

Prevention and Detection of Fraud, Waste and Abuse

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1. Purpose

To help our employees, agents, vendors, contractors or other workforce members engaged in conducting business with Health Pointe to understand the applicable laws pertaining to the prevention of fraud, waste and abuse, including the basic provisions of the federal and state laws related to the submission of false claims for reimbursement.

2. Policy

- 2.1. Health Pointe Compliance Program: Health Pointe Compliance Program is a key component in our strategy to prevent and detect fraud, waste and abuse within each Department and Services Line. The Compliance Program concepts are described in approved policies, including but not limited to, Compliance Program Standards, Code of Conduct and Integrity Help Line. Employees, agents, vendors, contractors or other workforce members are encouraged to contact their supervisor, manager, administrative contact or the Compliance Officer for any compliance related concerns.
- 2.2. Federal and State Laws: The government has taken steps to prevent and detect fraud, waste and abuse in the U.S. health system. In accordance with the Deficit Reduction Act of 2005, information regarding the federal and state false claims laws and related qui tam/whistleblower provisions will be communicated to all employees, agents, vendors, contractors or other workforce members engaged in conducting business with Health Pointe. In addition, this information is shared through the distribution of the Health Point Code of Conduct.
- 2.3. The Federal False Claims Act: The federal False Claims Act (FCA) is a law that imposes liability to a person or entity that improperly receives from or avoids payment to the federal government. Examples of federal programs covered by the FCA are Medicare and Medicaid.
 - 2.3.1. General Provisions: The FCA establishes liability for any person who knowingly presents or causes to be presented a false or fraudulent claim to the U.S. government for payment. A “claim” includes any request or demand for money that is submitted to the U.S. government or its contractors. In addition, no person can knowingly and improperly avoid or decrease an obligation to repay the government. The term “knowingly” is defined as:
 - 2.3.1.1. Having actual knowledge of false information in the claim
 - 2.3.1.2. Acting in deliberate ignorance of truth or falsity of the information in a claim
 - 2.3.1.3. Acting in reckless disregard of the truth or falsity of the information in a claim

2.3.2. Penalties Under the FCA: The FCA does not require proof of a specific intent to defraud the U.S. government. An individual or entity that violates the FCA may be subject to civil monetary penalties ranging from \$5,500 to \$11,000 for each false claim that is submitted. Penalties of up to three times the amount of damages may also be ordered. The individual or entity may also be excluded from participating in federal health care programs.

2.4. FCA Qui Tam “Whistleblower” Provisions: The FCA allows any person with actual knowledge of an allegedly false claim to file a lawsuit on behalf of the U.S. government. Such persons are called “whistleblowers.” In order to file a qui tam suit, a whistleblower must meet several requirements as outlined below. The whistleblower must file his or her lawsuit on behalf of the government in federal district court. Once filed, the lawsuit is kept confidential or “under seal” while the government investigates the allegations and decides how to proceed. If the government decides that the lawsuit has merit, it may intervene. In this case, the U.S. Department of Justice will try the case. If the government decided not to intervene, the whistleblower can continue with the lawsuit on his or her own. If the lawsuit is successful, the whistleblower may receive an award ranging from 15 percent to 30 percent of the amount recovered. The whistleblower may also be entitled to reasonable expenses, such as attorney fees. If a court finds that the whistleblower planned or initiated the false claims, the award may be decreased. If the whistleblower is convicted of crimes related to the false claims, no award will be given.

The FCA contains important protections for whistleblowers who file claims in good faith. Depending on the circumstances, these protections may not apply to whistleblowers that file frivolous claims, file claims in bad faith or were directly involved in certain aspects of these claims. Retaliatory conduct against a person who files an FCA lawsuit, or tries to stop or prevent an FCA violation, may entitle the person to additional relief, including reinstatement of employment, back pay and compensation for costs or damages.

2.5. The Michigan Medicaid False Claims Act: The Michigan Medicaid False Claims Act (MMFCA) is a state law that is designed to prevent fraud, kickbacks and conspiracies in the Michigan Medicaid program (Medical Assistance Program).

2.5.1. General Provisions: The MMFCA establishes liability for any person who knowingly presents or causes to be presented a false or fraudulent claim for payment to Michigan’s Medicaid program. A “claim” means an attempt to cause the Michigan Department of Social Services to make a payment. The term “knowingly” is defined as:

2.5.1.1. Being aware that his or her conduct is substantially certain to cause the payment of a Medicaid benefit; and

2.5.1.2. Not including errors or mistakes, unless there is a persistent tendency to cause inaccuracies.

2.5.1.3. The Prevention and Detection of Health Care Fraud, Waste and Abuse Health care providers who violate the MMFCA may be subject to both criminal and civil penalties. Violation of the MMFCA is a felony punishable by four years or less in prison, or a fine of \$30,000 or less, or both. Civil monetary penalties are equal to the full amount received plus triple damages. The individual or entity may also be excluded from participating in the Michigan Medicaid program.

2.6. MMFCA Qui Tam Whistleblower Provisions: The MMFCA allows any person to file a civil lawsuit to recover losses to the State of Michigan. Such persons are called “whistleblowers.” In order to file a qui tam suit, a whistleblower must meet several requirements as outlined below. The whistleblower must file his or her lawsuit. A suit filed under the MMFCA will be dismissed unless the attorney general is notified and has an opportunity to oppose the dismissal. If the government decides that the lawsuit has merit, it may intervene. In this case, the attorney

general will prosecute the case. The whistleblower has the right to continue as a party to the action, subject to certain limitations. If the government decides not to intervene, the whistleblower can continue with the lawsuit on his or her own. If the lawsuit is successful, the whistleblower may receive an award ranging from 15 percent to 30 percent of the amount recovered. If a court finds that the whistleblower actively participated in the false claims, the award may be decreased. If the whistleblower is convicted of crimes related to the false claims, no award will be given. If the court finds that the action brought by the whistleblower was frivolous, the court may fine the whistleblower up to \$10,000.

The MMFCA contains important protections for whistleblowers who file claims in good faith. Depending on the circumstances, these protections may not apply to whistleblowers that file frivolous claims, file claims in bad faith or were directly involved in certain aspects of the claim. Retaliatory conduct against a whistleblower that either files under the MMFCA or cooperates in an MMFCA lawsuit may entitle the whistleblower to additional relief, including reinstatement of employment, back pay and compensation for costs or damages.

3. Revisions

Health Pointe reserves the right to alter, amend, modify or eliminate this policy at any time without prior written notice.

4. References

Non-Retaliation Policy

5. Policy Development and Approval

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