

False Claims Act Policies and Procedures

Overview

The False Claims Act is one of many federal laws that helps prevent fraud, waste and abuse in the health care industry. Any submission of false information, records or claims regarding federal health care programs may violate the False Claims Act and can result in severe financial penalties. Examples of false claims can include billing for services not provided or medically necessary, billing for the same service more than once or making false statements to receive payment for services. Violators of the False Claims Act can submit a false claim either actively knowing that it is false or can submit it with “reckless disregard” to whether or not the claim is false. With either case, violators may face steep fines and civil penalties that can equal three times the amount of the false claim plus additional fines per claim.

False Claims Act Policies and Procedures

Although False Claims Act penalties can be severe, health care organizations can implement standard policies and procedures to ensure that all levels of the workforce understand the False Claims Act. These policies and procedures also help workforce members learn how to remain compliant with the law in order to prevent possible violations and other fraud, waste and abuse in the workplace.

Standard False Claims Act policies include:

1. The organization will abide by all federal and state laws to effectively implement and enforce procedures to detect and prevent fraud, waste, and abuse in receiving payments from federal health care programs.
2. The organization will educate and train workforce members about fraud and abuse, including the detailed provisions of the False Claims Act, state laws regarding civil or criminal penalties and qui tam provisions through compliance training.
3. All workforce members, management and contractors or agents will be knowledgeable and aware of laws regarding false or fraudulent claims.
4. The Compliance Officer is responsible for ensuring that the compliance program is effective in detecting and preventing potential incidents of fraud, waste, and abuse. With oversight from the Compliance Officer, operations managers will establish and maintain methods for detecting and preventing incidents of fraud, waste and abuse, including but not limited to:
 - a. A claims quality assurance program that monitors the accuracy of adjudicated claims
 - b. A compliance hotline
 - c. A process that identifies employees, contractors, vendors, and providers that are debarred or excluded from participating in federal programs. We source <https://oig.hhs.gov/about-oig/> for exclusions. Further, it is the Compliance Officer’s responsibility to ensure that any incidents are appropriately handled by qualified personnel, discussed, and reported to the appropriate law enforcement agency. If the Compliance Officer identifies any incidents of fraud and abuse, the organization will implement systematic changes and corrective action initiatives to prevent further offenses.
5. All workforce members will conduct themselves in an ethical and legal manner, including maintaining accurate records related to the rendering of items or services payable by federal health care programs.
6. The organization will fully cooperate with federal and state agencies that conduct healthcare fraud and abuse investigations.

7. All workforce members, contractors and agents will be responsible for reporting potential or suspected incidents of fraud and abuse and/or other wrongdoing directly to their supervisor and/or executive management or by using an internal reporting method such as a compliance hotline.
8. The organization will protect all workforce members from retaliation and retribution when they report suspected wrongdoing through any reporting method.
9. The Compliance Officer, will be responsible for receiving and acting upon all information suggesting possible fraud, abuse or wrongdoing, and for directing all investigations.
10. The Compliance Officer, will conduct an investigation into any allegations of suspected violations of any criminal, civil or administrative law.
11. The organization will include all policies and procedures in the workforce member handbook or annual trainings and distribute all information to contractors and agents in accordance with the Deficit Reduction Act of 2005.

Standard False Claims Act procedures include:

1. Training on the False Claims Act will be delivered to all workforce members through the annual compliance program training. False Claims Act training will include:
 - a. Detailed information on the False Claims Act and the administrative solutions for false claims and statements
 - b. State laws pertaining to civil or criminal penalties
 - c. Whistleblower rights
 - d. The organization's requirements for preventing, detecting and reporting fraud, waste and abuse

The Federal False Claims Act prohibits a person from knowingly filing a false or fraudulent claim for payment or knowingly using a false statement or representation in connection with filing a claim that seeks reimbursement from Medicare, Medicaid, or other federally funded programs. A person acts "knowingly" if the person has actual knowledge of the false information in the claim, acts in deliberate ignorance of the falsity of the claim, or acts in reckless disregard of the falsity of the claim.

Federal Law Protections Against Retaliation

The False Claims Act also protects employees from retaliation or discrimination in the terms and conditions of their employment based on lawful acts of the employee done in furtherance of an action under the False Claims Act. This applies to any employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in his or her employment as a result of the employee's lawful acts in furtherance of a false claims action.

Federal Law Fines and Penalties

Penalties for violating the False Claims Act include up to three times the amount of damage sustained by the federal government, civil monetary penalties of between \$10,781 and \$21,563 (subject to increases for inflation) per false claim, and/or exclusion from federally funded programs. Federal law also contains criminal and administrative sanctions for false claims and statements that may be applicable to identified instances of health care fraud, waste, and abuse.

The Federal Program Fraud Civil Remedies Act or the Federal Administrative Remedies for

False Claims and Statements creates administrative authorities that permit federal agencies to recover in the case of false claims. If a person submits a claim that the person knows is false or contains false

information, or omits material information, then the agency receiving the claim may impose a civil penalty of up to \$10,781 per claim plus twice the amount of the claim. This law is violated when the false claim is submitted. The determination of whether a claim is false, and the imposition of fines and penalties is made by an administrative agency, not in the federal court system.

State Law

Many states have laws similar to the Federal False Claims Act and the Program Fraud Civil Remedies Act. A map with links to individual laws can be found at [False Claims Unit | State of California - Department of Justice - Office of the Attorney General](#)

2. Complaints, allegations, and concerns reported through the compliance hotline and/or received directly by the Compliance Office concerning fraud and abuse will be handled under the direction and coordination of the Compliance Officer.

A copy of this policy shall be made available to all Associates on the Company's public website and HR Training Guide.

3. To the extent practical or allowed by law, the Compliance Officer will maintain the confidentiality or anonymity of any workforce member when requested.

4. Retaliation or retribution for reporting issues in good faith is prohibited.

5. All Covered Persons employees, contractors, and agents with knowledge of potential fraud and abuse situations will report them by notifying:

- a. Their direct supervisor
- b. Any supervisor or member of management
- c. Human Resources
- d. The Compliance Officer or Compliance Department, either in person or by phone
- e. The confidential compliance hotline

6. Any party who receives a report of fraud (e.g., management, Human Resources, etc.) will immediately inform the Compliance Officer, who will conduct an initial investigation before any other action is taken. No supervisor or manager should directly confront the workforce member alleged to have committed fraud, or otherwise discuss the issue with anyone suspected of engaging in fraudulent or abusive practices without prior approval from the Compliance Officer.

7. The Compliance Officer will direct or conduct fraud and abuse investigations. In doing so, the Compliance Officer will gather facts of the incident as promptly as possible.

8. If the Compliance Officer determines that there is sufficient evidence to support an allegation of violation of law or regulation, he/she will report all relevant information to DHCS.

9. The organization will take appropriate disciplinary and enforcement action (i.e., corrective actions, employment termination or contract termination) against workforce members, providers, subcontractors, consultants, and agents found to have committed fraud and abuse violations.

SEEKING GUIDANCE AND REPORTING CONCERNS

If you have a question about this policy or are aware of activities that may violate this policy, Speak Up. Contact a member of the Compliance Team or use one of the anonymous reporting mechanisms set forth below.

Compliance Hotline:

714-409-3877 ext 7

All new Associates will receive Compliance training that shall include a detailed overview of the Compliance and Ethics Program including False Claims Act education. Thereafter, periodic updates will be provided to existing Associates

All Company Associates shall have access to this Policy on False Claims Act education. The Policy contains detailed information about the state and federal False Claims Act, administrative remedies for false claims and statements, relevant state laws that create civil or criminal penalties for false claims and statements, and whistleblower protections under such laws as required by the DRA-Deficit Reduction Act.