

False Claims Act Policy and Procedures
Providence Community Services Inc.
Children's Behavioral Health Inc.
The ReDCo Group Inc.
Ross Innovative Employment Solutions

Purpose:

The following policy applies to all of the companies of the Northeast Region of Providence Service Corporation (the Companies) and describes the Companies commitment to abide by establish policies and procedures under the Federal Deficit Reduction Act, the Federal Whistleblower's Act, state the federal False Claims Act, and specific state Medicaid False Claims Acts. The following policy is established in order to help our employees, agents and contractors understand the provisions of the federal and state laws regarding submitting false claims for reimbursement.

Employees are expected to report any known or suspected violations of these acts to their supervisors, the Compliance Officer for the Northeast Region, or the Corporate Ethics Hotline.

Corporate Compliance Officer – Northeast Region
1-800-338-1299 ext 3336
NEcomplianceofficer@provcorp.com

Corporate Ethics Hotline
1-800-648-7140

I. Federal False Claims Act (Title 31 Sections 3729 through sections 3733).

A. Background and Reason for Implementation of the False Claims Act

The False Claims Act (“FCA”) has been in existence since the Civil War and was originally designed to combat fraud and abuse in the military. Over the years, the provision has been used successfully to fight fraud in the defense contracting industry. The law is now being used to deter fraud and abuse in the health care arena. The FCA is being used, among other things, to prevent spiraling health care costs through the prevention of certain revenue enhancing practices such as the over-utilization of services and the submission of false or inaccurate billing statements. Penalties and fees recouped under FCA are hoped to extend the longevity of endangered federal health care programs and benefits as well as deter future fraudulent actions on the part of health care providers.

B. Civil Liability Under the False Claims Act and Penalties for Violations

The False Claims Act prohibits among other things:

1. knowingly presenting or causing to be presented to the federal government a false or fraudulent claim for payment or approval;
2. knowingly making or using, or causing to be made or used, a false record or statement in order to have a false or fraudulent claim paid or approved by the government;
3. conspiring to defraud the government by getting a false or fraudulent claim allowed or paid; and
4. knowingly making or using, or causing to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the government.

“Knowingly” means that a person, with respect to information: (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no specific proof of intent to defraud is required.

Penalties for those who violate the FCA include civil monetary penalties between \$5,000 and \$11,000 plus three times the amount of the government’s damages for each false claim submitted.

C. What is a Qui Tam Action?

The purpose of the qui tam provisions under the False Claims Act is to give an incentive to whistleblowers to come forward to help the government discover and prosecute fraudulent claims by awarding them a percentage of the amount recovered. There are many different types of health care fraud that can be the basis of a qui tam action. These include, but are not limited to:

- add-on services
- upcoding and unbundling
- kickbacks
- false certification and information
- lack of medical necessity
- fraudulent cost reports
- grant or program fraud
- billing for inadequate patient care

The qui tam provisions allow any person with actual knowledge of false claims activity to file a lawsuit on behalf of the US government. A person providing such notice is commonly referred to as a “Whistleblower”. In order to meet the criteria to qualify as a “Whistleblower” the following criteria must be met.

D. Whistleblower Criteria

1. Original Source

First, to prevail under a lawsuit, the whistleblower must be the “original source” of the information reported to the federal government. Specifically, the whistleblower must have direct and independent knowledge of the false claims activity and must voluntarily provide this information to the government. If the matter disclosed is already a subject of a federal investigation, or if the health care provider or supplier had previously disclosed the problem to a federal agency, the whistleblower may be barred from obtaining recovery under the False Claims Act.

2. Qui Tam Procedure

This whistleblower must file his or her lawsuit in a federal district court “under seal.” This means that the lawsuit is kept confidential while the government reviews and investigates the allegations and decides how to proceed. If the government determines that the lawsuit has merit and decides to join (“intervene”), the prosecution of the lawsuit will be directed by the US Department of Justice. At this point, the government will be the “plaintiff” or party suing the health care provider. If the government decides not to intervene, the whistle-blower can continue with the lawsuit on his or her own.

3. Award to Qui Tam Whistleblowers

If the lawsuit is successful, the whistleblower may receive an award ranging from 15 to 25 percent of the amount recovered by the government and may also be entitled to reasonable expenses including attorney’s fees and costs for bringing the lawsuit.

4. Period of Time by which a Whistleblower Can Bring a Qui Tam Action

A civil action for false claims cannot be brought more than six years after the date on which the violation was committed or more than three years after the date when the facts material to the right of action are known or reasonably should have been known by the government official charged with responsibility to act in the circumstances (but in no event more than 10 years after the date on which the violation was committed), whichever occurs last.

E. Protections for the Whistleblower under the Federal False Claims Act

The False Claims Act also contains a cause of action/protections for any employee who is “discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment by his or her employer as a result of his or her involvement in a qui tam suit.” *See* 31 USC 3730(h). The statute entitles employees to relief such as reinstatement with the same seniority status they would have had but for the discrimination; twice the amount of back pay; interest on back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys’ fees.

The Company is committed to the prevention of fraud and abuse as well as the protection of its employees who make reports of potential findings. All employees are strongly encouraged that if they have any knowledge or information of any fraudulent activity to notify his or her supervisor, or call the Corporate Compliance Officer at 1-800-338-1299 or the Corporate Ethics Hotline at 1-800-648-7140 Information may be reported to the Compliance Officer or the Hotline anonymously.

II. Pennsylvania’s Medicaid “False Claims Act” (Title 62 P.S. 1407, et seq.)

A. Summary of the Pennsylvania law?

There can also be liability under the state of Pennsylvania for false or fraudulent claims with respect to Medicaid program expenditures. The statute in question prohibits false claims and statements as follows:

It shall be unlawful for any person to: Knowingly or intentionally present for allowance or payment any false or fraudulent claim or cost report for furnishing services or merchandise under medical assistance, or to knowingly present for allowance or payment any claim or cost report for medically unnecessary services or merchandise under medical assistance, or to knowingly submit false information, for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise under medical assistance, or to knowingly submit false information for the purpose of obtaining authorization for furnishing services or merchandise under medical assistance.

B. Pennsylvania law also prohibits the following conduct:

*Soliciting or receiving or to offer or pay any remuneration, including any kickback, bribe or rebate, directly or indirectly, in cash or in kind from or to any person in connection with the furnishing of services or merchandise for which payment may be in whole or in part under the medical assistance program or in connection with referring an individual to a person for the furnishing or arranging for the furnishing of any services or merchandise for which payment may be made in whole or in part under the medical assistance program.

*Submitting duplicate claims for services, supplies or equipment for which the provider has already received reimbursement.

*Submitting claims for services, supplies or equipment which were never provided;

* Submitting a claim for services, supplies or equipment which includes costs or charges not related to the services provided to the recipient.

*Submitting a claim or referring a recipient to another provider for services, supplies or equipment which are not documented in the record, are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient.

*Submitting a claim which misrepresents the description of services, the dates of services, the identity of the recipient or the attending physician or the identity of the referring or actual provider;

* Submitting a claim for reimbursement for a service or item at a charge higher than the provider's usual and customary charge to the general public for the same;

*Providing a service or item without a practitioner's written order or the consent of the recipient, except in emergency situations.

*Except in emergency situations, providing a service or item to a patient claiming to be a recipient without making a reasonable effort to verify a current medical assistance identification card, that the person is, in fact, a recipient who is eligible.

*Entering into an agreement or conspiracy to obtain to obtain reimbursement or payments for which there is not entitlement.

*Making a false statement in the application for enrollment as a provider.

* Violating 62 P.S. Section 1403(d)(1),(2), (4) and (5) with respect to prohibitions regarding shared health facilities by: leasing on percentage of earnings, paying for referrals in lease, providing improper or unwarranted services, referral to another provider in the facility absent medical justification.

C. Penalties for Violating Pennsylvania's Medicaid False Claims Act?

With one exception, violations of the Pennsylvania law constitute a felony of the third degree. For each violation there is a maximum penalty of \$15,000 and up to seven years imprisonment. If an individual is convicted in any other state court or Federal court for actions that would constitute a violation of Pennsylvania's law, they may be prosecuted under Pennsylvania law for a second degree felony as well as payments of a maximum penalty of \$25,000 and up to 10 years' imprisonment. Individuals convicted under Pennsylvania's law will also be

required to repay the excess benefits or payments they received plus interest on the amount. Convictions also result in preclusion of a provider from participating in the medical assistance program for a period of five (5) years from the date of conviction.

III. Pennsylvania Whistleblowers' Protection Law

A. The Statute

Pennsylvania has enacted state laws protecting employees who make reports of a violation or suspected violation of State, local or Federal law to "appropriate authorities." The law itself is designed to provide protection for employees who participate in hearings, investigations, legislative inquiries or court actions. More specifically, under Section 1423 of the Act, no employer may discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee or a person acting on behalf of the employee makes a "good faith" report or is about to report, verbally or in writing, to the employer or appropriate authority an instance of wrongdoing or waste.

B. Penalties for Violation of the Pennsylvania Whistleblower's Law

Under Sections 1424 through 1426 of the Pennsylvania Whistleblower's Act, a person who claims violation of the act may bring a civil action in court for appropriate injunctive relief, monetary damages or both within 180 days after the occurrence of the alleged violation. Actions that can be taken by the court include reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages or any combination of these remedies. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, if the court determines that the award is appropriate.

IV. Summary

All officers, directors and employees are required to report information concerning Improper Activities. Such reports may be submitted in a confidential and anonymous manner. Such reports are encouraged to be made in writing so as to assure a clear understanding of the issues, but may be oral. Reports should be factual rather than speculative and should contain specific information to allow for proper assessment of the nature, extent and urgency of the issues raised in the report.

Reporting employees should refrain from:

- * obtaining evidence for which they do not have a right of access and
- * conducting their own investigative activities.

It is the Company's policy that no employee shall be subject to disciplinary or retaliatory action by the Company or any of its employees or agents as a result of the employee's submitting a report hereunder. However, employees who file reports of Improper Activities or provide evidence which they know to be false or without a reasonable belief in the truth and accuracy of such information will not be protected by the above policy statement and may be subject to disciplinary action and legal claims.

Reporting employees that report Improper Activities on an anonymous basis must provide sufficient corroborating evidence to justify the commencement of an investigation. Unspecified wrongdoing or broad allegations without verifiable evidentiary support may not lead to an investigation. Because of the inability of investigators to interview anonymous reporting employees, it may be more difficult to evaluate the credibility of an Improper Activity and therefore, it is less likely that an investigation will be initiated.

The following are available to employees to report known or suspected inappropriate or unethical behavior by any employee of the Companies that includes the reporting and/or billing for services not rendered, or to report retaliation for reporting such behavior.

Corporate Compliance Officer – Northeast Region
1-800-338-1299 ext 3336
NEcomplianceofficer@provcorp.com

Or

Providence Services Corporate Ethics Hotline
1-800-648-7140