

Policy Description: False Claims Act	
Department: Corporate Compliance	Policy Number: 101
Category: Regulatory Compliance	Effective Date: January 1, 2008
Approval: Chief Integrity Officer <i>D.A. Sinko</i>	

Scope

All Cleveland Clinic Health System employees and management, and contractors and agents furnishing healthcare services or performing billing or coding functions for the Cleveland Clinic Health System.

Purpose

To comply with certain requirements set forth in the Deficit Reduction Act (DRA) of 2005 with regard to federal and state false claims laws.

Policy

All employees, including management, and any contractors or agents, are to be informed about the federal and state false claims statutes and the role of such laws in preventing and detecting fraud, waste and abuse in federal health care programs.

FALSE CLAIMS ACT

The False Claims Act (FCA) authorizes federal prosecutors to file a civil action against any person or entity that knowingly files a false claim with a federal health care program, including Medicare or Medicaid programs. The FCA applies to providers, beneficiaries, and health plans doing business with the federal government, billing companies, contractors, and other persons or entities connected with the submission of claims to the government. The FCA is set forth in title 31 of United States Code, beginning with section 3729.

The government can use the FCA against both organizations and individual employees who commit billing fraud. It applies to any person who does any of the following:

1. Knowingly presents or causes to be presented, a false or fraudulent claim for payment or approval to an officer or employee of the United States government;
2. Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the government;
3. Conspires to defraud the government by getting a false or fraudulent claim allowed or paid;
4. Knowingly makes, uses, or causes to be made or used, a false record or statement or to conceal, avoid or decrease an obligation to pay or transmit property to the government.

Anyone who violates the federal FCA is liable for significant penalties and fines ranging from \$5,500 to \$11,000 for each false claim, plus three (3) times the amount of damages sustained by the government for each false claim.

REPORTING CONCERNS REGARDING FRAUD, ABUSE AND FALSE CLAIMS

Cleveland Clinic wants 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. Issues are resolved quickly and most effectively when given prompt attention. Cleveland Clinic requires the reporting of concerns to the immediate supervisor when appropriate. If the supervisor is not deemed to be the proper contact or if the supervisor fails to respond quickly and appropriately to the concern, the concern should be discussed with the human resources manager, another member of management, the Office of Corporate Compliance, the Chief Integrity Officer, or reported on the Compliance Reporting Line. Employees who lawfully report false claims or other fraudulent conduct or who otherwise assist in an investigation, action or testimony are protected from retaliation to the furthest extent possible under both federal and state law.

Employees, including management, and any contractors or agents of Cleveland Clinic should be aware of related facility policies regarding detection and prevention of healthcare fraud and abuse, whistleblower protection, and Billing and Coding policies.

The FCA makes provision for any person to bring a civil action (called a *qui tam* relator or whistleblower suit) on behalf of the United States. The purpose of bringing the *qui tam* suit is to recover the funds paid by the government as a result of the false claims. Sometimes the government decides to join the *qui tam* suit. The whistleblower may be awarded a percentage of the funds recovered, if the suit is successful. Because the government assumes responsibility for all of the expenses associated with a suit when it joins a false claims action, the percentage is lower when the government joins a *qui tam* claim. However, regardless of whether the government participates in the lawsuit, the court may reduce the whistleblower's share of the proceeds if the court finds that the whistleblower planned and initiated the false claims violation. Further, if the whistleblower is convicted of criminal conduct related to his role in the preparation or submission of the false claims, the whistleblower will be dismissed from the civil action without receiving any portion of the proceeds.

The FCA also offers whistleblowers certain protection against retaliation by the employer. This applies to any employee who is terminated, demoted, suspended or in any way discriminated against because of acts in support of an action under the FCA. The whistleblower may bring an action in the appropriate federal district court for reinstatement, back pay and other damages.

A similar federal law is the Program Fraud Civil Remedies Act of 1986. It provides administrative remedies for knowingly submitting false claims and statements. A false claim or statement includes submitting a claim or making a written statement that is for services that were not provided, or that asserts material fact that is false or that omits material fact.

State versions of the FCA mirror many of the provisions of the FCA, including the whistleblower provision. Like the FCA, state laws include provisions to prevent employers from retaliating against employees who report their employer's false claims.

Procedure

Local management is responsible for disseminating information about this policy.

REFERENCES

Federal False Claims law, 31 U.S.C. §§ 3729-3733

Federal administrative remedies for false claims and statements, 31 U.S.C. §§ 3801-3812

Deficit Reduction Act of 2005, Sections 6031, 6032

Florida False Claims Act § 68.081-68.09

Ohio Revised Code §5111.101