental employees. Nevertheless, The Companies expects employees to adhere to Federal law and to The Companies' policy prohibiting retaliation.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

The Pennsylvania Department of Public Welfare issued a Medical Assistance Bulletin on Sept. 7, 2007 to update its previous direction to Medicaid providers, based on guidance from CMS on implementing Sec. 6032 of the Deficit Reduction Act. In the Medical Assistance Bulletin, it revised procedures for complying with the requirements and it provided a new Attestation Form for use by covered entities. Pennsylvania Medicaid requires any entity, including a Medical Assistance MCO, that receives or makes payments of at least \$5 million from the Medical Assistance program in a Federal fiscal year to comply. Compliance entails establishing written policies that provide detailed information about Federal laws identified in Sec. 6032(A) and any Pennsylvania laws imposing civil or criminal penalties for false claims or that provide whistleblower protections. The covered entity's written policies must contain information about its own policies for detecting and preventing fraud, waste, and abuse in the Medicaid program, and those policies must be provided to employees and contractors and/or agents that perform billing or coding functions or that furnish or authorize the furnishing of Medicaid health care items or services on behalf of the entity. The entity is not required to create a handbook, but if one exists, the policies and procedures must be included therein.

http://www.dhs.pa.gov/cs/groups/webcontent/documents/bulletin_admin/d_004628.pdf.

Each covered entity annually must complete and submit, by Dec. 31, an attestation of Compliance with Sec. 6032 of the Federal Deficit Reduction Act. Further, the covered entity must identify each Medical Assistance provider included in the covered entity on an attachment to the attestation. The Medical Assistance Bulletin refers to an Attestation Form, which is available here:

https://www.humanservices.state.pa.us/DPWsecure/bpi_attestation_form.aspx.

Copies of Pennsylvania Laws

The Pennsylvania laws summarized above include:

1. 62 Pa. Cons. Stat. §§ 1403(d), 1407.
2. Pa. Stat. Ann. §§ 1421 et seq.

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

Virginia

Compliance Program: Code of Conduct and False Claims Prevention Compliance Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees who work in Virginia. As stated in our Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Virginia Fraud Against Taxpayers Act ("VFAT"), and other Virginia laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Virginia laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Virginia's Medicaid program for services not rendered;
- Making or using a false record or statement to get a false claim paid;
- Conspiring to get a false claim paid;
- Making or using a false record to avoid an obligation to pay money or transmit property to the state;
- Making a false statement or representation so that an institution may qualify for certification or recertification;
- Participating in kickbacks.

Civil and Criminal Penalties for False Claims or Statements

A violation of these Virginia laws may result in penalties of not less than and not more than the civil penalty allowed under the federal False Claims Act for each claim, plus three times the amount of damages sustained by the state. In addition, a person who violates these laws commits a felony punishable by imprisonment for up to twenty years and a fine not to exceed \$25,000. Violators may also be liable for reasonable attorney's fees and costs of bringing the civil action and may face exclusion from the Virginia Medicaid program.

Civil Lawsuits

Like the federal False Claims Act, Virginia law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs. However, if the defendant prevails and the court finds that the claim of the *qui tam* plaintiff was clearly frivolous, clearly vexatious or brought for the purposes of harassment, then the court may award the defendant reasonable attorney fees and costs against.

No Retaliation

Like federal law and The Companies' policy, various Virginia laws, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws such as the VFTA. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.

The VFTA requires a state employee to exhaust any existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels before taking formal action under the VFTA, unless the Commonwealth failed to act on the information within a reasonable period of time.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

An entity is covered by Virginia's regulations implementing Section 6032 of the DRA if it furnishes items or services at one or more locations and received or made payments annually of \$5 million or more under the approved State Medicaid plan, whether or not it used more than one provider number. This includes a governmental agency, organization, unit, corporation, partnership, or other business arrangement. A determination of whether an entity met the \$5 million annual threshold will be made by Jan. 1 of each year, based on the previous federal fiscal year. The entity must establish and disseminate written policies that also must be adopted by its contractors or agents. Written policies may be on paper or electronic, but the must be readily available to all employees, contractors, and agents, and there is no need to create an employee handbook that includes the policies if one does not already exist. The policies must include detailed information about the False Claims Act and the Virginia Fraud Against Taxpayers Act (which includes whistleblower protections). The policies also must include detailed information about the entity's own policies for detecting and preventing fraud, waste, and abuse. *See* 12 Va. Admin. Code § 30-10-820.

Rather than require that providers attest annually to their compliance with this regulation, Virginia enforces these requirements through onsite provider surveys. *See* 12 Va. Admin. Code § 30-10-820, 12 Va. Admin. Code § 30-20-275

Virginia Laws

The Virginia laws summarized above include:

1. The Virginia Fraud Against Taxpayers Act, Va. Code Ann. §§ 8.01-216.1 et seq.
2. Va. Code Ann. §§ 32.1-310 et seq.

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

Federal Law

The Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and similar state laws are some of the most important laws that govern our business. The False Claims Act and similar state laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These laws apply to Medicare and Medicaid reimbursement and prohibit, among other things:

- Billing Medicare and Medicaid for services not rendered;
- Billing Medicare and Medicaid for undocumented services;
- Making improper entries on Medicare and Medicaid cost reports;
- Billing Medicare and Medicaid for medically unnecessary services;
- Assigning incorrect codes to secure higher Medicare and Medicaid reimbursement;
- Characterizing non-covered services or costs in a way that secures Medicare and Medicaid reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources; and
- Participating in kickbacks.

A violation of the False Claims Act may result in monetary penalties, which are adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 ([28 U.S.C. 2461](#)) currently resulting in a minimum of \$11,181 and a maximum of \$22,363 plus three times the amount of damages the government sustains. A violation may also result in exclusion from the Medicare and Medicaid programs. The court may lower the treble damages to two times the amount if the violator fully cooperated with the investigation by the government. Private citizens, including employees, may file a lawsuit on behalf of the Federal government, and in return, may share a percentage of any monetary recovery or settlement and receive reasonable costs and attorney's fees. However, if the court finds that the claim of the plaintiff was clearly frivolous, clearly vexatious or brought for the purposes of harassment, then the court may award the defendant reasonable attorney fees and costs.

The False Claims Act prohibits employers from retaliating, discriminating or harassing employees because of their lawful participation in a Federal False Claims Act investigation, report, claim or legal proceeding. Employees may receive the following measures of relief: reinstatement to former position, two times the amount of back pay with interest, and compensation for damages, including litigation costs and attorney's fees.

Certain states have adopted Medicaid false claims reporting laws and regulations that may be more stringent than the federal false claims law. Please refer to your Code of Conduct and False Claims Prevention Compliance Policy Insert regarding the Medicaid False Claims reporting laws in the state in which you work. You may get a copy of the Code of Conduct and False Claims Prevention Compliance Policy insert for your state's Medicaid False Claims reporting laws by contacting your Corporate Payroll/Benefits Coordinator or by calling the Compliance Department at (800) 545-0749.

Deficit Reduction Act Compliance Certification

The Deficit Reduction Act (DRA) of 2005 instituted a requirement for health care entities receiving or making \$5 million or more in Medicaid payments during a federal fiscal year to establish written policies and procedures informing employees, contractors and agents about federal and state false claim acts and whistleblower protections. Some state Medicaid programs have instituted certification obligations requiring providers to certify to the establishment of a compliance program, as required under the DRA, and training of employees, contractors and agents on the false claim acts and whistleblower protections.

New York

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees participating in the care and treatment of New York State Medicaid beneficiaries and the processing of claims or other information related to such care and treatment. As stated in our Company Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the New York laws referenced in this supplement impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These New York laws apply to Medicaid reimbursement and impose civil and/or criminal penalties for, among other things:

- Billing New York's Medicaid program for services or goods not provided;
- Billing New York's Medicaid program for undocumented services;
- Making inaccurate, false or improper statements or entries in medical records, cost reports, applications or any other records or documents used to support reimbursement or obtain coverage from the New York Medicaid program;
- Billing New York's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from New York's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks and rebates;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

Civil and Criminal Penalties for False Claims or Statements

New York's false claims laws fall into two categories: civil and administrative; and criminal laws. Some apply to recipient false claims and some apply to provider false claims, and while most are specific to healthcare or Medicaid, some of the "common law" crimes apply to areas of interaction with the government. A violation of the New York False Claims Act may result in civil penalties designated by statute and adjusted to be equal to the civil penalties allowed under the federal False Claims Act, (2) damages totaling three times the value of the amount falsely

received; and (3) costs of the civil action, including attorney's fees. The court may lower the treble damages to two times the amount if the violator fully cooperated with the investigation by the state. Violations of the other New York laws may also result in civil penalties, repayment of the fraudulent amounts, criminal charges and exclusion from the Medicaid program.

Civil Lawsuits

Like the federal False Claims Act, New York law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs.

No Retaliation

Like federal law and The Companies' policy, various New York laws, including the New York False Claims Act and state labor laws, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including two times the amount of any back pay, reinstatement to a former position, litigation costs and reasonable attorney's fees.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

Compliance with Section 6032 of the DRA is mandatory for providers or provider entities making or receiving payments of at least \$5 million under the New York Medicaid Program in any federal fiscal year. The New York Office of Medicaid Inspector General (OMIG) requires Medicaid enrolled providers to certify regarding compliance with the DRA. The OMIG has developed an on-line certification form and covered providers are required to complete the form on or before January 1. The written policies and any employee handbook shall be retained for a period of 6 years from the letter of the due date or the actual submission of the certification. Failure to certify may result in administrative sanctions, up to and including exclusion from the program.

The form is available at: <https://omig.ny.gov/ssl-certification>. This compliance certification requirement is separate from, but related to, the mandatory provider compliance program under N.Y. Soc. Serv. § 363-d.

Copies of New York Laws

The New York laws summarized above include:

1. New York False Claims Act, N.Y. State Fin. Law §§187 et seq.
2. N.Y. Lab. Law §§ 740 et seq.
3. N.Y. Soc. Serv. Law §§ 145, 366-b.
4. N.Y. Penal Law §§ 155, 175, 176, and 177.

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

Maryland

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees who work in Maryland. As stated in our Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, Maryland False Claims Act, other Maryland Medicaid laws, imposes liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Maryland laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Maryland's Medicaid program for services or goods not provided;
- Billing Maryland's Medicaid program for undocumented services;
- Making inaccurate, false or improper entries in medical records, cost reports and any other records used to support reimbursement;
- Billing Maryland's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from Maryland's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks and rebates;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

Civil and Criminal Penalties for False Claims or Statements

A violation of the Maryland False Claims Act may result in civil penalties of: not more than \$10,000 per claim and an additional amount of not more than three times the amount of damages sustained by the state. Violations of the other Maryland laws may also result in civil penalties in an amount not more than three times the overpayment amount, in addition to any other penalty provided by law and any right to restitution under the Maryland Criminal Procedure Article. Violators may also face exclusion from the Maryland Medicaid program.

Civil Lawsuits

Like the federal False Claims Act, Maryland law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any

monetary recovery and receive an award for reasonable attorney's fees and costs. However, if the defendant prevails and the court finds that the claim of the *qui tam* plaintiff was brought for the purposes of harassment or in bad faith, then the court may award the defendant reasonable attorney's fees and costs against.

No Retaliation

Like federal law and The Companies' policy, various Maryland laws, including the Maryland False Claims Act and the Maryland Health Care Worker Whistleblower Protection Act, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including two times the amount of any back pay, reinstatement to a former position, litigation costs and reasonable attorney's fees.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

On January 16, 2007, the Maryland Department of Health and Mental Hygiene issued a provider transmittal notifying providers of the DRA employee education requirement for providers receiving Medicaid payments of \$5 million or more. The transmittal stated that Maryland Medicaid had incorporated by reference the DRA and any and all interpretations by CMS into the Medicaid provider enrollment agreements. According to the transmittal, the State will oversee providers' compliance with the federal requirement, and providers may be subject to audit by the Department of Mental Health and Hygiene. Failure to be in compliance may result in suspension from the Medicaid program. The transmittal further stated that the Department would submit a State Plan amendment and develop regulations implementing this requirement. Currently, no regulations have been implemented and no additional transmittal or guidance documents have been issued by the Department of Mental Health and Hygiene. The transmittal referenced above may be found at: <https://mmcp.health.maryland.gov/docs/PT%2015-07.pdf>.

Copies of Maryland Laws

The Maryland laws summarized above include:

1. Maryland False Claims Against State Health Plans and State Health Programs, Maryland Code Ann. Health-Gen. §§ 2-601 et seq.
2. Maryland Medicaid Fraud Laws, Maryland Code Ann. Health-Gen. §§ 8-508 et seq.
3. Maryland Health Care Worker Whistleblower Protection Act, Maryland Code Ann. Health-

Gen. §§ 1-501 et seq.

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

Delaware

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees participating in the care and treatment of Delaware State Medicaid beneficiaries and the processing of claims or other information related to such care and treatment. As stated in our Company Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Delaware laws referenced in this supplement impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Delaware laws apply to Medicaid reimbursement and impose civil and/or criminal penalties for, among other things:

- Billing Delaware's Medicaid program for services or goods not provided;
- Billing Delaware's Medicaid program for undocumented services;
- Making inaccurate, false or improper statements or entries in medical records, cost reports, applications or any other records or documents used to support reimbursement or obtain coverage from the Delaware Medicaid program;
- Billing Delaware's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from Delaware's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Participating in kickbacks and rebates;

Civil and Criminal Penalties for False Claims or Statements

A violation of the Delaware False Claims and Reporting Act may result in civil penalties of: (1) not less than \$10,957 and not more than \$21,916, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 2015 per claim, (2) three times the amount of the actual damages sustained by the government; and (3) costs of the civil action, including attorney's fees and costs. Violations of the other Delaware laws may also result in civil penalties, restitution of the fraudulent amounts, criminal charges and exclusion from the Delaware Medicaid program.

Civil Lawsuits

Like the federal False Claims Act, Delaware law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs.

No Retaliation

Like federal law and The Companies' policy, various Delaware laws, including the Delaware False Claims and Reporting Act and Whistleblowers' Protection Act, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including two times the amount of any back pay, reinstatement to a former position, litigation costs and reasonable attorney's fees.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

Entities that furnish Medicaid health services under the Delaware Medical Assistance Program for which payments exceed \$5 million annually must establish and disseminate written policies detailing the entity's policies and procedures for detecting and preventing waste, fraud and abuse. The entity shall also include in any employee handbook a specific discussion of the laws described in the written policies, the rights of employees to be protected as whistleblowers and discussion of entity specific policies and procedures. *See* 40-850-001 Del. Code Regs. § 1.6.3. The Department will contact entities meeting the threshold monetary requirement by January 31st each year. Providers are required to submit certification and, if required, copies of their policies and dissemination plans by April 1st. The Department will conduct verification through provider surveys. The Department has a range of sanctions for non-compliance from requiring a plan of correction to termination from the Medicaid program.

This information may be found in the Delaware Medicaid State Plan and on the following website: <http://regulations.delaware.gov/register/september2007/final/11%20DE%20Reg%20319%2009-01-07.htm>.

Copies of Delaware Laws

The Delaware laws summarized above include:

1. Delaware False Claims and Reporting Act, Del. Code Ann. tit. 6, §§ 1201 et seq.
2. Delaware Whistleblowers' Protection Act, Del. Code. Ann. tit. 19, §§ 1701 et seq.

3. Del. Code Ann. tit. 31, §§ 1003 et seq.
4. Del. Code Ann. tit. 11, § 913A.

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

District of Columbia

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees participating in the care and treatment of District of Columbia Medicaid beneficiaries and the processing of claims or other information related to such care and treatment. As stated in our Company Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the District of Columbia laws referenced in this supplement impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These District of Columbia laws apply to Medicaid reimbursement and impose civil and/or criminal penalties for, among other things:

- Billing District of Columbia's Medicaid program for services or goods not provided;
- Billing District of Columbia's Medicaid program for undocumented services;
- Making inaccurate, false or improper statements or entries in medical records, cost reports, applications or any other records or documents used to support reimbursement or obtain coverage from the District of Columbia Medicaid program;
- Billing District of Columbia's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from District of Columbia's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Participating in kickbacks and rebates;

Civil and Criminal Penalties for False Claims or Statements

A violation of the District of Columbia's False Claims Act may result in civil penalties of: (1) \$5,500 to \$11,000 per claim, (2) treble damages, and (3) costs of bringing the civil action. The court may lower the treble damages to two times the amount if the violator fully cooperated with the investigation by the state. Violations of other District of Columbia Medicaid laws may result in civil penalties of not more than \$100,000 for each violation and imprisonment of not more than one year. Violators may also face suspension or termination from the District of Columbia Medicaid program.

Civil Lawsuits

Like the federal False Claims Act, District of Columbia law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs. However, if the defendant prevails and the court finds that the claim of the *qui tam* plaintiff was clearly frivolous, clearly vexatious or brought for the purposes of harassment, then the court may award the defendant reasonable attorney fees and costs against.

No Retaliation

Like federal law and The Companies' policy, the District of Columbia's False Claims Act (public and private employees) and the whistleblower protection laws (public employees) prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including back pay, reinstatement to a former position, litigation costs and reasonable attorney's fees.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

Each enrolled Medicaid provider meeting the \$5 million requirement will be required to submit an annual false claims education certification letter to the Medical Assistance Administration, stating that the entity has provided continuing education for false claims education during the prior year. The letters will be maintained by the Medicaid agency for review by CMS. The letters should be submitted to the Administration on or before the first day of each succeeding calendar year for the period covering the prior calendar year. The letter should be signed by the Chief Executive or Chief Operating Officer. District of Columbia State Plan, Attachment 4.42-A, <https://dhcf.dc.gov/sites/default/files/dc/sites/dhcf/publication/attachments/DHCFStatePlanAttach4-42a.pdf>.

Copies of District of Columbia Laws

The District of Columbia laws summarized above include:

1. District of Columbia False Claims Act, D.C. Code §§ 2-381.01 et seq.
2. D.C. Code § 4-324.

3. D.C. Code §§ 1-615.52. 2-223.01.

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

Maine

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees participating in the care and treatment of Maine State Medicaid beneficiaries and the processing of claims or other information related to such care and treatment. As stated in our Company Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Maine laws referenced in this supplement impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Maine laws apply to Medicaid reimbursement and impose civil and/or criminal penalties for, among other things:

- Billing Maine's Medicaid program for services or goods not provided;
- Billing Maine's Medicaid program for undocumented services;
- Making inaccurate, false or improper statements or entries in medical records, cost reports, applications or any other records or documents used to support reimbursement or obtain coverage from the Maine Medicaid program;
- Billing Maine's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from Maine's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Participating in kickbacks and rebates;

Civil and Criminal Penalties for False Claims or Statements

The civil liability for persons making false claims includes: (1) restitution, (2) payment of interest on the amount of overpayment, (3) civil penalties in the amount three times the amount of overpayment, but in no case less than \$2,000 for each claim, (4) cost of the suit and (5) costs of investigation. Providers may also be sanctioned in the form of exclusion from participation in Maine Medicaid Program and/or face criminal penalties.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Maine law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.

No Retaliation

Like federal law and The Companies' policy, Maine law, including the Maine Whistleblowers' Protection Act, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including two times the amount of any back pay, reinstatement to a former position, litigation costs and reasonable attorney's fees.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

Compliance with Section 6032 of the DRA is mandatory for providers or provider entities making or receiving payments of at least \$5 million under the MaineCare Program in any federal fiscal year. During June of each year, the Maine Department of Health and Human Services will notify all entities who met this threshold in the prior federal fiscal year. For new providers, the Department will request copies of the affected provider's written policies, including employee handbooks or instructions and, if applicable, the plan to disseminate those policies. Thereafter, the Department will contact entities in June for any updates or changes to the written policies. The Department may verify compliance through a survey of the provider. The Department has a range of sanctions for non-compliance from requiring a plan of correction to termination from the Medicaid program. *See* 10-144-101 Me. Code R. § 1, App. 3.

Copies of Maine Laws

The Maine laws summarized above include:

1. Me. Rev. Stat. Ann. tit. 22, §15.
2. Whistleblowers' Protection Act, Me. Rev. Stat. Ann. tit. 26, §§ 831 et seq.
3. 10-144-101 Me. Code R. §§ 119, 120.

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

Nevada

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees participating in the care and treatment of Nevada State Medicaid beneficiaries and the processing of claims or other information related to such care and treatment. As stated in our Company Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Nevada laws referenced in this supplement impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Nevada laws apply to Medicaid reimbursement and impose civil and/or criminal penalties for, among other things:

- Billing Nevada's Medicaid program for services or goods not provided;
- Billing Nevada's Medicaid program for undocumented services;
- Making inaccurate, false or improper statements or entries in medical records, cost reports, applications or any other records or documents used to support reimbursement or obtain coverage from the Nevada Medicaid program;
- Billing Nevada's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from Nevada's Medicaid program;
- Participating in kickbacks and rebates;

Civil and Criminal Penalties for False Claims or Statements

A violation of the Nevada False Claims Act may result in civil penalties of: (1) \$5,500 to \$11,000 per claim as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (2) treble damages, and (3) costs of bringing the civil action. The court may lower the treble damages to two times the amount, and no civil penalty, if the violator fully cooperated with the investigation by the state. Violations of other Nevada Medicaid laws may result in civil penalties not less than \$5,000 per claim, an amount equal to three times the total reasonable expenses incurred by the state, criminal conviction up to four (4) years and a criminal fine of not more than \$5,000. Violators may also face exclusion from the Nevada Medicaid program.

Civil Lawsuits

Like the federal False Claims Act, Nevada law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also

called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs.

No Retaliation

Like federal law and The Companies' policy, Nevada law, including the Nevada False Claims Act, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including two times the amount of any back pay, reinstatement to a former position, litigation costs and reasonable attorney's fees.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

The Nevada Division of Health Care Financing and Policy is required to ensure entities receiving annual Medicaid payments of at least \$5 million have written policies for educating their employees on federal and state regulations pertaining to false claims and statements, the detection and prevention of fraud and abuse and whistleblower protections. Providers are required to: (a) adhere to federal and state regulations, and the provider agreement or contract, to establish written policy of dissemination to their staff; (b) ensure policies are adopted by any contractor or agent acting on their behalf; (c) educate staff on the regulations; (d) provide signed Certification Form, signed provider agreement, copies of written policy and employee handbook, and documentation staff has been education, within the required timeframes; (e) maintain documentation on the education of staff, and make it readily available for review by state and federal officials; and (f) provide requested re-certification within required timeframes to ensure ongoing compliance. *See* Division of Health Care Financing and Policy, Medicare Services Manual, § 103.4. The Department will notify providers meeting the \$5 million threshold within the first quarter of each calendar year. Each provider must return the Certification Form, along with requested documentation, within 90 days of receipt of the notice. *See* Nevada State Plan Under Title XIX of the Social Security Act, § 4.42 and Attachment A found at: <http://dhcfnv.gov/uploadedFiles/dhcfpnavgov/content/Resources/AdminSupport/Manuals/MSP/Sec4/Section4-42AAttachment.pdf>.

Copies of Nevada Laws

The Nevada laws summarized above include:

1. Nevada False Claims Act, Nev. Rev. Stat. Ann. §§ 357.010 et seq.
2. False Claims Against the Medicaid Program, Nev. Rev. Stat. Ann. § 422.540

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

New Hampshire

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees participating in the care and treatment of New Hampshire State Medicaid beneficiaries and the processing of claims or other information related to such care and treatment. As stated in our Company Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the New Hampshire laws referenced in this supplement impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These New Hampshire laws apply to Medicaid reimbursement and impose civil and/or criminal penalties for, among other things:

- Billing New Hampshire's Medicaid program for services or goods not provided;
- Billing New Hampshire's Medicaid program for undocumented services;
- Making inaccurate, false or improper statements or entries in medical records, cost reports, applications or any other records or documents used to support reimbursement or obtain coverage from the New Hampshire Medicaid program;
- Billing New Hampshire's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from New Hampshire's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks and rebates;

Civil and Criminal Penalties for False Claims or Statements

A violation of the New Hampshire False Claims Act may result in civil penalties of \$5,000 to \$10,000 per claim and three times the amount of the actual damages sustained by the government. The court may lower the treble damages to two times the amount if the violator fully cooperated with the investigation by the state. Violations of the other New Hampshire laws may result in civil penalties, restitution of the fraudulent amounts, criminal charges and suspension or termination of provider agreements.

Civil Lawsuits

Like the federal False Claims Act, New Hampshire law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs. However, if the defendant prevails and the court finds that the claim of the *qui tam* plaintiff was clearly frivolous, clearly vexatious or brought for the purposes of harassment, then the court may award the defendant reasonable attorney fees and costs against.

No Retaliation

Like federal law and The Companies' policy, New Hampshire law, including the New Hampshire Whistleblowers' Protection Act, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including two times the amount of any back pay, reinstatement to a former position, litigation costs and reasonable attorney's fees.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

In June 2007, The New Hampshire Medicaid Program issued a Medicaid bulletin announcing the requirement to comply with Section 6032 of the DRA by ensuring that entities receiving annual Medicaid payments of at least \$5 million have written policies for educating their employees on federal and state regulations pertaining to false claims and statements, the detection and prevention of fraud and abuse and whistleblower protections. New Hampshire Medicaid will make determinations of providers meeting the threshold amount by January 1 of each subsequent year based upon the amount of Medicaid payments an entity received or made during the preceding federal fiscal year. Currently, no statutes or regulations regarding this requirement have been implemented by New Hampshire.

Copies of New Hampshire Laws

The New Hampshire laws summarized above include:

1. New Hampshire False Claims Act, N. H. Rev. Stat. Ann. §§ 167:61-b et seq.
2. New Hampshire Whistleblowers' Protection Act, N. H. Rev. Stat. Ann. §§ 275-E:2 et seq.

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.

Vermont

Compliance Program: Code of Conduct and False Claims Prevention Compliance

Policy

This is a supplement to The Companies' Code of Conduct and False Claims Prevention Compliance Policy for employees participating in the care and treatment of Vermont State Medicaid beneficiaries and the processing of claims or other information related to such care and treatment. As stated in our Company Code of Conduct and False Claims Prevention Compliance Policy, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Vermont laws referenced in this supplement impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Vermont laws apply to Medicaid reimbursement and impose civil and/or criminal penalties for, among other things:

- Billing Vermont's Medicaid program for services or goods not provided;
- Billing Vermont's Medicaid program for undocumented services;
- Making inaccurate, false or improper statements or entries in medical records, cost reports, applications or any other records or documents used to support reimbursement or obtain coverage from the Vermont Medicaid program;
- Billing Vermont's Medicaid program for medically unnecessary services;
- Participating in kickbacks and rebates;

Civil and Criminal Penalties for False Claims or Statements

A violation of the Vermont laws may result in civil penalties of not less than \$5,500 and not more than \$11,000 for each violation, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, treble damages, and the costs of investigating and prosecuting such violation. . Violators may also be subject to suspension or termination from participation in the Medicaid program for a period of four years.

Civil Lawsuits

Like the federal False Claims Act, New York law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs.

No Retaliation

Like federal law and The Companies' policy, Vermont law prohibits hospital and nursing home employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including back pay, reinstatement to a former position, litigation costs and reasonable attorney's fees.

The employees must first report the alleged violation to the employer, supervisor or other person designated by the employer to address such reports. The employer may have a reasonable opportunity to address the violation.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Companies' Code of Conduct and False Claims Prevention Compliance Policy or regulatory violation, or (2) refused to violate The Companies' Code of Conduct and False Claims Prevention Compliance Policy or a government law or regulation, may be subject to disciplinary action up to and including separation of employment.

Deficit Reduction Act (DRA) Compliance

Vermont Medicaid is required to ensure entities receiving annual Medicaid payments of at least \$5 million have written policies for educating their employees on federal and state regulations pertaining to false claims and statements, the detection and prevention of fraud and abuse and whistleblower protections. The Department of Vermont Health Access will make determinations of entities meeting the \$5 million requirement by January 1 of each year and forward letters to the entities. Vermont Medicaid State Plan, § 4.42. A copy of the Vermont State Plan is available at: <http://dvha.vermont.gov/administration/section-4-pgs-32-79bb.pdf>.

Copies of Vermont Laws

The Vermont laws summarized above include:

1. Vt. Stat. Ann. tit. 32, § 630.
2. Vt. Stat. Ann. tit. 13, § 3016.

If you have questions about any of these requirements, you may contact The Companies' Compliance Hotline at 1-800-362-1059 or the Chief Compliance Officer, any member of The Companies' Compliance Committee, or any other appropriate member of senior management.