

**North Carolina Department of Health and Human Services
Division of Public Health
Federal False Claims Act Education
Employee Notice**

The Deficit Reduction Act (DRA) of 2005 requires all entities receiving \$5,000,000 or more from the Medicaid program to provide employees, contractors or agents of this entity with information concerning the False Claims Act (FCA). This notice provides all affected individuals the required information.

The FCA imposes civil liability on organizations and individuals that make false claims to the government for payment. Under FCA, anyone who violates the act is liable for a civil penalty of not less than \$5,000 to \$10,000 per claim, plus three times the amount of damages the government sustains. Additional punishment may include excluding violators from participating in Medicaid and other government programs. Anyone intentionally participating in the submission of a false claim may also be liable to the United States government for the costs of civil action to recover penalties or damages.

Each person can be held liable under the FCA if he/she:

- Knowingly presents the government with a false claim payment or approval
- Knowingly makes a false statement to get a fraudulent claim paid by the government
- Conspires to defraud the government by getting a false claim paid
- Knowingly makes a false record or statement to conceal, avoid or decrease an obligation to pay the government, or
- Causes a false claim to be submitted

“Knowing” is defined under the FCA to include the submission of a claim in “reckless disregard” of the truth or falsity of the claim or “deliberate ignorance” of its propriety. Managerial staff can be held accountable in situations where they refuse to explore a credible concern about compliance requirements for a particular bill, claim, or practice.

It is essential that each employee be aware of compliance to existing standards for activities performed on the job. Areas include but are not limited to medical record documentation, coding, billing, accounts receivable or compliance with state/federal regulatory requirements.

State False Claims Act

The Medical Assistance Provider False Claims Act (MAPFC) of 1997 makes it unlawful for any Medicaid provider to knowingly make or cause to be made a false claim for payment. Under the MAPFC “knowingly” means that a provider

- Has actual knowledge of the information
- Acts in deliberate ignorance of the truth or falsity of the information; or
- Acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

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Providers in violation of this act may be assessed a penalty by the court of between \$5,000 to \$10,000 plus three times the amount of damages which the Medicaid Program sustained.

Reporting Compliance Concerns

Each employee has a duty to report possible wrongdoing or suspected violations of applicable federal and state laws and regulations. The Division of Public Health has an open door policy available to all employees acting in good faith to encourage communication, dialogue, and the reporting of incidents of potential wrongdoing or suspected violations. The Division of Public Health will not retaliate or discriminate against any employee who makes a good faith report of a suspected violation regarding the observed conduct or actions by another person by reason of such a report being made.

In the event you discover a compliance error that could lead to a violation of FCA or MAPFC, you should bring it to the attention of your immediate supervisor/contract manager who in turn will work with the DPH Compliance Services Officer Donna Gregory. She can be reached by calling her at (919) 707-5064 or emailing her at Donna.Gregory@ncmail.net. There are also hotlines available for anonymous reporting. These are the NCDHHS CARELINE at 1-800-662-7030, State Auditor's Waste line at 1-800-730-TIPS and US DHHS Office of Inspector's General at 1-800-HHS-TIPS.

QUI tams

“Qui tams” is a legal term meaning that those with evidence of fraud against federal programs or contracts can sue the wrongdoer on behalf of the government. The FCA contains provisions that allow employees, competitors, and third parties to bring suits on behalf of the government as qui tam realtors. A qui tam realtor or whistleblower is the one who originally brings the information to the court as a plaintiff. If the government believes the case has merit, the government will pursue the matter by investigating and prosecuting the entity and recovering damages under FCA. The realtor may be entitled to receive from 10% to 25% of the final settlement or judgment. If the government declines to intervene in the lawsuit, the realtor can proceed on his/her own to trial under the FCA allegations, and receive up to 30% of the settlement.

Employee Signature

Date