

ALICE HYDE MEDICAL CENTER CORPORATE COMPLIANCE PROGRAM SUMMARY

The Alice Hyde Medical Center (hereinafter referred to as “AHMC” or “Medical Center”) is committed to providing high quality health care in an honest and efficient manner. To meet this objective, AHMC voluntarily adopted a Corporate Compliance Program to establish a framework in accordance with applicable law to promote and assure ethical business practice and provide guidance to each employee and contractor regarding his or her conduct.

The Corporate Compliance Program in conjunction with the Medical Center’s policies and procedures describe the Medical Center’s expectations regarding compliance. The Program includes written standards of conduct that promote ethical behavior as well as various policies to prevent, detect and remedy fraud, waste and abuse. AHMC encourages all employees, management, and contractors or agents to be aware of the laws regarding fraud and abuse and false claims and to identify and resolve any issues immediately.

AHMC takes issues regarding fraud, waste and abuse seriously. It is important that all employees and individuals associated with AHMC (1) comply with the standards contained in the Corporate Compliance Program; (2) immediately report any suspected violations; and (3) assist, as needed, in investigating allegations of wrongdoing. While there will be no retaliation allowed on those who raise issues, failure to observe the provisions of the Program and associated policies and procedures of AHMC can result in serious consequences to both the employee and the Medical Center in the form of termination, criminal charges and substantial monetary fines.

A compliance concern or question should be reported to an employees’ immediate supervisor, or may be made anonymously to the Corporate Compliance Officer. Such a report may be made using the Corporate Compliance Concern line (518-481-2535) or by written note which may be submitted in the drop box located at the employee entrance. AHMC will promptly investigate all reported concerns and take appropriate action for correction and reporting.

I. FEDERAL LAWS

A. The Federal False Claims Act¹

The Federal False Claims Act (“FCA”) is a law that prohibits a person or entity, such as AHMC from “knowingly” presenting or causing to be presented a false or fraudulent claim for payment or approval to the Federal government, and from “knowingly” making, using or causing to be made a false record or statement to get a false or fraudulent claim paid or approved by the Federal government. The FCA also prohibits a person or entity from conspiring to defraud the government by getting a false or fraudulent claim allowed or paid. These prohibitions extend to claims submitted to Federal health care programs, such as Medicare or Medicaid.

The FCA broadly defines the terms “knowing” and “knowingly.” Specifically, knowledge will have been proven for purposes of the FCA if the person or entity: (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. The law specifically provides that a specific intent to defraud is not required in order to prove that the law has been violated.²

A person or entity found guilty of violating this law is obligated to repay all of the falsely obtained reimbursement and will be liable for a civil penalty of up to \$11,000, plus three times the amount of actual damages sustained by the government as a result of the prohibited conduct for *each* violation.³ In addition to being liable for damages and civil penalties, violating the FCA can subject a person or entity to exclusion from participation in Federal health care programs, such as Medicare and Medicaid.⁴

B. Whistleblower Protections

Private persons are permitted to bring civil actions for violations of the FCA on behalf of the United States (also known as “qui tam” actions) and are entitled to receive percentages of monies obtained through settlements,

¹ 31 USC § 3729 *et seq.*

² 31 USC § 3729(b).

³ 31 USC § 3729(a)(7).

⁴ 42 USC § 1320a-7a(a).

penalties and/or fines collected.⁵ Persons bringing these claims (also known as “whistleblowers”) are granted protection under the law. Specifically, any whistleblower who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against by his or her employer because of reporting violations of the FCA will be entitled to reinstatement with seniority, double back pay, interest, special damages sustained as a result of discriminatory treatment, and attorneys’ fees and costs.⁶

C. The Program Fraud Civil Remedies Act (“PFCRA”)⁷

The PFCRA authorizes a federal agency, such as the Department of Health and Human Services, to investigate and assess penalties for the submission of false claims or written statements. The conduct prohibited by the PFCRA is similar to that prohibited by the FCA. For example, a person may be liable under the PFCRA for making, presenting, or submitting (or causing to be made, presented or submitted) a claim that the person knows or has reason to know: (i) is false, fictitious or fraudulent; or (ii) includes or is supported by any written statement which asserts a material fact which is false, fictitious or fraudulent; or (iii) includes or is supported by any written statement which omits a material fact, is false, fictitious or fraudulent because of the omission and is a statement in which the person or entity has a duty to include such material fact; or (iv) is for the provision of items or services which the person or entity has not provided as claimed.

If a government agency suspects that a false claim has been submitted, it can appoint an official to investigate. Based upon the results of such an investigation, the matter may be subject to an administrative hearing and review by a court. Suspected criminal violations are reported to the United States Attorney General.

A violation of the PFCRA can result in penalties of up to \$5,000 for each false claim paid by the government, and, in certain circumstances, an assessment of twice the amount of each claim.

II. NEW YORK STATE LAWS

A. Civil Penalties

New York State makes it unlawful to knowingly make a false statement or representation (or by deliberate concealment of any material fact or other fraudulent scheme or device) to attempt to obtain, or to obtain, Medicaid payments for services or supplies furnished under the New York State Medical Assistance Program. A violation of this law can subject a person or entity, such as AHMC to civil damages equal to three times the amount falsely overstated (or in the case of non-monetary false statements or representations, three times the amount of damages sustained as a result of the violation) or \$5,000, whichever is greater. In addition, the person or entity may be required to pay a civil monetary penalty of up to \$2,000 for each item or services as restitution to the Medical Assistance Program if the person or entity knew, or had reason to know that:

- the payment involved the providing or ordering of care, services, or supplies that were medically improper, unnecessary or in excess of the documented medical needs of the person to whom they were furnished;
- the care, services or supplies were not provided as claimed;
- the person who ordered or prescribed care, services or supplies which were medically improper, unnecessary or in excess of the documented medical need of the person to whom they were furnished was suspended or excluded from the Medical Assistance Program at the time the care, services or supplies were furnished; or
- the services or supplies for which payment was received were not, in fact, provided.⁸

B. Criminal Penalties

New York State also imposes the threat of criminal prosecution against any person who, with intent to defraud, presents for payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false

⁵ 31 USC § 3730(b).

⁶ 31 USC § 3730(h).

⁷ 31 USC §§ 3801, 3802.

⁸ NY Social Services Law § 145-b.

information for the purpose of obtaining greater compensation than otherwise permitted, or knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise under the New York State Medical Assistance Program. Such person may be guilty of a Class A misdemeanor, unless that act constitutes a violation of a provision of the Penal Law.⁹

It is also a crime, under the New York State Penal Law, to commit "health care fraud." Such occurs, when, with intent to defraud a private or public health plan (including, e.g., Medicaid or an HMO), a person or entity knowingly and willfully provides materially false information or omits material information for the purpose of receiving payment for health care items or services that the person or entity is not otherwise entitled to receive.¹⁰ The severity of the penalty for committing this crime corresponds to the amount of payment wrongfully received from a single health plan in a one-year period. For example:

- payments under \$3,000 constitute a class "A" misdemeanor;
- payments between \$3,001 to \$10,000 constitute a class "E" felony;
- payments between \$10,001 to \$50,000 constitute a class "D" felony;
- payments between \$50,001 to \$1,000,000 constitute a class "C" felony; and
- payments that exceed \$1,000,000 constitute a class "B" felony.

C. Whistleblower Protections

Under New York's Labor Law, employers are prevented from taking any retaliatory actions (i.e., discharge, suspension, demotion or other adverse action in terms of condition of employment) against an employee who discloses (or threatens to disclose) to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or which constitutes the crime of health care fraud.¹¹

The law allows employees so treated to bring a civil court action for: injunctive relief to restrain continued retaliation; reinstatement to the same or equivalent position held before the retaliatory action; reinstatement of benefits and seniority; compensation for lost wages, benefits and other remuneration; and the payment of reasonable costs and attorneys' fees.¹²

The protections provided by this law in regard to disclosures to public bodies are only available if the employee has brought the activity, policy, or practice in violation of law, rule or regulation to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice.¹³

This document is provided in compliance with the Deficit Reduction Act of 2005 (section 6032). For a more detailed description of the Federal and State false claims laws please refer to the AHMC Corporate Compliance Program in the Administrative Manual.

⁹ NY Social Services Law § 366-b.

¹⁰ NY Penal Law Article 177.

¹¹ NY Labor Law §§ 740(1)(e), (2)(a).

¹² NY Labor Law §§ 740(4)(a), (5).

¹³ NY Labor Law § 740(3).