

Subject: Anti-Fraud Compliance Policy “False Claims”	Review Date:
Department: Compliance	Revision Date: 8-2017
Approved by: Administration, CEO, Compliance, Board of Directors	Effective Date: 8-2017

PURPOSE

Montrose Memorial Hospital (MMH) is committed to engage in all business activities in compliance with all applicable laws and regulations and shall not permit any fraudulent or misrepresentations in relation to the services provided by MMH. MMH will investigate and resolve any allegations or indications of such wrongful activity. The purpose of this policy is to provide written guidance about the federal False Claims Act, any state laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws.

SCOPE

This policy applies to all Montrose Memorial Hospital covered persons.

POLICY

1. MMH is committed to complying with all applicable federal and state laws and regulations.
2. MMH shall make every effort to ensure compliance with federal and state false claims laws.
3. MMH shall take issues regarding false claims and fraud and abuse seriously.

DEFINITIONS

Covered Persons: All employees, managers, medical staff, executive leadership, board members, volunteers, contractors, and others engaged in our work place.

False Claims Act (FCA): A federal statute that prohibits fraud involving any federally funded program, including the Medicare and Medicaid programs. The provisions under the FCA state that it is a violation to:

1. Knowingly present or cause to be submitted a false claim to the government.
 - a. For purposes of this section, the terms “knowing” and “knowingly” mean that a person, with respect to information:
 - i. Has actual knowledge of the information;
 - ii. Acts in deliberate ignorance of the truth or falsity of the information; or

- iii. Acts in reckless disregard of the truth or falsity of the information and no proof of specific intent to defraud is required.
2. Knowingly use a false record or statement to obtain payment on a false claim paid by the government.
3. Engage in a conspiracy to defraud the government by the improper submission of a false claim for payment.
4. Damages and penalties for violating the FCA may include:
 - a. Civil penalties
 - and*
 - b. Three times the amount of damages which the government sustains because of the violation. In health care cases, the amount of damages sustained is the amount paid for each false claim that is filed.

Federal Program Fraud Civil Remedies Act of 1986: A statute that establishes an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows or has reason to know is false, fictitious, or fraudulent due to an assertion or omission to certain federal agencies (including the Department of Health and Human Services).

State False Claims Laws: The Colorado False Medicaid Claims statute makes it unlawful for any person or entity to: 1) intentionally or with reckless disregard make or cause to be made any false presentation of a material fact in connection with a claim; 2) intentionally or with reckless disregard present or cause to be presented to the state department a false claim for payment or approval; 3) intentionally or with reckless disregard present or cause to be presented any cost document required by the medical assistance program that the person knows contains a false material statement; 4) as to services for which a license is required, intentionally or with reckless disregard make or cause to be made a claim with knowledge that the individual who furnished the services was not licensed to provide such services. Any person or entity that violates provisions of this statute can be subject to civil penalties. (Colorado Revised Statutes, Section 25.5-4-304) The Colorado statute on offering a false instrument for recording provides criminal penalties for: presenting or offering a written instrument that contains a material false statement or material false information to a public office or to a public employee with the knowledge or belief that it will become part of the public record. A person who violates this statute knowingly and with intent to defraud is guilty of a felony. A person who violates this statute knowingly (without proof of intent to defraud) is guilty of a misdemeanor. (Colorado Revised Statutes, Section 18-5-114)

Knowingly: Defined under the False Claims Act (FCA) 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. The FCA does not require proof of a specific intent to defraud for there to be a

violation of the law. A person/entity that violates the FCA can be subject to civil money penalties plus up to three times the amount of damages sustained by the federal government for each false claim submitted.

Knows or Has Reason to Know: Defined under the False Claims Act (FCA) as a person who has actual knowledge of the information, acts in deliberate ignorance of whether the information is true or false, or acts in reckless disregard of whether the information is true or false. No proof of specific intent to defraud is required. The Act allows for civil monetary sanctions to be imposed in administrative hearings.

Section 6032 of the Deficit Reduction Act of 2005: Legislation requiring entities that receive annual payments of at least \$5,000,000.00 under the state Medicaid plan establish written policies for all employees and entity contractors or agents to provide detailed information about:

1. The federal False Claims Act and whistleblower protections;
2. Federal administrative remedies for false claims and statements;
3. Any state laws pertaining to civil or criminal penalties for false claims and statements;
and
4. Company policies for preventing and detecting fraud, waste, and abuse.

Whistleblowers and Qui Tam Relators: The FCA provides for actions by private persons (qui tam lawsuits) to encourage individuals to come forward and report misconduct involving false claims. A qui tam action allows any person with actual knowledge of alleged false claims to file a lawsuit on behalf of the United States' government. Such persons are referred to as "relators" or "whistleblowers." Retaliation against whistleblowers for filing an action under the FCA or similar state laws is prohibited.

PROCEDURE

1. All Covered Persons are responsible for making themselves aware of the laws regarding fraud and abuse and false claims and to identify and resolve any issues immediately.
2. The Code of Conduct sets forth MMH's commitment to compliance with all Federal, State, and local laws and regulations, as well as describes MMH's whistleblower protection commitment.
3. Covered persons have a duty to report any suspected fraud to their supervisor or manager, the Compliance Officer, or through the electronic incident reporting system and/or the anonymous hotline.

4. The Compliance Officer in consultation, as needed, with Legal Counsel will investigate any allegations of potential violations of the fraud statutes or other wrongdoing.

RELATED DOCUMENTS

Code of Conduct

Hotline Policy

Duty to Report Policy

Employee Confidentiality Statement

Non-retaliation Policy

Disciplinary Action Policy

REFERENCES:

False Claims Act, 31 U.S.C. §§3729-3733 (2013).

<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title31/pdf/USCODE-2013-title31-subtitleIII-chap37-subchapIII.pdf>

Federal Program Fraud Civil Remedies Act of 1986, 31 U.S.C. §§3801-3812 (2013).

<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title31/pdf/USCODE-2013-title31-subtitleIII-chap38.pdf>

Colorado State False Claim Statute

<http://198.187.128.12/colorado/lpext.dll?f=templates&fn=fs-main.htm&2.0>